

Ordinance No. 123105

Council Bill No. 116614

AN ORDINANCE relating to the Stormwater, Grading, and Drainage Control Code; repealing, re-enacting, and amending Chapters 22.800, 22.801, 22.802 and 22.808 of the Seattle Municipal Code, and adding Chapters 22.803, 22.805 and 22.807.

Related Legislation File: CF 310134

Date Introduced and Referred: <u>8.17.09</u>	To: (committee): <u>Environment Emergency Management & Utilities</u>
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Law Department

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlon

Committee Action:

Date	Recommendation	Vote
<u>9/22/09</u>	<u>Substitute to version 6</u>	<u>yes - 3-0, Conlon, Burgess, McIver</u>
<u>9/22/09</u>	<u>passed</u>	<u>3-0 yes, Conlon, Burgess, McIver</u>

This file is complete and ready for presentation to Full Council. RC 9/22/09

Full Council Action:

Date	Decision	Vote
<u>9-28-09</u>	<u>Passed</u>	<u>8-0 (Excused: McIver)</u>

ORDINANCE 123105

1
2 AN ORDINANCE relating to the Stormwater, Grading, and Drainage Control Code; repealing,
3 re-enacting, and amending Chapters 22.800, 22.801, 22.802 and 22.808 of the Seattle
Municipal Code, and adding Chapters 22.803, 22.805 and 22.807.

4 WHEREAS, The City of Seattle (the "City") is subject to the terms of the National Pollutant
5 Discharge Elimination System and State Waste Discharge General Permit for
6 Discharges from Large and Small Municipal Separate Storm Sewer Systems ("Permit"),
7 issued January 17, 2007, by the State of Washington Department of Ecology
("Ecology") in compliance with the federal Clean Water Act and state law, as the permit
may be amended by Ecology; and

8 WHEREAS the Permit requires that the City adopt ordinances and other enforceable documents
9 that are determined by Ecology to be equivalent to the minimum technical requirements
10 for new development and redevelopment contained in Appendix 1 of the Permit or
11 equivalent to relevant portions of Ecology's 2005 *Stormwater Management Manual for*
12 *Western Washington* ("Ecology's 2005 Manual") and that require the application of
certain source control best management practices for pollutant-generating sources that
are functionally equivalent to Ecology's 2005 Manual; and

13 WHEREAS the Permit requires that the City evaluate and, if necessary, update existing
14 ordinances and other regulatory mechanisms to effectively prohibit non-stormwater,
15 illegal discharges and dumping into the City's municipal separate stormwater sewer
16 system and that the City require maintenance of permanent stormwater treatment and
flow control facilities regulated by the City that are as protective or more protective of
facility function than those specified in Ecology's 2005 Manual; and

17 WHEREAS Ecology has determined that the substance of this ordinance, together with the
18 substance of an accompanying ordinance creating new Chapter 22.170 to be entitled
19 "Grading Code" and of four new Directors' Rules to be issued jointly by the Director of
20 Seattle Public Utilities (SPU) and the Director of the Planning and Development (DPD)
21 entitled "*Source Control Technical Requirements Manual*," "*Construction Stormwater*
22 *Control Technical Requirements Manual*," "*Stormwater Flow Control and Water*
Quality Treatment Technical Requirements Manual," and "*Stormwater Code*
Enforcement Manual" are equivalent to Appendix 1 of the Permit and the required
portions of Ecology's 2005 Manual and meet relevant Permit requirements; and

23 WHEREAS this ordinance also contains changes, initiated by the City and beyond the
24 requirements of the Permit, to improve water quality and to further the purposes of this
25 ordinance; and



1 WHEREAS, Ecology is expected to modify the Permit in the future to incorporate low impact
2 development requirements and a deadline for implementation, which could require the
City again to revise its Stormwater Code; and

3 WHEREAS, in developing stormwater and grading regulations that protect the functions and
4 values of critical areas, including those in the Shoreline District, the City has included
the best available science; and

5 WHEREAS, protecting Seattle's water bodies is a central goal of the Mayor's Restore Our
6 Waters strategy, the City of Seattle Comprehensive Plan, and Seattle Public Utilities
7 Comprehensive Drainage Plan; and

8 WHEREAS, drainage rate customers from the city ranked "improvement in water quality in
9 lakes and streams" as the most important drainage investment; NOW THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. The text of Chapters 22.800, 22.801, 22.802, and 22.808 of the Seattle
12 Municipal Code, last amended by Ordinance 122738 and previously amended by Ordinances
13 122055, 121276, 119965, 118396, 117852, 117789, 117697, and 117432, and adopted by
14 Ordinance 116425, which currently reads as follows, is repealed:

15 ~~((Chapter 22.800 Title, Purpose, Scope and Authority~~

16 ~~22.800.010 Title.~~

17 This subtitle, comprised of SMC Chapters 22.800 through 22.808, shall be known as the
18 "Stormwater, Grading and Drainage Control Code," and may be cited as such.

19 ~~22.800.020 Purpose.~~

20 A. ~~The provisions of this subtitle shall be liberally construed to accomplish its remedial~~
21 ~~purposes, which are:~~

22 1. ~~Protect, to the greatest extent practicable, life, property and the environment from~~
23 ~~loss, injury and damage by pollution, erosion, flooding, landslides, strong ground motion, soil~~
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1 ~~liquefaction, accelerated soil creep, settlement and subsidence, and other potential hazards, whether from~~
2 ~~natural causes or from human activity;~~

3 2. ~~Protect the public interest in drainage and related functions of drainage basins,~~
4 ~~watercourses and shoreline areas;~~

5 3. ~~Protect surface waters and receiving waters from pollution, mechanical damage,~~
6 ~~excessive flows and other conditions in their drainage basins which will increase the rate of downcutting,~~
7 ~~streambank erosion, and/or the degree of turbidity, siltation and other forms of pollution, or which will~~
8 ~~reduce their low flows or low levels to levels which degrade the environment, reduce recharging of~~
9 ~~groundwater, or endanger aquatic and benthic life within these surface waters and receiving waters of the~~
10 ~~state;~~

11 4. ~~Meet the requirements of state and federal law and the City's municipal stormwater~~
12 ~~NPDES permit; and~~

13 5. ~~Fulfill the responsibilities of the City as trustee of the environment for future~~
14 ~~generations.~~

15 B. ~~It is expressly the purpose of this subtitle to provide for and promote the health, safety and~~
16 ~~welfare of the general public. This subtitle is not intended to create or otherwise establish or designate any~~
17 ~~particular class or group of persons who will or should be especially protected or benefitted by its terms.~~

18 C. ~~It is expressly acknowledged that water quality degradation can result either directly from~~
19 ~~one discharge or through the collective impact of many small discharges. Therefore, the water quality~~
20 ~~protection measures in this subtitle are necessary to protect the health, safety and welfare of the residents~~
21 ~~of Seattle and the integrity of natural resources for the benefit of all and for the purposes of this subtitle.~~
22 ~~Such water quality protection measures are required under the federal Clean Water Act, 33 U.S.C. Section~~
23 ~~1251, et seq., and in response to the obligations of the City's municipal stormwater discharge permit,~~
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1 issued by the State of Washington under the federal National Pollutant Discharge Elimination System
2 program.

3 **~~22.800.030 Scope.~~**

4 This subtitle applies to:

5 A. ~~All grading and drainage and erosion control, whether or not a permit is required; and~~

6 B. ~~All new or replaced impervious surface and all land disturbing activities, whether or not a~~
7 ~~permit is required; and~~

8 C. ~~All discharges directly or indirectly to a public drainage control system; and~~

9 D. ~~All discharges directly or indirectly into surface waters within or contiguous to Seattle city~~
10 ~~limits; and~~

11 E. ~~All new and existing land uses.~~

12 **~~22.800.050 Potentially hazardous locations.~~**

13 A. ~~Any site on a list, register, or data base compiled by the United States Environmental~~
14 ~~Protection Agency ("EPA") or the Washington State Department of Ecology ("DOE") for investigation,~~
15 ~~cleanup, or other action regarding contamination under any federal or state environmental law shall be a~~
16 ~~potentially hazardous location under this subtitle. When EPA or DOE removes the site from the list,~~
17 ~~register or data base, or when the owner otherwise establishes contamination does not pose a present or~~
18 ~~potential threat to human health or the environment, the site will no longer be considered a potentially~~
19 ~~hazardous location.~~

20 B. ~~The following property may also be designated by the Director of DCLU as potentially~~
21 ~~hazardous locations:~~

22 1. ~~Existing and abandoned solid waste disposal sites;~~

23 2. ~~Hazardous waste treatment, storage, or disposal facilities, all as defined by the federal~~

24 ~~Solid Waste Disposal Act, 42 U.S.C. § 6901, et seq.~~



1 ~~22.800.060 Compliance with other laws.~~

2 A. ~~The requirements of this subtitle are minimum requirements. They do not replace, repeal,~~
3 ~~abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants,~~
4 ~~standards, or restrictions. Where this subtitle imposes requirements which are more protective of human~~
5 ~~health or the environment than those set forth elsewhere, the provisions of this subtitle shall prevail.~~

6 B. ~~Approvals and permits granted under this subtitle are not waivers of the requirements of any~~
7 ~~other laws, nor do they indicate compliance with any other laws. Compliance is still required with all~~
8 ~~applicable federal, state and local laws and regulations, including rules promulgated under authority of~~
9 ~~this subtitle.~~

10 C. ~~Compliance with the provisions of this subtitle and of regulations and manuals adopted by the~~
11 ~~City in relation to this subtitle does not necessarily mitigate all impacts to the environment. Thus,~~
12 ~~compliance with this subtitle and related regulations and manuals should not be construed as mitigating~~
13 ~~all stormwater impacts, and additional mitigation may be required to protect the environment. The~~
14 ~~primary obligation for compliance with this chapter, and for preventing environmental harm on or from~~
15 ~~property, is placed upon responsible parties as defined by this subtitle.~~

16 ~~22.800.070 City projects.~~

17 ~~A. Compliance.~~

18 ~~1. City agencies shall comply with all the requirements of this subtitle, except they shall~~
19 ~~not be required to obtain permits and approvals under this subtitle for work performed within a public~~
20 ~~right of way and for work performed for the operation and maintenance of park lands under the control or~~
21 ~~jurisdiction of the Department of Parks and Recreation. Where the work occurs in a public right of way, it~~
22 ~~shall comply with Seattle Municipal Code Title 15, Street and Sidewalk Use, including the applicable~~
23 ~~requirements to obtain permits or approvals. Where appropriate as set forth in Section 22.804.040 C of~~
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1 this Code, a soils report and analysis by an experienced geotechnical engineer shall be prepared for City
2 projects.

3 ~~2. A City agency project, as defined in Section 22.801.170, that is not required to obtain~~
4 ~~permit(s) and approval(s) per subsection A1 of this section, is not required to comply with Sections~~
5 ~~22.802.015 C4, 22.802.016 B1, and 22.802.016 B2, if the project begins land disturbing activities on or~~
6 ~~before July 1, 2002, and if the project meets one or more of the following criteria:~~

7 ~~a. Project funding was appropriated as identified in Ordinance 119750, titled,~~
8 ~~"An ordinance adopting a budget, including a capital improvement program and a position list, for the~~
9 ~~City of Seattle for fiscal year 2000;" or~~

10 ~~b. Project received or will receive voter approval of financing before January 1,~~
11 ~~2001; or~~

12 ~~c. Project received or will receive funds based on grant application(s) submitted~~
13 ~~before January 1, 2001; or~~

14 ~~d. Project conducted or will conduct land disturbing activity before January 1,~~
15 ~~2001.~~

16 ~~B. Inspection.~~

17 ~~1. When the City conducts projects for which review and approval is required under~~
18 ~~Section 22.802.020 or 22.804.030, the work shall be inspected by the City agency conducting the project~~
19 ~~or supervising the contract for the project. The inspector for the City agency shall be responsible for~~
20 ~~insuring that the grading and drainage control is done in a manner consistent with the requirements of this~~
21 ~~subtitle.~~

22 ~~2. Where a soils analysis and report has been prepared as required under subsection A of~~
23 ~~this section, the grading shall also be inspected by the geotechnical engineer who prepared the report.~~

24 ~~3. A City agency need not provide an inspector from its own agency provided either:~~



1 a.—The work is inspected by an appropriate inspector from another City agency;

2 or

3 b.—The work is inspected by the licensed civil or geotechnical engineer who
4 prepared the plans and specifications for the work; or

5 e.—A permit or approval is obtained from the Director of DPD, and the work is
6 inspected by the Director.

7 C.— Certification of Compliance. City agencies shall meet the same standards as non-City
8 projects, and shall certify that each individual project meets those standards.

9 **22.800.080 Authority.**

10 A.—— 1. The Director of DPD has authority regarding the provisions of this subtitle pertaining
11 to grading, review of drainage control plans, and review of erosion control plans, and has inspection and
12 enforcement authority pertaining to temporary erosion/sediment control measures.

13
14 ————— 2. The Director of SPU has authority regarding all other provisions of this subtitle
15 pertaining to stormwater, drainage, and erosion control, including inspection and enforcement authority.

16 B. The Directors of DPD and SPU are authorized to take actions necessary to implement the
17 provisions and purposes of this subtitle in their respective spheres of authority, including, but not limited
18 to, the following: promulgating and amending rules and regulations, pursuant to the Administrative Code,
19 Chapter 3.02 of the Seattle Municipal Code; establishing and conducting inspection programs;
20 establishing and conducting or, as set forth in Section 22.802.012, requiring responsible parties to conduct
21 monitoring programs, which may include sampling of discharges to or from drainage control facilities, the
22 public drainage control system, or surface water; taking enforcement action; abating nuisances;
23 promulgating guidance and policy documents; and reviewing and approving or disapproving required
24 submittals and applications for approvals and permits.
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1 C. ~~The Director of SPU is authorized to develop drainage basin plans for managing surface~~
2 ~~water, drainage water, and erosion within individual subbasins. A drainage basin plan may, when~~
3 ~~approved by the Director of SPU, be used to modify requirements of this subtitle, provided the level of~~
4 ~~protection for human health, safety and welfare, the environment, and public or private property will~~
5 ~~equal or exceed that which would otherwise be achieved.~~

6 **~~22.800.090 City not liable.~~**

7 A. ~~Nothing contained in this subtitle is intended to be nor shall be construed to create or form~~
8 ~~the basis for any liability on the part of the City, or its officers, employees or agents for any injury or~~
9 ~~damage resulting from the failure of responsible parties to comply with the provisions of this subtitle, or~~
10 ~~by reason or in consequence of any inspection, notice, order, certificate, permission or approval~~
11 ~~authorized or issued or done in connection with the implementation or enforcement of this subtitle, or by~~
12 ~~reason of any action or inaction on the part of the City related in any manner to the enforcement of this~~
13 ~~subtitle by its officers, employees or agents.~~

14 B. ~~The Director or any employee charged with the enforcement of this subtitle, acting in good~~
15 ~~faith and without malice on behalf of the City, shall not be personally liable for any damage that may~~
16 ~~accrue to persons or property as a result of any act required by the City, or by reason of any act or~~
17 ~~omission in the discharge of these duties. Any suit brought against the Director of DPD, Director of~~
18 ~~Engineering or other employee because of an act or omission performed in the enforcement of any~~
19 ~~provisions of this subtitle, shall be defended by the City.~~

20 C. ~~Nothing in this subtitle shall impose any liability on the City or any of its officers or~~
21 ~~employees for cleanup or any harm relating to sites containing hazardous materials, wastes or~~
22 ~~contaminated soil.~~

23 **~~Chapter 22.801 DEFINITIONS~~**

24 **~~22.801.010 General.~~**



1 For the purpose of this subtitle, the words listed in this chapter have the following meanings,
2 unless the context clearly indicates otherwise. Terms relating to pollutants and to hazardous wastes,
3 materials, and substances, where not defined in this subtitle, shall be as defined in Washington
4 Administrative Code Chapters 173-303, 173-304 and 173-340, the Seattle Building Code or the Seattle
5 Fire Code, including future amendments to those codes. Words used in the singular include the plural, and
6 words used in the plural include the singular.

7 All references in the Seattle Municipal Code Chapters 22.800 through 22.808 to "SPU" shall be
8 deemed references to "Seattle Public Utilities". All references in the Seattle Municipal Code Chapters
9 22.800 through 22.808 to "Department of Construction and Land Use," "Department of Design,
10 Construction and Land Use," "Director of Construction and Land Use," "Director of Design, Construction
11 and Land Use," or "DCLU", shall be deemed references to "Department of Planning and Development",
12 "Director of Planning and Development" or "DPD". The City's code reviser is authorized to amend the
13 Seattle Municipal Code Chapters 22.802 through 22.808 over time as he or she deems appropriate in
14 order to carry out these changes.
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16 **22.801.020 "A."**

17 "Abandoned solid waste disposal site" means a site that is no longer in use and where solid waste
18 was disposed with or without a permit.

19 "Agency" means any governmental entity or its subdivision.

20 "Agency with jurisdiction" means those agencies with statutory authority to approve, condition or
21 deny permits, such as the United States Environmental Protection Agency, the Washington State
22 Department of Ecology or the Seattle King County Department of Public Health.

23 American Petroleum Institute (API) oil/water separator. See "oil/water separator, American
24 Petroleum Institute (API)."
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1 "Approved" means approved by either the Director of Planning and Development or the Director
2 of Seattle Public Utilities.

3 "As-graded" means the surface condition existing after completion of grading.

4 **22.801.030 "B."**

5 "Backfilling" means returning a site to its original or approved contours after earth materials were
6 removed for construction purposes.

7 "Basin plan" means a plan to manage the quality and quantity of stormwater in a watershed,
8 including watershed action plans.

9 "Bench" means a relatively level step excavated into earth material on which fill is to be placed.

10 "Best management practice (BMP)" means a physical, chemical, structural or managerial practice
11 or device that prevents, reduces, or treats contamination of water or which prevents or reduces soil
12 erosion. When the Directors develop rules and/or manuals prescribing best management practices for
13 particular purposes, whether or not those rules and/or manuals are adopted by ordinance, BMPs
14 prescribed in the rules and/or manuals shall be the BMPs required for compliance with this subtitle.

15 1. "Nonstructural" or "operational" best management practices are those pollution
16 control strategies that require modified or additional behavioral practices, such as sweeping a parking lot
17 or maintaining special equipment on site, such as spill response equipment.

18 2. "Structural" best management practices are those pollution control strategies that
19 require the construction of a structure or other physical modification on the site.

20 "Biofiltration swale" means a long, gently sloped, vegetated channel designed and maintained to
21 treat stormwater runoff through sedimentation, adsorption, and biological uptake. Grass is the most
22 common vegetation, but wetland vegetation can be used if the soil is saturated.
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1 ~~"Building permit" means a document issued by The City of Seattle Department of Design,~~
2 ~~Construction and Land Use giving permission for construction or other specified activity in accordance~~
3 ~~with the Seattle Building Code (Chapter 22.100 SMC).~~

4 **22.801.040 "C."**

5 ~~"Cause or contribute to a violation" means and includes acts or omissions that create a violation,~~
6 ~~that increase the duration, extent or severity of a violation, and that aid or abet a violation.~~

7 ~~"Civil engineer, licensed" means a person who is licensed by the State of Washington to practice~~
8 ~~civil engineering.~~

9 ~~"Coalescing plate oil/water separator" means a multichambered vault, containing a set of parallel,~~
10 ~~corrugated plates that are stacked and bundled together in the center of the vault. Coalescing plate~~
11 ~~separators are designed to remove dispersed oil and floating debris as well as in containing spills.~~

12 ~~Combined sewer. See "public combined sewer."~~

13 ~~"Compaction" means the densification of a fill by mechanical means.~~

14 ~~"Containment area" means the area designated for conducting high-risk pollution generating~~
15 ~~activities for the purposes of implementing operational source controls or designing and installing~~
16 ~~structural source controls or treatment facilities.~~

17 ~~"Contaminate" means the addition of sediment, any other pollutant or waste, or any illicit~~
18 ~~discharge.~~

19 ~~"Cut" means the changing of a grade by excavation.~~

20 **22.801.050 "D."**

21 ~~"DCLU" means the Department of Design, Construction and Land Use.~~

22 ~~"Damages" means monetary compensation for harm, loss, costs, or expenses incurred by the City,~~
23 ~~including but not limited to the following: costs of abating violations of this subtitle or public nuisances;~~
24 ~~finest or penalties the City incurs as a result of a violation of this subtitle; and costs to repair or clean the~~
25 ~~finest or penalties the City incurs as a result of a violation of this subtitle; and costs to repair or clean the~~
26 ~~finest or penalties the City incurs as a result of a violation of this subtitle; and costs to repair or clean the~~



1 public drainage control system as a result of a violation. For the purposes of this subtitle, it does not
2 include compensation to any person other than the City.

3 "Design storm" means a rainfall event used in the analysis and design of drainage facilities.

4 "Designated receiving waters" means the Duwamish River, Puget Sound, Lake Washington, Lake
5 Union, and the Lake Washington Ship Canal, and other receiving waters designated by the Director of
6 SPU as having the capacity to receive drainage discharges.

7 "Detention" means temporary storage of drainage water for the purpose of controlling the
8 drainage discharge rate.

9 "Detention system" means a facility designed to control the discharge rate of stormwater runoff
10 from a site by detaining flows in a tank or vault.

11 "Development" means land disturbing activity or the addition or replacement of impervious
12 surface.

13 "Developmental coverage" means all areas within a site planned for land disturbing activity or
14 new or replaced impervious surface.

15 "Director" means the Director of the Department authorized to take a particular action, and the
16 Director's designees, who may be employees of that department or another City department.

17 "Director of Design, Construction and Land Use" means the Director of the Department of
18 Design, Construction and Land Use of The City of Seattle and/or the designee of the Director of Design,
19 Construction and Land Use, who may be employees of that department or another City department.

20 "Director of Seattle Public Utilities" means the Director of Seattle Public Utilities of The City of
21 Seattle and/or the designee of the Director of Seattle Public Utilities, who may be employees of that
22 department or another City department.

23 "Discharge point" means the location to which drainage water from a specific site is released.
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1 ~~"Discharge rate" means the rate at which drainage water is released from a specific site. The~~
2 ~~discharge rate is expressed as volume per unit of time, such as cubic feet per second.~~

3 ~~"Drainage basin" means the tributary area through which drainage water is collected, regulated,~~
4 ~~transported, and discharged to receiving waters.~~

5 ~~"Drainage control" means the management of drainage water. Drainage control is accomplished~~
6 ~~through the collection, conveyance, and discharge of drainage water, controlling the rate of discharge~~
7 ~~from a site, or separating, treating or preventing the introduction of pollutants.~~

8 ~~"Drainage control facility" means any facility, including best management practices, installed or~~
9 ~~constructed for the purpose of controlling the flow, quantity, and/or quality of drainage water.~~

10 ~~"Drainage control plan" means a plan for collecting, controlling, transporting and disposing of~~
11 ~~drainage water falling upon, entering, flowing within, and exiting the site, including designs for drainage~~
12 ~~control facilities.~~

13 ~~"Drainage control system" means a system intended to collect, convey and control release of only~~
14 ~~drainage water. The system may serve public or private property. It includes constructed and/or natural~~
15 ~~components such as ditches, culverts, streams and drainage control facilities.~~

16 ~~"Drainage water" means stormwater, snow melt, surface water, surface and irrigation runoff,~~
17 ~~water from footing drains and other drains approved by the Director of Seattle Public Utilities or installed~~
18 ~~in compliance with this subtitle and rules which may be adopted hereunder. Other water which is not an~~
19 ~~illicit discharge as defined in Section 22.802.012 C shall be considered drainage water if it drains from~~
20 ~~the exterior of a building or structure, a pervious or impervious surface, or undeveloped land, or by~~
21 ~~surface or shallow subsurface flow.~~

22 ~~"Dredging" means the excavation of earth materials from land covered by water. The term~~
23 ~~includes dredging that maintains an established water depth.~~

24 ~~22.801.060 "E."~~



1 ~~"Earth material" means any rock, gravel, natural soil or resedimented soil, or any combination~~
2 ~~thereof, and does not include any solid waste as defined by RCW Chapter 70.95.~~

3 ~~"Environmentally critical area" means an area designated in Chapter 25.09 of the Seattle~~
4 ~~Municipal Code.~~

5 ~~"Erosion" means the wearing away of the ground surface as a result of mass wasting or of the~~
6 ~~movement of wind, water and/or ice.~~

7 ~~"Excavation" means the mechanical removal of earth material.~~

8 ~~"Existing grade" means the natural surface contour of a site, including minor adjustments to the~~
9 ~~surface of the site in preparation for construction.~~

10 ~~"Exploratory excavation" means borings, or small pits, hand-dug or excavated by mechanical~~
11 ~~equipment. Exploratory excavation does not include preloading of the site.~~

12 ~~**22.801.070 "F."**~~

13 ~~"Fill" means material deposited, placed, pushed, pulled or transported to a place other than the~~
14 ~~place from which it originated.~~

15 ~~"Filter strip" means a gently sloping vegetated area that is designed and maintained to treat,~~
16 ~~through sedimentation, adsorption and biological uptake, stormwater runoff from overland sheet flow~~
17 ~~from adjacent paved areas before it concentrates into a discrete channel.~~

18 ~~"Finished grade" means the grade upon completion of the fill or excavation.~~

19 ~~"Flow control" means controlling the discharge rate of stormwater runoff from the site through~~
20 ~~means such as infiltration or detention.~~

21 ~~"Flow control facility" means a method, such as pursuant to this subtitle or associated rules, for~~
22 ~~controlling the discharge rate of stormwater runoff from a site.~~

23 ~~**22.801.080 "G."**~~

24 ~~"Garbage" means putrescible waste.~~



1 ~~"Geotechnical engineer, experienced" or "Geotechnical/civil engineer, experienced" means a~~
2 ~~professional civil engineer licensed by The State of Washington who has at least four (4) years of~~
3 ~~professional experience as a geotechnical engineer, including experience with landslide evaluation.~~

4 ~~"Grade" means the ground surface contour (see also "existing grade" and "finished grade").~~

5 ~~"Grading" means excavation, fill, in place ground modification, or any combination thereof,~~
6 ~~including the establishment of a grade following demolition of a structure.~~

7 ~~"Grading approval" means an approved component of a building permit relating to grading, as~~
8 ~~required by this subtitle.~~

9 ~~**22.801.090 "H."**~~

10 ~~"High risk pollution generating activities" are the following:~~

11 ~~1. Fueling operations that involve transferring fuel into mobile vehicles or equipment at~~
12 ~~permanent stations, temporary stations, and mobile fueling stations. Permanent stations include facilities,~~
13 ~~such as, but not limited to, commercial gas stations, maintenance yards, and private fleet fueling stations,~~
14 ~~where fuel is transferred from a dedicated fueling station. Temporary fueling stations include, but are not~~
15 ~~limited to, construction sites and any other site where fuel is temporarily stored and dispensed into~~
16 ~~vehicles or equipment. Mobile fueling stations are fueling operations where fuel is delivered to vehicles~~
17 ~~and equipment via mobile tank trucks;~~

18 ~~2. Vehicle, equipment or building washing or cleaning, including any of the following:~~
19 ~~mobile vehicle steam cleaning operations or vehicle washing at commercial car wash facilities, charity car~~
20 ~~washes, or permanent parking lots such as new, used, and rental car lots and fleet lots; outside washing of~~
21 ~~tools or other manufacturing equipment; outside cleaning of commercial cooking equipment such as~~
22 ~~filters and grills; or washing of buildings, including exteriors or mobile interior building cleaning~~
23 ~~services;~~



1 3. ~~Truck or rail loading or unloading of liquid or solid materials that involves~~
2 ~~transferring noncontainerized bulk liquids from truck or rail, or loading/unloading materials at a~~
3 ~~commercial or industrial loading dock;~~

4 4. ~~Liquid storage in stationary aboveground tanks, including storing liquid chemicals,~~
5 ~~fertilizers, pesticides, solvents, grease, or petroleum products in stationary aboveground tanks;~~

6 5. ~~Outside portable container storage of liquids, food wastes, or dangerous wastes~~
7 ~~including storing any of the following: vegetable grease, animal grease, or other accumulated food~~
8 ~~wastes; used oil; liquid feedstock; cleaning compounds; chemicals; solid waste as defined by SMC~~
9 ~~Chapter 21.36; or dangerous waste;~~

10 6. ~~Outside storage of noncontainerized materials, by products, or finished products,~~
11 ~~including outside storage of any of the following: nonliquid pesticides or fertilizers; contaminated soil;~~
12 ~~food products or food wastes; metals; building materials, including but not limited to lumber, roofing~~
13 ~~material, insulation, piping, and concrete products; or erodible materials, including but not limited to~~
14 ~~sand, gravel, road salt, topsoil, compost, excavated soil, and wood chips;~~

15 7. ~~Outside manufacturing activity including any of the following: processing;~~
16 ~~fabrication; repair or maintenance of vehicles, products or equipment; mixing; milling; refining; or sand~~
17 ~~blasting, coating, painting, or finishing of vehicles, products, or equipment;~~

18 8. ~~Landscape construction or maintenance, including any of the following: land~~
19 ~~disturbing activities as described in SMC Section 22.801.130; fertilizer or pesticide application near~~
20 ~~public drainage control system; and disposal of yard waste near a public drainage control system or~~
21 ~~riparian corridor.~~

22 "High use" means any project planned to generate or accommodate any of the following:

23 1. ~~Expected average daily traffic (ADT) count equal to or greater than one hundred~~
24 ~~(100) vehicles per one thousand (1,000) square feet of gross building area. In addition, the following is~~
25 ~~(100) vehicles per one thousand (1,000) square feet of gross building area. In addition, the following is~~
26 ~~(100) vehicles per one thousand (1,000) square feet of gross building area. In addition, the following is~~



1 high-use unless the responsible party demonstrates to the satisfaction of the Director of DCLU or of the
2 Director of SPU that the project will generate less than one hundred (100) vehicles per one thousand
3 (1,000) square feet of gross building area: uncovered parking lot accessory to any fast food restaurant,
4 convenience market, supermarket, shopping center, discount store, movie theater, athletic club, or bank;
5 2. ~~Petroleum storage or transfer in excess of one thousand five hundred (1,500) gallons~~
6 ~~per year, not including delivered heating oil;~~
7 3. ~~Storage, or maintenance of a fleet of twenty five (25) or more diesel vehicles that are~~
8 ~~over ten (10) tons net weight (including, but not limited to, trucks, buses, trains, heavy equipment);~~
9 4. ~~Road intersections with a measured ADT count of twenty five thousand (25,000)~~
10 ~~vehicles or more on the main roadway and fifteen thousand (15,000) or more on any intersecting~~
11 ~~roadway, excluding projects proposing primarily pedestrian or bicycle use improvements.~~

12 **22.801.100 "I."**

13 "Illicit discharge" means the discharges defined by Section 22.802.012.

14 "Impervious surface" means any surface exposed to rainwater from which most water runs off
15 including, but not limited to, paving, packed earth material, oiled macadam, or other treated surfaces, and
16 roof surfaces, patios, and formal planters.

17 Impervious surface, replaced. See "replaced or replacement of impervious surface."

18 "Infiltration facility" means a drainage facility that temporarily stores, and then percolates
19 stormwater runoff into the underlying soil. Examples include but are not limited to infiltration trenches,
20 ponds, vaults, and tanks.

21 "In place ground modification" means activity occurring at or below the surface which is
22 designed to alter the engineering parameters and physical characteristics of soil or rock, including but not
23 limited to, insitu consolidation, solidification, void space reduction and infilling.
24



1 ~~"Inspector" means the City inspector, inspection agency, or licensed civil engineer performing the~~
2 ~~inspection work required by this subtitle.~~

3 ~~**22.801.130 "L."**~~

4 ~~"Land disturbing activity" means any activity that results in a movement of earth, or a change in~~
5 ~~the existing soil cover (both vegetative and nonvegetative) or the existing topography. Land disturbing~~
6 ~~activities include, but are not limited to, clearing, grading, filling, excavation, or addition or replacement~~
7 ~~of impervious surface.~~

8 ~~"Large project" means a project including five thousand (5,000) square feet or more of new or~~
9 ~~replaced impervious surface or one (1) acre or more of land disturbing activity.~~

10 ~~**22.801.140 "M."**~~

11 ~~"Master use permit" means a document issued by DCLU giving permission for development or~~
12 ~~use of land or street right of way in accordance with the Land Use Code (Title 23, Seattle Municipal~~
13 ~~Code).~~

14 ~~"Media filter" means a stormwater treatment system that utilizes a filtration medium such as sand~~
15 ~~or leaf compost to remove pollutants via physical filtration and chemical adsorption or precipitation.~~
16 ~~Filters may be constructed underground in a vault or above ground in a pond. In both systems, stormwater~~
17 ~~that has passed through the filter media is collected in an underground pipe and discharged to the nearby~~
18 ~~drainage system.~~

19 ~~"Municipal stormwater NPDES permit" means the permit issued to the City under the federal~~
20 ~~Clean Water Act for public drainage control systems within the City limits.~~

21 ~~**22.801.150 "N."**~~

22 ~~"NPDES" means National Pollutant Discharge Elimination System, the national program for~~
23 ~~controlling discharges under the Federal Clean Water Act.~~



1 ~~"NPDES permit" means an authorization, license or equivalent control document issued by the~~
2 ~~United States Environmental Protection Agency or the Washington State Department of Ecology to~~
3 ~~implement the requirements of the NPDES program.~~

4 ~~"Nondesignated receiving waters" means all creeks, streams and lakes in The City of Seattle not~~
5 ~~designated as receiving waters, including Green Lake, Haller Lake, and Bitter Lake, and all the creeks and~~
6 ~~streams.~~

7 **~~22.801.160 "O."~~**

8 ~~"Oil/water separator" means a structure, usually underground, that is designed to provide~~
9 ~~quiescent flow conditions so that globules of free oil or other floatable materials that may be present in~~
10 ~~stormwater can float to the water surface and become trapped in the structure.~~

11 ~~"Oil/water separator, American Petroleum Institute (API)" means a vault that has multiple~~
12 ~~chambers separated by baffles and weirs to trap oil in the vault. API oil/water separators are designed to~~
13 ~~remove dispersed oil and floating debris and in containing spills.~~

14 ~~Oil/water separator, coalescing plate. See "coalescing plate oil/water separator."~~

15 ~~"Owner" means any person having title to and/or responsibility for, a building or property,~~
16 ~~including a lessee, guardian, receiver or trustee, and the owner's duly authorized agent.~~

17 **~~22.801.170 "P."~~**

18 ~~"Person" means an individual, firm, partnership, corporation, municipal corporation, and~~
19 ~~government, and the individual's or entity's heirs, successors and assigns.~~

20 ~~"Plan" means, for the purposes of this subtitle, and unless a different meaning is set forth or~~
21 ~~clearly required, a graphic or schematic representation, with accompanying notes, schedules,~~
22 ~~specifications and other related documents.~~



1 ~~"Plot plan" means a scaled map of a site and adjacent public rights-of-way showing locations and~~
2 ~~dimensions of various existing and proposed features, such as buildings, curbs, driveways, sidewalks,~~
3 ~~trees, grades and drainage patterns.~~

4 ~~"Preloading" means the temporary stockpiling of earth material over a site for the purpose of~~
5 ~~consolidating the existing soils.~~

6 ~~"Project" means the addition or replacement of impervious surface or the undertaking of land~~
7 ~~disturbing activity on a site.~~

8 ~~"Public combined sewer" means a publicly owned and maintained sewage system which carries~~
9 ~~drainage water and sewage and flows to a publicly owned treatment works.~~

10 ~~"Public drainage control system" means a drainage control system owned or used by The City of~~
11 ~~Seattle serving City streets and adjacent property.~~

12 ~~"Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys,~~
13 ~~sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and the space~~
14 ~~above or beneath its surface, whether or not opened or improved.~~

15 ~~"Public storm drain" means the part of a public drainage control system which is wholly or~~
16 ~~partially piped, is owned or operated by a public entity, and is designed to carry only drainage water.~~

17 **22.801.190 "R."**

18 ~~"Receiving waters" means the waters ultimately receiving drainage water, including the~~
19 ~~Duwamish River, Puget Sound, Lake Washington, Lake Union, and the Lake Washington Ship Canal,~~
20 ~~including associated bays, but not including tributary streams, creeks and lakes. See also "designated~~
21 ~~receiving waters" and "nondesignated receiving waters."~~

22 ~~"Replaced impervious surface" or "replacement of impervious surface" means impervious surface~~
23 ~~that is removed down to earth material and a new impervious surface is installed.~~

24 ~~"Responsible party" means all of the following persons:~~



1. ~~Owners and occupants of property within The City of Seattle; and,~~
2. ~~Any person causing or contributing to a violation of the provisions of this subtitle.~~

~~22.801.200 "S."~~

~~"SPU" means Seattle Public Utilities.~~

~~"Sand filter" means a depression or basin with the bottom made of a layer of sand designed and maintained to filter pollutants. Stormwater is treated as it percolates through the sand layer.~~

~~"Sanitary sewer" is as defined in the Side Sewer Ordinance, Seattle Municipal Code Section 21.16.030.~~

~~"Serve" or "Service," when used regarding a document, means the procedures set forth in Section 22.808.030.~~

~~"Service drain" means a privately owned and maintained drainage control facility or system which carries only drainage water. Service drains include, but are not limited to, conveyance pipes, catch basin connections, downspout connections, pipes, and subsurface drain connections.~~

~~"Shoreline district" means all land regulated by the Shorelines Management Act of 1971 (RCW Chapter 90.58) or City ordinances implementing it, as defined in the Land Use Code, Title 23 of the Seattle Municipal Code.~~

~~"Side sewer" is as defined in the Side Sewer Ordinance, Seattle Municipal Code Section 21.16.030.~~

~~"Site" means the lot or parcel, or portion of street, highway or other public right of way, or contiguous combination thereof, where a permit for the addition or replacement of impervious surface or the undertaking of land disturbing activity has been issued or where any such work is proposed or performed. For development limited to a public street, each segment from mid-intersection to mid-intersection shall be considered a separate site.~~



1 ~~"Slope" means an inclined ground surface. In this subtitle, the inclination of a slope is expressed~~
2 ~~as a ratio of horizontal distance to vertical distance.~~

3 ~~"Small project" means a project with:~~

- 4 ~~1. Less than five thousand (5,000) square feet of new and replaced impervious surface; and~~
5 ~~2. Less than one (1) acre of land disturbing activities.~~

6 ~~"Soil" means naturally deposited non-rock earth materials.~~

7 ~~"Solid waste" means solid waste as defined by SMC Section 21.36.016.~~

8 ~~"Source controls" mean structures or operations that prevent contaminants from coming in~~
9 ~~contact with stormwater through physical separation or careful management of activities that are known~~
10 ~~sources of pollution.~~

11 ~~1. "Operational source controls" are those which require modified or additional~~
12 ~~behavioral practices, such as sweeping a parking lot, or maintaining special equipment on site, such as~~
13 ~~spill response equipment.~~

14 ~~2. "Structural source controls" are those which require the construction of a structure or~~
15 ~~other physical modification on the site.~~

16 ~~"Standard design" is a design pre-approved by Seattle Public Utilities for drainage and erosion~~
17 ~~control available for use by a site with pre-defined characteristics.~~

18 ~~Storm drain. See "public storm drain" and "service drain."~~

19 ~~"Stormwater" means water originating from rainfall and other precipitation, and from footing~~
20 ~~drains and other subsurface drains approved by the Director of Seattle Public Utilities or installed in~~
21 ~~compliance with rules which may be adopted hereunder.~~

22 ~~22.801.210 "T."~~

23 ~~"Terrace" means a relatively level step constructed in the face of a graded slope surface for~~
24 ~~drainage and maintenance purposes.~~



1 ~~"Topsoil" means the weathered surface soil, usually including the organic layer, in which plants~~
2 ~~have most of their roots.~~

3 ~~"Treatment facility" means a method, such as pursuant to this subtitle and associated rules,~~
4 ~~designed to remove pollutants from stormwater runoff.~~

5 ~~**22.801.220 "U."**~~

6 ~~"Uncontaminated" means, for the purposes of this subtitle, not containing sediment or other~~
7 ~~pollutants or contaminants above natural background levels, when referring to surface or groundwater;~~
8 ~~and not containing pollutants or contaminants in levels greater than City-supplied drinking water when~~
9 ~~referring to potable water.~~

10 ~~**22.801.240 "W."**~~

11 ~~"Watercourse" means the route, constructed or formed by humans or by natural processes,~~
12 ~~generally consisting of a channel with bed, banks or sides, in which surface waters flow. Watercourse~~
13 ~~includes small lakes, bogs, streams, creeks, and intermittent artificial components (including ditches and~~
14 ~~culverts) but does not include receiving waters.~~

15 ~~"Wetpool" means a permanent pool of water that is contained in the bottom of a wet pond or wet~~
16 ~~vault stormwater treatment facility. Water in the wetpool is normally lost only through evaporation,~~
17 ~~evapotranspiration, or slow infiltration into the ground. The wetpool, also referred to as dead storage, is~~
18 ~~designed to reduce the velocity of incoming stormwater flows, encouraging particulates and particulate-~~
19 ~~bound pollutants to settle in wet ponds and wet vaults.~~

20 ~~"Wetpond" and "wetvault" mean stormwater treatment facilities that contain a permanent pool of~~
21 ~~water (wetpool). They are designed to settle out particles of fine sediment, and allow biologic activity to~~
22 ~~occur to metabolize nutrients and organic pollutants, by providing a long retention time. Wetvaults are~~
23 ~~covered by a lid.~~

24 ~~**Chapter 22.802 STORMWATER, DRAINAGE, AND EROSION CONTROL**~~



1 ~~**22.802.010 Scope and exemptions from subtitle.**~~

2 A. ~~General. All discharges subject to this subtitle as set forth in Section 22.800.030, all land~~
3 ~~uses, additions and replacement of impervious surface, land disturbing activity, and grading shall comply~~
4 ~~with all requirements of this subtitle unless explicitly exempted by this subtitle or by the Director~~
5 ~~exercising authority granted under this subtitle.~~

6 B. ~~Exemptions. The following land uses are exempt from the provisions of this subtitle:~~

7 1. ~~Commercial agriculture, including only those activities conducted on lands defined in~~
8 ~~RCW 84.34.020(2), and production of crops or livestock for wholesale trade;~~

9 2. ~~Forest practices regulated under Title 222 Washington Administrative Code, except~~
10 ~~for Class IV general forest practices, as defined in WAC 222-16-050, that are conversions from timber~~
11 ~~land to other uses; and~~

12 3. ~~Development undertaken by the Washington State Department of Transportation in~~
13 ~~state highway right-of-way that complies with standards found in Chapter 173-270 Washington~~
14 ~~Administrative Code, the Puget Sound Highway Runoff Program.~~

15 ~~**22.802.012 Prohibited discharges.**~~

16 A. ~~Stormwater Discharges to Sanitary and Combined Sewers. In consultation with the local~~
17 ~~sewage treatment agency, the Director of SPU may approve discharges of stormwater to a public~~
18 ~~combined sewer or sanitary sewer if other methods of controlling pollutants in the discharge are not~~
19 ~~adequate or reasonable, the discharging party certifies that the discharge will not harm the environment~~
20 ~~and will not overburden or otherwise harm the public combined sewer or sanitary sewer systems. The~~
21 ~~Director of SPU shall condition approval of such a discharge on compliance with local pretreatment~~
22 ~~regulations.~~



1 ~~B. Discharges Prohibited to Surface Waters and Public Drainage Control Systems. It is unlawful~~
2 ~~to make illicit discharges, as defined in subsection C below, either directly or indirectly to surface waters~~
3 ~~within or contiguous to Seattle city limits or to a public drainage control system.~~

4 ~~C. Illicit Discharges Defined.~~

5 ~~1. Except as provided in subsection D below, all discharges which are not composed~~
6 ~~entirely of stormwater are illicit discharges. See Section 22.808.020 for defenses available to responsible~~
7 ~~parties.~~

8 ~~2. The following is a partial list, provided for informational purposes only, of common~~
9 ~~substances which are illicit discharges when allowed to enter a public drainage control system: Solid~~
10 ~~waste; human and animal waste; antifreeze, oil, gasoline, grease and all other automotive and petroleum~~
11 ~~products; flammable or explosive materials; metals in excess of naturally occurring amounts, whether in~~
12 ~~liquid or solid form; chemicals not normally found in uncontaminated water; solvents and degreasers;~~
13 ~~painting products; drain cleaners; commercial and household cleaning materials; pesticides; herbicides;~~
14 ~~fertilizers; acids; alkalis; ink; steam cleaning waste; laundry waste; soap; detergent; ammonia; chlorine;~~
15 ~~chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and~~
16 ~~food waste; yard waste; dirt; sand; and gravel.~~

17 ~~D. Permissible Discharges. Discharges from the sources listed below shall only be illicit~~
18 ~~discharges if the Director of SPU determines that the type of discharge, whether singly or in combination~~
19 ~~with others, is causing or contributing to a violation of the City's NPDES stormwater permit or is causing~~
20 ~~or contributing to a water quality problem, such as those which contain more contamination than typical~~
21 ~~discharges in the City, or which contain a type of contamination that is more toxic or is otherwise a more~~
22 ~~serious problem than typical discharges in the City: Potable water sources; washing of potable water~~
23 ~~storage reservoirs; flushing of potable water lines; natural uncontaminated surface water; natural~~
24 ~~uncontaminated groundwater; air conditioning condensation; natural springs; uncontaminated water from~~
25



1 ~~crawl space pumps; runoff from lawn watering; irrigation runoff; runoff from residential car washing by~~
2 ~~individuals; flows from riparian habitats and wetlands; heat; discharges in compliance with an NPDES~~
3 ~~permit; and discharges from approved footing drains and other subsurface drains or, where approval is not~~
4 ~~required, installed in compliance with this subtitle and rules promulgated pursuant to this subtitle.~~

5 ~~E. Exemption. Discharges resulting from public firefighting activities, but not from activities not~~
6 ~~related to firefighting such as the maintenance or cleaning of firefighting equipment, are exempt from~~
7 ~~regulation under this section.~~

8 ~~F. Testing for Illicit Discharges. When the Director of SPU has reason to believe that any~~
9 ~~discharge is an illicit discharge, the Director of SPU may sample and analyze the discharge and recover~~
10 ~~the costs from a responsible party in an enforcement proceeding. When the discharge is likely to contain~~
11 ~~illicit discharges on a recurring basis, the Director of SPU may~~0. ~~conduct, or may require the responsible~~
12 ~~party to conduct, ongoing monitoring at the responsible party's expense.~~

13
14 **~~22.802.013 Requirements for all discharges and land uses.~~**

15 ~~A. For all discharges except those that drain only to the public combined sewer, responsible~~
16 ~~parties shall implement and maintain operational source controls, including but not limited to the~~
17 ~~following, as further described in rules promulgated by the Director:~~

- 18 ~~1. Maintaining drainage control systems such as conveyance systems, detention systems~~
19 ~~and treatment systems;~~
20 ~~2. Maintaining streets, driveways, parking lots and sidewalks; and~~
21 ~~3. Identifying and eliminating illicit connections to the drainage control system.~~

22 ~~B. For high risk pollution generating activities except those that discharge only to the public~~
23 ~~combined sewer:~~

- 24 ~~1. Operational source controls shall be implemented for the high risk pollution~~
25 ~~generating activities as specified in rules promulgated jointly by the Directors of SPU and DCLU.~~



1 Operational source controls for high-risk pollution-generating activities shall include, but are not limited
2 to, ~~enclosing, covering, or containing the activity, developing and implementing inspection and~~
3 ~~maintenance programs, sweeping, and training employees on pollution prevention.~~

4 2. ~~Spill prevention shall be required. Parties responsible for undertaking, operating, or~~
5 ~~maintaining the high-risk pollution-generating activities are required to do the following, as further~~
6 ~~defined in rules promulgated by the Director:~~

7 a. ~~Develop and implement plans and procedures to prevent spills and other~~
8 ~~accidental releases of materials that may contaminate stormwater. This requirement may be satisfied by a~~
9 ~~Stormwater Pollution Prevention Plan prepared in compliance with an NPDES industrial stormwater~~
10 ~~permit for the site;~~

11 b. ~~Implement procedures for immediate containment and other appropriate~~
12 ~~action regarding spills and other accidental releases to prevent contamination of stormwater; and~~

13 c. ~~Provide necessary containment and response equipment on-site, and training~~
14 ~~of personnel regarding the procedures and equipment to be used.~~

15 3. ~~The responsible parties are required to make plans, procedures, and schedules~~
16 ~~required by this subsection available to the Director of SPU when requested.~~

17 C. ~~If the Director of SPU determines that discharges from a drainage control facility are causing~~
18 ~~or contributing to a water quality problem, such as but not limited to discharges that violate the City's~~
19 ~~municipal stormwater NPDES permit or that cannot be adequately addressed by the required operational~~
20 ~~or structural best management practices, then the Director of SPU may require the responsible party to~~
21 ~~undertake more stringent or additional best management practices. These best management practices may~~
22 ~~include operational or structural best management practices or other action necessary to cease causing or~~
23 ~~contributing to the water quality problem or violation of the City's permit. Structural best management~~
24 ~~practices may include but shall not be limited to drainage control facilities, structural source controls,~~
25
26



1 ~~treatment facilities, constructed facilities such as enclosures, covering and/or berming of container storage~~
2 ~~areas, and revised drainage systems. For existing discharges as opposed to new projects, the Directors of~~
3 ~~SPU and DCLU shall allow twelve (12) months to install a new flow control facility, structural source~~
4 ~~control or treatment facility after a Director determines pursuant to this subsection that discharges from a~~
5 ~~site are causing or contributing to a water quality problem and notifies the responsible party in writing of~~
6 ~~that determination and of the flow control facility, structural source control or treatment facility that must~~
7 ~~be installed.~~

8 ~~D. Release Reporting Requirements. A responsible party is required to, at the earliest possible~~
9 ~~time, but in any case within twenty four (24) hours of discovery, report to the Director of SPU, a spill,~~
10 ~~release, dumping, or other situation that has contributed or is likely to contribute pollutants to a public~~
11 ~~drainage control system. This reporting requirement is in addition to, and not instead of, any other~~
12 ~~reporting requirements under federal, state or local laws.~~

13 ~~E. Natural Drainage Patterns. Natural drainage patterns shall be maintained.~~

14 ~~F. Obstruction of Watercourses. Watercourses shall not be obstructed.~~

15 ~~**22.802.015 Drainage, erosion control, and source control requirements for all land**~~
16 ~~**disturbing activities or addition or replacement of impervious surface.**~~

17 ~~A. Compliance Required. All land disturbing activities or addition or replacement of impervious~~
18 ~~surface are required to comply with this section, even where drainage control review is not required.~~

19 ~~Exception: Maintenance, repair, or installation of underground or overhead utility facilities, such as, but~~
20 ~~not limited to, pipes, conduits and vaults, is not required to comply with the provisions of this section~~
21 ~~except subsection C3 of this section.~~

22 ~~B. Approval of Exceptions Required. Exceptions to the requirements of this subtitle may not be~~
23 ~~used on any projects, including those that do not require drainage control review, unless allowed by this~~
24 ~~subtitle, by rule promulgated jointly by the Director of SPU and the Director of DCLU, or approved by~~
25 ~~the Council.~~



1 the Director of DCLU. Approval shall be obtained prior to initiating land disturbing activities or adding or
2 replacing impervious surface. Approvals are required for exceptions to any and all requirements of this
3 subtitle, including but not limited to the requirement that natural drainage patterns be maintained and the
4 requirement that watercourses not be obstructed.

5 C. Requirements of All Projects.

6 1. Discharge Point. The discharge point for drainage water from each site shall be
7 selected as set forth in rules promulgated jointly by the Directors of SPU and DCLU specifying criteria,
8 guidelines, and standards for determining drainage discharge points to meet the purposes of this subtitle.
9 The criteria shall include, but not be limited to, preservation of natural drainage patterns and whether the
10 capacity of the drainage control system is adequate for the additional volume. For those projects meeting
11 the drainage review threshold, the proposed discharge point shall be identified in the drainage control plan
12 required by Section 22.802.020, for review and approval or disapproval by the Director of DCLU.

13 2. Flow Control. The peak drainage water discharge rate from the portion of the site
14 being developed shall not exceed 0.2 cubic feet per second per acre under twenty five (25) year, twenty-
15 four (24) hour design storm conditions or 0.15 cubic feet per second per acre under two (2) year, twenty-
16 four (24) hour design storm conditions unless the site discharges water directly to a designated receiving
17 water or to a public storm drain which the Director of SPU determines has sufficient capacity to carry
18 existing and anticipated loads from the point of connection to a designated receiving water body. Projects
19 with more than two thousand (2,000) square feet of new and replaced impervious surface shall be
20 required to install and maintain a flow control facility, in accordance with rules promulgated by the
21 Director, that is sized for the volume of runoff routed through the facility. Approved exceptions and flow
22 control methods may be prescribed in rules promulgated by the Director.
23

24 3. Construction Stormwater Control. During land disturbing activities or addition or
25 replacement of impervious surface, temporary and permanent construction controls shall be used to
26



1 accomplish the following (a-g). Rules promulgated jointly by the Directors of SPU and DCLU specify
2 the minimum required controls as well as additional controls that may be required by the Director of
3 DCLU when minimum controls are not sufficient to prevent erosion or transport of sediment or other
4 pollutants from the site.

5 a. Prevent on-site erosion by stabilizing all soils, including stock piles, that are
6 temporarily exposed. Methods such as, but not limited to, the installation of seeding, mulching, matting,
7 and covering may be specified by rules promulgated by the Director. From October 1st to April 30th, no
8 soils shall remain unstabilized for more than two (2) days. From May 1st to September 30th, no soils
9 shall remain unstabilized for more than seven (7) days.

10 b. Before the completion of the project, permanently stabilize all exposed soils
11 that have been disturbed during construction. Methods such as permanent seeding, planting, and sodding
12 may be specified by rules promulgated by the Director.

13 c. Prevent the transport of sediment from the site. Appropriate use of methods
14 such as, but not limited to, vegetated buffer strips, stormdrain inlet protection, silt fences, sediment traps,
15 settling ponds, and protective berms may be specified in rules promulgated by the Director.

16 d. During construction, prevent the introduction of pollutants in addition to
17 sediment into stormwater. Appropriate methods, as prescribed in rules promulgated by the Director,
18 include operational source controls such as, but not limited to, spill control for fueling operations,
19 equipment washing, cleaning of catch basins, treatment of contaminated soils, and proper storage and
20 disposal of hazardous materials.

21 e. Limit construction vehicle access, whenever possible, to one route. Stabilize
22 access points as specified in rules promulgated by the Director to minimize the tracking of sediment onto
23 public roads.
24
25
26



1 f. ~~Inspect and maintain required erosion and sediment controls as prescribed in~~
2 ~~rules promulgated by the Director to ensure continued performance of their intended function.~~

3 g. ~~Prevent sediment from entering all storm drains, including ditches, which~~
4 ~~receive runoff from the disturbed area.~~

5 4. ~~Source Control.~~

6 a. ~~Effective January 1, 2001, structural source controls shall be installed for~~
7 ~~high risk pollution generating activities to the maximum extent practicable to the portion of the site being~~
8 ~~developed, in accordance with rules promulgated by the Director, except in the following circumstances:~~

9 i. ~~When that portion of the site being developed discharges only to the~~
10 ~~public combined sewer; or~~

11 ii. ~~For normal residential activities unless the Director determines that~~
12 ~~these activities pose a hazard to public health, safety or welfare; endanger any property; or adversely~~
13 ~~affect the safety and operation of city right of way, utilities, or other property owned or maintained by the~~
14 ~~City.~~

15 b. ~~The structural source controls shall include, but not be limited to, the~~
16 ~~following, as further defined in rules promulgated jointly by the Directors:~~

17 i. ~~Enclose, cover, or contain within a berm or dike the high risk~~
18 ~~pollution generating activities;~~

19 ii. ~~Direct drainage from containment area of high risk pollution~~
20 ~~generating activity to a closed sump or tank for settling and appropriate disposal, or treat prior to~~
21 ~~discharging to a public drainage control system;~~

22 iii. ~~Pave, treat, or cover the containment area of high risk pollution~~
23 ~~generating activities with materials that will not interact with or break down in the presence of other~~
24 ~~materials used in conjunction with the pollution generating activity; and~~



1 to, pipes, conduits and vaults, is not required to comply with the provisions of this section except
2 subsection B7.

3 ~~B. Requirements.~~

4 1. ~~Flow Control. Effective January 1, 2001, in addition to the discharge rate specified in~~
5 ~~Section 22.802.015, the peak drainage water discharge rate shall not exceed 0.5 cubic feet per second per~~
6 ~~acre in a one hundred (100)-year, twenty-four (24) hour design storm for portions of the site being~~
7 ~~developed that drain to a Class A or Class B Riparian Corridor, excluding Bitter Lake and Haller Lake, as~~
8 ~~defined by Section 25.09.020 or to a drainage control system that drains to a Class A or Class B Riparian~~
9 ~~Corridor, excluding Bitter Lake and Haller Lake.~~

10 2. ~~Stormwater Treatment.~~

11 a. ~~Effective January 1, 2001, stormwater treatment facilities shall be installed~~
12 ~~and maintained to treat that portion of the site being developed, as specified in this section and in rules~~
13 ~~promulgated jointly by the Directors of DCLU and SPU, unless the following conditions exist:~~

14 i. ~~The site produces no stormwater runoff discharge as determined by a~~
15 ~~licensed civil engineer; or~~

16 ii. ~~The entire project drains to a combined sewer.~~

17 b. ~~Stormwater treatment facilities shall be designed to treat the runoff volume~~
18 ~~from the six (6)-month, twenty-four (24) hour storm, collected from the drainage area being routed~~
19 ~~through the facility.~~

20 c. ~~One of the following stormwater treatment facilities shall be installed and~~
21 ~~maintained in accordance with rules promulgated jointly by the Directors: infiltration, wetpond,~~
22 ~~stormwater wetland, biofiltration swale, filter strip, wet vault, media filter, or an alternative technology if~~
23 ~~the conditions in subsection B2e of this section are met.~~



1 make inapplicable the treatment requirements of Section 22.802.016 B2, pursuant to rules promulgated by
2 the Directors.

3 ~~3.—Protection of Streams. Where stormwater is discharged directly to a stream or to a~~
4 ~~conveyance system that discharges to a stream, streambank erosion and effects on water quality in~~
5 ~~streams shall be minimized through the selection, design, installation, and maintenance of temporary and~~
6 ~~permanent controls.~~

7 ~~4.—Protection of Wetlands. Where stormwater discharges directly to a wetland, as~~
8 ~~defined by SMC Chapter 25.09, or to a conveyance system that discharges to a wetland, the introduction~~
9 ~~of sediment, heat, and other pollutants and contaminants into wetlands shall be minimized through the~~
10 ~~selection, design, installation, and maintenance of temporary and permanent controls. Discharges to~~
11 ~~wetlands of exceptional value, as defined by SMC Chapter 25.09, shall maintain existing flows to the~~
12 ~~extent necessary to protect the functions and values of the wetland. Detention and treatment systems shall~~
13 ~~not be located within any wetland or its buffer. Prior to discharging to a wetland, alternative discharge~~
14 ~~locations shall be evaluated and infiltration options outside the wetland shall be maximized.~~

15 ~~5.—Off site Analysis. When the portion of a site being developed is within one quarter (~~
16 ~~1/4) mile of a stream and discharges directly to that stream, or to a drainage system that drains to that~~
17 ~~stream, impacts to off-site water quality resulting from the project are to be analyzed and mitigated. The~~
18 ~~analysis shall comply with this section and rules the Directors may jointly promulgate pursuant to this~~
19 ~~section. The analysis shall provide for mitigation of all surface water quality or sediment quality impacts.~~
20 ~~The analysis shall evaluate impacts likely to occur one quarter (1/4) mile downstream from the project.~~
21 ~~The impacts to be evaluated and mitigated shall include at least the following:~~

- 22
23 a.—Amount of sedimentation;
24 b.—Streambank erosion;
25 c.—Discharges to groundwater contributing to recharge zones;
26



1 ~~d. Violations of state or federal surface water, groundwater, or sediment quality~~
2 ~~standards; and~~

3 ~~e. Spills and other accidental illicit discharges.~~

4 ~~6. Inspection and Maintenance Schedule. Temporary and permanent drainage control~~
5 ~~and stormwater treatment facilities and other controls shall be inspected and maintained according to a~~
6 ~~schedule submitted to the Director. The schedule shall meet the requirements of this subtitle and rules~~
7 ~~promulgated under this subtitle.~~

8 ~~7. Construction Stormwater Control. In addition to the requirements described in~~
9 ~~Section 22.802.015, construction stormwater controls shall be used to accomplish the following (a-j):~~
10 ~~Rules promulgated by the Directors of SPU and DCLU specify the minimum required controls as well as~~
11 ~~additional controls that may be required by the Director when minimum controls are not sufficient to~~
12 ~~prevent the erosion or transport of sediment or other pollutants from the site. These controls (subsection~~
13 ~~B7(a) (j) of this section) and those required by Section 22.802.015 C3 shall be shown on a construction~~
14 ~~stormwater control plan complying with the requirements and purposes of this subtitle and rules~~
15 ~~promulgated hereunder and submitted to the Director. The construction stormwater control plan shall~~
16 ~~address at least the following (subsection B7(a) (j) of this section) and Section 22.802.015 C3:~~

17 ~~a. Before leaving the site, stormwater runoff shall pass through a sediment trap,~~
18 ~~sediment pond, or similar device;~~

19 ~~b. In the field, clearing limits and any easements, setbacks, critical areas and~~
20 ~~their buffers, trees, and drainage courses shall be marked;~~

21 ~~c. Sediment ponds and traps, perimeter dikes, sediment barriers, and other~~
22 ~~erosion and sedimentation controls intended to trap sediment on site shall be constructed as a first step in~~
23 ~~grading. These controls shall be functional before the land disturbing activities take place. Earthen~~
24



1 ~~structures such as dams, dikes, and diversions shall be stabilized in accordance with Section 22.802.015~~

2 ~~C3;~~

3 ~~d. Cut and fill slopes shall be designed and constructed in a manner that will~~
4 ~~minimize erosion. In addition, slopes will be stabilized in accordance with Section 22.802.015 C3;~~

5 ~~e. Properties and waterways downstream from the project site shall be protected~~
6 ~~from erosion due to increases in the volume, velocity, and peak flow rate of stormwater from the project~~
7 ~~site;~~

8 ~~f. All temporary on-site conveyance channels shall be designed, constructed,~~
9 ~~and stabilized to prevent erosion from the expected velocity of a two (2) year, twenty four (24) hour~~
10 ~~design storm for the developed condition. Stabilization adequate to prevent erosion of outlets, adjacent~~
11 ~~streambanks, slopes, and downstream reaches shall be provided at the outlets of all conveyance systems;~~

12 ~~g. Whenever construction vehicle access routes intersect paved roads, the~~
13 ~~transport of sediment onto the paved road shall be minimized. If sediment is transported onto a paved~~
14 ~~road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed~~
15 ~~from paved roads by shoveling or sweeping and shall be transported to a controlled sediment disposal~~
16 ~~area. Street washing shall be allowed only after sediment is removed in this manner;~~

17 ~~h. All temporary erosion and sediment controls shall be removed within thirty~~
18 ~~(30) days after final site stabilization is achieved or after the temporary controls are no longer needed,~~
19 ~~whichever is later. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting~~
20 ~~from removal shall be permanently stabilized;~~

21 ~~i. When dewatering devices discharge on-site or to a public drainage control~~
22 ~~system, dewatering devices shall discharge into a sediment trap or sediment pond or gently sloping~~
23 ~~vegetated area; and~~
24



1 j. ~~In the construction of underground utility lines, where feasible, no more than~~
2 ~~five hundred (500) feet of trench shall be opened at one time, unless soil is replaced within the same~~
3 ~~working day, and where consistent with safety and space considerations, excavated material shall be~~
4 ~~placed on the uphill side of trenches. Trench dewatering devices shall discharge into a sediment trap or~~
5 ~~sediment pond.~~

6 **~~22.802.020 Drainage control review and application requirements.~~**

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

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

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

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

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

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

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



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

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

5 ~~h. Whenever an exception to a requirement set forth in this subtitle or in a rule~~
6 ~~promulgated under this subtitle is desired, whether or not review and approval would otherwise be~~
7 ~~required, including but not limited to, alteration of natural drainage patterns or the obstruction of~~
8 ~~watercourses.~~

9 ~~2. Large project drainage control review and approval shall be required for projects that~~
10 ~~include:~~

11 ~~a. Five thousand (5,000) square feet or more of new or replaced impervious~~
12 ~~surface; or~~

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

14 ~~3. The City may, by interagency agreement signed by the Directors of SPU and DPD,~~
15 ~~waive the drainage and erosion control permit and document requirements for property owned by public~~
16 ~~entities, when discharges for the property do not enter the public drainage control system or the public~~
17 ~~combined sewer system. Whether or not they are required to obtain permits or submit documents, public~~
18 ~~entities are subject to the substantive requirements of this subtitle, unless exceptions are granted as set~~
19 ~~forth in Section 22.808.010.~~

20 ~~B. Submittal Requirements for Drainage Control Review and Approval.~~

21 ~~1. Information Required for Standard Drainage Control Review. The following~~
22 ~~information shall be submitted to the Director for all projects for which drainage control review is~~
23 ~~required.~~



1 a. ~~Standard Drainage Control Plan. A drainage control plan shall be submitted~~
2 ~~to DCLU. Standard designs for drainage control facilities as set forth in rules promulgated by the Director~~
3 ~~may be used.~~

4 b. ~~Construction Stormwater Control Plan (Standard Erosion and Sediment~~
5 ~~Control Plan). A construction stormwater control plan demonstrating controls sufficient to determine~~
6 ~~compliance with Section 22.802.015 C3 shall be submitted. The Director may approve a checklist in place~~
7 ~~of a plan, pursuant to rules promulgated by the Director.~~

8 c. ~~Memorandum of Drainage Control. The owner(s) of the site shall sign a~~
9 ~~"memorandum of drainage control" that has been prepared by the Director of SPU. Completion of the~~
10 ~~memorandum shall be a condition precedent to issuance of any permit or approval for which a drainage~~
11 ~~control plan is required. The applicant shall file the memorandum of drainage control with the King~~
12 ~~County Department of Records and Elections so as to become part of the King County real property~~
13 ~~records. The applicant shall give the Director of SPU proof of filing of the memorandum. The~~
14 ~~memorandum shall not be required when the drainage control facility will be owned and operated by the~~
15 ~~City. A memorandum of drainage control shall include:~~

16 i. ~~The legal description of the site;~~
17
18 ii. ~~A summary of the terms of the drainage control plan, including any~~
19 ~~known limitations of the drainage control facilities, and an agreement by the owners to implement those~~
20 ~~terms;~~

21 iii. ~~An agreement that the owner(s) shall inform future purchasers and~~
22 ~~other successors and assignees of the existence of the drainage control facilities and other elements of the~~
23 ~~drainage control plan, the limitations of the drainage control facilities, and of the requirements for~~
24 ~~continued inspection and maintenance of the drainage control facilities;~~



1 discharges to that stream, an analysis of impacts to off-site water quality resulting from the project
2 prepared in accordance with Section 22.802.016 shall be submitted.

3 ~~d. Construction Stormwater Control Plan. A construction stormwater control~~
4 ~~plan prepared in accordance with Section 22.802.015 and 22.802.016 shall be submitted.~~

5 ~~3. Applications for drainage control review and approval shall be prepared and~~
6 ~~submitted in accordance with provisions of this section, with Chapter 21.16, Side Sewers, and with~~
7 ~~associated rules and regulations adopted jointly by the Directors of DCLU and SPU.~~

8 ~~4. The Director of DCLU may require additional information necessary to adequately~~
9 ~~evaluate applications for compliance with the requirements and purposes of this subtitle and other laws~~
10 ~~and regulations, including but not limited to SMC Chapter 25.09, Regulations for Environmentally~~
11 ~~Critical Areas. The Director of DCLU may also require appropriate information about adjoining~~
12 ~~properties that may be related to, or affected by, the drainage control proposal in order to evaluate effects~~
13 ~~on the adjacent property. This additional information may be required as a precondition for permit~~
14 ~~application review and approval.~~

15 ~~5. Where an applicant simultaneously applies for more than one (1) of the permits listed~~
16 ~~in subsection A of this section for the same property, the application shall comply with the requirements~~
17 ~~for the permit that is the most detailed and complete.~~

18 ~~C. Authority to Review. The Director of DCLU may approve those plans that comply with the~~
19 ~~provisions of this subtitle and rules promulgated hereunder, and may place conditions upon the approval~~
20 ~~in order to assure compliance with the provisions of this subtitle. Submission of the required drainage~~
21 ~~control application information shall be a condition precedent to the processing of any of the above listed~~
22 ~~permits. Approval of drainage control shall be a condition precedent to issuance of any of the above listed~~
23 ~~permits. The Director of DCLU may review and inspect activities subject to this subtitle and may require~~
24 ~~compliance regardless of whether review or approval is specifically required by this section. The Director~~
25
26
27
28



1 of DCLU may disapprove plans that do not comply with the provisions of this subtitle and rules
2 promulgated hereunder. Disapproved plans shall be returned to the applicant, who may correct and
3 resubmit the plans.

4 **~~22.802.040 Drainage control plan registry.~~**

5 The Director of SPU shall maintain an official registry and permanent file of all approved
6 drainage control plans. Each plan shall be cataloged in the registry according to the property address,
7 legal description of the property, and the side sewer permit number of the permit or approval for which
8 the plan is required. Where a drainage control plan covers more than one (1) property, the approved plan
9 shall be cataloged for each property covered by the plan.

10 **~~22.802.060 Installation of drainage control facilities.~~**

11 A. All privately owned and operated drainage control facilities or systems, whether or not they
12 discharge to a public drainage control system, shall be considered side sewers and shall be subject to Title
13 21 of the Seattle Municipal Code, the SPU Director's Rules promulgated under that title, and the design
14 and installation specifications and permit requirements of the SPU and DCLU for side sewer and drainage
15 control systems.

16 B. Side sewer permits and inspections shall be required for construction, capping, alterations, or
17 repairs of privately owned and operated drainage control systems as provided in Chapter 21.16 of the
18 Seattle Municipal Code. When the work is ready for inspection, the permittee shall notify the Director of
19 SPU. If the work is not in accordance with plans approved under this subtitle and in accordance with
20 Chapter 21.16, SPU and DCLU Director's Rules, and SPU and DCLU design and installation
21 specifications, the SPU, after consulting with the DCLU, may order the work stopped by written notice to
22 the persons engaged in performing the work or causing the work to be done, and may require
23 modifications as provided in this subtitle and Chapter 21.16.

24 **~~22.802.070 Modifications of drainage control facilities during construction.~~**



1 A. ~~During construction the Director of SPU may require, or the applicant may request, that the~~
2 ~~construction of drainage control facilities and associated project designs be modified if physical~~
3 ~~conditions are discovered on the site which are inconsistent with the assumptions upon which the~~
4 ~~approval was based, including but not limited to unexpected soil and/or water conditions, weather~~
5 ~~generated problems, or changes in the design of the improved areas. Modifications shall be submitted to~~
6 ~~the Director of DCLU for approval prior to implementation.~~

7 B. ~~Any such modifications made during the construction of drainage control facilities shall be~~
8 ~~recorded on the final approved drainage control plan, a revised copy of which shall be filed by the~~
9 ~~Director of SPU.~~

10 **~~22.802.090 Maintenance and inspection.~~**

11 A. ~~Responsibility for Maintenance and Inspection. Drainage control facilities, source controls,~~
12 ~~and stormwater treatment facilities required by this subtitle and by rules adopted hereunder, shall be~~
13 ~~maintained as specified in rules promulgated by the Director, by the owner and other responsible party.~~
14 ~~The owner and other responsible party shall inspect permanent drainage control facilities at least~~
15 ~~annually, and shall inspect temporary drainage control facilities and other temporary best management~~
16 ~~practices or facilities on a schedule consistent with Section 22.802.016 B6 of this subtitle and sufficient~~
17 ~~for the facilities to function at design capacity. The Director of SPU may require the responsible party to~~
18 ~~conduct more frequent inspections and/or maintenance when necessary to insure functioning at design~~
19 ~~capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property~~
20 ~~of the existence of the drainage control facilities and the elements of the drainage control plan, the~~
21 ~~limitations of the drainage control facilities, and the requirements for continued inspection and~~
22 ~~maintenance of the drainage control facilities.~~

23 B. ~~Inspection by City. The Director of SPU may establish inspection programs to insure~~
24 ~~compliance with the requirements of this subtitle and accomplishment of its purposes. Inspection~~
25



1 programs may be established on any reasonable basis, including but not limited to: routine inspections;
2 random inspections; inspections based upon complaints or other notice of possible violations; inspection
3 of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or
4 pollutants; inspections of businesses or industries of a type associated with higher than usual discharges
5 of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge
6 to cause violations of state or federal water or sediment quality standards or the City's NPDES stormwater
7 permit; and joint inspections with other agencies inspecting under environmental or safety laws.

8 Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling
9 discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating
10 the condition of drainage control facilities and other best management practices.

11 C. ~~Entry for Inspection and Abatement Purposes.~~

12 1. ~~New Installations and Connections.~~ When any new drainage control facility is
13 installed on private property, and when any new connection is made between private property and a
14 public drainage control system, sanitary sewer or combined sewer, the property owner shall execute a
15 permission form provided by the Director of SPU. The property owner shall grant the City the right to
16 enter the property at reasonable times and in a reasonable manner pursuant to an inspection program
17 established pursuant to subsection B above, and to enter the property when the City has a reasonable basis
18 to believe that a violation of this subtitle is occurring or has occurred, and to enter when necessary for
19 abatement of a public nuisance or correction of a violation of this subtitle.
20

21 2. ~~Existing Land Uses and Discharges.~~ Owners of property with existing discharges or
22 land uses subject to this subtitle who are not installing a new drainage control facility or making a new
23 connection between private property and a public drainage control system, sanitary sewer or combined
24 sewer, shall have the option to execute a permission form for the purposes described above when
25 provided with the form by the Director of SPU.
26



1 D. ~~Disposal of Waste from Maintenance Activities.~~ Disposal of waste from maintenance of
2 drainage and stormwater control facilities shall be conducted in accordance with federal, state and local
3 regulations, including the Minimum Functional Standards for Solid Waste Handling, Chapter 173-304
4 WAC, guidelines for disposal of waste materials, and, where appropriate, Dangerous Waste Regulations,
5 Chapter 173-303 WAC, including any subsequent amendments to these provisions.

6 E. ~~Records of Installation and Maintenance Activities.~~ When a new drainage control facility is
7 installed, the party having the facility installed shall obtain a copy of the as-built plans from the Director
8 of SPU. Responsible parties shall make records of the installation and of all maintenance and repair, and
9 shall retain the records for at least ten (10) years. These records shall be made available to the Director of
10 SPU during inspection of the facility and at other reasonable times upon request of the Director of SPU.

11 **~~Chapter 22.808 ADMINISTRATION AND ENFORCEMENT~~**

12 **~~22.808.010 Exceptions to requirements.~~**

13 A. ~~General.~~ Requests for exceptions to the requirements of this subtitle shall be made according
14 to this section. Exceptions shall include alternative requirements, waivers, reductions, or modifications of
15 the requirements. An exception shall only be granted to the extent necessary to meet the criteria set forth
16 in this section. An applicant is not entitled to an exception, whether or not the criteria allowing approval
17 of an exception are met. The Director may require an applicant to submit an engineer's report or analysis
18 with a request for an exception. When an exception is granted, the Director may impose new or additional
19 requirements to offset or mitigate harm that may be caused by granting the exception, or that would have
20 been prevented if the exception had not been granted.

21 B. ~~Equally Protective Exceptions.~~ The Director may approve a request for an exception if the
22 Director determines that it is likely to be equally protective of public health, safety and welfare, the
23 environment, and public and private property as the requirement from which an exception is sought.
24
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1 C. ~~Other Exceptions. The Director may approve a requested exception even if it is not equally~~
2 ~~protective of public health, safety and welfare, the environment, and public and private property, or if the~~
3 ~~Director cannot determine whether it is equally protective, if the Director determines that substantial~~
4 ~~reasons exist for approving the requested exception. Substantial reasons may include, but are not limited~~
5 ~~to:~~

- 6 1. ~~The requirement is not technically feasible;~~
7 2. ~~An emergency situation necessitates approval of the exception;~~
8 3. ~~No reasonable use of the property is possible unless the exception is approved;~~
9 4. ~~The requirement would cause harm or a significant threat of harm to public health,~~
10 ~~safety and welfare, the environment, or public and private property, or would cause extreme financial~~
11 ~~hardship, which outweighs its benefits, and the requested exception would not cause significant harm.~~

12 D. ~~Public Notice. Public notice of an application for an exception under the criteria set forth in~~
13 ~~subsections C3 and C4 above, and of the Director's decision on the application shall be provided in the~~
14 ~~manner prescribed for Type II land use decisions, as set forth in SMC Chapter 23.76.~~

15 E. ~~Appeal. In addition to rights under Chapter 3.02 of the Seattle Municipal Code, any person~~
16 ~~aggrieved by a Director's decision on an application for an exception under subsections C3 and C4 above~~
17 ~~may appeal to the Hearing Examiner's Office by filing an appeal, with the applicable filing fee, as set~~
18 ~~forth in SMC Section 23.76.022.~~

19 F. ~~Burden of Proof on Appeal. The Hearing Examiner shall affirm the Director's determinations~~
20 ~~unless a determination is clearly erroneous. The person requesting an exception shall have the burden of~~
21 ~~proving, by a preponderance of the evidence, all issues related to justifying the exception.~~

22 ~~**22.808.020 Liability and defenses of responsible parties.**~~

23 A. ~~Who Must Comply. It is the specific intent of this subtitle to place the obligation of~~
24 ~~complying with its requirements upon the responsible parties, as defined in Section 22.801.190. The City~~
25



1 of Seattle and its agencies are intended to have the same obligation for compliance when the City is a
2 responsible party. No provision of this subtitle is intended to impose any other duty upon the City or any
3 of its officers or employees.

4 B. ~~Joint and Several Liability.~~ Each responsible party is jointly and severally liable for a
5 violation of this subtitle. The Director of SPU or the Director of DCLU or both of them may take
6 enforcement action, in whole or in part, against any responsible party. All applicable civil penalties may
7 be imposed against each responsible party. In the event enforcement action is taken against more than one
8 (1) responsible party, recoverable damages, costs, and expenses may be allocated among the responsible
9 parties by the court or the Hearing Examiner based upon the extent to which each responsible party's acts
10 or omissions caused the violation, unless this factor cannot be determined, or the party receiving the
11 allocation under this factor is unable to correct the violation, or is unable to pay the damages, costs,
12 expenses, and any penalty imposed, in which case the trier of fact shall consider:

- 13 1. ~~Awareness of the violation;~~
- 14 2. ~~Ability to correct the violation;~~
- 15 3. ~~Ability to pay the damages, costs, and expenses;~~
- 16 4. ~~Cooperation with government agencies;~~
- 17 5. ~~Degree to which any impact or threatened impact on water or sediment quality,~~
18 ~~human health, or the environment is related to acts or omissions by each responsible party;~~
- 19 6. ~~Degree to which the responsible parties made good faith efforts to avoid a violation~~
20 ~~or to mitigate its consequences; and~~
- 21 7. ~~Other equitable factors.~~

22 C. ~~Defenses.~~ A responsible party shall not be liable under this subtitle when the responsible
23 party carries the burden of proving, by a preponderance of the evidence, one (1) of the following
24 defenses:
25
26



1. ~~The violation was caused solely by an act of God;~~

2. ~~The violation was caused solely by another responsible party over whom the
defending responsible party had no authority or control and the defending responsible party could not
have reasonably prevented the violation;~~

3. ~~The violation was caused solely by a prior owner or occupant when the defending
responsible party took possession of the property without knowledge of the violation, after using
reasonable efforts to identify violations. However, the defending responsible party shall be liable for all
continuing, recurrent, or new violations after becoming the owner or occupant;~~

4. ~~The responsible party implemented and maintained all appropriate drainage control
facilities, treatment facilities, flow control facilities, erosion and sediment controls, source controls and
best management practices identified in rules promulgated by the Director of DCLU and the Director of
SPU, or in manuals published by the State Department of Ecology until superseded by rules of the
Directors, or as otherwise identified and required of the responsible party by the Director in writing
pursuant to this subtitle.~~

~~22.808.025 Right of entry.~~

~~With the consent of the owner or occupant of a building or premises, or pursuant to a lawfully
issued warrant, the Director of DCLU may enter a building or premises at any reasonable time to perform
the duties imposed by this code.~~

~~22.808.030 Enforcement actions.~~

A. ~~Investigation. The Director of SPU or the Director of DCLU or both of them may investigate
any site where there is reason to believe that there may be a failure to comply with the requirements of
this subtitle.~~

B. ~~Notice of Violation.~~



1 1. ~~Issuance. Whenever the Director determines that a violation of this subtitle has~~
2 ~~occurred or is occurring, the Director is authorized to issue a notice of violation to the property owner or~~
3 ~~other responsible party. The notice of violation shall be considered an order of the Director.~~

4 2. ~~Contents.~~

5 a. ~~The notice of violation shall include the following information:~~

6 i. ~~A description of the violation and the action necessary to correct it;~~

7 ii. ~~The date of the notice; and~~

8 iii. ~~A deadline by which the action necessary to correct the violation~~
9 ~~must be completed.~~

10 b. ~~A notice of violation may be amended at any time to correct clerical errors~~
11 ~~and to add citations of authority.~~

12 3. ~~Service. The Director of SPU or the Director of DCLU shall serve the notice upon the~~
13 ~~responsible party either by personal service or by certified mail, return receipt requested, sent to the~~
14 ~~party's last known address and, where possible, by posting a copy on the site. Service by certified mail~~
15 ~~shall be effective on the date of mailing. If the whereabouts of the responsible party is unknown and~~
16 ~~cannot be ascertained in the exercise of reasonable diligence, and either Director makes an affidavit to~~
17 ~~that effect, then service may be accomplished by publishing the notice once each week for two (2)~~
18 ~~consecutive weeks in the City official newspaper.~~

19 C. ~~Alternatives to Notice of Violation.~~

20 1. ~~Stop work Order.~~

21 a. ~~In lieu of issuing a notice of violation, the Director of SPU or the Director of~~
22 ~~DCLU may order work on a site stopped when he or she determines it is necessary to do so in order to~~
23 ~~obtain compliance with or to correct a violation of any provision of this subtitle or rules promulgated~~
24
25
26



1 hereunder or to correct a violation of a permit or approval granted under this subtitle. The stop-work
2 notice shall contain the following information:

3 i. ~~A description of the violation; and~~

4 ii. ~~An order that the work be stopped until corrective action has been~~
5 ~~completed and approved by either Director.~~

6 b. ~~The stop work order shall be posted conspicuously on the premises or personally served on the~~
7 ~~property owner or other person known to be responsible for the work. It is unlawful for any work to be~~
8 ~~done after posting or service of a stop work order, except work necessary to conduct the required~~
9 ~~corrective action, until authorization to proceed is given by either Director. It is unlawful for any person~~
10 ~~to remove, obscure or mutilate a posted stop work order.~~

11 2. ~~Emergencies.~~

12 a. ~~The Director of SPU and the Director of DCLU are each authorized to enter~~
13 ~~any property when it reasonably appears that a condition associated with grading, drainage, erosion~~
14 ~~control or a drainage control facility creates a substantial and present or imminent danger to the public~~
15 ~~health, safety or welfare, the environment, or public or private property. The Director of SPU and the~~
16 ~~Director of DCLU each may enter property without permission or an administrative warrant in the case of~~
17 ~~an extreme emergency placing human life, property or the environment in immediate and substantial~~
18 ~~jeopardy which requires corrective action before either permission or an administrative warrant can be~~
19 ~~obtained.~~

20 b. ~~The Director of SPU or the Director of DCLU or both of them may order the~~
21 ~~responsible party to take corrective action and set a schedule for compliance and may require immediate~~
22 ~~compliance with an order to correct. Any emergency which is not corrected as ordered by the Director of~~
23 ~~SPU or the Director of DCLU is a public nuisance which each Director is authorized to abate summarily.~~
24 ~~The costs of abatement shall be collected as set forth in Section 22.808.080.~~



1 D. ~~Appeal of Director's Decisions. Any Notice of Violation or final order other than a stop work~~
2 ~~order or emergency order issued by the Director of SPU or the Director of DCLU pursuant to this subtitle~~
3 ~~may be appealed to the Hearing Examiner by an aggrieved person. Appeals shall be initiated by filing a~~
4 ~~written notice with the applicable fee, as set forth in SMC Section 23.76.022. When, as set forth in~~
5 ~~Section 22.808.070, an invoice is issued without a prior hearing, the appeal period shall commence upon~~
6 ~~issuance of the invoice.~~

7 E. ~~Filing Notice or Order. A notice of violation, voluntary compliance agreement or an order~~
8 ~~issued by a Director of SPU, Director of DCLU, Hearing Examiner or municipal Judge, may be filed with~~
9 ~~the King County Department of Records and Elections.~~

10 F. ~~Change of Ownership. When a notice of violation, voluntary compliance agreement or an~~
11 ~~order issued by a Director of SPU, Director of DCLU, Hearing Examiner or municipal Judge has been~~
12 ~~filed with the King County Department of Records and Elections, a notice of violation or an order~~
13 ~~regarding the same violations need not be served upon a new owner of the property where the violation~~
14 ~~occurred. If no notice of violation or order is served upon the new owner, the Director of SPU or Director~~
15 ~~of DCLU may grant the new owner the same number of days to comply as was given the previous owner.~~
16 ~~The compliance period for the new owner shall begin on the date that the conveyance of title to the new~~
17 ~~owner is completed.~~

18
19 **~~22.808.040 Enforcement of notice of violation.~~**

20 A. ~~Hearing Examiner and Municipal Court. The Director of SPU or the Director of DCLU or~~
21 ~~both of them may choose to enforce a Notice of Violation through either of the following means:~~

22 1. ~~An enforcement hearing through the Hearing Examiner's Office, as set forth in this~~
23 ~~section; or~~

24 2. ~~Referral to the City Attorney's Office for action in the appropriate court according to~~
25 ~~that court's normal rules and procedures.~~



1 B. ~~Enforcement Through Hearing Examiner's Office. Enforcement actions through the Office of~~
2 ~~the Hearing Examiner shall proceed according to this subsection.~~

3 1. ~~Hearing Schedule. The Hearing Examiner's Office shall schedule a hearing after~~
4 ~~notification by the Director that enforcement will be pursued through the Hearing Examiner's Office.~~

5 2. ~~Conduct of the Hearing. The Hearing Examiner shall conduct a hearing on the~~
6 ~~violation pursuant to the rules of procedure of the Hearing Examiner, as modified by this section. The~~
7 ~~Director, the person to whom the notice of violation was issued, and any other responsible party regarding~~
8 ~~the matters addressed in the notice of violation may participate as parties in the hearing, with or without~~
9 ~~representation by an attorney. Each party may call and compel the attendance of witnesses.~~

10 3. ~~Standard of Review and Burden of Proof. The determinations of the Director of~~
11 ~~Seattle Public Utilities and the determinations of the Director of Construction and Land Use shall be~~
12 ~~accorded substantial weight by the Hearing Examiner. The defending responsible party shall have the~~
13 ~~burden of proving by a preponderance of the evidence all defenses, mitigating factors and objections to~~
14 ~~the required corrective action or schedule.~~

15 4. ~~Hearing Examiner's Order. The Hearing Examiner shall affirm, vacate or modify the~~
16 ~~Director's determinations. The Hearing Examiner shall issue an order within fifteen (15) days following~~
17 ~~the close of the record unless all parties agree to an extension of time. The order shall contain the~~
18 ~~following information:~~

- 19
- 20 a. ~~The decision regarding the alleged violation;~~
 - 21 b. ~~Findings of fact and conclusions based thereon in support of the decision;~~
 - 22 c. ~~The required corrective action (if any);~~
 - 23 d. ~~The date and time by which the corrective action must be completed;~~
 - 24 e. ~~The monetary penalties and other costs, expenses, or damages being assessed~~
25 ~~against the responsible party;~~
- 26



1 f. ~~Notice that the responsible party has twenty-one (21) days from the date of~~
2 ~~issuance of the decision to petition for judicial review, as provided by Section 705 of Chapter 347 of the~~
3 ~~Laws of 1995; and~~

4 g. ~~Authorization for the City to abate or correct the violation following~~
5 ~~expiration of the appeal period and the time set for compliance with the order if the responsible party has~~
6 ~~not completed the required corrective action, and to charge the responsible party for its costs, as set forth~~
7 ~~in Section 22.808.080. The order shall not require the City to abate or correct the violation.~~

8 5. ~~Failure to Appear. If the responsible party to whom the notice of violation was issued~~
9 ~~fails to appear at a scheduled hearing before the Hearing Examiner, and no other responsible party~~
10 ~~appears to defend, then, upon an offer of proof by the City, which may be made by declaration, the~~
11 ~~Hearing Examiner shall issue an order finding that the violation occurred. The order shall contain the~~
12 ~~information set forth in subsection B4 above. In the absence of an offer of proof by the City, the Hearing~~
13 ~~Examiner shall issue an order finding the responsible party to be in default, and setting forth the penalties~~
14 ~~and other relief described in subsection B4.~~

15
16 **~~22.808.050 Voluntary compliance agreement.~~**

17 A. ~~Initiation. Either a responsible party or the Director of Seattle Public Utilities or the Director~~
18 ~~of Construction and Land Use may initiate negotiations for a voluntary compliance agreement at any~~
19 ~~time. Neither Director has any obligation to enter into any voluntary compliance agreement.~~

20 B. ~~Contents. A voluntary compliance agreement shall set forth actions to be taken by the~~
21 ~~responsible party that will correct past or existing violations of this subtitle. It may also set forth actions~~
22 ~~to mitigate the impacts of violations. The voluntary compliance agreement shall set forth a schedule for~~
23 ~~completion of the corrective and mitigating actions. It shall contain a provision allowing the Director of~~
24 ~~Seattle Public Utilities and the Director of Construction and Land Use to inspect the premises to~~
25 ~~determine compliance with the agreement.~~



C. ~~Effect of Agreement.~~

1
2 1. ~~A voluntary compliance agreement is a binding contract between the party executing~~
3 ~~it and the City. It is not enforceable by any other party. All voluntary compliance agreements shall~~
4 ~~provide that the responsible party agrees the City may perform the actions set forth in the agreement if the~~
5 ~~responsible party fails to do so according to the terms and schedule of the agreement, and the responsible~~
6 ~~party will pay the costs, expenses and damages the City incurs in performing the actions, as set forth in~~
7 ~~Section 22.808.080 regarding abatements. By entering into a voluntary compliance agreement, a~~
8 ~~responsible party waives the right to an administrative appeal of the violation.~~

9 2. ~~Penalties may be reduced or waived if violations are corrected or mitigated according~~
10 ~~to the terms and schedule of a voluntary compliance agreement. If the responsible party fails to perform~~
11 ~~according to the terms and schedule of the voluntary compliance agreement, penalties for each violation~~
12 ~~addressed in the agreement may be assessed starting from the date the violation occurred.~~

13 D. ~~Modification. The terms and schedule of the voluntary compliance agreement may be~~
14 ~~modified by mutual agreement of the responsible party and either Director if circumstances or conditions~~
15 ~~outside the responsible party's control, or unknown at the time the agreement was made, or other just~~
16 ~~cause necessitate such modifications.~~

17 **22.808.060 Penalties and damages.**

18 A. ~~Commencement of Penalties. The Hearing Examiner and any Judge hearing matters under~~
19 ~~this subtitle shall have the following options in assessing monetary penalties:~~

20 1. ~~Assess monetary penalties beginning on the date the notice of violation was issued~~
21 ~~and thereafter; or~~

22 2. ~~Assess monetary penalties beginning on the correction deadline set by the Director or~~
23 ~~an alternate deadline for corrective action set by the Judge or Hearing Examiner, and thereafter; or~~

24 3. ~~Assess no monetary penalties; or~~



6 and up—	500.00—	—
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2. ~~Triple Penalties. Penalties may be trebled for:~~

a. ~~A repeat violation, which means an additional violation of a requirement of this subtitle for which the responsible party has previously received a notice of violation and failed to correct the violation by the compliance date;~~

b. ~~A violation resulting in physical harm to persons or to private or public property;~~

c. ~~A knowing or deliberate violation;~~

d. ~~A violation resulting from gross negligence or reckless conduct.~~

3. ~~Reduction of Penalties. Penalties may be reduced based upon one (1) or more of the following mitigating factors:~~

a. ~~The person showed due diligence and/or substantial progress in correcting the violation;~~

b. ~~Another responsible party was the primary cause of the violation;~~

c. ~~The person was unaware of the violation and had not acted negligently or recklessly;~~

4. ~~Penalty for Significant Violation. Responsible parties for violations causing significant harm to public health, safety or welfare, the environment, or public or private property shall be assessed the penalties set forth in the schedule above, or an amount equivalent to the economic benefit the responsible party derived from the violation, whichever is greater. "Significant harm" is harm which cannot be fully corrected or mitigated by the responsible party, and which cannot be adequately compensated for by assessment of penalties, costs, expenses or damages under this subtitle. Economic benefit may be determined by an increase in market value of property, value received by the responsible~~



1 party, savings in costs realized by the responsible party, increased income to the responsible party, or any
2 other method reasonable under the circumstances.

3 C. ~~Damages.~~ Whoever violates any of the provisions of this subtitle shall, in addition to any
4 penalties provided for such violation, be liable for any cost, expense, loss or damage occasioned thereby
5 to the City, plus a charge of fifteen percent (15%) for administrative costs. This subtitle does not establish
6 a cause of action that may be asserted by any party other than the City. Penalties, damages, costs and
7 expenses may be recovered only by the City.

8 D. ~~Effect of Payment of Penalties.~~ The person to whom an order is directed is not relieved of the
9 duty to take corrective action to correct the violation by payment of a monetary penalty pursuant to this
10 subtitle.

11 **~~22.808.070 Collection of costs and penalties.~~**

12 A. ~~Invoice and Demand for Payment.~~ When either Director has abated a public nuisance or
13 corrected a violation of this subtitle and a hearing has not been conducted, the Director shall issue an
14 invoice and demand for payment of the City's abatement costs. The invoice shall include:

- 15
- 16 1. ~~The amount of the City's abatement or correction costs;~~
 - 17 2. ~~Either a legal description of the property corresponding as nearly as possible to that~~
18 ~~used for the property on the rolls of the King County Assessor or, where available, the property's street~~
19 ~~address;~~
 - 20 3. ~~A notice that the Director's determinations regarding the abatement and correction,~~
21 ~~including the amount owed, may be appealed to the Hearing Examiner by following the procedure set~~
22 ~~forth in SMC Section 23.76.022;~~
 - 23 4. ~~Notice that if the amount due is not paid within thirty (30) days, the outstanding~~
24 ~~balance may be collected in any of the manners set forth in subsection B of this section; and~~
 - 25 5. ~~Notice that interest shall accrue on the unpaid balance.~~
- 26



1 ~~B. Collection Following a Hearing. The Director of Construction and Land Use and the Director~~
2 ~~of Seattle Public Utilities are not required to issue an invoice for payment when a hearing has been~~
3 ~~conducted as set forth in Section 22.808.040, and an order has issued imposing any penalties, costs,~~
4 ~~damages, expenses or abatement costs. If the order is not appealed within fifteen (15) days of mailing or~~
5 ~~other delivery of the order to the responsible party, the Director of Construction and Land Use or the~~
6 ~~Director of Seattle Public Utilities may immediately seek to collect the amounts owed by:~~

- 7 ~~1. Referral to the City Attorney's Office for action in the appropriate court; or~~
8 ~~2. Referral, after consultation with the City Attorney's Office to a collection agency; or~~
9 ~~3. Addition of a surcharge in the amount owed under the order to the bill for drainage~~
10 ~~and wastewater services to the site. If unpaid, the surcharge may become a lien on the property, may be~~
11 ~~foreclosed, and may accrue interest as provided by state law or SMC Section 21.33.110.~~

12 **~~22.808.080 Public nuisance.~~**

13 ~~A. Abatement Required. A public nuisance affecting stormwater, drainage, erosion control,~~
14 ~~grading and other public nuisances set forth in this section are violations of this subtitle. A responsible~~
15 ~~party shall immediately abate a public nuisance upon becoming aware of its existence.~~

16 ~~B. Dysfunctional Facility or Practice. Any private drainage control facility or best management~~
17 ~~practice relating to grading, stormwater, drainage control or erosion not installed or maintained as~~
18 ~~required by this subtitle, or otherwise found to be in a state of dysfunction creating, presently or in the~~
19 ~~event of a design storm, a threat to the public health, safety or welfare, the environment, or public or~~
20 ~~private property is hereby declared to be a public nuisance.~~

21 ~~C. Obstruction of Watercourse. Obstruction of a watercourse without authorization by the~~
22 ~~Director, and obstruction in such a manner as to increase the risk of flooding or erosion should a design~~
23 ~~storm occur, is hereby declared to be a public nuisance.~~



1 D. ~~Dangerous Conditions.~~ Any condition relating to grading, stormwater, drainage or erosion
2 which creates a present or imminent danger, or which is likely to create a danger, in the event of a design
3 storm, to the public health, safety or welfare, the environment, or public or private property is hereby
4 declared to be a public nuisance.

5 E. ~~Abatement by the City.~~ The Director of Seattle Public Utilities and the Director of
6 Construction and Land Use are authorized, but not required, to investigate a condition that either Director
7 suspects of being a public nuisance under this subtitle, and to abate any public nuisance. If a public
8 nuisance is an immediate threat to the public health, safety or welfare or to the environment, the Director
9 of Seattle Public Utilities or the Director of Construction and Land Use may summarily and without prior
10 notice abate the condition. The Director of Seattle Public Utilities or the Director of Construction and
11 Land Use shall give notice of the abatement to the responsible party as soon as reasonably possible after
12 the abatement.

13 F. ~~Collection of Abatement Costs.~~ The costs of abatement may be collected from the responsible
14 party, including a reasonable charge for attorney time and a fifteen percent (15%) charge for
15 administrative expenses as set forth in Section 22.808.060 C. Abatement costs and other damages,
16 expenses and penalties collected by the City shall go into an abatement account for the department
17 collecting the moneys. The money in the abatement account shall be used for abatements and corrections
18 of violations conducted by the City. When the account is insufficient the Director of Seattle Public
19 Utilities and the Director of Construction and Land Use may use other available funds.

20 **~~22.808.090 Violations.~~**

21 **~~A. Civil Violations.~~**

22 1. ~~General.~~ It is a violation of this subtitle to not comply with any requirement of, or to
23 act in a manner prohibited by, this subtitle, or a permit, approval, rule, manual or order issued pursuant to
24 this subtitle.
25
26



1 2. ~~Aiding and Abetting.~~ It is a violation of this subtitle to aid, abet, counsel, encourage,
2 commend, incite, induce, hire or otherwise procure another person to violate this subtitle.

3 3. ~~Alteration of Existing Drainage.~~ It is a violation of this subtitle to alter existing
4 drainage patterns which serve a tributary area of more than five (5) acres without authorization or
5 approval by the Director.

6 4. ~~Obstruction of Waterecourse.~~ It is a violation of this subtitle to obstruct a waterecourse
7 without authorization or approval by the Director.

8 5. ~~Dangerous Condition.~~ It is a violation of this subtitle to allow to exist, or cause or
9 contribute to, a condition of a drainage control facility, or condition related to grading, stormwater,
10 drainage or erosion that is likely to endanger the public health, safety or welfare, the environment, or
11 public or private property.

12 6. ~~Interference.~~ It is a violation of this subtitle for any person to interfere with or impede
13 the correction of any violation, or compliance with any notice of violation, emergency order, stop work
14 order, or the abatement of any nuisance.

15
16 B. ~~Criminal Violations.~~

17 1. ~~Failing to Comply with Orders.~~ Failing to comply with an order properly issued
18 pursuant to this subtitle by the Director of Engineering, the Director of Construction and Land Use, the
19 Hearing Examiner, or a Judge is a criminal violation, punishable upon conviction by a fine of not more
20 than Five Thousand Dollars (\$5,000.00) per day of each violation or imprisonment for each violation for
21 not more than three hundred sixty (360) days, or both such fine and imprisonment.

22 2. ~~Tampering and Vandalism.~~ Tampering with or vandalizing a drainage control facility
23 or other best management practice, a public or private drainage control system, monitoring or sampling
24 equipment or records, or notices posted pursuant to this subtitle is a criminal violation, punishable upon
25



1 conviction by a fine of not more than Five Thousand Dollars (\$5,000) or imprisonment for not more than
2 three hundred sixty (360) days, or both such fine and imprisonment.

3 ~~3. Repeat Violations. Anyone violating this subtitle who has had a judgment or Hearing~~
4 ~~Examiner's order against them pursuant to this subtitle in the preceding five (5) years, shall be subject to~~
5 ~~criminal penalties for the present violation, and, upon conviction thereof, be fined in a sum not to exceed~~
6 ~~Five Thousand Dollars (\$5,000), or imprisonment for not more than three hundred sixty (360) days, or~~
7 ~~both such fine and imprisonment.~~

8 ~~**22.808.100 Additional relief.**~~

9 ~~In lieu of or in addition to any enforcement procedure provided in this subtitle, the Directors of~~
10 ~~Engineering and DCLU may seek any other available legal or equitable relief, including to enjoin any acts~~
11 ~~or practices and abate any condition which constitutes or will constitute a violation of this subtitle or a~~
12 ~~public nuisance.~~

13 ~~**22.808.110 Suspension or revocation.**~~

14 ~~Approvals or permits granted in error, or on the basis of incomplete, inaccurate or misleading~~
15 ~~information, or in violation of any law, ordinance or regulation may be suspended or revoked. Other~~
16 ~~permits or approvals interrelated with an approval suspended or revoked under this section, including~~
17 ~~certificates of occupancy or approvals for occupancy, may also be suspended or revoked. When an~~
18 ~~approval or permit is suspended or revoked, the Director of SPU or the Director of DCLU may require the~~
19 ~~applicant to take corrective action to bring the project into compliance with this subtitle by a deadline set~~
20 ~~by the Director of SPU or the Director of DCLU, or may take other enforcement action.~~

21 ~~**22.808.120 Fees.**~~



1 Fees for grading permits, drainage control plan review and approvals shall be as set forth in the
2 Fee Subtitle, Subtitle IX of Title 22, Seattle Municipal Code. Fees for recordkeeping or other activities
3 pursuant to this subtitle shall, unless otherwise provided for in this subtitle, be prescribed by ordinance.

4 ~~22.808.130 Financial assurance and covenants.~~

5 As a condition precedent to issuance of any permit or approval provided for in this subtitle, the
6 Director of DCLU may require an applicant for a permit or approval to submit financial assurances as
7 provided in this section.

8 A. Insurance.

9 1. The Director of DCLU may require the owner(s), or contractor to carry liability and
10 property damage insurance against damage, naming the City as an additional insured. The amount shall
11 be commensurate with the risks as determined by the Director.

12 2. The Director of DCLU may also require the owner(s) to maintain a policy of general
13 public liability insurance against personal injury, death, property damage and/or loss from activities
14 conducted pursuant to the permit or approval, or conditions caused by such activities, and naming the City
15 as an additional insured. The policy shall be in an amount which the Director determines to be
16 commensurate with the risks. It shall cover a period of not more than ten (10) years from the date of
17 issuance of a certificate of occupancy or finalization of the permit or approval. A certificate evidencing
18 such insurance shall be filed with the Director of DCLU before issuance of a certificate of occupancy or
19 finalization of a permit for any single family dwelling or duplex.

20 3. The insurance policy shall provide that the City will be notified of cancellation of the
21 policy at least thirty (30) days prior to cancellation. The notice shall be sent to the Director of DCLU who
22 required the insurance and shall state the insured's name and the property address. If a property owner's
23 insurance is canceled and not replaced, the permit or approval and any interrelated permit or approval
24 insurance is canceled and not replaced, the permit or approval and any interrelated permit or approval
25 may be revoked, including a certificate of occupancy or approval for occupancy.
26



1 B. ~~Bonds, Cash Deposits or Instruments of Credit.~~

2 1. ~~a. Surety Bond. The Director of DCLU may require that the owner or contractor~~
3 ~~deliver to the Director for filing in the Office of the City Clerk a surety bond, cash deposit or an~~
4 ~~instrument of credit in such form and amounts deemed by the Director to be necessary to ensure that~~
5 ~~requirements of the permit or approval are met. A surety bond may be furnished only by a surety~~
6 ~~company licensed to do business in The State of Washington. The bond shall be conditioned that the work~~
7 ~~will be completed in accordance with the conditions of the permit or approval, or, if the work is not~~
8 ~~completed, that the site will be left in a safe condition. The bond shall also be conditioned that the site and~~
9 ~~nearby, adjacent or surrounding areas will be restored if damaged or made unsafe by activities conducted~~
10 ~~pursuant to the permit or approval.~~

11 b. ~~The bond will be exonerated one (1) year after a determination by the~~
12 ~~Director of DCLU that the requirements of the permit or approval have been met. For work under a~~
13 ~~building permit, issuance of a certificate of occupancy or approval for occupancy following a final~~
14 ~~inspection shall be considered to be such a determination. For grading, completion of the final grading~~
15 ~~inspection and submittal of required final reports in accordance with Section 22.804.200 shall be such a~~
16 ~~determination.~~

17 2. ~~Assurance in Lieu of Surety Bond. In lieu of a surety bond, the owner may elect to~~
18 ~~file a cash deposit or instrument of credit with the Director in an amount equal to that which would be~~
19 ~~required in the surety bond and in a form approved by the Director of DCLU. The cash deposit or~~
20 ~~instrument of credit shall comply with the same conditions as required for surety bonds.~~

21 C. ~~Covenants.~~

22 1. ~~The Director of DCLU may require a covenant between the owner(s) of the property~~
23 ~~and the City. The covenant shall be signed by the owner(s) of the site and notarized prior to issuance of~~
24 ~~any permit or approval in a potential landslide area, potentially hazardous location, flood prone zone, or~~
25



1 ~~other area of potentially hazardous soils or drainage or erosion conditions. The covenant shall not be~~
2 ~~required where the permit or approval is for work done by the City. The covenant shall include:~~

3 a. ~~A legal description of the property; and~~

4 b. ~~A description of the property condition making this subsection applicable;~~

5 and

6 c. ~~A statement that the owner(s) of the property understands and accepts the~~
7 ~~responsibility for the risks associated with development on the property given the described condition,~~
8 ~~and agrees to inform future purchasers and other successors and assignees of the risks; and~~

9 d. ~~The application date, type, and number of the permit or approval for which~~
10 ~~the covenant is required; and~~

11 e. ~~A statement waiving the right of the owner(s), the owner's heirs, successors~~
12 ~~and assigns to assert any claim against the City by reason of or arising out of issuance of the permit or~~
13 ~~approval by the City for the development on the property, except only for such losses that may directly~~
14 ~~result from the negligence of the City.~~

15
16 2. ~~The covenant shall be filed by the Director of DCLU with the King County~~
17 ~~Department of Records and Elections, at the expense of the owner, so as to become part of the King~~
18 ~~County real property records.~~

19 ~~D. Bonds for Grading Near Public Places. Security for grading activity covered under Section~~
20 ~~15.44.020 shall be in accordance with Section 15.44.030.~~

21 ~~22.808.140 Severability. The provisions of this subtitle are declared to be separate and severable and the~~
22 ~~invalidity of any clause, sentence, paragraph, subdivision, section or portion of this subtitle, or the~~
23 ~~invalidity of the application thereof to any person or circumstance shall not affect the validity of the~~
24 ~~remainder of this subtitle or the validity of its application to other persons or circumstances.~~



1 Section 2: Chapters 22.800, 22.801, and 22.802 of the Seattle Municipal Code, last
2 amended by Ordinance 122738 and previously amended by Ordinances 122055, 121276,
3 119965, 118396, 117852, 117789, 117697, and 117432, and adopted by Ordinance 116425, are
4 amended by re-enacting, relocating and amending the text of those Chapters (repealed in
5 Section 1), collectively to be known as the Stormwater Code, to be codified as Subtitle VII of
6 Chapter 22, as follows:

7
8 **Chapter 22.800 TITLE, PURPOSE, SCOPE AND AUTHORITY**

9 **22.800.010 Title**

10 This subtitle, comprised of Chapters 22.800 through 22.808, shall be known as the
11 "Stormwater Code" and may be cited as such.

12 **22.800.020 Purpose**

13
14 A. The provisions of this subtitle shall be liberally construed to accomplish its
15 remedial purposes, which are:

16 1. Protect, to the greatest extent practicable, life, property and the environment
17 from loss, injury and damage by pollution, erosion, flooding, landslides, strong ground motion,
18 soil liquefaction, accelerated soil creep, settlement and subsidence, and other potential hazards,
19 whether from natural causes or from human activity;

20
21 2. Protect the public interest in drainage and related functions of drainage
22 basins, watercourses and shoreline areas;

23 3. Protect receiving waters from pollution, mechanical damage, excessive flows
24 and other conditions in their drainage basins which will increase the rate of downcutting,
25 streambank erosion, and/or the degree of turbidity, siltation and other forms of pollution, or
26



1 which will reduce their low flows or low levels to levels which degrade the environment, reduce
2 recharging of groundwater, or endanger aquatic and benthic life within these receiving waters
3 and receiving waters of the state;

4 4. Meet the requirements of state and federal law and the City's municipal
5 stormwater National Pollutant Discharge Elimination System ("NPDES") permit;

6 5. To protect the functions and values of environmentally critical areas as
7 required under the state's Growth Management Act and Shoreline Management Act;

8 6. To protect the public drainage system from loss, injury and damage by
9 pollution, erosion, flooding, landslides, strong ground motion, soil liquefaction, accelerated soil
10 creep, settlement and subsidence, and other potential hazards, whether from natural causes or
11 from human activity; and

12 7. Fulfill the responsibilities of the City as trustee of the environment for future
13 generations.

14 B. It is expressly the purpose of this subtitle to provide for and promote the health,
15 safety and welfare of the general public. This subtitle is not intended to create or otherwise
16 establish or designate any particular class or group of persons who will or should be especially
17 protected or benefited by its terms.

18 C. It is expressly acknowledged that water quality degradation can result either directly
19 from one discharge or through the collective impact of many small discharges. Therefore, the
20 water quality protection measures in this subtitle are necessary to protect the health, safety and
21 welfare of the residents of Seattle and the integrity of natural resources for the benefit of all and
22 for the purposes of this subtitle. Such water quality protection measures are required under the
23
24
25
26



1 federal Clean Water Act, 33 U.S.C. Section 1251, et seq., and in response to the obligations of
2 the City's municipal stormwater discharge permit, issued by the State of Washington under the
3 federal National Pollutant Discharge Elimination System program.

4 **22.800.030 Scope and Applicability**

5 This subtitle applies to:

6 A. All grading and drainage and erosion control, whether or not a permit is required;

7 B. All land disturbing activities, whether or not a permit is required;

8 C. All discharges directly or indirectly to a public drainage system;

9 D. All discharges directly or indirectly into receiving waters within or contiguous to

10 Seattle city limits;

11 E. All new and existing land uses; and

12 F. All real property.

13 **22.800.040 Exemptions, Adjustments, and Exceptions**

14 A. Exemptions.

15 1. The following land uses are exempt from the provisions of this subtitle:

16 a. Commercial agriculture, including only those activities conducted on
17 lands defined in RCW 84.34.020(2), and production of crops or livestock for wholesale trade;

18 and

19 b. Forest practices regulated under Title 222 Washington
20 Administrative Code, except for Class IV general forest practices, as defined in WAC 222-16-
21 050, that are conversions from timber land to other uses.



1 2. The following land disturbing activities are not required to comply with the
2 specific minimum requirements listed below.

3 a. Maintenance, repair, or installation of underground or overhead
4 utility facilities, such as, but not limited to, pipes, conduits and vaults, and that includes
5 replacing the ground surface with in-kind material or materials with similar runoff
6 characteristics are not required to comply with Section 22.805.080 (Minimum Requirements for
7 Flow Control) or Section 22.805.090 (Minimum Requirements for Treatment), except as
8 modified as follows:

9 1) Installation of a new or replacement of an existing public
10 drainage system, public combined sewer, public sanitary sewer, or public water supply system
11 in the public right-of-way shall comply with Section 22.805.060 (Minimum requirements for
12 Roadway Projects) when these activities are implemented as publicly bid capital improvement
13 projects funded by Seattle Public Utilities; and

14 2) Installation of underground or overhead utility facilities that
15 are integral with and contiguous to a road-related project shall comply with Section 22.805.060
16 (Minimum requirements for Roadway Projects).

17 b. Road maintenance practices limited to the following activities are not
18 required to comply with Section 22.805.060 (Minimum requirements for Roadway Projects),
19 Section 22.805.080 (Minimum Requirements for Flow Control), or Section 22.805.090
20 (Minimum Requirements for Treatment):

21 1) Pothole and square cut patching;



1 6. With respect to all state highway right-of-way under WSDOT control within
2 the jurisdiction of the City of Seattle, WSDOT shall use the current, approved Highway Runoff
3 Manual (HRM) for its existing and new facilities and rights-of-way, as addressed in WAC 173-
4 270-030(1) and (2). Exceptions to this exemption, where more stringent stormwater
5 management requirements apply, are addressed in WAC 173-270-030(3)(b) and (c).

6 a. When a state highway is located in the jurisdiction of a local
7 government that is required by Ecology to use more stringent standards to protect the quality of
8 receiving waters, WSDOT shall comply with the same standards to promote uniform
9 stormwater management.

10 b. WSDOT shall comply with standards identified in watershed action
11 plans for WSDOT rights-of-way, as required by WAC 400-12-570.

12 c. Other instances where more stringent local stormwater standards
13 apply are projects subject to tribal government standards or to the stormwater management-
14 related permit conditions imposed under Chapter 25.09 to protect environmentally critical areas
15 and their buffers (under the Growth Management Act), an NPDES permit, or shoreline master
16 programs (under the Shoreline Management Act). In addition, WSDOT shall comply with local
17 jurisdiction stormwater standards when WSDOT elects, and is granted permission, to discharge
18 stormwater runoff into a municipality's stormwater system or combined sewer system.

19 B. Adjustments.

20 1. The Director may approve a request for adjustments to the requirements of
21 this subtitle when the Director finds that:



1 a. The adjustment provides substantially equivalent environmental
2 protection; and

3 b. The objectives of safety, function, environmental protection, and
4 facility maintenance are met, based on sound engineering practices.

5 2. During construction, the Director may require, or the applicant may request,
6 that the construction of drainage control facilities and associated project designs be adjusted if
7 physical conditions are discovered on the site that are inconsistent with the assumptions upon
8 which the approval was based, including but not limited to unexpected soil and/or water
9 conditions, weather generated problems, or changes in the design of the improved areas.

10 3. A request by the applicant for adjustments shall be submitted to the Director
11 for approval prior to implementation. The request shall be in writing and shall provide facts
12 substantiating the requirements of subsection 22.805.080.B1, and if made during construction,
13 the factors in subsection B2. Any such modifications made during the construction of drainage
14 control facilities shall be recorded on the final approved drainage control plan, a revised copy of
15 which shall be filed by the Director.

16 C. Exceptions.

17 1. The Director may approve a request for an exception to the requirements of
18 this subtitle when the applicant demonstrates that the exception will not increase risks in the
19 vicinity and/or downstream of the property to public health, safety and welfare, or to water
20 quality, or to public and private property, and:
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1 a. The requirement would cause a severe and unexpected financial
2 hardship that outweighs the requirement's benefits, and the criteria for an adjustment cannot be
3 met; or

4 b. The requirement would cause harm or a significant threat of harm to
5 public health, safety and welfare, the environment, or public and private property, and the
6 criteria for an adjustment cannot be met; or

7 c. The requirement is not technically feasible, and the criteria for an
8 adjustment cannot be met; or

9 d. An emergency situation exists that necessitates approval of the
10 exception.

11 2. An exception shall only be granted to the extent necessary to provide relief
12 from the economic hardship, to alleviate the harm or threat of harm, to the degree that
13 compliance with the requirement becomes technically feasible, or to perform the emergency
14 work that the Director determines exists.

15 3. An applicant is not entitled to an exception, whether or not the criteria
16 allowing approval of an exception are met.

17 4. The Director may require an applicant to provide additional information at
18 the applicant's expense, including, but not limited to an engineer's report or analysis.

19 5. When an exception is granted, the Director may impose new or additional
20 requirements to offset or mitigate harm that may be caused by granting the exception, or that
21 would have been prevented if the exception had not been granted.



1 6. Public notice of an application for an exception and of the Director's decision
2 on the application shall be provided in the manner prescribed for Type II land use decisions, as
3 set forth in Chapter 23.76.

4 7. The Director's decision shall be in writing with written findings of fact.
5 Decisions approving an exception based on severe and unexpected economic hardship shall
6 address all the factors in subsection 22.805.080.C.8.

7 8. An application for an exception on the grounds of severe and unexpected
8 financial hardship must describe, at a minimum, all of the following:

9 a. The current, pre-project use of the site; and

10 b. How application of the requirement(s) for which an exception is
11 being requested restricts the proposed use of the site compared to the restrictions that existed
12 prior to the adoption of this current subtitle; and

13 c. The possible remaining uses of the site if the exception were not
14 granted; and

15 d. The uses of the site that would have been allowed prior to the
16 adoption of this subtitle; and

17 e. A comparison of the estimated amount and percentage of value loss
18 as a result of the requirements versus the estimated amount and percentage of value loss as a
19 result of requirements that existed prior to adoption of the requirements of this subtitle; and

20 f. The feasibility of the owner or developer to alter the project to apply
21 the requirements of this subtitle.



1 9. In addition to rights under Chapter 3.02 of the Seattle Municipal Code, any
2 person aggrieved by a Director's decision on an application for an exception may appeal to the
3 Hearing Examiner's Office by filing an appeal, with the applicable filing fee, as set forth in
4 Section 23.76.022. However, appeals of a Notice of Violation, Director's order, or invoice
5 issued pursuant to this subtitle shall follow the required procedure established in Chapter 22.808
6 of this subtitle.

7 10. The Hearing Examiner shall affirm the Director's determination on the
8 exception unless the examiner finds the determination is clearly erroneous based on substantial
9 evidence. The applicant for the exception shall have the burden of proof on all issues related to
10 justifying the exception.

11 11. The Director shall keep a record, including the Director's written findings
12 of fact, on all approved requests for exceptions.

13 **22.800.050 Potentially Hazardous Locations**

14 A. Any site on a list, register, or data base compiled by the United States
15 Environmental Protection Agency or the Washington State Department of Ecology for
16 investigation, cleanup, or other action regarding contamination under any federal or state
17 environmental law shall be a potentially hazardous location under this subtitle. When EPA or
18 Ecology removes the site from the list, register or data base, or when the Director of DPD
19 determines the owner has otherwise established the contamination does not pose a present or
20 potential threat to human health or the environment, the site will no longer be considered a
21 potentially hazardous location.



1 B. The following property may also be designated by the Director of DPD as
2 potentially hazardous locations:

- 3 1. Existing and/or abandoned solid waste disposal sites;
4 2. Hazardous waste treatment, storage, or disposal facilities, all as defined by
5 the federal Solid Waste Disposal Act, 42 U.S.C. § 6901, et seq.

6 **22.800.060 Compliance With Other Laws**

7
8 A. The requirements of this subtitle are minimum requirements. They do not replace,
9 repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations,
10 covenants, standards, or restrictions. Where this subtitle imposes requirements that are more
11 protective of human health or the environment than those set forth elsewhere, the provisions of
12 this subtitle shall prevail. When this subtitle imposes requirements that are less protective of
13 human health or the environment than those set forth elsewhere, the provisions of the more
14 protective requirements shall prevail.

15
16 B. Approvals and permits granted under this subtitle are not waivers of the
17 requirements of any other laws, nor do they indicate compliance with any other laws.
18 Compliance is still required with all applicable federal, state and local laws and regulations,
19 including rules promulgated under authority of this subtitle.

20
21 C. Compliance with the provisions of this subtitle and of regulations and manuals
22 adopted by the City in relation to this subtitle does not necessarily mitigate all impacts to the
23 environment. Thus, compliance with this subtitle and related regulations and manuals should
24 not be construed as mitigating all drainage water or other environmental impacts, and additional
25 mitigation may be required to protect the environment. The primary obligation for compliance
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1 with this subtitle, and for preventing environmental harm on or from property, is placed upon
2 responsible parties as defined by this subtitle.

3 **22.800.070 Minimum Requirements for City Agency Projects**

4 A. Compliance. City agencies shall comply with all the requirements of this subtitle
5 except as specified below:

6 1. City agencies are not required to obtain permits and approvals under this
7 subtitle, other than inspections as set out in subsection B of this section, for work performed
8 within a public right-of-way or for work performed for the operation and maintenance of park
9 lands under the control or jurisdiction of the Department of Parks and Recreation. Where the
10 work occurs in a public right-of-way, it shall also comply with Seattle Municipal Code Title 15,
11 Street and Sidewalk Use, including the applicable requirements to obtain permits or approvals.

12 2. A City agency project, as defined in Section 22.801.170, that is not required
13 to obtain permit(s) and approval(s) per subsection 22.800.070.A.1 and meets all of the
14 conditions set forth below, is not required to comply with Section 22.805.080 (Minimum
15 Requirements for Flow Control) or Section 22.805.090 (Minimum Requirements for
16 Treatment).

17 a. The project begins land disturbing activities within 18 months of the
18 effective date of this subtitle, and;

19 b. The project complies with subsections 22.802.015.C.4,
20 22.802.016. B.1, and 22.802.016.B.2 of the Stormwater, Grading and Drainage Control Code
21 that was made effective July 5, 2000 by Ordinance 119965, and

22 c. The project meets one or more of the following criteria:
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1 d. A permit or approval is obtained from the Director of DPD, and the
2 work is inspected by the Director.

3 C. Certification of Compliance. City agencies shall meet the same standards as non-
4 City projects, except as provided in subsection 22.800.070.A, and shall certify that each
5 individual project meets those standards.

6 **22.800.075 Compliance by Public Agencies**

7 Whether or not they are required to obtain permits or submit documents, public agencies
8 are subject to the substantive requirements of this subtitle, unless adjustments or exceptions are
9 granted as set forth in Section 22.800.040 (Exemptions, Adjustments, and Exceptions) or the
10 requirements have been waived under subsection 22.807.020.A.3.

11 **22.800.080 Authority**

12 A. For projects not conducted in the public right-of-way, the Director of DPD has
13 authority regarding the provisions of this subtitle pertaining to grading, review of drainage
14 control plans, and review of construction stormwater control plans, and has inspection and
15 enforcement authority pertaining to temporary erosion and sediment control measures.

16 B. The Director of SPU has authority regarding all other provisions of this subtitle
17 pertaining to drainage water, drainage, and erosion control, including inspection and
18 enforcement authority. The Director of SPU may delegate authority to the Director of DPD or
19 the Director of Seattle Department of Transportation regarding the provisions of this subtitle
20 pertaining to review of drainage control plans, review of erosion control plans, and inspection
21 and enforcement authority pertaining to temporary erosion and sediment control measures for
22 projects conducted in the public right-of-way.



1 C. The Directors of DPD, SDOT and SPU are authorized to take actions necessary to
2 implement the provisions and purposes of this subtitle in their respective spheres of authority to
3 the extent allowed by law, including, but not limited to, the following: promulgating and
4 amending rules and regulations, pursuant to the Administrative Code, Chapter 3.02 of the
5 Seattle Municipal Code; establishing and conducting inspection programs; establishing and
6 conducting or, as set forth in Section 22.802.040, requiring responsible parties to conduct
7 monitoring programs, which may include sampling of discharges to or from drainage control
8 facilities, the public drainage system, or receiving waters; taking enforcement action; abating
9 nuisances; promulgating guidance and policy documents; and reviewing and approving,
10 conditioning, or disapproving required submittals and applications for approvals and permits.
11 The Directors are authorized to exercise their authority under this subtitle in a manner consistent
12 with their legal obligations as determined by the courts or by statute.

13 D. The Director of SPU is authorized to develop, review, or approve drainage basin
14 plans for managing receiving waters, drainage water, and erosion within individual basins. A
15 drainage basin plan may, when approved by the Director of SPU, be used to modify
16 requirements of this subtitle, provided the level of protection for human health, safety and
17 welfare, the environment, and public or private property will equal or exceed that which would
18 otherwise be achieved. A drainage basin plan that modifies the minimum requirements of this
19 subtitle at a drainage basin level must be reviewed and approved by Ecology and adopted by
20 City ordinance.

21 E. The Director of SPU is authorized, to the extent allowed by law, to develop, review,
22 or approve an Integrated Drainage Plan as an equivalent means of complying with the
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1 requirements of this subtitle, in which the developer of a project voluntarily enters into an
2 agreement with the Director of SPU to implement an Integrated Drainage Plan that is specific to
3 one or more sites where best management practices are employed such that the cumulative
4 effect on the discharge from the site(s) to the same receiving water is the same or better than
5 that which would be achieved by a less integrated, site-by-site implementation of best
6 management practices.

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8 F. The Director of SPU is authorized, to the extent allowed by law, to enter into an
9 agreement with the developer of a project for the developer to voluntarily contribute funds
10 toward the construction of one or more drainage control facilities that mitigate the impacts to
11 the same receiving water that have been identified as a consequence of the proposed
12 development.

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14 G. The Director of SPU is authorized, to the extent allowed by law, to enter into an
15 agreement with the developer of a project for the developer to voluntarily construct one or more
16 drainage control facilities at an alternative location, determined by the Director, to mitigate the
17 impacts to the same receiving water that have been identified as a consequence of the proposed
18 development.

19
20 H. If the Director of SPU determines that a discharge from a site, real property, or
21 drainage facility, directly or indirectly to a public drainage system, a private drainage system, or
22 a receiving water within or contiguous to Seattle city limits, has exceeded, exceeds, or will
23 exceed water quality standards at the point of assessment, or has caused or contributed, is
24 causing or contributing, or will cause or contribute to a prohibited discharge or a known or
25 likely violation of water quality standards in the receiving water or a known or likely violation
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1 of the City's municipal stormwater NPDES permit, and cannot be adequately addressed by the
2 required best management practices, then the Director of SPU has the authority, to the extent
3 allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to
4 undertake more stringent or additional best management practices. These best management
5 practices may include additional source control or structural best management practices or other
6 actions necessary to cease the exceedance, the prohibited discharge, or causing or contributing
7 to the known or likely violation of water quality standards in the receiving water or the known
8 or likely violation of the City's municipal stormwater NPDES permit. Structural best
9 management practices may include but shall not be limited to: drainage control facilities,
10 structural source controls, treatment facilities, constructed facilities such as enclosures, covering
11 and/or berming of container storage areas, and revised drainage systems. For existing discharges
12 as opposed to new projects, the Director may allow 12 months to install a new flow control
13 facility, structural source control, or treatment facility after the Director notifies the responsible
14 party in writing of the Director's determination pursuant to this subsection and of the flow
15 control facility, structural source control, or treatment facility that must be installed.

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18 I. Unless an adjustment per subsection 22.800.040.B or an exception per subsection
19 22.800.040.C is approved by the Director, an owner or occupant who is required, or who
20 wishes, to connect to a public drainage system shall be required to extend the public drainage
21 system if a public drainage system is not accessible within an abutting public area across the full
22 frontage of the property.

23
24 J. The Director of DPD has the authority, to the extent allowed by law, to require sites
25 with addition or replacement of less than 5,000 square feet of impervious surface or with less
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1 than one acre of land disturbing activity to comply with the requirements set forth in Section
2 22.805.080 or Section 22.805.090 when necessary to accomplish the purposes of this subtitle. In
3 making this determination, the Director of DPD may consider, but not be limited to, the
4 following attributes of the site: location within an Environmentally Critical Area; proximity and
5 tributary to an Environmentally Critical Area; and proximity and tributary to an area with
6 known erosion or flooding problems.

7
8 **22.800.090 City Not Liable**

9 A. Nothing contained in this subtitle is intended to be nor shall be construed to create
10 or form the basis for any liability on the part of the City, or its officers, employees or agents for
11 any injury or damage resulting from the failure of responsible parties to comply with the
12 provisions of this subtitle, or by reason or in consequence of any inspection, notice, order,
13 certificate, permission or approval authorized or issued or done in connection with the
14 implementation or enforcement of this subtitle, or by reason of any action or inaction on the part
15 of the City related in any manner to the enforcement of this subtitle by its officers, employees or
16 agents.

17
18 B. The Director or any employee charged with the enforcement of this subtitle, acting
19 in good faith and without malice on behalf of the City, shall not be personally liable for any
20 damage that may accrue to persons or property as a result of any act required by the City, or by
21 reason of any act or omission in the discharge of these duties. Any suit brought against the
22 Director of DPD, Director of SPU or other employee because of an act or omission performed
23 in the enforcement of any provisions of this subtitle, shall be defended by the City.
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1 C. Nothing in this subtitle shall impose any liability on the City or any of its officers or
2 employees for cleanup or any harm relating to sites containing hazardous materials, wastes or
3 contaminated soil.

4 **Chapter 22.801 DEFINITIONS**

5 **22.801.010 General**

6 For the purpose of this subtitle, the words listed in this chapter have the following
7 meanings, unless the context clearly indicates otherwise. Terms relating to pollutants and to
8 hazardous wastes, materials, and substances, where not defined in this subtitle, shall be as
9 defined in Washington Administrative Code Chapters 173-303, 173-304 and 173-340, the
10 Seattle Building Code or the Seattle Fire Code, including future amendments to those codes.
11 Words used in the singular include the plural, and words used in the plural include the singular.

12 **22.801.020 "A"**

13 "Agency" means any governmental entity or its subdivision.

14 Agency, City means "City agency" as defined in Section 25.09.520.

15 "Agency with jurisdiction" means those agencies with statutory authority to approve,
16 condition or deny permits, such as the United States Environmental Protection Agency, the
17 Washington State Department of Ecology or the Seattle-King County Department of Public
18 Health.

19 "Approved" means approved by the Director.

20 **22.801.030 "B"**

21 "Basin plan" means a plan to manage the quality and quantity of drainage water in a
22 watershed or a drainage basin, including watershed action plans.



1 “Basic treatment facility” means a drainage control facility designed to reduce
2 concentrations of total suspended solids in drainage water.

3 “Best management practice (BMP)” means a schedule of activities, prohibitions of
4 practices, operational and maintenance procedures, structural facilities, or managerial practice
5 or device that, when used singly or in combination, prevents, reduces, or treats contamination of
6 drainage water, prevents or reduces soil erosion, or prevents or reduces other adverse effects of
7 drainage water on receiving waters. When the Directors develop rules and/or manuals
8 prescribing best management practices for particular purposes, whether or not those rules and/or
9 manuals are adopted by ordinance, BMPs prescribed in the rules and/or manuals shall be the
10 BMPs required for compliance with this subtitle.

11 “Building permit” means a document issued by the Department of Planning and
12 Development authorizing construction or other specified activity in accordance with the Seattle
13 Building Code (Chapter 22.100) or the Seattle Residential Code (Chapter 22.150).

14 **22.801.040 "C"**

15 “Capacity-constrained system” means a drainage system that the Director of SPU has
16 determined to have inadequate capacity to carry drainage water.

17 “Cause or contribute to a violation” means and includes acts or omissions that create a
18 violation, that increase the duration, extent or severity of a violation, or that aid or abet a
19 violation.

20 “Certified Erosion and Sediment Control Lead (CESCL)” means an individual who has
21 current certification through an approved erosion and sediment control training program that
22



1 meets the minimum training standards established by the Washington State Department of
2 Ecology.

3 "Civil engineer, licensed" means a person who is licensed by the State of Washington to
4 practice civil engineering.

5 "City agency" means "City agency" as defined in Section 25.09.520.

6 Combined sewer. See "public combined sewer."

7 "Construction Stormwater Control Plan" means a document that explains and illustrates
8 the measures to be taken on the construction site to control pollutants on a construction project.

9 "Compaction" means the densification of earth material by mechanical means.

10 "Containment area" means the area designated for conducting pollution-generating
11 activities for the purposes of implementing source controls or designing and installing source
12 controls or treatment facilities.

13 "Contaminate" means the addition of sediment, any other pollutant or waste, or any
14 illicit or prohibited discharge.

15 "Creek" means a Type 2-5 water as defined in WAC 222-16-031 and is used
16 synonymously with "stream."

17 **22.801.050 "D"**

18 "Damages" means monetary compensation for harm, loss, costs, or expenses incurred by
19 the City, including, but not limited, to the following: costs of abating or correcting violations of
20 this subtitle; fines or penalties the City incurs as a result of a violation of this subtitle; and costs
21 to repair or clean the public drainage system as a result of a violation. For the purposes of this
22 subtitle, damages do not include compensation to any person other than the City.



1 "Designated receiving water" means the Duwamish River, Puget Sound, Lake
2 Washington, Lake Union, Elliott Bay, Portage Bay, Union Bay, the Lake Washington Ship
3 Canal, and other receiving waters determined by the Director of SPU and approved by Ecology
4 as having sufficient capacity to receive discharges of drainage water such that a site discharging
5 to the designated receiving water is not required to implement flow control.

6 "Detention" means temporary storage of drainage water for the purpose of controlling
7 the drainage discharge rate.

8 "Development" means land disturbing activity or the addition or replacement of
9 impervious surface.

10 "Director" means the Director of the Department authorized to take a particular action,
11 and the Director's designees, who may be employees of that department or another City
12 department.

13 "Director of DPD" means the Director of the Department of Planning and Development
14 of The City of Seattle and/or the designee of the Director of Planning and Development, who
15 may be employees of that department or another City department.

16 "Director of SDOT" means the Director of Seattle Department of Transportation of The
17 City of Seattle and/or the designee of the Director of Seattle Department of Transportation, who
18 may be employees of that department or another City department.

19 "Director of SPU" means the Director of Seattle Public Utilities of The City of Seattle
20 and/or the designee of the Director of Seattle Public Utilities, who may be employees of that
21 department or another City department.

22 "Discharge point" means the location from which drainage water from a site is released.



1 "Discharge rate" means the rate at which drainage water is released from a site. The
2 discharge rate is expressed as volume per unit of time, such as cubic feet per second.

3 "DPD" means the Department of Planning and Development.

4 "Drainage basin" means the tributary area or subunit of a watershed through which
5 drainage water is collected, regulated, transported, and discharged to receiving waters.

6 "Drainage control" means the management of drainage water. Drainage control is
7 accomplished through one or more of the following: collecting, conveying, and discharging
8 drainage water; controlling the discharge rate from a site; controlling the flow duration from a
9 site; and separating, treating or preventing the introduction of pollutants.

10 "Drainage control facility" means any facility, including best management practices,
11 installed or constructed for the purpose of controlling the discharge rate, flow duration, quantity,
12 and/or quality of drainage water.

13 "Drainage control plan" means a plan for collecting, controlling, transporting and
14 disposing of drainage water falling upon, entering, flowing within, and exiting the site,
15 including designs for drainage control facilities.

16 "Drainage system" means a system intended to collect, convey and control release of
17 only drainage water. The system may be either publicly or privately owned or operated, and the
18 system may serve public or private property. It includes constructed and/or natural components
19 such as pipes, ditches, culverts, streams, creeks, or drainage control facilities.

20 "Drainage water" means stormwater and all other discharges that are permissible per
21 subsection 22.802.030.A.

22 **22.801.060 "E"**



1 "Earth material" means any rock, gravel, natural soil, fill, or re-sedimented soil, or any
2 combination thereof, but does not include any solid waste as defined by RCW 70.95.

3 "Ecology" means the Washington State Department of Ecology.

4 "Effective impervious surface" means those impervious surfaces that are connected via
5 sheet flow or discrete conveyance to a drainage system.

6 "Enhanced treatment facility" means a drainage control facility designed to reduce
7 concentrations of dissolved metals in drainage water.

8 "Environmentally critical area" means an area designated in Section 25.09.020.

9 "EPA" means the United States Environmental Protection Agency.

10 "Erosion" means the wearing away of the ground surface as a result of mass wasting or
11 of the movement of wind, water, ice, or other geological agents, including such processes as
12 gravitational creep. Erosion also means the detachment and movement of soil or rock fragments
13 by water, wind, ice, or gravity.

14 "Excavation" means the mechanical removal of earth material.

15 "Exception" means relief from a requirement of this subtitle to a specific project.

16 **22.801.070 "F"**

17 "Fill" means a deposit of earth material placed by artificial means.

18 "Flow control" means controlling the discharge rate, flow duration, or both of drainage
19 water from the site through means such as infiltration or detention.

20 "Flow control facility" means a drainage control facility for controlling the discharge
21 rate, flow duration, or both of drainage water from a site.



1 "Flow-critical receiving water" means a surface water that is not a designated receiving
2 water as defined in this subtitle.

3 "Flow duration" means the aggregate time that peak flows are at or above a particular
4 flow rate of interest.

5 **22.801.080 "G"**

6 "Garbage" means putrescible waste.

7 "Geotechnical engineer" or "Geotechnical/civil engineer" means a professional civil
8 engineer licensed by The State of Washington who has at least four years of professional
9 experience as a geotechnical engineer, including experience with landslide evaluation.

10 "Grading" means excavation, filling, in-place ground modification, removal of roots or
11 stumps that includes ground disturbance, stockpiling of earth materials, or any combination
12 thereof, including the establishment of a grade following demolition of a structure.

13 "Green stormwater infrastructure" means a drainage control facility that uses infiltration,
14 evapotranspiration, or stormwater reuse. Examples of green stormwater infrastructure include
15 permeable pavement, bioretention facilities, and green roofs.

16 **22.801.090 "H"**

17 "High-use sites" means sites that typically generate high concentrations of oil due to
18 high traffic turnover or the frequent transfer of oil. High-use sites include:

19 1. An area of a commercial or industrial site subject to an expected average
20 daily traffic (ADT) count equal to or greater than 100 vehicles per 1,000 square feet of gross
21 building area;



1 2. An area of a commercial or industrial site subject to petroleum storage and
2 transfer in excess of 1,500 gallons per year, not including routinely delivered heating oil;

3 3. An area of a commercial or industrial site subject to parking, storage or
4 maintenance of 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains,
5 heavy equipment, etc.);

6 4. A road intersection with a measured ADT count of 25,000 vehicles or more
7 on the main roadway and 15,000 vehicles or more on any intersecting roadway, excluding
8 projects proposing primarily pedestrian or bicycle use improvements.

9
10 **22.801.100 "I"**

11 "Impervious Surface" means any surface exposed to rainwater from which most water
12 runs off. Common impervious surfaces include, but are not limited to, roof tops, walkways,
13 patios, driveways, formal planters, parking lots or storage areas, concrete or asphalt paving,
14 permeable paving, gravel surfaces subjected to vehicular traffic, compact gravel, packed earthen
15 materials, and oiled macadam or other surfaces which similarly impede the natural infiltration
16 of stormwater. Open, uncovered retention/detention facilities shall not be considered as
17 impervious surfaces for the purposes of determining whether the thresholds for application of
18 minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be
19 considered impervious surfaces for purposes of stormwater modeling.

20
21
22 Impervious surface, replaced. See "replaced or replacement of impervious surface."

23 "Infiltration" means the downward movement of water from the surface to the subsoil.

24 "Infiltration facility" means a drainage control facility that temporarily stores, and then
25 percolates drainage water into the underlying soil.



1 "Integrated Drainage Plan" means a plan developed, reviewed, and approved per
2 subsection 22.800.080.E.

3 "Interflow" means that portion of rainfall and other precipitation that infiltrates into the
4 soil and moves laterally through the upper soil horizons until intercepted by a stream channel or
5 until it returns to the surface.

6 "Inspector" means a City inspector, their designee, or licensed civil engineer performing
7 the inspection work required by this subtitle.

8
9 **22.801.110 "J"**

10 "Joint project" means a project that is both a parcel-based project and a roadway project.

11 **22.801.130 "L"**

12 "Land disturbing activity" means any activity that results in a movement of earth, or a
13 change in the existing soil cover, both vegetative and nonvegetative, or the existing topography.
14 Land disturbing activities include, but are not limited to, clearing, grading, filling, excavation,
15 or addition of new or the replacement of impervious surface. Compaction, excluding hot asphalt
16 mix, that is associated with stabilization of structures and road construction shall also be
17 considered a land disturbing activity. Vegetation maintenance practices are not considered land
18 disturbing activities.

19
20
21 "Large project" means a project including 5,000 square feet or more of new impervious
22 surface or replaced impervious surface, individually or combined, or one acre or more of land
23 disturbing activity.

24 "Listed creek basins" means Blue Ridge Creek, Broadview Creek, Discovery Park
25 Creek, Durham Creek, Frink Creek, Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek,
26



1 Licton Springs Creek, Madrona Park Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek,
2 Puget Creek, Riverview Creek, Schmitz Creek, Taylor Creek, or Washington Park Creek.

3 **22.801.140 "M"**

4 "Master use permit" means a document issued by DPD giving permission for
5 development or use of land or street right-of-way in accordance with Chapter 23.76.

6 "Maximum extent feasible" means the requirement is to be fully implemented,
7 constrained only by the physical limitations of the site, practical considerations of engineering
8 design, and reasonable considerations of financial costs and environmental impacts.

9 "Municipal stormwater NPDES permit" means the permit issued to the City under the
10 federal Clean Water Act for public drainage systems within the City limits.

11 **22.801.150 "N"**

12 "Native vegetation" means "native vegetation" as defined in Section 25.09.520.

13 "Nutrient-critical receiving water" means a surface water or water segment that that has
14 been listed as Category 5 (impaired) under Section 303(d) of the Clean Water Act for total
15 phosphorus through the State of Washington's Water Quality Assessment program and
16 approved by EPA.

17 "NPDES" means National Pollutant Discharge Elimination System, the national
18 program for controlling discharges under the federal Clean Water Act.

19 "NPDES permit" means an authorization, license or equivalent control document issued
20 by the United States Environmental Protection Agency or the Washington State Department of
21 Ecology to implement the requirements of the NPDES program.

22 **22.801.160 "O"**



1 “Oil control treatment facility” means a drainage control facility designed to reduce
2 concentrations of oil in drainage water.

3 “Owner” means any person having title to and/or responsibility for, a building or
4 property, including a lessee, guardian, receiver or trustee, and the owner's duly authorized agent.

5 **22.801.170 "P"**

6 “Parcel-based project” means any project that is not a roadway project, single-family
7 residential project, sidewalk project, or trail project.

8 “Person” means an individual, receiver, administrator, executor, assignee, trustee in
9 bankruptcy, trust estate, firm, partnership, joint venture, club, company, joint stock company,
10 business trust, municipal corporation, the State of Washington, political subdivision or agency
11 of the State of Washington, public authority or other public body, corporation, limited liability
12 company, association, society or any group of individuals acting as a unit, whether mutual,
13 cooperative, fraternal, nonprofit or otherwise, and the United States or any instrumentality
14 thereof.

15 “Pervious surface” means a surface that is not impervious. See also, “impervious
16 surface”.

17 “Phosphorus treatment facility” means a drainage control facility designed to reduce
18 concentrations of phosphorus in drainage water.

19 “Plan” means a graphic or schematic representation, with accompanying notes,
20 schedules, specifications and other related documents, or a document consisting of checklists,
21 steps, actions, schedules, or other contents that has been prepared pursuant to this subtitle, such
22 as:



1 as a drainage control plan, construction stormwater control plan, stormwater pollution
2 prevention plan, and integrated drainage plan.

3 “Pollution-generating activity” means any activity that is regulated by the joint
4 SPU/DPD Directors’ Rule titled, “Source Control Technical Requirements Manual” or activities
5 with similar impacts on drainage water. These activities include, but are not limited to: cleaning
6 and washing activities; transfer of liquid or solid material; production and application activities;
7 dust, soil, and sediment control; commercial animal care and handling; log sorting and
8 handling; boat building, mooring, maintenance, and repair; logging and tree removal; mining
9 and quarrying of sand, gravel, rock, peat, clay, and other materials; cleaning and maintenance of
10 swimming pool and spas; deicing and anti-icing operations for airports and streets; maintenance
11 and management of roof and building drains at manufacturing and commercial buildings;
12 maintenance and operation of railroad yards; maintenance of public and utility corridors and
13 facilities; and maintenance of roadside ditches.

14
15
16 “Pollution-generating impervious surface” means those impervious surfaces considered
17 to be a significant source of pollutants in drainage water. Such surfaces include those that are
18 subject to: vehicular use; certain industrial activities; or storage of erodible or leachable
19 materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of
20 rainfall. Erodeable or leachable materials, wastes, or chemicals are those substances which, when
21 exposed to rainfall, measurably alter the physical or chemical characteristics of the drainage
22 water. Examples include: erodible soils that are stockpiled; uncovered process wastes; manure;
23 fertilizers; oily substances; ashes; kiln dust; and garbage dumpster leakage. Metal roofs are also
24
25
26



1 considered to be PGIS unless they are coated with an inert, non-leachable material (e.g., baked-
2 on enamel coating).

3 A surface, whether paved or not, shall be considered subject to vehicular use if it is
4 regularly used by motor vehicles. The following are considered regularly-used surfaces: roads;
5 unvegetated road shoulders; permeable pavement; bike lanes within the traveled lane of a
6 roadway; driveways; parking lots; unfenced fire lanes; vehicular equipment storage yards; and
7 airport runways.

8
9 The following are not considered regularly-used surfaces: paved bicycle pathways
10 separated from and not subject to drainage from roads for motor vehicles; fenced fire lanes; and
11 infrequently used maintenance access roads.

12
13 "Pollution-generating pervious surface" means any non-impervious surface subject to
14 use of pesticides and fertilizers or loss of soil, and typically includes lawns, landscaped areas,
15 golf courses, parks, cemeteries, and sports fields.

16
17 "Pre-developed condition" means the vegetation and soil conditions that are used to
18 determine the allowable post-development discharge peak flow rates and flow durations, such
19 as pasture or forest.

20
21 "Project" means the addition or replacement of impervious surface or the undertaking of
22 land disturbing activity on a site.

23
24 "Public combined sewer" means a publicly owned and maintained system which carries
25 drainage water and wastewater and flows to a publicly owned treatment works.

26
27 "Public drainage system" means a drainage system owned or used by the City of Seattle.



1 "Public place" means and includes streets, avenues, ways, boulevards, drives, places,
2 alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public
3 use and the space above or beneath its surface, whether or not opened or improved.

4 "Public sanitary sewer" means the sanitary sewer that is owned or operated by a City
5 agency.

6 "Public storm drain" means the part of a public drainage system that is wholly or
7 partially piped, owned or operated by a City agency, and designed to carry only drainage water.

8
9 **22.801.190 "R"**

10 "Real property" means "real property" as defined in Section 3.110.

11 "Receiving water" means the surface water or wetland receiving drainage water.

12 "Repeat Violation" means a prior violation of this subtitle within the preceding five
13 years that became a final order or decision of the Director or a court. The violation does not
14 need to be the same nor occur on one site to be considered repeat.

15
16 "Replaced impervious surface" or "replacement of impervious surface" means for
17 structures, the removal and replacement of impervious surface down to the foundation. For
18 other impervious surface, the impervious surface that is removed down to earth material and a
19 new impervious surface is installed.

20
21 "Responsible party" means all of the following persons:

- 22 1. Owners, operators, and occupants of property; and,
23 2. Any person causing or contributing to a violation of the provisions of this
24 subtitle.

25
26 "Right-of-way" means "right-of-way" as defined in Section 23.84A.032.



1 “Roadway” means “roadway” as defined in Section 23.84A.032.

2 “Roadway project” means a project located in the public right-of-way, that involves the
3 creation of a new or replacement of an existing roadway, or that involves the creation of new or
4 replacement of existing impervious surface.

5 “Runoff” means the portion of rainfall or other precipitation that becomes surface flow
6 and interflow.

7
8 **22.801.200 "S"**

9 "SPU" means Seattle Public Utilities.

10 “Sanitary sewer” means a system that conveys wastewater and is not designed to convey
11 stormwater.

12 "SDOT" means the Seattle Department of Transportation.

13 “Service drain” means “service drain” as defined in Section 21.16.030.

14 “Side sewer” means “side sewer” as defined in Section 21.16.030.

15 “Sidewalk” means “sidewalk” as defined in Section 23.84A.036.

16 “Sidewalk project” means a project that exclusively involves the creation of a new or
17 replacement of an existing sidewalk, including any associated planting strip, curb, or gutter.

18 “Single-family residential project” means a project, that constructs one Single-family
19 Dwelling Unit per Section 23.44.006.A located in land classified as being Single-family
20 Residential 9,600 (SF 9600), Single-family Residential 7,200 (SF 7200), or Single-family
21 Residential 5,000 (SF 5000) per Section 23.30.010, and the total new plus replaced impervious
22 surface is less than 10,000 square feet and the total new plus replaced pollution-generating
23 impervious surface is less than 5,000 square feet.



1 "Site" means the lot or parcel, or portion of street, highway or other right-of-way, or
2 contiguous combination thereof, where a permit for the addition or replacement of impervious
3 surface or the undertaking of land disturbing activity has been issued or where any such work is
4 proposed or performed. For roadway projects, the length of the project site and the right-of-way
5 boundaries define the site.

6 "Slope" means an inclined ground surface.

7 "Small project" means a project with:

- 8 1. Less than 5,000 square feet of new and replaced impervious surface; and
9 2. Less than one acre of land disturbing activities.

10 "SMC" means the Seattle Municipal Code.

11 "Soil" means naturally deposited non-rock earth materials.

12 "Solid waste" means "solid waste" as defined in Section 21.36.016.

13 "Source controls" mean structures or operations that prevent contaminants from coming
14 in contact with drainage water through physical separation or careful management of activities
15 that are known sources of pollution.

16 "Standard design" is a design pre-approved by the Director for drainage and erosion
17 control available for use at a site with pre-defined characteristics.

18 "Storm drain" means both public storm drain and service drain.

19 "Stormwater" means that portion of precipitation and snowmelt that does not naturally
20 percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other
21 features of a drainage system into a receiving water or a constructed infiltration facility.



1 “Stream” means a Type 2-5 water as defined in WAC 222-16-031. Used synonymously
2 with “creek.”

3 **22.801.210 "T"**

4 “Topsoil” means the weathered surface soil, including the organic layer, in which plants
5 have most of their roots.

6 “Trail” means a path of travel for recreation and/or transportation within a park, natural
7 environment, or corridor that is not classified as a highway, road, or street.

8 “Trail project” means a project that exclusively involves creating a new or replacement
9 of an existing trail, and which does not contain pollution-generating impervious surfaces.

10 “Treatment facility” means a drainage control facility designed to remove pollutants
11 from drainage water.

12 **22.801.220 "U"**

13 “Uncontaminated” means surface water or groundwater not containing sediment or other
14 pollutants or contaminants above natural background levels and not containing pollutants or
15 contaminants in levels greater than City-supplied drinking water when referring to potable
16 water.

17 **22.801.230 "V"**

18 “Vegetation” means “vegetation” as defined in Section 25.09.520.

19 **22.801.240 "W"**

20 “Wastewater” means “wastewater” as defined in Section 21.16.030.



1 “Water Quality Standards” means Surface Water Quality Standards, Chapter 173-201A
2 WAC, Ground Water Quality Standards, Chapter 173-200 WAC, and Sediment Management
3 Standards, Chapter 173-204 WAC.

4 “Watercourse” means the route, constructed or formed by humans or by natural
5 processes, generally consisting of a channel with bed, banks or sides, in which surface waters
6 flow. Watercourse includes small lakes, bogs, streams, creeks, and intermittent artificial
7 components (including ditches and culverts) but does not include designated receiving waters.

8 “Watershed” means a geographic region within which water drains into a particular
9 river, stream, or other body of water.

10 “Wetland” means a wetland designated under Section 25.09.020.

11 “Wetland function” means the physical, biological, chemical, and geologic interactions
12 among different components of the environment that occur within a wetland. Wetland functions
13 can be grouped into three categories: functions that improve water quality; functions that
14 change the water regime in a watershed, such as flood storage; and functions that provide
15 habitat for plants and animals.

16 “Wetland values” means wetland processes, characteristics, or attributes that are
17 considered to benefit society.

18 **Chapter 22.802 Prohibited and Permissible Discharges**

19 **22.802.010 General**

20 A. No discharge from a site, real property, or drainage facility, directly or indirectly to
21 a public drainage system, private drainage system, or a receiving water within or contiguous to
22 Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely



1 violation of water quality standards in the receiving water or a known or likely violation of the
2 City's municipal stormwater NPDES permit.

3 B. Every permit issued to implement this subtitle shall contain a performance standard
4 requiring that no discharge from a site, real property, or drainage facility, directly or indirectly
5 to a public drainage system, private drainage system, or a receiving water within or contiguous
6 to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation
7 of water quality standards in the receiving water or a known or likely violation of the City's
8 municipal stormwater NPDES permit.

9
10 **22.802.020 Prohibited Discharges**

11 A. Prohibited Discharges. The following common substances are prohibited to enter,
12 either directly or indirectly, a public drainage system, a private drainage system, or a receiving
13 water within or contiguous to Seattle city limits, including but not limited to when entering via a
14 service drain, overland flow, or as a result of a spill or deliberate dumping:

- 15
- 16 1. acids;
 - 17 2. alkalis including cement wash water;
 - 18 3. ammonia;
 - 19 4. animal carcasses;
 - 20 5. antifreeze, oil, gasoline, grease and all other automotive and petroleum
21 products;
 - 22 6. chemicals not normally found in uncontaminated water;
 - 23 7. chlorinated swimming pool or hot tub water;
 - 24 8. chlorine;
 - 25
 - 26



1 9. commercial and household cleaning materials;

2 10. detergent;

3 11. dirt;

4 12. domestic or sanitary sewage;

5 13. drain cleaners;

6 14. fertilizers;

7 15. flammable or explosive materials;

8 16. food and food waste;

9 17. gravel.

10 18. herbicides;

11 19. human and animal waste;

12 20. industrial process wastewater,

13 21. ink;

14 22. laundry waste;

15 23. metals in excess of naturally occurring amounts, whether in liquid or solid

16 form;

17 24. painting products;

18 25. pesticides;

19 26. sand;

20 27. soap;

21 28. solid waste;

22 29. solvents and degreasers;



1 30. steam-cleaning waste; and,

2 31. yard waste.

3 B. Prohibited Discharges to Public and Private Drainage System. Except as provided in
4 Section 22.802.030, any discharge to a public drainage system or to a private drainage system
5 that is not composed entirely of stormwater is prohibited.

6 C. Prohibited Discharges to Receiving Waters. Except as provided in Section
7 22.802.030, any discharge, either directly or indirectly to receiving waters within or contiguous
8 to Seattle city limits or to a public drainage system that is not composed entirely of stormwater
9 is prohibited.

10
11 **22.802.030 Permissible Discharges**

12 Permissible Discharges to Drainage Systems and Receiving Waters. Discharges from the
13 sources listed below are permissible discharges unless the Director of SPU determines that the
14 type of discharge, directly or indirectly to a public drainage system, private drainage system, or
15 a receiving water within or contiguous to Seattle city limits, whether singly or in combination
16 with others, is causing or contributing to a violation of the City's NPDES stormwater permit or
17 is causing or contributing to a water quality problem:

18
19 1. Discharges from potable water sources, including flushing of potable water
20 lines, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline
21 hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm
22 or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent
23 resuspension of sediments in the drainage system;
24



1 2. Discharges from washing or rinsing of potable water storage reservoirs,
2 dechlorinated as above;

3 3. Discharges from surface waters, including diverted stream flows;

4 4. Discharges of uncontaminated groundwater, including uncontaminated
5 groundwater infiltration (as defined at 40 CFR 35.2005(2)), uncontaminated pumped
6 groundwater, and rising ground waters;

7 5. Discharges of air conditioning condensation;

8 6. Discharges from springs;

9 7. Discharges of uncontaminated water from crawl space pumps;

10 8. Discharges from lawn watering;

11 9. Discharges from irrigation runoff, including irrigation water from
12 agricultural sources that is commingled with stormwater and that does not contain prohibited
13 substances;

14 10. Discharges from riparian habitats and wetlands;

15 11. Discharges from approved footing drains and other subsurface drains or,
16 where approval is not required, installed in compliance with this subtitle and rules promulgated
17 pursuant to this subtitle;

18 12. Discharges from foundation drains;

19 13. Discharges from swimming pools, hot tubs, fountains, or similar aquatic
20 recreation facilities and constructed water features, provided the discharges have been de-
21 chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary,
22



1 and volumetrically and velocity controlled to prevent resuspension of sediments in the drainage
2 control system;

3 14. Discharges of street and sidewalk wash-water that does not use detergents
4 or chemical additives;

5 15. Discharges of water used to control dust;

6 16. Discharges of water from routine external building washdown that does not
7 use detergents or chemical additives;

8 17. Discharges that are in compliance with a separate individual or general
9 NPDES permit;

10 18. Discharges that are from emergency fire fighting activities; and

11 19. Other non-stormwater discharges, provided these discharges are in
12 compliance with the requirements of an approved stormwater pollution prevention plan that
13 addresses such discharges.

14 B. Permissible Discharges to Sanitary Sewers. In consultation with the local sewage
15 treatment agency, the Director of SPU may approve discharges of drainage water to a sanitary
16 sewer if the discharging party demonstrates to the satisfaction of the Director of SPU that other
17 methods of controlling pollutants in the discharge are not adequate or reasonable, the
18 discharging party certifies that the discharge will not harm the environment, and the discharging
19 party certifies that the discharge will not overburden or otherwise harm the sanitary sewer.

20 Connections to the sanitary sewer shall be made in accordance with Chapter 21.16 (Side Sewer
21 Code). The Director of SPU shall condition approval of such a discharge on compliance with



1 local pretreatment regulations and on maintaining compliance with the required certifications
2 given by the discharging party.

3 C. Permissible Discharges to Public Combined Sewers. In consultation with the local
4 sewage treatment agency, the Director of SPU may approve discharges of drainage water to a
5 public combined sewer if the discharging party certifies that the discharge will not harm the
6 environment, and the discharging party certifies that the discharge will not overburden or
7 otherwise harm the public combined sewers. Connections to the public combined sewers shall
8 be made in accordance with Chapter 21.16 (Side Sewer Code). The Director of SPU shall
9 condition approval of such a discharge on compliance with local pretreatment regulations and
10 on maintaining compliance with the required certifications given by the discharging party.

11 **22.802.040 Testing for Prohibited Discharges**

12
13 When the Director of SPU has reason to believe that any discharge is a prohibited
14 discharge, the Director of SPU may sample and analyze the discharge and recover the costs
15 from a responsible party in an enforcement proceeding. When the discharge is likely to be a
16 prohibited discharge on a recurring basis, the Director of SPU may conduct, or may require the
17 responsible party to conduct, ongoing monitoring at the responsible party's expense.

18
19
20 Section 3. New Chapters 22.803, 22.805, and 22.807 are adopted to be read as follows:

21 **Chapter 22.803 Minimum Requirements for All Discharges and All Real Property**

22 **22.803.010 General**

23 A. All responsible parties are required to comply with this chapter, even where no
24 development is occurring.



1 B. No discharge from a site, real property, or drainage facility, directly or indirectly to
2 a public drainage system, private drainage system, or a receiving water within or contiguous to
3 Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely
4 violation of water quality standards in the receiving water or a known or likely violation of the
5 City's municipal stormwater NPDES permit.

6 C. Every permit issued to implement this subtitle shall contain a performance standard
7 requiring that no discharge from a site, real property, or drainage facility, directly or indirectly
8 to a public drainage system, private drainage system, or a receiving water within or contiguous
9 to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation
10 of water quality standards in the receiving water or a known or likely violation of the City's
11 municipal stormwater NPDES permit.
12

13
14 **22.803.020 Minimum Requirements for All Discharges and Real Property**

15 A. Requirement to provide documentation. The owner is required to make plans,
16 procedures, and schedules required by this subsection available to the Director of SPU when
17 requested.

18 B. Requirement to report spills, releases, or dumping. A responsible party is required
19 to, at the earliest possible time, but in any case within 24 hours of discovery, report to the
20 Director of SPU, a spill, release, dumping, or other situation that has contributed or is likely to
21 contribute pollutants to a public drainage system, a private drainage system, or a receiving
22 water. This reporting requirement is in addition to, and not instead of, any other reporting
23 requirements under federal, state or local laws.
24
25
26



1 C. Requirements to maintain facilities. All treatment facilities, flow control facilities,
2 drainage control facilities, and drainage systems shall be maintained as prescribed in rules
3 promulgated by the Director in order for these facilities and systems to be kept in continuous
4 working order.

5 D. Requirements for disposal of waste from maintenance activities. Disposal of waste
6 from maintenance of drainage control facilities shall be conducted in accordance with federal,
7 state and local regulations, including the Minimum Functional Standards for Solid Waste
8 Handling, Chapter 173-304 WAC, guidelines for disposal of waste materials, and, where
9 appropriate, Dangerous Waste Regulations, Chapter 173-303 WAC.

11 E. Requirements to maintain records of installation and maintenance activities. When a
12 drainage control facility is installed, the party having the facility installed shall make records of
13 the installation and shall identify the party (or parties) responsible for maintenance and
14 operations. The parties shall retain a continuous record of all maintenance and repair activities,
15 and shall retain the records for at least ten years. If a transfer of ownership occurs, these records
16 of installation, repair, and maintenance shall be transferred to the new property owner. These
17 records shall be made available to the Director of SPU during inspection of the facility and at
18 other reasonable times upon request of the Director of SPU.

21 **22.803.030 Minimum Requirements for Source Controls for All Real Property**

22 For all discharges, responsible parties shall implement and maintain source controls to
23 prevent or minimize pollutants from leaving a site or property. Source controls that are required
24 for all real property include, but are not limited to, the following, as further described in rules
25 promulgated by the Director:
26



1 A. Eliminate Illicit or Prohibited Connections to Storm Drains. It is the responsibility
2 of the property owner to ensure that all plumbing connections are properly made and that only
3 connections conveying stormwater or permissible discharges per Section 22.802.030 are
4 connected to the drainage system.

5 B. Perform Routine Maintenance for Stormwater Drainage System. All drainage
6 system components, including, but not limited to catch basins, flow control facilities, treatment
7 facilities, green stormwater infrastructure, and unimproved drainage pathways shall be kept in
8 continuously working order.

9 C. Dispose of Fluids and Wastes Properly. Solid and liquid wastes must be disposed of
10 in a manner that minimizes the risk of contaminating stormwater.

11 D. Proper Storage of Solid Wastes. Solid wastes must be stored of in a manner that
12 minimizes the risk of contaminating stormwater.

13 E. Spill Prevention and Cleanup. All property owners having the potential to spill
14 pollutants shall take measures to the maximum extent feasible to prevent spills of pollutant and
15 to properly clean up spills that may occur.

16 F. Provide Oversight and Training for Staff. Train at least annually all employees
17 responsible for the operation, maintenance, or inspection of BMPs.

18
19
20
21 **22.803.040 Minimum Requirements for Source Controls For All Businesses and Public**
22 **Entities**

23 A. Source controls shall be implemented, to the extent allowed by law, by all
24 businesses and public entities for specific pollution-generating activities as specified in the joint
25 SPU/DPD Directors' Rule, "Source Control Technical Requirements Manual," to the extent
26



1 necessary to prevent prohibited discharges as described in subsection 22.802.020.A through
2 subsection 22.802.020.C, and to prevent contaminants from coming in contact with drainage
3 water. Source controls include, but are not limited to, segregating or isolating wastes to prevent
4 contact with drainage water; enclosing, covering, or containing the activity to prevent contact
5 with drainage water; developing and implementing inspection and maintenance programs;
6 sweeping; and taking management actions such as training employees on pollution prevention.
7

8 B. Spill prevention shall be required for all businesses and public entities, as further
9 defined in rules promulgated by the Director:

10 1. Develop and implement plans and procedures to prevent spills and other
11 accidental releases of materials that may contaminate drainage water. This requirement may be
12 satisfied by a Stormwater Pollution Prevention Plan prepared in compliance with an NPDES
13 industrial stormwater permit for the site; and
14

15 2. Implement procedures for immediate containment and other appropriate
16 action regarding spills and other accidental releases to prevent contamination of drainage water;
17 and

18 3. Provide necessary containment and response equipment on-site, and training
19 of personnel regarding the procedures and equipment to be used.
20

21 **Chapter 22.805 MINIMUM REQUIREMENTS FOR ALL PROJECTS**

22 **22.805.010 General**

23 A. All projects are required to comply with this chapter, even where drainage control
24 review is not required.
25
26



1 B. No discharge from a site, real property, or drainage facility, directly or indirectly to
2 a public drainage system, private drainage system, or a receiving water within or contiguous to
3 Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely
4 violation of water quality standards in the receiving water or a known or likely violation of the
5 City's municipal stormwater NPDES permit.

6 C. Every permit issued to implement this subtitle shall contain a performance standard
7 requiring that no discharge from a site, real property, or drainage facility, directly or indirectly
8 to a public drainage system, private drainage system, or a receiving water within or contiguous
9 to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation
10 of water quality standards in the receiving water or a known or likely violation of the City's
11 municipal stormwater NPDES permit.

12
13
14 **22.805.020 Minimum Requirements for All Projects**

15 A. Minimum Requirements for Maintaining Natural Drainage Patterns. For all projects,
16 natural drainage patterns shall be maintained and discharges shall occur at the natural location
17 to the maximum extent feasible and consistent with subsection 22.805.020.B. Drainage water
18 discharged from the site shall not cause a significant adverse impact to receiving waters or
19 down-gradient properties. Drainage water retained on the site shall not cause significant adverse
20 impact to up-gradient properties.

21
22 B. Minimum Requirements for Discharge Point. The discharge point for drainage water
23 from each site shall be selected using criteria that shall include, but not be limited to,
24 preservation of natural drainage patterns and whether the capacity of the drainage system is
25 adequate for the flow rate and volume. For those projects meeting the drainage review
26



1 threshold, the proposed discharge point shall be identified in the drainage control plan required
2 by this subtitle, for review and approval or disapproval by the Director.

3 C. Minimum Requirements for Flood-prone Areas. On sites within flood prone areas,
4 responsible parties are required to employ procedures to minimize the potential for flooding on
5 the site and to minimize the potential for the project to increase the risk of floods on adjacent or
6 nearby properties. Flood control measures shall include those set forth in other titles of the
7 Seattle Municipal Code and rules promulgated thereunder, including, but not limited to, Chapter
8 23.60 (Shoreline Master Program), Chapter 25.06 (Floodplain Development) and Chapter 25.09
9 (Environmentally Critical Areas) of the Seattle Municipal Code.
10

11 D. Minimum Requirements for Construction Site Stormwater Pollution Prevention
12 Control. Temporary and permanent construction controls shall be used to accomplish the
13 following minimum requirements. All projects are required to meet each of the elements below
14 or document why an element is not applicable. Additional controls may be required by the
15 Director when minimum controls are not sufficient to prevent erosion or transport of sediment
16 or other pollutants from the site.
17

18 1. Mark Clearing Limits and Environmentally Critical Areas. Within the
19 boundaries of the project site and prior to beginning land disturbing activities, including
20 clearing and grading, clearly mark all clearing limits, easements, setbacks, all environmentally
21 critical areas and their buffers, and all trees, and drainage courses that are to be preserved within
22 the construction area.
23

24 2. Retain Top Layer. Within the boundaries of the project site, the duff layer,
25 topsoil, and native vegetation, if there is any, shall be retained in an undisturbed state to the
26



1 maximum extent feasible. If it is not feasible to retain the top layer in place, it should be
2 stockpiled on-site, covered to prevent erosion, and replaced immediately upon completion of the
3 ground disturbing activities to the maximum extent feasible.

4 3. Establish Construction Access. Limit construction vehicle access, whenever
5 possible, to one route. Stabilize access points and minimize tracking sediment onto public roads.
6 Promptly remove any sediment tracked off site.

7
8 4. Protect Downstream Properties and Receiving Waters. Protect properties and
9 receiving waters downstream from the development sites from erosion due to increases in the
10 volume, velocity, and peak flow rate of drainage water from the project site. If it is necessary to
11 construct flow control facilities to meet this requirement, these facilities shall be functioning
12 prior to implementation of other land disturbing activity. If permanent infiltration ponds are
13 used to control flows during construction, these facilities shall be protected from siltation during
14 the construction phase of the project.

15
16 5. Prevent Erosion and Sediment Transport from the Site. Pass all drainage
17 water from disturbed areas through a sediment trap, sediment pond, or other appropriate
18 sediment removal BMP before leaving the site or prior to discharge to an infiltration facility.
19 Sediment controls intended to trap sediment on site shall be constructed as one of the first steps
20 in grading and shall be functional before other land disturbing activities take place. BMPs
21 intended to trap sedimentation shall be located in a manner to avoid interference with the
22 movement of juvenile salmonids attempting to enter off-channel areas or drainages.

23
24 6. Prevent Erosion and Sediment Transport from the Site by Vehicles.
25 Whenever construction vehicle access routes intersect paved roads, the transport of sediment
26

1 onto the paved road shall be minimized. If sediment is transported onto a paved road surface,
2 the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from
3 paved roads by shoveling or sweeping and shall be transported to a controlled sediment disposal
4 area. If sediment is tracked off site, roads shall be cleaned thoroughly at the end of each day, or
5 at least twice daily during wet weather. Street washing is allowed only after sediment is
6 removed and street wash wastewater shall be prevented from entering the public drainage
7 system and receiving waters.
8

9 7. Stabilize Soils. Prevent on-site erosion by stabilizing all exposed and
10 unworked soils, including stock piles and earthen structures such as dams, dikes, and diversions.
11 From October 1 to April 30, no soils shall remain exposed and unworked for more than two
12 days. From May 1 to September 30, no soils shall remain exposed for more than seven days.
13 Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on
14 the weather forecast. Soil stockpiles shall be stabilized from erosion, protected with sediment
15 trapping measures, and be located away from storm drain inlets, waterways, and drainage
16 channels. Before the completion of the project, permanently stabilize all exposed soils that have
17 been disturbed during construction.
18

19 8. Protect Slopes. Erosion from slopes shall be minimized. Cut and fill slopes
20 shall be designed and constructed in a manner that will minimize erosion. Off-site stormwater
21 run-on or groundwater shall be diverted away from slopes and undisturbed areas with
22 interceptor dikes, pipes, and/or swales. Pipe slope drains or protected channels shall be
23 constructed at the top of slopes to collect drainage and prevent erosion. Excavated material shall
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1 be placed on the uphill side of trenches, consistent with safety and space considerations. Check
2 dams shall be placed at regular intervals within constructed channels that are cut down a slope.

3 9. Protect Storm Drains. Prevent sediment from entering all storm drains,
4 including ditches that receive drainage water from the project. Storm drain inlets protection
5 devices shall be cleaned or removed and replaced as recommended by the product
6 manufacturer, or more frequently if required to prevent failure of the device or flooding. Storm
7 drain inlets made operable during construction shall be protected so that drainage water does not
8 enter the drainage system without first being filtered or treated to remove sediments. Storm
9 drain inlet protection devices shall be removed at the conclusion of the project. When
10 manufactured storm drain inlet protection devices are not feasible, inlets and catch basins must
11 be cleaned as necessary to prevent sediment from entering the drainage control system.

12 10. Stabilize Channels and Outlets. All temporary on-site drainage systems
13 shall be designed, constructed, and stabilized to prevent erosion. Stabilization shall be provided
14 at the outlets of all drainage systems that is adequate to prevent erosion of outlets, adjacent
15 stream banks, slopes, and downstream reaches.

16 11. Control Pollutants. Measures shall be taken to control potential pollutants
17 that include, but are not limited to, the following measures:

18 a. All pollutants, including sediment, waste materials, and demolition
19 debris, that occur onsite shall be handled and disposed of in a manner that does not cause
20 contamination of drainage water and per all applicable disposal laws.
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1 b. Containment, cover, and protection from vandalism shall be provided
2 for all chemicals, liquid products, petroleum products, and other materials that have the
3 potential to pose a threat to human health or the environment.

4 c. On-site fueling tanks shall include secondary containment.

5 d. Maintenance, fueling, and repair of heavy equipment and vehicles
6 involving oil changes, hydraulic system drain down, solvent and de-greasing cleaning
7 operations, fuel tank drain down and removal, and other activities which may result in discharge
8 or spillage of pollutants to the ground or into drainage water runoff shall be conducted using
9 spill prevention and control measures.
10

11 e. Contaminated surfaces shall be cleaned immediately following any
12 discharge or spill incident.

13 f. Wheel wash or tire bath wastewater shall be discharged to a separate
14 on-site treatment system or to the sanitary sewer or combined sewer system with approval of the
15 Director of SPU. Temporary discharges or connections to the public sanitary and combined
16 sewers shall be made in accordance with Chapter 21.16 (Side Sewer Code).

17 g. Application of fertilizers and pesticides shall be conducted in a
18 manner and at application rates that will not result in loss of chemical to drainage water.
19 Manufacturers' label requirements for application rates and procedures shall be followed.
20

21 h. BMPs shall be used to prevent or treat contamination of drainage
22 water by pH-modifying sources. These sources include, but are not limited to, bulk cement,
23 cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated
24 from concrete grinding and sawing, exposed aggregate processes, and concrete pumping and
25



1 mixer washout waters. Construction site operators may be required to adjust the pH of drainage
2 water if necessary to prevent a violation of water quality standards. Construction site operators
3 must obtain written approval from Ecology prior to using chemical treatment other than carbon
4 dioxide (CO2) or dry ice to adjust pH.

5 12. Control Dewatering. When dewatering devices discharge on site or to a
6 public drainage system, dewatering devices shall discharge into a sediment trap, sediment pond,
7 gently sloping vegetated area of sufficient length to remove sediment contamination, or other
8 sediment removal BMP. Foundation, vault, and trench dewatering waters must be discharged
9 into a controlled drainage system prior to discharge to a sediment trap or sediment pond. Clean,
10 non-turbid dewatering water, such as well-point ground water, that is discharged to systems
11 tributary to state surface waters must not cause erosion or flooding. Highly turbid or
12 contaminated dewatering water shall be handled separately from drainage water. For any project
13 with an excavation depth of 12 feet or more below the existing grade and for all large projects,
14 dewatering flows must be determined and it must be verified that there is sufficient capacity in
15 the public drainage system and public combined sewer prior to discharging.

16 13. Maintain BMPs. All temporary and permanent erosion and sediment
17 control BMPs shall be maintained and repaired as needed to assure continued performance of
18 their intended function. All temporary erosion and sediment controls shall be removed within
19 five days after final site stabilization is achieved or after the temporary controls are no longer
20 needed, whichever is later. Trapped sediment shall be removed or stabilized on site. Disturbed
21 soil areas resulting from removal shall be permanently stabilized.
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1 14. Inspect BMPs. BMPs shall be periodically inspected. For projects with
2 5,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more
3 of land disturbing activity, site inspections shall be conducted by a Certified Erosion and
4 Sediment Control Lead who shall be identified in the Construction Stormwater Control Plan and
5 shall be present on-site or on-call at all times.

6 15. Execute Construction Stormwater Control Plan. Construction site operators
7 shall maintain, update, and implement their Construction Stormwater Control Plan.
8 Construction site operators shall modify their Construction Stormwater Control Plan to maintain
9 compliance whenever there is a change in design, construction, operation, or maintenance at the
10 site that has, or could have, a significant effect on the discharge of pollutants to waters of the
11 state.
12

13 16 Minimize Open Trenches. In the construction of underground utility lines,
14 where feasible, no more than 150 feet of trench shall be opened at one time, unless soil is
15 replaced within the same working day, and where consistent with safety and space
16 considerations, excavated material shall be placed on the uphill side of trenches. Trench
17 dewatering devices shall discharge into a sediment trap or sediment pond.
18

19 17. Phase the Project. Development projects shall be phased to the maximum
20 extent feasible in order to minimize the amount of land disturbing activity occurring at the same
21 time and shall take into account seasonal work limitations.
22

23 18. Install Permanent Flow Control and Water Quality Facilities. Development
24 projects required to comply with Section 22.805.080 (Minimum Requirements for Flow
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1 Control) or Section 22.805.090 (Minimum Requirements for Treatment) shall install permanent
2 flow control and water quality facilities.

3 E. Minimum Requirement to Amend Soils. Prior to completion of the project all new,
4 replaced, and disturbed topsoil shall be amended with organic matter per rules promulgated by
5 the Director to improve onsite management of drainage water flow and water quality.

6 F. Implement Green Stormwater Infrastructure. All Single-family residential projects
7 and all other projects with 7,000 square feet or more of land disturbing activity or 2,000 square
8 feet or more of new plus replaced impervious surface must implement green stormwater
9 infrastructure to infiltrate, disperse, and retain drainage water onsite to the maximum extent
10 feasible without causing flooding, landslide, or erosion impacts.

11 G. Protect Wetlands. All projects discharging into a wetland or its buffer, either
12 directly or indirectly through a drainage system, shall prevent impacts to wetlands that would
13 result in a net loss of functions or values.

14 H. Protect Streams and Creeks. All projects, including projects discharging directly to
15 a stream or creek, or to a drainage system that discharges to a stream or creek, shall maintain the
16 water quality in any affected stream or creek by selecting, designing, installing, and maintaining
17 temporary and permanent controls.

18 I. Protect Shorelines. All projects discharging directly or indirectly through a drainage
19 system into the shoreline district as defined in Chapter 23.60 shall prevent impacts to water
20 quality and stormwater quantity that would result in a net loss of shoreline ecological functions
21 as defined in WAC 173-26-020 (11).



1 J. Ensure Sufficient Capacity. All large projects, all projects with an excavation depth
2 of 12 feet or more below the existing grade, and all projects with an excavation depth of less
3 than 12 feet located in an area expected to have shallow groundwater depths shall ensure that
4 sufficient capacity exists in the public drainage system and public combined sewer to carry
5 existing and anticipated loads, including any flows from dewatering activities. Capacity analysis
6 shall extend to at least 1/4-mile from the discharge point of the site. Sites at which there is
7 insufficient capacity may be required to install a flow control facility or improve the drainage
8 system or public combined sewer to accommodate flow from the site. Unless approved
9 otherwise by the Director as necessary to meet the purposes of this subtitle:
10

11 1. Capacity analysis for discharges to the public drainage system shall be based
12 on peak flows with a 4% annual probability (25-year recurrence interval); and

13 2. Capacity analysis for discharges to the public combined sewer shall be based
14 on peak flows with a 20% annual probability (5-year recurrence interval).
15

16 K. Install Source Control BMPs. Source control BMPs shall be installed for specific
17 pollution-generating activities as specified in the joint SPU/DPD Directors' Rule, "Source
18 Control Technical Requirements Manual," to the extent necessary to prevent prohibited
19 discharges as described in Section 22.802.020, and to prevent contaminants from coming in
20 contact with drainage water. This requirement applies to the pollution-generating activities that
21 are stationary or occur in one primary location and to the portion of the site being developed.
22 Examples of installed source controls include, but are not limited to, the following:
23

24 1. A roof, awning, or cover erected over the pollution-generating activity area;
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1 2. Ground surface treatment in the pollution-generating activity area to prevent
2 interaction with, or breakdown of, materials used in conjunction with the pollution-generating
3 activity;

4 3. Containment of drainage from the pollution-generating activity to a closed
5 sump or tank. Contents of such a sump or tank must be pumped or hauled by a waste handler, or
6 treated prior to discharge to a public drainage system.

7 4. Construct a berm or dike to enclose or contain the pollution-generating
8 activities;

9 5. Direct drainage from containment area of pollution-generating activity to a
10 closed sump or tank for settling and appropriate disposal, or treat prior to discharging to a
11 public drainage system;

12 6. Pave, treat, or cover the containment area of pollution-generating activities
13 with materials that will not interact with or break down in the presence of other materials used
14 in conjunction with the pollution-generating activity; and

15 7. Prevent precipitation from flowing or being blown onto containment areas of
16 pollution-generating activities.

17 L. Do not obstruct watercourses. Watercourses shall not be obstructed.

18 M. Comply with Side Sewer Code.

19 1. All privately owned and operated drainage control facilities or systems,
20 whether or not they discharge to a public drainage system, shall be considered side sewers and
21 subject to Chapter 21.16 (Side Sewer Code), SPU Director's Rules promulgated under Title 21,
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1 and the design and installation specifications and permit requirements of SPU and DPD for side
2 sewer and drainage systems.

3 2. Side sewer permits and inspections shall be required for constructing,
4 capping, altering, or repairing privately owned and operated drainage systems as provided for in
5 Chapter 21.16. When the work is ready for inspection, the permittee shall notify the Director of
6 DPD. If the work is not constructed according to the plans approved under this subtitle, Chapter
7 21.16, the SPU Director's Rules promulgated under Title 21, and SPU and DPD design and
8 installation specifications, then SPU, after consulting with DPD, may issue a stop work order
9 under Chapter 22.808 and require modifications as provided for in this subtitle and Chapter
10 21.16.
11

12 **22.805.030 Minimum Requirements for Single-Family Residential Projects**

13 All single-family residential projects shall implement green stormwater infrastructure to
14 the maximum extent feasible.
15

16 **22.805.040 Minimum Requirements for Trail and Sidewalk Projects**

17 All trail and sidewalk projects with 2,000 square feet or more of new plus replaced
18 impervious surface or 7,000 square feet or more of land disturbing activity shall implement
19 green stormwater infrastructure to the maximum extent feasible.
20

21 **22.805.050 Minimum Requirements for Parcel-Based Projects**

22 A. Flow Control. Parcel-based projects shall meet the minimum requirements for flow
23 control contained in Section 22.805.080, to the extent allowed by law, as prescribed below.
24

25 1. Discharges to Wetlands. Parcel-based projects discharging into a wetland
26 shall comply with subsection 22.805.080.B.1 (Wetland Protection Standard) if:.
27



1 a. The total new plus replaced impervious surface is 5,000 square feet or
2 more; or

3 b. The project converts 3/4-acres or more of native vegetation to lawn or
4 landscaped areas and from which there is a surface discharge into a natural or man-made
5 conveyance system from the site; or

6 c. The project converts 2.5 acres or more of native vegetation to pasture
7 and from which there is a surface discharge into a natural or man-made conveyance system
8 from the site.
9

10 2. Discharges to Listed Creek Basins. Parcel-based projects discharging into
11 Blue Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek,
12 Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park
13 Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek,
14 Schmitz Creek, Taylor Creek, or Washington Park Creek shall:
15

16 a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested
17 Standard) if the existing impervious coverage is less than 35 percent and one or more of the
18 following apply:

19 1) The project adds 5,000 square feet or more of new impervious
20 surface and the total new plus replaced impervious surface is 10,000 square feet or more; or

21 2) The project converts 3/4 acres or more of native vegetation to
22 lawn or landscaped areas and from which there is a surface discharge into a natural or man-
23 made conveyance system from the site; or
24
25



1 B. Treatment. Parcel-based projects not discharging to the public combined sewer
2 shall comply with the minimum requirements for treatment contained in Section 22.805.090, to
3 the extent allowed by law, if:

4 1. The total new plus replaced pollution-generating impervious surface is 5,000
5 square feet or more; or

6 2. The total new plus replaced pollution-generating pervious surfaces is $\frac{3}{4}$ of
7 an acre or more and from which there is a surface discharge in a natural or man-made
8 conveyance system from the site.
9

10 **22.805.060 Minimum Requirements for Roadway Projects**

11 A. Flow Control. Roadway projects shall meet the minimum requirements for flow
12 control contained in Section 22.805.080, to the extent allowed by law, as prescribed below.

13 1. Discharges to Wetlands. Roadway projects discharging into a wetland shall
14 comply with subsection 22.805.080.B.1 (Wetland Protection Standard) if:

15 a. The total new plus replaced impervious surface is 5,000 square feet
16 or more; or
17

18 b. The project converts $\frac{3}{4}$ acres or more of native vegetation to lawn or
19 landscaped areas and from which there is a surface discharge into a natural or man-made
20 conveyance system from the site; or
21

22 c. The project converts 2.5 acres or more of native vegetation to pasture
23 and from which there is a surface discharge into a natural or man-made conveyance system
24 from the site.
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1 2. Discharges to Listed Creek Basins. Roadway projects discharging into Blue
2 Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden
3 Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek,
4 Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz
5 Creek, Taylor Creek, or Washington Park Creek shall:

6 a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested
7 Standard) if the existing impervious coverage is less than 35 percent and one or more of the
8 following apply:
9

10 1) The project adds 5,000 square feet or more of new impervious
11 surface and the total new plus replaced impervious surface is 10,000 square feet or more; or

12 2) The project converts $\frac{3}{4}$ acres or more of native vegetation to
13 lawn or landscaped areas and from which there is a surface discharge into a natural or man-
14 made conveyance system from the site; or

15 3) The project converts 2.5 acres or more of native vegetation to
16 pasture and from which there is a surface discharge into a natural or man-made conveyance
17 system from the site; or
18

19 4) The project adds 5,000 square feet or more of new impervious
20 surface and, through a combination of effective impervious surfaces and converted pervious
21 surfaces, causes a 0.1 cubic feet per second increase in the 100-year recurrence interval flow
22 frequency as estimated using a continuous model approved by the Director.
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1 b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture
2 Standard) if the criteria in subsection 22.805.060.A.2.a do not apply and the total new plus
3 replaced impervious surface is 10,000 square feet or more.

4 3. Discharges to Non-listed Creek Basins. Roadway projects discharging into a
5 creek not listed in subsection 22.805.060.A.2 shall:

6 a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested
7 Standard) if the existing land cover is forested and one or more of the following apply:
8

9 1) The project adds 5,000 square feet or more of new impervious
10 surface and the total new plus replaced impervious surface is 10,000 square feet or more; or

11 2) The project converts $\frac{3}{4}$ acres or more of native vegetation to
12 lawn or landscaped areas and from which there is a surface discharge into a natural or man-
13 made conveyance system from the site; or

14 3) The project converts 2.5 acres or more of native vegetation to
15 pasture and from which there is a surface discharge into a natural or man-made conveyance
16 system from the site; or

17 4) The project adds 5,000 square feet or more of new impervious
18 surface and, through a combination of effective impervious surfaces and converted pervious
19 surfaces, causes a 0.1 cubic feet per second increase in the 100-year recurrence interval flow
20 frequency as estimated using a continuous model approved by the Director.
21

22 b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture
23 Standard) if the criteria in subsection 22.805.060.A.3.a do not apply and the total new plus
24 replaced impervious surface is 10,000 square feet or more.
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26



1 4. Discharges to Small Lake Basins. Projects discharging into Bitter Lake,
2 Green Lake, or Haller Lake drainage basins shall comply with subsection 22.805.080.B.4 (Peak
3 Control Standard) if the total new plus replaced impervious surface is 10,000 square feet or
4 more.

5 5. Discharges to Public Combined Sewer. Roadway projects discharging into
6 the public combined sewer shall comply with subsection 22.805.080.B.4 (Peak Control
7 Standard) if the total new plus replaced impervious surface is 10,000 square feet or more.
8

9 6. Discharges to a Capacity-constrained System. In addition to applicable
10 minimum requirements for flow control in subsection 22.805.060.A.1 through subsection
11 22.805.060.A.5, roadway projects discharging into a capacity-constrained system shall also
12 comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced
13 impervious surface is 10,000 square feet or more.
14

15 B. Treatment. Roadway projects not discharging to the public combined sewer shall
16 comply with the minimum requirements for treatment contained in Section 22.805.090, to the
17 extent allowed by law, if:

18 1. The total new plus replaced pollution-generating impervious surface is 5,000
19 square feet or more; or
20

21 2. The total new plus replaced pollution-generating pervious surfaces is three-
22 quarters of an acre or more and from which there is a surface discharge in a natural or man-
23 made conveyance system from the site.

24 **22.805.070 Minimum Requirements for Joint Parcel-Based and Roadway Projects**
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1 The parcel-based portion of joint projects shall comply with the minimum requirements
2 for parcel-based projects contained in Section 22.805.050. The roadway portion of joint projects
3 shall comply with the minimum requirements roadway projects contained in Section
4 22.805.060. The boundary of the public right-of-way shall form the boundary between the
5 parcel and roadway portions of the joint project for purposes of determining applicable
6 thresholds.

7
8 **22.805.080 Minimum Requirements for Flow Control**

9 A. Applicability. The requirements of this subsection apply to the extent required in
10 Section 22.805.050 to Section 22.805.070.

11 B. Requirements. Flow control facilities shall be installed to the extent allowed by law
12 and maintained per rules promulgated by the Director to receive flows from that portion of the
13 site being developed. Post-development discharge determination must include flows from
14 dewatering activities. All projects shall use green stormwater infrastructure to the maximum
15 extent feasible to meet the minimum requirements. Flow control facilities that receive flows
16 from less than that portion of the site being developed may be installed if the total new plus
17 replaced impervious surface is less than 10,000 square feet, the project site uses only green
18 stormwater infrastructure to meet the requirement, and the green stormwater infrastructure
19 provides substantially equivalent environmental protection as facilities not using green
20 stormwater infrastructure that receive flows from all of the portion of the site being developed.

21
22
23 1. Wetland Protection Standard. All projects discharging to wetlands or their
24 buffers shall protect the hydrologic conditions, vegetative community, and substrate
25 characteristics of the wetlands and their buffers to protect the functions and values of the
26



1 affected wetlands. The introduction of sediment, heat and other pollutants and contaminants into
2 wetlands shall be minimized through the selection, design, installation, and maintenance of
3 temporary and permanent controls. Discharges shall maintain existing flows to the extent
4 necessary to protect the functions and values of the wetlands. Prior to authorizing new
5 discharges to a wetland, alternative discharge locations shall be evaluated and infiltration
6 options outside the wetland shall be maximized unless doing so will adversely impact the
7 functions and values of the affected wetlands. If one or more of the flow control requirements
8 contained in 22.805.080.B.2 through 22.805.080.B.4 also apply to the project, an analysis shall
9 be conducted to ensure that the functions and values of the affected wetland are protected before
10 implementing these flow control requirements.
11

12 2. Pre-developed Forested Standard. The post-development discharge peak flow
13 rates and flow durations must be matched to the pre-developed forested condition for the range
14 of pre-developed discharge rates from 50% of the 2-year recurrence interval flow up to the 50-
15 year recurrence interval flow.
16

17 3. Pre-developed Pasture Standard. The post-development discharge peak flow
18 rates and flow durations must be matched to the pre-developed pasture condition for the range
19 of pre-developed discharge rates from 50% of the 2-year recurrence interval flow up to the 2-
20 year recurrence interval flow.
21

22 4. Peak Flow Control Standard. The post-development peak flow with a 4%
23 annual probability (25-year recurrence flow) shall not exceed 0.4 cubic feet per second per acre.
24 Additionally, the peak flow with a 50% annual probability (2-year recurrence flow) shall not
25 exceed 0.15 cubic feet per second per acre.
26



1 C. Inspection and Maintenance Schedule. Temporary and permanent flow control
2 facilities shall be inspected and maintained according to rules promulgated by the Director to
3 keep these facilities in continuous working order.

4 **22.805.090 Minimum Requirements for Treatment.**

5 A. Applicability. The requirements of this subsection apply to the extent required in
6 Section 22.805.050 to Section 22.805.070.

7
8 B. Requirements. Water quality treatment facilities shall be installed to the extent
9 allowed by law and maintained per rules promulgated by the Director to treat flows from the
10 pollution generating pervious and impervious surfaces on the site being developed. When
11 stormwater flows from other areas, including non-pollution generating surfaces (e.g., roofs),
12 dewatering activities, and offsite areas, cannot be separated or bypassed, treatment BMPs shall
13 be designed for the entire area draining to the treatment facility. All projects shall use green
14 stormwater infrastructure the maximum extent feasible to meet the minimum requirements.
15

16 1. Runoff Volume. Stormwater treatment facilities shall be designed based on
17 the stormwater runoff volume from the contributing area or a peak flow rate as follows:

18 a. The daily runoff volume at or below which 91 percent of the total
19 runoff volume for the simulation period occurs, as determined using an approved continuous
20 model. It is calculated as follows:

- 21 1) Rank the daily runoff volumes from highest to lowest.
- 22 2) Sum all the daily volumes and multiply by 0.09.
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1 3. Oil Control Treatment. An oil control treatment facility shall be required for
2 high-use sites, as defined in this subtitle.

3 4. Phosphorus Treatment. A phosphorus treatment facility shall be required for
4 projects discharging into nutrient-critical receiving waters.

5 5. Enhanced Treatment. An enhanced treatment facility for reducing
6 concentrations of dissolved metals shall be required for projects discharging to a fish-bearing
7 stream or lake, and to waters or drainage systems that are tributary to fish-bearing streams,
8 creeks, or lakes, if the project meets one of the following criteria:

9 a. For a parcel-based project, the total of new plus replaced
10 pollution-generating impervious surface is 5,000 square feet or more, and the site is an
11 industrial, commercial, or multi-family project.

12 b. For a roadway project, the project adds 5,000 square feet or more of
13 pollution-generating impervious surface, and the site is either:

14 1) A fully controlled or a partially controlled limited access
15 highway with Annual Average Daily Traffic counts of 15,000 or more; or

16 2) Any other road with an Annual Average Daily Traffic count
17 of 7,500 or greater.

18 6. Discharges to Groundwater. Direct discharge of untreated drainage water
19 from pollution-generating impervious surfaces to ground water is prohibited.

20 C. Inspection and Maintenance Schedule. Temporary and permanent treatment
21 facilities shall be inspected and maintained according to rules promulgated by the Director to
22 keep these facilities to be kept in continuous working order.



Chapter 22.807 DRAINAGE CONTROL REVIEW AND APPLICATION

REQUIREMENTS

22.807.010 General

A. No discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

B. Every permit issued to implement this subtitle shall contain a performance standard requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

22.807.020 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;



1 b. Applications for either a master use permit or building permit that
2 includes the cumulative addition of 750 square feet or more of land disturbing activity and/or
3 new and replaced impervious surface;

4 c. Applications for which a grading permit or approval is required per
5 SMC 22.170;

6 d. Applications for street use permits for the cumulative addition of 750
7 square feet or more of new and replaced impervious surface and land disturbing activity;

8 e. City public works projects or construction contracts, including
9 contracts for day labor and other public works purchasing agreements, for the cumulative
10 addition of 750 square feet or more of new and replaced impervious surface and/or land
11 disturbing activity to the site, except for projects in a City-owned right-of-way and except for
12 work performed for the operation and maintenance of park lands under the control or
13 jurisdiction of the Department of Parks and Recreation; or
14

15 f. Permit approvals and contracts that include any new or replaced
16 impervious surface or any land disturbing activity on a site deemed a potentially hazardous
17 location, as specified in Section 22.800.050 (Potentially Hazardous Locations);
18

19 g. Permit approvals that include any new impervious surface in a
20 Category I peat settlement-prone area delineated pursuant to subsection 25.09.020; or
21

22 h. Whenever an exception to a requirement set forth in this subtitle or in
23 a rule promulgated under this subtitle is desired, whether or not review and approval would
24 otherwise be required, including but not limited to, alteration of natural drainage patterns or the
25 obstruction of watercourses.
26



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

- 3 a. Five thousand square feet or more of new plus replaced impervious
4 surface;
5 b. One acre or more of land disturbing activity;
6 c. Conversion of 3/4 acres or more of native vegetation to lawn or
7 landscaped area;
8 d. Conversion of 2.5 acres or more of native vegetation to pasture.

9 3. The City may, by interagency agreement signed by the Directors of SPU and
10 DPD, waive the drainage and erosion control permit and document requirements for property
11 owned by public entities, when discharges for the property do not enter the public drainage
12 system or the public combined sewer system.

13 B. Submittal Requirements for Drainage Control Review and Approval.

14 1. Information Required for Standard Drainage Control Review. The following
15 information shall be submitted to the Director for all projects for which drainage control review
16 is required.

17 a. Standard Drainage Control Plan. A drainage control plan shall be
18 submitted to the Director. Standard designs for drainage control facilities as set forth in rules
19 promulgated by the Director may be used.

20 b. Construction Stormwater Control Plan. A construction stormwater
21 control plan demonstrating controls sufficient to determine compliance with subsection
22



1 22.805.020.D shall be submitted. The Director may approve a checklist in place of a plan,
2 pursuant to rules promulgated by the Director.

3 c. Memorandum of Drainage Control. The owner(s) of the site shall sign
4 a "memorandum of drainage control" that has been prepared by the Director of SPU.

5 Completion of the memorandum shall be a condition precedent to issuance of any permit or
6 approval for which a drainage control plan is required. The applicant shall file the memorandum
7 of drainage control with the King County Recorder's Office so as to become part of the King
8 County real property records. The applicant shall give the Director of SPU proof of filing of the
9 memorandum. The memorandum shall not be required when the drainage control facility will be
10 owned and operated by the City. A memorandum of drainage control shall include:

11
12 1) The legal description of the site;
13 2) A summary of the terms of the drainage control plan,
14 including any known limitations of the drainage control facilities, and an agreement by the
15 owners to implement those terms;
16

17 3) An agreement that the owner(s) shall inform future purchasers
18 and other successors and assignees of the existence of the drainage control facilities and other
19 elements of the drainage control plan, the limitations of the drainage control facilities, and of
20 the requirements for continued inspection and maintenance of the drainage control facilities;
21

22 4) The side sewer permit number and the date and name of the
23 permit or approval for which the drainage control plan is required;

24 5) Permission for the City to enter the property for inspection,
25 monitoring, correction, and abatement purposes;
26



1 3. Applications for drainage control review and approval shall be prepared and
2 submitted in accordance with provisions of this subsection, with Chapter 21.16 (Side Sewer
3 Code) and with associated rules and regulations adopted jointly by the Directors of DPD and
4 SPU.

5 4. The Director of DPD may require additional information necessary to
6 adequately evaluate applications for compliance with the requirements and purposes of this
7 subtitle and other laws and regulations, including but not limited to Chapter 25.09 (Regulations
8 for Environmentally Critical Areas). The Director of DPD may also require appropriate
9 information about adjoining properties that may be related to, or affected by, the drainage
10 control proposal in order to evaluate effects on the adjacent property. This additional
11 information may be required as a precondition for permit application review and approval.
12

13 5. Where an applicant simultaneously applies for more than one of the permits
14 listed in subsection 22.807.020.A for the same property, the application shall comply with the
15 requirements for the permit that is the most detailed and complete.
16

17 C. Authority to Review. The Director may approve those plans that comply with the
18 provisions of this subtitle and rules promulgated hereunder, and may place conditions upon the
19 approval in order to assure compliance with the provisions of this subtitle. Submission of the
20 required drainage control application information shall be a condition precedent to the
21 processing of any of the above-listed permits. Approval of drainage control shall be a condition
22 precedent to issuance of any of the above-listed permits. The Director may review and inspect
23 activities subject to this subtitle and may require compliance regardless of whether review or
24 approval is specifically required by this subsection. The Director may disapprove plans that do
25
26



1 not comply with the provisions of this subtitle and rules promulgated hereunder. Disapproved
2 plans shall be returned to the applicant, who may correct and resubmit the plans.

3 **22.807.090 Maintenance and Inspection.**

4 A. Responsibility for Maintenance and Inspection. The owner and other responsible
5 party shall maintain drainage control facilities, source controls, and other facilities required by
6 this subtitle and by rules adopted hereunder to keep these facilities in continuous working order.
7 The owner and other responsible party shall inspect permanent drainage control facilities
8 temporary drainage control facilities, and other temporary best management practices or
9 facilities on a schedule consistent with this subtitle and sufficient for the facilities to function at
10 design capacity. The Director may require the responsible party to conduct more frequent
11 inspections and/or maintenance when necessary to ensure functioning at design capacity. The
12 owner(s) shall inform future purchasers and other successors and assignees to the property of
13 the existence of the drainage control facilities and the elements of the drainage control plan, the
14 limitations of the drainage control facilities, and the requirements for continued inspection and
15 maintenance of the drainage control facilities.
16
17

18 B. Inspection by City. The Director of SPU may establish inspection programs to
19 evaluate and, when required, enforce compliance with the requirements of this subtitle and
20 accomplishment of its purposes. Inspection programs may be established on any reasonable
21 basis, including but not limited to: routine inspections; random inspections; inspections based
22 upon complaints or other notice of possible violations; inspection of drainage basins or areas
23 identified as higher than typical sources of sediment or other contaminants or pollutants;
24 inspections of businesses or industries of a type associated with higher than usual discharges of
25
26
27



1 contaminants or pollutants or with discharges of a type which are more likely than the typical
2 discharge to cause violations of state or federal water or sediment quality standards or the City's
3 NPDES stormwater permit; and joint inspections with other agencies inspecting under
4 environmental or safety laws. Inspections may include, but are not limited to: reviewing
5 maintenance and repair records; sampling discharges, surface water, groundwater, and material
6 or water in drainage control facilities; and evaluating the condition of drainage control facilities
7 and other best management practices.
8

9 C. Entry for Inspection and Abatement Purposes.

10 1. New Installations and Connections. When any new drainage control facility
11 is installed on private property, and when any new connection is made between private property
12 and a public drainage system, sanitary sewer or combined sewer, the property owner shall grant,
13 per subsection 22.807.020.B.1.c (Memorandum of Drainage Control), the City the right to enter
14 the property at reasonable times and in a reasonable manner pursuant to an inspection program
15 established pursuant subsection 22.807.090.B, and to enter the property when the City has a
16 reasonable basis to believe that a violation of this subtitle is occurring or has occurred, and to
17 enter when necessary for abatement of a public nuisance or correction of a violation of this
18 subtitle.
19
20

21 2. Existing Real Property and Discharges. Owners of property with existing
22 discharges or land uses subject to this subtitle who are not installing a new drainage control
23 facility or making a new connection between private property and a public drainage system,
24 sanitary sewer or combined sewer, shall have the option to execute a permission form for the
25 purposes described above when provided with the form by the Director of SPU.
26
27
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1 Section 4: Chapter 22.808 of the Seattle Municipal Code, last amended by Ordinance
2 122738 and previously amended by Ordinances 122055, 121276, 119965, 118396, 117789,
3 117697, and 117432, and adopted by Ordinance 116425, is amended by readopting, relocating
4 and amending the text of that chapter (repealed in Section 1) as follows:

5 **Chapter 22.808 Stormwater Code Enforcement**

6 **22.808.010 Violations**

7 A. Civil Violations.

8
9 1. The following are civil violations of this subtitle, subject to a maximum civil
10 penalty of up to \$5,000 per day for each violation.

11 a. General. It is a violation to not comply with any requirement of, or
12 to act in a manner prohibited by, this subtitle, or a permit, approval, rule, manual, order, or
13 Notice of Violation issued pursuant to this subtitle;

14
15 b. Aiding and Abetting. It is a violation to aid, abet, counsel, encourage,
16 commend, incite, induce, hire or otherwise procure another person to violate this subtitle;

17 c. Alteration of Existing Drainage. It is a violation to alter existing
18 drainage patterns which serve a tributary area of more than one acre without authorization or
19 approval by the Director;

20
21 d. Obstruction of Watercourse. It is a violation to obstruct a watercourse
22 without authorization or approval by the Director;

23 e. Dangerous Condition. It is a violation to allow to exist, or cause or
24 contribute to, a condition of a drainage control facility, or condition related to grading, drainage
25



1 water, drainage or erosion that is likely to endanger the public health, safety or welfare, the
2 environment, or public or private property;

3 f. Interference. It is a violation for any person to interfere with or
4 impede the correction of any violation, or compliance with any Notice of Violation, emergency
5 order, stop work order, or the abatement of any nuisance;

6 g. Piecemeal of Projects. It is a violation for any person to knowingly
7 divide a large project into a set of smaller projects specifically for the purpose of avoiding
8 minimum requirements;

9 h. Altering a Posted Order. It is a violation for any person to remove,
10 obscure, or mutilate any posted order of the Director, including a stop work or emergency order;
11 and

12 i. Continuing Work. It is a violation for any work to be done after
13 service or posting of a stop work order, except work necessary to perform the required
14 corrective action, until authorization is given by the Director.

15 B. Criminal Violations.

16 1. The following are criminal violations, punishable upon conviction by a fine
17 of not more than \$5,000 per violation or imprisonment for each violation for not more than 360
18 days, or both such fine and imprisonment;

19 a. Failing to comply with a Notice of Violation or Director's order
20 issued pursuant to this subtitle;

21 b. Failing to comply with a court order;



1 c. Tampering with or vandalizing any part of a drainage control facility
2 or other best management practice, a public or private drainage system, monitoring or sampling
3 equipment or records, or notices posted pursuant to this subtitle; and

4 d. Anyone violating this subtitle who has had a judgment, final
5 Director's order, or Director's review decision against them for a prior violation of this subtitle
6 in the preceding five years.

7
8 **22.808.020 Liability and Defenses of Responsible Parties**

9 A. Who Must Comply. It is the specific intent of this subtitle to place the obligation of
10 complying with its requirements upon the responsible parties, as defined in subsection
11 22.801.190. The City and its agencies are intended to have the same obligation for compliance
12 when the City is a responsible party. No provision of this subtitle is intended to impose any
13 other duty upon the City or any of its officers or employees.

14 1. Joint and Several Liability. Each responsible party is jointly and severally
15 liable for a violation of this subtitle. The Director may take enforcement action, in whole or in
16 part, against any responsible party. All applicable civil penalties may be imposed against each
17 responsible party.

18 2. Allocation of Damages. In the event enforcement action is taken against
19 more than one responsible party, recoverable damages, costs, and expenses may be allocated
20 among the responsible parties by the court based upon the extent to which each responsible
21 party's acts or omissions caused the violation. If this factor cannot be determined the court may
22 consider:

23 a. Awareness of the violation;
24
25
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1 b. Ability to correct the violation;

2 c. Ability to pay the damages, costs, and expenses;

3 d. Cooperation with government agencies;

4 e. Degree to which any impact or threatened impact on water or
5 sediment quality, human health, the environment, or public or private property is related to acts
6 or omissions by each responsible party;

7 f. Degree to which the responsible parties made good-faith efforts to
8 avoid a violation or to mitigate its consequences; and

9 g. Other equitable factors.

10 B. Defenses. A responsible party shall not be liable under this subtitle when the
11 responsible party proves, by a preponderance of the evidence, one of the following:

12 1. The violation was caused solely by an act of God;

13 2. The violation was caused solely by another responsible party over whom the
14 defending responsible party had no authority or control and the defending responsible party
15 could not have reasonably prevented the violation;

16 3. The violation was caused solely by a prior owner or occupant when the
17 defending responsible party took possession of the property without knowledge of the violation,
18 after using reasonable efforts to identify violations. But, the defending responsible party shall be
19 liable for all continuing, recurrent, or new violations after becoming the owner or occupant; or

20 4. The responsible party implemented and maintained all appropriate drainage
21 control facilities, treatment facilities, flow control facilities, erosion and sediment controls,
22 source controls, and best management practices identified in rules promulgated by the Director



1 or in manuals published by the State Department of Ecology, or as otherwise identified and
2 required of the responsible party by the Director in writing.

3 **22.808.025 Right of Entry for Enforcement**

4 With the consent of the owner or occupant of a building, premises, or property, or
5 pursuant to a lawfully issued warrant, the Director may enter a building, premises, or property at
6 any reasonable time to perform the duties imposed by this code.

7
8 **22.808.030 Enforcement Actions**

9 A. Investigation. The Director may investigate any site where there is reason to believe
10 that there may be a failure to comply with the requirements of this subtitle.

11 B. Notice of Violation.

12 1. Issuance. The Director is authorized to issue a Notice of Violation to a
13 responsible party, whenever the Director determines that a violation of this subtitle has occurred
14 or is occurring. The Notice of Violation shall be considered an order of the Director.

15 2. Contents.

16 a. The Notice of Violation shall include the following information:

17 1) A description of the violation and the action necessary to
18 correct it;

19 2) The date of the notice; and

20 3) A deadline by which the action necessary to correct the
21 violation must be completed.

22 b. A Notice of Violation may be amended at any time to correct clerical
23 errors, add citations of authority, or modify required corrective action.



1 3. Service. The Director shall serve the notice upon a responsible party either
2 by personal service, by first class mail, or by certified mail return receipt requested, to the
3 party's last known address. If the address of the responsible party cannot be found after a
4 reasonable search, the notice may be served by posting a copy of the notice at a conspicuous
5 place on the property. Alternatively, if the whereabouts of the responsible party is unknown and
6 cannot be ascertained in the exercise of reasonable diligence, and the Director makes an
7 affidavit to that effect, then service may be accomplished by publishing the notice once each
8 week for two consecutive weeks in the City official newspaper.

9
10 4. Nothing in this subtitle shall be deemed to obligate or require the Director to
11 issue a Notice of Violation or order prior to the initiation of enforcement action by the City
12 Attorney's Office pursuant to subsection 22.808.030.E.

13 C. Stop Work and Emergency Orders.

14
15 1. Stop Work Order. The Director may order work on a site stopped when he or
16 she determines it is necessary to do so in order to obtain compliance with or to correct a
17 violation of any provision of this subtitle or rules promulgated hereunder or to correct a
18 violation of a permit or approval granted under this subtitle.

19 a. The stop work notice shall contain the following information:

20 1) A description of the violation; and

21 2) An order that the work be stopped until corrective action has
22 been completed and approved by the Director.

23 b. The stop work order shall be personally served on the responsible
24 party or posted conspicuously on the premises.



1 2. Emergency Order.

2 a. The Director may order a responsible party to take emergency
3 corrective action and set a schedule for compliance and/or may require immediate compliance
4 with an emergency order to correct when the Director determines that it is necessary to do so in
5 order to obtain immediate compliance with or to correct a violation of any provision of this
6 subtitle, or to correct a violation of a permit or approval granted under this subtitle.

7 b. An emergency order shall be personally served on the responsible
8 party or posted conspicuously on the premises.

9 c. The Director is authorized to enter any property to investigate and
10 correct a condition associated with grading, drainage, erosion control, drainage water, or a
11 drainage control facility when it reasonably appears that the condition creates a substantial and
12 present or imminent danger to the public health, safety or welfare, the environment, or public or
13 private property. The Director may enter property without permission or an administrative
14 warrant in the case of an extreme emergency placing human life, property, or the environment
15 in immediate and substantial jeopardy which requires corrective action before either permission
16 or an administrative warrant can be obtained. The cost of such emergency corrective action shall
17 be collected as set forth in subsection 22.808.060.

18 3. Director's Review of Stop Work and Emergency Order. A stop work order
19 or emergency order shall be final and not subject to a Director's review.

20 D. Review by Director.

21 1. A Notice of Violation, Director's order, or invoice issued pursuant to this
22 subtitle shall be final and not subject to further appeal unless an aggrieved party requests in



1 writing a review by the Director within ten days after service of the Notice of Violation, order
2 or invoice. When the last day of the period so computed is a Saturday, Sunday or federal or City
3 holiday, the period shall run until 5:00 p.m. on the next business day.

4 2. Following receipt of a request for review, the Director shall notify the
5 requesting party, any persons served the Notice of Violation, order or invoice, and any person
6 who has requested notice of the review, that the request for review has been received by the
7 Director. Additional information for consideration as part of the review shall be submitted to the
8 Director no later than 15 days after the written request for a review is mailed.

10 3. The Director will review the basis for issuance of the Notice of Violation,
11 order, or invoice and all information received by the deadline for submission of additional
12 information for consideration as part of the review. The Director may request clarification of
13 information received and a site visit. After the review is completed, the Director may:

- 15 a. Sustain the Notice of Violation, order, or invoice;
16 b. Withdraw the Notice of Violation, order or invoice;
17 c. Continue the review to a date certain for receipt of additional
18 information; or
19 d. Modify or amend the Notice of Violation, order, or invoice.

21 4. The Director's decision shall become final and is not subject to further
22 administrative appeal.

23 E. Referral to City Attorney for Enforcement. If a responsible party fails to correct a
24 violation or pay a penalty as required by a Notice of Violation, or fails to comply with a
25 Director's order, the Director shall refer the matter to the City Attorney's Office for civil or
26



1 criminal enforcement action. Civil actions to enforce a violation of this subtitle shall be
2 exclusively in Municipal Court.

3 F. Appeal to Superior Court. Because civil actions to enforce Title 22 are brought
4 exclusively in Municipal Court, notices of violation, orders, and all other actions made under
5 this chapter are not subject to judicial review under chapter 36.70C RCW. Instead, final
6 decisions of the Municipal Court on enforcement actions authorized by this chapter may be
7 appealed under the Rules of Appeals of Decisions of Courts of Limited Jurisdiction.

8
9 G. Filing of Notice or Order. A Notice of Violation, voluntary compliance agreement
10 or an order issued by the Director or court, may be filed with the King County Recorder's
11 Office.

12
13 H. Change of Ownership. When a Notice of Violation, voluntary compliance
14 agreement, or an order issued by the Director or court has been filed with the King County
15 Recorder's Office, a Notice of Violation or an order regarding the same violations need not be
16 served upon a new owner of the property where the violation occurred. If no Notice of Violation
17 or order is served upon the new owner, the Director may grant the new owner the same number
18 of days to comply as was given the previous owner. The compliance period for the new owner
19 shall begin on the date that the conveyance of title to the new owner is completed.

20
21 **22.808.040 Voluntary Compliance Agreement**

22 A. Initiation. Either a responsible party or the Director may initiate negotiations for a
23 voluntary compliance agreement at any time. Neither has any obligation to enter into any
24 voluntary compliance agreement.



1 B. Contents. A voluntary compliance agreement shall identify actions to be taken by
2 the responsible party that will correct past or existing violations of this subtitle. The agreement
3 may also identify actions to mitigate the impacts of violations. The agreement shall contain a
4 schedule for completion of the corrective actions and any mitigating actions. The agreement
5 shall contain a provision allowing the Director to inspect the premises to determine compliance
6 with the agreement. The agreement shall provide that the responsible party agrees the City may
7 perform the actions set forth in the agreement if the responsible party fails to do so according to
8 the terms and schedule of the agreement, and the responsible party will pay the costs, expenses
9 and damages the City incurs in performing the actions, as set forth in Section 22.808.060.

11 C. Effect of Agreement.

12 1. A voluntary compliance agreement is a binding contract between the party
13 executing it and the City. It is not enforceable by any other party. By entering into a voluntary
14 compliance agreement, a responsible party waives the right to Director's Review of the Notice
15 of Violation or order.

17 2. Penalties may be reduced or waived if violations are corrected or mitigated
18 according to the terms and schedule of a voluntary compliance agreement. If the responsible
19 party fails to perform according to the terms and schedule of the voluntary compliance
20 agreement, penalties for each violation addressed in the agreement may be assessed starting
21 from the date the violation occurred, or as otherwise provided for in a Notice of Violation or
22 Director's order.

24 D. Modification. The terms and schedule of the voluntary compliance agreement may
25 be modified by mutual agreement of the responsible party and either Director if circumstances
26



1 or conditions outside the responsible party's control, or unknown at the time the agreement was
2 made, or other just cause necessitate such modifications.

3 **22.808.050 Penalties and Damages**

4 A. Assessment of Penalties by the Director. The Director, after considering all
5 available information, may assess a penalty for each violation of this subtitle based upon the
6 Schedule of Civil Penalties.

7
8 B. Schedule of Civil Penalties. The Director shall determine penalties as follows:

9 1. Basic Penalty.

10 a. Maximum Penalty. A violation of this subtitle is subject to a
11 maximum civil penalty of up to \$5,000. Each day or portion thereof during which a violation of
12 this subtitle exists is a separate violation of this subtitle.

13
14 b. Commencement Date. The penalty shall commence on the date of the
15 violation, unless otherwise provided for in a Notice of Violation or Director's order.

16 c. Assessment Matrix. The penalty shall be assessed using a matrix of
17 criteria and scored as defined in rules promulgated by the Director. The total score will equate
18 with a penalty up to a maximum of \$5000 for each violation. The penalty shall be rated for
19 severity by using the criteria listed below and by answering "No", "Possibly", "Probably", or
20 "Definitely":

- 21
22 1) Does the violation pose a public health risk;
23 2) Does the violation cause environmental damage or adversely
24 impact infrastructure;
25 3) Was the responsible party willful or knowing of the violation;
26



1 any party other than the City. Penalties, damages, costs and expenses may be recovered only by
2 the City.

3 E. Effect of Payment of Penalties. The responsible party named in a Notice of
4 Violation or order is not relieved of the duty to correct the violation by paying civil penalties.

5 **22.808.060 Collection of Costs and Penalties**

6 A. Invoice and Demand for Payment of Investigation and Correction Costs. The
7 Director may issue an invoice and demand for payment of the City's costs and expenses when
8 the Director has investigated or corrected a violation of this subtitle. The invoice shall include:

9 1. The amount of the City's investigation and correction costs, which include,
10 but are not limited to:

11 a. Billed cost including labor, administration, overhead, overtime, profit,
12 taxes, and other related costs for a hired contractor to investigate and/or perform the abatement
13 work;

14 b. Labor, administration, overhead, overtime, and other related costs for
15 the City staff and crews to investigate and/or perform the abatement work;

16 c. Administrative costs to set up contracts and coordinate work;

17 d. Time spent communicating with the responsible party, any other
18 enforcing agencies, and the affected community;

19 e. Inspections for compliance with the Code, documentation of costs,
20 and invoicing the responsible party;

21 f. Cost of equipment, materials, and supplies, including all related
22 expenses for purchasing, renting, and leasing;



1 g. Laboratory costs and analytical expenses;

2 h. Cost of mobilization, disposal of materials, and cleanup, and

3 i. Any associated permit fees;

4 2. Either a legal description of the property corresponding as nearly as possible
5 to that used for the property on the rolls of the King County Assessor or, where available, the
6 property's street address;

7 3. Notice that the responsible party may request a Director's review pursuant to
8 subsection 22.808.030.D;

9 4. Notice that if the amount due is not paid within 30 days, the unpaid amount
10 may be collected in any of the manners identified in subsection 22.808.060.C; and

11 5. Notice that interest shall accrue on the unpaid balance if not paid within 30
12 days after the invoice date.

13 B. Invoice and Demand for Payment of Civil Penalties. The Director may issue an
14 invoice and demand for payment of civil penalties when the responsible party has failed to pay a
15 penalty by the deadline in a Notice of Violation or order and has failed to request a Director's
16 review or file an appeal within the required time periods established in subsection
17 22.808.030.D. The invoice shall include:

18 1. The amount of the penalty;

19 2. Either a legal description of the property corresponding as nearly as possible
20 to that used for the property on the rolls of the King County Assessor or, where available, the
21 property's street address;



1 3. Notice that if the amount due is not paid within 30 days, the unpaid amount
2 may be collected in any of the manners identified in subsection 22.808.060.C and

3 4. Notice that interest shall accrue on the unpaid balance if not paid within 30
4 days after the invoice date.

5 C. Collection Following a Judicial Review. If a court has issued an order or judgment
6 imposing penalties, costs, damages, or expenses for a violation of this subtitle, and the court's
7 order or judgment is not appealed within 30 days, the Director may:

8 1. Refer the matter to the City Attorney to initiate appropriate enforcement
9 action;

10 2. Refer, after consultation with the City Attorney, the matter to a collection
11 agency; or

12 3. Add a surcharge in the amount owed under the order to the bill for drainage
13 and wastewater services to the site. If unpaid, the surcharge may become a lien on the property,
14 may be foreclosed, and may accrue interest as provided by state law or Section 21.33.110.

15 **22.808.070 Public Nuisance**

16 A. Abatement Required. A public nuisance affecting drainage water, drainage, erosion
17 control, grading and other public nuisances set forth in this subsection are violations of this
18 subtitle. A responsible party shall immediately abate a public nuisance upon becoming aware of
19 its existence.

20 B. Dysfunctional Facility or Practice. Any private drainage control facility or best
21 management practice not installed or maintained as required by this subtitle, or otherwise found
22



1 to be in a state of dysfunction creating, a threat to the public health, safety or welfare, the
2 environment, or public or private property is a public nuisance.

3 C. Obstruction of Watercourse. Obstruction of a watercourse without authorization by
4 the Director, and obstruction in such a manner as to increase the risk of flooding or erosion
5 should a storm occur, is a public nuisance.

6 D. Dangerous Conditions. Any condition relating to grading, drainage water, drainage
7 or erosion which creates a present or imminent danger, or which is likely to create a danger in
8 the event of a storm, to the public health, safety or welfare, the environment, or public or private
9 property is a public nuisance.

10 E. Abatement by the City. The Director is authorized, but not required to investigate a
11 condition that the Director suspects of being a public nuisance under this subtitle, and to abate
12 any public nuisance. If a public nuisance is an immediate threat to the public health, safety or
13 welfare or to the environment, the Director may summarily and without prior notice abate the
14 condition. The Director shall give notice of the abatement to the responsible party as soon as
15 reasonably possible after the abatement.

16 F. Collection of Abatement Costs. The costs of abatement may be collected from the
17 responsible party, including, a reasonable charge for attorney time, and a 15% surcharge for
18 administrative expenses as set forth in subsection 22.808.050.D. Abatement costs and other
19 damages, expenses and penalties collected by the City shall go into an abatement account for
20 the department collecting the moneys. The money in the abatement account shall be used for
21 abatements, investigations, and corrections of violations performed by the City. When the
22 account is insufficient the Director may use other available funds.



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22.808.080 Additional Relief

In addition to any remedy provided in this subtitle, the Director may seek any other legal or equitable remedy to enjoin any acts or practice or abate any condition that or will constitute a violation of this subtitle or a public nuisance.

22.808.090 Suspension or Revocation

Approvals or permits granted on the basis of inaccurate or misleading information may be suspended or revoked. Other permits or approvals interrelated with an approval suspended or revoked under this subsection, including certificates of occupancy or approvals for occupancy, may also be suspended or revoked. When an approval or permit is suspended or revoked, the Director may require the applicant take corrective action to bring the project into compliance with this subtitle by a deadline set by the Director, or may take other enforcement action.

22.808.100 Fees

Fees for grading permits, drainage control plan review and approvals shall be as identified in the Fee Subtitle, Subtitle IX of Title 22, Seattle Municipal Code. Fees for record-keeping or other activities pursuant to this subtitle shall, unless otherwise provided for in this subtitle, be prescribed by ordinance.

22.808.110 Financial Assurance and Covenants

As a condition precedent to issuance of any permit or approval provided for in this subtitle, the Director may require an applicant for a permit or approval to submit financial assurances as provided in this subsection.

A. Insurance.



1 1. The Director may require the property owners or contractor carry liability
2 and property damage insurance naming the City as an additional insured. The amount, as
3 determined by the Director, shall be commensurate with the risks.

4 2. The Director may also require the property owner maintain a policy of
5 general public liability insurance against personal injury, death, property damage and/or loss
6 from activities conducted pursuant to the permit or approval, or conditions caused by such
7 activities, and naming the City as an additional insured. The amount, as determined by the
8 Director, shall be commensurate with the risks. It shall cover a period of not more than ten years
9 from the date of issuance of a certificate of occupancy or finalization of the permit or approval.
10 A certificate evidencing such insurance shall be filed with the Director before issuing a
11 certificate of occupancy or finalizing a permit for any single family dwelling or duplex.

12 3. The insurance policy shall provide that the City will be notified of
13 cancellation of the policy at least 30 days prior to cancellation. The notice shall be sent to the
14 Director who required the insurance and shall state the insured's name and the property address.
15 If a property owner's insurance is canceled and not replaced, the permit or approval and any
16 interrelated permit or approval may be revoked, including a certificate of occupancy or approval
17 for occupancy.

18 B. Bonds, Cash Deposits or Instruments of Credit.

19 1. Surety Bond.

20 a. The Director may require that the property owners or contractor
21 deliver to the Director for filing in the Office of the City Clerk a surety bond, cash deposit or an
22 instrument of credit in such form and amounts deemed by the Director to be necessary to ensure
23



1 that requirements of the permit or approval are met. A surety bond may be furnished only by a
2 surety company licensed to do business in The State of Washington. The bond shall be
3 conditioned that the work will be completed in accordance with the conditions of the permit or
4 approval, or, if the work is not completed, that the site will be left in a safe condition. The bond
5 shall also be conditioned that the site and nearby, adjacent or surrounding areas will be restored
6 if damaged or made unsafe by activities conducted pursuant to the permit or approval.

7
8 b. The bond will be exonerated one year after a determination by the
9 Director that the requirements of the permit or approval have been met. For work under a
10 building permit, issuance of a certificate of occupancy or approval for occupancy following a
11 final inspection shall be considered to be such a determination.

12 2. Assurance in Lieu of Surety Bond. In lieu of a surety bond, the owners may
13 elect to file a cash deposit or instrument of credit with the Director in an amount equal to that
14 which would be required in the surety bond and in a form approved by the Director. The cash
15 deposit or instrument of credit shall comply with the same conditions as required for surety
16 bonds.

17
18 C. Covenants.

19
20 1. The Director may require a covenant between the property owners and the
21 City. The covenant shall be signed by the owners of the site and notarized prior to issuing any
22 permit or approval in a potential landslide area, potentially hazardous location, flood prone
23 zone, or other area of potentially hazardous soils or drainage or erosion conditions. The
24 covenant shall not be required where the permit or approval is for work done by the City. The
25 covenant shall include:



1 a. A legal description of the property;

2 b. A description of the property condition making this subsection
3 applicable;

4 c. A statement that the owners of the property understands and accepts
5 the responsibility for the risks associated with development on the property given the described
6 condition, and agrees to inform future purchasers and other successors and assignees of the
7 risks;

8 d. The application date, type, and number of the permit or approval for
9 which the covenant is required; and

10 e. A statement waiving the right of the owners, the owners' heirs,
11 successors and assigns, to assert any claim against the City by reason of or arising out of
12 issuance of the permit or approval by the City for the development on the property, except only
13 for such losses that may directly result from the sole negligence of the City.

14 2. The covenant shall be filed by the Director with the King County Recorder's
15 Office, at the expense of the owners, so as to become part of the King County real property
16 records.

17 Section 5. When a permit application for a project within the scope of this ordinance is
18 pending on the effective date of this ordinance, this ordinance applies unless 1) the City has
19 made a written determination on any part of the permit application under the provisions of the
20 Seattle Municipal Code Sections 22.800 through 22.802 and 22.808 prior to their amendment by
21 this ordinance, including granting an exception under those Sections, 2) the application is vested
22 under currently applicable law to previous regulation, or 3) the Seattle Municipal Code or a
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1 City ordinance provides otherwise. An applicant for a permit that is not subject to the
2 provisions of this ordinance may ask the City to review the entire application under the
3 provisions of this ordinance.

4 Section 6. The provisions of this ordinance are hereby declared to be separate and
5 severable. The invalidity of any clause, sentence, paragraph, subdivision, subsection or portion
6 of this ordinance or the invalidity of the application thereof to any person or circumstance shall
7 not affect the validity of the remainder of this ordinance or the validity of its application to other
8 persons or circumstances.
9

10 Section 7. To the extent that sections of this ordinance recodify or incorporate into new or
11 different sections provisions of the Seattle Municipal Code as previously in effect, this ordinance
12 shall be construed to continue such provisions in effect. The repeal of various sections of Title
13 22 of the Seattle Municipal Code by this ordinance shall not relieve any person of the obligation
14 to comply with the terms and conditions of any permit issued pursuant to the provisions of such
15 title as in effect prior to such repeal, nor shall it relieve any person or property of any obligations,
16 conditions, or restrictions in any agreement of instrument made or granted pursuant to, or with
17 reference to, the provisions of such Title in effect prior to such repeal.
18

19 Section 8. This ordinance shall take effect and be in force on the latest of: (1) sixty days
20 from and after its approval by the Mayor, or if not approved and returned by the Mayor within
21 ten (10) days after presentation, 60 days from the date when it would take effect as provided by
22 Municipal Code Section 1.04.020; (2) the date when CB 116616 (revising grading regulations)
23 takes effect, or would be effective contingent only on the effectiveness of this ordinance and CB
24 116615 (amending cross references to the grading and stormwater regulations in the Seattle
25
26

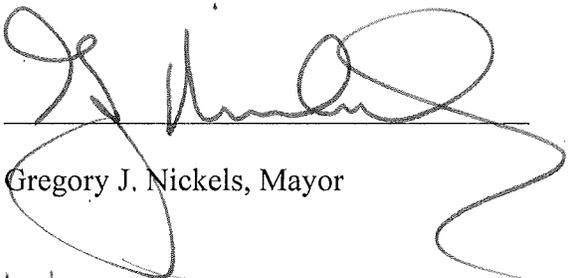


1 Municipal Code); and (3) the date when CB 116615 (amending cross references to the grading
2 and stormwater regulations in the Seattle Municipal Code) takes effect, or would be effective
3 contingent only on the effectiveness of this ordinance and CB 116616 (revising grading
4 regulations). The intent is that all three ordinances will take effect at the same time.).

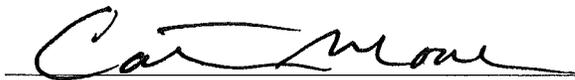
5 Passed by the City Council the 28th day of September, 2009,
6 and signed by me in open session in authentication of its passage this 28th day of
7 September, 2009.

8 
9 _____
10 President _____ of the City Council

11
12 Approved by me this 30th day of September, 2009.

13
14
15 
16 _____
17 Gregory J. Nickels, Mayor

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19 Filed by me this 1st day of October, 2009.

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22 
23 _____

24 City Clerk

25 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
SPU	Robert Chandler (Project Mgr)/ 386-4576	John McCoy / 615-0768
DPD	Dave Cordaro/684-7933	
SDOT	Maureen Meehan/684-8750	
PARKS	Cheryl Eastberg/386-4381	
FFD	John Sheldon/684-5494	
SCL	Mary Yoder-Williams/233-7192	

Legislation Title: Stormwater, Grading and Drainage Control Code (SMC 22.800-22.808)
 AN ORDINANCE relating to the Stormwater, Grading, and Drainage Control Code; repealing, re-enacting, and amending Chapters 22.800, 22.801, 22.802 and 22.808 of the Seattle Municipal Code, and adding Chapters 22.803, 22.805 and 22.807.

• **Summary of the Legislation:**

The purpose of the City of Seattle’s Stormwater Code (SMC 22.800-22.808) is to protect life, property, public health and the environment from the adverse impacts of urban stormwater runoff. Adverse impacts can include flooding, pollution, landslides, and erosion. Last revised in 2000, the Stormwater Code and its associated joint SPU/DPD Directors’ Rules are being revised in order to comply with the requirements of the City’s Municipal Stormwater Discharge Permit (“Permit”) issued on January 17, 2007, by the Washington State Department of Ecology (“Ecology”) under the provisions of the National Pollutant Discharge Elimination System (NPDES) of the federal Clean Water Act and the State of Washington Water Pollution Control Law. The Permit requires that the City’s Stormwater Code and associated technical manual (contained in the Directors’ Rules) be equivalent to the *Stormwater Management Manual for Western Washington* (Ecology 2005). Among the significant modifications being proposed in the Stormwater Code:

1. Prohibited and Permissible Discharges. Changes have been made to this section based on the requirements of the City’s Municipal Stormwater Discharge NPDES Permit.
2. Minimum Requirements for All Projects. Changes are made clarifying requirements related to construction site stormwater pollution prevention. Also, a new minimum requirement has been added requiring all new, replaced, and disturbed topsoil to be amended prior to completion of the project.
3. Minimum Requirements for All Projects. Changes have been made for all development projects based on a combination of Ecology’s minimum requirements and Seattle’s unique development patterns. The performance standards for flow control for discharges into creek basins will be based on a *flow-duration standard* rather than the current peak-discharge requirement. Continuous modeling will



become a requirement. Thresholds triggering minimum requirements for flow control and treatment, which are based on the area of land disturbing activity and the total new plus replaced impervious surfaces, have been modified. In summary, Minimum Requirement thresholds and performance standards will be a function of:

- a. *Project type*: The project types are Single-family residential project, Trail/Sidewalk project, Parcel-based project, Roadway project, Joint project.
- b. *Drainage basin*: The table below summarizes how minimum requirements for treatment and flow control can vary, depending on the drainage basin into which the discharge flows.

Receiving water/system	Flow Control?	Treatment?
(1) Wetland	√	√
(2) Creek Basin	√	√
(3) Public combined sewer	√	
(4) Small Lake Basin	√	√
(5) Designated receiving water		√

- c. *Total new plus replace impervious surface and total new plus replaced pollution-generating impervious surface*. There are no significant changes in the terms, but the thresholds now differ depending on the type of project and drainage basin.
4. Use of “Green Stormwater Infrastructure”. The term green stormwater infrastructure represents the types of flow control and treatment best management practices (BMPs) that use infiltration, evapotranspiration, or stormwater reuse. They include such BMPs as permeable pavement, bioretention facilities, and green roofs. The new Stormwater Code will require all projects triggering minimum requirements for flow control and treatment to implement green stormwater infrastructure to the maximum extent feasible. Additionally, all single-family residential projects will be required to implement green stormwater infrastructure to the maximum extent feasible.
 5. Grading. The section in the current Stormwater Code on grading will be relocated to Chapter 22.170. See separate Fiscal Note for changes to the Grading Code.
 6. Enforcement. The revised Stormwater Code will provide for a matrix-based approach for assessing penalties for violations. Additionally, the revised code will add a provision for an administrative appeal of a Notice of Violation to the Director of SPU or Director of DPD, depending on the nature of the violation.
- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

The Stormwater Code and its associated joint SPU/DPD Directors’ Rules are being revised in



order to comply the City’s Municipal Stormwater NPDES Permit, which requires that the Stormwater Code and Directors’ Rules be equivalent to Ecology’s 2005 *Stormwater Management Manual for Western Washington*. The project to revise the Stormwater Code is led by SPU and conducted in close collaboration with DPD, other City departments, and many external stakeholders. This Fiscal Note characterizes many of the associated costs with the revised Stormwater Code for the departments most likely to be affected by the changes, which include SPU, DPD, SDOT, PARKS, FFD, and SCL. Additional information regarding this proposed legislation can be found in the attachments:

- Please check one of the following:

This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. (Please complete all relevant sections that follow.)

Appropriations: This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.

Fund Name and Number	Department	Budget Control Level*	2009 Appropriation	2010 Anticipated Appropriation
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

General. This legislation does not appropriate funds; however, the revised Stormwater Code will impact costs and work requirements in several departments. The following department-specific notes are provided for illustrative purposes. Any budget or staffing adjustments will be addressed through the budget process.

Note 1. (SPU):

Non-capital cost implications for SPU include increases in funding required to conduct training and increases in O&M requirements for drainage control structures constructed in the right-of-way.

1. *Training (\$50,000 one time in 2009)*

SPU has four categories of personnel that need to have a working knowledge of the new code and rules. These are Engineering Designers, Engineering Plan Reviewers, Inspectors, and Operations and Maintenance Staff. Below is a summary of time estimated to train these individuals to an adequate level prior to adoption of the code:



- a. SPU Plan Reviewers - \$1K/person – 8 people - \$8,000
- b. SPU Designers / Plan Reviewers - \$600/person – 12 people – \$7,200
- c. SPU Inspectors - \$1K/person – 8 people - \$8,000

The remainder of SPU Engineering staff can be briefed on changes in the code during regular staff meetings. It is assumed that this high level of information can be provided to other branches (e.g., USM) at appropriate staff meetings.

The development of training documents and presentation materials may be contracted out to a consultant or conducted by in-house staff. The anticipated cost to prepare the curriculum and conduct the training is \$25K.

2. *Operation and Maintenance. (\$1.99M)*

SPU typically takes ownership and assumes all operation and maintenance responsibilities for drainage structures installed in the public right-of-way (ROW), including flow control and water quality facilities. As such, any increase in the number of facilities installed or changes in the types of facilities installed associated with the revised Stormwater Code will have cost implications for SPU. It is anticipated that SPU will be responsible for maintaining all green stormwater infrastructure installed in the ROW by SDOT, SPU, other departments, or as a result of private development. The estimates provided below include labor as well as costs associated with equipment, repair, replacement, disposal, and other life-cycle costs related to maintaining these facilities.

It is anticipated that there will be an increase in the number of water quality facilities installed in the ROW because of two major revisions: (1) The current Stormwater Code exempts all utility-related projects from requirements to install flow control and treatment facilities (e.g., maintaining, repairing, or installing underground or overhead utility facilities.), even if the total amount of new plus replaced impervious surface exceeds established minimum requirement thresholds. As a policy decision, the proposed Stormwater Code will remove this exception for all SPU-conducted projects; and (2) In the current Stormwater Code, the threshold triggering requirements to install treatment facilities is one acre or more of new plus replaced pollution-generating impervious surface (PGIS). The proposed Stormwater Code lowers this threshold to 5,000 square feet of new plus replaced PGIS. Additionally, the number of facilities that will take the form of vegetated above-ground structures (a type of green stormwater infrastructure) is anticipated to increase due to the nature of the new code encouraging green infrastructure.

- a. O&M Cost Increases to SPU for Utility Cut-related Projects (\$150,000 per year).

The method for calculating the costs associated with the removal of the utility cut exception for SPU projects was generally based on the cost of flow control and water quality based facilities and the total project capital costs. This method does not provide specific cost basis for sizing facilities because neither length of pipe nor estimated new plus replaced impervious surface is available. The number of



facilities installed was approximated based on the estimated total cost per year of water quality facilities and the cost per average facility that had been determined earlier as part of an analysis for SPU's Asset Management Committee. O&M costs were estimated based on the calculated number of facilities. This analysis was done using water quality numbers only, as the sizes and resultant costs of detention facilities used for the SDOT analysis varied greatly and did not lend itself to this application. The resultant analysis estimated that there would be approximately 23 water quality facilities constructed over the next six years with a total O&M cost of \$150K.

b. O&M Cost Increases to SPU for SDOT-related Projects (\$1.84M)

The majority of facilities installed in the ROW are installed by SDOT. SDOT has two types of projects that result in potential code compliance requirements: roadway projects and sidewalk-only projects. SDOT provided SPU with a list of roadway and sidewalk projects planned for upcoming years. In some cases, planning extends the entire six-year CIP planning period; in others; on other cases, only 1 year was available and estimates had to be extrapolated.

(1) Road Projects (\$44,000)

For roadway projects, the number of water quality facilities installed in the ROW will increase because the threshold triggering water quality fall from one acre to 5,000 square feet of new plus replaced PGIS. The number of detention structures installed in the ROW in turn, should decrease due to the increase in the threshold for triggering flow control from 5,000 to 10,000 square feet of new plus replaced impervious surface. Although the proposed Stormwater Code encourages the use of green stormwater infrastructure, there are many technical factors that will limit the use of green stormwater infrastructure for treatment of roadway runoff and the number of green stormwater infrastructures is not anticipated to increase.

In 2007, SPU conducted an analysis of the effects of differing thresholds for flow control and water quality on SDOT's arterial asphalt concrete program for the years 2008-2015. Comparing the current 2,000 SF threshold to the proposed 2009 10,000 SF threshold resulted in no net change in the number of detention facilities installed by SDOT and no resulting net change for SPU O&M. For water quality, however, the number of facilities installed (for the analysis assumed to be four-cartridge Stormfilter® catch basins) increases by approximately 1 unit per year. The net increase in cost to SPU over 6 years is approximately \$44K (100-year NPV of \$550K.)

(2) Sidewalk-only Projects (\$1.04M)

For sidewalk-only projects, the threshold for triggering flow control has remained the same (2,000 SF new plus replaced impervious surface). However, the new code has changed the requirements for meeting flow control from installation of vaults that meet performance standards to installing green stormwater infrastructure (GSI) to the maximum extent feasible (MEF). This GSI/MEF standard will result in eliminating vault installation for sidewalks and increasing the number of installed vegetated facilities. It is assumed that the maintenance of green infrastructure will be *less costly* over the life cycle of the facility than maintenance of traditional underground vaults. However, there are higher O&M costs for the first several years of green projects to ensure good plant establishment. Because this analysis is only over the next six years, the cost of maintaining green stormwater infrastructure is higher than that of maintaining traditional vaults during the initial period immediately following installation.

SDOT has three types of sidewalk projects: Neighborhood Street Fund (NSF) large projects, NSF Crew Projects, and Other Sidewalk Projects. Sidewalk projects by definition are not pollution-generating impervious surfaces and, therefore, do not require water quality structures to be installed. Flow Control, however, is required. For this analysis, flow control facilities were assumed to be five feet wide and installed in the planting strip, with soil amendments and plants (not grass) at the surface. The assumed size of projects was generally 660 feet for long blocks and 330 feet for short blocks. O&M costs assumed a Level of Service B, which constitutes 12 visits per year. Based on SDOT's information, the following costs were estimated for the increase in operation and maintenance of installed green stormwater infrastructure over traditional vaults for the six-year period beginning in 2009. Numbers are not provided as Net Present Value.

- Large NSF Projects: 6 projects/yr, 6 trigger flow control, \$259K
- NSF Crew Projects: 40 projects/yr, 10 trigger flow control, \$336K
- Sidewalk Projects: 17 projects/yr, 9 trigger flow control, \$441K

Note 2. (DPD):

1. *Drainage Review (\$62,000)*

The proposed Stormwater Code requires that drainage plans be reviewed in greater detail for conformance with additional stormwater controls. It is anticipated that review of "small" projects (defined as having less than 5,000 SF of new plus replaced impervious surface) will increase from 0.5hr/project at \$155/hr to approximately 1.5hr/project at \$155/hr. It is anticipated that the review time associated with "large" projects (defined as having 5,000 SF or more new plus replaced impervious surface) will not change.



The threshold of “small” and “large” projects is contained within the existing Stormwater, Grading and Drainage Control Code. The percentage distribution of projects in either criteria will not change based upon the proposed legislation.

Estimating the number of development projects requiring drainage review is problematic owing to variations in the market and regional economy. Analysis of permitted projects between 1996 and 2000 showed that on *average each year* there were approximately 150 projects having under 2,000 square feet of new plus replaced impervious surface, 330 projects with between 2,000 and 5,000 square feet of new plus replaced impervious surface, and 115 project with over 5,000 square feet of new plus replaced impervious surface. Generally, it has been estimated that these rates of development have held steady through 2007, but began to decline in late 2008 and continued to decline in early 2009, with an estimated drop in permit applications that ranges between 10% and 30%.

For illustration purposes, the potential increase cost for drainage review provided below is based on 400 small projects per year and an additional \$155 (i.e., one additional hour) per project for plan review.

2. *Site Inspection (\$140,000)*

The proposed Stormwater Code increases the number of inspections required for projects installing green stormwater infrastructure systems. It is anticipated that projects installing these systems will require an average of three additional inspections of approximately 0.75 hours/each, or 2.25 hours of inspections charged at \$155/hour amounting to an increase in revenue of \$348.75 per project. It remains problematic to estimate the number of projects implementing green stormwater infrastructure to the degree that will require the additional inspection time. Analysis of permitted projects between 1996 and 2000 showed that on *average each year* there were approximately 600 projects. As noted above, it has been generally estimated that these rates of development have held steady through 2007, but began to decline in late 2008 and continued to decline in early 2009, with an estimated drop in permit applications that ranges between 10% and 30%.

For illustration purposes, the potential increase cost for site provided below is based on 400 projects per year and an additional \$350 (rounded value) for three additional inspections.

Note 3. (SDOT):

Non-capital costs implications for SDOT include increases in funding required to conduct training and increases in O&M requirements for permeable sidewalks.

1. *Training (\$56,000 one time in 2009)*

SDOT has several categories of personnel that need to have a working knowledge of the new code and rules, including Designers, Plan Reviewers, Inspectors, Project Managers

and Operations and Maintenance Staff. Below is a summary of the estimated cost to train these individuals to an adequate level prior to adoption of the code:

- a. SDOT Plan Reviewers – \$1K/person – 12 people - \$12,000
- b. SDOT Inspectors - \$1K/person – 24 people - \$24,000
- c. SDOT Design staff, Construction Management staff, Street Maintenance staff, Project managers, Traffic Management staff, – \$1K/person - 20 people - \$20,000

The Operations and Maintenance staff are not represented in these numbers. There is inadequate information at this time to estimate the number of staff that will be involved in constructing green infrastructure, training needs for this work or the number of projects that can be built in house.

2. *Implementation: (\$8,000 one time in 2009)*

Cost to modify permits to included conditions and language to comply with the new storm water code \$8K for computer program upgrades.

3. *O&M Cost Increases to Maintain Sidewalks (\$24,030 for biennium)*

SDOT is assuming that SPU will be responsible for the maintenance of all green stormwater infrastructure placed in the right-of-way, not including permeable pavement in the ROW.

SDOT will be responsible for inspection and maintenance of the permeable pavement and the under-drain system associated with it. Additionally, SDOT will be responsible for maintaining the pavement structure and repair of the permeable pavement. Maintenance of the pavement structure will incur additional costs for SDOT, which cannot be fully calculated due to lack of historical cost data. To date, there has been limited discussion of permeable roadways; therefore, the assumption used is that only permeable sidewalks (and not permeable roadways) will be built by the City. Should this assumption prove incorrect, costs will be reevaluated.

Initial costs for an SDOT crew to vacuum-sweep and maintain a clear permeable walkway free of run-on debris, including the running traffic setup required for this type of work is based on estimates from other City's at \$267/block. The cost estimate is based on the following assumptions: (1) 13 blocks of sidewalk were built by the Bridging the Gap Program in 2007; (2) in the future, 25% of each year's projects will be permeable pavement; (3) all permeable pavement should be vacuum-cleaned three times a year for the first three years until a maintenance/monitoring program is properly established.

There will be an initial cost of \$10,413 per year, which will increase by \$3,204 each year that permeable pavement programs are installed.

Note 4.(PARKS)

Non-capital costs implications for Parks include increased focus to conduct training and address O&M requirements for drainage control structures constructed on park land.

1. *Training (\$24,000 one time in 2009)*

Parks has five categories of personnel that need to have training including Planners, Engineers, Designers, Inspectors and Project Managers. Below is a summary of time estimated to train these individuals to an adequate level prior with the adoption of the code:

- a. Parks Planners - \$1K/person – 5 people - \$5,000
- b. Parks Engineers - \$1K/person – 1 people – \$1,000
- c. Parks Designers - \$1K/person – 6 people - \$6,000
- d. Parks Inspectors - \$1K/person – 3 people - \$3,000
- e. Parks Project Managers - \$1K/person – 9 people - \$9,000

The remainder of Parks staff can be briefed on changes in the code during regular staff meetings. Parks plans to partner with other departments to conduct trainings where possible.

2. Parks Operations and Maintenance:

New maintenance work will be required as a result of increased use of green infrastructure; permeable paving (cleaning), infiltration structures (planted areas to be established and maintained), cisterns and other non-traditional structures (cleaning), all of which will be used more frequently to meet the new performance standard for flow control to flow-critical receiving waters. Also additional flow control and treatment structures will be required to be installed due to lowering of thresholds. If large projects are not able to use green infrastructure to meet the code, it's possible that Stormfilter catch basins would be installed where they currently do not exist. Parks will reallocate existing staff to conduct this work.

Note 5.(FFD): No costs to implement this legislation have been identified.

Note 6.(SCL): No costs to implement this legislation have been identified.

Anticipated Revenue/Reimbursement: Resulting From This Legislation: *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*



Fund Name and Number	Department	Revenue Source	2009 Revenue	2010 Revenue
N/A	SPU	Enforcement Action	(See Note 1)	(See Note 1)
N/A	DPD	Permit Fee-based	(See Note 2)	(See Note 2)
TOTAL			\$0	Variable

Notes:

Note 1.(SPU)

Penalties collected as a result of enforcement actions will generate some General Fund revenue. Per Chapter 22.808 of the proposed Stormwater Code, penalty actions could range from \$250 to \$5,000 per violation, depending of the points accumulated through the penalty matrix. It is unknown at this time how many violations will generate penalties, as penalties have not been previously collected under the Stormwater Code.

Note 2.(DPD)

The Stormwater Code is the regulatory document that enables DPD to review construction permit applications for drainage engineering and water quality. As such, permit fees are charged for services performed in the permitting review and inspection process. DPD positions necessary for implementation, increases in plan review efforts, and increases in site inspection efforts to comply with the Stormwater Code change, are all permit fee-supported. The legislation increases time required for both drainage review and site inspections. See the discussion under Note 2 (DPD) in the previous section for additional information regarding estimated costs associated with drainage review and site inspections.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: *This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.*

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions*	2010 FTE*
TOTAL							

* 2010 positions and FTE are total 2010 position changes resulting from this legislation, not incremental changes. Therefore, under 2010, please be sure to include any continuing positions from 2009.



Notes:

General. This legislation does not create, modify, or eliminate regular positions. However, several departments may require additional staffing to implement the revised Stormwater Code. Any such staffing request would be considered in the context of the 2010 Proposed Budget and may involve re-assignment of existing staff or adds.

Note 1.(SPU)

1. Increase in Plan Review Time for Green Stormwater Infrastructure

Plan reviewers at SPU are responsible for reviewing all drainage structures to be installed in the right-of-way associated with improvements by both private developers and public entities (primarily SDOT). The new code has changed two important thresholds that trigger installation of water quality and flow control devices in the right of way, which is anticipated to result in more water quality treatment devices being installed. In addition, the new standards require that all sidewalk and trail projects install green stormwater infrastructure for flow control where triggers are met; the new Code will not require installation of a traditional vaults under any circumstance. This will result in a decrease in the number of underground stormwater storage facilities, and an increase in the number of above-ground green stormwater infrastructure BMPS installed. Green stormwater infrastructure is relatively new to the City and review of these designs is assumed, at least initially, to take as much as twice the time that traditional BMPs take. As such, SPU is anticipating the need for a short term increase of 1 FTE for a period of two years following code adoption for a SPU plan reviewer position (1 Associate Civil Engineer).

2. Increase in O&M Staff Levels

See also cost estimates for maintenance provided in the earlier section of this Fiscal Note under “Appropriations” includes all life-cycle O&M costs, including labor.

3. No Cost Change for Source Control Monitoring

In terms of the Source Control Monitoring Group at SPU, the fiscal impact will be virtually neutral. It is anticipated that there will be less Inspector time spent performing multiple re-inspections to bring businesses into compliance (cases will progress to enforcement, rather than have multiple re-inspections), yet there will be more Management and Law time spent reviewing cases that will be appealed to the internal Review Board.

Note 2.(DPD)

DPD anticipates that several full time positions will need to be assigned to stormwater code issues. These include site inspectors, drainage reviewers, and positions for Stormwater Code implementation. Detailed discussion of this follows below.

1. Site Inspectors:



It is estimated that up to three site inspectors will be needed because of the anticipated increase in the number of inspections required for projects installing green stormwater infrastructure. These positions will be funded through permit fees collected by DPD.

2. *Drainage Reviewers:*

It is estimated that up to two site inspectors will be needed because the proposed legislation requires drainage plans be reviewed in greater detail for conformance with additional stormwater controls. See discussion Notes for DPD above.

Note 3.(PARKS): No staffing needs related to this legislation have been identified. Costs for additional or new project review by Parks designers and inspectors has been included in the anticipated additional cost to new CIP projects (5% - 15%). Maintenance and operations will not add staff, but instead will re-allocate the existing work force and equipment to better meet the code.

- **Do positions sunset in the future?** *(If yes, identify sunset date):*

Spending/Cash Flow: *This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.*

Fund Name & #	Department	Budget Control Level*	2009 Expenditures	2010 Anticipated Expenditures
None	None	None	None	None
TOTAL	None	None	None	None

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

- **What is the financial cost of not implementing the legislation?** *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility; potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)*

The possible cost implications if this legislation is not implemented include the following:

Non-compliance with federal law. If this legislation is not adopted, the City will not be in compliance with its NPDES Municipal Stormwater Permit, which would be a violation of the federal Clean Water Act. Penalties for violating the Clean Water Act are contained in 40 CFR 122.41. Any person who *negligently* violates the Clean Water Act is subject to criminal penalties of \$2,500 to \$25,000 per day of violation or imprisonment of not



more than one year, or both. These penalties increase with second and subsequent violations of the Clean Water Act. A person who *knowingly* violates the Clean Water Act is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three years, or both. In the case of a second or subsequent knowing violation, the person is subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than six years, or both. Additionally, violating the City's Permit also presents a risk of a third-party lawsuit, the cost implications of which depend on the specifics of the litigation and resulting judgment or settlement.

- **Does this legislation affect any departments besides the originating department?** • *If so, please list the affected department(s), the nature of the impact (financial, operational, etc.), and indicate which staff members in the other department(s) are aware of this Bill.*

Yes. This legislation applies city-wide and revises minimum requirements related to source control, construction site stormwater pollution prevention, and development projects. The affect of this legislation on other departments will vary to the degree that each department engages in ongoing activities to which source control measures apply, or to the degree that each department is involved in capital projects. In developing this legislation, Seattle Public Utilities has been working in close collaboration with the five departments most likely to be affected: Department of Planning and Development; Seattle Department of Transportation; Seattle City Light; Fleets and Facilities Department, and Seattle Parks and Recreation. Each of the five departments has provided input to this Fiscal Note and reviewed its contents.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

There are no other possible alternatives to the legislation that will achieve the same or similar objectives.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

Yes, this legislation is subject to a public hearing requirement. The intent is for formal hearings to be conducted in conjunction with the legislative process when the matter comes before the Environment, Emergency Management, and Utilities subcommittee.

As part of the project to prepare this legislation, there have been an ongoing series of public meetings and presentations made to specific stakeholders. A summary listing is provided in the table below.

Public Presentations on Proposed Legislation

Date	Group
March 26, 2009	Seattle Community Council Federation
March 19, 2009	General Public Meeting – Stormwater Code Revision Project
March 17, 2009	Issues Committee of Seattle Great City Initiative
February 25, 2009	Associated General Contractors (AGC)
February 24, 2009	Seattle City Council Briefing: Environment, Emergency, Emergency Management & Utilities Committee
February 11, 2009	SPU Citizens Advisory Committee
February 11, 2009	Master Builders Association (MBA)
February 3, 2009	General Public Meeting - Stormwater Code Revision Project
January 28, 2009	Thornton Creek Watershed Oversight Council
August 14, 2008	Side Sewer Contractors
April 9, 2008	King County
March 12, 2008	Master Builders Association (MBA)
January 9, 2008	General Public Meeting - Stormwater Code Revision Project
December 12, 2007	General Public Meeting - Stormwater Code Revision Project
October 1, 2007	Creek Watershed Councils (Thornton, Longfellow, Pipers, Fauntleroy)
September 28, 2007	Puget Soundkeeper Alliance
April 17, 2007	General Public Meeting - Stormwater Code Revision Project
February 15, 2007	American Society of Civil Engineers (ASCE) Water Resources Subcommittee
February 14, 2007	BINMIC Action Committee (Ballard Interbay North end Manufacturing & Industrial Center)
February 7, 2007	American Council of Engineering Companies (ACEC)
January 16, 2007	Associated General Contractors (AGC)
January 10, 2007	Master Builders Association (MBA)
September 27, 2006	Restore Our Waters (ROW) – External Stakeholders

- **Other Issues** (including long-term implications of the legislation): See Attachments

Please list attachments to the fiscal note below:

- Attachment 1: Summary of Major Changes to Seattle’s 2000 Stormwater Code
- Attachment 2: Discussion of Potential Impacts to Public and Private Capital Projects
- Attachment 3: Discussion of Potential Impacts to City Capital Projects



Robert D. Chandler/RDC
SPU – Stormwater Code - FISC
July 14, 2009
Version #4

Also see See Directors' Report and Recommendation Revisions to Stormwater Code (SMC 22.200-22.808) and Proposed new Grading Code (SMC 22.170) in Clerk File 310134.



Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code

Chapter 22.800 - Title, Scope and Authority

1. New title name (22.800.010): The subtitle will be known as the "Stormwater Code."
Remarks: It has been common practice to call this ordinance the "Stormwater Code" and the proposed new title name reflects this. Formerly, the official name was the "Stormwater, Grading, and Drainage Control Code."

2. Additional purpose statements (22.800.020): Two purpose statements have been added:
To protect the functions and values of environmentally critical areas as required under the state's Growth Management Act;
To protect the public drainage system from loss, injury and damage by pollution, erosion, flooding, landslides, strong ground motion, soil liquefaction, accelerated soil creep, settlement and subsidence, and other potential hazards, whether from natural causes or from human activity;
Remarks: The first statement acknowledges that the Stormwater Code has a role supporting the State's Growth Management Act and Seattle's Environmentally Critical Areas Ordinance (SMC 25.09). The second statement explicitly notes that the Stormwater Code serves to protect the public drainage infrastructure from harm.

3. Relocated exemptions and exceptions (22.800.040): The exemptions and exceptions verbiage that was located at various subsections in the 2000 Stormwater Code is now contained in a single section.
Remarks: Compiling these features into a single section, which appears early in the document, is intended to enhance clarity and increase usability of the Stormwater Code.

4. Revised exemptions for utility projects (22.800.040.A.2): Exemptions regarding maintenance, repair, or installation of underground utility facilities have been revised so that publicly bid capital improvement projects in the public right-of-way funded by Seattle Public Utilities are no longer exempt from minimum requirements for flow control and treatment.
Remarks: This change is reflective of a policy decision by the leadership of SPU and is expected to result in increased levels of treatment and flow control for stormwater, albeit at an added costs for affected capital projects.

5. Revised exemptions for WSDOT projects (22.800.040.A.6): The exemption for development undertaken by the Washington State Department of Transportation (WSDOT) in state highway rights-of-way has been rewritten.
Remarks: The rewritten exemption for state highway right-of-way projects under WSDOT control is intended to align with the provisions of Chapter 47.01.260 RCW, WAC 173-270-030, WSDOT's Municipal Stormwater NPDES Permit, and WSDOT's Stormwater Management Manual.



Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code

6. New requirements for adjustments (22.800.040.C): The subsection regarding Adjustments is new.

Remarks: The final wording is based on Appendix 1 of Seattle's Municipal Stormwater NPDES Permit. Ecology has reviewed and approved the proposed language.

7. Revised requirements for exceptions (22.800.040.C): The subsection regarding exceptions has been significantly modified, with revised criteria and clarified application requirements.

Remarks: The final wording is based on Appendix 1 of Seattle's Municipal Stormwater NPDES Permit. Ecology has reviewed and approved the proposed language.

8. Revised authority to delegate (22.800.080.B): The Director of SPU has been granted authority in to delegate certain responsibilities to the Director of Seattle Department of Transportation (SDOT) for projects conducted in the public right-of-way.

Remarks: This authority clarifies an existing arrangement with the Director of SDOT, who currently reviews of street improvement plans, issues Street Use Permits, and conducts inspections for projects in the public right-of-way.

9. Clarified authority to approve alternative compliance: The Director of SPU has been granted authority to approve three means of alternative compliance with the prescriptive provisions of the Stormwater Code.

22.800.080.E. The Director of SPU is authorized, to the extent allowed by law, to develop, review, or approve an Integrated Drainage Plan as an equivalent means of complying with the requirements of this subtitle, in which the developer of a project voluntarily enters into an agreement with the Director of SPU to implement an Integrated Drainage Plan that is specific to one or more sites where best management practices are employed such that the cumulative effect on the discharge from the site(s) to the same receiving water is the same or better than that which would be achieved by a less integrated, site-by-site implementation of best management practices.

22.800.080.F. The Director of SPU is authorized, to the extent allowed by law, to enter into an agreement with the developer of a project for the developer to voluntarily contribute funds toward the construction of one or more drainage control facilities that mitigate the impacts to the same receiving water that have been identified as a consequence of the proposed development.

22.800.080.G. The Director of SPU is authorized, to the extent allowed by law, to enter into an agreement with the developer of a project for the developer to voluntarily construct one or more drainage control facilities at an alternative location, determined by the Director, to mitigate the impacts to the same receiving water that have been identified as a consequence of the proposed development.

Remarks: These authorities clarify and confirm existing authority contained in the 2000 Stormwater Code and the associated Directors' Rules.



Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code

10. Revised authority to require additional measures (22.800.080.H): The Director of SPU has been granted authority to require a responsible party to undertake more stringent or additional best management practices under certain conditions.

Remarks: This authority is broadly based on the authority granted in the 2000 Stormwater Code (see 22.802.013.C), but it has been revised and strengthened based, in part, on the Seattle's Municipal Stormwater NPDES Permit.

11. Added requirements for extending the public drainage system (22.800.080.I): Verbiage has been incorporated into the 2009 Stormwater Code clarifying the requirements and responsibilities for extending the public drainage system.

Unless an adjustment per subsection 22.800.040 B or an exception per subsection 22.800.040 C is approved by the Director, an owner or occupant who is required, or who wishes, to connect to a public drainage system shall be required to extend the public drainage system if a public drainage system is not accessible within an abutting public area across the full frontage of the property.

Remarks: This provision is intended to clarify the requirements and responsibilities for projects that may be required to extend the public drainage system. If the criteria are met, the burden is on the owner/occupant to either extend the system or request an adjustment or exception.

Chapter 22.801 - Definitions

12. Added and revised terms: Approximately 41 new terms are defined and the definitions for 21 other terms have been significantly revised in the 2009 Stormwater Code. Definitions for terms no longer used in the code have been deleted. Terms used in the 2009 Stormwater Code that are defined in another chapter of the Seattle Municipal Code are now referenced. Table 1 lists the terms have been significantly modified (indicated by italicized text) and added (indicated as underlined text).

Remarks: These changes are necessary to clarify certain code provisions, to implement revised minimum requirements, and to meet the provisions of the Seattle's Municipal Stormwater NPDES Permit.



**Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code**

Table 1: Key New or Significantly Revised Definitions

<i>Best management practice (BMP)</i>	<u>Green stormwater infrastructure</u>	<i>Receiving water</i>
<u>Capacity-constrained system</u>	<i>High-use sites</i>	<u>Repeat violation</u>
<u>Certified Erosion and Sediment Control Lead (CESCL)</u>	<u>Impervious surface</u>	<u>Roadway project</u>
<u>Construction Stormwater Control Plan</u>	<u>Infiltration</u>	<u>Runoff</u>
<u>Creek</u>	<u>Integrated Drainage Plan</u>	<u>Sanitary sewer</u>
<i>Designated receiving water</i>	<u>Interflow</u>	<u>SDOT</u>
<u>Director of DPD</u>	<u>Joint project</u>	<u>Sidewalk project</u>
<u>Director of SDOT</u>	<i>Land disturbing activity</i>	<u>Single-family residential project</u>
<u>DPD</u>	<u>Maximum extent feasible</u>	<i>Site</i>
<i>Drainage control</i>	<u>Nutrient-critical receiving water</u>	<u>SMC</u>
<i>Drainage control facility</i>	<u>Oil control treatment facility</u>	<i>Source controls</i>
<i>Drainage water</i>	<u>Parcel-based project</u>	<u>Storm drain</u>
<u>Effective impervious surface</u>	<u>Pervious surface</u>	<i>Stormwater</i>
<u>Enhanced treatment facility</u>	<u>Phosphorus treatment facility</u>	<u>Stream</u>
<i>Erosion</i>	<i>Plan</i>	<u>Trail</u>
<u>Exception</u>	<u>Pollution-generating activity</u>	<u>Trail project</u>
<i>Flow control</i>	<i>Pollution-generating impervious surface</i>	<i>Treatment facility</i>
<i>Flow control facility</i>	<u>Pollution-generating pervious surface</u>	<i>Uncontaminated</i>
<u>Flow-critical receiving water</u>	<u>Pre-developed condition</u>	<u>Water Quality Standard</u>
<u>Flow duration</u>	<u>Public sanitary sewer</u>	<u>Watershed</u>
<i>Grading</i>		<u>Wetland function</u>
		<u>Wetland value</u>

Note: New definitions are underlined. Revised definitions are in italics.

Chapter 22.802 – Prohibited and Permissible Discharges

13. New Chapter on Prohibited and Permissible Discharges: This chapter has been renamed from its original title "Stormwater, Drainage, and Erosion Control" and its contents revised. It retains the prohibited and permissible discharge sections of the original chapter, but the section containing requirements for all discharges has been relocated to new Chapter 22.803 (Minimum Requirements for All Discharges and All Real Property). The sections containing requirements for land disturbing activities and addition/replacement of impervious surface have been relocated to new Chapter 22.805 (Minimum Requirements for All Projects).

Remarks: Prohibited and permissible discharges represent a key set of provisions in Seattle's Municipal Stormwater NPDES Permit. Placing these requirements into a single,



Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code

specifically titled chapter is intended to enhance clarity and increase usability of the Stormwater Code.

14. New general provisions (22.802.010): Two new paragraphs have been added as general provisions in this chapter. These same two general requirements also appear at the beginning of Chapter 22.803 (Minimum Requirements for All Discharges and All Real Property), Chapter 22.805 (Minimum Requirements for All Projects), and Chapter 22.807 (Drainage Control Review and Application Requirements):

No discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

Every permit issued to implement this subtitle shall contain a performance standard requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

Remarks: These two paragraphs support the Seattle's compliance with its Municipal Stormwater NPDES Permit.

15. Changes to permissible discharges (22.802.030): The list of permissible discharges has been significantly modified and conditioned. See Table 2 below for details of the changes.

Remarks: The changes are primarily based on the provisions of the Seattle's Municipal Stormwater NPDES Permit.



**Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code**

Table 2: Substantive Changes to Permissible Discharges

<p>1. <u>Discharges from potable water sources, including flushing of potable water lines, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the drainage system;</u></p> <p>2. <u>Discharges from washing or rinsing of potable water storage reservoirs, dechlorinated as above;</u></p> <p>3. <u>Discharges from natural uncontaminated surface waters, including diverted stream flows;</u></p> <p>4. <u>Discharges of natural uncontaminated groundwater, including uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(2)), uncontaminated pumped groundwater, and rising ground waters;</u></p> <p>5. <u>Discharges of air conditioning condensation;</u></p> <p>6. <u>Discharges from natural springs;</u></p> <p>7. <u>Discharges of uncontaminated water from crawl space pumps;</u></p> <p>8. <u>Discharges runoff from lawn watering;</u></p> <p>9. <u>Discharges from irrigation runoff, including irrigation water from agricultural sources that is commingled with stormwater;</u></p> <p>10. <u>Discharges flows from riparian habitats and wetlands;</u></p> <p>11. <u>Discharges from approved footing drains and other subsurface drains or, where approval is not required, installed in compliance with this subtitle and rules promulgated pursuant to this subtitle;</u></p>	<p>12. <u>Discharges from foundation drains;</u></p> <p>13. <u>Discharges from swimming pools, hot tubs, fountains, or similar aquatic recreation facilities and constructed water features, provided the discharges have been de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the drainage controls system;</u></p> <p>14. <u>Discharges of street and sidewalk wash-water that does not use detergents or chemical additives;</u></p> <p>15. <u>Discharges of water used to control dust;</u></p> <p>16. <u>Discharges of water from routine external building washdown that does not use detergents or chemical additives;</u></p> <p>17. <u>Discharges that are in compliance with a separate individual or general NPDES permit; discharges in accordance with an NPDES permit;</u></p> <p>18. <u>Discharges that are from emergency fire fighting activities; and</u></p> <p>19. <u>Other non-stormwater discharges, provided these discharges are in compliance with the requirements of an approved stormwater pollution prevention plan that addresses such discharges.</u></p> <p><u>Runoff from residential car washing by individuals</u></p> <p><u>heat</u></p>
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Note:

Underlined text indicates additions and strikethrough text indicate deletions of text based on the 2000 Stormwater Code.



Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code

Chapter 22.803 – Minimum Requirements for All Discharges and All Real Property

16. New chapter with minimum requirements: This new chapter contains provisions carried over Section 22.802.013 (Requirements for All Discharges and All Land Uses) from the 2000 Stormwater Code, as well as a number of additions based on the requirements of the Seattle's Municipal Stormwater NPDES Permit and the needs of Seattle's stormwater program.

The new general provisions contained in Section 22.803.010 are the same as in Section 22.802.010 (see discussion above under Chapter 22.802). Chapter 22.803 then divides minimum requirements into three sections:

Minimum Requirements for All Discharges and Real Property (Section 22.803.020) specifies five requirements, all of which are carried over (with minor revisions) from the 2000 Stormwater Code, but are now more specifically applied to all discharges and all real property.

Minimum Requirements for Source Controls for All Real Property (Section 22.803.030) contains six minimum requirements: (1) Eliminate Illicit Connections to Storm Drains; (2) Perform Routine Maintenance for Stormwater Drainage System; (3) Dispose of Fluids and Wastes Properly; (4) Proper Storage of Solid Wastes; (5) Spill Prevention and Clean up; and (6) Provide Oversight and Training for Staff.

Minimum Requirements for Source Controls for All Businesses and Public Entities (Section 22.803.040) contains minimum requirements that include developing and implementing plans and procedures for spill prevention.

Remarks: The focus of this chapter is on minimum requirements specific to source controls and its contents directly align with the proposed 2009 SPU/DPD Directors' Rule titled, "Source Control Technical Requirements Manual."

Chapter 22.804 – Grading

17. Removal of grading from Stormwater Code: This entire chapter has been deleted and a new Grading Code has been created in another section of the Seattle Municipal Code (SMC 22.170).

Remarks: Relocating grading requirements into a new chapter was done to accommodate its implementation by the City's Department of Planning and Development, which has the lead role in managing this portion of the municipal code.

Chapter 22.805 – Minimum Requirements for All Projects

18. New chapter with minimum requirements: Chapter 22.805 is an entirely new chapter. Its provisions include revisions to the requirements in the 2000 Stormwater Code contained in Section 22.802.013 (Requirements for All Discharges and All Land Uses), Section 22.802.015 (Drainage, Erosion Control, and Source Control Requirements for All Land Disturbing Activities or Addition or Replacement of Impervious Surface), and Section 22.802.016 (Additional Requirements for Large Projects).



**Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code**

Remarks: Compiling minimum requirements for all projects into a single, specifically titled chapter is intended to enhance clarity and increase usability of the Stormwater Code.

19. Significant revisions to minimum requirements for all projects (Section 22.805.020): A listing of the minimum requirements for all projects is provided below in Table 3. Among the more significant revisions contained in this section of the 2009 Stormwater Code:

Minimum Requirements for Construction Site Stormwater Pollution Prevention Control (Section 22.805.020.D) contains 18 elements, some of which are carried over from the existing Code, but the majority of which are new or represent significant revisions of earlier requirements. The new and revised requirements are based primarily on the City's Municipal Stormwater NPDES Permit.

Minimum Requirement to Amend Soils (Section 22.805.020.E) requires all new, replaced, and disturbed soils to be amended with organic matter prior to completion of the project.

Implement Green Stormwater Infrastructure (Section 22.805.020.F) requires all single-family residential projects and all other projects with 2,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity to implement green stormwater infrastructure to the maximum extent feasible.

Ensure Sufficient Capacity (Section 22.805.020.I) contains more specific requirements regarding capacity, including a provision that requires groundwater flows to be considered when evaluating whether sufficient capacity exists.

Remarks: The majority of the new and modified requirements are based on compliance with the Seattle's Municipal Stormwater NPDES Permit. Erosion and sediment control requirements for construction are strengthened per the permit. Minimum requirements to amend soils and implement green stormwater infrastructure, for example, represent the City's compliance with the Minimum Requirement #5 (On-site Stormwater Management) contained in Appendix 1 of the Seattle's Municipal Stormwater NPDES Permit. The requirements associated with ensuring sufficient capacity are based on the City's requirements to protect the public drainage system and reduce risks of flooding, among others.



**Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code**

Table 3: List of Minimum Requirements for All Projects (SMC 22.805.020)

<p>A. Minimum Requirements for Maintaining Natural Drainage Patterns</p> <p>B. Minimum Requirements for Discharge Point</p> <p>C. Minimum Requirements for Flood-prone Areas</p> <p>D. Minimum Requirements for Construction Site Stormwater Pollution Prevention Control</p> <p>1 Mark Clearing Limits and Sensitive Areas</p> <p>2 Retain Native Top Layer</p> <p>3 Establish Construction Access</p> <p>4 Protect Downstream Properties and Waterway</p> <p>5 Prevent Erosion and Sediment Transport from the Site by Runoff</p> <p>6 Prevent Erosion and Sediment Transport from the Site by Vehicles</p> <p>7 Stabilize Soils</p> <p>8 Protect Slopes</p> <p>9 Protect Storm Drains</p> <p>10 Stabilize Channels and Outlets</p> <p>11 Control Pollutants</p>	<p>D. Minimum Requirements for Construction Site Stormwater Pollution Prevention Control (continued)</p> <p>12 Control Dewatering</p> <p>13 Maintain BMPs</p> <p>14 Inspect BMPs</p> <p>15 Execute Construction Site Stormwater Pollution Prevention Plan (SWPPP)</p> <p>16 Minimize Open Trenches</p> <p>17 Phase the Project</p> <p>18 Install Permanent Flow Control and Water Quality Facilities</p> <p>E. Minimum Requirement to Amend Soils</p> <p>F. Implement Green Stormwater Infrastructure</p> <p>G. Protect Wetlands</p> <p>H. Protect Streams and Creeks</p> <p>I. Ensure Sufficient Capacity</p> <p>J. Install Structural Source Control BMPs</p> <p>K. Do not obstruct watercourses</p> <p>L. Comply with Side Sewer Code</p>
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20. Significant revisions to minimum requirements for flow control and treatment: Minimum requirements containing thresholds and performance standards for flow control and water quality treatment have been completely revised for projects involving new or replaced impervious surface, land disturbing activities, and land conversions. The more significant revisions, which are contained in Sections 22.805.030 through 22.805.090 of the 2009 Stormwater Code, are summarized below:

21. Minimum requirements based on project type. There are five specific project types, each with specific thresholds triggering minimum requirements:

Single-family residential projects. These projects are required to implement green stormwater infrastructure to the maximum extent feasible.

Trail and sidewalk projects. These projects are required to implement green stormwater infrastructure to the maximum extent feasible if they have 2,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity.



**Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code**

Parcel-based projects. Defined as any project that does not meet the definition of single-family residential project, trail/sidewalk project, or roadway project, these projects are required to meet minimum requirements for flow control and/or treatment if they exceed one or more of the specified thresholds. The thresholds depend on the project's drainage basin (i.e., wetland, listed creek basin, non-listed creek basin, etc.).

Roadway project. Defined as projects located within the public right-of-way, these projects are required to meet minimum requirements for flow control and/or treatment if they exceed one or more of the specified thresholds. The thresholds depend on the project's drainage basin (i.e., wetland, listed creek basin, non-listed creek basin, etc.).

Joint parcel-based and roadway projects. The parcel-based portion of a joint project complies with the minimum requirements for parcel-based projects; the roadway portion of a joint project complies with the minimum requirements for roadway projects.

22. Minimum requirements based on drainage basin. Minimum requirements for both treatment and flow control vary depending on where a project discharges. There are five types of discharges:

- Discharges to wetlands;
- Discharges to listed creek basins;
- Discharges to non-listed creek basins;
- Discharges to small lake basins; and
- Discharges to the public combined sewer.

23. Four performance standards in minimum requirements for flow control (Section 22.805.080). There are four different performance standards contained in the minimum requirements for Flow Control:

- Wetlands protection standard;
- Pre-developed forested standard;
- Pre-developed pasture standard; and
- Peak flow control standards.

24. Four treatment requirements in minimum requirements for treatment (Section 22.805.090). There are four different types of stormwater treatment requirements contained in the minimum requirements for treatment:

- Basic treatment;
- Oil control treatment;
- Phosphorus treatment; and
- Enhanced treatment.

25. Green stormwater infrastructure required. All projects that trigger minimum requirements for flow control or treatment must use green stormwater infrastructure to the maximum extent feasible to meet the minimum requirement.



Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code

26. Continuous modeling required. Determining post-development peak flow rates and flow durations will require use of continuous modeling. (The 2000 Stormwater Code allowed flow rate calculations to be performed using single-event modeling.)

27. New flow control standards for discharges to creeks. Among the changes in performance standards in the 2009 Stormwater Code:

Projects discharging into creek basins that meet the threshold for flow control must have post-development peak flow rates and flow durations that match either a pre-developed forested condition or pre-developed pasture condition, depending on the creek. (The performance standard in the 2000 Stormwater Code is based only on not exceeding a specified maximum peak flow rate only.)

28. New thresholds triggering flow control and treatment. Among the changes in thresholds in the 2009 Stormwater Code:

Parcel-based projects and roadway projects discharging into the public combined sewer must meet minimum requirements for flow control if the total new plus replaced impervious surface is 10,000 square feet or more. (The threshold in the 2000 Stormwater Code is 2,000 square feet).

Parcel-based projects and roadway projects discharging into wetlands, creek basins, or small lake basins must meet minimum requirements for treatment if the total new plus replaced pollution-generating impervious surface is 5,000 square feet or more. (The threshold in the 2000 Stormwater Code is 5,000 square feet or more of *new* pollution-generating impervious surface or 1 acre or more of *new plus replaced* pollution-generating impervious surface.)

Remarks: Overall, the new definitions, thresholds, and performance standards that establish the Seattle's new minimum requirements for flow control and treatment are based on many factors, including:

The needs of the city's receiving waters;

Seattle's unique, highly urbanized conditions;

Requirements of the Seattle's Municipal Stormwater NPDES Permit;

Review and approval by the Washington State Department of Ecology; and

Feedback from internal and external stakeholders, including City agencies, environmental advocacy groups, business interests, other public agencies, and more.

Chapter 22.807 – Drainage Control Review and Application Requirements

29. New chapter with minimum requirements: This is an entirely new chapter, the bulk of which is based on subsection 22.802.020 of the same name in the 2000 Stormwater Code. There are two substantive changes:

There are two additional thresholds for large project drainage review, both of which are based on conversion of native vegetation; and

Many of the provision in subsection 22.802.020 of the 2000 Stormwater Code have been relocated based on the revised organization of 2009 Stormwater Code.



Attachment 1 to Fiscal Note for SMC 22.800-22.808
Summary of Major Changes to Seattle's 2000 Stormwater Code

Remarks: Placing requirements for drainage control review into a single, specifically titled chapter will aid clarity and ease of use of the Stormwater Code.

Chapter 22.808 – Stormwater Code Enforcement

30. Significant changes to enforcement: There have been significant changes to this chapter, which now focuses entirely on matters related to enforcement. The more significant revisions are summarized below:
31. Exceptions relocated. Provisions related to exceptions that had been in Chapter 22.808 have been relocated (and revised) to subsection 22.800.040 (Exemptions, Adjustments, and Exceptions) of the 2009 Stormwater Code.
32. Immediate enforcement allowed. Enforcement actions can be taken immediately where there is reason to believe there may be a failure to comply (existing code requires issuance of a Notice of Violation before enforcement actions can be taken).
33. Enforcement action must be appealed to Director. A Notice of Violation, Director's order, or invoice shall be final and not subject to further appeal unless the aggrieved party requests a review by the Director within 10 days after service.
34. Director's decision may be appealed to Municipal Court. The Director's review decision shall become final and not subject to further appeal unless the aggrieved party appeals the decision to the Municipal Court within 10 days after the decision.
35. Maximum penalty increased. The schedule of penalties shall be based on an assessment matrix, with the maximum penalty of \$5,000 per violation. The assessment matrix will use the following criteria:
 - Does the violation pose a public health risk;
 - Does the violation cause environmental damage or adversely impact infrastructure;
 - Was the responsible party willful or knowing of the violation;
 - Was the responsible party unresponsive in correcting the violation;
 - Was there improper operation or maintenance;
 - Was there a failure to obtain necessary permits or approval;
 - Does the violation provide economic benefit for non-compliance; and,
 - Was the violation a repeat violation.

Remarks: Overall, changes in Stormwater Code enforcement are based on feedback from SPU and DPD inspectors and are designed to make enforcement less problematic and more consistent to implement. The penalty assessment matrix is broadly based on the enforcement matrix used by Ecology.



Attachment 2 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to Public and Private Capital Projects

Overview.

The new Stormwater Code will potentially impact capital projects, independent of whether the project is being conducted by a City agency or other public or private interest, primarily because of changes to minimum requirements for flow control and treatment. The nature and degree of these potential impacts depend on the following factors:

The size of the project. The thresholds for projects to trigger a requirement to install a flow control or stormwater treatment facility are based on the total amount of new plus replaced impervious surface (for flow control) and new plus replaced pollution-generating impervious surface (for treatment).

The type of project. The thresholds and performance standards vary by the type of project, which are listed as: Single-family residential project, Parcel-based project, Roadway project, Joint project, and Trail/Sidewalk project.

The location of the project. The requirements to install a flow control and/or a treatment facility depends on the drainage basin into which the project is discharging. See the table below for a summary.

Receiving water/system	Flow Control?	Treatment?
(1) Wetland	√	√
(2) Creek Basin	√	√
(3) Public combined sewer	√	
(4) Small Lake Basin	√	√
(5) Designated receiving water		√

In general terms, the potential impacts of the proposed revisions to the Stormwater Code are discussed in this attachment for changes to the following provisions in the Code:

1. Minimum Requirements for Single-family Residential Projects.
2. Minimum Requirements for Sidewalk- and Trail-only Projects.
3. Treatment Threshold in Flow-critical and Designated Receiving Water Basins.
4. Flow Control Threshold in Combined Sewer System Basins.
5. Flow Control Threshold in Creek Basins.

Estimations of potential cost impacts for City projects, for which more details are available than for non-City projects, are provided in Attachment 3.



1. Minimum Requirements for Single-family Residential Projects. Projects will not be required to install underground flow control facility if flow control performance standards cannot be met with green stormwater infrastructure.

Discussion:

For all single-family residential projects, the proposed Stormwater Code will require implementation of green stormwater infrastructure to the maximum extent feasible, regardless of size or location. It will also eliminate the existing requirement that are applied in creek and combined sewer basins (triggered at 2,000 square feet of new plus replaced impervious surface) to install an underground flow control facility.

Overall Impact:

The requirement to implement green stormwater infrastructure to the maximum extent feasible is required under the conditions of the City's NPDES Municipal Stormwater Permit. Depending on the location and size of the project and the assumptions used regarding costs for facilities, the impacts of the proposed revisions for single-family residential (SFR) projects could result in increased costs, decreased costs, or be cost-neutral. For SFR projects located in designated receiving waters basins, the requirement to implement green stormwater infrastructure may result in increased costs, depending on whether the builder would have used green stormwater infrastructure independent of a code requirement. For the larger SFR projects that would have been required to build an underground facility under the current code, costs will decrease. However, defining maximum extent feasible for SFR projects and crafting the protocols to determine the degree of green stormwater infrastructure to be implemented remains a topic with many opinions. The intent is for feasibility to incorporate considerations of costs and benefits, thereby ensuring the implementing the new Stormwater Code does not result in unduly or overly burdensome costs to SFR projects.

2. Minimum Requirements for Sidewalk- and Trail-only Projects. Sidewalk and trail projects will not be required to install underground flow control facilities if flow control performance standards cannot be met with green stormwater infrastructure.

Discussion:

For sidewalk- and trail-only projects located in creek basins or in combined sewer system basins, the proposed Stormwater Code will require implementation of green stormwater infrastructure to the maximum extent feasible, but will eliminate the existing requirement to install an underground flow control facility if building green is not feasible.

Overall Impact:

The cost impacts of the proposed revisions for sidewalk- and trail-only projects are uncertain. In the past these projects either constructed small vaults or tanks in the ground, at a cost that was disproportionate to the cost of the overall project or, more often, these projects participated in an SPU-approved program in which larger flow control facilities were constructed to provide mitigation for several sidewalk projects. Although the proposed Stormwater Code provides a cost savings for trail/sidewalk projects by eliminating underground flow control facilities, the proposed code requirement to install green



stormwater infrastructure to the maximum extent feasible is not yet defined. Protocols to determine the degree of green stormwater infrastructure to be implemented remain a work in progress.

3. Treatment Threshold in Flow-critical and Designated Receiving Water Basins. Thresholds for installing treatment facilities for projects in basins that discharge to receiving surface waters will be lowered.

Discussion:

For projects not located in the public right-of-way, the threshold for installing treatment facilities will be lowered from one acre (43,500 square feet) to 5,000 square feet or more of new plus replaced pollution-generating impervious surface. This new threshold is equivalent to Ecology's minimum requirements and meets the conditions of the City's NPDES Municipal Stormwater Permit. For projects in the right-of-way, the threshold will also be lowered from one acre (43,500 square feet) to 5,000 square feet or more of new plus replaced pollution-generating impervious surface. This revised threshold is more stringent than the minimum requirements contained in the Permit because: (1) it was determined that Ecology's threshold would not reduce the stormwater pollution impacts of roadway projects in Seattle; and (2) having the same threshold as non-right-of-way projects provided equitability between typically privately funded non-roadway projects and publicly funded roadway projects.

Overall Impact:

The cost for capital projects that before would not have triggered treatment requirements will increase. Based on analysis performed using SDOT roadway projects funded under the Bridging the Gap initiative, it is estimated that the revised threshold will result in total project costs increasing by approximately 5% to 10% in order to provide for additional treatment of stormwater runoff.

4. Flow Control Threshold in Combined Sewer System Basins. Thresholds for installing flow control facilities for projects in basins that discharge into combined sewer systems will be raised.

Discussion:

For projects located in combined sewer system basins, the threshold for installing flow control facilities will be raised from 2,000 square feet to 10,000 square feet or more of new plus replaced impervious surface. This threshold is being raised based on an assessment that the costs to design, construct, and maintain the smaller facilities were less than commensurate with the likely benefits of flow reduction.

Overall Impact:

The cost for capital projects that would have had flow control requirements under the existing code will decrease, but the cost of implementing green stormwater infrastructure to the maximum extent feasible on all projects will increase. Based on analysis performed



using SDOT roadway projects it is estimated that the revised threshold will not change total project costs for flow control in combined sewer system basins

5. Flow Control Threshold in Creek Basins. Performance standards for flow control for projects discharging in creek basins will be based on a more protective requirement.

Discussion:

Current performance standards for designing flow control facilities for projects discharging into creek basins are based on reducing the peak flow rate. The revised requirements will be based on reducing both the peak flow rate *and* the duration at which high flows are being discharged from a site. Using a flow-duration standard is a Permit-mandated minimum requirement, but the specifics of Seattle's proposed Stormwater Code differs from Ecology's minimum requirements because it was determined that Ecology's standards would not provide the desired level of benefits to the City's creeks.

Overall Impact:

The cost for capital projects that trigger flow control in creek basins will increase, and this increase will depend on the creek basin in which the project is located. There are 16 creek basins¹, which make up by area approximately 15% of all creek basins city-wide, that must meet the pre-developed forest flow control standard. The remaining creek basins must meet a pre-developed pasture flow control standard. In comparison to the current, peak flow rate-limiting requirement, the size of flow control facilities is expected to increase by a factor of three to five times for projects required to meet a pre-developed pasture condition and up to ten times for projects required to meet a pre-developed forest condition.

Summary.

It is not possible to provide robust estimates of the cost impacts for all capital projects because of uncertainties in the rate of redevelopment, and variability in the type, location, and size of the projects citywide. Broadly speaking, the following general assessment can be made:

1. *For single-family residential, sidewalk-only and trail-only projects*, the costs may decrease, remain the same, or increase, depending on the feasibility of using green stormwater infrastructure and degree to which the builder originally intended to incorporate green stormwater infrastructure into the design and construction of the project independent of Stormwater Code requirements. For larger projects that otherwise would have been required to install an underground flow control facility, the costs will decrease. Because the term "maximum extent feasible" incorporates cost considerations in its execution, it is not intended for the cost impacts to these projects to be overly burdensome or restrictive.

¹ Blue Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek, Taylor Creek, or Washington Park Creek



Attachment 2 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to Public and Private Capital Projects

2. *For projects between 5,000 square feet and one acre of new plus replaced pollution-generating impervious surface, construction costs will increase in creek, wetlands, small lake, and designated receiving water basins because the lowered threshold will now require installation of a treatment facility. Cost estimates based on analysis of SDOT projects indicates that this increase will add approximately 5% to 10% to the cost of a project.*
3. *For projects between 2,000 square feet and 10,000 square feet of new plus replaced impervious surface, construction costs will remain the same in combined sewer system basins because the threshold requiring installation of a flow control facility will be raised, at the same time green stormwater infrastructure will be implemented to the maximum extent feasible.*

For projects triggering requirements to install flow control, construction costs will increase in creek basins because the new performance standard will be based on a flow-duration standard.



**Attachment 3 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to City Capital Projects**

Overview.

The potential impacts to City capital projects of the proposed revisions to the Stormwater Code are discussed in this attachment.

1. Exception to Minimum Requirements for SPU Utility Cuts.

For projects conducted by SPU, the revised Stormwater Code removes the exception for utility cuts from requirements to install flow control or treatment facilities. For SPU projects involving sewer, drainage, and water line installation, repair or replacement in the right-of-way, additional costs will be incurred if requirements for flow control or treatment are triggered.

2. Flow Control in Creek Basins – Roadway Projects.

The revised Stormwater Code will require flow control facilities for projects located in creek basins to be substantially larger than flow control facilities designed under the current code in order to meet a more stringent discharge requirement.

3. Water Quality Treatment Requirements – Roadway Projects.

The revised Stormwater Code will lower the current threshold for projects required to construct a water quality treatment facility from one acre (43,560 square feet) to 5,000 square feet of pollution-generating impervious surface. This will result in added costs to design and construct treatment facilities in the right-of-way.

4. Acquisition of Additional Right-of-way – Roadway Projects.

Because of the lowered threshold for treatment facilities, SDOT may have to purchase additional right-of-way for projects that now trigger water quality treatment requirements when the existing right-of-way does not have enough space to fit the facility.

5. Cost Impacts to SDOT Sidewalk Projects.

The revised Stormwater Code will require sidewalk projects to use green stormwater infrastructure (GSI) to the maximum extent feasible (MEF). The cost impacts of the proposed revisions for sidewalk- and trail-only projects are uncertain. In the past these projects either constructed small vaults or tanks in the ground, at a cost that was disproportionate to the cost of the overall project or, more often, these projects participated in an SPU-approved program in which larger flow control facilities were constructed to provide mitigation for several sidewalk projects. Although the proposed Stormwater Code provides a cost savings for trail/sidewalk projects by eliminating underground flow control facilities, the proposed code requirement to install green stormwater infrastructure to the maximum extent feasible is not yet defined. Protocols to determine the degree of green stormwater infrastructure to be implemented remain a work in progress.

Under the existing code, these projects rely primarily on an option that allowed flow control deficits to be tracked and later addressed by over-sizing flow control facilities on larger projects in the same drainage basin (see also discussion under “Minimum Requirements for Sidewalk- and Trail-only Projects” in Attachment 2). Under the



**Attachment 3 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to City Capital Projects**

revised code, sidewalk projects will be required to address flow control using GSI to MEF on a project-by-project basis. By definition, MEF will be considered adequate flow control, therefore sidewalk project flow deficits will no longer be tracked and SDOT expects to see an initial increase in project costs, but cannot predict with certainty the cost impacts over time.

6. Potential Cost Impacts to Parks Projects.

Certain capital projects constructed by the Seattle Department of Parks and Recreation (Parks) will be impacted by the Stormwater Code revisions. Project types are primarily ball fields, tennis courts, trails/paths/paved pedestrian areas, and parking lot renovations. Additional treatment and flow control structures will be required.

Discussion

1. Exception to Minimum Requirements for SPU Utility Cuts. For projects conducted by SPU, the exception utility cuts from requirements to install flow control or treatment facilities has been removed as a policy choice.

Discussion:

In the current Stormwater Code there was an exception to the requirement for installing flow control and water quality facilities associated with any utility cut project. The revised Stormwater Code removes this exception for all SPU projects when the utility cuts are made in the right-of-way and which exceed flow control and water quality thresholds. The following types of projects will now have to install flow control and water quality where applicable:

- Water main installation
- Public storm drain installation
- Public combined or separated sewer installation

These projects will trigger flow control at 10,000 square feet of new plus replaced impervious surface; water quality treatment will be triggered at 5,000 square feet of new plus replace pollution-generating impervious surface. If slip lining or another in situ method is used for repair, the threshold is not expected to be exceeded. Other large capital projects involving utility cuts, such as CSO improvements, pump stations, outfalls, and reservoir covering, projects may also have pipe replacement/installation associated with them that may exceed the thresholds for water quality and flow control.

In 2007, SPU worked with SDOT to estimate average costs for installing water quality and flow control facilities in the roadway. The analysis showed that the cost for these facilities almost always fell within the range of 5% to 15% of the total construction cost of the roadway project. For simplicity, these same percentages were applied to estimated construction costs for SPU utility projects. For the 2008-2009 budget cycle, there are no funds programmatically allocated to SPU for installation of new or maintenance of existing



**Attachment 3 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to City Capital Projects**

public water mains, storm drains, or sewers. The SPU 2009-2014 CIP worksheets for the Drainage and Wastewater and Drinking Water lines of business were used as source documents to estimate potential capital expenditures for utility cut projects. Projects identified as having utility installation in the roadway were selected for analysis and adopted budget numbers from 2008 to 2013 were used. The following assumptions were made for these projects: (1) the construction cost is only 40% of the total budget; (2) the percentage of the construction cost that was related to the pipe was 50%; and (3) the range of cost for flow control and water quality was 5% to 15%. The resultant range of added costs over the six-year period between 2009 and 2014 was \$940K to \$2.8M, or between 1% and 3%, out of a total endorsed budget of \$93M for these projects.

TOTAL ADDED COST = \$940K to \$2.8M over six year period.

2. Flow Control in Creek Basins – Roadway Projects. The revised Stormwater Code will require flow control facilities for projects located in creek basins to be substantially larger than flow control facilities designed under the current code.

Discussion.

The revised code requires flows discharged from projects located in creek basins to meet a specified flow-duration performance standard based on a modeled “pre-developed condition,” which will be either “forest” or “pasture.” SPU-provided estimates indicate that these flow control facilities designed based on a *pasture* pre-developed condition will be roughly 2 to 5 times the size of facilities designed under the current code requirements. Facilities designed based on a *forested* pre-developed condition will be approximately 10 times the current size.

The capital cost to construct a flow control facility discharging to a Class A or Class B Riparian Corridor under the current code ranges from \$16,000 for a 10,000 sq foot project to \$45,000 for a 140,000 sq foot project. The capital cost to construct a flow control facility to match the pasture pre-developed condition (modeled using 50% impervious/50% lawn pre-developed condition) under the new code ranges from \$40,000 for a 10,000 sq foot project to \$570,000 for a 140,000 sq foot project. The capital cost to construct a flow control facility to match a forested pre-developed condition under the new code ranges from \$195,000 for a 10,000 square foot project to \$1,520,000 for a 140,000 square foot project. Additional right-of-way may have to be purchased to provide a location for the increased size of the flow control facilities. Impacts will be \$0 when additional properties are not needed, but will range from \$10.00 to \$400.00 per square foot when additional property must be purchased.

Currently, SDOT does not have information on how many capital projects will be constructed in the next six years that will discharge in creek basins. Therefore, estimates of the full impact of the revised flow control requirement cannot be provided.



**Attachment 3 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to City Capital Projects**

3. Water Quality Treatment Requirements – Roadway Projects. The revised Stormwater Code will lower the current threshold for projects required to construct a water quality treatment facility.

Discussion.

The threshold for determining whether a project requires water quality has decreased from 1 acre of replaced pollution-generating impervious surface (PGIS) to 5,000 square feet. The design requirements for sizing water quality facilities for the new code has not changed from the current code. The cost to provide water quality is roughly \$50,000 for an 8,000 square foot project and \$525,000 for a 140,000 square foot project. Cost estimates developed jointly with SPU and SDOT indicate that the cost to design and construct a water quality treatment facilities will add between 5% and 10% to the total cost of a project.

4. Acquisition of Additional Right-of-way – Roadway Projects. Additional right-of-way may have to be purchased to provide a location for the increased size of the flow control facilities. Impacts will be \$0 when additional properties are not needed, but will range from \$10.00 to \$400.00 per square foot when additional property must be purchased.
5. SDOT Sidewalk Projects. The revised Stormwater Code will require sidewalk projects to use green stormwater infrastructure to the maximum extent feasible, but will not require installation of underground flow control facilities if the flow control performance standards cannot be met with green stormwater infrastructure.

Discussion:

The revised Stormwater Code will require sidewalk projects to use green stormwater infrastructure (GSI) to the maximum extent feasible (MEF). Under the existing code these projects rely primarily on a banking option that allows flow control deficits to be tracked and later addressed by over-sizing flow control facilities on larger projects in the same drainage basin. Under the revised code, sidewalk projects will be required to address flow control using GSI to MEF on a project-by-project basis. By definition MEF will be considered adequate flow control, therefore sidewalk project flow deficits will no longer be tracked through the banking system. Since banking will not be an option, and implementing GIS is a new practice, SDOT expects to see an initial increase in project costs, but cannot predict with certainty the cost impacts over time. The discussion below provides additional information regarding three different types of City sidewalk projects.

- a. Small Neighborhood Street Fund Projects

Neighborhood Street Funds are used for pedestrian safety improvements and involve the community in the project prioritization and development process. Typical projects are traffic circles, curb bulbs, pedestrian signaling, crosswalks, and sidewalk and curbs. These small projects have budgets of \$40,000 to \$70,000 and are built by City crews. The 2008 Neighborhood Street Fund project list was used to develop cost

**Attachment 3 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to City Capital Projects**

estimates into the future. This assumes that the project numbers, size and costs will remain the same each year. Using these assumptions, 40 small projects are built each year. Of those projects, 8-10 will place 2,000 square feet of new and replaced impervious surface and thereby trigger the requirement for flow control.

b. Large Neighborhood Street Fund projects

The Neighborhood Street Fund identifies and builds approximately 17 large projects every three years. Based on an analysis of the 2008 projects, 15 would trigger flow control requirements within the 2,000 and 10,000 square foot threshold. One project drains to a designated water body and therefore does not require flow control. One project is over the 10,000 square foot threshold and is in a creek basin triggering additional flow control as described above.

c. Sidewalk projects being built under the Bridging the Gap Initiative.

The Bridging the Gap sidewalk program is building 15 block-equivalents of sidewalk this year. All projects are assumed to trigger flow control at the 2,000 square feet of new and replaced impervious surface. Future years are funded at half this year's budget and unless additional funds are allocated, the sidewalk program will be reduced to seven block-equivalents in future years.

6. Potential Cost Impacts to Parks Projects. Some of the capital projects constructed by the Seattle Department of Parks and Recreation (Parks) will be impacted by the revisions to the Stormwater Code.

Discussion:

The Seattle Parks 6 year capital plan (2009 – 2014) and the Parks and Green Spaces Levy (2009 – 2014) includes several projects that will be affected by the code adoption. The project types are primarily athletic fields, tennis courts, trails/paths/paved pedestrian areas, parking lot renovations, new park development and skate parks. Additional treatment and flow control structures will need to be added as a result of the new code. Based on the assumption that there would be a 1-3% increase in total project cost for the new code compliance/drainage structures and on a total capital project budget of approximately \$82M, Parks would incur approximately \$820,000-\$2,459,000 in additional project capital costs. Projects would also require a new type of maintenance, and in many cases such as athletic fields, additional maintenance would be required as previously there was an exception for water quality treatment through development of a landscape manual and treatment was not required or constructed in those cases.

Capital savings in constructing a piped stormwater system could be achieved through low impact development solutions such as retaining rainwater from re-roofing projects on site. It is difficult to anticipate all project costs and savings, but if the water is not piped to the nearest water body, additional maintenance costs of the wet pond or rain garden would be incurred.

**Attachment 3 to Fiscal Note for SMC 22.800-22.808
Discussion of Potential Impacts to City Capital Projects**

One large path-sidewalk project is in the 6-year plan and there could be some cost reduction as the new code allows for filter strips and other green technology to the maximum extent feasible.



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 11, 2009

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill, which is one of three companion pieces that address the City's stormwater, grading, and drainage control codes. The legislation is required as part of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit, and will help protect the city and its environment from damage caused by pollution, erosion, flooding, landslides and other adverse impacts resulting from urban stormwater runoff.

Stormwater runoff poses a significant threat not only to Seattle's streams and other environmentally critical areas, but also to the entire Puget Sound ecosystem. Stormwater regulations are one important way the City is addressing this problem and protecting its water resources. The proposed legislation completely revises the Stormwater Code, creates a separate Grading Code, and corrects relevant cross-references throughout the Seattle Municipal Code. These changes are based on the efforts of a talented, cross-departmental team of engineers, planners, economists, and lawyers who have conducted extensive negotiations with the Washington State Department of Ecology. This effort has also included extensive public outreach with a variety of internal and external stakeholders. Key recommendations of this proposal include:

- Revising minimum requirements to increase protection of our receiving waters;
- Incorporating new requirements for the use of green stormwater infrastructure; and
- Modifying enforcement regulations to better match penalties to violations.

State officials have reviewed the proposed regulations and have determined they meet state requirements. Please join me in supporting this important legislation. Should you have questions, please contact Robert Chandler at (206) 386-4576.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels".

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

[Clerk's Note: This page was inserted by the City Clerk after filing for electronic display only.]

Version 5a of Ordinance No. 123105

This document is a 16.8 MB PDF document, requiring Adobe Acrobat or equivalent program to view.

[Version 5a of Ordinance No. 123105](#)

STATE OF WASHINGTON – KING COUNTY

--SS.

245707
CITY OF SEATTLE, CLERKS OFFICE

No.

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.

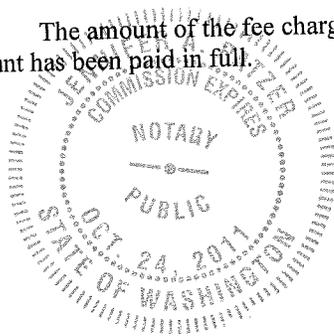
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123105 ORDINANCE

was published on

10/08/09

The amount of the fee charged for the foregoing publication is the sum of \$9,339.00, which amount has been paid in full.



Subscribed and sworn to before me on
10/08/09

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

City of Seattle

ORDINANCE 123105

AN ORDINANCE relating to the Stormwater, Grading, and Drainage Control Code; repealing, re-enacting, and amending Chapters 22.800, 22.801, 22.802 and 22.808 of the Seattle Municipal Code, and adding Chapters 22.803, 22.805 and 22.807.

WHEREAS, The City of Seattle (the "City") is subject to the terms of the National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Discharges from Large and Small Municipal Separate Storm Sewer Systems ("Permit"), issued January 17, 2007, by the State of Washington Department of Ecology ("Ecology") in compliance with the federal Clean Water Act and state law, as the permit may be amended by Ecology; and

WHEREAS the Permit requires that the City adopt ordinances and other enforceable documents that are determined by Ecology to be equivalent to the minimum technical requirements for new development and redevelopment contained in Appendix 1 of the Permit or equivalent to relevant portions of Ecology's 2005 Stormwater Management Manual for Western Washington ("Ecology's 2005 Manual") and that require the application of certain source control best management practices for pollutant-generating sources that are functionally equivalent to Ecology's 2005 Manual; and

WHEREAS the Permit requires that the City evaluate and, if necessary, update existing ordinances and other regulatory mechanisms to effectively prohibit non-stormwater, illegal discharges and dumping into the City's municipal separate stormwater sewer system and that the City require maintenance of permanent stormwater treatment and flow control facilities regulated by the City that are as protective or more protective of facility function than those specified in Ecology's 2005 Manual; and

WHEREAS Ecology has determined that the substance of this ordinance, together with the substance of an accompanying ordinance creating new Chapter 22.170 to be entitled "Grading Code" and of four new Directors' Rules to be issued jointly by the Director of Seattle Public Utilities (SPU) and the Director of the Planning and Development (DPD) entitled "Source Control Technical Requirements Manual," "Construction Stormwater Control Technical Requirements Manual," "Stormwater Flow Control and Water Quality Treatment Technical Requirements Manual," and "Stormwater Code Enforcement Manual," are equivalent to Appendix 1 of the Permit and the required portions of Ecology's 2005 Manual and meet relevant Permit requirements; and

WHEREAS this ordinance also contains changes, initiated by the City and beyond the requirements of the Permit, to improve water quality and to further the purposes of this ordinance; and

WHEREAS, Ecology is expected to modify the Permit in the future to incorporate low impact development requirements and a deadline for implementation, which could require the City again to revise its Stormwater Code; and

WHEREAS, in developing stormwater and grading regulations that protect the functions and values of critical areas, including those in the Shoreline District, the City has included the best available science; and

WHEREAS, protecting Seattle's water bodies is a central goal of the Mayor's Restore Our Waters strategy, the City of Seattle Comprehensive Plan, and Seattle Public Utilities Comprehensive Drainage Plan; and

WHEREAS, drainage rate customers from the city ranked "improvement in water quality in lakes and streams" as the most important drainage investment; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The text of Chapters 22.800, 22.801, 22.802, and 22.808 of the Seattle Municipal Code, last amended by Ordinance 122738 and previously amended by Ordinances 122055, 121276, 119965, 118396, 117852, 117789, 117697, and 117432, and adopted by Ordinance 116425, which currently reads as follows, is repealed:

((Chapter 22.800 - Title, Purpose, Scope and Authority

22.800.010 Title. This subtitle, comprised of SMC Chapters 22.800 through 22.808, shall be known as the "Stormwater, Grading and Drainage Control Code," and may be cited as such. 22.800.020 Purpose.

A. The provisions of this subtitle shall be liberally construed to accomplish its remedial purposes, which are:

does not necessarily mitigate all impacts to the environment. Thus, compliance with this subtitle and related regulations and manuals should not be construed as mitigating all stormwater impacts, and additional mitigation may be required to protect the environment. The primary obligation for compliance with this chapter, and for preventing environmental harm on or from property, is placed upon responsible parties as defined by this subtitle.

22.800.070 City projects.

A. Compliance.

1. City agencies shall comply with all the requirements of this subtitle, except they shall not be required to obtain permits and approvals under this subtitle for work performed within a public right-of-way and for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation. Where the work occurs in a public right-of-way, it shall comply with Seattle Municipal Code Title 15, Street and Sidewalk Use, including the applicable requirements to obtain permits or approvals. Where appropriate as set forth in Section 22.804.040 C of this Code, a soils report and analysis by an experienced geotechnical engineer shall be prepared for City projects.

2. A City agency project, as defined in Section 22.801.170, that is not required to obtain permit(s) and approval(s) per subsection A1 of this section, is not required to comply with Sections 22.802.015 C4, 22.802.016 B1, and 22.802.016 B2, if the project begins land disturbing activities on or before July 1, 2002, and if the project meets one or more of the following criteria:

a. Project funding was appropriated as identified in Ordinance 119756, titled, "An ordinance adopting a budget, including a capital improvement program and a position list for the City of Seattle for fiscal year 2006;" or

b. Project received or will receive voter approval of financing before January 1, 2001; or

c. Project received or will receive funds based on grant application(s) submitted before January 1, 2001; or

d. Project conducted or will conduct land disturbing activity before January 1, 2001.

B. Inspection.

1. When the City conducts projects for which review and approval is required under Section 22.802.020 or 22.804.030, the work shall be inspected by the City agency conducting the project or supervising the contract for the project. The inspector for the City agency shall be responsible for insuring that the grading and drainage control is done in a manner consistent with the requirements of this subtitle.

2. Where a soils analysis and report has been prepared as required under subsection A of this section, the grading shall also be inspected by the geotechnical engineer who prepared the report.

3. A City agency need not provide an inspector from its own agency provided either:

a. The work is inspected by an appropriate inspector from another City agency; or

b. The work is inspected by the licensed civil or geotechnical engineer who prepared the plans and specifications for the work; or

c. A permit or approval is obtained from the Director of DPD, and the work is inspected by the Director.

G. Certification of Compliance. City agencies shall meet the same standards as non-City projects, and shall certify that each individual project meets those standards.

22.800.080 Authority.

A.1. The Director of DPD has authority regarding the provisions of this subtitle relating to grading, review of drainage control plans, and review of erosion control plans, and has inspection and enforcement authority pertaining to temporary erosion/sediment control measures.

2. The Director of SPU has authority regarding all other provisions of this subtitle pertaining to stormwater, drainage, and erosion control, including inspection and enforcement authority.

B. The Directors of DPD and SPU are authorized to take actions necessary to implement the provisions and purposes of this subtitle in their respective spheres of authority, including, but not limited to, the following: promulgating and amending rules and regulations, pursuant to the Administrative Code, Chapter 3.02 of the Seattle Municipal Code; establishing and conducting inspection programs; establishing and conducting or, as set forth in Section 22.802.012, requiring responsible parties to conduct monitoring programs, which may include sampling of discharges to or from drainage control facilities; the public drainage control system; or surface

a watershed, including watershed action plans.

"Bench" means a relatively level step excavated into earth material on which fill is to be placed.

"Best management practice (BMP)" means a physical, chemical, structural or managerial practice or device that prevents, reduces, or treats contamination of water or which prevents or reduces soil erosion. When the Directors develop rules and/or manuals prescribing best management practices for particular purposes, whether or not those rules and/or manuals are adopted by ordinance, BMPs prescribed in the rules and/or manuals shall be the BMPs required for compliance with this subtitle.

1. "Nonstructural" or "operational" best management practices are those pollution control strategies that require modified or additional behavioral practices, such as sweeping a parking lot or maintaining special equipment on-site, such as spill-response equipment.

2. "Structural" best management practices are those pollution control strategies that require the construction of a structure or other physical modification on the site.

"Biofiltration swale" means a long, gently sloped, vegetated channel designed and maintained to treat stormwater runoff through sedimentation, adsorption, and biological uptake. Grass is the most common vegetation, but wetland vegetation can be used if the soil is saturated.

"Building permit" means a document issued by The City of Seattle Department of Design, Construction and Land Use giving permission for construction or other specified activity in accordance with the Seattle Building Code (Chapter 22.100 SMC).

22.801.040 "C."

"Cause or contribute to a violation" means and includes acts or omissions that create a violation; that increase the duration, extent or severity of a violation; and that aid or abet a violation.

"Civil engineer, licensed" means a person who is licensed by the State of Washington to practice civil engineering.

"Coalescing plate oil/water separator" means a multichambered vault, containing a set of parallel, corrugated plates that are stacked and bundled together in the center of the vault. Coalescing plate separators are designed to remove dispersed oil and floating debris as well as in containing spills.

Combined sewer. See "public combined sewer."

"Compaction" means the densification of a fill by mechanical means.

"Containment area" means the area designated for conducting high-risk pollution generating activities for the purposes of implementing operational source controls or designing and installing structural source controls or treatment facilities.

"Contaminate" means the addition of sediment, any other pollutant or waste, or any illicit discharge.

"Cut" means the changing of a grade by excavation.

22.801.050 "D."

"DCLU" means the Department of Design, Construction and Land Use.

"Damages" means monetary compensation for harm, loss, costs, or expenses incurred by the City, including but not limited to the following: costs of abating violations of this subtitle or public nuisances; fines or penalties the City incurs as a result of a violation of this subtitle; and costs to repair or clean the public drainage control system as a result of a violation. For the purposes of this subtitle, it does not include compensation to any person other than the City.

"Design storm" means a rainfall event used in the analysis and design of drainage facilities.

"Designated receiving waters" means the Duwamish River, Puget Sound, Lake Washington, Lake Union, and the Lake Washington Ship Canal, and other receiving waters designated by the Director of SPU as having the capacity to receive drainage discharges.

"Detention" means temporary storage of drainage water for the purpose of controlling the drainage discharge rate.

"Detention system" means a facility designed to control the discharge rate of stormwater runoff from a site by detaining flows in a tank or vault.

"Development" means land disturbing activity or the addition or replacement of impervious surface.

"Developmental coverage" means all areas within a site planned for land disturbing activity or new or replaced impervious

"Flow control" means controlling the discharge rate of stormwater runoff from the site through means such as infiltration or detention.

"Flow control facility" means a method, such as pursuant to this subtitle or associated rules, for controlling the discharge rate of stormwater runoff from a site.

22.801.060 "G."

"Garbage" means putrescible waste.

"Geotechnical engineer, experienced" or "Geotechnical/civil engineer, experienced" means a professional civil engineer licensed by The State of Washington who has at least four (4) years of professional experience as a geotechnical engineer, including experience with landslide evaluation.

"Grade" means the ground surface contour (see also "existing grade" and "finished grade").

"Grading" means excavation, fill, in-place ground modification, or any combination thereof, including the establishment of a grade following demolition of a structure.

"Grading approval" means an approved component of a building permit relating to grading, as required by this subtitle.

22.801.090 "H."

"High-risk pollution generating activities" are the following:

- 1. Fueling operations that involve transferring fuel into mobile vehicles or equipment at permanent stations, temporary stations, and mobile fueling stations. Permanent stations include facilities, such as, but not limited to, commercial gas stations, maintenance yards, and private fleet fueling stations; where fuel is transferred from a dedicated fueling station. Temporary fueling stations include, but are not limited to, construction sites and any other site where fuel is temporarily stored and dispensed into vehicles or equipment. Mobile fueling stations are fueling operations where fuel is delivered to vehicles and equipment via mobile tank trucks;
- 2. Vehicle, equipment or building washing or cleaning, including any of the following: mobile vehicle steam cleaning operations or vehicle washing at commercial car wash facilities, charity car washes, or permanent parking lots such as new, used, and rental car lots and fleet lots; outside washing of tools or other manufacturing equipment; outside cleaning of commercial cooking equipment such as filters and grills; or washing of buildings, including exteriors or mobile interior building cleaning services;
- 3. Truck or rail loading or unloading of liquid or solid materials that involves transferring noncontainerized bulk liquids from truck or rail, or loading/unloading materials at a commercial or industrial loading dock;
- 4. Liquid storage in stationary above-ground tanks, including storing liquid chemicals, fertilizers, pesticides, solvents, grease, or petroleum products in stationary above-ground tanks;
- 5. Outside portable container storage of liquids, food wastes, or dangerous wastes including storing any of the following: vegetable grease; animal grease; or other accumulated food wastes; used oil; liquid feedstock; cleaning compounds; chemicals; solid waste as defined by SMC Chapter 21.36; or dangerous waste;
- 6. Outside storage of noncontainerized materials, by-products, or finished products, including outside storage of any of the following: nonhazardous pesticides or fertilizers; corrugated metal; food products or food wastes; metals; building materials, including but not limited to lumber, roofing material, insulation, piping, and concrete products; or erodible materials, including but not limited to sand, gravel, road salt, topsoil, compost, excavated soil, and wood chips;
- 7. Outside manufacturing activity including any of the following: processing; fabrication; repair or maintenance of vehicles, products or equipment; mixing; milling; refining; or sand blasting; coating; painting; or finishing of vehicles, products, or equipment;
- 8. Landscape construction or maintenance, including any of the following: land disturbing activities as described in SMC Section 22.801.130; fertilizer or pesticide application near public drainage control system; and disposal of yard waste near a public drainage control system or riparian corridor.

"Public combined sewer" means a publicly owned and maintained sewerage system which carries drainage water and sewage and flows to a publicly owned treatment works.

"Public drainage control system" means a drainage control system owned or used by The City of Seattle serving City streets and adjacent property.

"Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

"Public storm drain" means the part of a public drainage control system which is wholly or partially piped, is owned or operated by a public entity, and is designed to carry only drainage water.

22.801.190 "R."

"Receiving waters" means the waters ultimately receiving drainage water, including the Duwamish River, Puget Sound, Lake Washington, Lake Union, and the Lake Washington Ship Canal, including associated bays, but not including tributary streams, creeks and lakes. See also "designated receiving waters" and "nondesignated receiving waters."

"Replaced impervious surface" or "replacement of impervious surface" means impervious surface that is removed down to earth material and a new impervious surface is installed.

"Responsible party" means all of the following persons:

- 1. Owners and occupants of property within The City of Seattle; and;
- 2. Any person causing or contributing to a violation of the provisions of this subtitle.

22.801.200 "S."

"SPU" means Seattle Public Utilities.

"Sand filter" means a depression or basin with the bottom made of a layer of sand designed and maintained to filter pollutants. Stormwater is treated as it percolates through the sand layer.

"Sanitary sewer" is as defined in the Side Sewer Ordinance, Seattle Municipal Code Section 21.16.030.

"Serve" or "Service," when used regarding a document, means the procedures set forth in Section 22.906.030.

"Service drain" means a privately owned and maintained drainage control facility or system which carries only drainage water. Service drains include, but are not limited to, conveyance pipes, catch basin connections, downspout connections, pipes, and subsurface drain connections.

"Shoreline district" means all land regulated by the Shorelines Management Act of 1971 (RCW Chapter 90.58) or City ordinances implementing it, as defined in the Land Use Code, Title 23 of the Seattle Municipal Code.

"Side sewer" is as defined in the Side Sewer Ordinance, Seattle Municipal Code Section 21.16.030.

"Site" means the lot or parcel, or portion of street, highway or other public right-of-way, or contiguous combination thereof, where a permit for the addition or replacement of impervious surface or the modification of land disturbing activity has been issued or where any such work is proposed or development limited to a

tors are designed to remove dispersed oil and floating debris and in containing spills.

Oil/water separator, coalescing plate. See "coalescing plate oil/water separator."

"Owner" means any person having title to and/or responsibility for, a building or property, including a lessee, guardian, receiver or trustee, and the owner's duly authorized agent.

22.801.170 "P."

"Person" means an individual, firm, partnership, corporation, municipal corporation, and government, and the individual's or entity's heirs, successors and assigns.

"Plan" means, for the purposes of this subtitle, and unless a different meaning is set forth or clearly required, a graphic or schematic representation, with accompanying notes, schedules, specifications and other related documents.

"Plot plan" means a scaled map of a site and adjacent public rights-of-way showing locations and dimensions of various existing and proposed features, such as buildings, curbs, driveways, sidewalks, trees, grades and drainage patterns.

"Preloading" means the temporary stockpiling of earth material over a site for the purpose of consolidating the existing soils.

"Project" means the addition or replacement of impervious surface or the undertaking of land disturbing activity on a site.

"Public combined sewer" means a publicly owned and maintained sewerage system which carries drainage water and sewage and flows to a publicly owned treatment works.

"Public drainage control system" means a drainage control system owned or used by The City of Seattle serving City streets and adjacent property.

"Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

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"Receiving waters" means the waters ultimately receiving drainage water, including the Duwamish River, Puget Sound, Lake Washington, Lake Union, and the Lake Washington Ship Canal, including associated bays, but not including tributary streams, creeks and lakes. See also "designated receiving waters" and "nondesignated receiving waters."

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"Side sewer" is as defined in the Side Sewer Ordinance, Seattle Municipal Code Section 21.16.030.

"Site" means the lot or parcel, or portion of street, highway or other public right-of-way, or contiguous combination thereof, where a permit for the addition or replacement of impervious surface or the modification of land disturbing activity has been issued or where any such work is proposed or development limited to a

B. Exemptions. The following land uses are exempt from the provisions of this subtitle:

1. Commercial agriculture, including only those activities conducted on lands defined in RCW 84.34.020(2), and production of crops or livestock for wholesale trade;

2. Forest practices regulated under Title 222 Washington Administrative Code, except for Class IV general forest practices, as defined in WAC 222-16-050, that are conversions from timber land to other uses; and

3. Development undertaken by the Washington State Department of Transportation in state highway right-of-way that complies with standards found in Chapter 173-270 Washington Administrative Code, the Puget Sound Highway Runoff Program;

22.802.012 Prohibited discharges.

A. Stormwater Discharges to Sanitary and Combined Sewers. In consultation with the local sewage treatment agency, the Director of SPU may approve discharges of stormwater to a public combined sewer or sanitary sewer if other methods of controlling pollutants in the discharge are not adequate or reasonable, the discharging party certifies that the discharge will not harm the environment and will not overburden or otherwise harm the public combined sewer or sanitary sewer systems. The Director of SPU shall condition approval of such a discharge on compliance with local pretreatment regulations.

B. Discharges Prohibited to Surface Waters and Public Drainage Control Systems. It is unlawful to make illicit discharges, as defined in subsection C below, either directly or indirectly to surface waters within or contiguous to Seattle city limits or to a public drainage control system:

C. Illicit Discharges Defined.

1. Except as provided in subsection D below, all discharges which are not composed entirely of stormwater are illicit discharges. See Section 22.906.020 for defenses available to responsible parties.

2. The following is a partial list, provided for informational purposes only, of common substances which are illicit discharges when allowed to enter a public drainage control system: Solid waste; human and animal waste; antifreeze; oil, gasoline, grease and all other automotive and petroleum products; flammable or explosive materials; metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and degreasers; painting products; drain cleaners; commercial and household cleaning materials; pesticides; herbicides; fertilizers; acids; alkalis; ink; steam cleaning water; laundry waste; soap; detergent; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; yard waste; dirt; sand; and gravel.

D. Permissible Discharges. Discharges from the sources listed below shall only be illicit discharges if the Director of SPU determines that the type of discharge, whether singly or in combination with others, is causing or contributing to a violation of the City's NPDES stormwater permit or is causing or contributing to a water quality problem, such as those which contain more contamination than typical discharges in the City, or which contain a type of contamination that is more toxic or is otherwise a more serious problem than typical discharges in the City. Potable water sources; washing of potable water storage reservoirs; flushing of potable water lines; natural uncontaminated surface water; natural uncontaminated groundwater; air-conditioning condensation; natural springs; uncontaminated water from crawl space pumps; runoff from residential irrigation; runoff from riparian riparian habitats and wetlands; heat discharges in compliance with the NPDES permit; and discharges from approved footing drains and other subsurface drains or, where approval is not required, installed in compliance with this subtitle and rules promulgated pursuant to this subtitle.

E. Exemption. Discharges resulting from public firefighting activities, but not from activities not related to firefighting such as the maintenance or cleaning of firefighting equipment, are exempt from regulation under this section.

F. Testing for Illicit Discharges. When the Director of SPU has reason to believe that any discharge is an illicit discharge, the Director of SPU may sample and analyze the discharge and recover the costs from a responsible party in an enforcement proceeding. When the discharge is likely to contain illicit discharges on a recurring basis, the Director of SPU may conduct, or may require the responsible party to conduct, ongoing monitoring at the responsible party's expense.

22.802.018 Requirements for all discharges and land uses.

A. For all discharges except those that

are not limited to, pipes, conduits and vaults, is not required to comply with the provisions of this section except subsection C3 of this section:

B. Approval of Exemptions Required. Exemptions to the requirements of this subtitle may not be used on any projects, including those that do not require drainage control review, unless allowed by this subtitle, by rule promulgated jointly by the Director of SPU and the Director of DCLU, or approved by the Director of DCLU. Approval shall be obtained prior to initiating land disturbing activities or adding or replacing impervious surface. Approvals are required for exemptions to any and all requirements of this subtitle, including but not limited to the requirement that natural drainage patterns be maintained and the requirement that watercourses not be obstructed.

C. Requirements of All Projects.

1. Discharge Point. The discharge point for drainage water from each site shall be selected as set forth in rules promulgated jointly by the Directors of SPU and DCLU specifying criteria, guidelines, and standards for determining drainage discharge points to meet the purposes of this subtitle. The criteria shall include, but not be limited to: preservation of natural drainage patterns and whether the capacity of the drainage control system is adequate for the additional volume. For those projects meeting the drainage review threshold, the proposed discharge point shall be identified in the drainage control plan required by Section 22.802.020, for review and approval or disapproval by the Director of DCLU.

2. Flow Control. The peak drainage water discharge rate from the portion of the site being developed shall not exceed 0.2 cubic feet per second per acre under twenty-five (25) year, twenty-four (24) hour design storm conditions or 0.15 cubic feet per second per acre under two (2) year, twenty-four (24) hour design storm conditions unless the site discharges water directly to a designated receiving water or to a public storm drain which the Director of SPU determines has sufficient capacity to carry existing and anticipated loads from the point of connection to a designated receiving water body. Projects with more than two thousand (2,000) square feet of new and replaced impervious surface shall be required to install and maintain a flow control facility, in accordance with rules promulgated by the Director, that is sized for the volume of runoff routed through the facility. Approved exceptions and flow control methods may be prescribed in rules promulgated by the Director.

3. Construction Stormwater Control. During land disturbing activities or addition or replacement of impervious surface, temporary and permanent construction controls shall be used to accomplish the following (a-g). Rules promulgated jointly by the Directors of SPU and DCLU specify the minimum required controls as well as additional controls that may be required by the Director of DCLU when minimum controls are not sufficient to prevent erosion or transport of sediment or other pollutants from the site.

a. Prevent on-site erosion by stabilizing all soils, including stock piles, that are temporarily exposed. Methods such as, but not limited to, the installation of seeding, mulching, matting, and covering may be specified by rules promulgated by the Director. From October 1st to April 30th, no soils shall remain unstabilized for more than two (2) days. From May 1st to September 30th, no soils shall remain unstabilized for more than seven (7) days.

b. Before the completion of the project, permanently stabilize all exposed soils that have been disturbed during construction. Methods such as permanent seeding, planting, and sodding may be specified by rules promulgated by the Director.

c. Prevent the transport of sediment from the site. Appropriate use of methods such as, but not limited to, vegetated buffer strips, storm drain inlet protection, silt fences, sediment traps, settling ponds, and protective berms may be specified in rules promulgated by the Director.

d. During construction, prevent the introduction of pollutants in addition to sediment into stormwater. Appropriate methods, as prescribed in rules promulgated by the Director, include operational source controls such as, but not limited to, spill control for fueling operations, equipment washing; cleaning of catch basins; treatment of compost of hazardous materials.

e. Limit construction vehicle access, whenever possible, to one route. Stabilize access points as specified in rules promulgated by the Director to minimize the tracking of sediment onto public roads.

f. Inspect and maintain required erosion and sediment controls as prescribed in rules promulgated by the Director to ensure continued performance of their intended function.

g. Prevent sediment from entering all storm drains, including ditches, which receive runoff from the disturbed area.

22.802.019 Source Control.

A. For all discharges except those that

ation shall or not of a main facility source files Dire Dept title by t Ent of a ant ma at in in hg w is p a o c

1. Protect, to the greatest extent practicable, life, property and the environment from loss, injury and damage by pollution, erosion, flooding, landslides, strong ground motion, soil liquefaction, accelerated soil creep, settlement and subsidence, and other potential hazards, whether from natural causes or from human activity;

2. Protect the public interest in drainage and related functions of drainage basins, watercourses and shoreline areas;

3. Protect surface waters and receiving waters from pollution, mechanical damage, excessive flows and other conditions in their drainage basins which will increase the rate of downcutting, streambank erosion, and/or the degree of turbidity, siltation and other forms of pollution, or which will reduce their low flows or low levels to levels which degrade the environment, reduce recharging of groundwater, or endanger aquatic and benthic life within these surface waters and receiving waters of the state;

4. Meet the requirements of state and federal law and the City's municipal stormwater NPDES permit; and

5. Fulfill the responsibilities of the City as trustee of the environment for future generations.

B. It is expressly the purpose of this subtitle to provide for and promote the health, safety and welfare of the general public. This subtitle is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by its terms.

C. It is expressly acknowledged that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, the water quality protection measures in this subtitle are necessary to protect the health, safety and welfare of the residents of Seattle and the integrity of natural resources for the benefit of all and for the purposes of this subtitle. Such water quality protection measures are required under the federal Clean Water Act, 33 U.S.C. Section 1251, et seq. and in response to the obligations of the City's municipal stormwater discharge permit, issued by the State of Washington under the federal National Pollutant Discharge Elimination System program.

22.800.030 Scope. This subtitle applies to:

A. All grading and drainage and erosion control, whether or not a permit is required; and

B. All new or replaced impervious surface and all land disturbing activities, whether or not a permit is required; and

C. All discharges directly or indirectly to a public drainage control system; and

D. All discharges directly or indirectly into surface waters within or contiguous to Seattle city limits; and

E. All new and existing land uses.

22.800.050 Potentially hazardous locations. A. Any site on a list, register, or data base compiled by the United States Environmental Protection Agency ("EPA") or the Washington State Department of Ecology ("DOE") for investigation, cleanup, or other action regarding contamination under any federal or state environmental law shall be a potentially hazardous location under this subtitle. When EPA or DOE removes the site from the list, register or data base, or when the owner otherwise establishes contamination does not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.

B. The following property may also be designated by the Director of DCLU as potentially hazardous locations:

1. Existing and abandoned solid waste disposal sites;

2. Hazardous waste treatment, storage, or disposal facilities, all as defined by the federal Solid Waste Disposal Act, 42 U.S.C. § 6901, et seq.

22.800.060 Compliance with other laws. A. The requirements of this subtitle are minimum requirements. They do not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this subtitle imposes requirements which are more protective of human health or the environment than those set forth elsewhere, the provisions of this subtitle shall prevail.

B. Approvals and permits granted under this subtitle are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state and local laws and regulations, including rules promulgated under authority of this subtitle.

C. Compliance with the provisions of this subtitle and of regulations and manuals adopted by the City in relation to this subtitle

1. Protect, to the greatest extent practicable, life, property and the environment from loss, injury and damage by pollution, erosion, flooding, landslides, strong ground motion, soil liquefaction, accelerated soil creep, settlement and subsidence, and other potential hazards, whether from natural causes or from human activity;

2. Protect the public interest in drainage and related functions of drainage basins, watercourses and shoreline areas;

3. Protect surface waters and receiving waters from pollution, mechanical damage, excessive flows and other conditions in their drainage basins which will increase the rate of downcutting, streambank erosion, and/or the degree of turbidity, siltation and other forms of pollution, or which will reduce their low flows or low levels to levels which degrade the environment, reduce recharging of groundwater, or endanger aquatic and benthic life within these surface waters and receiving waters of the state;

4. Meet the requirements of state and federal law and the City's municipal stormwater NPDES permit; and

5. Fulfill the responsibilities of the City as trustee of the environment for future generations.

B. It is expressly the purpose of this subtitle to provide for and promote the health, safety and welfare of the general public. This subtitle is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by its terms.

C. It is expressly acknowledged that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, the water quality protection measures in this subtitle are necessary to protect the health, safety and welfare of the residents of Seattle and the integrity of natural resources for the benefit of all and for the purposes of this subtitle. Such water quality protection measures are required under the federal Clean Water Act, 33 U.S.C. Section 1251, et seq. and in response to the obligations of the City's municipal stormwater discharge permit, issued by the State of Washington under the federal National Pollutant Discharge Elimination System program.

22.800.030 Scope. This subtitle applies to:

A. All grading and drainage and erosion control, whether or not a permit is required; and

B. All new or replaced impervious surface and all land disturbing activities, whether or not a permit is required; and

C. All discharges directly or indirectly to a public drainage control system; and

D. All discharges directly or indirectly into surface waters within or contiguous to Seattle city limits; and

E. All new and existing land uses.

22.800.050 Potentially hazardous locations. A. Any site on a list, register, or data base compiled by the United States Environmental Protection Agency ("EPA") or the Washington State Department of Ecology ("DOE") for investigation, cleanup, or other action regarding contamination under any federal or state environmental law shall be a potentially hazardous location under this subtitle. When EPA or DOE removes the site from the list, register or data base, or when the owner otherwise establishes contamination does not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.

B. The following property may also be designated by the Director of DCLU as potentially hazardous locations:

1. Existing and abandoned solid waste disposal sites;

2. Hazardous waste treatment, storage, or disposal facilities, all as defined by the federal Solid Waste Disposal Act, 42 U.S.C. § 6901, et seq.

22.800.060 Compliance with other laws. A. The requirements of this subtitle are minimum requirements. They do not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this subtitle imposes requirements which are more protective of human health or the environment than those set forth elsewhere, the provisions of this subtitle shall prevail.

B. Approvals and permits granted under this subtitle are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state and local laws and regulations, including rules promulgated under authority of this subtitle.

C. Compliance with the provisions of this subtitle and of regulations and manuals adopted by the City in relation to this subtitle

22.800.090 City not Habie.

A. Nothing contained in this subtitle is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this subtitle, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this subtitle, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this subtitle by its officers, employees or agents.

B. The Director or any employee charged with the enforcement of this subtitle, acting in good faith and without malice on behalf of the City, shall not be personally liable for any damage that may accrue to persons or property as a result of any act required by the City, or by reason of any act or omission in the discharge of these duties. Any suit brought against the Director of DPD, Director of Engineering or other employee because of an act or omission performed in the enforcement of any provisions of this subtitle, shall be defended by the City.

C. Nothing in this subtitle shall impose any liability on the City or any of its officers or employees for cleanup or any harm relating to sites containing hazardous materials, wastes or contaminated soil.

Chapter 22.801 DEFINITIONS

22.801.010 General.

For the purpose of this subtitle, the words listed in this chapter have the following meanings, unless the context clearly indicates otherwise. Terms relating to pollutants and to hazardous wastes, materials, and substances, where not defined in this subtitle, shall be as defined in Washington Administrative Code Chapters 173-303, 173-304 and 173-340, the Seattle Building Code or the Seattle Fire Code, including future amendments to those codes. Words used in the singular include the plural, and words used in the plural include the singular.

All references in the Seattle Municipal Code Chapters 22.800 through 22.808 to "SPU" shall be deemed references to "Seattle Public Utilities." All references in the Seattle Municipal Code Chapters 22.800 through 22.808 to "Department of Construction and Land Use," "Department of Design, Construction and Land Use," "Director of Design, Construction and Land Use," or "DCLU," shall be deemed references to "Department of Planning and Development," "Director of Planning and Development" or "DPD." The City's code reviser is authorized to amend the Seattle Municipal Code Chapters 22.802 through 22.808 over time as he or she deems appropriate in order to carry out these changes.

22.801.020 "A."

"Abandoned solid waste disposal site" means a site that is no longer in use and where solid waste was disposed with or without a permit.

"Agency" means any governmental entity or its subdivision.

"Agency with jurisdiction" means those agencies with statutory authority to approve, condition or deny permits, such as the United States Environmental Protection Agency, the Washington State Department of Ecology or the Seattle-King County Department of Public Health.

"American Petroleum Institute (API) oil/water separator. See "oil/water separator, American Petroleum Institute (API)."

"Approved" means approved by either the Director of Planning and Development or the Director of Seattle Public Utilities.

"As-graded" means the surface condition existing after completion of grading.

22.801.030 "B."

"Backfilling" means returning a site to its original or approved contours after earth materials were removed for construction purposes.

"Basin plan" means a plan to manage the quality and quantity of stormwater in

22.801.100 "C."

"Illicit discharge" means the discharges defined by Section 22.802.012.

"Impervious surface" means any surface exposed to rainwater from which most water runs off including, but not limited to: paving, packed earth material, oiled macadam, or other treated surfaces, and roof surfaces; patios, and formal planters.

"Impervious surface, replaced. See "replaced or replacement of impervious surface."

"Infiltration facility" means a drainage facility that temporarily stores, and then percolates stormwater runoff into the underlying soil. Examples include but are not limited to: infiltration trenches, ponds, vaults, and tanks.

"In-place ground modification" means activity occurring at or below the surface which is designed to alter the engineering parameters and physical characteristics of soil or rock, including but not limited to: insitu consolidation, solidification, void-space reduction and infilling.

"Inspector" means the City inspector, inspection agency, or licensed civil engineer performing the inspection work required by this subtitle.

22.801.130 "L."

"Land disturbing activity" means any activity that results in a movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) or the existing topography. Land disturbing activities include, but are not limited to: clearing, grading, filling, excavation, or addition or replacement of impervious surface.

"Large project" means a project including five thousand (5,000) square feet or more of new or replaced impervious surface or one (1) acre or more of land disturbing activity.

22.801.140 "M."

"Master use permit" means a document issued by DCLU giving permission for development or use of land or street right-of-way in accordance with the Land Use Code (Title 23, Seattle Municipal Code).

"Media filter" means a stormwater treatment system that utilizes a filtration medium such as sand or leaf compost to remove pollutants via physical filtration and chemical adsorption or precipitation. Filters may be constructed underground in a vault or above ground in a pond. In both systems, stormwater that has passed through the filter media is collected in an underground pipe and discharged to the nearby drainage system.

22.801.160 "O."

"Oil/water separator" means a structure, usually underground, that is designed to provide quiescent flow conditions so that globules of free oil or other floatable materials that may be present in stormwater can float to the water surface and become trapped in the structure.

"Oil/water separator, American Petroleum Institute (API) means a vault that has multiple chambers separated by baffles and weirs to trap oil in the vault. API oil/water separator

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"Finished grade" means the grade upon completion of the fill or excavation.

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tion and in rules promulgated jointly by the Directors of DGLU and SPU, unless the following conditions exist:

- i. The site produces no stormwater runoff discharge as determined by a licensed civil engineer; or
ii. The entire project drains to a combined sewer.
b. Stormwater treatment facilities shall be designed to treat the runoff volume from the six (6)-month, twenty-four (24) hour storm; collected from the drainage area being routed through the facility.
c. One of the following stormwater treatment facilities shall be installed and maintained in accordance with rules promulgated jointly by the Directors: infiltration, wetpond, stormwater wetland, biofiltration swale, filter strip, wet vault, media filter, or an alternative technology if the conditions in subsection B2e of this section are met.

- d. For high-use sites, one of the following stormwater treatment facilities shall be installed and maintained in accordance with rules promulgated by the Director, in addition to other required treatment facilities:
i. Coalescing plate/oil-water separator;
ii. Media filter;
iii. API oil/water separator; or
iv. An alternative technology if the conditions in subsection B2e of this section are met.

- 6. Alternative technology to meet runoff treatment requirements may be permitted if the following criteria are met, as further specified in rules promulgated jointly by the Directors of SPU and DGLU:
i. Treatment effectiveness monitoring is conducted, which requirement may be waived if sufficient research has been conducted to demonstrate to the Director of SPU's satisfaction that an alternative technology offers equivalent protection;
ii. Monitoring and maintenance records are reported to the Director of SPU at the end of each of the first three (3) years following installation; and
iii. The applicant demonstrates to the Director of SPU's satisfaction that the alternative will provide protection equivalent to the methods prescribed in the applicable subsection B2c or d of this section.

f. The Director of SPU may ask the Washington State Department of Ecology to approve a commitment by the City to develop a water quality improvement plan to identify pollutants of concern and associated sources; prioritize drainage basins, and evaluate alternative improvement strategies. After such approval and consistent with its terms, the Directors may grant exemptions to or make inapplicable the treatment requirements of Section 22.808.016 B2, pursuant to rules promulgated by the Directors.

3. Protection of Streams. Where stormwater is discharged directly to a stream or to a conveyance system that discharges to a stream, streambank erosion and effects on water quality in streams shall be minimized through the selection, design, installation, and maintenance of temporary and permanent controls.

4. Protection of Wetlands. Where stormwater discharges directly to a wetland, as defined by SMC Chapter 25.09, or to a conveyance system that discharges to a wetland, the introduction of sediment, heat, and other pollutants and contaminants into wetlands shall be minimized through the selection, design, installation, and maintenance of temporary and permanent controls. Discharges to wetlands of exceptional value, as defined by SMC Chapter 25.09, shall maintain existing flows to the extent necessary to protect the functions and values of the wetland. Detention and treatment systems shall not be located within any wetland or its buffer. Prior to discharging to a wetland, alternative discharge locations shall be evaluated and infiltration options outside the wetland shall be maximized.

5. Off-site Analysis. When the portion of a site being developed is within one-quarter (1/4) mile of a stream and discharges directly to that stream, or to a drainage system that drains to that stream, impacts to off-site water quality resulting from the project are to be analyzed and mitigated. The analysis shall comply with this section and rules the Directors may jointly promulgate pursuant to this section. The analysis shall provide for mitigation of all surface water quality or sediment quality impacts. The analysis shall evaluate impacts likely to occur one-quarter (1/4) mile downstream from the project. The impacts to be evaluated and mitigated shall include at least the following:

- a. Amount of sedimentation;
b. Streambank erosion;
c. Discharges to groundwater contributing to recharge zones;
d. Violations of state or federal surface water, groundwater, or sediment quality

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

e. City public works project or construction contracts, including contracts for day labor and other public works purchasing agreements, for the cumulative addition of seven hundred fifty (750) square feet or more of new and replaced impervious surface and land disturbing activity to the site after the effective date of the ordinance codified in this subtitle, except for projects in a City-owned right-of-way and except for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation;
f. Permit approvals and contracts that include any new or replaced impervious surface on a site deemed a potentially hazardous location, as specified in Section 22.808.056;
g. Permit approvals that include any new impervious surface in a Category I peat settlement-prone area delineated pursuant to Section 25.09.020; or
h. Whenever an exception to a requirement set forth in this subtitle or in a rule promulgated under this subtitle is desired, whether or not review and approval would otherwise be required, including but not limited to, alteration of natural drainage patterns or the obstruction of watercourses.

2. Large project drainage control review and approval shall be required for projects that include:
a. Five thousand (5,000) square feet or more of new or replaced impervious surface; or
b. One (1) acre or more of land disturbing activity.

3. The City may, by interagency agreement signed by the Directors of SPU and DPD, waive the drainage and erosion control permit and document requirements for property owned by public entities, when discharges for the property do not enter the public drainage control system or the public combined sewer system. Whether or not they are required to obtain permits or submit documents, public entities are subject to the substantive requirements of this subtitle, unless exceptions are granted as set forth in Section 22.808.010.

B. Submittal Requirements for Drainage Control Review and Approval:
1. Information Required for Standard Drainage Control Review. The following information shall be submitted to the Director for all projects for which drainage control review is required:

a. Standard Drainage Control Plan. A drainage control plan shall be submitted to the Director for all projects for which drainage control review is required. The plan shall be submitted to the Director for approval. The Director may approve a checklist in place of a plan, pursuant to rules promulgated by the Director.

b. Construction Stormwater Control Plan (Standard Erosion and Sediment Control Plan). A construction stormwater control plan demonstrating controls sufficient to determine compliance with Section 22.808.016 C3 shall be submitted. The Director may approve a checklist in place of a plan, pursuant to rules promulgated by the Director.

c. Memorandum of Drainage Control. The owner(s) of the site shall sign a "memorandum of drainage control" that has been prepared by the Director of SPU. Completion of the memorandum shall be a condition precedent to issuance of any permit or approval for which a drainage control plan is required. The applicant shall file the memorandum of drainage control with the King County Department of Records and Elections so as to become part of the King County real property records. The applicant shall give the Director of SPU proof of filing of the memorandum. The memorandum shall not be required when the drainage control facility will be owned and operated by the City. A memorandum of drainage control shall include:

- i. The legal description of the site;
ii. A summary of the terms of the drainage control plan, including any known limitations of the drainage control facilities, and an agreement by the owners to implement those terms;
iii. An agreement that the owner(s) shall inform future purchasers and other successors and assignees of the existence of the drainage control facilities and other elements of the drainage control plan, the limitations of the drainage control facilities, and of the requirements for continued inspection and maintenance of the drainage control facilities;
1. New Installations and Connections. When any new drainage control facility is installed on private property, and when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall execute a permission form provided by the Director of SPU. The prop-

erty owner shall be cataloged for each property covered by the plan.

22.808.060 Installation of drainage control facilities:

A. All privately owned and operated drainage control facilities or systems, whether or not they discharge to a public drainage control system, shall be considered side sewers and shall be subject to Title 21 of the Seattle Municipal Code, the SPU Director's Rules promulgated under that title, and the design and installation specifications and permit requirements of the SPU and DGLU for side sewer and drainage control systems.

B. Side sewer permits and inspections shall be required for construction, capping, alterations, or repairs of privately owned and operated drainage control systems as provided in Chapter 21.16 of the Seattle Municipal Code. When the work is ready for inspection, the permittee shall notify the Director of SPU. If the work is not in accordance with plans approved under this subtitle and in accordance with Chapter 21.16, SPU and DGLU Director's Rules, and SPU and DGLU design and installation specifications, the SPU, after consulting with the DGLU, may order the work stopped by written notice to the persons engaged in performing the work or causing the work to be done; and may require modifications as provided in this subtitle and Chapter 21.16.

22.808.070 Modifications of drainage control facilities during construction:

A. During construction the Director of SPU may require, or the applicant may request, that the construction of drainage control facilities and associated project designs be modified if physical conditions are discovered on the site which are inconsistent with the assumptions upon which the approval was based, including but not limited to unexpected soil and/or water conditions, weather generated problems, or changes in the design of the improved areas. Modifications shall be submitted to the Director of DGLU for approval prior to implementation.

B. Any such modifications made during the construction of drainage control facilities shall be recorded on the final approved drainage control plan, a revised copy of which shall be filed by the Director of SPU.

22.808.090 Maintenance and inspection:

A. Responsibility for Maintenance and Inspection. Drainage control facilities, source controls, and stormwater treatment facilities required by this subtitle and by rules adopted hereunder, shall be maintained as specified in rules promulgated by the Director, by the owner and other responsible party. The owner and other responsible party shall inspect permanent drainage control facilities at least annually, and shall inspect temporary drainage control facilities and other temporary best management practices or facilities on a schedule consistent with Section 22.808.016 B6 of this subtitle and sufficient for the facilities to function at design capacity. The Director of SPU may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to insure functioning at design capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan, the limitations of the drainage control facilities, and the requirements for continued inspection and maintenance of the drainage control facilities.

B. Inspection by City. The Director of SPU may establish inspection programs to insure compliance with the requirements of this subtitle and accomplishment of its purposes. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the City's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other best management practices.

C. Entry for Inspection and Abatement Purposes.

1. New Installations and Connections. When any new drainage control facility is installed on private property, and when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall execute a permission form provided by the Director of SPU. The prop-

erty owner shall affirm the Director's determinations unless a determination is clearly erroneous. The person requesting an exception shall have the burden of proving, by a preponderance of the evidence, all issues related to justifying the exception.

22.808.020 Liability and defenses of responsible parties:

A. Who Must Comply. It is the specific intent of this subtitle to place the obligation of complying with its requirements upon the responsible parties, as defined in Section 22.801.190. The City of Seattle and its agencies are intended to have the same obligation for compliance when the City is a responsible party. No provision of this subtitle is intended to impose any other duty upon the City or any of its officers or employees.

B. Joint and Several Liability. Each responsible party is jointly and severally liable for a violation of this subtitle. The Director of SPU or the Director of DGLU or both of them may take enforcement action, in whole or in part, against any responsible party. All applicable civil penalties may be imposed against each responsible party. In the event enforcement action is taken against more than one (1) responsible party, recoverable damages, costs, and expenses may be allocated among the responsible parties by the court or the Hearing Examiner based upon the extent to which each responsible party's acts or omissions caused the violation; unless this factor cannot be determined, or the party receiving the allocation under this factor is unable to correct the violation, or is unable to pay the damages, costs, expenses, and any penalty imposed, in which case the trier of fact shall consider:

- 1. Awareness of the violation;
2. Ability to correct the violation;
3. Ability to pay the damages, costs, and expenses;
4. Cooperation with government agencies;
5. Degree to which any impact or threatened impact on water or sediment quality, human health, or the environment is related to acts or omissions by each responsible party;
6. Degree to which the responsible parties made good-faith efforts to avoid a violation or to mitigate its consequences; and
7. Other equitable factors.

C. Defenses. A responsible party shall not be liable under this subtitle when the responsible party carries the burden of proving, by a preponderance of the evidence, one (1) of the following defenses:

- 1. The violation was caused solely by an act of God;
2. The violation was caused solely by another responsible party over whom the defending responsible party had no authority or control and the defending responsible party could not have reasonably prevented the violation;
3. The violation was caused solely by a prior owner or occupant when the defending responsible party took possession of the property without knowledge of the violation, after using reasonable efforts to identify violations. However, the defending responsible party shall be liable for all continuing, recurrent, or new violations after becoming the owner or occupant;

4. The responsible party implemented and maintained all appropriate drainage control facilities, treatment facilities, flow control facilities, erosion and sediment controls, source controls and best management practices identified in rules promulgated by the Director of DGLU and the Director of SPU, or in manuals published by the State Department of Ecology until superseded by rules of the Directors, or as otherwise identified and required of the responsible party by the Director in writing pursuant to this subtitle.

22.808.025 Right of entry.

With the consent of the owner or occupant of a building or premises, or pursuant to a lawfully issued warrant, the Director of DGLU may enter a building or premises at any reasonable time to perform the duties imposed by this code.

22.808.030 Enforcement actions:

A. Investigation. The Director of SPU or the Director of DGLU or both of them may investigate any site where there is reason to believe that there may be a failure to comply with the requirements of this subtitle.

B. Notice of Violation.

- 1. Issuance. Whenever the Director determines that a violation of this subtitle has occurred or is occurring, the Director is authorized to issue a notice of violation to the property owner or other responsible party. The notice of violation shall be considered an order of the Director.
2. Contents.

erved upon the new owner, the Director of SPU or Director of DGLU may grant the new owner the same number of days to comply as was given the previous owner. The compliance period for the new owner shall begin on the date that the conveyance of title to the new owner is completed.

22.808.040 Enforcement of notice of violation:

A. Hearing Examiner and Municipal Court. The Director of SPU or the Director of DGLU or both of them may choose to enforce a Notice of Violation through either of the following means:

- 1. An enforcement hearing through the Hearing Examiner's Office, as set forth in this section; or
2. Referral to the City Attorney's Office for action in the appropriate court according to that court's normal rules and procedures.

B. Enforcement Through Hearing Examiner's Office. Enforcement actions through the Office of the Hearing Examiner shall proceed according to this subsection:

- 1. Hearing Schedule. The Hearing Examiner's Office shall schedule a hearing after notification by the Director that enforcement will be pursued through the Hearing Examiner's Office.
2. Conduct of the Hearing. The Hearing Examiner shall conduct a hearing on the violation pursuant to the rules of procedure of the Hearing Examiner, as modified by this section. The Director, the person to whom the notice of violation was issued, and any other responsible party regarding the matters addressed in the notice of violation may participate as parties in the hearing, with or without representation by an attorney. Each party may call and compel the attendance of witnesses.
3. Standard of Review and Burden of Proof. The determinations of the Director of Seattle Public Utilities and the determinations of the Director of Construction and Land Use shall be accorded substantial weight by the Hearing Examiner. The defending responsible party shall have the burden of proving, by a preponderance of the evidence, all defenses, mitigating factors and objections to the required corrective action or schedule.

4. Hearing Examiner's Order. The Hearing Examiner shall affirm, vacate or modify the Director's determinations. The Hearing Examiner shall issue an order within fifteen (15) days following the close of the record unless all parties agree to an extension of time. The order shall contain the following information:

- a. The decision regarding the alleged violation;
b. Findings of fact and conclusions based thereon in support of the decision;
c. The required corrective action (if any);
d. The date and time by which the corrective action must be completed;
e. The monetary penalties and other costs, expenses, or damages being assessed against the responsible party;
f. Notice that the responsible party has twenty-one (21) days from the date of issuance of the decision to petition for judicial review, as provided by Section 705 of Chapter 347 of the Laws of 1995; and
g. Authorization for the City to abate or correct the violation following expiration of the appeal period and the time set for compliance with the order if the responsible party has not completed the required corrective action, and to charge the responsible party for its costs, as set forth in Section 22.808.080. The order shall not require the City to abate or correct the violation.

5. Failure to Appear. If the responsible party to whom the notice of violation was issued fails to appear at a scheduled hearing before the Hearing Examiner, and no other responsible party appears to defend, then, upon an offer of proof by the City, which may be made by declaration, the Hearing Examiner shall issue an order finding that the violation occurred. The order shall contain the information set forth in subsection B4 above. In the absence of an offer of proof by the City, the Hearing Examiner shall issue an order finding the responsible party to be in default, and setting forth the penalties and other relief described in subsection B4.

22.808.050 Voluntary compliance agreement:

A. Initiation. Either a responsible party or the Director of Seattle Public Utilities or the Director of Construction and Land Use may initiate negotiations for a voluntary compliance agreement at any time. Neither Director has any obligation to enter into any voluntary compliance agreement.

B. Contents. A voluntary compliance agreement shall set forth actions to be taken by the responsible party that will correct past or existing violations of this subtitle. It may also set forth actions to mitigate the investment of the City to abate or correct the violation. The agreement shall include:

- d. A violation resulting from gross negligence or reckless conduct.
3. Reduction of Penalties. Penalties may be reduced based upon one (1) or more of the following mitigating factors:
a. The person showed due diligence and/or substantial progress in correcting the violation;
b. Another responsible party was the primary cause of the violation;
c. The person was unaware of the violation and had not acted negligently or recklessly;
4. Penalty for Significant Violation. Responsible parties for violations causing significant harm to public health, safety or welfare, the environment, or public or private property shall be assessed the penalties set forth in the schedule above, or an amount equivalent to the economic benefit the responsible party derived from the violation, whichever is greater. "Significant harm" is harm which cannot be fully corrected or mitigated by the responsible party, and which cannot be adequately compensated for by assessment of penalties, costs, expenses or damages under this subtitle. Economic benefit may be determined by an increase in market value of property, value received by the responsible party, savings in costs realized by the responsible party, increased income to the responsible party, or any other method reasonable under the circumstances.

G. Damages. Whoever violates any of the provisions of this subtitle shall, in addition to any penalties provided for such violation, be liable for any cost, expense, loss or damage occasioned thereby to the City, plus a charge of fifteen percent (15%) for administrative costs. This subtitle does not establish a cause of action that may be asserted by any party other than the City. Penalties, damages, costs and expenses may be recovered only by the City.

D. Effect of Payment of Penalties. The person to whom an order is directed is not relieved of the duty to take corrective action to correct the violation by payment of a monetary penalty pursuant to this subtitle.

22.808.070 Collection of costs and penalties:

A. Invoice and Demand for Payment. When either Director has abated a public nuisance or corrected a violation of this subtitle and a hearing has not been conducted, the Director shall issue an invoice and demand for payment of the City's abatement costs. The invoice shall include:

- 1. The amount of the City's abatement or correction costs;
2. Either a legal description of the property corresponding as nearly as possible to that used for the property on the rolls of the King County Assessor or, where available, the property's street address;
3. A notice that the Director's determinations regarding the abatement and correction, including the amount owed, may be appealed to the Hearing Examiner by following the procedure set forth in SMC Section 23.76.022;

4. Notice that if the amount due is not paid within thirty (30) days, the outstanding balance may be collected in any of the manners set forth in subsection B of this section; and
5. Notice that interest shall accrue on the unpaid balance.

B. Collection Following a Hearing. The Director of Construction and Land Use and the Director of Seattle Public Utilities are not required to issue an invoice for payment when a hearing has been conducted as set forth in Section 22.808.040, and an order has issued imposing any penalties, costs, damages, expenses or abatement costs. If the order is not appealed within fifteen (15) days of mailing or other delivery of the order to the responsible party, the Director of Construction and Land Use or the Director of Seattle Public Utilities may immediately seek to collect the amounts owed by:

- 1. Referral to the City Attorney's Office for action in the appropriate court; or
2. Referral, after consultation with the City Attorney's Office to a collection agency; or
3. Addition of a surcharge in the amount owed under the order to the bill for drainage and wastewater services to the site. If unpaid, the surcharge may become a lien on the property, may be foreclosed, and may accrue interest as provided by state law or SMC Section 21.33.110.

22.808.080 Public nuisance:

A. Abatement Required. A public nuisance affecting stormwater, drainage, erosion control, grading and other public nuisances set forth in this section are violations of this subtitle. A responsible party shall immediately abate a public nuisance upon becoming aware of its existence.

B. Dysfunctional Facility or Practice. Any private drainage control facility or best

management practice that causes or contributes to more than three hundred sixty (360) days, or both such fine and imprisonment.

3. Repeat Violations. Anyone violating this subtitle who has had a judgment or Hearing Examiner's order against them pursuant to this subtitle in the preceding five (5) years, shall be subject to criminal penalties for the present violation, and, upon conviction thereof, be fined in a suit not to exceed Five Thousand Dollars (\$5,000), or imprisonment for not more than three hundred sixty (360) days, or both such fine and imprisonment.

22.808.100 Additional relief:

In lieu of or in addition to any enforcement procedure provided in this subtitle, the Directors of Engineering and DGLU may seek any other available legal or equitable relief, including to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this subtitle or a public nuisance.

22.808.110 Suspension or revocation:

Approvals or permits granted in error, or on the basis of incomplete, inaccurate or misleading information, or in violation of any law, ordinance or regulation may be suspended or revoked. Other permits or approvals interrelated with an approval suspended or revoked under this section, including certificates of occupancy or approvals for occupancy, may also be suspended or revoked. When an approval or permit is suspended or revoked, the Director of SPU or the Director of DGLU may require the applicant to take corrective action to bring the project into compliance with this subtitle by a deadline set by the Director of SPU or the Director of DGLU, or may take other enforcement action.

22.808.120 Fees:

Fees for grading permits, drainage control plan review and approvals shall be as set forth in the Fee Subtitle, Subtitle IX of Title 22, Seattle Municipal Code. Fees for record-keeping or other activities pursuant to this subtitle shall, unless otherwise provided for in this subtitle, be prescribed by ordinance.

22.808.130 Financial assurance and covenants:

As a condition precedent to issuance of any permit or approval provided for in this subtitle, the Director of DGLU may require an applicant for a permit or approval to submit financial assurances as provided in this section.

A. Insurance:

- 1. The Director of DGLU may require the owner(s) or contractor to carry liability and property damage insurance against damage, naming the City as an additional insured. The amount shall be commensurate with the risks as determined by the Director.
2. The Director of DGLU may also require the owner(s) to maintain a policy of general public liability insurance against personal injury, death, property damage and/or loss from activities conducted pursuant to the permit or approval, or conditions caused by such activities, and naming the City as an additional insured. The policy shall be in an amount which the Director determines to be commensurate with the risks. It shall cover a period of not more than ten (10) years from the date of issuance of a certificate of occupancy or finalization of the permit or approval. A certificate evidencing such insurance shall be filed with the Director of DGLU before issuance of a certificate of occupancy or finalization of a permit for any single family dwelling or duplex.
3. The insurance policy shall provide that the City will be notified of cancellation of the policy at least thirty (30) days prior to cancellation. The notice shall be sent to the Director of DGLU who required the insurance and shall state the insured's name and the property address. If a property owner's insurance is canceled and not replaced, the permit or approval and any interrelated permit or approval may be revoked, including a certificate of occupancy or approval for occupancy.

B. Bonds, Cash Deposits or Instruments of Credit:

- 1. A Surety Bond. The Director of DGLU may require that the owner or contractor deliver to the Director for filing in the Office of the City Clerk a surety bond, cash deposit or an instrument of credit in such form and amounts deemed by the Director to be necessary to ensure that requirements of the permit or approval are met. A surety bond may be furnished only by a surety company licensed to do business in The State of Washington. The bond shall be conditioned that the work will be completed in accordance with the conditions of the permit or approval, or, if the work is not completed, that the site will be left in a safe condition. The bond shall also be conditioned that the site and nearby, adjacent or surrounding areas will be restored if damaged or made unsafe by activities conducted pursuant to the permit or approval.
b. The bond will be exonerated one (1) year after a determination by the Director of DGLU that the requirements of the permit

ing to recharge zones;

d. Violations of state or federal surface water, groundwater, or sediment quality standards; and

e. Spills and other accidental illicit discharges.

6. Inspection and Maintenance Schedule. Temporary and permanent drainage control and stormwater treatment facilities and other controls shall be inspected and maintained according to a schedule submitted to the Director. The schedule shall meet the requirements of this subtitle and rules promulgated under this subtitle.

7. Construction Stormwater Control. In addition to the requirements described in Section 22.802.015, construction stormwater controls shall be used to accomplish the following: (a) Rules promulgated by the Director of SPU and DGLU specify the minimum required controls as well as additional controls that may be required by the Director when minimum controls are not sufficient to prevent the erosion or transport of sediment or other pollutants from the site. These controls (subsection B7(a)-(j) of this section) and those required by Section 22.802.015 C8 shall be shown on a construction stormwater control plan complying with the requirements and purposes of this subtitle and rules promulgated hereunder and submitted to the Director. The construction stormwater control plan shall address at least the following (subsection B7(a)-(j) of this section) and Section 22.802.015 G:

a. Before leaving the site, stormwater runoff shall pass through a sediment trap, sediment pond, or similar device;

b. In the field, clearing limits and any easements, setbacks, critical areas and their buffers, trees, and drainage courses shall be marked;

c. Sediment ponds and traps, perimeter dikes, sediment barriers, and other erosion and sedimentation controls intended to trap sediment on-site shall be constructed as a first step in grading. These controls shall be functional before the land disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be stabilized in accordance with Section 22.802.015 C9;

d. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. In addition, slopes will be stabilized in accordance with Section 22.802.015 C8;

e. Properties and waterways downstream from the project site shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater from the project site;

f. All temporary on-site conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the expected velocity of a two (2)-year, twenty-four (24)-hour design storm for the developed condition. Stabilization adequate to prevent erosion of outlets, adjacent streambanks, slopes, and downstream reaches shall be provided at the outlets of all conveyance systems;

g. Whenever construction vehicle access routes intersect paved roads, the transport of sediment onto the paved road shall be minimized. If sediment is transported onto a paved road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from paved roads by showing or sweeping and shall be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner;

h. All temporary erosion and sediment controls shall be removed within thirty (30) days after final site stabilization is achieved or after the temporary controls are no longer needed, whichever is later. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal shall be permanently stabilized;

i. When dewatering devices discharge on site or to a public drainage control system, dewatering devices shall discharge into a sediment trap or sediment pond or gently sloping vegetated area; and

j. In the construction of underground utility lines, where feasible, no more than five hundred (500) feet of trench shall be opened at one time, unless soil is replaced within the same working day, and where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches. Trench dewatering devices shall discharge into a sediment trap or sediment pond.

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;

or the drainage control facilities; and requirements for continued inspection and maintenance of the drainage control facilities;

iv. The side sewer permit number and the date and name of the permit or approval for which the drainage control plan is required;

v. Permission for the City to enter the property for inspection, monitoring, correction, and abatement purposes;

vi. An acknowledgment by the owner(s) that the City is not responsible for the adequacy or performance of the drainage control plan, and a waiver of any and all claims against the City for any harm, loss, or damage related to the plan, or to drainage or erosion on the property, except for claims arising from the City's sole negligence; and

vii. The owner(s)' signatures acknowledged by a notary public.

2. Information Required for Large Project Drainage Control Review. In addition to the submission requirements for standard drainage control review, the following information is required for projects that include one (1) acre or more of land disturbing activities or five thousand (5,000) square feet or more of new and replaced impervious surface:

a. Comprehensive Drainage Control Plan. A comprehensive drainage control plan, in lieu of a standard drainage control plan, to comply with the requirements of this subtitle and rules promulgated hereunder and to accomplish the purposes of this subtitle shall be submitted with the permit application. It shall be prepared by a licensed civil engineer in accordance with standards adopted by the Director of DGLU.

b. Inspection and Maintenance Schedule. A schedule shall be submitted that provides for inspection of temporary and permanent drainage control facilities, treatment facilities, and source controls to comply with Sections 22.802.015 and 22.802.016.

c. Off-site Analysis. When the portion of a site being developed is within one-quarter (1/4) mile of a stream and discharges directly to that stream, or to a drainage control system that discharges to that stream, an analysis of impacts to off-site water quality resulting from the project prepared in accordance with Section 22.802.016 shall be submitted.

d. Construction Stormwater Control Plan. A construction stormwater control plan prepared in accordance with Section 22.802.015 and 22.802.016 shall be submitted.

3. Applications for drainage control review and approval shall be prepared and submitted in accordance with provisions of this section, with Chapter 21.16, Side Sewers, and with associated rules and regulations adopted jointly by the Directors of DGLU and SPU.

4. The Director of DGLU may require additional information necessary to adequately evaluate applications for compliance with the requirements and purposes of this subtitle and other laws and regulations, including but not limited to SMC Chapter 25.09, Regulations for Environmentally Critical Areas. The Director of DGLU may also require appropriate information about adjoining properties that may be related to, or affected by, the drainage control proposal in order to evaluate effects on the adjacent property. This additional information may be required as a precondition for permit application review and approval.

5. Where an applicant simultaneously applies for more than one (1) of the permits listed in subsection A of this section for the same property, the application shall comply with the requirements for the permit that is the most detailed and complete.

C. Authority to Review. The Director of DGLU may approve those plans that comply with the provisions of this subtitle and rules promulgated hereunder, and may place conditions upon the approval in order to assure compliance with the provisions of this subtitle. Submission of the required drainage control application information shall be a condition precedent to the processing of any of the above-listed permits. Approval of drainage control shall be a condition precedent to issuance of any of the above-listed permits. The Director of DGLU may review and inspect activities subject to this subtitle and may require compliance regardless of whether review or approval is specifically required by this section. The Director of DGLU may disapprove plans that do not comply with the provisions of this subtitle and rules promulgated hereunder. Disapproved plans shall be returned to the applicant, who may correct and resubmit the plans.

22.802.040 Drainage control plan registry.

The Director of SPU shall maintain an official registry and permanent file of all approved drainage control plans. Each plan shall be cataloged in the registry according to the property address, legal description of the property, and the site sewer permit number of the permit or approval for which the plan is required. Where a drainage control plan covers more than one (1) property, the approved

order of the Director:

2. Contents.

a. The notice of violation shall include the following information:

i. A description of the violation and the action necessary to correct it;

ii. The date of the notice; and

iii. A deadline by which the action necessary to correct the violation must be completed.

b. A notice of violation may be amended at any time to correct clerical errors and to add citations of authority.

3. Service. The Director of SPU or the Director of DGLU shall serve the notice upon the responsible party either by personal service or by certified mail, return receipt requested, sent to the party's last known address and, where possible, by posting a copy on the site. Service by certified mail shall be effective on the date of mailing. If the whereabouts of the responsible party is unknown and cannot be ascertained in the exercise of reasonable diligence, and either Director makes an affidavit to that effect, then service may be accomplished by publishing the notice once each week for two (2) consecutive weeks in the City official newspaper.

2. Existing Land Uses and Discharges. Owners of property with existing discharges or land uses subject to this subtitle who are not installing a new drainage control facility or making a new connection between private property and a public drainage control system, sanitary sewer or combined sewer, shall have the option to execute a permission form for the purposes described above when provided with the form by the Director of SPU.

D. Disposal of Waste from Maintenance Activities. Disposal of waste from maintenance of drainage and stormwater control facilities shall be conducted in accordance with federal, state and local regulations, including the Minimum Functional Standards for Solid Waste Handling, Chapter 173-904 WAC, guidelines for disposal of waste materials, and, where appropriate, Dangerous Waste Regulations, Chapter 173-809 WAC, including any subsequent amendments to these provisions.

E. Records of Installation and Maintenance Activities. When a new drainage control facility is installed, the party having the facility installed shall obtain a copy of the as-built plans from the Director of SPU. Responsible parties shall make records of the installation and of all maintenance and repair, and shall retain the records for at least ten (10) years. These records shall be made available to the Director of SPU during inspection of the facility and at other reasonable times upon request of the Director of SPU.

Chapter 22.808 ADMINISTRATION AND ENFORCEMENT

22.808.010 Exceptions to requirements.

A. General. Requests for exceptions to the requirements of this subtitle shall be made according to this section. Exceptions shall include alternative requirements, waivers, reductions, or modifications of the requirements to the extent necessary to meet the criteria set forth in this section. An applicant is not entitled to an exception, whether or not the criteria allowing approval of an exception are met. The Director may require an applicant to submit an engineer's report or analysis with a request for an exception. When an exception is granted, the Director may impose new or additional requirements to offset or mitigate harm that may be caused by granting the exception, or that would have been prevented if the exception had not been granted.

B. Equally Protective Exceptions. The Director may approve a request for an exception if the Director determines that it is likely to be equally protective of public health, safety and welfare, the environment, and public and private property as the requirement from which an exception is sought.

C. Other Exceptions. The Director may approve a requested exception even if it is not equally protective of public health, safety and welfare, the environment, and public and private property, or if the Director cannot determine whether it is equally protective, if the Director determines that substantial reasons exist for approving the requested exception. Substantial reasons may include, but are not limited to:

1. The requirement is not technically feasible;
2. An emergency situation necessitates approval of the exception;
3. No reasonable use of the property is possible unless the exception is approved;
4. The requirement would cause harm or a significant threat of harm to public health, safety and welfare, the environment, or public and private property, or would cause extreme financial hardship, which outweighs its benefits, and the requested exception would not cause significant harm;

D. Public Notice. Public notice of an application for an exception under the criteria set forth in subsections C3 and C4 above, and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions, as set forth in SMC Chapter 23.76.

E. Appeal. In addition to rights under Chapter 3.02 of the Seattle Municipal Code, any person aggrieved by a Director's decision on an application for an exception under subsections C3 and C4 above may appeal to the Hearing Examiner's Office by filing an appeal, with the applicable filing fee, as set forth in SMC Section 23.76.022.

by the responsible party that will correct past or existing violations of this subtitle. It may also set forth actions to mitigate the impacts of violations. The voluntary compliance agreement shall set forth a schedule for completion of the corrective and mitigating actions. It shall contain a provision allowing the Director of Seattle Public Utilities and the Director of Construction and Land Use to inspect the premises to determine compliance with the agreement.

C. Effect of Agreement.

1. A voluntary compliance agreement is a binding contract between the party executing it and the City. It is not enforceable by any other party. All voluntary compliance agreements shall provide that the responsible party agrees the City may perform the actions set forth in the agreement if the responsible party fails to do so according to the terms and schedule of the agreement, and the responsible party will pay the costs, expenses and damages the City incurs in performing the actions, as set forth in Section 22.808.060 regarding abatements. By entering into a voluntary compliance agreement, a responsible party waives the right to an administrative appeal of the violation.

2. Penalties may be reduced or waived if violations are corrected or mitigated according to the terms and schedule of a voluntary compliance agreement. If the responsible party fails to perform according to the terms and schedule of the voluntary compliance agreement, penalties for each violation addressed in the agreement may be assessed starting from the date the violation occurred.

D. Modification. The terms and schedule of the voluntary compliance agreement may be modified by mutual agreement of the responsible party and either Director if circumstances or conditions outside the responsible party's control, or unknown at the time the agreement was made, or other just cause necessitate such modifications.

22.808.060 Penalties and damages.

A. Commencement of Penalties. The Hearing Examiner and any Judge hearing matters under this subtitle shall have the following options in assessing monetary penalties:

1. Assess monetary penalties beginning on the date the notice of violation was issued and thereafter; or
2. Assess monetary penalties beginning on the correction deadline set by the Director or an alternate deadline for corrective action set by the Judge or Hearing Examiner, and thereafter; or
3. Assess no monetary penalties; or
4. When it appears likely the responsible party will perform the required corrective action, suspend assessment of the penalty conditioned upon completion of the corrective action by the ordered deadline.

B. Schedule of Penalties.

1. Basic Penalty. Each day or portion thereof during which a violation of this subtitle exists is a separate violation of this subtitle. The cumulative monetary penalty for each violation of this subtitle shall be as follows:
 - a. The penalty for the first day a violation exists is One Hundred Dollars (\$100.00);
 - b. The penalty for the second day a violation exists is Two Hundred Dollars (\$200.00);
 - c. The penalty for the third day a violation exists is Three Hundred Dollars (\$300.00);
 - d. The penalty for the fourth day a violation exists is Four Hundred Dollars (\$400.00);
 - e. The penalty for each day a violation exists beyond four days is Five Hundred Dollars (\$500.00).

Schedule of Penalties per Violation

Day	Day Fine	that Day Cumulative
Total		
1	\$100.00	\$100.00
2	200.00	300.00
3	300.00	600.00
4	400.00	1,000.00
5	500.00	1,500.00
6 and up	500.00	-

2. Triple Penalties. Penalties may be trebled for:

- a. A repeat violation, which means an additional violation of a requirement of this subtitle for which the responsible party has previously received a notice of violation and failed to correct the violation by the compliance date;
- b. A violation resulting in physical harm to persons or to private or public property;
- c. A knowing or deliberate violation;

D. Appeal of Director's Decisions. Any Notice of Violation or final order other than a stop-work order or emergency order issued by the Director of SPU or the Director of DGLU pursuant to this subtitle may be appealed to the Hearing Examiner by an aggrieved person. Appeals shall be initiated by filing a written notice with the applicable fee, as set forth in SMC Section 23.76.022. When, as set forth in Section 22.808.070, an invoice is issued without a prior hearing, the appeal period shall commence upon issuance of the invoice.

E. Filing Notice or Order. A notice of violation, voluntary compliance agreement or an order issued by a Director of SPU, Director of DGLU, Hearing Examiner or municipal Judge, may be filed with the King County Department of Records and Elections.

F. Change of Ownership. When a notice of violation, voluntary compliance agreement or an order issued by a Director of SPU, Director of DGLU, Hearing Examiner or municipal Judge has been filed with the King County Department of Records and Elections, a notice of violation or an order regarding the same violations need not be served upon a new owner of the property where the violation occurred. If no notice of violation or order is

aware of its existence.

B. Dysfunctional Facility or Practice. Any private drainage control facility or best management practice relating to grading, stormwater, drainage control or erosion not installed or maintained as required by this subtitle, or otherwise found to be in a state of dysfunction creating, presently or in the event of a design storm, a threat to the public health, safety or welfare, the environment, or public or private property is hereby declared to be a public nuisance.

C. Obstruction of Watercourse. Obstruction of a watercourse without authorization by the Director, and obstruction in such a manner as to increase the risk of flooding or erosion should a design storm occur, is hereby declared to be a public nuisance.

D. Dangerous Conditions. Any condition relating to grading, stormwater, drainage or erosion which creates a present or imminent danger, or which is likely to create a danger, in the event of a design storm, to the public health, safety or welfare, the environment, or public or private property is hereby declared to be a public nuisance.

E. Abatement by the City. The Director of Seattle Public Utilities and the Director of Construction and Land Use are authorized, but not required, to investigate a condition that either Director suspects of being a public nuisance under this subtitle, and to abate any public nuisance. If a public nuisance is an immediate threat to the public health, safety or welfare or to the environment, the Director of Seattle Public Utilities or the Director of Construction and Land Use may summarily and without prior notice abate the condition. The Director of Seattle Public Utilities or the Director of Construction and Land Use shall give notice of the abatement to the responsible party as soon as reasonably possible after the abatement.

F. Collection of Abatement Costs. The costs of abatement may be collected from the responsible party, including a reasonable charge for attorney time and a fifteen percent (15%) charge for administrative expenses as set forth in Section 22.808.060 C. Abatement costs and other damages, expenses and penalties collected by the City shall go into an abatement account for the department collecting the moneys. The money in the abatement account shall be used for abatements and corrections of violations conducted by the City. When the account is insufficient the Director of Seattle Public Utilities and the Director of Construction and Land Use may use other available funds.

22.808.090 Violations.

A. Civil Violations.

1. General. It is a violation of this subtitle to not comply with any requirement of, or to act in a manner prohibited by, this subtitle, or a permit, approval, rule, manual or order issued pursuant to this subtitle.

2. Aiding and Abetting. It is a violation of this subtitle to aid, abet, counsel, encourage, commend, incite, induce, hire or otherwise procure another person to violate this subtitle.

3. Alteration of Existing Drainage. It is a violation of this subtitle to alter existing drainage patterns which serve a tributary area of more than five (5) acres without authorization or approval by the Director.

4. Obstruction of Watercourse. It is a violation of this subtitle to obstruct a watercourse without authorization or approval by the Director.

5. Dangerous Condition. It is a violation of this subtitle to allow to exist, or cause or contribute to, a condition of a drainage control facility, or condition related to grading, stormwater, drainage or erosion that is likely to endanger the public health, safety or welfare, the environment, or public or private property.

6. Interference. It is a violation of this subtitle for any person to interfere with or impede the correction of any violation, or compliance with any notice of violation, emergency order, stop-work order, or the abatement of any nuisance.

B. Criminal Violations.

1. Failing to Comply with Orders. Failing to comply with an order properly issued pursuant to this subtitle by the Director of Engineering, the Director of Construction and Land Use, the Hearing Examiner, or a Judge is a criminal violation, punishable upon conviction by a fine of not more than Five Thousand Dollars (\$5,000.00) per day of each violation or imprisonment for each violation for not more than three hundred sixty (360) days, or both such fine and imprisonment.
2. Tampering and Vandalism. Tampering with or vandalizing a drainage control facility or other best management practice, a public or private drainage control system, monitoring or sampling equipment or records, or notices posted pursuant to this subtitle is a criminal violation, punishable upon conviction by a fine of not more than Five Thousand Dollars (\$5,000) or imprisonment for not

b. The bond will be exonerated one (1) year after a determination by the Director of DGLU that the requirements of the permit or approval have been met. For work under a building permit, issuance of a certificate of occupancy or approval for occupancy following a final inspection shall be considered to be such a determination. For grading, completion of the final grading inspection and submission of required final reports in accordance with Section 22.804.200 shall be such a determination.

2. Assurance in Lieu of Surety Bond. In lieu of a surety bond, the owner may elect to file a cash deposit or instrument of credit with the Director in an amount equal to that which would be required in the surety bond and in the form approved by the Director of DGLU. The cash deposit or instrument of credit shall comply with the same conditions as required for surety bonds.

C. Covenants.

1. The Director of DGLU may require a covenant between the owner(s) of the property and the City. The covenant shall be signed by the owner(s) of the site and notarized prior to issuance of any permit or approval in a potential landslide area, potentially hazardous location, flood-prone zone, or other area of potentially hazardous soils or drainage or erosion conditions. The covenant shall not be required where the permit or approval is for work done by the City. The covenant shall include:

- a. A legal description of the property; and
- b. A description of the property condition making this subsection applicable; and
- c. A statement that the owner(s) of the property understands and accepts the responsibility for the risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees of the risks; and
- d. The application date, type, and number of the permit or approval for which the covenant is required; and
- e. A statement waiving the right of the owner(s), the owner's heirs, successors and assigns to assert any claim against the City by reason of or arising out of issuance of the permit or approval by the City for the development on the property, except only for such losses that may directly result from the negligence of the City.

2. The covenant shall be filed by the Director of DGLU with the King County Department of Records and Elections, at the expense of the owner, so as to become part of the King County real property records.

D. Bonds for Grading Near Public Places.

Security for grading activity covered under Section 15.44.020 shall be in accordance with Section 15.44.030.

22.808.140 Severability.

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

Section 2: Chapters 22.800, 22.801, and 22.802 of the Seattle Municipal Code, last amended by Ordinance 122738 and previously amended by Ordinances 122055, 121276, 119965, 118396, 117852, 117789, 117697, and 117432, and adopted by Ordinance 116425, are amended by re-enacting, relocating and amending the text of those Chapters (repealed in Section 1), collectively to be known as the Stormwater Code, to be codified as Subtitle VII of Chapter 22, as follows:

Chapter 22.800 TITLE, PURPOSE, SCOPE AND AUTHORITY

22.800.010 Title

This subtitle, comprised of Chapters 22.800 through 22.808, shall be known as the "Stormwater Code" and may be cited as such.

22.800.020 Purpose

A. The provisions of this subtitle shall be liberally construed to accomplish its remedial purposes, which are:

1. Protect, to the greatest extent practicable, life, property and the environment from loss, injury and damage by pollution, erosion, flooding, landslides, strong ground motion, soil liquefaction, accelerated soil creep, settlement and subsidence, and other potential hazards, whether from natural causes or from human activity;
2. Protect the public interest in drainage and related functions of drainage basins, watercourses and shoreline areas;
3. Protect receiving waters from pollution, mechanical damage, excessive flows and other conditions in their drainage basins which will increase the rate of downcutting, streambank erosion, and/or the degree of

aware of its existence.

B. Dysfunctional Facility or Practice. Any private drainage control facility or best management practice relating to grading, stormwater, drainage control or erosion not installed or maintained as required by this subtitle, or otherwise found to be in a state of dysfunction creating, presently or in the event of a design storm, a threat to the public health, safety or welfare, the environment, or public or private property is hereby declared to be a public nuisance.

C. Obstruction of Watercourse. Obstruction of a watercourse without authorization by the Director, and obstruction in such a manner as to increase the risk of flooding or erosion should a design storm occur, is hereby declared to be a public nuisance.

D. Dangerous Conditions. Any condition relating to grading, stormwater, drainage or erosion which creates a present or imminent danger, or which is likely to create a danger, in the event of a design storm, to the public health, safety or welfare, the environment, or public or private property is hereby declared to be a public nuisance.

E. Abatement by the City. The Director of Seattle Public Utilities and the Director of Construction and Land Use are authorized, but not required, to investigate a condition that either Director suspects of being a public nuisance under this subtitle, and to abate any public nuisance. If a public nuisance is an immediate threat to the public health, safety or welfare or to the environment, the Director of Seattle Public Utilities or the Director of Construction and Land Use may summarily and without prior notice abate the condition. The Director of Seattle Public Utilities or the Director of Construction and Land Use shall give notice of the abatement to the responsible party as soon as reasonably possible after the abatement.

F. Collection of Abatement Costs. The costs of abatement may be collected from the responsible party, including a reasonable charge for attorney time and a fifteen percent (15%) charge for administrative expenses as set forth in Section 22.808.060 C. Abatement costs and other damages, expenses and penalties collected by the City shall go into an abatement account for the department collecting the moneys. The money in the abatement account shall be used for abatements and corrections of violations conducted by the City. When the account is insufficient the Director of Seattle Public Utilities and the Director of Construction and Land Use may use other available funds.

22.808.090 Violations.

A. Civil Violations.

1. General. It is a violation of this subtitle to not comply with any requirement of, or to act in a manner prohibited by, this subtitle, or a permit, approval, rule, manual or order issued pursuant to this subtitle.
2. Aiding and Abetting. It is a violation of this subtitle to aid, abet, counsel, encourage, commend, incite, induce, hire or otherwise procure another person to violate this subtitle.
3. Alteration of Existing Drainage. It is a violation of this subtitle to alter existing drainage patterns which serve a tributary area of more than five (5) acres without authorization or approval by the Director.

4. Obstruction of Watercourse. It is a violation of this subtitle to obstruct a watercourse without authorization or approval by the Director.

5. Dangerous Condition. It is a violation of this subtitle to allow to exist, or cause or contribute to, a condition of a drainage control facility, or condition related to grading, stormwater, drainage or erosion that is likely to endanger the public health, safety or welfare, the environment, or public or private property.

6. Interference. It is a violation of this subtitle for any person to interfere with or impede the correction of any violation, or compliance with any notice of violation, emergency order, stop-work order, or the abatement of any nuisance.

B. Criminal Violations.

1. Failing to Comply with Orders. Failing to comply with an order properly issued pursuant to this subtitle by the Director of Engineering, the Director of Construction and Land Use, the Hearing Examiner, or a Judge is a criminal violation, punishable upon conviction by a fine of not more than Five Thousand Dollars (\$5,000.00) per day of each violation or imprisonment for each violation for not more than three hundred sixty (360) days, or both such fine and imprisonment.
2. Tampering and Vandalism. Tampering with or vandalizing a drainage control facility or other best management practice, a public or private drainage control system, monitoring or sampling equipment or records, or notices posted pursuant to this subtitle is a criminal violation, punishable upon conviction by a fine of not more than Five Thousand Dollars (\$5,000) or imprisonment for not

turbidity, siltation and other forms of pollution, or which will reduce their low flows or low levels to levels which degrade the environment, reduce recharging of groundwater, or endanger aquatic and benthic life within these receiving waters and receiving waters of the state;

4. Meet the requirements of state and federal law and the City's municipal stormwater National Pollutant Discharge Elimination System ("NPDES") permit;

5. To protect the functions and values of environmentally critical areas as required under the state's Growth Management Act and Shoreline Management Act;

6. To protect the public drainage system from loss, injury and damage by pollution, erosion, flooding, landslides, strong ground motion, soil liquefaction, accelerated soil creep, settlement and subsidence, and other potential hazards, whether from natural causes or from human activity; and

7. Fulfill the responsibilities of the City as trustee of the environment for future generations.

B. It is expressly the purpose of this subtitle to provide for and promote the health, safety and welfare of the general public. This subtitle is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms.

C. It is expressly acknowledged that water quality degradation can result either directly from one discharge or through the collective impact of many small discharges. Therefore, the water quality protection measures in this subtitle are necessary to protect the health, safety and welfare of the residents of Seattle and the integrity of natural resources for the benefit of all and for the purposes of this subtitle. Such water quality protection measures are required under the federal Clean Water Act, 33 U.S.C. Section 1251, et seq., and in response to the obligations of the City's municipal stormwater discharge permit, issued by the State of Washington under the federal National Pollutant Discharge Elimination System program.

22.800.030 Scope and Applicability

This subtitle applies to:

A. All grading and drainage and erosion control, whether or not a permit is required;

B. All land disturbing activities, whether or not a permit is required;

C. All discharges directly or indirectly to a public drainage system;

D. All discharges directly or indirectly into receiving waters within or contiguous to Seattle city limits;

E. All new and existing land uses; and

F. All real property.

22.800.040 Exemptions, Adjustments, and Exceptions

A. Exemptions.

1. The following land uses are exempt from the provisions of this subtitle:

a. Commercial agriculture, including only those activities conducted on lands defined in RCW 84.34.020(2), and production of crops or livestock for wholesale trade; and

b. Forest practices regulated under Title 222 Washington Administrative Code, except for Class IV general forest practices, as defined in WAC 222-16-050, that are conversions from timber land to other uses.

2. The following land disturbing activities are not required to comply with the specific minimum requirements listed below:

a. Maintenance, repair, or installation of underground or overhead utility facilities, such as, but not limited to, pipes, conduits and vaults, and that includes replacing or materials with similar run-off characteristics are not required to comply with Section 22.805.080 (Minimum Requirements for Flow Control) or Section 22.805.090 (Minimum Requirements for Treatment), except as modified as follows:

1) Installation of a new or replacement of an existing public drainage system, public combined sewer, public sanitary sewer, or public water supply system in the public right-of-way shall comply with Section 22.805.060 (Minimum Requirements for Roadway Projects) when these activities are implemented as publicly bid capital improvement projects funded by Seattle Public Utilities; and

2) Installation of underground or overhead utility facilities that are integral with and contiguous to a road-related project shall comply with Section 22.805.060 (Minimum Requirements for Roadway Projects).

b. Road maintenance practices limited to the following activities are not required to comply with Section 22.805.060 (Minimum Requirements for Roadway Projects), Section 22.805.080 (Minimum Requirements for Flow Control), or Section 22.805.090 (Minimum Requirements for Treatment):

1) Pothole and square cut patching;

2) Overlaying existing asphalt or concrete or brick pavement with asphalt or concrete

1. The Director may approve a request for an exception to the requirements of this subtitle when the applicant demonstrates that the exception will not increase risks in the vicinity and/or downstream of the property to public health, safety and welfare, or to water quality, or to public and private property; and

a. The requirement would cause a severe and unexpected financial hardship that outweighs the requirement's benefits, and the criteria for an adjustment cannot be met; or

b. The requirement would cause harm or a significant threat of harm to public health, safety and welfare, the environment, or public and private property, and the criteria for an adjustment cannot be met; or

c. The requirement is not technically feasible, and the criteria for an adjustment cannot be met; or

d. An emergency situation exists that necessitates approval of the exception.

2. An exception shall only be granted to the extent necessary to provide relief from the economic hardship, to alleviate the harm or threat of harm, to the degree that compliance with the requirement becomes technically feasible, or to perform the emergency work that the Director determines exists.

3. An applicant is not entitled to an exception, whether or not the criteria allowing approval of an exception are met.

4. The Director may require an applicant to provide additional information at the applicant's expense, including, but not limited to an engineer's report or analysis.

5. When an exception is granted, the Director may impose new or additional requirements to offset or mitigate harm that may be caused by granting the exception, or that would have been prevented if the exception had not been granted.

6. Public notice of an application for an exception and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions, as set forth in Chapter 23.76.

7. The Director's decision shall be in writing with written findings of fact. Decisions approving an exception based on severe and unexpected economic hardship shall address all the factors in subsection 22.805.080.C.8.

8. An application for an exception on the grounds of severe and unexpected financial hardship must describe, at a minimum, all of the following:

a. The current, pre-project use of the site; and

b. How application of the requirement(s) for which an exception is being requested restricts the proposed use of the site compared to the restrictions that existed prior to the adoption of this current subtitle; and

c. The possible remaining uses of the site if the exception were not granted; and

d. The uses of the site that would have been allowed prior to the adoption of this subtitle; and

e. A comparison of the estimated amount and percentage of value loss as a result of the requirements versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the requirements of this subtitle; and

f. The feasibility of the owner or developer to alter the project to apply the requirements of this subtitle.

9. In addition to rights under Chapter 3.02 of the Seattle Municipal Code, any person aggrieved by a Director's decision on an application for an exception may appeal to the Hearing Examiner's Office by filing an appeal, with the applicable filing fee, as set forth in Section 23.76.022. However, appeals of a Notice of Violation, Director's order, or invoice issued pursuant to this subtitle shall follow the required procedure established in Chapter 22.808 of this subtitle.

10. The Hearing Examiner shall affirm the Director's determination on the exception unless the examiner finds the determination is clearly erroneous based on substantial evidence. The applicant for the exception shall have the burden of proof on all issues related to justifying the exception.

11. The Director shall keep a record, including the Director's written findings of fact, on all approved requests for exceptions.

22.800.050 Potentially Hazardous Locations

A. Any site on a list, register, or data base compiled by the United States Environmental Protection Agency or the Washington State Department of Ecology for investigation, cleanup, or other action regarding contamination under any federal or state environmental law shall be a potentially hazardous location under this subtitle. When EPA or Ecology removes the site from the list, register, or data base, or when the Director of DPD determines the owner has otherwise established the contamination does not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.

B. The following property may also be designated by the Director of DPD as a potentially hazardous location:

2. A City agency need not provide an inspector from its own agency provided either:

a. The work is inspected by an appropriate inspector from another City agency; or

b. The work is inspected by an appropriate inspector hired for that purpose by a City agency; or

c. The work is inspected by the licensed civil or geotechnical engineer who prepared the plans and specifications for the work; or

d. A permit or approval is obtained from the Director of DPD, and the work is inspected by the Director.

C. Certification of Compliance. City agencies shall meet the same standards as non-City projects, except as provided in subsection 22.800.070.A, and shall certify that each individual project meets those standards.

22.800.075 Compliance by Public Agencies

Whether or not they are required to obtain permits or submit documents, public agencies are subject to the substantive requirements of this subtitle, unless adjustments or exceptions are granted as set forth in Section 22.800.040 (Exemptions, Adjustments, and Exceptions) or the requirements have been waived under subsection 22.807.020.A.3.

22.800.080 Authority

A. For projects not conducted in the public right-of-way, the Director of DPD has authority regarding the provisions of this subtitle pertaining to grading, review of drainage control plans, and review of construction stormwater control plans, and has inspection and enforcement authority pertaining to temporary erosion and sediment control measures.

B. The Director of SPU has authority regarding all other provisions of this subtitle pertaining to drainage water, drainage, and erosion control, including inspection and enforcement authority. The Director of SPU may delegate authority to the Director of DPD or the Director of Seattle Department of Transportation regarding the provisions of this subtitle pertaining to review of drainage control plans, review of erosion control plans, and inspection and enforcement authority pertaining to temporary erosion and sediment control measures for projects conducted in the public right-of-way.

C. The Directors of DPD, SDOT and SPU are authorized to take actions necessary to implement the provisions and purposes of this subtitle in their respective spheres of authority to the extent allowed by law, including, but not limited to, the following: promulgating and amending rules and regulations, pursuant to the Administrative Code, Chapter 3.02 of the Seattle Municipal Code; establishing and conducting inspection programs; establishing and conducting or, as set forth in Section 22.802.040, requiring responsible parties to conduct monitoring programs, which may include sampling of discharges to or from drainage control facilities, the public drainage system, or receiving waters; taking enforcement action; abating nuisances; promulgating guidance and policy documents; and reviewing and approving, conditioning, or disapproving required submittals and applications for approvals and permits. The Directors are authorized to exercise their authority under this subtitle in a manner consistent with their legal obligations as determined by the courts or by statute.

D. The Director of SPU is authorized to develop, review, or approve drainage basin plans, managing receiving waters, drainage water, and erosion within individual basins. A drainage basin plan may, when approved by the Director of SPU, be used to modify requirements of this subtitle, provided the level of protection for human health, safety and welfare, the environment, and public or private property will equal or exceed that which would otherwise be achieved. A drainage basin plan that modifies the minimum requirements of this subtitle at a drainage basin level must be reviewed and approved by Ecology and adopted by City ordinance.

E. The Director of SPU is authorized, to the extent allowed by law, to develop, review, or approve an Integrated Drainage Plan as an equivalent means of complying with the requirements of this subtitle, in which the developer of a project voluntarily enters into an agreement with the Director of SPU to implement an Integrated Drainage Plan that is specific to one or more sites where best management practices are employed such that the cumulative effect on the discharge from the site(s) to the same receiving water is the same or better than that which would be achieved by a less integrated, site-by-site implementation of best management practices.

F. The Director of SPU is authorized, to the extent allowed by law, to enter into an agreement with the developer of a project for the developer to voluntarily contribute funds toward the construction of one or more drainage control facilities that mitigate the impacts to the same receiving water that have been identified as a consequence of the proposed development.

G. The Director of SPU is authorized, to the extent allowed by law, to enter into an agreement with the developer of a project for the developer to voluntarily contribute funds toward the construction of one or more drainage control facilities that mitigate the impacts to the same receiving water that have been identified as a consequence of the proposed development.

22.801.010 General

For the purpose of this subtitle, the words listed in this chapter have the following meanings, unless the context clearly indicates otherwise. Terms relating to pollutants and to hazardous wastes, materials, and substances, where not defined in this subtitle, shall be as defined in Washington Administrative Code Chapters 173-303, 173-304 and 173-340, the Seattle Building Code or the Seattle Fire Code, including future amendments to those codes. Words used in the singular include the plural, and words used in the plural include the singular.

22.801.020 "A"

"Agency" means any governmental entity or its subdivision.

"Agency with jurisdiction" means those agencies with statutory authority to approve, condition or deny permits, such as the United States Environmental Protection Agency, the Washington State Department of Ecology or the Seattle-King County Department of Public Health.

"Approved" means approved by the Director.

22.801.030 "B"

"Basin plan" means a plan to manage the quality and quantity of drainage water in a watershed or a drainage basin, including watershed action plans.

"Best management practice (BMP)" means a schedule of activities, prohibitions of practices, operational and maintenance procedures, structural facilities, or managerial practice or device that, when used singly or in combination, prevents, reduces, or treats contamination of drainage water, prevents or reduces soil erosion, or prevents or reduces other adverse effects of drainage water on receiving waters. When the Directors develop rules and/or manuals prescribing best management practices for particular purposes, whether or not those rules and/or manuals are adopted by ordinance, BMPs prescribed in the rules and/or manuals shall be the BMPs required for compliance with this subtitle.

"Building permit" means a document issued by the Department of Planning and Development authorizing construction or other specified activity in accordance with the Seattle Building Code (Chapter 22.100) or the Seattle Residential Code (Chapter 22.150).

22.801.040 "C"

"Capacity-constrained system" means a drainage system that the Director of SPU has determined to have inadequate capacity to carry drainage water.

"Cause or contribute to a violation" means and includes acts or omissions that create a violation, that increase the duration, extent or severity of a violation, or that aid or abet a violation.

"Certified Erosion and Sediment Control Lead (CESCL)" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington State Department of Ecology.

"Civil engineer, licensed" means a person who is licensed by the State of Washington to practice civil engineering.

"City agency" means "City agency" as defined in Section 25.09.520.

Combined sewer. See "public combined sewer."

"Construction Stormwater Control Plan" means a document that explains and illustrates the measures to be taken on the construction site to control pollutants on a construction project.

"Compaction" means the densification of earth material by mechanical means.

"Containment area" means the area designated for conducting pollution-generating activities for the purposes of implementing source controls or designing and installing source controls or treatment facilities.

"Contaminate" means the addition of sediment, any other pollutant or waste, or any illicit or prohibited discharge.

"Creek" means in Type 2-5 water as defined in WAC 222-16-031 and is used synonymously with "stream."

22.801.050 "D"SM

"Damages" means monetary compensation for harm, loss, costs, or expenses incurred by the City, including, but not limited to, the following: costs of abating or correcting violations of this subtitle; fines or penalties the City incurs as a result of a violation of this subtitle; and costs to repair or clean the public drainage system as a result of a violation. For the purposes of this subtitle, damages do not include compensation for structures, the removal and replacement of impervious surface down to the foundation, or other subsurface surface construction.

"Erosion" means the wearing away of the ground surface as a result of mass wasting or of the movement of wind, water, ice, or other geological agents, including such processes as gravitational creep. Erosion also means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

"Excavation" means the mechanical removal of earth material.

"Exception" means relief from a requirement of this subtitle to a specific project.

22.801.070 "F"

"Fill" means a deposit of earth material placed by artificial means.

"Flow control" means controlling the discharge rate, flow duration, or both of drainage water from the site through means such as infiltration or detention.

"Flow control facility" means a drainage control facility for controlling the discharge rate, flow duration, or both of drainage water from a site.

"Flow-critical receiving water" means a surface water that is not a designated receiving water as defined in this subtitle.

"Flow duration" means the aggregate time that peak flows are at or above a particular flow rate of interest.

22.801.080 "G"

"Garbage" means putrescible waste.

"Geotechnical engineer" or "Geotechnical/civil engineer" means a professional civil engineer licensed by The State of Washington who has at least four years of professional experience as a geotechnical engineer, including experience with landslide evaluation.

"Grading" means excavation, filling, in-place ground modification, removal of roots or stumps that includes ground disturbance, stockpiling of earth materials, or any combination thereof, including the establishment of a grade following demolition of a structure.

"Green stormwater infrastructure" means a drainage control facility that uses infiltration, evapotranspiration, or stormwater reuse. Examples of green stormwater infrastructure include permeable pavement, bioretention facilities, and green roofs.

"Plan" means a graphic or schematic representation, with accompanying notes, schedules, specifications and other related documents, or a document consisting of checklists, steps, actions, schedules, or other contents that has been prepared pursuant to this subtitle, such as a drainage control plan, construction stormwater control plan, stormwater pollution prevention plan, and integrated drainage plan.

"Pollution-generating activity" means any activity that is regulated by the joint SPU/DPD Directors' Rule titled, "Source Control Technical Requirements Manual" or activities with similar impacts on drainage water. These activities include, but are not limited to: cleaning and washing activities; transfer of liquid or solid material; production and application activities; dust, soil, and sediment control; commercial animal care and handling; log sorting and handling; boat building, mooring, maintenance, and repair; logging and tree removal; mining and quarrying of sand, gravel, rock, peat, clay, and other materials; cleaning and maintenance of swimming pool and spas; deicing and anti-icing operations for airports, and streets; maintenance and management of roof and building drains at manufacturing and commercial buildings; maintenance and operation of railroad yards; maintenance of public and utility corridors and facilities; and maintenance of roadside ditches.

"Pollution-generating impervious surface" means those impervious surfaces considered to be a significant source of pollutants in drainage water. Such surfaces include those that are subject to: vehicular use; certain industrial activities; or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the runoff or blow-in of rainfall. Erodeable or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the drainage water. Examples include: erodible soils that are stockpiled; uncovered process wastes; manure; fertilizers; oily substances; ashes; kiln dust; and garbage dumpster leakage. Metal roofs are also considered to be PGIS unless they are coated with an inert, non-leachable material (e.g., baked-on enamel coating).

A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly used by motor vehicles. The following are considered regularly-used surfaces: roads; unvegetated road shoulders; permeable pavement; bike lanes within the traveled lane of a roadway; driveways; parking lots; unfenced fire lanes; vehicular equipment storage yards; and airport runways.

The following are not considered regularly-used surfaces: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles; fenced fire lanes; and infrequently used maintenance access roads.

"Pollution-generating pervious surface" means any non-impervious surface subject to use of pesticides and fertilizers or loss of soil, and typically includes lawns, landscaped areas, golf courses, parks, cemeteries, and sports fields.

"Pre-developed condition" means the vegetation and soil conditions that are used to determine the allowable post-development discharge peak flow rates and flow durations, such as pasture or forest.

"Project" means the addition or replacement of impervious surface or the undertaking of land disturbing activity on a site.

"Public combined sewer" means a publicly owned and maintained system which carries drainage water and wastewater and flows to a publicly owned treatment works.

"Public drainage system" means a drainage system owned or used by the City of Seattle.

"Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

"Public sanitary sewer" means the sanitary sewer that is owned or operated by a City agency.

"Public storm drain" means the part of a public drainage system that is wholly or partially piped, owned or operated by a City agency, and designed to carry only drainage water.

22.801.190 "R"

"Real property" means "real property" as defined in Section 3.110.

"Receiving water" means the surface water or wetland receiving drainage water.

"Repeat Violation" means a prior violation of this subtitle within the preceding five years that became a final order or decision of the Director or a court. The violation does not need to be the same nor occur on one site to be considered repeat.

"Replaced impervious surface" or "replacement of impervious surface" means for structures, the removal and replacement of impervious surface down to the foundation, or other subsurface surface construction.

"Inspector" means a City inspector, their designee, or licensed civil engineer performing inspection services.

"Topsoil" means the weathered surface soil, including the organic layer, in which plants have most of their roots.

"Trail" means a path of travel for recreation and/or transportation within a park, natural environment, or corridor that is not classified as a highway, road, or street.

"Trail project" means a project that exclusively involves creating a new or replacement of an existing trail, and which does not contain pollution-generating impervious surfaces.

"Treatment facility" means a drainage control facility designed to remove pollutants from drainage water.

22.801.220 "U"

"Uncontaminated" means surface water or groundwater not containing sediment or other pollutants or contaminants above natural background levels and not containing pollutants or contaminants in levels greater than City-supplied drinking water when referring to potable water.

22.801.230 "V"

"Vegetation" means "vegetation" as defined in Section 25.09.520.

22.801.240 "W"

"Wastewater" means "wastewater" as defined in Section 21.16.030.

"Water Quality Standards" means Surface Water Quality Standards, Chapter 173-201A WAC, Ground Water Quality Standards, Chapter 173-200 WAC, and Sediment Management Standards, Chapter 173-204 WAC.

"Watercourse" means the route, constructed or formed by humans or by natural processes, generally consisting of a channel with bed, banks or sides, in which surface waters flow. Watercourse includes small lakes, bogs, streams, creeks, and intermittent artificial components (including ditches and culverts) but does not include designated receiving waters.

"Watershed" means a geographic region within which water drains into a particular river, stream, or other body of water.

"Wetland" means a wetland designated under Section 25.09.020.

"Wetland function" means the physical, biological, chemical, and geologic interactions among different components of the environment that occur within a wetland. Wetland functions can be grouped into three categories: functions that improve water quality; functions that change the water regime in a watershed, such as flood storage; and functions that provide habitat for plants and animals.

"Wetland values" means wetland processes, characteristics, or attributes that are considered to benefit society.

Chapter 22.802 Prohibited and Permissible Discharges

22.802.010 General

A. No discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

B. Every permit issued to implement this subtitle shall contain a performance standard requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

22.802.020 Prohibited Discharges

A. Prohibited Discharges. The following common substances are prohibited to enter, either directly or indirectly, a public drainage system, a private drainage system, or a receiving water within or contiguous to Seattle city limits, including but not limited to when entering via a service drain, overland flow, or as a result of a spill or deliberate dumping:

1. acids;

2. alkalis including cement wash water;

3. ammonia;

4. animal carcasses;

5. antifreeze, oil, gasoline, grease and all other automotive and petroleum products;

6. chemicals not normally found in uncontaminated water;

7. chlorinated swimming pool or hot tub water;

8. chlorine;

9. commercial and household cleaning materials;

10. detergents;

11. paint, paint thinner, or other petroleum-based solvents;

12. petroleum-based fuels, including kerosene, diesel, and gasoline;

13. petroleum-based lubricants, including motor oil, hydraulic fluid, and transmission fluid;

14. petroleum-based coolants, including antifreeze;

15. petroleum-based degreasers, including brake fluid;

16. petroleum-based solvents, including acetone, benzene, toluene, and xylene;

17. petroleum-based sealants, including caulking and grout;

18. petroleum-based adhesives, including glue and epoxy;

19. petroleum-based preservatives, including wood preservative;

20. petroleum-based pesticides, including herbicides, insecticides, and fungicides;

21. petroleum-based fertilizers, including liquid and granular fertilizers;

22. petroleum-based animal waste, including manure, urine, and feces;

23. petroleum-based automotive fluids, including oil, coolant, and brake fluid;

24. petroleum-based hydraulic fluids, including hydraulic oil and fluid;

25. petroleum-based transmission fluids, including transmission oil and fluid;

26. petroleum-based gear oils, including gear oil and fluid;

27. petroleum-based engine oils, including engine oil and fluid;

28. petroleum-based motor oils, including motor oil and fluid;

29. petroleum-based lubricating greases, including grease and fluid;

30. petroleum-based anti-rust products, including anti-rust fluid and coating;

31. petroleum-based brake fluids, including brake fluid and fluid;

32. petroleum-based power steering fluids, including power steering fluid and fluid;

33. petroleum-based windshield washer fluids, including windshield washer fluid and fluid;

34. petroleum-based antifreeze, including antifreeze and fluid;

35. petroleum-based coolant, including coolant and fluid;

36. petroleum-based degreasers, including degreaser and fluid;

37. petroleum-based solvents, including solvent and fluid;

38. petroleum-based sealants, including sealant and fluid;

39. petroleum-based adhesives, including adhesive and fluid;

40. petroleum-based preservatives, including preservative and fluid;

41. petroleum-based pesticides, including pesticide and fluid;

22.805.080 (Minimum Requirements for Flow Control), or Section 22.805.090 (Minimum Requirements for Treatment):

- 1) Pothole and square cut patching;
- 2) Overlaying existing asphalt or concrete or brick pavement with asphalt or concrete without expanding the area of coverage;
- 3) Shoulder grading;
- 4) Reshaping or regrading drainage ditches;
- 5) Crack sealing; and
- 6) Vegetation maintenance.

3. Sites that produce no runoff as determined by a licensed civil engineer using a continuous runoff model approved by the Director are not required to comply with Section 22.805.080 (Minimum Requirements for Flow Control).

4. When a portion of the site being developed discharges only to the public combined sewer, that portion is not required to comply with the provision of subsection 22.805.020.J (Install Source Control BMPs) unless the Director determines that these activities pose a hazard to public health, safety or welfare; endanger any property; adversely affect the safety and operation of city right-of-way, utilities, or other property owned or maintained by the City; or adversely affect the functions and values of an environmentally critical area or buffer.

5. Residential activities are not required to comply with the provision of subsection 22.805.020.J (Install Source Control BMPs) unless the Director determines that these activities pose a hazard to public health, safety or welfare; endanger any property; adversely affect the safety and operation of city right-of-way, utilities, or other property owned or maintained by the City; or adversely affect the functions and values of an environmentally critical area or buffer.

6. With respect to all state highway right-of-way under WSDOT control within the jurisdiction of the City of Seattle, WSDOT shall use the current approved Highway Runoff Manual (HRM) for its existing and new facilities and rights-of-way as addressed in WAC 173-270-030(1) and (2). Exceptions to this exemption, where more stringent stormwater management requirements apply, are addressed in WAC 173-270-030(3)(b) and (c).

a. When a state highway is located in the jurisdiction of a local government that is required by Ecology to use more stringent standards to protect the quality of receiving waters, WSDOT shall comply with the same standards to promote uniform stormwater management.

b. WSDOT shall comply with standards identified in watershed action plans for WSDOT rights-of-way as required by WAC 400-12-570.

c. Other instances where more stringent local stormwater standards apply are projects subject to tribal government standards or to the stormwater management-related permit conditions imposed under Chapter 25.09 to protect environmentally critical areas and their buffers (under the Growth Management Act), an NPDES permit, or shoreline master programs (under the Shoreline Management Act). In addition, WSDOT shall comply with local jurisdiction stormwater standards when WSDOT elects, and is granted permission, to discharge stormwater runoff into a municipality's stormwater system or combined sewer system.

B. Adjustments.

1. The Director may approve a request for adjustments to the requirements of this subtitle when the Director finds that:

a. The adjustment provides substantially equivalent environmental protection; and

b. The objectives of safety, function, environmental protection, and facility maintenance are met, based on sound engineering practices.

2. During construction, the Director may require, or the applicant may request, that the construction of drainage control facilities and associated project designs be adjusted if physical conditions are discovered on the site that are inconsistent with the assumptions upon which the approval was based, including but not limited to unexpected soil and/or water conditions, weather generated problems, or changes in the design of the improved areas.

3. A request by the applicant for adjustments shall be submitted to the Director for approval prior to implementation. The request shall be in writing and shall provide facts substantiating the requirements of subsection 22.805.080.B.1. and if made during construction, the factors in subsection B2. Any such modifications made during the construction of drainage control facilities shall be recorded on the final approved drainage control plan, a revised copy of which shall be filed by the Director.

C. Exceptions.

DPD determines the owner has not established the contamination does not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.

B. The following property may also be designated by the Director of DPD as potentially hazardous locations:

1. Existing and/or abandoned solid waste disposal sites;
2. Hazardous waste treatment, storage, or disposal facilities, all as defined by the federal Solid Waste Disposal Act, 42 U.S.C. § 6901, et seq.

22.800.060 Compliance With Other Laws

A. The requirements of this subtitle are minimum requirements. They do not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this subtitle imposes requirements that are more protective of human health or the environment than those set forth elsewhere, the provisions of this subtitle shall prevail. When this subtitle imposes requirements that are less protective of human health or the environment than those set forth elsewhere, the provisions of the more protective requirements shall prevail.

B. Approvals and permits granted under this subtitle are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state and local laws and regulations, including rules promulgated under authority of this subtitle.

C. Compliance with the provisions of this subtitle and of regulations and manuals adopted by the City in relation to this subtitle does not necessarily mitigate all impacts to the environment. Thus, compliance with this subtitle and related regulations and manuals should not be construed as mitigating all drainage water or other environmental impacts, and additional mitigation may be required to protect the environment. The primary obligation for compliance with this subtitle, and for preventing environmental harm on or from property, is placed upon responsible parties as defined by this subtitle.

22.800.070 Minimum Requirements for City Agency Projects

A. Compliance. City agencies shall comply with all the requirements of this subtitle except as specified below:

1. City agencies are not required to obtain permits and approvals under this subtitle, other than inspections as set out in subsection B of this section, for work performed within a public right-of-way or for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation. Where the work occurs in a public right-of-way, it shall also comply with Seattle Municipal Code Title 15, Street and Sidewalk Use, including the applicable requirements to obtain permits or approvals.

2. A City agency project, as defined in Section 22.801.170, that is not required to obtain permit(s) and approval(s) per subsection 22.800.070.A.1 and meets all of the conditions set forth below is not required to comply with Section 22.805.080 (Minimum Requirements for Flow Control) or Section 22.805.090 (Minimum Requirements for Treatment).

a. The project begins land disturbing activities within 18 months of the effective date of this subtitle, and;

b. The project complies with subsections 22.802.015.C.4.

22.802.016.B.1. and 22.802.016.B.2 of the Stormwater, Grading and Drainage Control Code that was made effective July 5, 2000 by Ordinance 119965, and

c. The project meets one or more of the following criteria:

1) Project funding was appropriated as identified in Ordinance 122863 titled, "An ordinance adopting a budget, including a capital improvement program and a position list, for the City of Seattle for 2009"; or

2) Project received or will receive voter approval of financing before January 1, 2009; or

3) Project received or will receive funds based on grant application(s) submitted before January 1, 2009.

B. Inspection.

1. When the City conducts projects for which review and approval is required under Chapter 22.807 (Drainage Control Review and Application Requirements) the work shall be inspected by the City agency conducting the project or supervising the contract for the project. The inspector for the City agency shall be responsible for ascertaining that the grading and drainage control is done in a manner consistent with the requirements of this subtitle.

drainage control facilities that mitigate the impacts to the same receiving water that have been identified as a consequence of the proposed development.

G. The Director of SPU is authorized, to the extent allowed by law, to enter into an agreement with the developer of a project for the developer to voluntarily construct one or more drainage control facilities at an alternative location, determined by the Director, to mitigate the impacts to the same receiving water that have been identified as a consequence of the proposed development.

H. If the Director of SPU determines that a discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, a private drainage system, or a receiving water within or contiguous to Seattle city limits, has exceeded, exceeds, or will exceed water quality standards at the point of assessment, or has caused or contributed, is causing or contributing, or will cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit, and cannot be adequately addressed by the required best management practices, then the Director of SPU has the authority, to the extent allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to undertake more stringent or additional best management practices. These best management practices may include additional source control or structural best management practices or other actions necessary to cease the exceedance, the prohibited discharge, or causing or contributing to the known or likely violation of water quality standards in the receiving water or the known or likely violation of the City's municipal stormwater NPDES permit. Structural best management practices may include but shall not be limited to: drainage control facilities, structural source controls, treatment facilities, constructed facilities such as enclosures, covering and/or berming of container storage areas, and revised drainage systems. For existing discharges as opposed to new projects, the Director may allow 12 months to install a new flow control facility, structural source control, or treatment facility after the Director notifies the responsible party in writing of the Director's determination pursuant to this subsection and of the flow control facility, structural source control, or treatment facility that must be installed.

I. Unless an adjustment per subsection 22.800.040.B or an exception per subsection 22.800.040.C is approved by the Director, an owner or occupant who is required, or who wishes, to connect to a public drainage system shall be required to extend the public drainage system if a public drainage system is not accessible within an abutting public area across the full frontage of the property.

J. The Director of DPD has the authority, to the extent allowed by law, to require sites with addition or replacement of less than 5,000 square feet of impervious surface or within one acre of land disturbing activity to comply with the requirements set forth in Section 22.805.080 or Section 22.805.090 when necessary to accomplish the purposes of this subtitle. In making this determination, the Director of DPD may consider, but not be limited to, the following attributes of the site: location within an Environmentally Critical Area; proximity and tributary to an Environmentally Critical Area; and proximity and tributary to an area with known erosion or flooding problems.

22.800.090 City Not Liable

A. Nothing contained in this subtitle is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this subtitle, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this subtitle, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this subtitle by its officers, employees or agents.

B. The Director or any employee charged with the enforcement of this subtitle, acting in good faith and without malice on behalf of the City, shall not be personally liable for any damage that may accrue to persons or property as a result of any act or omission by the City, or by reason of any act or omission in the discharge of these duties. Any suit brought against the Director of DPD, Director of SPU or other employee because of an act or omission performed in the enforcement of any provisions of this subtitle, shall be defended by the City.

C. Nothing in this subtitle shall impose any liability on the City or any of its officers or employees for cleanup or any harm relating to sites containing hazardous materials, wastes or contaminated soil.

Chapter 22.801 DEFINITIONS

reading violations of this subtitle, fines or penalties the City incurs as a result of a violation of this subtitle, and costs to repair or clean the public drainage system as a result of a violation. For the purposes of this subtitle, damages do not include compensation to any person other than the City.

"Designated receiving water" means the Duwamish River, Puget Sound, Lake Washington, Lake Union, Elliott Bay, Portage Bay, Union Bay, the Lake Washington Ship Canal, and other receiving waters determined by the Director of SPU and approved by Ecology as having sufficient capacity to receive discharges of drainage water such that a site discharging to the designated receiving water is not required to implement flow control.

"Detention" means temporary storage of drainage water for the purpose of controlling the drainage discharge rate.

"Development" means land disturbing activity or the addition or replacement of impervious surface.

"Director" means the Director of the Department authorized to take a particular action, and the Director's designees, who may be employees of that department or another City department.

"Director of DPD" means the Director of the Department of Planning and Development of the City of Seattle and/or the designee of the Director of Planning and Development, who may be employees of that department or another City department.

"Director of SDOT" means the Director of Seattle Department of Transportation of the City of Seattle and/or the designee of the Director of Seattle Department of Transportation, who may be employees of that department or another City department.

"Director of SPU" means the Director of Seattle Public Utilities of the City of Seattle and/or the designee of the Director of Seattle Public Utilities, who may be employees of that department or another City department.

"Discharge point" means the location from which drainage water from a site is released.

"Discharge rate" means the rate at which drainage water is released from a site. The discharge rate is expressed as volume per unit of time, such as cubic feet per second.

"DPD" means the Department of Planning and Development.

"Drainage basin" means the tributary area or subunit of a watershed through which drainage water is collected, regulated, transported, and discharged to receiving waters.

"Drainage control" means the management of drainage water. Drainage control is accomplished through one or more of the following: collecting, conveying, and discharging drainage water; controlling the discharge rate from a site; controlling the flow duration from a site; and separating, treating or preventing the introduction of pollutants.

"Drainage control facility" means any facility, including best management practices, installed or constructed for the purpose of controlling the discharge rate, flow duration, quantity, and/or quality of drainage water.

"Drainage control plan" means a plan for collecting, controlling, transporting and disposing of drainage water falling upon, entering, flowing within, and exiting the site, including designs for drainage control facilities.

"Drainage system" means a system intended to collect, convey and control release of only drainage water. The system may be either publicly or privately owned or operated, and the system may serve public or private property. It includes constructed and/or natural components such as pipes, ditches, culverts, streams, creeks, or drainage control facilities.

"Drainage water" means stormwater and all other discharges that are permissible per subsection 22.802.030.A.

22.801.060 "E"

"Earth material" means any rock, gravel, natural soil, fill, or re-sedimented soil, or any combination thereof, but does not include any solid waste as defined by RCW 70.95.

"Ecology" means the Washington State Department of Ecology.

"Effective impervious surface" means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system.

"Enhanced treatment facility" means a drainage control facility designed to reduce concentrations of dissolved metals in drainage water.

"Environmentally critical area" means an area designated in Section 25.09.020.

"EPA" means the United States Environmental Protection Agency.

to be considered repeat.

"Replaced impervious surface" or "replacement of impervious surface" means for structures, the removal and replacement of impervious surface down to the foundation. For other impervious surface, the impervious surface that is removed down to earth material and a new impervious surface is installed.

"Responsible party" means all of the following persons:

1. Owners, operators, and occupants of property; and

2. Any person causing or contributing to a violation of the provisions of this subtitle.

"Right-of-way" means "right-of-way" as defined in Section 22.84A.032.

"Roadway" means "roadway" as defined in Section 22.84A.032.

"Roadway project" means a project located in the public right-of-way that involves the creation of a new or replacement of an existing roadway, or that involves the creation of new or replacement of existing impervious surface.

"Runoff" means the portion of rainfall or other precipitation that becomes surface flow and interflow.

22.801.200 "S"

"SPU" means Seattle Public Utilities.

"Sanitary sewer" means a system that conveys wastewater and is not designed to convey stormwater.

"SDOT" means the Seattle Department of Transportation.

"Service drain" means "service drain" as defined in Section 21.16.030.

"Side sewer" means "side sewer" as defined in Section 21.16.030.

"Sidewalk" means "sidewalk" as defined in Section 22.84A.036.

"Sidewalk project" means a project that exclusively involves the creation of a new or replacement of an existing sidewalk, including any associated planting strip, curb, or gutter.

"Single-family residential project" means a project that constructs one Single-family Dwelling Unit per Section 23.44.006.A located in land classified as being Single-family Residential 9,600 (SF 9600), Single-family Residential 7,200 (SF 7200), or Single-family Residential 5,000 (SF 5000) per Section 23.30.010, and the total new plus replaced impervious surface is less than 10,000 square feet and the total new plus replaced pollution-generating impervious surface is less than 5,000 square feet.

"Site" means the lot or parcel, or portion of street, highway or other right-of-way, or contiguous combination thereof, where a permit for the addition or replacement of impervious surface or the undertaking of land disturbing activity has been issued or where any such work is proposed or performed. For roadway projects, the length of the project site and the right-of-way boundaries define the site.

"Slope" means an inclined ground surface.

"Small project" means a project with:

1. Less than 5,000 square feet of new and replaced impervious surface; and

2. Less than one acre of land disturbing activities.

"SMC" means the Seattle Municipal Code.

"Soil" means naturally deposited non-rock earth materials.

"Solid waste" means "solid waste" as defined in Section 21.36.016.

"Source controls" mean structures or operations that prevent contaminants from coming in contact with drainage water through physical separation or careful management of activities that are known sources of pollution.

"Standard design" is a design prepared by the Director for drainage and erosion control available for use at a site with pre-defined characteristics.

"Storm drain" means both public storm drain and service drain.

"Stormwater" means that portion of precipitation and snowmelt that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a drainage system into a receiving water or a constructed infiltration facility.

"Stream" means a Type 2-5 water as defined in WAC 222-16-031. Used synonymously with "creek."

22.801.210 "T"

8. chlorine;

9. commercial and household cleaning materials;

10. detergent;

11. dirt;

12. domestic or sanitary sewage;

13. drain cleaners;

14. fertilizers;

15. flammable or explosive materials;

16. food and food waste;

17. gravel;

18. herbicides;

19. human and animal waste;

20. industrial process wastewater;

21. ink;

22. laundry waste;

23. metals in excess of naturally occurring amounts, whether in liquid or solid form;

24. painting products;

25. pesticides;

26. sand;

27. soap;

28. solid waste;

29. solvents and degreasers;

30. steam-cleaning waste; and

31. yard waste.

B. Prohibited Discharges to Public and Private Drainage System. Except as provided in Section 22.802.030, any discharge to a public drainage system or to a private drainage system that is not composed entirely of stormwater is prohibited.

C. Prohibited Discharges to Receiving Waters. Except as provided in Section 22.802.030, any discharge, either directly or indirectly to receiving waters within or contiguous to Seattle city limits or to a public drainage system that is not composed entirely of stormwater is prohibited.

22.802.030 Permissible Discharges

Permissible Discharges to Drainage Systems and Receiving Waters. Discharges from the sources listed below are permissible discharges unless the Director of SPU determines that the type of discharge, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, whether singly or in combination with others, is causing or contributing to a violation of the City's NPDES stormwater permit or is causing or contributing to a water quality problem:

1. Discharges from potable water sources, including flushing of potable water lines, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the drainage system;

2. Discharges from washing or rinsing of potable water storage reservoirs, dechlorinated as above;

3. Discharges from surface waters, including diverted stream flows;

4. Discharges of uncontaminated groundwater, including uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(2)), uncontaminated pumped groundwater, and rising ground waters;

5. Discharges of air conditioning condensation;

6. Discharges from springs;

7. Discharges of uncontaminated water from crawl space pumps;

8. Discharges from lawn watering;

9. Discharges from irrigation runoff, including irrigation water from agricultural sources that is commingled with stormwater and that does not contain prohibited substances;

10. Discharges from riparian habitats and wetlands;

11. Discharges from approved footing drains and other subsurface drains, or where approval is not required, installed in compliance with this subtitle and rules promulgated pursuant to this subtitle;

12. Discharges from foundation drains;

13. Discharges from swimming pools, hot tubs, fountains, or similar aquatic recreation facilities, including constructed water features, provided the discharges have been de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and

8. chlorine;
9. commercial and household cleaning materials;
10. detergent;
11. dirt;
12. domestic or sanitary sewage;
13. drain cleaners;
14. fertilizers;
15. flammable or explosive materials;
16. food and food waste;
17. gravel;
18. herbicides;
19. human and animal waste;
20. industrial process wastewater;
21. ink;
22. laundry waste;
23. metals in excess of naturally occurring amounts, whether in liquid or solid form;
24. painting products;
25. pesticides;
26. sand;
27. soap;
28. solid waste;
29. solvents and degreasers;
30. steam-cleaning waste; and
31. yard waste.

B. Prohibited Discharges to Public and Private Drainage System. Except as provided in Section 22.802.030, any discharge to a public drainage system or to a private drainage system that is not composed entirely of stormwater is prohibited.

C. Prohibited Discharges to Receiving Waters. Except as provided in Section 22.802.030, any discharge, either directly or indirectly to receiving waters within or contiguous to Seattle city limits or to a public drainage system that is not composed entirely of stormwater is prohibited.

22.802.030 Permissible Discharges

Permissible Discharges to Drainage Systems and Receiving Waters. Discharges from the sources listed below are permissible discharges unless the Director of SPU determines that the type of discharge, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, whether singly or in combination with others, is causing or contributing to a violation of the City's NPDES stormwater permit or is causing or contributing to a water quality problem:

1. Discharges from potable water sources, including flushing of potable water lines, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the drainage system;

2. Discharges from washing or rinsing of potable water storage reservoirs, dechlorinated as above;

3. Discharges from surface waters, including diverted stream flows;

4. Discharges of uncontaminated groundwater, including uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(2)), uncontaminated pumped groundwater, and rising ground waters;

5. Discharges of air conditioning condensation;

6. Discharges from springs;

7. Discharges of uncontaminated water from crawl space pumps;

8. Discharges from lawn watering;

9. Discharges from irrigation runoff, including irrigation water from agricultural sources that is commingled with stormwater and that does not contain prohibited substances;

10. Discharges from riparian habitats and wetlands;

11. Discharges from approved footing drains and other subsurface drains, or where approval is not required, installed in compliance with this subtitle and rules promulgated pursuant to this subtitle;

12. Discharges from foundation drains;

13. Discharges from swimming pools, hot tubs, fountains, or similar aquatic recreation facilities, including constructed water features, provided the discharges have been de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and

14. Discharges from swimming pools, hot tubs, fountains, or similar aquatic recreation facilities, including constructed water features, provided the discharges have been de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and

volumetrically and velocity controlled to prevent resuspension of sediments in the drainage control system.

14. Discharges of street and sidewalk wash-water that does not use detergents or chemical additives;

15. Discharges of water used to control dust;

16. Discharges of water from routine external building washdown that does not use detergents or chemical additives;

17. Discharges that are in compliance with a separate individual or general NPDES permit;

18. Discharges that are from emergency fire fighting activities; and

19. Other non-stormwater discharges, provided these discharges are in compliance with the requirements of an approved stormwater pollution prevention plan that addresses such discharges.

B. Permissible Discharges to Sanitary Sewers. In consultation with the local sewage treatment agency, the Director of SPU may approve discharges of drainage water to a sanitary sewer if the discharging party demonstrates to the satisfaction of the Director of SPU that other methods of controlling pollutants in the discharge are not adequate or reasonable, the discharging party certifies that the discharge will not harm the environment, and the discharging party certifies that the discharge will not overburden or otherwise harm the sanitary sewer. Connections to the sanitary sewer shall be made in accordance with Chapter 21.16 (Side Sewer Code). The Director of SPU shall condition approval of such a discharge on compliance with local pretreatment regulations and on maintaining compliance with the required certifications given by the discharging party.

C. Permissible Discharges to Public Combined Sewers. In consultation with the local sewage treatment agency, the Director of SPU may approve discharges of drainage water to a public combined sewer if the discharging party certifies that the discharge will not harm the environment, and the discharging party certifies that the discharge will not overburden or otherwise harm the public combined sewers. Connections to the public combined sewers shall be made in accordance with Chapter 21.16 (Side Sewer Code). The Director of SPU shall condition approval of such a discharge on compliance with local pretreatment regulations and on maintaining compliance with the required certifications given by the discharging party.

22.802.040 Testing for Prohibited Discharges

When the Director of SPU has reason to believe that any discharge is a prohibited discharge, the Director of SPU may sample and analyze the discharge and recover the costs from a responsible party in an enforcement proceeding. When the discharge is likely to be a prohibited discharge on a recurring basis, the Director of SPU may conduct, or may require the responsible party to conduct, ongoing monitoring at the responsible party's expense.

Section 3. New Chapters 22.803, 22.805, and 22.807 are adopted to be read as follows:

Chapter 22.803 Minimum Requirements for All Discharges and All Real Property

22.803.010 General

A. All responsible parties are required to comply with this chapter, even where no development is occurring.

B. No discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

C. Every permit issued to implement this subtitle shall contain a performance standard requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

22.803.020 Minimum Requirements

ther defined in rules promulgated by the Director:

1. Develop and implement plans and procedures to prevent spills and other accidental releases of materials that may contaminate drainage water. This requirement may be satisfied by a Stormwater Pollution Prevention Plan prepared in compliance with an NPDES industrial stormwater permit for the site; and

2. Implement procedures for immediate containment and other appropriate action regarding spills and other accidental releases to prevent contamination of drainage water; and

3. Provide necessary containment and response equipment on-site, and training of personnel regarding the procedures and equipment to be used.

Chapter 22.805 MINIMUM REQUIREMENTS FOR ALL PROJECTS

22.805.010 General

A. All projects are required to comply with this chapter, even where drainage control review is not required.

B. No discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

C. Every permit issued to implement this subtitle shall contain a performance standard requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

22.805.020 Minimum Requirements for All Projects

A. Minimum Requirements for Maintaining Natural Drainage Patterns. For all projects, natural drainage patterns shall be maintained and discharges shall occur at the natural location to the maximum extent feasible and consistent with subsection 22.805.020.B. Drainage water discharged from the site shall not cause a significant adverse impact to receiving waters or down-gradient properties. Drainage water retained on the site shall not cause significant adverse impact to up-gradient properties.

B. Minimum Requirements for Discharge Point. The discharge point for drainage water from each site shall be selected using criteria that shall include, but not be limited to, preservation of natural drainage patterns and whether the capacity of the drainage system is adequate for the flow rate and volume. For those projects meeting the drainage review threshold, the proposed discharge point shall be identified in the drainage control plan required by this subtitle, for review and approval or disapproval by the Director.

C. Minimum Requirements for Flood-prone Areas. On sites within flood prone areas, responsible parties are required to employ procedures to minimize the potential for flooding on the site and to minimize the potential for the project to increase the risk of floods on adjacent or nearby properties. Flood control measures shall include those set forth in other titles of the Seattle Municipal Code and rules promulgated thereunder, including, but not limited to, Chapter 23.60 (Shoreline Master Program), Chapter 25.06 (Floodplain Development) and Chapter 25.09 (Environmentally Critical Areas) of the Seattle Municipal Code.

D. Minimum Requirements for Construction Site Stormwater Pollution Prevention Control. Temporary and permanent construction controls shall be used to accomplish the following minimum requirements. All projects are required to meet each of the elements below or document why an element is not applicable. Additional controls may be required by the Director when minimum controls are not sufficient to prevent erosion or transport of sediment or other pollutants from the site.

1. Mark Clearing Limits and Environmentally Critical Areas. Within the boundaries of the project site and prior to beginning land disturbing activities, including clearing and grading, clearly mark all clearing limits, easements, setbacks, all

11. Control Pollutants. Measures shall be taken to control potential pollutants that include, but are not limited to, the following measures:

a. All pollutants, including sediment, waste materials, and demolition debris, that occur onsite shall be handled and disposed of in a manner that does not cause contamination of drainage water and per all applicable disposal laws.

b. Containment, cover, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment.

c. On-site fueling tanks shall include secondary containment.

d. Maintenance, fueling, and repair of heavy equipment and vehicles involving oil changes, hydraulic system drain down, solvent and degreasing cleaning operations, fuel tank drain down and removal, and other activities which may result in discharge or spillage of pollutants to the ground or into drainage water runoff shall be conducted using spill prevention and control measures.

e. Contaminated surfaces shall be cleaned immediately following any discharge or spill incident.

f. Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the sanitary sewer or combined sewer system with approval of the Director of SPU. Temporary discharges or connections to the public sanitary and combined sewers shall be made in accordance with Chapter 21.16 (Side Sewer Code).

g. Application of fertilizers and pesticides shall be conducted in a manner and at application rates that will not result in loss of chemical to drainage water. Manufacturers' label requirements for application rates and procedures shall be followed.

h. BMPs shall be used to prevent or treat contamination of drainage water by pH-modifying sources. These sources include, but are not limited to, bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, and concrete pumping and mixer washout waters. Construction site operators may be required to adjust the pH of drainage water if necessary to prevent a violation of water quality standards. Construction site operators must obtain written approval from Ecology prior to using chemical treatment other than carbon dioxide (CO₂) or dry ice to adjust pH.

12. Control Dewatering. When dewatering devices discharge on site or to a public drainage system, dewatering devices shall discharge into a sediment trap, sediment pond, gently sloping vegetated area of sufficient length to remove sediment contamination, or other sediment removal BMP. Foundation, vault, and trench dewatering waters must be discharged into a controlled drainage system prior to discharge to a sediment trap or sediment pond. Clean, non-turbid dewatering water, such as well-point ground water, that is discharged to systems tributary to state surface waters must not cause erosion or flooding. Highly turbid or contaminated dewatering water shall be handled separately from drainage water. For any project with an excavation depth of 12 feet or more below the existing grade and for all large projects, dewatering flows must be determined and it must be verified that there is sufficient capacity in the public drainage system and public combined sewer prior to discharging.

13. Maintain BMPs. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All temporary erosion and sediment controls shall be removed within five days after final site stabilization is achieved or after the temporary controls are no longer needed, whichever is later. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal shall be permanently stabilized.

14. Inspect BMPs. BMPs shall be periodically inspected. For projects with 5,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity, site inspections shall be conducted by a Certified Erosion and Sediment Control Lead who shall be identified in the Construction Stormwater Control Plan and shall be present on-site or on-call at all times.

15. Execute Construction Stormwater

tank. Contents of such a sump or tank must be pumped or hauled by a waste handler, or treated prior to discharge to a public drainage system.

4. Construct a berm or dike to enclose or contain the pollution-generating activities;

5. Direct drainage from containment area of pollution-generating activity to a closed sump or tank for settling and appropriate disposal, or treat prior to discharging to a public drainage system;

6. Pave, treat, or cover the containment area of pollution-generating activities with materials that will not interact with or break down in the presence of other materials used in conjunction with the pollution-generating activity; and

7. Prevent precipitation from flowing or being blown onto containment areas of pollution-generating activities.

L. Do not obstruct watercourses. Watercourses shall not be obstructed.

M. Comply with Side Sewer Code.

1. All privately owned and operated drainage control facilities or systems, whether or not they discharge to a public drainage system, shall be considered side sewers and subject to Chapter 21.16 (Side Sewer Code), SPU Director's Rules promulgated under Title 21, and the design and installation specifications and permit requirements of SPU and DPD for side sewer and drainage systems.

2. Side sewer permits and inspections shall be required for constructing, capping, altering, or repairing privately owned and operated drainage systems as provided for in Chapter 21.16. When the work is ready for inspection, the permittee shall notify the Director of DPD. If the work is not constructed according to the plans approved under this subtitle, Chapter 21.16, the SPU Director's Rules promulgated under Title 21, and SPU and DPD design and installation specifications, then SPU, after consulting with DPD, may issue a stop work order under Chapter 22.808 and require modifications as provided for in this subtitle and Chapter 21.16.

22.805.030 Minimum Requirements for Single-Family Residential Projects

All single-family residential projects shall implement green stormwater infrastructure to the maximum extent feasible.

22.805.040 Minimum Requirements for Trail and Sidewalk Projects

All trail and sidewalk projects with 2,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity shall implement green stormwater infrastructure to the maximum extent feasible.

22.805.050 Minimum Requirements for Parcel-Based Projects

A. Flow Control. Parcel-based projects shall meet the minimum requirements for flow control contained in Section 22.805.080, to the extent allowed by law, as prescribed below.

1. Discharges to Wetlands. Parcel-based projects discharging into a wetland shall comply with subsection 22.805.080.B.1 (Wetland Protection Standard) if:

a. The total new plus replaced impervious surface is 5,000 square feet or more; or

b. The project converts 3/4-acre or more of native vegetation to lawn or landscaped areas and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

c. The project converts 2.5 acres or more of native vegetation to pasture and from which there is a surface discharge into a natural or man-made conveyance system from the site.

2. Discharges to Listed Creek Basins. Parcel-based projects discharging into Blue Ridge Creek, Broadway Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek, Taylor Creek, or Washington Park Creek shall:

a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested Standard) if the existing impervious coverage is less than 35 percent and one or more of the following apply:

1) The project adds 5,000 square feet or more of new impervious surface and the total new plus replaced impervious surface is 10,000 square feet or more; or

2) The project converts 3/4 acres or more of native vegetation to lawn or landscaped areas

Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek, Taylor Creek, or Washington Park Creek shall:

a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested Standard) if the existing impervious coverage is less than 35 percent and one or more of the following apply:

1) The project adds 5,000 square feet or more of new impervious surface and the total new plus replaced impervious surface is 10,000 square feet or more; or

2) The project converts 3/4 acres or more of native vegetation to lawn or landscaped areas and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

3) The project converts 2.5 acres or more of native vegetation to pasture and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

4) The project adds 5,000 square feet or more of new impervious surface and, through a combination of effective impervious surfaces and converted pervious surfaces, causes a 0.1 cubic feet per second increase in the 100-year recurrence interval flow frequency as estimated using a continuous model approved by the Director.

b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture Standard) if the criteria in subsection 22.805.060.A.2.a do not apply and the total new plus replaced impervious surface is 10,000 square feet or more.

3. Discharges to Non-listed Creek Basins. Roadway projects discharging into a creek not listed in subsection 22.805.060.A.2 shall:

a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested Standard) if the existing land cover is forested and one or more of the following apply:

1) The project adds 5,000 square feet or more of new impervious surface and the total new plus replaced impervious surface is 10,000 square feet or more; or

2) The project converts 3/4 acres or more of native vegetation to lawn or landscaped areas and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

3) The project converts 2.5 acres or more of native vegetation to pasture and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

4) The project adds 5,000 square feet or more of new impervious surface and, through a combination of effective impervious surfaces and converted pervious surfaces, causes a 0.1 cubic feet per second increase in the 100-year recurrence interval flow frequency as estimated using a continuous model approved by the Director.

b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture Standard) if the criteria in subsection 22.805.060.A.3.a do not apply and the total new plus replaced impervious surface is 10,000 square feet or more.

4. Discharges to Small Lake Basins. Projects discharging into Bitter Lake, Green Lake, or Haller Lake drainage basins shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 10,000 square feet or more.

5. Discharges to Public Combined Sewer. Roadway projects discharging into the public combined sewer shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 10,000 square feet or more.

6. Discharges to a Capacity-constrained System. In addition to applicable minimum requirements for flow control in subsection 22.805.060.A.1 through subsection 22.805.060.A.5, roadway projects discharging into a capacity-constrained system shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 10,000 square feet or more.

B. Treatment. Roadway projects not discharging to the public combined sewer shall comply with the minimum requirements for treatment contained in Section 22.805.090, to the extent allowed by law, if:

1. The total new plus replaced pollution-generating impervious surface is 5,000 square feet or more; or

2. The total new plus replaced pollution-generating impervious surface is three-quarters

for the simulation period occurs, as determined using an approved continuous model. It is calculated as follows:

1) Rank the daily runoff volumes from highest to lowest.

2) Sum all the daily volumes and multiply by 0.09.

3) Sequentially sum daily runoff volumes, starting with the highest value, until the total equals 9 percent of the total runoff volume. The last daily value added to the sum is defined as the water quality design volume.

b. Different design flow rates are required depending on whether a treatment facility will be located upstream or downstream of a detention facility:

1) For facilities located upstream of detention or when detention is not required, the design flow rate is the flow rate at or below which 91 percent of the total runoff volume for the simulation period is treated, as determined using an approved continuous runoff model.

2) For facilities located downstream of detention, the design flow rate is the release rate from the detention facility that has a 60 percent annual probability of occurring in any given year (2-year recurrence interval), as determined using an approved continuous runoff model.

c. Infiltration facilities designed for water quality treatment must infiltrate 91 percent of the total runoff volume as determined using an approved continuous runoff model. To prevent the onset of anaerobic conditions, an infiltration facility designed for water quality treatment purposes must be designed to drain the water quality design treatment volume (the 91st percentile, 24-hour volume) within 48 hours.

2. Basic Treatment. A basic treatment facility shall be required for all projects. The requirements of subsection 22.805.090 B3 (Oil Control Treatment), subsection 22.805.090 B4 (Phosphorus Treatment), subsection 22.805.090 B5 (Enhanced Treatment) are in addition to this basic treatment requirement.

3. Oil Control Treatment. An oil control treatment facility shall be required for high-use sites, as defined in this subtitle.

4. Phosphorus Treatment. A phosphorus treatment facility shall be required for projects discharging into nutrient-critical receiving waters.

5. Enhanced Treatment. An enhanced treatment facility for reducing concentrations of dissolved metals shall be required for projects discharging to a fish-bearing stream or lake, and to waters or drainage systems that are tributary to fish-bearing streams, creeks, or lakes, if the project meets one of the following criteria:

a. For a parcel-based project, the total of new plus replaced pollution-generating impervious surface is 5,000 square feet or more, and the site is an industrial, commercial, or multi-family project.

b. For a roadway project, the project adds 5,000 square feet or more of pollution-generating impervious surface, and the site is either:

1) A fully controlled or a partially controlled limited access highway with Annual Average Daily Traffic counts of 15,000 or more; or

2) Any other road with an Annual Average Daily Traffic count of 7,500 or greater.

6. Discharges to Groundwater. Direct discharge of untreated drainage water from pollution-generating impervious surfaces to groundwater is prohibited.

C. Inspection and Maintenance Schedule. Temporary and permanent treatment facilities shall be inspected and maintained according to rules promulgated by the Director to keep these facilities to be kept in continuous working order.

Chapter 22.807 DRAINAGE CONTROL REVIEW AND APPLICATION REQUIREMENTS

22.807.010 General

A. No discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit.

B. Every permit issued to implement this

2) A summary of the terms of the drainage control plan, including any known limitations of the drainage control facilities, and an agreement by the owners to implement those terms;

3) An agreement that the owner(s) shall inform future purchasers and other successors and assignees of the existence of the drainage control facilities and other elements of the drainage control plan, the limitations of the drainage control facilities, and of the requirements for continued inspection and maintenance of the drainage control facilities;

4) The side sewer permit number and the date and name of the permit or approval for which the drainage control plan is required;

5) Permission for the City to enter the property for inspection, monitoring, correction, and abatement purposes;

6) An acknowledgment by the owner(s) that the City is not responsible for the adequacy or performance of the drainage control plan, and a waiver of any and all claims against the City for any harm, loss, or damage related to the plan, or to drainage or erosion on the property, except for claims arising from the City's sole negligence; and

7) The owner(s)' signatures acknowledged by a notary public.

2. Information Required for Large Project Drainage Control Review. In addition to the submittal requirements for standard drainage control review, the following information is required for projects that include: one acre or more of land disturbing activities; 5,000 square feet or more of new and replaced impervious surface; conversion of 3/4 acres or more of native vegetation to lawn or landscaped area; or conversion of 2.5 acres or more of native vegetation to pasture.

a. Comprehensive Drainage Control Plan. A comprehensive drainage control plan, in lieu of a standard drainage control plan, to comply with the requirements of this subtitle and rules promulgated hereunder and to accomplish the purposes of this subtitle shall be submitted with the permit application. It shall be prepared by a licensed civil engineer in accordance with standards adopted by the Director of DPD.

b. Inspection and Maintenance Schedule. A schedule shall be submitted that provides for inspection of temporary and permanent flow control facilities, treatment facilities, and source controls to comply with Section 22.805.080 (Minimum Requirements for Flow Control) and Section 22.805.090 (Minimum Requirements for Treatment).

c. Construction Stormwater Control Plan. A construction stormwater control plan prepared in accordance with subsection 22.805.020.D shall be submitted.

3. Applications for drainage control review and approval shall be prepared and submitted in accordance with provisions of this subsection, with Chapter 21.16 (Side Sewer Code) and with associated rules and regulations adopted jointly by the Directors of DPD and SPU.

4. The Director of DPD may require additional information necessary to adequately evaluate applications for compliance with the requirements and purposes of this subtitle and other laws and regulations, including but not limited to Chapter 25.09 (Regulations for Environmentally Critical Areas). The Director of DPD may also require appropriate information about adjoining properties that may be related to, or affected by, the drainage control proposal in order to evaluate effects on the adjacent property. This additional information may be required as a precondition for permit application review and approval.

5. Where an applicant simultaneously applies for more than one of the permits listed in subsection 22.807.020.A for the same property, the application shall comply with the requirements for the permit that is the most detailed and complete.

C. Authority to Review. The Director may approve those plans that comply with the provisions of this subtitle and rules promulgated hereunder, and may place conditions upon the approval in order to assure compliance with the provisions of this subtitle. Submission of the required drainage control application information shall be a condition precedent to the processing of any of the above-listed permits. Approval of drainage control shall be a condition precedent to issuance of any of the above-listed permits. The Director may review and inspect activities subject to this subtitle and may require compliance regardless of whether review or approval is specifically required by this subsection. The Director may disapprove plans

The owner is required to maintain records of this procedures, and schedules required by this subsection available to the Director of SPU when requested.

B. Requirement to report spills, releases, or dumping. A responsible party is required to, at the earliest possible time, but in any case within 24 hours of discovery, report to the Director of SPU, a spill, release, dumping, or other situation that has contributed or is likely to contribute pollutants to a public drainage system, a private drainage system, or a receiving water. This reporting requirement is in addition to, and not instead of, any other reporting requirements under federal, state or local laws.

C. Requirements to maintain facilities. All treatment facilities, flow control facilities, drainage control facilities, and drainage systems shall be maintained as prescribed in rules promulgated by the Director in order for these facilities and systems to be kept in continuous working order.

D. Requirements for disposal of waste from maintenance activities. Disposal of waste from maintenance of drainage control facilities shall be conducted in accordance with federal, state and local regulations, including the Minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC, guidelines for disposal of waste materials, and, where appropriate, Dangerous Waste Regulations, Chapter 173-303 WAC.

E. Requirements to maintain records of installation and maintenance activities. When a drainage control facility is installed, the party having the facility installed shall make records of the installation and shall identify the party (or parties) responsible for maintenance and operations. The parties shall retain a continuous record of all maintenance and repair activities, and shall retain the records for at least ten years. If a transfer of ownership occurs, these records of installation, repair, and maintenance shall be transferred to the new property owner. These records shall be made available to the Director of SPU during inspection of the facility and at other reasonable times upon request of the Director of SPU.

22.803.030 Minimum Requirements for Source Controls for All Real Property

For all discharges, responsible parties shall implement and maintain source controls to prevent or minimize pollutants from leaving a site or property. Source controls that are required for all real property include, but are not limited to, the following, as further described in rules promulgated by the Director:

A. Eliminate Illicit or Prohibited Connections to Storm Drains. It is the responsibility of the property owner to ensure that all plumbing connections are properly made and that only connections conveying stormwater or permissible discharges per Section 22.802.030 are connected to the drainage system.

B. Perform Routine Maintenance for Stormwater Drainage System. All drainage system components, including, but not limited to catch basins, flow control facilities, treatment facilities, green stormwater infrastructure, and unimproved drainage pathways shall be kept in continuously working order.

C. Dispose of Fluids and Wastes Properly. Solid and liquid wastes must be disposed of in a manner that minimizes the risk of contaminating stormwater.

D. Proper Storage of Solid Wastes. Solid wastes must be stored in a manner that minimizes the risk of contaminating stormwater.

E. Spill Prevention and Cleanup. All property owners having the potential to spill pollutants shall take measures to the maximum extent feasible to prevent spills of pollutant and to properly clean up spills that may occur.

F. Provide Oversight and Training for Staff. Train at least annually all employees responsible for the operation, maintenance, or inspection of BMPs.

22.803.040 Minimum Requirements for Source Controls For All Businesses and Public Entities

A. Source controls shall be implemented, to the extent allowed by law, by all businesses and public entities for specific pollution-generating activities as specified in the joint SPU/DPD Directors' Rule, "Source Control Technical Requirements Manual," to the extent necessary to prevent prohibited discharges as described in subsection 22.802.020. A through subsection 22.802.020. C, and to prevent contaminants from coming in contact with drainage water. Source controls include, but are not limited to, segregating or isolating wastes to prevent contact with drainage water; enclosing, covering, or containing the activity to prevent contact with drainage water; developing and implementing inspection and maintenance programs; sweeping; and taking management actions such as training employees on pollution prevention.

B. Spill prevention shall be required for all businesses and public entities, as fur-

2. Retain Top Layer. Within the boundaries of the project site, the duff layer, top soil, and native vegetation, if there is any, shall be retained in an undisturbed state to the maximum extent feasible. If it is not feasible to retain the top layer in place, it should be stockpiled on-site, covered to prevent erosion, and replaced immediately upon completion of the ground disturbing activities to the maximum extent feasible.

3. Establish Construction Access. Limit construction vehicle access, whenever possible, to one route. Stabilize access points and minimize tracking sediment onto public roads. Promptly remove any sediment tracked off site.

4. Protect Downstream Properties and Receiving Waters. Protect properties and receiving waters downstream from the development sites from erosion due to increases in the volume, velocity, and peak flow rate of drainage water from the project site. If it is necessary to construct flow control facilities to meet this requirement, these facilities shall be functioning prior to implementation of other land disturbing activity. If permanent infiltration ponds are used to control flows during construction, these facilities shall be protected from siltation during the construction phase of the project.

5. Prevent Erosion and Sediment Transport from the Site. Pass all drainage water from disturbed areas through a sediment trap, sediment pond, or other appropriate sediment removal BMP before leaving the site or prior to discharge to an infiltration facility. Sediment controls intended to trap sediment on site shall be constructed as one of the first steps in grading and shall be functional before other land disturbing activities take place. BMPs intended to trap sediment shall be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.

6. Prevent Erosion and Sediment Transport from the Site by Vehicles. Whenever construction vehicle access routes intersect paved roads, the transport of sediment onto the paved road shall be minimized. If sediment is transported onto a paved road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from paved roads by shoveling or sweeping and shall be transported to a controlled sediment disposal area. If sediment is tracked off site, roads shall be cleaned thoroughly at the end of each day, or at least twice daily during wet weather. Street washing is allowed only after sediment is removed and street wash wastewater shall be prevented from entering the public drainage system and receiving waters.

7. Stabilize Soils. Prevent on-site erosion by stabilizing all exposed and unworked soils, including stock piles and earthen structures such as dams, dikes, and diversions. From October 1 to April 30, no soils shall remain exposed and unworked for more than two days. From May 1 to September 30, no soils shall remain exposed for more than seven days. Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast. Soil stockpiles shall be stabilized from erosion, protected with sediment trapping measures, and be located away from storm drain inlets, waterways, and drainage channels. Before the completion of the project, permanently stabilize all exposed soils that have been disturbed during construction.

8. Protect Slopes. Erosion from slopes shall be minimized. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Off-site stormwater run-on or groundwater shall be diverted away from slopes and undisturbed areas with interceptor dikes, pipes, and/or swales. Pipe slope drains or protected channels shall be constructed at the top of slopes to collect drainage and prevent erosion. Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations. Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.

9. Protect Storm Drains. Prevent sediment from entering all storm drains, including ditches that receive drainage water from the project. Storm drain inlets protection devices shall be cleaned or removed and replaced as recommended by the product manufacturer, or more frequently if required to prevent failure of the device or flooding. Storm drain inlets made operable during construction shall be protected so that drainage water does not enter the drainage system without first being filtered or treated to remove sediments. Storm drain inlet protection devices shall be removed at the conclusion of the project. When manufactured storm drain inlet protection devices are not feasible, inlets and catch basins must be cleaned as necessary to prevent sediment from entering the drainage control system.

10. Stabilize Channels and Outlets. All temporary on-site drainage systems shall be designed, constructed, and stabilized to prevent erosion. Stabilization shall be provided at the outlets of all drainage systems that are adequate to prevent erosion of outlets, adjacent stream banks, slopes, and downstream reaches.

3. The project converts 2.5 acres or more of native vegetation to pasture and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

4. The project adds 6,000 square feet or more of new impervious surface and, through a combination of effective impervious surfaces and converted pervious surfaces, causes a 0.1 cubic feet per second increase in the 100-year recurrence interval flow frequency as estimated using a continuous model approved by the Director.

b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture Standard) if the criteria in subsection 22.805.050.A.2.a do not apply and the total new plus replaced impervious surface is 2,000 square feet or more.

3. Discharges to Non-listed Creek Basins. Parcel-based projects discharging into a creek not listed in subsection 22.805.050.A.2 shall:

a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested Standard) if the existing land cover is forested and one or more of the following apply:

1) The project adds 5,000 square feet or more of new impervious surface and the total new plus replaced impervious surface is 10,000 square feet or more; or

2) The project converts 3/4 acres or more of native vegetation to lawn or landscaped areas and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

3) The project converts 2.5 acres or more of native vegetation to pasture and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

4) The project adds 5,000 square feet or more of new impervious surface and, through a combination of effective impervious surfaces and converted pervious surfaces, causes a 0.1 cubic feet per second increase in the 100-year recurrence interval flow frequency as estimated using a continuous model approved by the Director.

b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture Standard) if the criteria in subsection 22.805.050.A.3.a do not apply and the total new plus replaced impervious surface is 2,000 square feet or more.

4. Discharges to Small Lake Basins. Parcel-based projects discharging into Bitter Lake, Green Lake, or Haller Lake drainage basins shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 2,000 square feet or more.

5. Discharges to Public Combined Sewer. Parcel-based projects discharging into the public combined sewer shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 10,000 square feet or more.

6. Discharges to a Capacity-constrained System. In addition to applicable minimum requirements for flow control in subsection 22.805.050.A.1 through subsection 22.805.050.A.5, parcel-based projects discharging into a capacity-constrained system shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 2,000 square feet or more.

B. Treatment. Parcel-based projects not discharging to the public combined sewer shall comply with the minimum requirements for treatment contained in Section 22.805.090, to the extent allowed by law, if:

1. The total new plus replaced pollution-generating impervious surface is 5,000 square feet or more; or

2. The total new plus replaced pollution-generating pervious surfaces is 1/4 of an acre or more and from which there is a surface discharge in a natural or man-made conveyance system from the site.

22.805.060 Minimum Requirements for Roadway Projects

A. Flow Control. Roadway projects shall meet the minimum requirements for flow control contained in Section 22.805.080, to the extent allowed by law, as prescribed below.

1. Discharges to Wetlands. Roadway projects discharging into a wetland shall comply with subsection 22.805.080.B.1 (Wetland Protection Standard) if:

a. The total new plus replaced impervious surface is 5,000 square feet or more; or

b. The project converts 1/4 acres or more of native vegetation to lawn or landscaped areas and from which there is a surface discharge into a natural or man-made conveyance system from the site; or

c. The project converts 2.5 acres or more of native vegetation to pasture and from which there is a surface discharge into a natural or man-made conveyance system from the site.

2. Discharges to Listed Creek Basins. Roadway projects discharging into Blue Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek,

22.805.070 Minimum Requirements for Joint Parcel-Based and Roadway Projects

The parcel-based portion of joint projects shall comply with the minimum requirements for parcel-based projects contained in Section 22.805.050. The roadway portion of joint projects shall comply with the minimum requirements roadway projects contained in Section 22.805.060. The boundary of the public right-of-way shall form the boundary between the parcel and roadway portions of the joint project for purposes of determining applicable thresholds.

22.805.080 Minimum Requirements for Flow Control

A. Applicability. The requirements of this subsection apply to the extent required in Section 22.805.050 to Section 22.805.070.

B. Requirements. Flow control facilities shall be installed to the extent allowed by law and maintained per rules promulgated by the Director to receive flows from that portion of the site being developed. Post-development discharge determination must include flows from dewatering activities. All projects shall use green stormwater infrastructure to the maximum extent feasible to meet the minimum requirements. Flow control facilities that receive flows from less than that portion of the site being developed may be installed if the total new plus replaced impervious surface is less than 10,000 square feet, the project site uses only green stormwater infrastructure to meet the requirement, and the green stormwater infrastructure provides substantiated equivalent environmental protection as if the project were not using green stormwater infrastructure that receive flows from all of the portion of the site being developed.

1. Wetland Protection Standard. All projects discharging to wetlands or their buffers shall protect the hydrologic conditions, vegetative community, and substrate characteristics of the wetlands and their buffers to protect the functions and values of the affected wetlands. The introduction of sediment, heat and other pollutants and contaminants into wetlands shall be minimized, and the selection, design, installation, and maintenance of temporary and permanent controls. Discharges shall not maintain existing flows to the extent necessary to protect the functions and values of the wetlands. Prior to authorizing new discharges to a wetland, alternative discharge locations shall be evaluated and infiltration options outside the wetland shall be maximized unless doing so will adversely impact the functions and values of the affected wetlands. If one or more of the flow control requirements contained in 22.805.080.B.2 through 22.805.080.B.4 also apply to the project, an analysis shall be conducted to ensure that the functions and values of the affected wetland are protected before implementing these flow control requirements.

2. Pre-developed Forested Standard. The post-development discharge peak flow rates and flow durations must be matched to the pre-developed forested condition for the range of pre-developed discharge rates from 50% of the 2-year recurrence interval flow up to the 50-year recurrence interval flow.

3. Pre-developed Pasture Standard. The post-development discharge peak flow rates and flow durations must be matched to the pre-developed pasture condition for the range of pre-developed discharge rates from 50% of the 2-year recurrence interval flow up to the 2-year recurrence interval flow.

4. Peak Flow Control Standard. The post-development peak flow with a 4% annual probability (25-year recurrence flow) shall not exceed 0.4 cubic feet per second per acre. Additionally, the peak flow with a 50% annual probability (2-year recurrence flow) shall not exceed 0.15 cubic feet per second per acre.

C. Inspection and Maintenance Schedule. Temporary and permanent flow control facilities shall be inspected and maintained according to rules promulgated by the Director to keep these facilities to be kept in continuous working order.

22.805.090 Minimum Requirements for Treatment.

A. Applicability. The requirements of this subsection apply to the extent required in Section 22.805.050 to Section 22.805.070.

B. Requirements. Water quality treatment facilities shall be installed to the extent allowed by law and maintained per rules promulgated by the Director to treat flows from the pollution generating pervious and impervious surfaces on the site being developed. When stormwater flows from other areas, including non-pollution generating surfaces (e.g., roofs), dewatering activities, and off-site areas, cannot be separated or bypassed, treatment BMPs shall be designed for the entire area draining to the treatment facility. All projects shall use green stormwater infrastructure the maximum extent feasible to meet the minimum requirements.

1. Runoff Volume. Stormwater treatment facilities shall be designed based on the stormwater runoff volume from the contributing area or a peak flow rate as follows:

a. The daily runoff volume at or below which 91 percent of the total runoff volume

22.807.000 Maintenance and Inspection

A. Responsibility for Maintenance and Inspection. The owner and other responsible party shall maintain drainage control facilities, source controls, and other facilities required by this subtitle and by rules adopted hereunder to keep these facilities in continuous working order. The owner and other responsible party shall inspect permanent drainage control facilities temporary drainage control facilities, and other temporary best management practices or facilities on a schedule consistent with this subtitle and sufficient for the facilities to function at design capacity. The Director may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to ensure functioning at design capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan, the limitations of the drainage control facilities, and the requirements for continued inspection and maintenance of the drainage control facilities.

22.807.020 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 750 square feet or more of land disturbing activity and/or new and replaced impervious surface;

c. Applications for which a grading permit or approval is required per SMC 22.170;

d. Applications for street use permits for the cumulative addition of 750 square feet or more of new and replaced impervious surface and land disturbing activity;

e. City public works projects or construction contracts, including contracts for day labor and other public works purchasing agreements, for the cumulative addition of 750 square feet or more of new and replaced impervious surface and/or land disturbing activity to the site, except for projects in a City-owned right-of-way and except for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation; or

f. Permit approvals and contracts that include any new or replaced impervious surface or any land disturbing activity on a site deemed a potentially hazardous location, as specified in Section 22.800.050 (Potentially Hazardous Locations);

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

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

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

a. Five thousand square feet or more of new plus replaced impervious surface;

b. One acre or more of land disturbing activity;

c. Conversion of 3/4 acres or more of native vegetation to lawn or landscaped area;

d. Conversion of 2.5 acres or more of native vegetation to pasture.

3. The City may, by interagency agreement signed by the Directors of SPU and DPD, waive the drainage and erosion control permit and document requirements for property owned by public entities, when discharges for the property do not enter the public drainage system or the public combined sewer system.

B. Submittal Requirements for Drainage Control Review and Approval.

1. Information Required for Standard Drainage Control Review. The following information shall be submitted to the Director for all projects for which drainage control review is required.

a. Standard Drainage Control Plan. A drainage control plan shall be submitted to the Director. Standard designs for drainage control facilities as set forth in rules promulgated by the Director may be used.

b. Construction Stormwater Control Plan. A construction stormwater control plan demonstrating controls sufficient to determine compliance with subsection 22.805.020.D shall be submitted. The Director may approve a checklist in place of a plan, pursuant to rules promulgated by the Director.

c. Memorandum of Drainage Control. The owner(s) of the site shall sign a "memorandum of drainage control" that has been prepared by the Director of SPU. Completion of the memorandum shall be a condition precedent to issuance of any permit or approval for which a drainage control plan is required. The applicant shall file the memorandum of drainage control with the King County Recorder's Office so as to become part of the King County real property records. The applicant shall give the Director of SPU proof of filing of the memorandum. The memorandum shall not be required when the drainage control facility will be owned and operated by the City. A memorandum of drainage control shall include:

1) The legal description of the site;

22.807.030 Maintenance and Inspection

A. Responsibility for Maintenance and Inspection. The owner and other responsible party shall maintain drainage control facilities, source controls, and other facilities required by this subtitle and by rules adopted hereunder to keep these facilities in continuous working order. The owner and other responsible party shall inspect permanent drainage control facilities temporary drainage control facilities, and other temporary best management practices or facilities on a schedule consistent with this subtitle and sufficient for the facilities to function at design capacity. The Director may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to ensure functioning at design capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan, the limitations of the drainage control facilities, and the requirements for continued inspection and maintenance of the drainage control facilities.

22.807.040 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 750 square feet or more of land disturbing activity and/or new and replaced impervious surface;

c. Applications for which a grading permit or approval is required per SMC 22.170;

d. Applications for street use permits for the cumulative addition of 750 square feet or more of new and replaced impervious surface and land disturbing activity;

e. City public works projects or construction contracts, including contracts for day labor and other public works purchasing agreements, for the cumulative addition of 750 square feet or more of new and replaced impervious surface and/or land disturbing activity to the site, except for projects in a City-owned right-of-way and except for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation; or

f. Permit approvals and contracts that include any new or replaced impervious surface or any land disturbing activity on a site deemed a potentially hazardous location, as specified in Section 22.800.050 (Potentially Hazardous Locations);

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

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

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

a. Five thousand square feet or more of new plus replaced impervious surface;

b. One acre or more of land disturbing activity;

c. Conversion of 3/4 acres or more of native vegetation to lawn or landscaped area;

d. Conversion of 2.5 acres or more of native vegetation to pasture.

3. The City may, by interagency agreement signed by the Directors of SPU and DPD, waive the drainage and erosion control permit and document requirements for property owned by public entities, when discharges for the property do not enter the public drainage system or the public combined sewer system.

B. Submittal Requirements for Drainage Control Review and Approval.

1. Information Required for Standard Drainage Control Review. The following information shall be submitted to the Director for all projects for which drainage control review is required.

a. Standard Drainage Control Plan. A drainage control plan shall be submitted to the Director. Standard designs for drainage control facilities as set forth in rules promulgated by the Director may be used.

b. Construction Stormwater Control Plan. A construction stormwater control plan demonstrating controls sufficient to determine compliance with subsection 22.805.020.D shall be submitted. The Director may approve a checklist in place of a plan, pursuant to rules promulgated by the Director.

c. Memorandum of Drainage Control. The owner(s) of the site shall sign a "memorandum of drainage control" that has been prepared by the Director of SPU. Completion of the memorandum shall be a condition precedent to issuance of any permit or approval for which a drainage control plan is required. The applicant shall file the memorandum of drainage control with the King County Recorder's Office so as to become part of the King County real property records. The applicant shall give the Director of SPU proof of filing of the memorandum. The memorandum shall not be required when the drainage control facility will be owned and operated by the City. A memorandum of drainage control shall include:

1) The legal description of the site;

22.807.050 Maintenance and Inspection

A. Responsibility for Maintenance and Inspection. The owner and other responsible party shall maintain drainage control facilities, source controls, and other facilities required by this subtitle and by rules adopted hereunder to keep these facilities in continuous working order. The owner and other responsible party shall inspect permanent drainage control facilities temporary drainage control facilities, and other temporary best management practices or facilities on a schedule consistent with this subtitle and sufficient for the facilities to function at design capacity. The Director may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to ensure functioning at design capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan, the limitations of the drainage control facilities, and the requirements for continued inspection and maintenance of the drainage control facilities.

22.807.060 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 750 square feet or more of land disturbing activity and/or new and replaced impervious surface;

c. Applications for which a grading permit or approval is required per SMC 22.170;

d. Applications for street use permits for the cumulative addition of 750 square feet or more of new and replaced impervious surface and land disturbing activity;

e. City public works projects or construction contracts, including contracts for day labor and other public works purchasing agreements, for the cumulative addition of 750 square feet or more of new and replaced impervious surface and/or land disturbing activity to the site, except for projects in a City-owned right-of-way and except for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation; or

f. Permit approvals and contracts that include any new or replaced impervious surface or any land disturbing activity on a site deemed a potentially hazardous location, as specified in Section 22.800.050 (Potentially Hazardous Locations);

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

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

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

a. Five thousand square feet or more of new plus replaced impervious surface;

b. One acre or more of land disturbing activity;

c. Conversion of 3/4 acres or more of native vegetation to lawn or landscaped area;

d. Conversion of 2.5 acres or more of native vegetation to pasture.

3. The City may, by interagency agreement signed by the Directors of SPU and DPD, waive the drainage and erosion control permit and document requirements for property owned by public entities, when discharges for the property do not enter the public drainage system or the public combined sewer system.

B. Submittal Requirements for Drainage Control Review and Approval.

1. Information Required for Standard Drainage Control Review. The following information shall be submitted to the Director for all projects for which drainage control review is required.

a. Standard Drainage Control Plan. A drainage control plan shall be submitted to the Director. Standard designs for drainage control facilities as set forth in rules promulgated by the Director may be used.

b. Construction Stormwater Control Plan. A construction stormwater control plan demonstrating controls sufficient to determine compliance with subsection 22.805.020.D shall be submitted. The Director may approve a checklist in place of a plan, pursuant to rules promulgated by the Director.

c. Memorandum of Drainage Control. The owner(s) of the site shall sign a "memorandum of drainage control" that has been prepared by the Director of SPU. Completion of the memorandum shall be a condition precedent to issuance of any permit or approval for which a drainage control plan is required. The applicant shall file the memorandum of drainage control with the King County Recorder's Office so as to become part of the King County real property records. The applicant shall give the Director of SPU proof of filing of the memorandum. The memorandum shall not be required when the drainage control facility will be owned and operated by the City. A memorandum of drainage control shall include:

1) The legal description of the site;

22.807.070 Maintenance and Inspection

A. Responsibility for Maintenance and Inspection. The owner and other responsible party shall maintain drainage control facilities, source controls, and other facilities required by this subtitle and by rules adopted hereunder to keep these facilities in continuous working order. The owner and other responsible party shall inspect permanent drainage control facilities temporary drainage control facilities, and other temporary best management practices or facilities on a schedule consistent with this subtitle and sufficient for the facilities to function at design capacity. The Director may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to ensure functioning at design capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan, the limitations of the drainage control facilities, and the requirements for continued inspection and maintenance of the drainage control facilities.

22.807.080 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 750 square feet or more of land disturbing activity and/or new and replaced impervious surface;

c. Applications for which a grading permit or approval is required per SMC 22.170;

d. Applications for street use permits for the cumulative addition of 750 square feet or more of new and replaced impervious surface and land disturbing activity;

e. City public works projects or construction contracts, including contracts for day labor and other public works purchasing agreements, for the cumulative addition of 750 square feet or more of new and replaced impervious surface and/or land disturbing activity to the site, except for projects in a City-owned right-of-way and except for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation; or

f. Permit approvals and contracts that include any new or replaced impervious surface or any land disturbing activity on a site deemed a potentially hazardous location, as specified in Section 22.800.050 (Potentially Hazardous Locations);

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

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

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

to allow to exist, or cause or contribute to, a condition of a drainage control facility, or condition related to grading, drainage water, drainage or erosion that is likely to endanger the public health, safety or welfare, the environment, or public or private property;

f. **Interference.** It is a violation for any person to interfere with or impede the correction of any violation, or compliance with any Notice of Violation, emergency order, stop work order, or the abatement of any nuisance;

g. **Piecemeal of Projects.** It is a violation for any person to knowingly divide a large project into a set of smaller projects specifically for the purpose of avoiding minimum requirements;

h. **Altering a Posted Order.** It is a violation for any person to remove, obscure, or mutilate any posted order of the Director, including a stop work or emergency order; and

i. **Continuing Work.** It is a violation for any work to be done after service or posting of a stop work order, except work necessary to perform the required corrective action, until authorization is given by the Director.

B. Criminal Violations.

1. The following are criminal violations, punishable upon conviction by a fine of not more than \$5,000 per violation or imprisonment for each violation for not more than 360 days, or both such fine and imprisonment:

a. Failing to comply with a Notice of Violation or Director's order issued pursuant to this subtitle;

b. Failing to comply with a court order;

c. Tampering with or vandalizing any part of a drainage control facility or other best management practice, a public or private drainage system, monitoring or sampling equipment or records, or notices posted pursuant to this subtitle; and

d. Anyone violating this subtitle who has had a judgment, final Director's order, or Director's review decision against them for a prior violation of this subtitle in the preceding five years.

22.808.020 Liability and Defenses of Responsible Parties

A. **Who Must Comply.** It is the specific intent of this subtitle to place the obligation of complying with its requirements upon the responsible parties, as defined in subsection 22.801.190. The City and its agencies are intended to have the same obligation for compliance when the City is a responsible party. No provision of this subtitle is intended to impose any other duty upon the City or any of its officers or employees.

1. **Joint and Several Liability.** Each responsible party is jointly and severally liable for a violation of this subtitle. The Director may take enforcement action, in whole or in part, against any responsible party. All applicable civil penalties may be imposed against each responsible party.

2. **Allocation of Damages.** In the event enforcement action is taken against more than one responsible party, recoverable damages, costs, and expenses may be allocated among the responsible parties by the court based upon the extent to which each responsible party's acts or omissions caused the violation. If this factor cannot be determined the court may consider:

a. Awareness of the violation;

b. Ability to correct the violation;

c. Ability to pay the damages, costs, and expenses;

d. Cooperation with government agencies;

e. Degree to which any impact or threatened impact on water or sediment quality, human health, the environment, or public or private property is related to acts or omissions by each responsible party;

f. Degree to which the responsible parties made good-faith efforts to avoid a violation or to mitigate its consequences; and

g. Other equitable factors.

B. **Defenses.** A responsible party shall not be liable under this subtitle when the responsible party proves, by a preponderance of the evidence, one of the following:

1. The violation was caused solely by an act of God;

2. The violation was caused solely by another responsible party over whom the defending responsible party had no authority or control and the defending responsible party could not have reasonably prevented the violation;

3. The violation was caused solely by a prior owner or occupant when the defending responsible party took possession of the property without knowledge of the violation, after using reasonable efforts to identify violations. But, the defending responsible party shall be liable for all continuing, recurrent, or new violations after becoming the owner or occupant; or

4. The responsible party implemented and maintained all appropriate drainage control facilities, treatment facilities, flow control

facilities, or other measures necessary to prevent or correct a violation of this subtitle, and the violation occurred despite the best management practices and measures implemented by the responsible party; or

5. The violation was caused by an act of God, and the responsible party exercised reasonable care to prevent or correct a violation of this subtitle, and the violation occurred despite the best management practices and measures implemented by the responsible party.

3. **Director's Review of Stop Work and Emergency Order.** A stop work order or emergency order shall be final and not subject to a Director's review.

D. Review by Director.

1. A Notice of Violation, Director's order, or invoice issued pursuant to this subtitle shall be final and not subject to further appeal unless an aggrieved party requests in writing a review by the Director within ten days after service of the Notice of Violation, order or invoice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until 5:00 p.m. on the next business day.

2. Following receipt of a request for review, the Director shall notify the requesting party, any persons served the Notice of Violation, order or invoice, and any person who has requested notice of the review, that the request for review has been received by the Director. Additional information for consideration as part of the review shall be submitted to the Director no later than 15 days after the written request for a review is mailed.

3. The Director will review the basis for issuance of the Notice of Violation, order, or invoice and all information received by the deadline for submission of additional information for consideration as part of the review. The Director may request clarification of information received and a site visit. After the review is completed, the Director may:

a. Sustain the Notice of Violation, order, or invoice;

b. Withdraw the Notice of Violation, order or invoice;

c. Continue the review to a date certain for receipt of additional information; or

d. Modify or amend the Notice of Violation, order, or invoice.

4. The Director's decision shall become final and is not subject to further administrative appeal.

E. **Referral to City Attorney for Enforcement.** If a responsible party fails to correct a violation or pay a penalty as required by a Notice of Violation, or fails to comply with a Director's order, the Director shall refer the matter to the City Attorney's Office for civil or criminal enforcement action. Civil actions to enforce a violation of this subtitle shall be exclusively in Municipal Court.

F. **Appeal to Superior Court.** Because civil actions to enforce Title 22 are brought exclusively in Municipal Court, notices of violation, orders, and all other actions made under this chapter are not subject to judicial review under chapter 36.70C RCW. Instead, final decisions of the Municipal Court on enforcement actions authorized by this chapter may be appealed under the Rules of Appeals of Decisions of Courts of Limited Jurisdiction.

G. **Filing of Notice or Order.** A Notice of Violation, voluntary compliance agreement or an order issued by the Director or court, may be filed with the King County Recorder's Office.

H. **Change of Ownership.** When a Notice of Violation, voluntary compliance agreement, or an order issued by the Director or court has been filed with the King County Recorder's Office, a Notice of Violation or an order regarding the same violations need not be served upon a new owner of the property where the violation occurred. If no Notice of Violation or order is served upon the new owner, the Director may grant the new owner the same number of days to comply as was given the previous owner. The compliance period for the new owner shall begin on the date that the conveyance of title to the new owner is completed.

22.808.040 Voluntary Compliance Agreement

A. **Initiation.** Either a responsible party or the Director may initiate negotiations for a voluntary compliance agreement at any time. Neither has any obligation to enter into any voluntary compliance agreement.

B. **Contents.** A voluntary compliance agreement shall identify actions to be taken by the responsible party that will correct past or existing violations of this subtitle. The agreement may also identify actions to mitigate the impacts of violations. The agreement shall contain a schedule for completion of the corrective actions and any mitigating actions. Following the Director to inspect the premises to determine compliance with the agreement. The agreement shall provide that the responsible party agrees the City may perform the actions set forth in the agreement if the responsible party fails to do so according to the terms and schedule of the agreement, and the responsible party will pay the costs, expenses and damages the City incurs in performing the actions set forth

E. **Effect of Payment of Penalties.** The responsible party named in a Notice of Violation or order is not relieved of the duty to correct the violation by paying civil penalties.

22.808.060 Collection of Costs and Penalties

A. **Invoice and Demand for Payment of Investigation and Correction Costs.** The Director may issue an invoice and demand for payment of the City's costs and expenses when the Director has investigated or corrected a violation of this subtitle. The invoice shall include:

1. The amount of the City's investigation and correction costs, which include, but are not limited to:

a. Billed cost including labor, administration, overhead, overtime, profit, taxes, and other related costs for a hired contractor to investigate and/or perform the abatement work;

b. Labor, administration, overhead, overtime, and other related costs for the City staff and crews to investigate and/or perform the abatement work;

c. Administrative costs to set up contracts and coordinate work;

d. Time spent communicating with the responsible party, any other enforcing agencies, and the affected community;

e. Inspections for compliance with the Code, documentation of costs, and invoicing the responsible party;

f. Cost of equipment, materials, and supplies, including all related expenses for purchasing, renting, and leasing;

g. Laboratory costs and analytical expenses;

h. Cost of mobilization, disposal of materials, and cleanup; and

i. Any associated permit fees;

2. Either a legal description of the property corresponding as nearly as possible to that used for the property on the rolls of the King County Assessor or, where available, the property's street address;

3. Notice that the responsible party may request a Director's review pursuant to subsection 22.808.030.D;

4. Notice that if the amount due is not paid within 30 days, the unpaid amount may be collected in any of the manners identified in subsection 22.808.060.C; and

5. Notice that interest shall accrue on the unpaid balance if not paid within 30 days after the invoice date.

B. **Invoice and Demand for Payment of Civil Penalties.** The Director may issue an invoice and demand for payment of civil penalties when the responsible party has failed to pay a penalty by the deadline in a Notice of Violation or order and has failed to request a Director's review or file an appeal within the required time periods established in subsection 22.808.030.D. The invoice shall include:

1. The amount of the penalty;

2. Either a legal description of the property corresponding as nearly as possible to that used for the property on the rolls of the King County Assessor or, where available, the property's street address;

3. Notice that if the amount due is not paid within 30 days, the unpaid amount may be collected in any of the manners identified in subsection 22.808.060.C; and

4. Notice that interest shall accrue on the unpaid balance if not paid within 30 days after the invoice date.

C. **Collection Following a Judicial Review.** If a court has issued an order or judgment imposing penalties, costs, damages, or expenses for a violation of this subtitle, and the court's order or judgment is not appealed within 30 days, the Director may:

1. Refer the matter to the City Attorney to initiate appropriate enforcement action;

2. Refer, after consultation with the City Attorney, the matter to a collection agency; or

3. Add a surcharge in the amount owed under the order to the bill for drainage and wastewater services to the site. If unpaid, the surcharge may become a lien on the property, may be foreclosed, and may accrue interest as provided by state law or Section 21.33.110.

22.808.070 Public Nuisance

A. **Abatement Required.** A public nuisance affecting drainage water, drainage, erosion control, grading and other public nuisances set forth in this subsection are violations of this subtitle. A responsible party shall immediately abate a public nuisance upon becoming aware of its existence.

B. **Dysfunctional Facility or Practice.** Any private drainage control facility or best management practice not installed or maintained as required by this subtitle, or otherwise found to be in a state of dysfunction creating a threat to the public health, safety or welfare, the environment, or public or private property is a public nuisance.

to allow to exist, or cause or contribute to, a condition of a drainage control facility, or condition related to grading, drainage water, drainage or erosion that is likely to endanger the public health, safety or welfare, the environment, or public or private property;

B. Bonds, Cash or Credit.

1. Surety Bond:

a. The Director, property owners, or the Director for filii City Clerk a surety instrument of an amount deemed by the Director to be necessary to ensure that the permit or approval may be furnished only by licensed to do business in Washington. The bond that the work will be completed with the conditions of the permit, or if the work is not completed, the site will be left in a safe condition and restored to the original condition, or be restored if damaged activities conducted pursuant to the permit or approval.

b. The bond will be a condition of the permit or approval after a determination by the Director that the requirements of the permit, or if the work is not completed, the site will be left in a safe condition and restored to the original condition, or be restored if damaged activities conducted pursuant to the permit or approval.

2. Assurance in Lieu of a Surety Bond. The Director may require a cash deposit or instrument of value in lieu of a surety bond, to file a cash deposit or instrument of value with the Director in an amount which would be required to complete the work, or in a form approved by the Director, to ensure compliance with the same conditions for surety bonds.

C. Covenants.

1. The Director may require a covenant between the property owner and the City. The covenant shall be signed by the owner and notarized prior to the issuance of a permit or approval in a potentially hazardous area, or other area of potential hazard. The covenant shall not be required for a permit or approval for work on the property. The covenant shall include:

a. A legal description of the property;

b. A description of the proposed work making this subsection applicable;

c. A statement that the owner understands and accepts the liability for the risks associated with the work on the property given the description of the work and agrees to inform future purchasers and assignees of the property of the work;

d. The application date, type, of the permit or approval for which the covenant is required; and

e. A statement waiving the rights of the owners' heirs, successors, assigns, to assert any claim against the City for any loss or damage to the property, except on losses that may directly result from negligence of the City.

2. The covenant shall be filed with the Director with the King County Recorder's Office, at the expense of the owner, and become part of the King County Recorder's records.

Section 5. When a permit application is pending on the effective date of this ordinance, this ordinance applies unless the applicant has made a written determination of compliance with the provisions of the Seattle Municipal Code Sections 22.800 through 22.802 and prior to their amendment by this ordinance including granting an exception under Section 2) the application is vested in the applicant, or 3) the Seattle Municipal Code City ordinance provides otherwise. Applicant for a permit that is not subject to the provisions of this ordinance may ask the City to review the entire application under the provisions of this ordinance.

Section 6. The provisions of this ordinance are hereby declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, subsection or portion of this ordinance or the invalidity of the application thereof to any particular circumstance shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 7. To the extent that sections of this ordinance recodify or incorporate into new or different sections provisions of the Seattle Municipal Code as previously in effect, this ordinance shall be construed to continue such provisions in effect. The repeal of various sections of Title 22 of the Seattle Municipal Code by this ordinance shall not relieve any person of the obligation to comply with the terms and conditions of any permit issued pursuant to the provisions of such title

e. **Dangerous Condition.** It is a violation to allow to exist, or cause or contribute to, a condition of a drainage control facility, or condition related to grading, drainage water, drainage or erosion that is likely to endanger the public health, safety or welfare, the environment, or public or private property;

f. **Interference.** It is a violation for any person to interfere with or impede the correction of any violation, or compliance with any Notice of Violation, emergency order, stop work order, or the abatement of any nuisance;

g. **Piecemeal of Projects.** It is a violation for any person to knowingly divide a large project into a set of smaller projects specifically for the purpose of avoiding minimum requirements;

h. **Altering a Posted Order.** It is a violation for any person to remove, obscure, or mutilate any posted order of the Director, including a stop work or emergency order; and

i. **Continuing Work.** It is a violation for any work to be done after service or posting of a stop work order, except work necessary to perform the required corrective action, until authorization is given by the Director.

B. Criminal Violations.

1. The following are criminal violations, punishable upon conviction by a fine of not more than \$5,000 per violation or imprisonment for each violation for not more than 360 days, or both such fine and imprisonment:

a. Failing to comply with a Notice of Violation or Director's order issued pursuant to this subtitle;

b. Failing to comply with a court order;

c. Tampering with or vandalizing any part of a drainage control facility or other best management practice, a public or private drainage system, monitoring or sampling equipment or records, or notices posted pursuant to this subtitle; and

d. Anyone violating this subtitle who has had a judgment, final Director's order, or Director's review decision against them for a prior violation of this subtitle in the preceding five years.

22.808.020 Liability and Defenses of Responsible Parties

A. **Who Must Comply.** It is the specific intent of this subtitle to place the obligation of complying with its requirements upon the responsible parties, as defined in subsection 22.801.180. The City and its agencies are intended to have the same obligation for compliance when the City is a responsible party. No provision of this subtitle is intended to impose any other duty upon the City or any of its officers or employees.

1. **Joint and Several Liability.** Each responsible party is jointly and severally liable for a violation of this subtitle. The Director may take enforcement action, in whole or in part, against any responsible party. All applicable civil penalties may be imposed against each responsible party.

2. **Allocation of Damages.** In the event enforcement action is taken against more than one responsible party, recoverable damages, costs, and expenses may be allocated among the responsible parties by the court based upon the extent to which each responsible party's acts or omissions caused the violation. If this factor cannot be determined the court may consider:

a. Awareness of the violation;

b. Ability to correct the violation;

c. Ability to pay the damages, costs, and expenses;

d. Cooperation with government agencies;

e. Degree to which any impact or threatened impact on water or sediment quality, human health, the environment, or public or private property is related to acts or omissions by each responsible party;

f. Degree to which the responsible parties made good-faith efforts to avoid a violation or to mitigate its consequences; and

g. Other equitable factors.

B. **Defenses.** A responsible party shall not be liable under this subtitle when the responsible party proves, by a preponderance of the evidence, one of the following:

1. The violation was caused solely by an act of God;

2. The violation was caused solely by another responsible party over whom the defending responsible party had no authority or control and the defending responsible party could not have reasonably prevented the violation;

3. The violation was caused solely by a prior owner or occupant when the defending responsible party took possession of the property without knowledge of the violation, after using reasonable efforts to identify violations. But, the defending responsible party shall be liable for all continuing, recurrent, or new violations after becoming the owner or occupant; or

may enter property without permission or an administrative warrant in the case of an extreme emergency placing human life, property, or the environment in immediate and substantial jeopardy which requires corrective action before either permission or an administrative warrant can be obtained. The cost of such emergency corrective action shall be collected as set forth in subsection 22.808.060.

3. **Director's Review of Stop Work and Emergency Order.** A stop work order or emergency order shall be final and not subject to a Director's review.

D. Review by Director.

1. A Notice of Violation, Director's order, or invoice issued pursuant to this subtitle shall be final and not subject to further appeal unless an aggrieved party requests in writing a review by the Director within ten days after service of the Notice of Violation, order or invoice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until 5:00 p.m. on the next business day.

2. Following receipt of a request for review, the Director shall notify the requesting party, any persons served the Notice of Violation, order or invoice, and any person who has requested notice of the review, that the request for review has been received by the Director. Additional information for consideration as part of the review shall be submitted to the Director no later than 15 days after the written request for a review is mailed.

3. The Director will review the basis for issuance of the Notice of Violation, order, or invoice and all information received by the deadline for submission of additional information for consideration as part of the review. The Director may request clarification of information received and a site visit. After the review is completed, the Director may:

a. Sustain the Notice of Violation, order, or invoice;

b. Withdraw the Notice of Violation, order or invoice;

c. Continue the review to a date certain for receipt of additional information; or

d. Modify or amend the Notice of Violation, order, or invoice.

4. The Director's decision shall become final and is not subject to further administrative appeal.

E. **Referral to City Attorney for Enforcement.** If a responsible party fails to correct a violation or pay a penalty as required by a Notice of Violation, or fails to comply with a Director's order, the Director shall refer the matter to the City Attorney's Office for civil or criminal enforcement action. Civil actions to enforce a violation of this subtitle shall be exclusively in Municipal Court.

F. **Appeal to Superior Court.** Because civil actions to enforce Title 22 are brought exclusively in Municipal Court, notices of violation, orders, and all other actions made under this chapter are not subject to judicial review under chapter 36.70C RCW. Instead, final decisions of the Municipal Court on enforcement actions authorized by this chapter may be appealed under the Rules of Appeals of Decisions of Courts of Limited Jurisdiction.

G. **Filing of Notice or Order.** A Notice of Violation, voluntary compliance agreement or an order issued by the Director or court, may be filed with the King County Recorder's Office.

H. **Change of Ownership.** When a Notice of Violation, voluntary compliance agreement, or an order issued by the Director or court has been filed with the King County Recorder's Office, a Notice of Violation or an order regarding the same violations need not be served upon a new owner of the property where the violation occurred. If no Notice of Violation or order is served upon the new owner, the Director may grant the new owner the same number of days to comply as was given the previous owner. The compliance period for the new owner shall begin on the date that the conveyance of title to the new owner is completed.

22.808.040 Voluntary Compliance Agreement

A. **Initiation.** Either a responsible party or the Director may initiate negotiations for a voluntary compliance agreement at any time. Neither has any obligation to enter into any voluntary compliance agreement.

B. **Contents.** A voluntary compliance agreement shall identify actions to be taken by the responsible party that will correct past or existing violations of this subtitle. The agreement may also identify actions to mitigate the impacts of violations. The agreement shall contain a schedule for completion of the corrective actions and any mitigating actions. The agreement shall contain a provision allowing the Director to inspect the premises to determine compliance with the agreement. The agreement shall provide that the responsible party agrees the City may perform the actions set forth in the agreement if the responsible party fails to do so according to the terms and schedule of the

E. **Effect of Payment of Penalties.** The responsible party named in a Notice of Violation or order is not relieved of the duty to correct the violation by paying civil penalties.

22.808.060 Collection of Costs and Penalties

A. **Invoice and Demand for Payment of Investigation and Correction Costs.** The Director may issue an invoice and demand for payment of the City's costs and expenses when the Director has investigated or corrected a violation of this subtitle. The invoice shall include:

1. The amount of the City's investigation and correction costs, which include, but are not limited to:

a. Billed cost including labor, administration, overhead, overtime, profit, taxes, and other related costs for a hired contractor to investigate and/or perform the abatement work;

b. Labor, administration, overhead, overtime, and other related costs for the City staff and crews to investigate and/or perform the abatement work;

c. Administrative costs to set up contracts and coordinate work;

d. Time spent communicating with the responsible party, any other enforcing agencies, and the affected community;

e. Inspections for compliance with the Code, documentation of costs, and invoicing the responsible party;

f. Cost of equipment, materials, and supplies, including all related expenses for purchasing, renting, and leasing;

g. Laboratory costs and analytical expenses;

h. Cost of mobilization, disposal of materials, and cleanup; and

i. Any associated permit fees;

2. Either a legal description of the property corresponding as nearly as possible to that used for the property on the rolls of the King County Assessor or, where available, the property's street address;

3. Notice that the responsible party may request a Director's review pursuant to subsection 22.808.030.D;

4. Notice that if the amount due is not paid within 30 days, the unpaid amount may be collected in any of the manners identified in subsection 22.808.060.C; and

5. Notice that interest shall accrue on the unpaid balance if not paid within 30 days after the invoice date.

B. **Invoice and Demand for Payment of Civil Penalties.** The Director may issue an invoice and demand for payment of civil penalties when the responsible party has failed to pay a penalty by the deadline in a Notice of Violation or order and has failed to request a Director's review or file an appeal within the required time periods established in subsection 22.808.030.D. The invoice shall include:

1. The amount of the penalty;

2. Either a legal description of the property corresponding as nearly as possible to that used for the property on the rolls of the King County Assessor or, where available, the property's street address;

3. Notice that if the amount due is not paid within 30 days, the unpaid amount may be collected in any of the manners identified in subsection 22.808.060.C and

4. Notice that interest shall accrue on the unpaid balance if not paid within 30 days after the invoice date.

C. **Collection Following a Judicial Review.** If a court has issued an order or judgment imposing penalties, costs, damages, or expenses for a violation of this subtitle, and the court's order or judgment is not appealed within 30 days, the Director may:

1. Refer the matter to the City Attorney to initiate appropriate enforcement action;

2. Refer, after consultation with the City Attorney, the matter to a collection agency; or

3. Add a surcharge in the amount owed under the order to the bill for drainage and wastewater services to the site. If unpaid, the surcharge may become a lien on the property, may be foreclosed, and may accrue interest as provided by state law or Section 21.33.110.

22.808.070 Public Nuisance

A. **Abatement Required.** A public nuisance affecting drainage water, drainage, erosion control, grading and other public nuisances set forth in this subsection are violations of this subtitle. A responsible party shall immediately abate a public nuisance upon becoming aware of its existence.

B. **Dysfunctional Facility or Practice.** Any private drainage control facility or best management practice not installed or maintained as required by this subtitle, or otherwise found to be in a state of dysfunction creating a threat to the public health, safety

If a property owner's insurance is canceled and not replaced, the permit or approval and any interrelated permit or approval may be revoked, including a certificate of occupancy or approval for occupancy.

B. Bonds, Cash Deposits or Instruments of Credit.

1. Surety Bond;

a. The Director may require that the property owners or contractor deliver to the Director for filing in the Office of the City Clerk a surety bond, cash deposit or an instrument of credit in such form and amounts deemed by the Director to be necessary to ensure that requirements of the permit or approval are met. A surety bond may be furnished only by a surety company licensed to do business in The State of Washington. The bond shall be conditioned that the work will be completed in accordance with the conditions of the permit or approval, or if the work is not completed, that the site will be left in a safe condition. The bond shall also be conditioned that the site and nearby adjacent or surrounding areas will be restored if damaged or made unsafe by activities conducted pursuant to the permit or approval.

b. The bond will be exonerated one year after a determination by the Director that the requirements of the permit or approval have been met. For work under a building permit, issuance of a certificate of occupancy or approval for occupancy following a final inspection shall be considered to be such a determination.

2. **Assurance in Lieu of Surety Bond.** In lieu of a surety bond, the owners may elect to file a cash deposit or instrument of credit with the Director in an amount equal to that which would be required in the surety bond and in a form approved by the Director. The cash deposit or instrument of credit shall comply with the same conditions as required for surety bonds.

C. Covenants.

1. The Director may require a covenant between the property owners and the City. The covenant shall be signed by the owners of the site and notarized prior to issuing any permit or approval in a potential landslide area, potentially hazardous location, flood prone zone, or other area of potentially hazardous soils or drainage or erosion conditions. The covenant shall not be required where the permit or approval is for work done by the City. The covenant shall include:

a. A legal description of the property;

b. A description of the property condition making this subsection applicable;

c. A statement that the owners of the property understands and accepts the responsibility for the risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees of the risks;

d. The application date, type, and number of the permit or approval for which the covenant is required; and

e. A statement waiving the right of the owners, the owners' heirs, successors and assigns, to assert any claim against the City by reason of or arising out of issuance of the permit or approval by the City for the development on the property, except only for such losses that may directly result from the sole negligence of the City.

2. The covenant shall be filed by the Director with the King County Recorder's Office, at the expense of the owners, so as to become part of the King County real property records.

Section 5. When a permit application for a project within the scope of this ordinance is pending on the effective date of this ordinance, this ordinance applies unless 1) the City has made a written determination on any part of the permit application under the provisions of the Seattle Municipal Code Sections 22.800 through 22.802 and 22.808 prior to their amendment by this ordinance, including granting an exception under those Sections, 2) the application is vested under currently applicable law to previous regulation, or 3) the Seattle Municipal Code or a City ordinance provides otherwise. An applicant for a permit that is not subject to the provisions of this ordinance may ask the City to review the entire application under the provisions of this ordinance.

Section 6. The provisions of this ordinance are hereby declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, subsection 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 7. To the extent that sections of this ordinance specify or incorporate into new or different sections provisions of the Seattle Municipal Code as previously in effect, this ordinance shall be construed to continue such provisions in effect. The repeal of various sections of Title 22 of the Seattle Municipal Code by this ordinance shall not relieve any person of the obligation to comply

after reasonable efforts to identify violations. But, the responsible party shall be liable for all continuing, recurrent, or new violations after becoming the owner or occupant; or

4. The responsible party implemented and maintained all appropriate drainage control facilities, treatment facilities, flow control facilities, erosion and sediment controls, source controls, and best management practices identified in rules promulgated by the Director or in manuals published by the State Department of Ecology, or as otherwise identified and required of the responsible party by the Director in writing.

22.808.025 Right of Entry for Enforcement

With the consent of the owner or occupant of a building, premises, or property, or pursuant to a lawfully issued warrant, the Director may enter a building, premises, or property at any reasonable time to perform the duties imposed by this code.

22.808.030 Enforcement Actions

A. Investigation. The Director may investigate any site where there is reason to believe that there may be a failure to comply with the requirements of this subtitle.

B. Notice of Violation.

1. Issuance. The Director is authorized to issue a Notice of Violation to a responsible party whenever the Director determines that a violation of this subtitle has occurred or is occurring. The Notice of Violation shall be considered an order of the Director.

2. Contents.

a. The Notice of Violation shall include the following information:

1) A description of the violation and the action necessary to correct it;

2) The date of the notice; and

3) A deadline by which the action necessary to correct the violation must be completed.

b. A Notice of Violation may be amended at any time to correct clerical errors, add citations of authority, or modify required corrective action.

3. Service. The Director shall serve the notice upon a responsible party either by personal service, by first class mail, or by certified mail return receipt requested, to the party's last known address. If the address of the responsible party cannot be found after a reasonable search, the notice may be served by posting a copy of the notice at a conspicuous place on the property. Alternatively, if the whereabouts of the responsible party is unknown and cannot be ascertained in the exercise of reasonable diligence, and the Director makes an affidavit to that effect, then service may be accomplished by publishing the notice once each week for two consecutive weeks in the City official newspaper.

4. Nothing in this subtitle shall be deemed to obligate or require the Director to issue a Notice of Violation or order prior to the initiation of enforcement action by the City Attorney's Office pursuant to subsection 22.808.030.E.

C. Stop Work and Emergency Orders.

1. Stop Work Order. The Director may order work on a site stopped when he or she determines it is necessary to do so in order to obtain compliance with or to correct a violation of any provision of this subtitle or rules promulgated hereunder or to correct a violation of a permit or approval granted under this subtitle.

a. The stop work notice shall contain the following information:

1) A description of the violation; and

2) An order that the work be stopped until corrective action has been completed and approved by the Director.

b. The stop work order shall be personally served on the responsible party or posted conspicuously on the premises.

2. Emergency Order.

a. The Director may order a responsible party to take emergency corrective action and set a schedule for compliance with or may require immediate compliance with an emergency order to correct when the Director determines that it is necessary to do so in order to obtain immediate compliance with or to correct a violation of any provision of this subtitle, or to correct a violation of a permit or approval granted under this subtitle.

b. An emergency order shall be personally served on the responsible party or posted conspicuously on the premises.

c. The Director is authorized to enter any property to investigate and correct a condition associated with grading, drainage, erosion control, drainage water, or a drainage control facility when it reasonably appears that the condition creates a substantial and present or imminent danger to the public health, safety or welfare, the environment, or public or private property. The Director

may, at the discretion of the Director, require the responsible party to agree to the agreement. The agreement shall provide that the responsible party agrees the City may perform the actions set forth in the agreement if the responsible party fails to do so according to the terms and schedule of the agreement, and the responsible party will pay the costs, expenses and damages the City incurs in performing the actions, as set forth in Section 22.808.069.

C. Effect of Agreement.

1. A voluntary compliance agreement is a binding contract between the party executing it and the City. It is not enforceable by any other party. By entering into a voluntary compliance agreement, a responsible party waives the right to Director's Review of the Notice of Violation or order.

2. Penalties may be reduced or waived if violations are corrected or mitigated according to the terms and schedule of a voluntary compliance agreement. If the responsible party fails to perform according to the terms and schedule of the voluntary compliance agreement, penalties for each violation addressed in the agreement may be assessed starting from the date the violation occurred, or as otherwise provided for in a Notice of Violation or Director's order.

D. Modification. The terms and schedule of the voluntary compliance agreement may be modified by mutual agreement of the responsible party and either Director if circumstances or conditions outside the responsible party's control, or unknown at the time the agreement was made, or other just cause necessitate such modifications.

22.808.050 Penalties and Damages

A. Assessment of Penalties by the Director. The Director, after considering all available information, may assess a penalty for each violation of this subtitle based upon the Schedule of Civil Penalties.

B. Schedule of Civil Penalties. The Director shall determine penalties as follows:

1. Basic Penalty.

a. Maximum Penalty. A violation of this subtitle is subject to a maximum civil penalty of up to \$5,000. Each day or portion thereof during which a violation of this subtitle exists is a separate violation of this subtitle.

b. Commencement Date. The penalty shall commence on the date of the violation, unless otherwise provided for in a Notice of Violation or Director's order.

c. Assessment Matrix. The penalty shall be assessed using a matrix of criteria and scored as defined in rules promulgated by the Director. The total score will equate with a penalty up to a maximum of \$5000 for each violation. The penalty shall be rated for severity by using the criteria listed below and by answering "No", "Possibly", "Probably", or "Definitely":

1) Does the violation pose a public health risk;

2) Does the violation cause environmental damage or adversely impact infrastructure;

3) Was the responsible party willful or knowing of the violation;

4) Was the responsible party unresponsive in correcting the violation;

5) Was there improper operation or maintenance;

6) Was there a failure to obtain necessary permits or approval;

7) Does the violation provide economic benefit for non-compliance; and

8) Was the violation a repeat violation.

C. Penalty for Significant Violation. For violations causing significant harm to public health, safety, welfare, the environment, or private or public property, the Director may, as an alternative to the Basic Penalty, refer the matter to the City Attorney's Office for enforcement and request the City Attorney seek a penalty equivalent to the economic benefit the responsible party derived from the violation. Significant harm is damage or injury which cannot be fully corrected or mitigated by the responsible party, and which cannot be adequately compensated for by assessment of the Basic Penalty and costs, expenses, or damages under this subtitle. Economic benefit may be determined by savings in costs realized by the responsible party, value received by the responsible party, increased income to the responsible party, increase in market value of property, or any other method reasonable under the circumstances.

D. Damages. Whoever violates any of the provisions of this subtitle shall, in addition to any penalties provided for such violation, be liable for any investigation cost, cost to correct or any other cost expense, loss or damage incurred by the City, plus a charge of 16% for administrative costs. This subtitle does not establish a cause of action that may be asserted by any party other than the City. Penalties, damages, costs and expenses may be recovered only by the City.

B. Dvsfunctional Facility or Practice. Any private drainage control facility or best management practice not installed or maintained as required by this subtitle, or otherwise found to be in a state of dysfunction creating a threat to the public health, safety or welfare, the environment, or public or private property is a public nuisance.

C. Obstruction of Watercourse. Obstruction of a watercourse without authorization by the Director, and obstruction in such a manner as to increase the risk of flooding or erosion should a storm occur, is a public nuisance.

D. Dangerous Conditions. Any condition relating to grading, drainage water, drainage or erosion which creates a present or imminent danger, or which is likely to create a danger in the event of a storm, to the public health, safety or welfare, the environment, or public or private property is a public nuisance.

E. Abatement by the City. The Director is authorized, but not required to investigate a condition that the Director suspects of being a public nuisance under this subtitle, and to abate any public nuisance. If a public nuisance is an immediate threat to the public health, safety or welfare or to the environment, the Director may summarily and without prior notice abate the condition. The Director shall give notice of the abatement to the responsible party as soon as reasonably possible after the abatement.

F. Collection of Abatement Costs. The costs of abatement may be collected from the responsible party, including, a reasonable charge for attorney time, and a 15% surcharge for administrative expenses as set forth in subsection 22.808.050.D. Abatement costs and other damages, expenses and penalties collected by the City shall go into an abatement account for the department collecting the moneys. The money in the abatement account shall be used for abatements, investigations, and corrections of violations performed by the City. When the account is insufficient the Director may use other available funds.

22.808.080 Additional Relief

In addition to any remedy provided in this subtitle, the Director may seek any other legal or equitable remedy to enjoin any acts or practice or abate any condition that or will constitute a violation of this subtitle or a public nuisance.

22.808.090 Suspension or Revocation

Approvals or permits granted on the basis of inaccurate or misleading information may be suspended or revoked. Other permits or approvals interrelated with an approval suspended or revoked under this subsection, including certificates of occupancy or approvals for occupancy, may also be suspended or revoked. When an approval or permit is suspended or revoked, the Director may require the applicant take corrective action to bring the project into compliance with this subtitle by a deadline set by the Director, or may take other enforcement action.

22.808.100 Fees

Fees for grading permits, drainage control plan review and approvals shall be as identified in the Fee Subtitle, Subtitle IX of Title 22, Seattle Municipal Code. Fees for record-keeping or other activities pursuant to this subtitle shall, unless otherwise provided for in this subtitle, be prescribed by ordinance.

22.808.110 Financial Assurance and Covenants

As a condition precedent to issuance of any permit or approval provided for in this subtitle, the Director may require an applicant for a permit or approval to submit financial assurances as provided in this subsection.

A. Insurance.

1. The Director may require the property owners or contractor carry liability and property damage insurance naming the City as an additional insured. The amount, as determined by the Director, shall be commensurate with the risks.

2. The Director may also require the property owner maintain a policy of general public liability insurance against personal injury, death, property damage and/or loss from activities conducted pursuant to the permit or approval, or conditions caused by such activities, and naming the City as an additional insured. The amount, as determined by the Director, shall be commensurate with the risks. It shall cover a period of not more than ten years from the date of issuance of a certificate of occupancy or finalization of the permit or approval. A certificate evidencing such insurance shall be filed with the Director before issuing a certificate of occupancy or finalizing a permit for any single family dwelling or duplex.

3. The insurance policy shall provide that the City will be notified of cancellation of the policy at least 30 days prior to cancellation. The notice shall be sent to the Director who required the insurance and shall state the insured's name and the property address.

Seattle Municipal Code as previously in effect, this ordinance shall be construed to continue such provisions in effect. The repeal of various sections of Title 22 of the Seattle Municipal Code by this ordinance shall not relieve any person of the obligation to comply with the terms and conditions of any permit issued pursuant to the provisions of such title as in effect prior to such repeal, nor shall it relieve any person or property of any obligations, conditions, or restrictions in any agreement of instrument made or granted pursuant to, or with reference to, the provisions of such Title in effect prior to such repeal.

Section 8. This ordinance shall take effect and be in force on the latest of: (1) sixty days from and after its approval by the Mayor, or if not approved and returned by the Mayor within ten (10) days after presentation, 60 days from the date when it would take effect as provided by Municipal Code Section 1.04.020; (2) the date when CB 116616 (revising grading regulations) takes effect, or would be effective contingent only on the effectiveness of this ordinance and CB 116615 (amending cross references to the grading and stormwater regulations in the Seattle Municipal Code); and (3) the date when CB 116615 (amending cross references to the grading and stormwater regulations in the Seattle Municipal Code) takes effect, or would be effective contingent only on the effectiveness of this ordinance and CB 116617 (revising grading regulations). The intent that all three ordinances will take effect the same time.)

Passed by the City Council the 28th of September, 2009, and signed by me in session in authentication of its passage the 28th day of September, 2009.

Richard Conlin
President of the City Council

Approved by me this 5th of September, 2009.

Gregory J. Nickels, Mayor
Filed by me this 5th of 2009.

Publication ordered by
Date of publication in
Journal of Commerce, Or

425-586-1900 T/S# 702304709

Beneficiary: Wells Fargo Bank
Trustee: Northwest Trustee Services

20060920001335
Tax# 292221400735
DOT#

Filing Info: Auditor: 20090901000196
Lot size 2,760, Total living area 1,000,
Principal: \$374,858, Acreage: \$16,593,
Financial Info: Assessed: \$355,000,
bedrooms, 1 bath, built in 1921.

Ravenna Blvd, Seattle WA, 98115, 2
Div Of GREEN LAKE, 810 NE
Prop. Info: PTN L13-14, B6, WEEDIN'S
Bldg, Seattle, WA 98115

Atherine Carcelen, 810 NE Ravenna
Factoria Blvd SE, Bellevue

Sale: December 4th, 10 am, 3535
425-586-1900 T/S# 702304897

Beneficiary: Wells Fargo Bank
Trustee: Northwest Trustee Services

20080625000457
Tax# 7812120270
DOT#

Filing Info: Auditor: 20090901000195
3,540,
Lot size 15,197, Total living area

Financial Info: Assessed: \$1,143,000,
in 1927,
98055, 8 bedrooms, 6 baths, built

4, 13700 SE 23rd Ln, Bellevue WA,
Prop. Info: L15, B2, SKYRIDGE DIV
Bellevue, WA 98055

Barbara D Faras; 13700 SE 23rd Ln,
Factoria Blvd SE, Bellevue

Sale: December 4th, 10 am, 3535
425-586-1900 T/S# 702304672

Beneficiary: Wells Fargo Bank
Trustee: Northwest Trustee Services

20070418001110
Tax# 6649300170
DOT#

Filing Info: Auditor: 20090901000209
Lot size 8,730, Total living area 1,730,
Principal: \$372,473, Acreage: \$16,460,
Financial Info: Assessed: \$377,000,
bedrooms, 3 baths, built in 1922.

30th Ave NE, Shoreline WA, 98155, 6
Prop. Info: L17, PARK ROYAL; 14565
Shoreline, WA 98155

gar Asias; 14565 30th Ave NE,
Shoreline, WA 98155

Ken V
PA
Filing
Final
Final
2009
Prop
Tax
9306
Benef
Trustee
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