

ECOLOGY REVIEW DRAFT
STORMWATER CODE
CHAPTERS 22.800 – 22.808
SEATTLE MUNICIPAL CODE

CITY OF SEATTLE
SEATTLE PUBLIC UTILITIES
DEPARTMENT OF CONSTRUCTION AND INSPECTIONS

November 2020

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CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

..title

AN ORDINANCE relating to the Stormwater Code; amending Chapters 22.800, 22.801, 22.802, 22.803, 22.805, 22.807, and 22.808 of the Seattle Municipal Code.

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Chapter 22.800 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended 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. To 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. To protect the public interest in drainage and related functions of drainage basins, watercourses and shoreline areas;

3. To 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 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. To meet the requirements of state and federal law and the City’s municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit;

1 5. To protect the functions and values of environmentally critical areas as required
2 under the state’s Growth Management Act and Shoreline Management Act;

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

7 7. To fulfill the responsibilities of the City as trustee of the environment for future
8 generations.

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

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

21 **22.800.030 Scope and Applicability**

22 This subtitle applies to:

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

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

25 C. All discharges directly or indirectly to a public drainage system or a public combined
26 sewer;

27 D. All discharges directly or indirectly into receiving waters within or contiguous to
28 Seattle city limits;

29 E. All new and existing land uses; and

30 F. All real property.

1 **22.800.040 Exemptions, Adjustments, and Exceptions**

2 A. Exemptions

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

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

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

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

12 a. Maintenance, repair, or installation of underground or overhead utility
13 facilities, such as, but not limited to, pipes, conduits and vaults, and that includes replacing the
14 ground surface with in-kind material or materials with similar runoff characteristics are not
15 required to comply with Section 22.805.070 (Minimum Requirements for On-site Stormwater
16 Management), Section 22.805.080 (Minimum Requirements for Flow Control), or Section
17 22.805.090 (Minimum Requirements for Treatment), except as modified as follows:

18 ~~((1) Installation of a new or replacement of an existing public
19 drainage system, public combined sewer, or public sanitary sewer in the public right of way
20 shall comply with Section 22.805.060 (Minimum Requirements for Roadway Projects) when
21 these activities are implemented as publicly bid capital improvement projects funded by Seattle
22 Public Utilities; and~~

23 ~~2))~~ 1) Installation of underground or overhead utility facilities that
24 are integral with and contiguous to a road-related project shall comply with Section 22.805.060
25 (Minimum Requirements for Roadway Projects).

26 b. Pavement maintenance practices limited to the following activities are
27 not required to comply with Section 22.805.060 (Minimum Requirements for Roadway
28 Projects), Section 22.805.070 (Minimum Requirements for On-site Stormwater Management,
29 Section 22.805.080 (Minimum Requirements for Flow Control), or Section 22.805.090
30 (Minimum Requirements for Treatment):

31 1) Pothole and square cut patching;

1 2) Overlaying existing asphalt or concrete or brick pavement with
2 asphalt or concrete without expanding the area of coverage;

3 3) Shoulder grading;

4 4) Reshaping or regrading drainage ditches;

5 5) Crack sealing; and

6 6) Vegetation maintenance.

7 c. Land disturbing activity that includes replacing the ground surface with
8 in-kind material or materials with equivalent runoff characteristics and is associated solely with
9 soil remediation or tank removal for the purpose of removing contaminants and pollutants and
10 not associated with other development is not required to comply with subsections 22.805.050.A
11 and 22.805.060.A (Soil Amendment), Section 22.805.070 (Minimum Requirements for On-site
12 Stormwater Management), or Section 22.805.080 (Minimum Requirements for Flow Control).

13 ~~Projects that include any development in addition to soil remediation or tank removal replaced~~
14 ~~with in-kind material or materials with equivalent runoff characteristics are not exempt.~~

15 d. Drainage control facilities that are part of a public retrofit project
16 installed to meet Appendix 12 to the City's municipal stormwater NPDES permit or for
17 combined sewer control, or other voluntary retrofit project are not required to comply with
18 Section 22.805.070 (Minimum Requirements for On-site Stormwater Management), Section
19 22.805.080 (Minimum Requirements for Flow Control), or Section 22.805.090 (Minimum
20 Requirements for Treatment). This exemption does not include land disturbing activities or hard
21 surfaces that are not integral to or are in addition to the drainage control facilities described
22 above, or installation of drainage control facilities that are otherwise required to meet this
23 subtitle.

24 3. Sites that produce no runoff as determined by a licensed civil engineer using a
25 continuous runoff model approved by the Director are not required to comply with Section
26 22.805.080 (Minimum Requirements for Flow Control).

27 4. When a portion of the site being developed discharges only to the public
28 combined sewer, and that portion is not required to implement source controls pursuant to
29 subsection 22.803.040 for specified activities, ((~~comply with the provision of subsection~~
30 22.805.020.I (Install Source Control BMPs) unless)) the Director has the authority, to the extent
31 allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to

1 undertake more stringent or additional source controls for the activities regulated by 22.803.040,
2 if the Director determines that these activities pose a hazard to public health, safety or welfare;
3 endanger any property; adversely affect the safety and operation of city right-of-way, utilities, or
4 other property owned or maintained by the City; or adversely affect the functions and values of
5 an environmentally critical area or buffer.

6 5. Residential activities are not required to comply with the provision of
7 subsection 22.805.020.I (Install Source Control BMPs) unless the Director determines that these
8 activities pose a hazard to public health, safety or welfare; endanger any property; adversely
9 affect the safety and operation of city right-of-way, utilities, or other property owned or
10 maintained by the City; or adversely affect the functions and values of an environmentally
11 critical area or buffer.

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

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

22 b. WSDOT shall comply with standards identified in watershed action
23 plans for WSDOT rights-of-way, to the extent required by state law.

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

31 B. Adjustments

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

3 a. The adjustment provides substantially equivalent environmental
4 protection; and

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

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

12 3. A request by the applicant for adjustments shall be submitted to the Director for
13 approval prior to implementation. The request shall be in writing and shall provide facts
14 substantiating the requirements of subsection 22.800.040.B.1 and, if made during construction,
15 the factors in subsection B.2. Any such modifications made during the construction of drainage
16 control facilities shall be recorded on the final approved drainage control plan, a revised copy of
17 which shall be filed by the Director.

18 C. Exceptions

19 1. The Director may approve a request for an exception to the requirements of this
20 subtitle when the applicant demonstrates that the exception will not increase risks in the vicinity
21 and/or downstream of the property to public health, safety and welfare, or to water quality, or to
22 public and private property, and:

23 a. The requirement would cause a severe and unexpected financial
24 hardship that outweighs the requirement's benefits, and the criteria for an adjustment cannot be
25 met; or

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

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

1 d. An emergency situation exists that necessitates approval of the
2 exception.

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

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

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

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

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

17 7. The Director's decision shall be in writing with written findings of fact.
18 Decisions approving an exception based on severe and unexpected economic hardship shall
19 address all the factors in subsection 22.800.040.C.8.

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

- 22 a. The current, pre-project use of the site; and
- 23 b. How application of the requirement(s) for which an exception is being
24 requested restricts the proposed use of the site compared to the restrictions that existed prior to
25 the adoption of this current subtitle; and
- 26 c. The possible remaining uses of the site if the exception were not
27 granted; and
- 28 d. The uses of the site that would have been allowed prior to the adoption
29 of this subtitle; and

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

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

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

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

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

17 **22.800.050 Potentially Hazardous Locations**

18 A. Any site on a list, register, or database compiled by EPA or Ecology for investigation,
19 cleanup, or other action regarding contamination under any federal or state environmental law
20 shall be a potentially hazardous location under this subtitle. When EPA or Ecology removes the
21 site from the list, register or database, or when the Director of SDCI or the Director of SPU
22 determines the owner has otherwise established the contamination does not pose a present or
23 potential threat to human health or the environment, the site will no longer be considered a
24 potentially hazardous location.

25 B. The following property may also be designated by the Director of SDCI or the
26 Director of SPU as potentially hazardous locations:

- 27 1. Existing and/or abandoned solid waste disposal sites;
- 28 2. Hazardous waste treatment, storage, or disposal facilities, all as defined by the
29 federal Solid Waste Disposal Act, 42 U.S.C. Section 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 22.800.070 and review and approval when applying roadway project infeasibility as provided in subsection 22.805.060.E, 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 Title 15, Street and Sidewalk Use, including the applicable requirements to obtain permits or approvals.

1 2. A City agency project, as defined in Section 22.801.170, that is not required to
2 obtain permit(s) and approval(s) pursuant to subsection 22.800.070.A.1 and meets all of the
3 conditions set forth below, is not required to comply with the amendments to 22.800.020 through
4 22.808.110 that take effect on ~~((January 1, 2016))~~ [July 1, 2021], except the amendments to this
5 subsection 22.800.070.A.2.

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

8 b. The project complies with the Stormwater Code that was made effective
9 ~~((November 30, 2009))~~ January 1, 2016, by Ordinance ~~((123105))~~ 124872 which requires
10 compliance with Directors' Rules ~~((15-2012/DWW 201.1 and 16-2012/DWW 201.2))~~ SDCI 17-
11 2017/SPU DWW 200 effective ~~((March 1, 2013))~~ January 1, 2016 ~~((, as amended by Ordinance~~
12 ~~124758))~~; and

13 c. The project meets one or more of the following criteria:

14 1) Project funding was appropriated as identified in Ordinance
15 ~~((124648))~~ XXXXTBD titled, "An ordinance adopting a budget, including a capital improvement
16 program and position modifications, for the City of Seattle for ~~((2015))~~ 2021"; or

17 2) Project received or will receive voter approval of financing
18 before ~~((January 1, 2015))~~ January 1, 2021; or

19 3) Project received or will receive funds based on grant
20 application(s) submitted before ~~((January 1, 2015))~~ January 1, 2021.

21 B. Inspection

22 1. When the City conducts projects for which review and approval are required
23 under Chapter 22.807 (Drainage Control Review and Application Requirements) the work shall
24 be inspected by the City agency conducting the project or supervising the contract for the project.
25 The inspector for the City agency shall be responsible for ascertaining that the drainage control is
26 done in a manner consistent with the requirements of this subtitle.

27 2. A City agency need not provide an inspector from its own agency provided
28 either:

29 a. The work is inspected by an appropriate inspector from another City
30 agency; or

1 b. The work is inspected by an appropriate inspector hired for that purpose
2 by a City agency; or

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

5 d. A permit or approval is obtained from the Director of SDCI, and the
6 work is inspected by the Director.

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

10 **22.800.075 Compliance by Public Agencies**

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

15 **22.800.080 Authority**

16 A. For projects not conducted in the public right-of-way, the Director of SDCI has
17 authority regarding the provisions of this subtitle pertaining to grading, review of drainage
18 control plans, and review of construction stormwater control plans, and has inspection and
19 enforcement authority pertaining to temporary erosion and sediment control measures.

20 B. The Director of SPU has authority regarding all other provisions of this subtitle
21 pertaining to drainage water, drainage, and erosion control, including inspection and enforcement
22 authority. The Director of SPU may delegate authority to the Director of SDCI or the Director of
23 SDOT regarding the provisions of this subtitle pertaining to review of drainage control plans,
24 inspection of drainage control facilities, review of construction stormwater control plans, and
25 inspection and enforcement authority pertaining to temporary erosion and sediment control
26 measures for projects conducted in the public right-of-way.

27 C. The Directors of SDCI, SDOT, and SPU are authorized to take actions necessary to
28 implement the provisions and purposes of this Subtitle VIII in their respective spheres of
29 authority to the extent allowed by law, including, but not limited to, the following: promulgating
30 and amending rules and regulations, pursuant to the Administrative Code, Chapter 3.02;
31 establishing and conducting inspection programs; establishing and conducting or, as set forth in

1 Section 22.802.040, requiring responsible parties to conduct monitoring programs, which may
2 include sampling of discharges to or from drainage control facilities, the public drainage system,
3 or receiving waters; taking enforcement action; abating nuisances; promulgating guidance and
4 policy documents; and reviewing and approving, conditioning, or disapproving required
5 submittals and applications for approvals and permits. The Directors are authorized to exercise
6 their authority under this Subtitle VIII in a manner consistent with their legal obligations as
7 determined by the courts or by statute.

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

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

23 F. For projects that do not discharge to the combined sewer system, ((The)) the Director
24 of SPU is authorized, to the extent allowed by law, to enter into an agreement with the developer
25 to allow a project's flow control, water quality treatment, on-site stormwater management, or
26 wetland protection requirements to be met at an alternative location if the following conditions
27 are met, or if another scenario is approved by Ecology:

28 1. ((of a project for the developer to)) The developer enters the agreement
29 voluntarily to contribute funds toward the construction of, or to construct, one or more drainage
30 control facilities at an alternative location to ((that)) mitigate the impacts to the same receiving
31 water that have been identified as a consequence of the ((proposed development)) project; and

1 2. The alternative location is for an equivalent area in terms of flow and pollution
2 characteristics when compared with the project, as determined by the Director; and

3 a. The site of the project has greater than or equal to 35 percent existing
4 hard surface coverage and the project discharges to:

5 1) A Listed Creek and the equivalent area is in-basin, which means
6 that the equivalent area is on the same site as the project, the project is located within
7 contributing area to the equivalent area, or the equivalent area discharges from the public
8 drainage system to the receiving water at the same point as (or upstream of) the point where the
9 project area discharges from the public drainage system to the same receiving water; or

10 2) A receiving water other than a Listed Creek and the equivalent
11 area discharges to the same receiving water as the project.

12 G. For projects that discharge to the combined sewer system, ((The)) the Director of SPU
13 is authorized, to the extent allowed by law, to enter into an agreement with the developer ((of a
14 project for the developer to)) to allow a project's flow control or on-site stormwater management
15 requirements to be met at an alternative location if the developer enters the agreement voluntarily
16 to contribute funds towards the construction of, or to construct, one or more drainage control
17 facilities at an alternative location, determined by the Director, to mitigate the impacts ((to the
18 same receiving water)) that have been identified as a consequence of the ((proposed
19 development)) project.

20 H. If the Director of SPU determines that a discharge from a site, real property, or
21 drainage control facility, directly or indirectly to a public drainage system, a private drainage
22 system, or a receiving water within or contiguous to Seattle city limits, has exceeded, exceeds, or
23 will 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 of
26 the City's municipal stormwater NPDES permit, and cannot be adequately addressed by the
27 required best management practices, then the Director of SPU has the authority, to the extent
28 allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to
29 undertake more stringent or additional best management practices. These best management
30 practices may include additional source control or structural best management practices or other
31 actions necessary to cease the exceedance, the prohibited discharge, or causing or contributing to

1 the known or likely violation of water quality standards in the receiving water or the known or
2 likely violation of the City's municipal stormwater NPDES permit. Structural best management
3 practices may include but shall not be limited to: drainage control facilities, structural source
4 controls, treatment facilities, constructed facilities such as enclosures, covering and/or berming
5 of container storage areas, and revised drainage systems. For existing discharges as opposed to
6 new projects, the Director may allow 12 months to install a new flow control facility, structural
7 source control, or treatment facility after the Director notifies the responsible party in writing of
8 the Director's determination pursuant to this subsection 22.800.080.H and of the flow control
9 facility, structural source control, or treatment facility that must be installed.

10 I. Unless an adjustment pursuant to subsection 22.800.040.B or an exception pursuant to
11 subsection 22.800.040.C is approved by the Director, an owner or occupant who is required to
12 connect, or who chooses to connect, to a public drainage system shall be required to extend the
13 public drainage system if a public drainage system is not accessible within an abutting public
14 area across the full frontage of the site.

15 J. The Director of SDCI or the Director of SPU has the authority, to the extent allowed by
16 law, to require ~~((sites))~~ projects with any addition or replacement ~~((of less than 5,000 square
17 feet))~~ of hard surface or ~~((with less than one acre of))~~ land disturbing activity to comply with the
18 requirements set forth in ~~((Section 22.805.080 or Section 22.805.090))~~ this subtitle when
19 necessary to accomplish the purposes of this subtitle. In making this determination, the Director
20 of SDCI or the Director of SPU may consider, but is not limited to, the following attributes of the
21 site: location within an Environmentally Critical Area; proximity and tributary to an
22 Environmentally Critical Area; and proximity and tributary to an area with known erosion or
23 flooding problems.

24 **22.800.090 City Not Liable**

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

1 B. The Director or any employee charged with the enforcement of this subtitle, acting in
2 good faith and without malice on behalf of the City, shall not be personally liable for any damage
3 that may accrue to persons or property as a result of any act required by the City, or by reason of
4 any act or omission in the discharge of these duties. Any suit brought against the Director of
5 SDCI, Director of SPU, or other employee because of an act or omission performed in the
6 enforcement of any provisions of this Subtitle VIII, shall be defended by the City.

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

10 **22.800.100 Transition to Revised Stormwater Code**

11 A. Any building or grading permit issued prior to [January 1, 2016](#), (a) which was not
12 considered, either in the initial application process or in a renewal process, under the version of
13 the Stormwater Code in effect on or after January 1, 2016, and (b) pursuant to which
14 construction has not started by June 30, 2020, shall expire on June 30, 2020.

15 B. Any building or grading permit (a) which was considered under a version of the
16 Stormwater Code in effect on or after January 1, 2016, but before [July 1, 2021], and (b)
17 pursuant to which construction has not started by July 1, 2026, shall expire on July 1, 2026.

18 C. Any master use permit issued prior to [January 1, 2016](#), for a project not requiring a
19 building permit (a) which was not considered, either in the initial application process or in a
20 renewal process, under the version of the Stormwater Code in effect on or after January 1, 2016,
21 and (b) pursuant to which construction has not started by June 30, 2020, shall expire on June 30,
22 2020.

23 D. Any master use permit for a project not requiring a building permit (a) which was
24 considered under a version of the Stormwater Code in effect on or after January 1, 2016, but
25 before [July 1, 2021], and (b) pursuant to which construction has not started by July 1, 2026,
26 shall expire on July 1, 2026.

27 ((€)) E. Neither Section 23.22.028, Section 23.22.064, Section 23.24.050, RCW
28 58.17.033, nor RCW 58.17.170 shall require any permit application submitted on or after
29 January 1, 2016, to be considered under a version of the Stormwater Code in effect prior to
30 January 1, 2016, or require any permit application submitted on or after [July 1, 2021] to be
31 considered under a version of the Stormwater Code in effect prior to [July 1, 2021]. For purposes

1 of this subsection 22.800.100.E (~~22.800.100.C~~), “permit application” means an application for
2 any permit required for construction within a plat or short plat or for construction of facilities and
3 improvements for a plat or short plat, including, but not limited to, master use, building and
4 grading permits.

5 ~~(D)~~ E. Neither Section 23.22.028 nor Section 23.22.064 shall authorize starting
6 construction, after June 30, 2020, of facilities or improvements for any plat without compliance
7 with the version of the Stormwater Code in effect on or after January 1, 2016, or authorize
8 starting construction, after July 1, 2026, of facilities or improvements for any plat without
9 compliance with the version of the Stormwater Code in effect on or after [July 1, 2021].

10 ~~(E)~~ G. For purposes of this section, “starting construction” or “started construction”
11 means the site work associated with and directly related to the approved project has begun. For
12 example: grading the project site to final grade or utility installation such as water, sewer,
13 stormwater drainage, gas, or electrical infrastructure installed to serve the project and associated
14 with the application. Simply clearing the project site or installing conduit does not constitute the
15 start of construction.

16 Section 2. Chapter 22.801 of the Seattle Municipal Code, last amended by Ordinance
17 125248, is amended as follows:

18 **Chapter 22.801 DEFINITIONS**

19 **22.801.010 General**

20 For the purpose of this subtitle, the words listed in this Chapter 22.801 have the following
21 meanings, unless the context clearly indicates otherwise. Terms relating to pollutants and to
22 hazardous wastes, materials, and substances, where not defined in this subtitle, shall be as
23 defined in Washington Administrative Code Chapters 173-303, 173-304 and 173-340, the Seattle
24 Building Code or the Seattle Fire Code, including future amendments to those codes. Words used
25 in the singular include the plural, and words used in the plural include the singular.

26 **22.801.020 “A”**

27 “Agency” means any governmental entity or its subdivision.

28 “Agency, City” means “City agency” as defined in Section 25.09.520.

29 “Approved” means approved by the Director.

1 “Aquatic life use” means “aquatic life use” as defined in WAC 173-201A-200. For the
2 purposes of this subtitle, at minimum the following water bodies are designated for aquatic life
3 use: small lakes, creeks, and ~~((freshwater))~~ fresh designated receiving waters.

4 “Arterial” means “arterial” as defined in Section 11.14.035.

5 **22.801.030 “B”**

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

8 “Basic treatment receiving water” means:

- 9 1. All marine waters, including Puget Sound;
- 10 2. Lake Union;
- 11 3. Lake Washington;
- 12 4. Ship Canal and bays between Lake Washington and Puget Sound; and
- 13 5. Duwamish River.

14 “Best management practice” (BMP) means a schedule of activities, prohibitions of
15 practices, operational and maintenance procedures, structural facilities, or managerial practice or
16 device that, when used singly or in combination, prevents, reduces, or treats contamination of
17 drainage water, prevents or reduces soil erosion, or prevents or reduces other adverse effects of
18 drainage water. When the Directors develop rules and/or manuals prescribing BMPs for
19 particular purposes, whether or not those rules and/or manuals are adopted by ordinance, BMPs
20 prescribed in the rules and/or manuals shall be the BMPs required for compliance with this
21 subtitle.

22 “Building permit” means a document issued by the Seattle Department of Construction
23 and Inspections authorizing construction or other specified activity in accordance with the Seattle
24 Building Code (Chapter 22.100) or the Seattle Residential Code (Chapter 22.150).

25 **22.801.040 “C”**

26 “Capacity-constrained system” means a drainage system or public combined sewer that
27 the Director of SPU has determined to have inadequate capacity to carry existing and anticipated
28 loads, or a drainage system that includes ditches or culverts.

29 “Certified Erosion and Sediment Control Lead” (CESCL) means an individual who has
30 current certification through an approved erosion and sediment control training program that
31 meets the minimum training standards established by Ecology.

1 “Civil engineer, licensed” means a person who is licensed by the State of Washington to
2 practice civil engineering.

3 “City agency” means “City agency” as defined in Section 25.09.520.

4 “Combined sewer.” See “public combined sewer.”

5 “Combined sewer basin” or “public combined sewer basin” means the area tributary to a
6 public combined sewer feature, including, but not limited to, a combined sewer overflow outfall,
7 trunk line connection, pump station, or regulator.

8 “Compaction” means the densification, settlement, or packing of earth material or fill in
9 such a way that permeability is reduced by mechanical means.

10 “Construction Stormwater Control Plan” means a document that explains and illustrates
11 the measures to be taken on the construction site to ~~((control))~~ prevent erosion and discharge of
12 sediment and other pollutants on a construction project.

13 “Containment area” means the area designated for conducting pollution-generating
14 activities for the purposes of implementing source controls or designing and installing source
15 controls or treatment facilities.

16 “Contaminate” means the addition of sediment, any other pollutant or waste, or any illicit
17 or prohibited discharge.

18 “Creek” means a ~~((Type 2-5))~~ Type S, F, Np or Ns water as defined in WAC 222-16-031,
19 or as defined in WAC 222-16-030 after state water type maps are adopted, and is used
20 synonymously with “stream.”

21 **22.801.050 “D”**

22 “Damages” means monetary compensation for harm, loss, costs, or expenses incurred by
23 the City, including, but not limited, to the following: costs of abating or correcting violations of
24 this subtitle; fines or penalties the City incurs as a result of a violation of this subtitle; and costs
25 to repair or clean the public drainage system or public combined sewer as a result of a violation.
26 For the purposes of this subtitle, damages do not include compensation to any person other than
27 the City.

28 “Designated receiving waters” means the Duwamish River, Puget Sound, Lake
29 Washington, Lake Union, Elliott Bay, Portage Bay, Union Bay, the Lake Washington Ship
30 Canal, and other receiving waters determined by the Director of SPU and approved by Ecology

1 as having sufficient capacity to receive discharges of drainage water such that a site discharging
2 to the designated receiving water is not required to implement flow control.

3 “Detention” means temporary storage of drainage water for the purpose of controlling the
4 drainage discharge rate.

5 “Development” means the following activities:

6 1. Class IV-general forest practices that are conversions from timberland to other uses;

7 2. land disturbing activity; ((~~or~~))

8 3. the addition or replacement of hard surfaces;

9 4. expansion of a building footprint or addition or replacement of a structure;

10 5. structural development, including construction, installation, or expansion of a building
11 or other structure;

12 6. seeking approval of a building permit other construction permit, grading permit, or
13 master use permit that involves any of the foregoing activities; and

14 7. seeking approval of subdivision, short plat, unit lot subdivision, or binding site plans,
15 as defined and applied in chapter 58.17 RCW, and other master use permit.

16 Development is a type of project.

17 “Director” means the Director of the Department authorized to take a particular action,
18 and the Director’s designees, who may be employees of that department or another City
19 department.

20 “Director of SDCI” means the Director of the Seattle Department of Construction and
21 Inspections or the designee of the Director of the Seattle Department of Construction and
22 Inspections, who may be employees of that department or another City department.

23 “Director of SDOT” means the Director of Seattle Department of Transportation of The
24 City of Seattle or the designee of the Director of Seattle Department of Transportation, who may
25 be employees of that department or another City department.

26 “Director of SPU” means the Director of Seattle Public Utilities of The City of Seattle or
27 the designee of the Director of Seattle Public Utilities, who may be employees of that department
28 or another City department.

29 “Discharge point” means the location from which drainage water from a site is released.

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

1 “Drainage basin” means the geographic and hydrologic tributary area or subunit of a
2 watershed through which drainage water is collected, regulated, transported, and discharged to
3 receiving waters.

4 “Drainage basin plan” means a plan to manage the quality and quantity of drainage water
5 in a watershed or a drainage basin, including watershed action plans.

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; controlling the quantity from a site; and separating, treating or preventing the introduction
10 of pollutants.

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

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

17 “Drainage system” means a system intended to collect, convey and control release of
18 only drainage water. The system may be either publicly or privately owned or operated, and the
19 system may serve public or private property. It includes components such as pipes, ditches,
20 culverts, and drainage control facilities. Drainage systems are not receiving waters.

21 “Drainage water” means stormwater and all other discharges that are permissible
22 pursuant to subsection 22.802.030.A.

23 **22.801.060 “E”**

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

26 “Ecology” means the Washington State Department of Ecology.

27 “Effective ((~~impervious~~)) hard surface” means those ((~~impervious~~)) hard surfaces that are
28 connected via sheet flow or discrete conveyance to a drainage system.

29 “Enhanced treatment facility” means a drainage control facility designed to reduce
30 concentrations of dissolved metals in drainage water.

31 “Environmentally critical area” (ECA) means an area designated in Section 25.09.020.

1 “EPA” means the United States Environmental Protection Agency.

2 “Erodible or leachable materials” means wastes, chemicals, or other substances which,
3 when exposed to rainfall, measurably alter the physical or chemical characteristics of the
4 drainage water. Examples include: erodible soils that are stockpiled; leachable materials that are
5 stockpiled; uncovered process wastes; manure; fertilizers; oily substances; ashes, kiln dust; and
6 garbage dumpster leakage.

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

11 “Excavation” means the mechanical removal of earth material.

12 “Exception” means relief from a requirement of this subtitle to a specific project.

13 “Existing grade” means “existing grade” as defined in Section 22.170.050.

14 **22.801.070 “F”**

15 “Fill” means a deposit of earth material placed by artificial means.

16 “Flow control” means controlling the discharge rate, flow duration, or both of drainage
17 water from the site through means such as infiltration or detention.

18 “Flow control facility” means a drainage control facility for controlling the discharge
19 rate, flow duration, or both of drainage water from a site.

20 “Flow duration” means the aggregate time that peak flows are at or above a particular
21 flow rate of interest.

22 **22.801.080 “G”**

23 “Garbage” means putrescible waste.

24 “Geotechnical engineer” or “Geotechnical/civil engineer” means a person licensed by
25 The State of Washington as a professional civil engineer who has expertise in geotechnical
26 engineering.

27 “Grading” means excavation, filling, in-place ground modification, removal of roots or
28 stumps that includes ground disturbance, stockpiling of earth materials, or any combination
29 thereof, including the establishment of a grade following demolition of a structure.

1 “Green stormwater infrastructure” means distributed BMPs, integrated into a project
2 design, that use infiltration, filtration, storage, or evapotranspiration, or provide stormwater
3 reuse.

4 “Groundwater” means water in a saturated zone or stratum beneath the surface of land or
5 below a surface water body. Refer to Ground Water Quality Standards, Chapter 173-200 WAC.

6 **22.801.090 “H”**

7 “Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.

8 “High-use sites” means sites that typically generate high concentrations of oil due to high
9 traffic turnover or the frequent transfer of oil. High-use sites include:

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

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

14 3. An area of a commercial or industrial site subject to parking, storage or maintenance of
15 25 or more vehicles that are over 10 tons gross weight (trucks, buses, trains, heavy equipment,
16 etc.);

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

20 **22.801.100 “I”**

21 “Illicit connection” means any direct or indirect infrastructure connection to the public
22 drainage system or receiving water that is not intended, not permitted, or not used for collecting
23 drainage water.

24 “Impervious surface” means any surface exposed to rainwater from which most water
25 runs off. Impervious surfaces include, but are not limited to, roof tops, walkways, patios,
26 driveways, formal planters, parking lots or storage areas, concrete or asphalt paving, areas with
27 underdrains designed to remove stormwater from subgrade (e.g. playfields, athletic fields, rail
28 yards), gravel surfaces subjected to vehicular traffic, compact gravel, packed earthen materials,
29 and oiled macadam or other surfaces which similarly impede the natural infiltration of
30 stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious
31 surfaces for the purposes of determining whether the thresholds for application of minimum

1 requirements are exceeded. Open, uncovered retention/detention facilities shall be considered
2 impervious surfaces for purposes of stormwater modeling.

3 “Industrial activities” means material handling, transportation, or storage; manufacturing;
4 maintenance; treatment; or disposal. Areas with industrial activities include plant yards, access
5 roads and rail lines used by carriers of raw materials, manufactured products, waste material, or
6 by-products; material handling sites; refuse sites; sites used for the application or disposal of
7 process waste waters; sites used for the storage and maintenance of material handling equipment;
8 sites used for residual treatment, storage, or disposal; shipping and receiving areas;
9 manufacturing buildings; storage areas for raw materials, and intermediate and finished products;
10 and areas where industrial activity has taken place in the past and significant materials remain
11 and are exposed to stormwater.

12 “Infiltration” means the downward movement of water from the surface to the subsoil.

13 “Infiltration facility” means a drainage control facility that temporarily stores, and then
14 percolates, drainage water into the underlying soil.

15 “Integrated Drainage Plan” means a plan developed, reviewed, and approved pursuant to
16 subsection 22.800.080.E.

17 “Interflow” means that portion of rainfall and other precipitation that infiltrates into the
18 soil and moves laterally through the upper soil horizons until intercepted by a stream channel or
19 until it returns to the surface.

20 “Inspector” means a City inspector, their designee, or licensed civil engineer performing
21 the inspection work required by this subtitle.

22 **22.801.110 Reserved.**

23 **22.801.130 “L”**

24 “Land disturbing activity” means any activity that results in a change in the existing soil
25 cover, both vegetative and nonvegetative, or the existing topography. Land disturbing activities
26 include, but are not limited to, clearing, grading, filling, excavation, or addition of new or the
27 replacement of hard surface. Compaction, excluding hot asphalt mix, that is associated with
28 stabilization of structures and road construction is also considered a land disturbing activity.
29 Vegetation maintenance practices, including landscape maintenance and gardening, are not
30 considered land disturbing activities. Stormwater facility maintenance is not considered land
31 disturbing activity if conducted according to established standards and procedures.

1 “Large project” means a project including:

2 1. 5,000 square feet or more of new plus replaced hard surface;

3 2. ~~((one))~~ One acre or more of land disturbing activity;

4 3. ~~((conversion))~~ Conversion of 3/4 acres or more of vegetation to lawn or landscaped
5 area; or

6 4. ~~((conversion))~~ Conversion of 2.5 acres or more of native vegetation to pasture.

7 “Listed creeks” means Blue Ridge Creek, Broadview Creek, Discovery Park Creek,
8 Durham Creek, Frink Creek, Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton
9 Springs Creek, Madrona Park Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget
10 Creek, Riverview Creek, Schmitz Creek, Taylor Creek, and Washington Park Creek.

11 **22.801.140 “M”**

12 “Master use permit” means a ~~((document issued by SDCI giving permission for~~
13 ~~development or use of land or street right-of-way in accordance with Chapter 23.76))~~ “master
14 use permit” as defined in subsection 23.84A.025.

15 “Maximum extent feasible” means the requirement is to be fully implemented,
16 constrained only by the physical limitations of the site, practical considerations of engineering
17 design, and reasonable considerations of financial costs.

18 “Municipal stormwater NPDES permit” means the permit issued to the City under the
19 federal Clean Water Act for public drainage systems within the City limits.

20 **22.801.150 “N”**

21 “Native vegetation” means “native vegetation” as defined in Section 25.09.520.

22 “New hard surface” means a surface that is: changed from a pervious surface to a hard
23 surface (e.g., converting lawn to permeable pavement, resurfacing by upgrading from dirt to
24 gravel, a bituminous surface treatment (“chip seal”), asphalt, concrete, or a hard surface
25 structure); or upgraded from gravel to chip seal, asphalt, concrete, or a hard surface structure; or
26 from a hard surface to a hard surface structure. Note that if asphalt or concrete has been overlaid
27 by a chip seal, the existing condition should be considered as asphalt or concrete.

28 “New impervious surface” means a surface that is: changed from a pervious surface to an
29 impervious surface (e.g. resurfacing by upgrading from dirt to gravel, a bituminous surface
30 treatment (“chip seal”), asphalt, concrete or an impervious structure); or upgraded from gravel to
31 chip seal, asphalt, concrete, or an impervious structure; or from a impervious surface to an

1 impervious structure. Note that if asphalt or concrete has been overlaid by a chip seal, the
2 existing condition should be considered as asphalt or concrete.

3 “Non-listed creeks” means any creek not identified in the definition of “Listed creeks” in
4 22.801.130.

5 “NPDES” means National Pollutant Discharge Elimination System, the national program
6 for controlling discharges under the federal Clean Water Act.

7 “NPDES permit” means an authorization, license or equivalent control document issued
8 by the EPA or Ecology to implement the requirements of the NPDES program.

9 “Nutrient-critical receiving water” means a surface water or water segment that is
10 determined to be impaired due to phosphorus contributed by stormwater, as prescribed in rules
11 promulgated by the Director of SPU which shall be based on consideration of waterbodies
12 reported by Ecology, and approved by EPA, under Category 5 (impaired) under Section 303(d)
13 of the Clean Water Act for total phosphorus through Ecology’s Water Quality Assessment.

14 **22.801.160 “O”**

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

17 “On-site BMP” means a best management practice identified in subsection 22.805.070.D.

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

20 **22.801.170 “P”**

21 “Parcel-based project” means any project that is not a roadway project, single-family
22 residential project, sidewalk project, or trail project. The boundary of the public right-of-way
23 shall form the boundary between the parcel and roadway portions of a project.

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

1 “Pervious surface” means a surface that is not impervious. See also, “impervious
2 surface”.

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

5 “Plan” means a graphic or schematic representation, with accompanying notes,
6 schedules, specifications and other related documents, or a document consisting of checklists,
7 steps, actions, schedules, or other contents that has been prepared pursuant to this subtitle, such
8 as a site plan, drainage control plan, construction stormwater control plan, stormwater pollution
9 prevention plan, or integrated drainage plan.

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

21 “Pollution-generating hard surface” means those hard surfaces considered to be a
22 significant source of pollutants in drainage water. See definition of pollution-generating
23 impervious surface in this Section 22.801.170 for surfaces that are considered significant sources
24 of pollutants in drainage water. In addition, permeable pavement subject to vehicular use or other
25 pollutants as described in the definition for pollution-generating impervious surfaces is a
26 pollution-generating hard surface.

27 “Pollution-generating impervious surface” means those impervious surfaces considered
28 to be a significant source of pollutants in drainage water. Such surfaces include those that are
29 subject to any of the following: vehicular use; ~~((certain))~~ industrial activities; ~~((or))~~ storage of
30 erodible or leachable materials, wastes, or chemicals, and ~~((which))~~ that receive direct rainfall or
31 the run-on or blow-in of rainfall. ~~((;))~~ Such surfaces also include roofs subject to venting of

1 significant sources of pollutants ((;)) and metal roofs unless coated with an inert, non-leachable
2 material (e.g., baked-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; bike lanes within the traveled lane of a roadway; driveways; parking
6 lots; unfenced fire lanes; vehicular equipment storage yards; rail lines, railways, and rail yards;
7 and airport runways.

8 The following are not considered regularly-used by motor vehicles: sidewalks and trails
9 not subject to drainage from roads for motor vehicles; paved bicycle pathways separated from
10 and not subject to drainage from roads for motor vehicles; fenced fire lanes; and infrequently
11 used maintenance access roads with a recurring use of no more than one routine vehicle access
12 per week.

13 “Pollution-generating pervious surface” means any ((non-impervious)) pervious surface
14 subject to any of the following: vehicular use((;)) ; ~~certain~~ industrial activities((;or)) ; storage of
15 erodible or leachable materials, wastes, or chemicals, and that ((receives)) receive direct rainfall
16 or run-on or blow-in of rainfall((;)) ; use of pesticides and fertilizers((;)) ; or loss of soil. Typical
17 pollution-generating pervious surfaces include lawns, landscaped areas, golf courses, parks,
18 cemeteries, and sports fields (natural and artificial turf).

19 “Pre-developed condition” means the vegetation and soil conditions that are used to
20 determine the allowable post-development discharge peak flow rates and flow durations, such as
21 pasture or forest.

22 “Private drainage system” means a drainage system that is not a public drainage system.

23 “Project” means ((the addition or replacement of hard surface or the undertaking of land
24 ~~disturbing activity on a site~~)) any proposed action to alter or develop a site. Development is a
25 type of project.

26 “Project site” means that portion of a property, properties, or rights-of-way subject to
27 ((addition or replacement of hard surface or the undertaking of land-disturbing activity)) land
28 disturbing activities, new hard surfaces, or replaced hard surfaces.

29 “Public combined sewer” means a publicly owned and maintained system which carries
30 drainage water and wastewater and flows to a publicly owned treatment works.

1 “Public drainage system” means a drainage system owned or operated by the City of
2 Seattle.

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

6 “Public sanitary sewer” means the sanitary sewer that is owned or operated by the City of
7 Seattle.

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

10 **22.801.190 “R”**

11 “Real property” means “real property” as defined in Chapter 3.110.

12 “Receiving water” means the surface water, such as a creek, stream, river, lake, wetland
13 or marine water, or groundwater, receiving drainage water. Drainage systems and public
14 combined sewers are not receiving waters.

15 “Repeat violation” means a prior violation of this subtitle within the preceding five years
16 that became a final order or decision of the Director or a court. The violation does not need to be
17 the same nor occur on one site to be considered repeat.

18 “Replaced hard surface” or “replacement of hard surface” means, for structures, the
19 removal down to the foundation and replacement ~~((of hard surfaces down to the foundation))~~
20 and, for other hard surfaces, the removal down to existing subgrade or base course and
21 replacement.

22 “Replaced impervious surface” or “replacement of impervious surface” means, for
23 structures, the removal down to the foundation and replacement ~~((of impervious surfaces down
24 to the foundation))~~ and, for other impervious surfaces, the removal down to existing subgrade or
25 base course and replacement.

26 “Responsible party” means all of the following persons:

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

29 “Right-of-way” means “right-of-way” as defined in Section 23.84A.032.

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

1 “Roadway project” means a project located in the public right-of-way that involves the
2 creation of a new or replacement of an existing roadway or alley. The boundary of the public
3 right-of-way shall form the boundary between the parcel and roadway portions of a project.

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

6 **22.801.200 “S”**

7 “Sanitary sewer” means a system that conveys wastewater and is not designed to convey
8 drainage water.

9 “SDCI” means the Seattle Department of Construction and Inspections.

10 “SDOT” means the Seattle Department of Transportation.

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

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

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

14 “Sidewalk project” means a project for the creation of a new sidewalk or replacement of
15 an existing sidewalk, including any associated planting strip, apron, curb ramp, curb, or gutter,
16 and necessary roadway grading and repair. If the total new plus replaced hard surface in the
17 roadway exceeds 10,000 square feet, the entire project is a roadway project.

18 “Single-family residential project” means a project that constructs one Single-family
19 Dwelling Unit as defined in subsection 23.84A.032, ((pursuant to Section 23.44.006.A)) and any
20 associated accessory dwelling unit located in land classified as being Residential Small Lots
21 (RSL), Single-family Residential 9,600 (SF 9600), Single-family Residential 7,200 (SF 7200), or
22 Single-family Residential 5,000 (SF 5000) pursuant to Section 23.30.010, and the total new plus
23 replaced hard surface is less than ((10,000)) 5,000 square feet ((, and the total new plus replaced
24 pollution-generating hard surface is less than 5,000 square feet)).

25 “Site” means the ((lot or parcel, or portion of street, highway or other right-of-way, or
26 contiguous combination thereof, where development is proposed or performed)) area defined by
27 the legal boundaries of a parcel or parcels of land subject to development. For roadway projects,
28 the length of the project site and the right-of-way boundaries define the site.

29 “Slope” means an inclined ground surface.

30 “Small lakes” means Bitter Lake, Green Lake and Haller Lake.

31 “Small project” means a project with:

1 1. Less than 5,000 square feet of new and replaced hard surface; and

2 2. Less than one acre of land disturbing activities.

3 “SMC” means the Seattle Municipal Code.

4 “Soil” means naturally deposited non-rock earth materials.

5 “Solid waste” means “solid waste” as defined in Section 21.36.016.

6 “Source controls” mean structures or operations that prevent contaminants from coming
7 in contact with drainage water through physical separation or careful management of activities
8 that are known sources of pollution.

9 “SPU” means Seattle Public Utilities.

10 “Standard design” is a design pre-approved by the Director for drainage and erosion
11 control available for use at a site with pre-defined characteristics.

12 “Storm drain” means both public storm drain and service drain.

13 “Stormwater” means runoff during and following precipitation and snowmelt events,
14 including surface runoff, drainage and interflow.

15 “Stream” means a Type 2-5 water as defined in WAC 222-16-031 and is used
16 synonymously with “creek.”

17 **22.801.210 “T”**

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

20 “Trail” means a path of travel for recreation and/or transportation within a park, natural
21 environment, or corridor.

22 “Trail project” means a project for the creation of a new trail or replacement of an
23 existing trail, and which does not contain pollution-generating hard surfaces.

24 “Treatment facility” means a drainage control facility designed to remove pollutants from
25 drainage water.

26 **22.801.220 “U”**

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

30 **22.801.230 “V”**

31 “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 other receiving waters 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.

Section 3. Chapter 22.802 of the Seattle Municipal Code, last amended by Ordinance 124872, is amended as follows:

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

1 Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of
2 water quality standards in the receiving water or a known or likely violation of the City's
3 municipal stormwater NPDES permit.

4 **22.802.020 Prohibited Discharges**

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

- 9 1. acids;
- 10 2. alkalis including cement wash water;
- 11 3. ammonia;
- 12 4. animal carcasses;
- 13 5. antifreeze, oil, gasoline, grease and all other automotive and petroleum
14 products;
- 15 6. chemicals not normally found in uncontaminated water;
- 16 7. chlorinated swimming pool or hot tub water;
- 17 8. chlorine;
- 18 9. commercial and household cleaning materials;
- 19 10. detergent;
- 20 11. dirt;
- 21 12. domestic or sanitary sewage;
- 22 13. drain cleaners;
- 23 14. fertilizers;
- 24 15. filter backwash wastewater;
- 25 16. flammable or explosive materials;
- 26 17. food and food waste;
- 27 18. gravel;
- 28 19. herbicides;
- 29 20. human and animal waste;
- 30 21. ink;
- 31 22. laundry waste;

1 23. metals in excess of naturally occurring amounts, whether in liquid or solid
2 form;

3 24. painting products;

4 25. pesticides;

5 26. process wastewater;

6 27. sand;

7 28. soap;

8 29. solid waste;

9 30. solvents and degreasers;

10 31. steam-cleaning waste; and

11 32. yard waste.

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

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

18 D. Prohibited Discharges to Public Combined Sewers. For discharges to the public
19 combined sewer, the applicable prohibited discharges are stated in Chapter 21.16 (Side Sewer
20 Code).

21 **22.802.030 Permissible Discharges**

22 A. Conditionally Permissible Discharges to Drainage Systems and Receiving Waters.
23 Discharges from the sources listed below are permissible discharges only if the stated conditions
24 are met and unless the Director of SPU determines that the type of discharge, directly or
25 indirectly to a public drainage system, private drainage system, or a receiving water within or
26 contiguous to Seattle city limits, whether singly or in combination with others, is causing or
27 contributing to a violation of the City's NPDES stormwater permit or is causing or contributing
28 to a water quality problem:

29 1. Discharges from potable water sources, including, but not limited to, flushing
30 of potable water lines, hyperchlorinated water line flushing, fire hydrant system flushing,
31 pipeline hydrostatic test water, and washing of potable water storage reservoirs. Planned

1 discharges shall be de-chlorinated to a total residual chlorine concentration of 0.1 ppm or less,
2 pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of
3 sediments in the drainage system. No chemicals may be added, and settleable solids must be
4 removed prior to discharge;

5 2. Discharges from swimming pools, spas, hot tubs, fountains, or similar aquatic
6 recreation facilities and constructed water features, provided the discharges have been de-
7 chlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and
8 reoxygenated if necessary, volumetrically and velocity controlled to prevent resuspension of
9 sediments in the drainage system, and thermally controlled to prevent an increase of temperature
10 in the receiving water. Swimming pool cleaning wastewater and filter backwash shall not be
11 discharged;

12 3. Discharges of street and sidewalk washwater when the surfaces are swept prior
13 to washing, detergents are not used, and water use is minimized;

14 4. Discharges of water from routine external building washdown when detergents
15 are not used and water use is minimized;

16 5. Discharges of water used to control dust when water use is minimized; and

17 6. Other non-stormwater discharges, provided that these discharges are in
18 compliance with the requirements of a pollution prevention plan that addresses control of such
19 discharges and is approved by the Director.

20 B. Permissible Discharges. Discharges from the sources listed below are permissible
21 discharges unless the Director of SPU determines that the type of discharge, directly or indirectly
22 to a public drainage system, private drainage system, or a receiving water within or contiguous to
23 Seattle city limits, whether singly or in combination with others, is causing or contributing to a
24 violation of the City's NPDES stormwater permit or is causing or contributing to a water quality
25 problem:

26 1. Discharges from surface waters, including diverted stream flows;

27 2. Discharges of uncontaminated groundwater, including uncontaminated
28 groundwater infiltration (as defined at 40 CFR 35.2005(b)(20), uncontaminated pumped
29 groundwater, and rising groundwaters;

30 3. Discharges of air conditioning condensation;

31 4. Discharges from springs;

- 1 5. Discharges of uncontaminated water from crawl space pumps;
- 2 6. Discharges from lawn watering;
- 3 7. Discharges from irrigation runoff, including irrigation water from agricultural
- 4 sources that is commingled with stormwater and that does not contain prohibited substances;
- 5 8. Discharges from riparian habitats and wetlands;
- 6 9. Discharges from approved footing drains and other subsurface drains or, where
- 7 approval is not required, installed in compliance with this subtitle and rules promulgated
- 8 pursuant to this subtitle;
- 9 10. Discharges from foundation drains;
- 10 11. Non-stormwater discharges authorized by another NPDES permit or State
- 11 Waste Discharge permit;
- 12 12. Discharges that are from emergency fire fighting activities; and
- 13 13. Discharges of tracing dye used to establish or verify a drainage or sewer
- 14 connection.

15 C. Permissible Discharges to Sanitary Sewers. In consultation with the local sewage
16 treatment agency, the Director of SPU may approve discharges of drainage water to a sanitary
17 sewer if the discharging party demonstrates to the satisfaction of the Director of SPU that other
18 methods of controlling pollutants in the discharge are not adequate or reasonable, the discharging
19 party certifies that the discharge will not harm the environment, and the discharging party
20 certifies that the discharge will not overburden or otherwise harm the sanitary sewer.
21 Connections to the sanitary sewer shall be made in accordance with Chapter 21.16 (Side Sewer
22 Code). The Director of SPU shall condition approval of such a discharge on compliance with
23 local pretreatment regulations and on maintaining compliance with the required certifications
24 given by the discharging party.

25 D. Permissible Discharges to Public Combined Sewers. In consultation with the local
26 sewage treatment agency, the Director of SPU may approve discharges of drainage water to a
27 public combined sewer if the discharging party certifies that the discharge will not harm the
28 environment, and the discharging party certifies that the discharge will not overburden or
29 otherwise harm the public combined sewers. Connections to the public combined sewers shall be
30 made in accordance with Chapter 21.16 (Side Sewer Code). The Director of SPU shall condition

1 approval of such a discharge on compliance with local pretreatment regulations and on
2 maintaining compliance with the required certifications given by the discharging party.

3 **22.802.040 Testing for Prohibited Discharges**

4 A. Any person conducting dye testing to establish or verify a drainage connection shall
5 notify the Director of SPU prior to conducting the test.

6 B. When the Director of SPU has reason to believe that any discharge is a prohibited
7 discharge, the Director of SPU may sample and analyze the discharge and recover the costs from
8 a responsible party. When the discharge is likely to be a prohibited discharge on a recurring
9 basis, the Director of SPU may conduct, or may require the responsible party to conduct,
10 ongoing monitoring at the responsible party's expense.

11 Section 4. Chapter 22.803 of the Seattle Municipal Code, last amended by Ordinance
12 124872, is amended as follows:

13 **Chapter 22.803 MINIMUM REQUIREMENTS FOR ALL DISCHARGES AND ALL**
14 **REAL PROPERTY**

15 **22.803.010 General**

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

18 B. No discharge from a site, real property, or drainage facility, directly or indirectly to a
19 drainage system may cause or contribute to a prohibited discharge or a known or likely violation
20 of water quality standards in the receiving water or a known or likely violation of the City's
21 municipal stormwater NPDES permit.

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

28 **22.803.020 Minimum Requirements for All Discharges and Real Property**

29 A. Requirement to provide documentation and to map infrastructure. The owner is
30 required to make plans, procedures, and schedules required by this subtitle available to the
31 Director when requested. When requested to aid in applying the Stormwater Code, the owner

1 must provide to the Director a complete map of all drainage, side sewer, and plumbing
2 infrastructure on the property.

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

9 C. Requirements to maintain facilities. All treatment facilities, flow control facilities,
10 drainage control facilities, and drainage systems shall be maintained as prescribed in rules
11 promulgated by the Director in order for these facilities and systems to be kept in continuous
12 working order.

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

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

26 **22.803.030 Minimum Requirements for Source Controls for All Real Property**

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

1 A. Eliminate Illicit (~~(or Prohibited)~~) Connections and Illicit Discharges. It is the
2 responsibility of the property owner or other responsible party to ensure that all plumbing
3 connections are properly made and that only connections conveying stormwater or permissible
4 discharges pursuant to Section 22.802.030 are connected to the drainage system. When requested
5 to aid in applying the Stormwater Code, the owner must provide to the Director a complete map
6 of all stormwater and plumbing infrastructure on the property.

7 B. Perform Routine Maintenance (~~(of Drainage System)~~). All drainage system
8 components, including, but not limited to, catch basins, flow control facilities, treatment
9 facilities, on-site BMPs, and unimproved drainage pathways shall be kept in continuous working
10 order.

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

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

15 E. Spill Prevention and Cleanup. All property owners having the potential to spill
16 pollutants shall take measures to prevent spills of pollutants and to properly clean up spills that
17 might occur.

18 F. Provide Oversight and Training for Staff. For businesses and public entities, annually
19 train all employees responsible for the operation, maintenance, or inspection of BMPs, assign
20 oversight responsibilities, and maintain records.

21 G. Property (~~(Site)~~) Maintenance. For businesses and public entities, locate pollution-
22 generating activities away from stormwater pathways where feasible and engage in proper site
23 maintenance to prevent pollutant transport off site, including but not limited to sweeping paved
24 areas and inspecting loading, unloading, storage and parking areas.

25 H. Rooftop Dog Runs. Dog runs located on private property on rooftops or above-grade
26 plazas must prevent stormwater from the dog run from discharging directly or indirectly to a
27 public drainage system, private drainage system, or receiving water body.

28 **22.803.040 Minimum Requirements for Source Controls For Businesses and Public Entities** 29 **for Specific Activities**

30 A. For all discharges, source controls shall be implemented, to extent allowed by law, by
31 businesses and public entities for the following specific pollution-generating activities as

1 specified in the joint SPU/ (~~DPD~~) SDCI Directors’ Rule titled “Seattle Stormwater Manual” at
2 “Volume 4 – Source Control,” to the extent necessary to prevent prohibited discharges as
3 described in subsection 22.802.020.A through subsection 22.802.020.D, and to prevent
4 contaminants from coming in contact with drainage water or being discharged to the drainage
5 system, public combined sewer, or directly into receiving waters.

6 1. Fueling at Dedicated Stations, for new or substantially-altered fueling stations.

7 2. Mobile Fueling of Vehicles and Heavy Equipment.

8 3. In-Water and Over-Water Fueling.

9 4. Maintenance and Repair of Vehicles and Equipment.

10 5. Concrete and Asphalt Mixing and Production.

11 6. Concrete Pouring, Concrete/Asphalt Cutting, and Asphalt Application.

12 7. Recycling, Wrecking Yard, and Scrap Yard Operations.

13 8. Storage of Liquids in Above-ground Tanks.

14 Source controls include, but are not limited to, segregating or isolating wastes to prevent
15 contact with drainage water; enclosing, covering, or containing the activity to prevent contact
16 with drainage water; developing and implementing inspection and maintenance programs;
17 sweeping; and taking management actions such as training employees on pollution prevention.

18 B. For all discharges except those that drain only to the public combined sewer, source
19 controls shall be implemented, to the extent allowed by law, by businesses and public entities for
20 specific pollution-generating activities as specified in the joint SPU/ (~~DPD~~) SDCI Directors’
21 Rule titled “Seattle Stormwater Manual” at “Volume 4 – Source Control,” to the extent
22 necessary to prevent prohibited discharges as described in subsection 22.802.020.A through
23 subsection 22.802.020.C, and to prevent contaminants from coming in contact with drainage
24 water or being discharged to the drainage system or directly into receiving waters. Source
25 controls include, but are not limited to, segregating or isolating wastes to prevent contact with
26 drainage water; enclosing, covering, or containing the activity to prevent contact with drainage
27 water; developing and implementing inspection and maintenance programs; sweeping; and
28 taking management actions such as training employees on pollution prevention.

29 Section 5. Chapter 22.805 of the Seattle Municipal Code, last amended by Ordinance
30 124919, is amended as follows:

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. Closely related projects shall be considered as one project for purposes of applying the Stormwater Code, including but not limited to determining whether the thresholds for applicability of particular Stormwater Code minimum requirements are met. The Director shall determine whether two or more projects are closely related as specified in the joint SPU/DPD Directors' Rule titled "Seattle Stormwater Manual" at "Volume 1 – Project Minimum Requirements."

C. When an application requires preliminary drainage review according to subsection 22.807.020.A, applications for building permits, grading permits, and other construction permits on the site receiving preliminary drainage review shall comply with the provisions of the approved preliminary drainage control plan.

D. Construction of drainage control facilities and drainage systems for plats

1. In the case of a subdivision under SMC chapter 23.22, drainage control facilities or drainage systems that are identified on the associated preliminary drainage control plan or the approved preliminary plat and will serve multiple proposed lots, parcels, or tracts shall be constructed prior to approval of the final plat unless a bond is provided according to SMC 23.22.070.C. If a bond is provided in lieu of construction prior to approval of the final plat, construction of the facilities or systems must be completed prior to issuance of the first building permit for any other construction within the subdivision, but in no event later than two years after final plat approval.

2. In the case of a of a short plat under SMC chapter 23.24, drainage control facilities or drainage systems that are identified on the preliminary drainage control plan and will serve multiple proposed lots, parcels, or tracts shall be constructed prior to issuance of the first building permit for any other construction within the short plat.

~~(B)~~ E. 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

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

9 **22.805.020 Minimum requirements for all projects**

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

16 B. Minimum Requirements for Discharge Point. The discharge point for drainage water
17 from each site shall be selected using criteria that shall include, but not be limited to,
18 preservation of natural drainage patterns and whether the capacity of the drainage system is
19 adequate for the flow rate and volume. For those projects meeting the drainage review threshold,
20 the proposed discharge point shall be identified in the drainage control plan required by this
21 subtitle, for review and approval or disapproval by the Director.

22 C. Minimum Requirements for Flood-prone Areas. On sites within flood-prone areas,
23 responsible parties are required to employ procedures to minimize the potential for flooding on
24 the site and to minimize the potential for the project to increase the risk of floods on adjacent or
25 nearby properties. Flood control measures shall include those set forth in other titles of the
26 Seattle Municipal Code and rules promulgated thereunder, including, but not limited to, Chapter
27 23.60 (Shoreline District), Chapter 25.06 (Floodplain Development) and Chapter 25.09
28 (Environmentally Critical Areas) of the Seattle Municipal Code.

29 D. Minimum Requirements for Construction ((Site)) Stormwater Pollution Prevention
30 Plan ((Control)). Temporary and permanent construction controls shall be used to accomplish the
31 following minimum requirements. All projects are required to meet each of the elements below

1 or document why an element is not applicable. Additional controls may be required by the
2 Director when minimum controls are not sufficient to prevent erosion or transport of sediment or
3 other pollutants from the site.

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

9 2. Retain Top Layer. Within the boundaries of the project site, the duff layer,
10 topsoil, and native vegetation, if there is any, shall be retained in an undisturbed state to the
11 maximum extent feasible. If it is not feasible to retain the top layer in place, it should be
12 stockpiled on-site, covered to prevent erosion, and replaced immediately upon completion of the
13 land disturbing activities to the maximum extent feasible.

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

17 4. Protect Downstream Properties and Receiving Waters. Protect properties and
18 receiving waters downstream from the development sites from erosion due to increases in the
19 volume, velocity, and peak flow rate of drainage water from the project site. If it is necessary to
20 construct flow control facilities to meet this requirement, these facilities shall be functioning
21 prior to implementation of other land disturbing activity. If permanent infiltration facilities are
22 used to control flows during construction, these facilities shall be protected from siltation during
23 the construction phase of the project.

24 5. Prevent Erosion and Sediment Transport from the Site. Pass all drainage water
25 from disturbed areas through a sediment trap, sediment pond, or other appropriate sediment
26 removal BMP before the water leaves the site or prior to discharge to an infiltration facility.
27 Sediment controls intended to trap sediment on site shall be constructed as one of the first steps
28 in grading and shall be functional before other land disturbing activities take place. BMPs
29 intended to trap sedimentation shall be located in a manner to avoid interference with the
30 movement of juvenile salmonids attempting to enter off-channel areas or drainages. Provide and

1 maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase
2 sediment removal and maximize stormwater infiltration where feasible.

3 6. Prevent Erosion and Sediment Transport from the Site by Vehicles. Whenever
4 construction vehicle access routes intersect paved roads, the transport of sediment onto the paved
5 road shall be minimized. If sediment is transported onto a paved road surface, the roads shall be
6 cleaned thoroughly at the end of each day. Sediment shall be removed from paved roads by
7 shoveling or sweeping and shall be transported to a controlled sediment disposal area. If
8 sediment is tracked off site, roads shall be cleaned thoroughly at the end of each day, or at least
9 twice daily during wet weather. Street washing is allowed only after sediment is removed, and
10 street wash wastewater shall be prevented from entering the drainage system and receiving
11 waters.

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

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

28 9. Protect Storm Drains. Prevent sediment from entering all storm drains,
29 including ditches that receive drainage water from the project. Storm drain inlets protection
30 devices shall be cleaned or removed and replaced as recommended by the product manufacturer,
31 or more frequently if required to prevent failure of the device or flooding. Storm drain inlets

1 made operable during construction shall be protected so that drainage water does not enter the
2 drainage system without first being filtered or treated to remove sediments. Storm drain inlet
3 protection devices shall be removed at the conclusion of the project. When manufactured storm
4 drain inlet protection devices are not feasible, inlets and catch basins must be cleaned as
5 necessary to prevent sediment from entering the drainage control system.

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

10 11. Control Pollutants. Measures shall be taken to control potential pollutants and
11 shall include, but not be limited to, the following measures:

12 a. All pollutants, including sediment, waste materials, and demolition
13 debris, that occur onsite shall be handled and disposed of in a manner that does not cause
14 contamination of drainage water and pursuant to all applicable disposal laws.

15 b. Containment, cover, and protection from vandalism shall be provided
16 for all chemicals, liquid products, petroleum products, and other materials that have the potential
17 to pose a threat to human health or the environment.

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

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

24 e. Contaminated surfaces shall be cleaned immediately following any
25 discharge or spill incident.

26 f. Wheel wash or tire bath wastewater shall be discharged to a separate on-
27 site treatment system that prevents discharge to surface water, ~~((such as closed-loop recirculation
28 or upland application,))~~ or to the sanitary sewer or combined sewer system with approval of the
29 Director of SPU. Temporary discharges or connections to the public sanitary and combined
30 sewers shall be made in accordance with Chapter 21.16 (Side Sewer Code).

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

4 h. BMPs shall be used to prevent or treat contamination of drainage water
5 by pH-modifying sources. These sources include, but are not limited to, recycled concrete
6 stockpiles, bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters,
7 waste streams generated from concrete grinding and sawing, exposed aggregate processes, and
8 concrete pumping and mixer washout waters. Construction site operators may be required to
9 adjust the pH of drainage water if necessary to prevent a violation of water quality standards.

10 i. Construction site operators must obtain written approval from Ecology
11 prior to using chemical treatment other than carbon dioxide (CO₂) ((~~or~~)) dry ice, or food grade
12 vinegar, to adjust pH.

13 j. Uncontaminated water from water-only based shaft drilling for
14 construction of building, road, and bridge foundations may be infiltrated provided the wastewater
15 is managed in a way that prohibits discharge to surface waters. Prior to infiltration, water from
16 water-only based shaft drilling that comes into contact with curing concrete must be neutralized
17 until pH is in the range of 6.5 to 8.5 (su).

18 12. Control Dewatering. When dewatering devices discharge on site, to a public
19 drainage system, or to the public combined sewer, dewatering devices shall discharge into a
20 sediment trap, sediment pond, gently sloping vegetated area of sufficient length to remove
21 sediment contamination, or other sediment removal BMP. Foundation, vault, and trench
22 dewatering waters must be discharged into a controlled drainage system prior to discharge to a
23 sediment trap or sediment pond. Clean, non-turbid dewatering water, such as well-point
24 groundwater, that is discharged to systems tributary to state surface waters must not cause
25 erosion or flooding. Highly turbid or contaminated dewatering water shall be handled separately
26 from drainage water. For any project with an excavation depth of 12 feet or more below the
27 existing grade and for all large projects, dewatering flows must be determined and it must be
28 verified that there is sufficient capacity in the public drainage system and public combined sewer
29 prior to discharging.

30 13. Maintain BMPs. All temporary and permanent erosion and sediment control
31 BMPs shall be maintained and repaired as needed to assure continued performance of their

1 intended function. All temporary erosion and sediment controls shall be removed within five
2 days after final site stabilization is achieved or after the temporary controls are no longer needed,
3 whichever is later. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas
4 resulting from removal shall be permanently stabilized.

5 14. Inspect BMPs. BMPs shall be periodically inspected. For projects with 5,000
6 square feet or more of new plus replaced hard surface or 7,000 square feet or more of land
7 disturbing activity, site inspections shall be conducted by a Certified Erosion and Sediment
8 Control Lead who shall be identified prior to construction and shall be present on-site or on-call
9 at all times.

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

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

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

23 18. Install Flow Control and Water Quality Facilities. Development projects
24 required to comply with Section 22.805.080 (Minimum Requirements for Flow Control) or
25 Section 22.805.090 (Minimum Requirements for Treatment) shall install permanent flow control
26 and water quality facilities to prevent erosion or transport of sediment or other pollutants from
27 the site during construction.

28 19. Protect Stormwater BMPs

29 a. Protect all stormwater BMPs from sedimentation through installation
30 and maintenance of erosion and sediment control BMPs. Restore the BMPs to their fully
31 functioning condition if they accumulate sediment during construction. Restoring the stormwater

1 BMP must include removal of sediment and any sediment-laden stormwater BMP soils, and
2 replacing the removed soils with soils meeting the design specification.

3 b. Prevent compacting on-site BMPs by excluding construction equipment
4 and foot traffic. Protect completed lawn and landscaped areas from compaction due to
5 construction equipment.

6 c. Control erosion and avoid introducing sediment from surrounding land
7 uses onto permeable pavements. Do not allow muddy construction equipment on the base
8 material or pavement. Do not allow sediment-laden runoff onto permeable pavements or base
9 materials.

10 d. Permeable pavements fouled with sediments or no longer passing an
11 initial infiltration test must be cleaned until infiltrating per design or replaced.

12 e. Keep all heavy equipment off existing soils under on-site BMPs that
13 have been excavated to final grade, to retain the infiltration rate of the soils.

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

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

21 G. Protect Shorelines. All projects discharging directly or indirectly through a drainage
22 system into the shoreline district as defined in Chapter 23.60 shall prevent impacts to water
23 quality and stormwater quantity that would result in a net loss of shoreline ecological functions
24 as defined in WAC 173-26-020(13).

25 H. Ensure Sufficient Capacity. All large projects, all projects with an excavation depth of
26 12 feet or more below the existing grade, and all projects with an excavation depth of less than
27 12 feet located in an area expected to have shallow groundwater depths, shall ensure that
28 sufficient capacity exists in the public drainage system and public combined sewer to carry
29 existing and anticipated loads, including any flows from dewatering activities. Capacity analysis
30 shall extend to at least 1/4-mile from the discharge point of the site. Sites at which there is
31 insufficient capacity may be required to install a flow control facility or improve the drainage

1 system or public combined sewer to accommodate flow from the site. Unless approved otherwise
2 by the Director as necessary to meet the purposes of this subtitle:

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

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

7 I. Install Source Control BMPs. Source control BMPs shall be installed for discharges,
8 properties, and by businesses and public entities for specific pollution-generating activities as
9 specified in Chapter 22.803 and in the joint SPU/DPD Directors' Rule titled "Seattle Stormwater
10 Manual" at "Volume 4 – Source Control," to the extent necessary to prevent prohibited
11 discharges as described in Section 22.802.020 and to prevent contaminants from coming in
12 contact with drainage water. This requirement applies to the pollution-generating activities that
13 are stationary or occur in one primary location and to the portion of the site being developed.
14 Examples of installed source controls include, but are not limited to, the following:

15 1. A roof, awning, or cover erected over the pollution-generating activity area;

16 2. Ground surface treatment in the pollution-generating activity area to prevent
17 interaction with, or breakdown of, materials used in conjunction with the pollution-generating
18 activity;

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

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

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

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

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

1 J. Do not obstruct watercourses. Watercourses shall not be obstructed.

2 K. Comply with Side Sewer Code

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

8 2. Side sewer permits and inspections shall be required for constructing, capping,
9 altering, or repairing privately owned and operated drainage systems as provided for in Chapter
10 21.16. When the work is ready for inspection, the permittee shall notify the Director of SDCI. If
11 the work is not constructed according to the plans approved under this Subtitle VIII, Chapter
12 21.16, the SPU Director's Rules promulgated under Title 21, and SPU and SDCI design and
13 installation specifications, then the Director may issue a stop work order under Chapter 22.808
14 and require modifications as provided for in this Subtitle VIII and Chapter 21.16.

15 L. Extension of the Public Drainage System: Extension of the piped public drainage
16 system across the full extent of the parcel boundary shall be required for any of the following:

17 1. All large projects that are not conducted in the public right-of-way, unless:

18 a. The piped public drainage system is already accessible within an
19 abutting public place across the full extent of the project's parcel boundary; or

20 b. The project is otherwise exempted by rules promulgated by the
21 Director.

22 2. All other projects where the Director has determined an extension is required
23 considering, but not limited to, the following attributes of the project:

24 a) Poses a hazard to public health, safety or welfare;

25 b) Endangers any property;

26 c) Adversely affects the safety and operation of city right-of-way, utilities,
27 or other property owned or maintained by the City;

28 d) Adversely affects the functions and values of an environmentally
29 critical area or buffer;

30 e) Adversely affects an area with known erosion or flooding problems; or

1 f) Adversely impacts receiving waters, down-gradient properties, or right-
2 of-way.

3 **22.805.030 Minimum Requirements for Single-Family Residential Projects**

4 A. Soil Amendment. Retain and protect undisturbed soil in areas not being developed,
5 and prior to completion of the project, amend all new, replaced, and disturbed topsoil (including
6 construction lay-down areas) with organic matter to the extent required by and in compliance
7 with the rules promulgated by the Director.

8 B. On-site Stormwater Management. Single-family residential projects shall meet the
9 Minimum Requirements for On-site Stormwater Management contained in Section 22.805.070,
10 to the extent allowed by law, if:

11 1. For a project on a lot most recently created, adjusted, altered, or otherwise
12 amended by a plat or other lawful document recorded with the King County Recorder on or after
13 January 1, 2016, and where that document either created the lot or altered (~~reduced~~) the size of
14 the lot, either the total new plus replaced hard surface is 750 square feet or more or land
15 disturbing activity is 7,000 square feet or more; or

16 2. For any other project, either the total new plus replaced hard surface is 1,500
17 square feet or the land disturbing activity is 7,000 square feet or more.

18 **22.805.040 Minimum Requirements for Trail and Sidewalk Projects**

19 A. Soil Amendment. Retain and protect undisturbed soil in areas not being developed,
20 and prior to completion of the project, amend all new, replaced, and disturbed topsoil (including
21 construction lay-down areas) with organic matter to the extent required by and in compliance
22 with the rules promulgated by the Director.

23 B. On-site Stormwater Management. All trail and sidewalk projects with 2,000 square
24 feet or more of new plus replaced hard surface or 7,000 square feet or more of land disturbing
25 activity shall meet the Minimum Requirements for On-site Stormwater Management contained
26 in Section 22.805.070, to the extent allowed by law.

27 **22.805.050 Minimum Requirements for Parcel-Based Projects**

28 A. Soil Amendment. Retain and protect undisturbed soil in areas not being developed,
29 and prior to completion of the project, amend all new, replaced, and disturbed topsoil (including
30 construction lay-down areas) with organic matter to the extent required by and in compliance
31 with the rules promulgated by the Director.

1 B. On-site Stormwater Management. Parcel-based projects shall meet the Minimum
2 Requirements for On-site Stormwater Management contained in Section 22.805.070, to the
3 extent allowed by law, if:

4 1. For a project on a lot most recently created, adjusted, altered, or otherwise
5 amended by a plat or other lawful document recorded with the King County Recorder on or after
6 January 1, 2016, and where that document either created the lot or altered (~~reduced~~) the size of
7 the lot, either the total new plus replaced hard surface is 750 square feet or more or land
8 disturbing activity is 7,000 square feet or more; or

9 2. For any other project, either the total new plus replaced hard surface is 1,500
10 square feet or more or the land disturbing activity is 7,000 square feet or more.

11 C. Flow Control. Parcel-based 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. Parcel-based projects discharging into a wetland or to
14 the drainage basin of a wetland, shall:

15 a. Comply with Section 22.805.020 (Minimum requirements for all
16 projects), including, but not limited to subsection 22.805.020.E (Protect Wetlands).

17 b. (~~comply~~) Comply with the minimum requirements for wetland
18 protection contained in subsection 22.805.080.B.1 (Wetland Protection Standards) if:

19 (~~a.~~) 1) The total new plus replaced hard surface is 5,000 square
20 feet or more; or

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

24 (~~c.~~) 3) The project converts 2.5 acres or more of native vegetation
25 to pasture and from the project there is a surface discharge into a natural or man-made
26 conveyance system from the site.

27 2. Discharges to Listed Creek Basins. Parcel-based projects discharging into Blue
28 Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden
29 Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-
30 Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek,
31 Taylor Creek, or Washington Park Creek, or to the drainage basin of such creek, shall:

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

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

6 2) The project converts 3/4 acres or more of vegetation to lawn or
7 landscaped areas, and from the project there is a surface discharge into a natural or man-made
8 conveyance system from the site; or

9 3) The project converts 2.5 acres or more of native vegetation to
10 pasture, and from the project there is a surface discharge into a natural or man-made conveyance
11 system from the site; or

12 4) The project adds 5,000 square feet or more of new hard surface
13 and, through a combination of effective hard surfaces and converted pervious surfaces, causes a
14 ~~((0.1))~~ 0.15 cubic feet per second increase in the 100-year recurrence interval flow frequency as
15 estimated using a continuous model approved by the Director.

16 b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture
17 Standard) if the criteria in subsection 22.805.050.C.2.a do not apply and one or more apply:

18 1) The ~~((the))~~ total new plus replaced hard surface is ~~((2,000))~~
19 5,000 square feet or more ~~((:))~~ ; or

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

23 3) The project converts 2.5 acres or more of native vegetation to
24 pasture, and from the project there is a surface discharge into a natural or man-made conveyance
25 system from the site.

26 3. Discharges to Non-listed Creek Basins. Parcel-based projects discharging into a
27 creek not listed in subsection 22.805.050.C.2, or to the drainage basin of such creek, shall:

28 a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested
29 Standard) if the existing land cover is forested and one or more of the following apply:

30 1) The project adds 5,000 square feet or more of new hard surface
31 and the total new plus replaced hard surface is 10,000 square feet or more; or

1 2) The project converts 3/4 acres or more of vegetation to lawn or
2 landscaped areas, and from the project there is a surface discharge into a natural or man-made
3 conveyance system from the site; or

4 3) The project converts 2.5 acres or more of native vegetation to
5 pasture, and from the project there is a surface discharge into a natural or man-made conveyance
6 system from the site; or

7 4) The project adds 5,000 square feet or more of new hard surface
8 and, through a combination of effective (~~(impervious)~~) hard surfaces and converted pervious
9 surfaces, causes a (~~(0.1)~~) 0.15 cubic feet per second increase in the 100-year recurrence interval
10 flow frequency as estimated using a continuous model approved by the Director.

11 b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture
12 Standard) if the criteria in subsection 22.805.050.C.3.a do not apply and one or more of the
13 following apply:

14 1) The (~~(the)~~) total new plus replaced hard surface is (~~(2,000)~~)
15 5,000 square feet or more(~~(-)~~); or

16 2) The project converts 3/4 acres or more of vegetation to lawn or
17 landscaped areas, and from the project there is a surface discharge into a natural or man-made
18 conveyance system from the site; or

19 3) The project converts 2.5 acres or more of native vegetation to
20 pasture, and from the project there is a surface discharge into a natural or man-made conveyance
21 system from the site.

22 4. Discharges to Small Lake Basins. Parcel-based projects discharging into Bitter
23 Lake, Green Lake, or Haller Lake, or to the drainage basin of such lake, shall comply with
24 subsection 22.805.080.B.4 (Existing Condition Standard) or 22.805.080.B.5 (Peak Control
25 Standard) if the total new plus replaced hard surface is (~~(2,000)~~) 5,000 square feet or more.

26 5. Discharges to Public Combined Sewer. Unless the Director of SPU has
27 determined that the public combined sewer has sufficient capacity to carry existing and
28 anticipated loads, parcel-based projects discharging into the public combined sewer or its basin
29 shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus
30 replaced hard surface is (~~(10,000)~~) 5,000 square feet or more.

1 6. Discharges to a Capacity-constrained System. In addition to applicable
2 minimum requirements for flow control in subsection 22.805.050.C.1 through subsection
3 22.805.050.C.5, parcel-based projects discharging into a capacity-constrained system or its basin
4 shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus
5 replaced hard surface is 2,000 square feet or more unless the downstream system has sufficient
6 capacity as specified in 22.805.020.H (Ensure Sufficient Capacity).

7 7. Discharges from Groundwater. In addition to applicable minimum
8 requirements for flow control in subsection 22.805.050.C.1 through subsection 22.805.050.C.6,
9 parcel-based projects that will permanently discharge groundwater to a public drainage system or
10 to a public combined sewer shall also comply with subsection 22.805.080.B.4 (Peak Control
11 Standard) if the total new plus replaced hard surface is 2,000 square feet or more.

12 D. Treatment. Parcel-based projects not discharging to the public combined sewer shall
13 comply with the minimum requirements for treatment contained in Section 22.805.090 for flows
14 from the total new plus replaced pollution-generating hard surface and the new plus replaced
15 pollution-generating pervious surface, to the extent allowed by law, if:

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

18 2. The total new plus replaced pollution-generating pervious surfaces is 3/4 acres
19 or more, and from the project there is a surface discharge in a natural or man-made conveyance
20 system from the site.

21 **22.805.060 Minimum Requirements for Roadway Projects**

22 A. Soil Amendment. Retain and protect undisturbed soil in areas not being developed,
23 and prior to completion of the project, amend all new, replaced, and disturbed topsoil (including
24 construction lay-down areas) with organic matter to the extent required by and in compliance
25 with the rules promulgated by the Director.

26 B. On-Site Stormwater Management. All roadway projects with 2,000 square feet or
27 more of new plus replaced hard surface or 7,000 square feet or more of land disturbing activity
28 shall meet the Minimum Requirements for On-site Stormwater Management contained in
29 Section 22.805.070, to the extent allowed by law, except as provided in subsection 22.805.060.E.

1 C. Flow Control. Roadway projects shall meet the minimum requirements for flow
2 control contained in Section 22.805.080, to the extent allowed by law, as prescribed below,
3 except as provided in subsection 22.805.060.E.

4 1. Discharges to Wetlands. Roadway projects discharging into a wetland or to the
5 drainage basin of a wetland, shall:

6 a. Comply with Section 22.805.020 (Minimum requirements for all
7 projects), including, but not limited to subsection 22.805.020.E (Protect Wetlands).

8 b. Comply (~~comply~~) with the minimum requirements for wetland
9 protection contained in subsection 22.805.080.B.1 (Wetland Protection Standards) if the existing
10 hard surface coverage is less than 35 percent and one or more of the following apply:

11 ~~((a-))~~ 1) The total new plus replaced hard surface is 5,000 square
12 feet or more; or

13 ~~((b-))~~ 2) The project converts 3/4 acres or more of vegetation to
14 lawn or landscaped areas, and from the project there is a surface discharge into a natural or man-
15 made conveyance system from the site; or

16 ~~((c-))~~ 3) The project converts 2.5 acres or more of native vegetation
17 to pasture and from the project there is a surface discharge into a natural or man-made
18 conveyance system from the site.

19 c. Comply with the minimum requirements for wetland protection
20 contained in subsection 22.805.080.B.1 (Wetland Protection Standards) if the existing hard
21 surface coverage is greater than or equal to 35 percent and one or more of the following apply:

22 1) The total new hard surface is 10,000 square feet or more; or

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

26 3) The project converts 2.5 acres or more of native vegetation to
27 pasture and from the project there is a surface discharge into a natural or man-made conveyance
28 system from the site.

29 2. Discharges to Listed Creek Basins. Roadway projects discharging into Blue
30 Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden
31 Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-

1 Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek,
2 Taylor Creek, or Washington Park Creek, or to the drainage basin of such creek, shall:

3 a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested
4 Standard) if the existing hard surface coverage is less than 35 percent and one or more of the
5 following apply:

6 1) The project adds 5,000 square feet or more of new hard surface
7 and the total new plus replaced hard surface is 10,000 square feet or more; or

8 2) The project converts 3/4 acres or more of vegetation to lawn or
9 landscaped areas, and from the project there is a surface discharge into a natural or man-made
10 conveyance system from the site; or

11 3) The project converts 2.5 acres or more of native vegetation to
12 pasture, and from the project there is a surface discharge into a natural or man-made conveyance
13 system from the site; or

14 4) The project adds 5,000 square feet or more of new hard surface
15 and, through a combination of effective hard surfaces and converted pervious surfaces, causes a
16 ~~((0.1))~~ 0.15 cubic feet per second increase in the 100-year recurrence interval flow frequency as
17 estimated using a continuous model approved by the Director.

18 b. Comply with subsection 22.805.080.B.3 ~~((Pre-developed Pasture
19 Standard))~~ 22.805.080.B.4 (Existing Condition Standard) if the criteria in subsection
20 22.805.060.C.2.a do not apply and the total new ~~((plus replaced))~~ hard surface is 10,000 square
21 feet or more, and

22 1) If the new hard surface adds 50 percent or more to the existing
23 hard surfaces within the project limits, comply with subsection 22.805.080.B.4 (Existing
24 Condition Standard) for the flows from the total new plus replaced hard surfaces. The project
25 limits are defined by the length of the project and the width of the right-of way; or

26 2) If the new hard surface adds less than 50 percent to the existing
27 hard surfaces within the project limits, comply with subsection 22.805.080.B.4 (Existing
28 Condition Standard) for the flows from the total new hard surfaces. The project limits are
29 defined by the length of the project and the width of the right-of way.

30 3. Discharges to Non-listed Creek Basins. Roadway projects discharging into a
31 creek not listed in subsection 22.805.060.C.2, or to the drainage basin of such creek, shall:

1 a. Comply with subsection 22.805.080.B.2 (Pre-developed Forested
2 Standard) if the existing land cover is forested and one or more of the following apply:

3 1) The project adds 5,000 square feet or more of new hard surface
4 and the total new plus replaced hard surface is 10,000 square feet or more; or

5 2) The project converts 3/4 acres or more of vegetation to lawn or
6 landscaped areas, and from the project there is a surface discharge into a natural or man-made
7 conveyance system from the site; or

8 3) The project converts 2.5 acres or more of native vegetation to
9 pasture, and from the project there is a surface discharge into a natural or man-made conveyance
10 system from the site; or

11 4) The project adds 5,000 square feet or more of new hard surface
12 and, through a combination of effective hard surfaces and converted pervious surfaces, causes a
13 ~~((0.4))~~ 0.15 cubic feet per second increase in the 100-year recurrence interval flow frequency as
14 estimated using a continuous model approved by the Director.

15 b. Comply with subsection ~~((22.805.080.B.3 (Pre-developed Pasture
16 Standard)))~~ 22.805.080.B.4 (Existing Condition Standard) if the criteria in subsection
17 22.805.060.C.3.a do not apply and the total new ~~((plus replaced))~~ hard surface is 10,000 square
18 feet or more, and

19 1) If the new hard surface adds 50 percent or more to the existing
20 hard surfaces within the project limits, comply with subsection 22.805.080.B.4 (Existing
21 Condition Standard) for the flows from the total new plus replaced hard surfaces. The project
22 limits are defined by the length of the project and the width of the right-of way; or

23 2) If the new hard surface adds less than 50 percent to the existing
24 hard surfaces within the project limits, comply with subsection 22.805.080.B.4 (Existing
25 Condition Standard) for the flows from the total new hard surfaces. The project limits are
26 defined by the length of the project and the width of the right-of way.

27 4. Discharges to Small Lake Basins. ~~((Projects))~~ Roadway projects discharging
28 into Bitter Lake, Green Lake, or Haller Lake, or to the drainage basin of such lake, shall comply
29 with subsection 22.805.080.B.4 (Existing Condition Standard) ~~((Peak Control Standard))~~ if the
30 total new ~~((plus replaced))~~ hard surface is 10,000 square feet or more, and

1 a. If the new hard surface adds 50 percent or more to the existing hard
2 surfaces within the project limits, comply with subsection 22.805.080.B.4 (Existing Condition
3 Standard) for the flows from the total new plus replaced hard surfaces. The project limits are
4 defined by the length of the project and the width of the right-of way; or

5 b. If the new hard surface adds less than 50 percent to the existing hard
6 surfaces within the project limits, comply with subsection 22.805.080.B.4 (Existing Condition
7 Standard) for the flows from the total new hard surfaces. The project limits are defined by the
8 length of the project and the width of the right-of way.

9 ~~((5. Discharges to Public Combined Sewer. Unless the Director of SPU has~~
10 ~~determined that the public combined sewer has sufficient capacity to carry existing and~~
11 ~~anticipated loads, roadway projects discharging into the public combined sewer or its basin shall~~
12 ~~comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new ((plus~~
13 ~~replaced)) hard surface is 10,000 square feet or more.))~~

14 ~~((6.))~~ 5. Discharges to a Capacity-constrained System. In addition to applicable
15 minimum requirements for flow control in subsection 22.805.060.C.1 through subsection
16 22.805.060.C.5, roadway projects discharging into a capacity-constrained system or its basin
17 shall also comply with subsection 22.805.080.B.4 (Existing Condition Standard) ((Peak Control
18 Standard)) if the total new ((plus replaced)) hard surface is 10,000 square feet or more unless
19 the downstream system has sufficient capacity as specified in 22.805.020.H (Ensure Sufficient
20 Capacity).

21 ~~((7.))~~ 6. Discharges from Groundwater. In addition to applicable minimum
22 requirements for flow control in subsection 22.805.060.C.1 through subsection 22.805.060.C.6,
23 roadway projects that will permanently discharge groundwater to a public drainage system or to
24 a public combined sewer shall also comply with subsection 22.805.080.B.4 (Existing Condition
25 Standard) ((Peak Control Standard)) if the total new ((plus replaced)) hard surface is 10,000
26 square feet or more.

27 D. Treatment. Roadway projects not discharging to the public combined sewer shall, to
28 the extent allowed by law, except as provided in subsection 22.805.060.E:

29 1. If the site has less than 35 percent existing hard surface coverage, and the
30 project's total new plus replaced pollution-generating hard surface is 5,000 square feet or more,
31 comply with the minimum requirements for treatment contained in Section 22.805.090 for flows

1 from the total new plus replaced pollution-generating hard surface and new plus replaced
2 pollution-generating pervious surface; and

3 2. If the site has greater than or equal to 35 percent existing hard (~~impervious~~)
4 surface coverage and the project's total new pollution-generating hard surface is 5,000 square
5 feet or more, and

6 a. If the new pollution-generating hard surface adds 50 percent or more to
7 the existing hard surfaces within the project limits, comply with the minimum requirements for
8 treatment contained in Section 22.805.090 for flows from the total new plus replaced pollution-
9 generating hard surface and new plus replaced pollution-generating pervious surface. The project
10 limits are defined by the length of the project and the width of the right-of-way; or

11 b. If the new pollution-generating hard surface adds less than 50 percent to
12 the existing hard surfaces within the project limits, comply with the minimum requirements for
13 treatment contained in Section 22.805.090 for flows from the total new pollution-generating hard
14 surface and new pollution-generating pervious surface. The project limits are defined by the
15 length of the project and the width of the right-of-way; and

16 3. If the total new plus replaced pollution-generating pervious surfaces is 3/4
17 acres or more, and from the project there is a surface discharge in a natural or man-made
18 conveyance system from the site, comply with the minimum requirements for treatment
19 contained in Section 22.805.090 for flows from the total new plus replaced pollution-generating
20 pervious surface and the new plus replaced pollution-generating hard surface.

21 E. For a roadway project that adds less than 50 percent to the existing hard surface within
22 the project limits on a site having greater than 35 percent existing hard surface coverage, the
23 requirements of subsections 22.805.060.B, 22.805.060.C and 22.805.060.D to install drainage
24 control facilities are modified based on infeasibility to the degree that (a) complete installation
25 would require that an existing major publicly or privately-owned infrastructure or utility element
26 be relocated, or (b) the drainage control facility cannot be built and operated to discharge
27 stormwater from the site under gravity flow conditions while meeting the applicable engineering
28 standards. Compliance with subsections 22.805.060.B, 22.805.060.C and 22.805.060.D is
29 required to the degree that the project can avoid the infeasibility described in this subsection
30 22.805.060.E. Standard drainage (~~control~~) review and approval shall be required whenever this
31 subsection is used, whether or not Section 22.800.070 applies.

- 1 1. The following are considered existing major infrastructure or utility elements:
- 2 a. Gravity flow pipe greater than or equal to 24 inches in diameter or
- 3 gravity flow pipe which cannot be relocated to discharge under gravity flow conditions;
- 4 b. High-pressure gas pipe;
- 5 c. Pressure gas pipe greater than 8 inches in diameter;
- 6 d. Any other pressure pipe greater than 12 inches in diameter (e.g. water or
- 7 steam);
- 8 e. Duct banks, vaults, or handholes, for underground electrical, fiber optic,
- 9 or telecommunication services;
- 10 f. Bridge, building, or tunnel structural foundations; and
- 11 g. Foundations for walls greater than 6 feet in height or 15 feet in length.

12 **22.805.070 Minimum Requirements for On-((S)) site Stormwater Management**

13 A. Applicability. The requirements of this subsection 22.805.070 apply as required in

14 Section 22.805.030 to Section 22.805.060.

15 B. Requirements. On-site stormwater management shall be installed to the extent allowed

16 by law and maintained in compliance with the rules promulgated by the Director to receive flows

17 from that portion of the site being developed and shall:

18 1. Comply with either:

- 19 a. Subsection 22.805.070.C (On-site Performance Standard); or
- 20 b. Subsection 22.805.070.D (On-site Lists).

21 C. On-site Performance Standard:

22 1. If the existing hard surface coverage is less than 35 percent and the project

23 discharges to a listed creek, or to the drainage basin of such creek:

24 a. The post-development discharge durations shall match the discharge

25 durations of a pre-developed forested condition for the range of pre-developed discharge rates

26 from 8 percent of the 2-year peak flow to 50 percent of the 2-year peak flow.

27 2. For all other projects:

28 a. The post-development discharge durations shall match the discharge

29 durations of a pre-developed pasture condition for the range of pre-developed discharge rates

30 between the 1 percent and 10 percent exceedance values.

31 D. On-site Lists:

1 1. For each project surface, follow the appropriate project table in subsection
2 22.805.070.D.2 to subsection 22.805.070.D.5 to evaluate on-site BMPs shown for that type of
3 surface, by category. The project tables apply to roofs and other hard (non-roof) surfaces. All on-
4 site BMPs used must comply with the rules promulgated by the Director. For each surface,
5 consider all of the applicable on-site BMPs in the first category. Use any that is considered
6 feasible. If none is feasible for that surface, move on to each successive category and repeat the
7 selection process as necessary. Once one on-site BMP is used for a surface, no other on-site
8 BMP is necessary for that surface. If no BMP in the appropriate categories is feasible, then no
9 further evaluation is required for that surface under this subsection 22.805.070.D.1. Feasibility
10 shall be determined by evaluation against:

11 a. Design criteria, minimum size, limitations, and infeasibility criteria
12 identified for each BMP in this subsection and the rules promulgated by the Director; and

13 b. Competing Needs: Subsection 22.805.070.D (On-site Lists) can be
14 superseded or reduced by the Director if the installation of the BMPs is in conflict with:

15 1) Any of the following federal or state laws, rules, and standards,
16 as may be amended or superseded: Historic Preservation and Archaeology Laws identified in
17 subsection 22.805.070.E (Historic Preservation and Archaeology Laws), Federal Superfund or
18 Washington State Model Toxics Control Act, Federal Aviation Administration requirements for
19 airports, the Americans with Disabilities Act, and related rules and standards; or

20 2) Special zoning district design criteria adopted and being
21 implemented pursuant to a community planning process. Special zoning districts include, for
22 example, historic and preservation districts, pedestrian zone overlays, station area overlays,
23 special review districts, multifamily residential zones, urban centers and urban villages, and
24 master planned communities. Specific criteria in these areas include, but are not limited to,
25 minimum Floor Area Ratio standards; zero lot line development; usable open space
26 requirements; minimum sidewalk width and required bicycle facilities; alley, loading, and access
27 requirements; pitched roof standards; and street-level development standards for modulation and
28 projections; or

29 3) Public health and safety standards; or

30 4) Transportation regulations to maintain the option for future
31 expansion or multi-modal use of public rights-of-way; or

1 5) Chapter 15.43 (Tree and Vegetation Management in Public
 2 Places); Chapter 25.09 (Regulations for Environmentally Critical Areas); Chapter 25.11 (Tree
 3 Protection); and Chapter 23.60A (Standards for Vegetation in the Shoreline Master Plan).

4 2. For single-family residential projects, Table A for 22.805.070 applies.

Table A for 22.805.070 On-site List for Single-family Residential Projects		
Category	BMPs	All Discharge Locations
1	Full Dispersion	R, S
	Infiltration Trenches	R, S ^d
	Dry Wells	R, S ^d
2	Rain Gardens ^a	R, S
	Infiltrating Bioretention	R, S
	Rainwater Harvesting – <u>Category 2 Sizing</u>	X ^b
	Permeable Pavement Facilities	R, S
	Permeable Pavement Surfaces	S
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S</u>
3	Sheet Flow Dispersion	R, S
	Concentrated Flow Dispersion	S
	Splashblock Downspout Dispersion	R
	Trench Downspout Dispersion	R
	((Non-infiltrating Bioretention))	((R, S))
	((Vegetated Roofs))	((X))
4	<u>Non-infiltrating Bioretention</u>	<u>R, S</u>
	<u>Rainwater Harvesting – Category 4 Sizing</u>	<u>X^c</u>
	<u>Vegetated Roofs</u>	<u>X</u>

**Table A for 22.805.070
On-site List for Single-family Residential Projects**

Category	BMPs	All Discharge Locations
((4)) 5	Single-family Residential Cisterns	R
	Perforated Stub-out Connections	R
	((Newly Planted)) Trees	S

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

Key to Table A for 22.805.070

R = Evaluation is required for all roof runoff from Single-family residential projects.

S = Evaluation is required for all other hard (non-roof) surfaces of Single-family residential projects, unless otherwise noted below.

X = Evaluation is not required but is allowed.

^a Installation is only allowed for projects with less than 5,000 square feet of hard surface infiltrating on the project site.

^b Category 2 rainwater harvesting shall be sized to meet the on-site performance standard, subsection 22.805.070.C.

^c Category 4 rainwater harvesting shall be sized to reduce the runoff volume by 25 percent or more on an annual average basis.

^d Evaluation of other hard (non-roof) surfaces is not required but is allowed.

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3. For trail and sidewalk projects, Table B for 22.805.070 applies.

Table B for 22.805.070				
On-site List for Trail and Sidewalk Projects				
Category	BMPs	Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, or its Basin	Projects Discharging to a Public Combined Sewer or Capacity-constrained System,^c or its Basin	Projects Discharging to a Designated Receiving Water, or its Basin
1	Full Dispersion	S	S	S
2	Rain Gardens	S	S	X
	Permeable Pavement Facilities	X	X ^a	X ^{a, b}
	Permeable Pavement Surfaces	S	S ^a	X ^{a, b}
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S</u>	<u>S</u>	<u>X</u>
3	Sheet Flow Dispersion	S	S	S
	Concentrated Flow Dispersion	S	S	S
4	<u>Trees</u>	<u>S</u>	<u>S</u>	<u>S</u>

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

Key to Table B for 22.805.070
 S = Evaluation is required for all surfaces of trail or sidewalk projects.
 X = Evaluation is not required for trail or sidewalk projects.

^a Minimum permeable pavement area allowed in right-of-way is 2,000 square feet of pavement within the project site.
^b Installation is not allowed in the right-of-way if new plus replaced pollution-generating hard surface area is less than 2,000 square feet of pavement within the project site.
^c Does not include any project discharging to a receiving water not designated by Section 22.801.050, or its basin, even if the project discharges to a capacity-constrained system or its basin.

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4. For parcel-based projects, Table C for 22.805.070 applies.

Table C for 22.805.070 On-site List for Parcel-based Projects			
Category	BMPs	Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, Public Combined Sewer, or Capacity-constrained System, or its Basin	Projects Discharging to a Designated Receiving Water or its Basin
1	Full Dispersion	R, S	R, S
	Infiltration Trenches	R, S ^g	R, S ^g
	Dry Wells	R, S ^g	R, S ^g
2	Rain Gardens	R ^a , S ^a	R ^a , S ^a
	Infiltrating Bioretention	R, S	R, S
	Rainwater Harvesting – <u>Category 2 Sizing</u>	((R^b)) X ^e	X ^e
	Permeable Pavement Facilities	R, S	R, S
	Permeable Pavement Surfaces	S	S
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S</u>	<u>S</u>
3	Sheet Flow Dispersion	R, S	R, S
	Concentrated Flow Dispersion	S	S
	Splashblock Downspout Dispersion	R	R
	Trench Downspout Dispersion	R	R
	((Non-infiltrating Bioretention))	((R, S))	((R, S))
	((Vegetated Roofs))	((R^e))	((X))

**Table C for 22.805.070
On-site List for Parcel-based Projects**

Category	BMPs	Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, Public Combined Sewer, or Capacity-constrained System, or its Basin	Projects Discharging to a Designated Receiving Water or its Basin
4	<u>Non-infiltrating Bioretention</u>	<u>R^d, S^d</u>	<u>R^d, S^d</u>
	<u>Rainwater Harvesting – Category 4 Sizing</u>	<u>R^{b, f}</u>	<u>X^f</u>
	<u>Vegetated Roofs</u>	<u>R^c</u>	<u>X</u>
((4)) 5	Perforated Stub-out Connections	R	R
	((Newly Planted)) Trees	S	S

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

Key to Table C for 22.805.070

R = Evaluation is required for all roof runoff from parcel-based projects.

S = Evaluation is required for all other hard (non-roof) surfaces of parcel-based projects, unless otherwise noted below.

X = Evaluation is not required but is allowed.

^a ~~((Installation is only allowed for projects not required))~~ Rain gardens cannot be used to meet Section 22.805.080 (Minimum Requirements for Flow Control) or Section 22.805.090 (Minimum Requirements for Treatment) ((and with less than)) or for areas of 5,000 square feet or more ((€)) hard surface infiltrating on the project site.

^b Evaluation is not required for projects with less than ~~((10,000))~~ 20,000 square feet of new plus replaced rooftop surface.

^c Evaluation is not required for projects with less than 5,000 square feet of new plus replaced rooftop surface.

^d Installation of water quality treatment BMPs sized to meet Section 22.805.090 (Minimum Requirements for Treatment) may be installed in lieu of non-infiltrating bioretention.

^e Category 2 rainwater harvesting shall be sized to meet the on-site performance standard, subsection 22.805.070.C.

^f Category 4 rainwater harvesting shall be sized to reduce the runoff volume by 25 percent or more on an annual average basis.

^g Evaluation of other hard (non-roof) surfaces is not required but is allowed.

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5. For roadway projects, Table D for 22.805.070 applies.

Table D for 22.805.070 On-site List for Roadway Projects				
Category	BMPs	Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, or its Basin	Projects Discharging to a Public Combined Sewer or Capacity-constrained System,^g or its Basin	Projects Discharging to a Designated Receiving Water or its Basin
1	Full Dispersion	S	S	S
2	Rain Gardens	S ^a	S ^a	S ^a
	Infiltrating Bioretention	S	S ^b	S ^{b, c}
	Permeable Pavement Facilities	X ^d	X ^{e, f}	X ^{c, e, f}
	Permeable Pavement Surfaces	S ^d	S ^{e, f}	((S)) X ^{c, e, f}
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S^e</u>	<u>S^e</u>	<u>S^e</u>
3	Sheet Flow Dispersion	S	S	S
	Concentrated Flow Dispersion	S	S	S
<u>4</u>	<u>Trees</u>	<u>S</u>	<u>S</u>	<u>S</u>

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

Key to Table D for 22.805.070

S = Evaluation is required for all surfaces of Roadway Projects.

X = Evaluation is not required for Roadway Projects, but is allowed.

^a ((~~Installation is only allowed for projects not required~~)) Rain gardens cannot be used to meet Section 22.805.080 (Minimum Requirements for Flow Control) or Section 22.805.090 (Minimum Requirements for Treatment) ((and with less than)) or for areas of 5,000 square feet or more ((of)) hard surface infiltrating on the project site.

^b Minimum bioretention cell size top area in right-of-way is 500 square feet (including pre-settling area). Evaluation is only required and installation only allowed when contributing area is sufficient to warrant minimum bioretention cell size in right-of-way.

^c Evaluation is not required, and installation is not allowed, if new plus replaced pollution-generating hard surface is less than 2,000 square feet.

**Table D for 22.805.070
On-site List for Roadway Projects**

^d Evaluation of roadway surfaces is not required, and installation is not allowed, if roadway is an arterial street/collector.
^e Evaluation of roadway surfaces, including alleys, is not required and installation is not allowed.
^f Minimum permeable pavement area allowed in right-of-way is 2,000 square feet of pavement within the project site.
^g Does not include any project discharging to a receiving water not designated by Section 22.801.050, or its basin, even if the project discharges to a capacity-constrained system or its basin.

1 E. Historic Preservation and Archaeology Laws. For use with subsection
 2 22.805.070.D.1.b.1:

3 1. Federal Laws on Historic Preservation:

- 4 a. 16 U.S.C. 470, et seq. (National Historic Preservation Act);
- 5 b. 36 CFR Part 60 (National Register of Historic Places);
- 6 c. 36 CFR Part 61 (Procedures for State, Tribal, and Local Government
 7 Historic Preservation Programs);
- 8 d. 36 CFR Part 63 (Determinations of Eligibility for Inclusion in the
 9 National Register of Historic Places);
- 10 e. 36 CFR Part 65 (National Historic Landmarks Program);
- 11 f. 36 CFR Part 68 (The Secretary of the Interior’s Standards for the
 12 Treatment of Historic Properties);
- 13 g. Section 106 of National Historic Preservation Act;
- 14 h. Secretary of the Interior’s Standards and Guidelines for Professional
 15 Qualifications Standards;
- 16 i. Executive Order 11593 (Protection and Enhancement of the Cultural
 17 Environment); and
- 18 j. Executive Order 13006 (Locating Federal Facilities in Historic
 19 Properties).

20 2. Washington State Laws on Historic Preservation:

- 21 a. Archaeological and Cultural Resources (Executive Order 05-05);
- 22 b. Advisory Council on Historic Preservation (WAC 25-12);
- 23 c. Washington State Historic Building Code (RCW 19.27.120);

- d. Heritage Barn Program (RCW 27.34.400);
- e. State Historical Societies – Historic Preservation (RCW 27.34); and
- f. Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60).

3. Federal Laws on Archaeology:

- a. 16 U.S.C. 470aa, et seq. (Archaeological Resources Protection Act of 1979);
- b. 16 U.S.C. 469 (Archaeological and Historic Preservation Act of 1974);
- c. 25 U.S.C. 3001, et seq. (Native American Graves Protection and Repatriation Act); and
- d. 16 U.S.C. 470, et seq. (National Historic Preservation Act).

4. Washington State Laws on Archaeology:

- a. Archaeological and Cultural Resources (Executive Order 05-05);
 - b. Registration of Historic Archaeological Resources on State-Owned Aquatic Lands (WAC 25-46);
 - c. Archaeological Excavation and Removal Permit (WAC 25-48);
 - d. Indian Graves and Records (RCW 27.44);
 - e. Archaeological Sites and Resources (RCW 27.53);
 - f. Archaeological Site Public Disclosure Exemption (RCW 42.56.300);
 - g. Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60);
- and
- h. Archaeological Activities on State-owned Aquatic Lands – Agreements, Leases, or Other Conveyances (RCW 79.105.600).

5. City of Seattle Laws on Historic Preservation as listed below and historic districts that have been or may be designated by ordinance:

- a. Chapter 23.66 (Pioneer Square and International Special Review Districts);
- b. Chapter 25.12 (Landmarks Preservation);
- c. Chapter 25.16 (Ballard Avenue Landmark District);
- d. Chapter 25.20 (Columbia City Landmark District);
- e. Chapter 25.21 (Fort Lawton Landmark District);
- f. Chapter 25.22 (Harvard-Belmont Landmark District);

- 1 g. Chapter 25.24 (Pike Place Market Historical District); and
2 h. Chapter 25.32 (Table of Historical Landmarks).

3 **22.805.080 Minimum Requirements for Flow Control**

4 A. Applicability. The requirements of this subsection apply to the extent required in
5 Section 22.805.050 to Section 22.805.060.

6 B. Requirements. Flow control facilities shall be installed to the extent allowed by law
7 and maintained pursuant to rules promulgated by the Director to receive flows from that portion
8 of the site being developed. Post-development discharge determination must include flows from
9 dewatering activities. All projects shall use on-site BMPs identified in Section 22.805.070.D to
10 the maximum extent feasible to meet the minimum requirements. Flow control facilities that
11 receive flows from less than that portion of the site being developed may be installed if the total
12 new plus replaced impervious surface is less than 10,000 square feet, the project site uses only
13 on-site BMPs to meet the requirement, and the on-site BMPs provides substantially equivalent
14 environmental protection as facilities not using on-site BMPs that receive flows from all of the
15 portion of the site being developed.

16 1. Wetland Protection Standards. Protect the functions and values of wetlands and
17 their buffers from all projects discharging stormwater directly or indirectly to them. The
18 hydrologic conditions, vegetative community, and substrate characteristics of the wetlands shall
19 be protected, and impacts caused by changes in water flows and pollutants shall be prevented.
20 The introduction of sediment, heat and other pollutants and contaminants into wetlands shall be
21 minimized through the selection, design, installation, and maintenance of temporary and
22 permanent controls.

23 Before authorizing new discharges to a wetland, alternative discharge locations
24 shall be evaluated and infiltration options outside the wetland shall be maximized unless doing
25 so will adversely impact the functions and values of the affected wetlands. If one or more of the
26 flow control requirements contained in subsections 22.805.080.B.2 through 22.805.080.B.4 also
27 apply to the project, an analysis shall be conducted to ensure that the functions and values of the
28 affected wetland are protected before implementing these flow control requirements.

29 Notwithstanding any provision in this subtitle, no net loss of wetland functions of
30 values shall result from actions regulated by this subtitle.

1 Refer to the *Washington State Wetland Rating System for Western Washington: 2014 Update* (Hruby, 2014) to determine the category, characteristics, and habitat score of the
2 wetland. Wetland classification shall be determined by a wetland professional per rules
3 promulgated under section 25.09.33.C (Regulations for Environmentally Critical Areas).

4 a. Comply with subsection 22.805.080.B.1.c (Wetland Protection Standard
5 – Method 1: Monitoring and Wetland Stage Modeling) if one or more of the following apply:

6 1) The project discharges to a Category I or II depressional or
7 riverine impounding wetland; and

8 2) The project [proponent] has legal access to the [entire] wetland
9 [and its buffer] for purposes of conducting monitoring in the wetland.

10 b. Comply with subsection 22.805.080.B.1.d (Wetland Protection
11 Standard – Method 2: Site Discharge Modeling) if the criteria in subsection 22.805.080.B.1.a do
12 not apply and one or more of the following apply (or is unknown):

13 1) The wetland is Class I or II and does not meet the requirements
14 of subsection 22.805.080.B.1.a.

15 2) The wetland is Class III or IV and:

16 a) Has a habitat score greater than 5;

17 b) Is interdunal and has special characteristics;

18 c) Provides habitat for rare, threatened, endangered, or
19 sensitive species; or

20 d) Contains breeding population of any native amphibian.

21 Per Ecology’s guidance, wetlands with permanent or seasonal ponding or inundation are
22 assumed to have breeding population of native amphibian.

23 c. Wetland Protection Standard – Method 1: Monitoring and Wetland
24 Stage Modeling. Comply with I-C.4, Wetland Hydroperiod Protection, presented in Appendix I-
25 C of Ecology’s Stormwater Management Manual for Western Washington (Ecology 2019).

26 Projects triggering Method 1 shall refer to I-C-5, Wetland Hydroperiod
27 Data Collection and Evaluation Procedures, presented in Appendix I-C of Ecology’s Stormwater
28 Management Manual for Western Washington (Ecology 2019) for additional guidance.

29 d. Wetland Protection Standard – Method 2: Site Discharge Modeling. The
30 total volume of stormwater discharging from the site into a wetland shall not be more than:
31

1 1) On a daily basis ~~((during a single precipitation event))~~, 20
2 percent higher or lower than the pre-project volume, and

3 2) ~~((or))~~ On a monthly basis, 15 percent higher or lower than the
4 pre-project volume.

5 ~~((Before authorizing new discharges to a wetland, alternative discharge
6 locations shall be evaluated and infiltration options outside the wetland shall be maximized
7 unless doing so will adversely impact the functions and values of the affected wetlands. If one or
8 more of the flow control requirements contained in 22.805.080.B.2 through 22.805.080.B.4 also
9 apply to the project, an analysis shall be conducted to ensure that the functions and values of the
10 affected wetland are protected before implementing these flow control requirements.))~~

11 Projects triggering ~~((this requirement))~~ Method 2 shall refer to ~~((Guide
12 Sheets #1 through #3))~~ I-C-5, Wetland Hydroperiod Data Collection and Evaluation Procedures,
13 presented in Appendix ~~((I-D))~~ I-C of Ecology's Stormwater Management Manual for Western
14 Washington (Ecology ~~((2014))~~ 2019) for additional guidance. ~~((Notwithstanding any provision
15 in this subtitle, no net loss of wetland functions of values shall result from actions regulated by
16 this subtitle.))~~

17 2. Pre-developed Forested Standard. The post-development discharge durations
18 shall match the discharge durations of a pre-developed forested condition for the range of pre-
19 developed discharge rates from 50 percent of the 2-year peak flow to the 50-year peak flow.

20 3. Pre-developed Pasture Standard. The post-development discharge durations
21 shall match the discharge durations of a pre-developed pasture condition for the range of pre-
22 developed discharge rates from 50 percent of the 2-year peak flow to the 2-year peak flow.

23 4. Existing Condition Standard. The post-development discharge durations shall
24 match the discharge durations of the existing site condition for the range of discharge rates from
25 50 percent of the 2-year peak flow to the 50-year peak flow.

26 ~~((4.))~~ 5. Peak Control Standard. ~~((The post-development peak flow with a 4
27 percent annual probability (25-year recurrence flow) shall not exceed 0.4 cubic feet per second
28 per acre. Additionally, the peak flow with a 50 percent annual probability (recurrence flow) shall
29 not exceed 0.15 cubic feet per second per acre.))~~

30 a. The post-development release rates shall be limited as follows:

1 1) The peak flow with a 50 percent annual probability (2-year
2 recurrence flow) shall not exceed 0.07 cubic feet per second per acre;

3 2) The peak flow with a 20 percent annual probability (5-year
4 recurrence flow) shall not exceed 0.14 cubic feet per second per acre; and

5 3) The peak flow with a 4 percent annual probability (25-year
6 recurrence flow) shall not exceed 0.22 cubic feet per second per acre.

7 b. If only infiltration facilities, rainwater harvesting facilities, or both, are
8 used, projects may meet 22.805.080.B.3 (Pre-Existing Pasture Standard).

9 C. Inspection and Maintenance Schedule. Temporary and permanent flow control
10 facilities shall be inspected and maintained according to rules promulgated by the Director to
11 keep these facilities in continuous working order.

12 **22.805.090 Minimum Requirements for Treatment**

13 A. Applicability. The requirements of this subsection apply to the extent required in
14 Section 22.805.050 to Section 22.805.060.

15 B. Requirements. Water quality treatment facilities shall be installed to the extent allowed
16 by law and maintained pursuant to rules promulgated by the Director to treat flows from the
17 pollution-generating pervious and (~~(impervious)~~) hard surfaces on the site being developed.
18 When stormwater flows from other areas, including non-pollution generating surfaces (e.g.,
19 roofs), dewatering activities, and off-site areas, cannot be separated or bypassed, treatment BMPs
20 shall be designed for the entire area draining to the treatment facility. All projects shall use on-
21 site BMPs identified in Section 22.805.070.D to the maximum extent feasible to meet the
22 minimum requirements. For pollution-generating pervious surfaces, a landscape management
23 plan, developed according to rules promulgated by the Director may be utilized in lieu of
24 installing water quality treatment facilities.

25 1. Runoff Volume. Stormwater treatment facilities shall be designed based on the
26 stormwater runoff volume from the contributing area or a peak flow rate as follows:

27 a. The daily runoff volume at or below which 91 percent of the total runoff
28 volume for the simulation period occurs, as determined using an approved continuous model. It
29 is calculated as follows:

30 1) Rank the daily runoff volumes from highest to lowest.

31 2) Sum all the daily volumes and multiply by 0.09.

1 3) Sequentially sum daily runoff volumes, starting with the highest
2 value, until the total equals 9 percent of the total runoff volume. The last daily value added to the
3 sum is defined as the water quality design volume.

4 b. Different design flow rates are required depending on whether a
5 treatment facility will be located upstream or downstream of a detention facility:

6 1) For facilities located upstream of detention or when detention is
7 not required, the design flow rate is the flow rate at or below which 91 percent of the total runoff
8 volume for the simulation period is treated, as determined using an approved continuous runoff
9 model.

10 2) For facilities located downstream of detention, the design flow
11 rate ~~((is the release rate))~~ shall be the full 2-year release rate, as determined using an approved
12 continuous runoff model.

13 c. Infiltration facilities designed for water quality treatment must infiltrate
14 91 percent of the total runoff volume as determined using an approved continuous runoff model.
15 To prevent the onset of anaerobic conditions, an infiltration facility designed for water quality
16 treatment purposes must be designed to drain the water quality design treatment volume (the 91st
17 percentile, 24-hour volume) within 48 hours.

18 2. Basic Treatment. A basic treatment facility shall be required for all projects.
19 The requirements of subsection 22.805.090.B.3 (Oil Control Treatment), subsection
20 22.805.090.B.4 (Phosphorus Treatment), and subsection 22.805.090.B.5 (Enhanced Treatment)
21 are in addition to this basic treatment requirement.

22 3. Oil Control Treatment. An oil control treatment facility shall be required for
23 high-use sites, as defined in this subtitle.

24 4. Phosphorus Treatment. A phosphorus treatment facility shall be required for
25 projects discharging into nutrient-critical receiving waters.

26 5. Enhanced Treatment. Unless a project discharges to a basic treatment receiving
27 water (subsection 22.801.030 “B”), ~~((An))~~ an enhanced treatment facility for reducing
28 concentrations of dissolved metals shall be required for projects that discharge, directly or
29 through conveyance systems, to fresh waters designated for aquatic life use or having an existing
30 aquatic life use, or that use infiltration strictly for flow control (not treatment) and discharge

1 within one-quarter mile of fresh waters designated for aquatic life use or having an existing
2 aquatic life use, if the project meets one of the following criteria:

3 a. For a parcel-based project, the project (~~site~~) is (~~an~~) industrial, is
4 commercial, or proposes four or more dwelling units (~~multi-family project~~).

5 b. For a roadway project, the site is either:

6 1) A fully controlled or a partially controlled limited access
7 highway with Annual Average Daily Traffic counts of 15,000 or more; or

8 2) Any other road with an Annual Average Daily Traffic count of
9 7,500 or greater.

10 6. Discharges to Groundwater. Direct discharge of untreated drainage water from
11 pollution-generating hard surfaces to groundwater is prohibited.

12 C. Inspection and Maintenance Schedule. Temporary and permanent treatment facilities
13 shall be inspected and maintained according to rules promulgated by the Director to keep these
14 facilities in continuous working order.

15 Section 6. Chapter 22.807 of the Seattle Municipal Code, last amended by Ordinance
16 125248, is amended as follows:

17 **Chapter 22.807 DRAINAGE CONTROL REVIEW AND APPLICATION**

18 **REQUIREMENTS**

19 **22.807.010 General**

20 A. No discharge from a site, real property, or drainage facility, directly or indirectly to a
21 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
23 violation of water quality standards in the receiving water or a known or likely violation of the
24 City's municipal stormwater NPDES permit.

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

1 **22.807.020 Drainage control review and application requirements**

2 A. Thresholds for Drainage Control Review. Drainage control review and approval
3 (~~shall be~~) as described in subsection 22.807.020.B is required for any of the following:

4 1. Preliminary drainage review and approval is required for applications for the
5 following approvals:

6 a. Subdivisions (Chapter 23.22);

7 b. Short plats (Chapter 23.24);

8 c. Unit lot subdivisions (Sections 23.22.062 and 23.24.045)

9 d. Lot boundary adjustments (Chapter 23.28);

10 e. Master use permits that would allow development that includes 750
11 square feet or more of new plus replaced hard surface or 5,000 square feet of land disturbing
12 activity where the Director has determined that a preliminary drainage review is required
13 considering, but not limited, to the following attributes of the site:

14 1) Location within an environmentally critical area or buffer;

15 2) Proximity and tributary to an environmentally critical area or
16 buffer; and

17 3) Proximity and tributary to an area with adequacy, erosion, water
18 quality, or flooding problems.

19
20 ~~(+)~~ 2. Standard drainage (~~control~~) review and approval (~~shall be~~) is required
21 for the following:

22 a. ~~(Any)~~ Applications other than those listed in subsection
23 22.807.020.A.1 that include any land disturbing activity encompassing an area of (~~750~~) 5,000
24 square feet or more, including demolition permits;

25 b. Applications for (~~either~~) a (~~master use permit or~~) building permit or
26 other construction permit that (~~includes the cumulative addition~~) authorizes the construction or
27 installation of 750 square feet or more of (~~land disturbing activity and/or~~) new (~~and~~) plus
28 replaced (~~impervious~~) hard surface;

29 c. Applications for which a grading permit or approval is required
30 pursuant to Chapter 22.170;

1 d. Applications for street use permits for the cumulative addition of 750
2 square feet or more of new ~~((and))~~ plus replaced ~~((impervious))~~ hard surface and land disturbing
3 activity;

4 e. City public works projects or construction contracts, including contracts
5 for day labor and other public works purchasing agreements, for the cumulative addition of 750
6 square feet or more of new ~~((and))~~ plus replaced ~~((impervious))~~ hard surface and/or land
7 disturbing activity to the site, except for projects in a City-owned right-of-way and except for
8 work performed for the operation and maintenance of park lands under the control or jurisdiction
9 of the Department of Parks and Recreation;

10 f. Applications for ~~((Permit))~~ approvals and contracts that include any new
11 or replaced ~~((impervious))~~ hard surface or any land disturbing activity on a site deemed a
12 potentially hazardous location, as specified in Section 22.800.050 (Potentially Hazardous
13 Locations);

14 g. Applications for ~~((Permit))~~ approvals that include any new
15 ~~((impervious))~~ hard surface in a Category I peat settlement-prone area delineated pursuant to
16 Section ~~((25.09.020))~~ 25.09.110;

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

21 i. Whenever roadway project infeasibility pursuant to subsection
22 22.805.060.E is applied, whether or not review and approval would otherwise be required.

23 j. Applications or approvals for activities or projects for:

24 1. Fueling at Dedicated Stations, for new or substantially-altered
25 fueling stations.

26 2. In-Water and Over-Water Fueling.

27 3. Maintenance and Repair of Vehicles and Equipment.

28 4. Concrete and Asphalt Mixing and Production.

29 5. Recycling, Wrecking Yard, and Scrap Yard Operations.

30 6. Storage of Liquids in Above-ground Tanks.

1 7. Other projects that the Director determines pose a hazard to
2 public health, safety or welfare; endanger any property; adversely affect the safety and operation
3 of city right-of-way, utilities, or other property owned or maintained by the City; or adversely
4 affect the functions and values of an environmentally critical area or buffer.

5 2. ~~((Large project))~~ Comprehensive drainage ~~((control))~~ review and approval is
6 ~~((shall be))~~ required for applications other than those listed in subsection 22.807.020.A.1
7 ~~((projects))~~ that include:

- 8 a. 5,000 square feet or more of new plus replaced hard surface;
9 b. 1 acre or more of land disturbing activity;
10 c. Conversion of 3/4 acres or more of vegetation to lawn or landscaped
11 area; or
12 d. Conversion of 2.5 acres or more of native vegetation to pasture.

13 3. For purposes of applying the thresholds in this subtitle, all closely related
14 projects as determined according to subsection 22.805.010.B shall be counted towards the
15 threshold.

16 The City may, by interagency agreement signed by the Directors of SPU and
17 SDCI, waive the drainage and erosion control permit and document requirements for property
18 owned by public entities, when discharges for the property do not enter the public drainage
19 system or the public combined sewer system. Whether or not the public entities are required to
20 obtain permits or submit documents, such entities are subject to the substantive requirements of
21 this subtitle. ~~((unless exceptions are granted as set forth in Section 22.800.040.))~~

22 B. Submittal Requirements for Drainage Control Review and Approval

23 1. Information Required for Preliminary Drainage Review. The following
24 information shall be submitted to the Director for all projects for which preliminary drainage
25 review is required:

26 a. Preliminary Site Plan. A site plan as set forth in rules promulgated by
27 the Director.

28 b. Preliminary Drainage Control Plan. A drainage control plan that
29 identifies all new and replaced hard surfaces, new and replaced pollution-generating hard
30 surfaces, drainage control facilities, and best management practices for each lot, parcel, and tract
31 of land within the project.

1 1) For the purposes of applying the thresholds in Chapter 22.805,
2 the assumed hard surface coverage is the maximum lot coverage allowed per Subtitle III of Title
3 23, Land Use Code, plus required and proposed pedestrian and vehicular access and amenities,
4 including driveways, walkways, plazas, and patios. A lower hard surface coverage may be
5 assumed for any lot in which the lower hard surface coverage is set as a maximum, the Director
6 has approved that amount, and the owner has recorded or will record a restrictive covenant that
7 limits the amount of hard surface coverage for each lot that has obtained approval of the lower
8 hard surface amount.

9 2) The preliminary drainage control plan shall include all drainage
10 control facilities required to meet the minimum requirements for flow control (Section
11 22.805.080), water quality treatment (Section 22.805.090), and on-site stormwater management
12 using the on-site performance standard (subsection 22.805.070.C) as well as all other best
13 management practices to ensure drainage adequacy.

14 3) The preliminary drainage control plan shall be prepared by a
15 licensed civil engineer in accordance with standards adopted by the Director, for projects that
16 include any one or more of the following:

17 a. Five thousand square feet or more of new plus replaced
18 hard surface;

19 b. One acre or more of land disturbing activity;

20 c. Conversion of 3/4 acres or more of vegetation to lawn or
21 landscaped area; or

22 d. Conversion of 2.5 acres or more of native vegetation to
23 pasture.

24 e. No accessible off-site discharge point.

25 c. Submittals identified by rule. Additional information shall be submitted
26 to the Director to comply with the requirements of this subtitle and rules promulgated hereunder
27 and to accomplish the purposes of this subtitle.

28 ((1)) 2. Information Required for Standard Drainage ((Control)) Review. The
29 following information shall be submitted to the Director for all projects for which standard
30 drainage ((control)) review is required.

31 a. Site Plan. A site plan shall be submitted to the Director.

1 b. Standard Drainage Control Plan. A drainage control plan shall be
2 submitted to the Director. Standard designs for drainage control facilities as set forth in rules
3 promulgated by the Director may be used. For a project with no accessible offsite discharge point
4 or includes development conducted in or near a receiving water requiring a Hydraulic Project
5 Approval (WAC 220-660), the drainage control plan shall be prepared by a licensed civil
6 engineer in accordance with standards adopted by the Director.

7 c. Construction Stormwater Control Plan. A construction stormwater
8 control plan demonstrating controls sufficient to determine compliance with subsection
9 22.805.020.D shall be submitted. The Director may approve a checklist in place of a plan,
10 pursuant to rules promulgated by the Director.

11 d. Memorandum of Drainage Control. The owner(s) of the site shall sign a
12 “memorandum of drainage control” that has been prepared by the Director of SPU. Completion
13 of the memorandum shall be a condition precedent to issuance of any permit or approval for
14 which a drainage control plan is required. The applicant shall file the memorandum of drainage
15 control with the King County Recorder’s Office so as to become part of the King County real
16 property records. The applicant shall give the Director of SPU proof of filing of the
17 memorandum. The memorandum shall not be required when the drainage control facility will be
18 owned and operated by the City. A memorandum of drainage control shall include:

- 19 1) The legal description of the site;
- 20 2) A summary of the terms of the drainage control plan, including
21 any known limitations of the drainage control facilities, and an agreement by the owners to
22 implement those terms;
- 23 3) An agreement that the owner(s) shall inform future purchasers
24 and other successors and assignees of the existence of the drainage control facilities and other
25 elements of the drainage control plan, the limitations of the drainage control facilities, and of the
26 requirements for continued inspection and maintenance of the drainage control facilities;
- 27 4) The side sewer permit number and the date and name of the
28 permit or approval for which the drainage control plan is required;
- 29 5) Permission for the City to enter the property for inspection,
30 monitoring, correction, and abatement purposes;

1 6) An acknowledgment by the owner(s) that the City is not
2 responsible for the adequacy or performance of the drainage control plan, and a waiver of any
3 and all claims against the City for any harm, loss, or damage related to the plan, or to drainage or
4 erosion on the property, except for claims arising from the City's sole negligence; and

5 7) The owner(s)' signatures acknowledged by a notary public.

6 e. Submittals identified by rule. Additional information shall be submitted
7 to the Director to comply with the requirements of this subtitle and rules promulgated hereunder
8 and to accomplish the purposes of this subtitle.

9 ((2)) 3. Information Required for Comprehensive ((Large Project)) Drainage
10 ((Control)) Review. In addition to the submittal requirements for standard drainage ((control))
11 review, the following information is required to be submitted to the Director for ((large)) projects
12 for which comprehensive drainage review is required:

13 a. Comprehensive Drainage Control Plan. A comprehensive drainage
14 control plan, in lieu of a standard drainage control plan, to comply with the requirements of this
15 subtitle and rules promulgated hereunder and to accomplish the purposes of this subtitle shall be
16 submitted with the permit application. It shall be prepared by a licensed civil engineer in
17 accordance with standards adopted by the Director.

18 b. Inspection and Maintenance Schedule. A schedule shall be submitted
19 that provides for inspection of temporary and permanent flow control facilities, treatment
20 facilities, and source controls to comply with Section 22.805.070 (Minimum Requirements for
21 On-site Stormwater Management), Section 22.805.080 (Minimum Requirements for Flow
22 Control) and Section 22.805.090 (Minimum Requirements for Treatment).

23 c. Construction Stormwater Control Plan. A construction stormwater
24 control plan prepared in accordance with subsection 22.805.020.D shall be submitted.

25 ((3)) 4. Applications for drainage control review and approval shall be prepared
26 and submitted in accordance with provisions of this subsection, with Chapter 21.16 (Side Sewer
27 Code), and with associated rules and regulations adopted jointly by the Directors of SDCI and
28 SPU.

29 ((4)) 5. The Director may require additional information necessary to adequately
30 evaluate applications for compliance with the requirements and purposes of this subtitle and
31 other laws and regulations, including, but not limited to, Chapter 25.09 (Regulations for

1 Environmentally Critical Areas) and Chapter 23.60A. The Director may also require appropriate
2 information about adjoining properties that may be related to, or affected by, the drainage control
3 proposal in order to evaluate effects on the adjacent property. This additional information may be
4 required as a precondition for permit application review and approval.

5 C. Authority to Review. The Director may approve those plans that comply with the
6 provisions of this Subtitle VIII and rules promulgated hereunder, and may place conditions upon
7 the approval in order to assure compliance with the provisions of this subtitle. Submission of the
8 required drainage control application information shall be a condition precedent to the processing
9 of any of the above-listed permits. Approval of drainage control shall be a condition precedent to
10 issuance of any of the above-listed permits. The Director may review and inspect activities
11 subject to this Subtitle VIII and may require compliance regardless of whether review or
12 approval is specifically required by this subsection 22.807.020.C. The Director may disapprove
13 plans that do not comply with the provisions of this Subtitle VIII and rules promulgated
14 hereunder. Disapproved plans shall be returned to the applicant, who may correct and resubmit
15 the plans.

16 **22.807.090 Maintenance and Inspection**

17 A. Responsibility for Maintenance and Inspection. The owner and other responsible
18 parties shall maintain drainage control facilities, source controls, and other facilities required by
19 this subtitle and by rules adopted hereunder to keep these facilities in continuous working order.
20 The owner and other responsible parties shall inspect permanent drainage control facilities,
21 temporary drainage control facilities, and other temporary best management practices or facilities
22 on a schedule consistent with this subtitle and sufficient for the facilities to function at design
23 capacity. The Director may require the responsible party to conduct more frequent inspections
24 and/or maintenance when necessary to ensure functioning at design capacity. The owner(s) shall
25 inform future purchasers and other successors and assignees to the property of the existence of
26 the drainage control facilities and the elements of the drainage control plan, the limitations of the
27 drainage control facilities, and the requirements for continued inspection and maintenance of the
28 drainage control facilities.

29 B. Inspection by City. The Director of SPU may establish inspection programs to
30 evaluate and, when required, enforce compliance with the requirements of this subtitle and
31 accomplishment of its purposes. Inspection programs may be established on any reasonable

1 basis, including, but not limited to: routine inspections; random inspections; inspections based
2 upon complaints or other notice of possible violations; inspection of drainage basins or areas
3 identified as higher than typical sources of sediment or other contaminants or pollutants;
4 inspections of businesses or industries of a type associated with higher than usual discharges of
5 contaminants or pollutants or with discharges of a type more likely than the typical discharge to
6 cause violations of state or federal water or sediment quality standards or the City's NPDES
7 stormwater permit; and joint inspections with other agencies inspecting under environmental or
8 safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair
9 records; sampling discharges, surface water, groundwater, and material or water in drainage
10 control facilities; and evaluating the condition of drainage control facilities and other best
11 management practices.

12 C. Entry for Inspection and Abatement Purposes.

13 1. New Installations and Connections. When any new drainage control facility is
14 installed on private property, and when any new connection is made between private property
15 and a public drainage system, sanitary sewer or combined sewer, the property owner shall grant,
16 pursuant to subsection 22.807.020.B.1.c (Memorandum of Drainage Control), the City the right
17 to enter the property at reasonable times and in a reasonable manner pursuant to an inspection
18 program established pursuant to subsection 22.807.090.B, and to enter the property when the
19 City has a reasonable basis to believe that a violation of this subtitle is occurring or has occurred,
20 and to enter when necessary for abatement of a public nuisance or correction of a violation of
21 this subtitle.

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

27 Section 7. Chapter 22.808 of the Seattle Municipal Code, last amended by Ordinance
28 124872, is amended as follows:

29 **Chapter 22.808 STORMWATER CODE ENFORCEMENT**

30 **22.808.010 Violations**

31 A. Civil Violations

1 1. The following are civil violations of this subtitle, subject to a maximum civil
2 penalty of up to \$5,000 per day for each violation.

3 a. General. It is a violation to not comply with any requirement of, or to
4 act in a manner prohibited by, this subtitle, or a permit, approval, rule, manual, order, Notice of
5 Violation or Voluntary Compliance Agreement issued pursuant to this subtitle;

6 b. Aiding and Abetting. It is a violation to aid, abet, counsel, encourage,
7 commend, incite, induce, hire or otherwise procure another person to violate this subtitle;

8 c. Alteration of Existing Drainage. It is a violation to alter existing
9 drainage patterns which serve a tributary area of more than one acre without authorization or
10 approval by the Director;

11 d. Obstruction of Watercourse or Public Drainage System. It is a violation
12 to obstruct a watercourse or public drainage system without authorization or approval by the
13 Director;

14 e. Dangerous Condition. It is a violation to allow to exist, or cause or
15 contribute to, a condition of a drainage control facility, or condition related to grading, drainage
16 water, drainage or erosion that is likely to endanger the public health, safety or welfare, the
17 environment, or public or private property;

18 f. Interference. It is a violation for any person to interfere with or impede
19 the correction of any violation, or compliance with any Notice of Violation, emergency order,
20 stop work order, or the abatement of any nuisance;

21 g. Piecemeal of Projects. It is a violation for any person to knowingly
22 divide a larger project into a set of smaller projects specifically for the purpose of avoiding
23 minimum requirements;

24 h. Altering a Posted Order. It is a violation for any person to remove,
25 obscure, or mutilate any posted order of the Director, including a stop work or emergency order;
26 and

27 i. Continuing Work. It is a violation for any work to be done after service
28 or posting of a stop work order, except work necessary to perform the required corrective action,
29 until authorization is given by the Director.

1 B. Criminal Violations

2 1. The following are criminal violations, punishable upon conviction by a fine of
3 not more than \$5,000 per violation or imprisonment for each violation for not more than 360
4 days, or both such fine and imprisonment:

5 a. Failing to comply with a Notice of Violation or Director's order issued
6 pursuant to this subtitle;

7 b. Failing to comply with a court order;

8 c. Tampering with or vandalizing any part of a drainage control facility or
9 other best management practice, a public or private drainage system, monitoring or sampling
10 equipment or records, or notices posted pursuant to this subtitle; and

11 d. Anyone violating this subtitle who has had a judgment, final Director's
12 order, or Director's review decision against them for a prior violation of this subtitle in the
13 preceding five years.

14 **22.808.020 Liability and Defenses of Responsible Parties**

15 A. Who Must Comply. It is the specific intent of this subtitle to place the obligation of
16 complying with its requirements upon the responsible parties, as defined in subsection
17 22.801.190. The City and its agencies are intended to have the same obligation for compliance
18 when the City is a responsible party. No provision of this subtitle is intended to impose any other
19 duty upon the City or any of its officers or employees.

20 1. Joint and Several Liability. Each responsible party is jointly and severally liable
21 for a violation of this subtitle. The Director may take enforcement action, in whole or in part,
22 against any responsible party. All applicable civil penalties may be imposed against each
23 responsible party.

24 2. Allocation of Damages. In the event enforcement action is taken against more
25 than one responsible party, recoverable damages, costs, and expenses may be allocated among
26 the responsible parties by the court based upon the extent to which each responsible party's acts
27 or omissions caused the violation. If this factor cannot be determined the court may consider:

28 a. Awareness of the violation;

29 b. Ability to correct the violation;

30 c. Ability to pay the damages, costs, and expenses;

31 d. Cooperation with government agencies;

1 e. Degree to which any impact or threatened impact on water or sediment
2 quality, human health, the environment, or public or private property is related to acts or
3 omissions by each responsible party;

4 f. Degree to which the responsible parties made good-faith efforts to avoid
5 a violation or to mitigate its consequences; and

6 g. Other equitable factors.

7 B. Defenses. A responsible party shall not be liable under this subtitle when the
8 responsible party proves, by a preponderance of the evidence, one of the following:

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

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

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

17 4. The responsible party implemented and maintained all appropriate drainage
18 control facilities, treatment facilities, flow control facilities, erosion and sediment controls,
19 source controls, and best management practices identified in rules promulgated by the Director
20 or in manuals published by Ecology, or as otherwise identified and required of the responsible
21 party by the Director in writing.

22 **22.808.025 Right of Entry for Enforcement**

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

26 **22.808.030 Enforcement Actions**

27 A. Investigation. The Director may investigate any site where there is reason to believe
28 that there may be a failure to comply with the requirements of this subtitle.

29 B. Notice of Violation

1 1. Issuance. The Director is authorized to issue a Notice of Violation to a
2 responsible party whenever the Director determines that a violation of this subtitle has occurred
3 or is occurring. 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 1) A description of the violation and the action necessary to correct
7 it;

8 2) The date of the notice; and

9 3) A deadline by which the action necessary to correct the
10 violation must be completed.

11 b. A Notice of Violation may be amended at any time to correct clerical
12 errors, add citations of authority, or modify required corrective action.

13 3. Service. The Director shall serve the notice upon a responsible party either by
14 personal service, by first-class mail, or by certified mail return receipt requested, to the party's
15 last known address. If by first-class mail, service shall be deemed complete upon the third day
16 following the day upon which the notice is placed in the mail, or if the third day falls on a
17 Saturday, Sunday or legal holiday, then on the next day following that is not a Saturday, Sunday
18 or legal holiday. If the address of the responsible party cannot be found after a reasonable search,
19 the notice may be served by posting a copy of the notice at a conspicuous place on the property.
20 Alternatively, if the whereabouts of the responsible party is unknown and cannot be ascertained
21 in the exercise of reasonable diligence, and the Director makes an affidavit to that effect, then
22 service may be accomplished by publishing the notice once each week for two consecutive
23 weeks in the City official newspaper.

24 4. Nothing in this subtitle shall be deemed to obligate or require the Director to
25 issue a Notice of Violation or order prior to the initiation of enforcement action by the City
26 Attorney's Office pursuant to subsection 22.808.030.E.

27 C. Stop Work and Emergency Orders

28 1. Stop Work Order. The Director may order work on a site stopped when the
29 Director determines it is necessary to do so in order to obtain compliance with or to correct a
30 violation of any provision of this subtitle or rules promulgated hereunder, or to correct a
31 violation of a permit or approval granted under this subtitle.

1 a. The stop work notice shall contain the following information:

2 1) A description of the violation; and

3 2) An order that the work be stopped until corrective action has
4 been completed and approved by the Director.

5 b. The stop work order shall be personally served on the responsible party
6 or posted conspicuously on the premises.

7 2. Emergency Order

8 a. The Director may order a responsible party to take emergency
9 corrective action and set a schedule for compliance and/or may require immediate compliance
10 with an emergency order to correct when the Director determines that it is necessary to do so in
11 order to obtain immediate compliance with or to correct a violation of any provision of this
12 subtitle, or to correct a violation of a permit or approval granted under this subtitle.

13 b. An emergency order shall be personally served on the responsible party
14 or posted conspicuously on the premises.

15 c. The Director is authorized to enter any property to investigate and
16 correct a condition associated with grading, drainage, erosion control, drainage water, or a
17 drainage control facility when it reasonably appears that the condition creates a substantial and
18 present or imminent danger to the public health, safety or welfare, the environment, or public or
19 private property. The Director may enter property without permission or an administrative
20 warrant in the case of an extreme emergency placing human life, property, or the environment in
21 immediate and substantial jeopardy which requires corrective action before either permission or
22 an administrative warrant can be obtained. The cost of such emergency corrective action shall be
23 collected as set forth in subsection 22.808.060.

24 3. Director's Review of Stop Work and Emergency Order. A stop work order or
25 emergency order shall be final and not subject to a Director's review.

26 D. Review by Director.

27 1. A Notice of Violation, Director's order, or invoice issued pursuant to this
28 subtitle shall be final and not subject to further appeal unless an aggrieved party requests in
29 writing a review by the Director within ten business days after service of the Notice of Violation,
30 order or invoice. When the last day of the period so computed is a Saturday, Sunday, or federal
31 or City holiday, the period shall run until 5 p.m. on the next business day.

1 2. Following receipt of a request for review, the Director shall notify the
2 requesting party, any persons served the Notice of Violation, order or invoice, and any person
3 who has requested notice of the review, that the request for review has been received by the
4 Director. Additional information for consideration as part of the review shall be submitted to the
5 Director no later than 15 business days after the written request for a review is mailed.

6 3. The Director will review the basis for issuance of the Notice of Violation,
7 order, or invoice and all information received by the deadline for submission of additional
8 information for consideration as part of the review. The Director may request clarification of
9 information received and a site visit. After the review is completed, the Director may:

- 10 a. Sustain the Notice of Violation, order, or invoice;
11 b. Withdraw the Notice of Violation, order, or invoice;
12 c. Continue the review to a date certain for receipt of additional
13 information; or
14 d. Modify or amend the Notice of Violation, order, or invoice.

15 4. The Director's decision shall become final and is not subject to further
16 administrative appeal.

17 E. Referral to City Attorney for Enforcement. If a responsible party fails to correct a
18 violation or pay a penalty as required by a Notice of Violation, or fails to comply with a
19 Director's order, the Director may refer the matter to the City Attorney's Office for civil or
20 criminal enforcement action. Civil actions to enforce this subtitle shall be exclusively in
21 Municipal Court.

22 F. Appeal to Superior Court. Because civil actions to enforce Title 22 are brought
23 exclusively in Municipal Court, notices of violation, orders, and all other actions made under this
24 subtitle are not subject to judicial review under chapter 36.70C RCW. Instead, final decisions of
25 the Municipal Court on enforcement actions authorized by this subtitle may be appealed under
26 the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

27 G. Filing of Notice or Order. A Notice of Violation, voluntary compliance agreement, or
28 an order issued by the Director or court may be filed with the King County Recorder's Office.

29 H. Change of Ownership. When a Notice of Violation, voluntary compliance agreement,
30 or an order issued by the Director or court has been filed with the King County Recorder's
31 Office, a Notice of Violation or an order regarding the same violations need not be served upon a

1 new owner of the property where the violation occurred. If no Notice of Violation or order is
2 served upon the new owner, the Director may grant the new owner the same number of days to
3 comply as was given the previous owner. The compliance period for the new owner shall begin
4 on the date that the conveyance of title to the new owner is completed.

5 **22.808.040 Voluntary Compliance Agreement**

6 A. Initiation. Either a responsible party or the Director may initiate negotiations for a
7 voluntary compliance agreement at any time. Neither has any obligation to enter into any
8 voluntary compliance agreement.

9 B. Contents. A voluntary compliance agreement shall identify actions to be taken by the
10 responsible party that will correct past or existing violations of this subtitle. The agreement may
11 also identify actions to mitigate the impacts of violations. The agreement shall contain a schedule
12 for completion of the corrective actions and any mitigating actions. The agreement shall contain
13 a provision allowing the Director to inspect the premises to determine compliance with the
14 agreement. The agreement shall provide that the responsible party agrees the City may perform
15 the actions set forth in the agreement if the responsible party fails to do so according to the terms
16 and schedule of the agreement, and the responsible party will pay the costs, expenses and
17 damages the City incurs in performing the actions, as set forth in Section 22.808.060.

18 C. Effect of Agreement

19 1. A voluntary compliance agreement is a binding contract between the party
20 executing it and the City. It is not enforceable by any other party. By entering into a voluntary
21 compliance agreement, a responsible party waives the right to Director's review of the Notice of
22 Violation or order.

23 2. Penalties may be reduced or waived if violations are corrected or mitigated
24 according to the terms and schedule of a voluntary compliance agreement. If the responsible
25 party fails to perform according to the terms and schedule of the voluntary compliance
26 agreement, penalties for each violation addressed in the agreement may be assessed starting from
27 the date the violation occurred, or as otherwise provided for in a Notice of Violation or
28 Director's order.

29 D. Modification. The terms and schedule of the voluntary compliance agreement may be
30 modified by mutual agreement of the responsible party and either Director if circumstances or

1 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 available
5 information, may assess a penalty for each violation of this subtitle based upon the Schedule of
6 Civil Penalties in subsection 22.808.050.B.

7 B. Schedule of Civil Penalties. The Director shall determine penalties as follows:

8 1. Basic Penalty.

9 a. Maximum Penalty. A violation of this subtitle is subject to a maximum
10 civil penalty of up to \$5,000. Each day or portion thereof during which a violation of this subtitle
11 exists is a separate violation of this subtitle.

12 b. Commencement Date. The penalty shall commence on the date of the
13 violation, unless otherwise provided for in a Notice of Violation or Director's order.

14 c. Assessment Matrix. The penalty shall be assessed using a matrix of
15 criteria and scored as defined in rules promulgated by the Director. The total score will equate
16 with a penalty up to a maximum of \$5,000 for each violation. The penalty shall be rated for
17 severity by using the criteria listed below and by answering "No", "Possibly", "Probably", or
18 "Definitely":

- 19 1) Did the violation pose a public health risk?
- 20 2) Did the violation result in environmental damage or adverse
21 impacts to infrastructure?
- 22 3) Was the action a willful and knowing violation?
- 23 4) Was the responsible party unresponsive in correcting the
24 violation?
- 25 5) Was the violation a result of improper operation, inadequate
26 maintenance or inadequate implementation of a required plan that addresses stormwater
27 management (e.g. TESC plans, SWPPP, O&M Manual, DCP)?
- 28 6) Did the responsible party fail to obtain and comply with relevant
29 permits, certifications, and approvals that require or would have required the responsible party to
30 manage stormwater in a manner that could have prevented or mitigated the Code violation?
- 31 7) Did anyone benefit economically from non-compliance?

1 8) Was the violation a repeat violation?

2 C. Penalty for Significant Violation. For violations causing significant harm to public
3 health, safety, welfare, the environment, or private or public property, the Director may, as an
4 alternative to the Basic Penalty, refer the matter to the City Attorney's Office for enforcement
5 and request the City Attorney seek a penalty equivalent to the economic benefit the responsible
6 party derived from the violation. Significant harm is damage or injury which cannot be fully
7 corrected or mitigated by the responsible party, and which cannot be adequately compensated for
8 by assessment of the Basic Penalty and costs, expenses, or damages under this subtitle.

9 Economic benefit may be determined by savings in costs realized by the responsible party, value
10 received by the responsible party, increased income to the responsible party, increase in market
11 value of property, or any other method reasonable under the circumstances.

12 D. Damages. Whoever violates any of the provisions of this subtitle shall, in addition to
13 any penalties provided for such violation, be liable for any: investigation cost, cost to correct or
14 any other cost expense; loss or damage incurred by the City; plus a charge of 15 percent for
15 administrative costs. This subtitle does not establish a cause of action that may be asserted by
16 any party other than the City. Penalties, damages, costs and expenses may be recovered only by
17 the City.

18 E. Effect of Payment of Penalties. The responsible party named in a Notice of Violation
19 or order is not relieved of the duty to correct the violation by paying civil penalties.

20 **22.808.060 Collection of Costs and Penalties**

21 A. Invoice and Demand for Payment of Investigation and Correction Costs. The Director
22 may issue an invoice and demand for payment of the City's costs and expenses when the
23 Director has investigated or corrected a violation of this subtitle. The invoice may include:

24 1. The amount of the City's investigation and correction costs, which may
25 include, but are not limited to:

26 a. Billed cost, including labor, administration, overhead, overtime, profit,
27 taxes, and other related costs, for a hired contractor to investigate and/or perform the abatement
28 work;

29 b. Labor, administration, overhead, overtime, and other related costs for
30 the City staff and crews to investigate and/or perform the abatement work;

31 c. Administrative costs to set up contracts and coordinate work;

1 d. Time spent communicating with the responsible party, any other
2 enforcing agencies, and the affected community;

3 e. Inspections for compliance with the Code, documentation of costs, and
4 invoicing the responsible party;

5 f. Cost of equipment, materials, and supplies, including all related
6 expenses for purchasing, renting, and leasing;

7 g. Laboratory costs and analytical expenses;

8 h. Cost of mobilization, disposal of materials, and cleanup; and

9 i. Any associated permit fees;

10 2. Either a legal description of the property corresponding as nearly as possible to
11 that used for the property on the rolls of the King County Assessor or, where available, the
12 property's street address;

13 3. Notice that the responsible party may request a Director's review pursuant to
14 subsection 22.808.030.D;

15 4. Notice that if the amount due is not paid within 30 days, the unpaid amount
16 may be collected in any of the manners identified in subsection 22.808.060.C; and

17 5. Notice that interest shall accrue on the unpaid balance if not paid within 30
18 days after the invoice date.

19 B. Invoice and Demand for Payment of Civil Penalties. The Director may issue an
20 invoice and demand for payment of civil penalties when the responsible party has failed to pay a
21 penalty by the deadline in a Notice of Violation or order and has failed to request a Director's
22 review or file an appeal within the required time periods established in subsection 22.808.030.D.
23 The invoice shall include:

24 1. The amount of the penalty;

25 2. Either a legal description of the property corresponding as nearly as possible to
26 that used for the property on the rolls of the King County Assessor or, where available, the
27 property's street address;

28 3. Notice that if the amount due is not paid within 30 days, the Director may
29 collect the unpaid amount in any lawful manner, including, but not limited to, referral of the
30 matter to a collection agency; and

1 4. Notice that interest shall accrue on the unpaid balance if not paid within 30
2 days after the invoice date.

3 C. Collection Following a Judicial Review or Issuance of a Court Order Affirming the
4 Penalty Due. If a court has issued an order or judgment imposing penalties, costs, damages, or
5 expenses for a violation of this subtitle, and the court's order or judgment is not appealed within
6 30 days, the Director may:

7 1. Refer the matter to the City Attorney to initiate any appropriate legal action in
8 an appropriate forum; or

9 2. Add a surcharge in the amount owed under the order to the responsible party's
10 bill for drainage and wastewater services to the site. If unpaid, the surcharge may become a lien
11 on the property, may be foreclosed, and may accrue interest as provided by state law or Section
12 21.33.110.

13 **22.808.070 Public Nuisance**

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

18 B. Dysfunctional Facility or Practice. Any private drainage control facility or best
19 management practice not installed or maintained as required by this subtitle, or otherwise found
20 to be in a state of dysfunction creating, a threat to the public health, safety or welfare, the
21 environment, or public or private property is a public nuisance.

22 C. Obstruction of Watercourse or Public Drainage System. Obstruction of a watercourse
23 or public drainage system without authorization by the Director, and obstruction in such a
24 manner as to increase the risk of flooding or erosion should a storm occur, is a public nuisance.

25 D. Dangerous Conditions. Any condition relating to grading, drainage water, drainage or
26 erosion which creates a present or imminent danger, or which is likely to create a danger in the
27 event of a storm, to the public health, safety or welfare, the environment, or public or private
28 property is a public nuisance.

29 E. Abatement by the City. The Director is authorized, but not required, to investigate a
30 condition that the Director suspects of being a public nuisance under this subtitle, and to abate
31 any public nuisance. If a public nuisance is an immediate threat to the public health, safety or

1 welfare or to the environment, the Director may summarily and without prior notice abate the
2 condition. The Director shall give notice of the abatement to the responsible party as soon as
3 reasonably possible after the abatement.

4 F. Collection of Abatement Costs. The costs of abatement may be collected from the
5 responsible party, including a reasonable charge for attorney time and a 15 percent surcharge for
6 administrative expenses as set forth in subsection 22.808.050.D. Abatement costs and other
7 damages, expenses and penalties collected by the City shall go into an abatement account for the
8 department collecting the moneys. The money in the abatement account shall be used for
9 abatements, investigations, and corrections of violations performed by the City. When the
10 account is insufficient the Director may use other available funds.

11 **22.808.080 Additional Relief**

12 In addition to any remedy provided in this subtitle, the Director may seek any other legal or
13 equitable remedy to enjoin any acts or practice or abate any condition that constitutes or will
14 constitute a violation of this subtitle or a public nuisance.

15 **22.808.090 Suspension or Revocation**

16 Approvals or permits granted on the basis of inaccurate or misleading information may be
17 suspended or revoked. Other permits or approvals interrelated with an approval suspended or
18 revoked under this subsection, including, but not limited to, certificates of occupancy or
19 approvals for occupancy, may also be suspended or revoked. When an approval or permit is
20 suspended or revoked, the Director may require the applicant take corrective action to bring the
21 project into compliance with this subtitle by a deadline set by the Director, or may take other
22 enforcement action.

23 **22.808.100 Fees**

24 Fees for drainage control plan review and approvals shall be as identified in Subtitle IX of Title
25 22. Fees for record-keeping or other activities pursuant to this subtitle shall, unless otherwise
26 provided for in this subtitle, be prescribed by ordinance.

27 **22.808.110 Financial Assurance and Covenants**

28 As a condition precedent to issuance of any permit or approval provided for in this subtitle, the
29 Director may require an applicant for a permit or approval to submit financial assurances as
30 provided in this subsection.

1 A. Insurance

2 1. The Director may require the property owners or contractor to carry liability
3 and property damage insurance naming the City as an additional insured. The amount, as
4 determined by the Director, shall be commensurate with the risks.

5 2. The Director may also require the property owner to maintain a policy of
6 general public liability insurance against personal injury, death, property damage and/or loss
7 from activities conducted pursuant to the permit or approval, or conditions caused by such
8 activities, and naming the City as an additional insured. The amount, as determined by the
9 Director, shall be commensurate with the risks. It shall cover a period of not more than ten years
10 from the date of issuance of a certificate of occupancy or finalization of the permit or approval.
11 A certificate evidencing such insurance shall be filed with the Director before issuing a
12 certificate of occupancy or finalizing a permit for any single-family dwelling or duplex.

13 3. The insurance policy shall provide that the City will be notified of cancellation
14 of the policy at least 30 days prior to cancellation. The notice shall be sent to the Director who
15 required the insurance and shall state the insured's name and the property address. If a property
16 owner's insurance is canceled and not replaced, the permit or approval and any interrelated
17 permit or approval may be revoked, including a certificate of occupancy or approval for
18 occupancy.

19 B. Bonds, Cash Deposits or Instruments of Credit

20 1. Surety Bond

21 a. The Director may require that the property owners or contractor deliver
22 to the Director for filing in the Office of the City Clerk a surety bond, cash deposit or an
23 instrument of credit in such form and amounts deemed by the Director to be necessary to ensure
24 that requirements of the permit or approval are met. A surety bond may be furnished only by a
25 surety company licensed to do business in The State of Washington. The bond shall be
26 conditioned that the work will be completed in accordance with the conditions of the permit or
27 approval, or, if the work is not completed, that the site will be left in a safe condition. The bond
28 shall also be conditioned that the site and nearby, adjacent or surrounding areas will be restored
29 if damaged or made unsafe by activities conducted pursuant to the permit or approval.

30 b. The bond will be exonerated one year after a determination by the
31 Director that the requirements of the permit or approval have been met. For work under a

1 building permit, issuance of a certificate of occupancy or approval for occupancy following a
2 final inspection shall be considered to be such a determination.

3 2. Assurance in Lieu of Surety Bond. In lieu of a surety bond, the owners may
4 elect to file a cash deposit or instrument of credit with the Director in an amount equal to that
5 which would be required in the surety bond and in a form approved by the Director. The cash
6 deposit or instrument of credit shall comply with the same conditions as required for surety
7 bonds.

8 C. Covenants

9 1. The Director may require a covenant between the property owners and the City.
10 The covenant shall be signed by the owners of the site and notarized prior to issuing any permit
11 or approval in a potential landslide area, potentially hazardous location, flood-prone zone, or
12 other area of potentially hazardous soils or drainage or erosion conditions. The covenant shall
13 not be required where the permit or approval is for work done by the City. The covenant shall
14 include:

- 15 a. A legal description of the property;
- 16 b. A description of the property condition making this subsection
17 applicable;
- 18 c. A statement that the owners of the property understand and accept the
19 responsibility for the risks associated with development on the property given the described
20 condition, and agrees to inform future purchasers and other successors and assignees of the risks;
- 21 d. The application date, type, and number of the permit or approval for
22 which the covenant is required; and
- 23 e. A statement waiving the right of the owners, the owners' heirs,
24 successors and assigns, to assert any claim against the City by reason of or arising out of
25 issuance of the permit or approval by the City for the development on the property, except only
26 for such losses that may directly result from the sole negligence of the City.

27 2. The covenant shall be filed by the Director with the King County Recorder's
28 Office, at the expense of the owners, so as to become part of the King County real property
29 records.

1 **22.808.140 Severability**

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

6 Section 8. This ordinance shall take effect and be in force 30 days after its approval by
7 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
8 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

9 Passed by the City Council the _____ day of _____, 2021,
10 and signed by me in open session in authentication of its passage this _____ day of
11 _____, 2021.

12 _____
13 President _____ of the City Council

14 Approved by me this _____ day of _____, 2021.

15 _____
16 Jenny A. Durkan, Mayor

17 Filed by me this _____ day of _____, 2021.

18 _____
19 Monica Martinez Simmons, City Clerk

20 (Seal)