

Winter 2021 Public Review Draft
STORMWATER CODE
CHAPTERS 22.800 – 22.808
SEATTLE MUNICIPAL CODE

CITY OF SEATTLE
SEATTLE PUBLIC UTILITIES
DEPARTMENT OF CONSTRUCTION AND INSPECTIONS

January 2021

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CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

..title
AN ORDINANCE relating to the Stormwater Code; amending Chapters 22.800, 22.801, 22.803, 22.805, 22.807, and 22.808 of the Seattle Municipal Code.
..body
WHEREAS, the City of Seattle is committed to protecting local creeks and lakes, the Duwamish River and Puget Sound; and
WHEREAS, Seattle Public Utilities fosters healthy people, environment, and economy by partnering with our community to equitably manage water and waste resources for today and for future generations.; and
WHEREAS, the City of Seattle uses stormwater regulations to protect people, property and the environment from damage related to stormwater runoff, for the purposes stated in Section 22.800.020 of the Seattle Municipal Code; and
WHEREAS, the City of Seattle is subject to the 2019 – 2024 Phase I Municipal Stormwater Permit (National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Discharges from Large and Medium Municipal Separate Storm Sewer Systems) issued July 1, 2019, by the State of Washington Department of Ecology (Ecology) in compliance with the federal Clean Water Act and state law, as effective August 1, 2019; and
WHEREAS, the MS4 Permit requires that the City’s Stormwater Code and associated technical manual include minimum requirements, thresholds, definitions, and other specified requirements, limitations and criteria, determined by Ecology to be equivalent to Appendix 1 of the MS4 Permit for new development, redevelopment and construction,

1 and that maintenance and source control must be as least as protective as or functionally
2 equivalent to Ecology’s Stormwater Management Manual for Western Washington, 2019
3 edition; and

4 WHEREAS, the MS4 Permit also requires that the City evaluate and, if necessary, revise the
5 Stormwater Code to incorporate low impact development principles and best
6 management practices; and

7 WHEREAS, this ordinance, to be known as the 2021 Stormwater Code Update, contains
8 amendments to comply with the MS4 Permit and other amendments not required to
9 comply with the MS4 Permit, to further the purposes of the Stormwater Code; and

10 WHEREAS, the City is in the final stages of securing Ecology’s approval of certain Seattle
11 Stormwater Manual provisions that were drafted to meet MS4 Permit obligations, and the
12 approved provisions will be adopted during 2021 by joint Directors’ Rule of Seattle
13 Public Utilities and the Seattle Department of Construction and Inspections; and

14 WHEREAS, Ecology has reviewed the City’s proposed revisions to the Stormwater Code that
15 were drafted in response to the City’s MS4 Permit obligations and that required Ecology
16 approval, and Ecology has found that those provisions, together with final approved
17 Seattle Stormwater Manual revisions, will meet the regulatory requirements of the MS4
18 Permit; and

19 WHEREAS, Chapter 22.800 of the Seattle Municipal Code was established, and Chapter 22.805
20 of the Seattle Municipal Code was added, by Ordinance 123105, which repealed and
21 amended by re-enacting, relocating and amending the text of Chapters 22.800, 22.801,
22 22.802, and 22.808 of the Seattle Municipal Code, previously amended by Ordinances

1 122738, 122055, 121276, 119965, 118396, 117852, 117789, 117697, and 117432 and
2 adopted by Ordinance 116425; and

3 WHEREAS, Sections 22.800.040, 22.805.050, and 22.805.060 of the Seattle Municipal Code
4 were amended by Ordinance 124758; and

5 WHEREAS, Chapters 22.800, 22.801, 22.802, 22.803, 22.805, 22.807, and 22.808 of the Seattle
6 Municipal Code were amended by Ordinance 124872; and

7 WHEREAS, in developing stormwater regulations that protect the functions and values of
8 critical areas, including those in the Shoreline District, the City has included the best
9 available science; NOW THEREFORE,

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

11 Section 1. Chapter 22.800 of the Seattle Municipal Code, last amended by Ordinance
12 124919, is amended as follows:

13 **Chapter 22.800 TITLE, PURPOSE, SCOPE AND AUTHORITY**

14 **22.800.010 Title**

15 This subtitle, comprised of Chapters 22.800 through 22.808, shall be known as the “Stormwater
16 Code” and may be cited as such.

17 **22.800.020 Purpose**

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

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

24 2. To protect the public interest in drainage and related functions of drainage
25 basins, watercourses and shoreline areas;

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

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

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

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

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

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

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

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

26 **22.800.030 Scope and Applicability**

27 This subtitle applies to:

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

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

30 C. All discharges directly or indirectly to a public drainage system or a public combined
31 sewer;

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

3 E. All new and existing land uses; and

4 F. All real property.

5 **22.800.040 Exemptions, Adjustments, and Exceptions**

6 A. Exemptions

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

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

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

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

16 a. Maintenance, repair, or installation of underground or overhead utility
17 facilities, such as, but not limited to, pipes, conduits and vaults, and that includes replacing the
18 ground surface with in-kind material or materials with similar runoff characteristics are not
19 required to comply with Section 22.805.070 (Minimum Requirements for On-site Stormwater
20 Management), Section 22.805.080 (Minimum Requirements for Flow Control), or Section
21 22.805.090 (Minimum Requirements for Treatment), except as modified as follows:

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

27 ~~2)) 1) Installation of underground or overhead utility facilities that
28 are integral with and contiguous to a road-related project shall comply with Section 22.805.060
29 (Minimum Requirements for Roadway Projects).~~

30 b. Pavement maintenance practices limited to the following activities are
31 not required to comply with Section 22.805.060 (Minimum Requirements for Roadway

1 Projects), Section 22.805.070 (Minimum Requirements for On-site Stormwater Management,
2 Section 22.805.080 (Minimum Requirements for Flow Control), or Section 22.805.090
3 (Minimum Requirements for Treatment):

- 4 1) Pothole and square cut patching;
- 5 2) Overlaying existing asphalt or concrete or brick pavement with
6 asphalt or concrete without expanding the area of coverage;
- 7 3) Shoulder grading;
- 8 4) Reshaping or regrading drainage ditches;
- 9 5) Crack sealing; and
- 10 6) Vegetation maintenance.

11 c. Land disturbing activity that includes replacing the ground surface with
12 in-kind material or materials with equivalent runoff characteristics and is associated solely with
13 soil remediation or tank removal for the purpose of removing contaminants and pollutants and
14 not associated with other development is not required to comply with subsections 22.805.050.A
15 and 22.805.060.A (Soil Amendment), Section 22.805.070 (Minimum Requirements for On-site
16 Stormwater Management), or Section 22.805.080 (Minimum Requirements for Flow Control).
17 Projects that include any development in addition to soil remediation or tank removal replaced
18 with in-kind material or materials with equivalent runoff characteristics are not exempt.

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

28 3. Sites that produce no runoff as determined by a licensed civil engineer using a
29 continuous runoff model approved by the Director are not required to comply with Section
30 22.805.080 (Minimum Requirements for Flow Control).

1 4. When a portion of the site being developed discharges only to the public
2 combined sewer, and that portion is not required to ~~implement source controls pursuant to~~
3 ~~subsection 22.803.040 for specified activities, ((comply with the provision of subsection~~
4 ~~22.805.020.I (Install Source Control BMPs) unless~~) the Director has the authority, to the extent
5 allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to
6 undertake source controls, if the Director determines that these activities pose a hazard to public
7 health, safety or welfare; endanger any property; adversely affect the safety and operation of city
8 right-of-way, utilities, or other property owned or maintained by the City; or adversely affect the
9 functions and values of an environmentally critical area or buffer.

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

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

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

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

28 c. Other instances where more stringent local stormwater standards apply
29 are projects subject to tribal government standards or to the stormwater management-related
30 permit conditions imposed under Chapter 25.09 to protect environmentally critical areas and
31 their buffers (under the Growth Management Act), an NPDES permit, or shoreline master

1 programs (under the Shoreline Management Act). In addition, WSDOT shall comply with local
2 jurisdiction stormwater standards when WSDOT elects, and is granted permission, to discharge
3 stormwater runoff into a municipality's drainage system or combined sewer system.

4 B. Adjustments

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

7 a. The adjustment provides substantially equivalent environmental
8 protection; and

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

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

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

22 C. Exceptions

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

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

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

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

6 d. An emergency situation exists that necessitates approval of the
7 exception.

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

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

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

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

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

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

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

- 27 a. The current, pre-project use of the site; and
28 b. How application of the requirement(s) for which an exception is being
29 requested restricts the proposed use of the site compared to the restrictions that existed prior to
30 the adoption of this current subtitle; and

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

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

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

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

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

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

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

21 **22.800.050 Potentially Hazardous Locations**

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

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

31 1. Existing and/or abandoned solid waste disposal sites;

1 2. Hazardous waste treatment, storage, or disposal facilities, all as defined by the
2 federal Solid Waste Disposal Act, 42 U.S.C. Section 6901, et seq.

3 **22.800.060 Compliance With Other Laws**

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

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

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

22 **22.800.070 Minimum Requirements for City Agency Projects**

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

25 1. City agencies are not required to obtain permits and approvals under this
26 subtitle, other than inspections as set out in subsection B of this Section 22.800.070 and review
27 and approval when applying roadway project infeasibility as provided in subsection
28 22.805.060.E, for work performed within a public right-of-way or for work performed for the
29 operation and maintenance of park lands under the control or jurisdiction of the Department of
30 Parks and Recreation. Where the work occurs in a public right-of-way, it shall also comply with

1 Title 15, Street and Sidewalk Use, including the applicable requirements to obtain permits or
2 approvals.

3 2. A City agency project, as defined in Section 22.801.170, that is not required to
4 obtain permit(s) and approval(s) pursuant to subsection 22.800.070.A.1 and meets all of the
5 conditions set forth below, is not required to comply with the amendments to 22.800.020 through
6 22.808.110 that take effect on (~~January 1, 2016~~) [July 1, 2021], except the amendments to this
7 subsection 22.800.070.A.2.

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

10 b. The project complies with the Stormwater Code that was made effective
11 (~~November 30, 2009~~) January 1, 2016, by Ordinance (~~(123105)~~) 124872 which requires
12 compliance with Directors' Rules (~~(15-2012/DWW 201.1 and 16-2012/DWW 201.2)~~) SDCI 17-
13 2017/SPU DWW 200 effective (~~(March 1, 2013)~~) January 1, 2016 (~~(, as amended by Ordinance~~
14 124758)); and

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

16 1) Project funding was appropriated as identified in Ordinance
17 (~~(124648)~~) 126237 titled, "An ordinance adopting a budget, including a capital improvement
18 program and position modifications, for the City of Seattle for (~~(2015)~~) 2021"; or

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

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

23 B. Inspection

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

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

- 1 a. The work is inspected by an appropriate inspector from another City
2 agency; or
- 3 b. The work is inspected by an appropriate inspector hired for that purpose
4 by a City agency; or
- 5 c. The work is inspected by the licensed civil or geotechnical engineer
6 who prepared the plans and specifications for the work; or
- 7 d. A permit or approval is obtained from the Director of SDCI, and the
8 work is inspected by the Director.

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

12 **22.800.075 Compliance by Public Agencies**

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

17 **22.800.080 Authority**

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

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

29 C. The Directors of SDCI, SDOT, and SPU are authorized to take actions necessary to
30 implement the provisions and purposes of this Subtitle VIII in their respective spheres of
31 authority to the extent allowed by law, including, but not limited to, the following: promulgating

1 and amending rules and regulations, pursuant to the Administrative Code, Chapter 3.02;
2 establishing and conducting inspection programs; establishing and conducting or, as set forth in
3 Section 22.802.040, requiring responsible parties to conduct monitoring programs, which may
4 include sampling of discharges to or from drainage control facilities, the public drainage system,
5 or receiving waters; taking enforcement action; abating nuisances; promulgating guidance and
6 policy documents; and reviewing and approving, conditioning, or disapproving required
7 submittals and applications for approvals and permits. The Directors are authorized to exercise
8 their authority under this Subtitle VIII in a manner consistent with their legal obligations as
9 determined by the courts or by statute.

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

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

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

30 1. ((of a project for the developer to)) The developer enters the agreement
31 voluntarily to contribute funds toward the construction of, or to construct, one or more drainage

1 control facilities at an alternative location to (~~that~~) mitigate the impacts to the same receiving
2 water that have been identified as a consequence of the (~~proposed development~~) project; and

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

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

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

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

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

22 H. If the Director of SPU determines that a discharge from a site, real property, or
23 drainage control facility, directly or indirectly to a public drainage system, a private drainage
24 system, or a receiving water within or contiguous to Seattle city limits, has exceeded, exceeds, or
25 will exceed water quality standards at the point of assessment, or has caused or contributed, is
26 causing or contributing, or will cause or contribute, to a prohibited discharge or a known or
27 likely violation of water quality standards in the receiving water or a known or likely violation of
28 the City's municipal stormwater NPDES permit, and cannot be adequately addressed by the
29 required best management practices, then the Director of SPU has the authority, to the extent
30 allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to
31 undertake more stringent or additional best management practices. These best management

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

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

17 J. The Director of SDCI or the Director of SPU has the authority, to the extent allowed by
18 law, to require ~~((sites))~~ projects with any addition or replacement ~~((of less than 5,000 square
19 feet))~~ of hard surface or ~~((with less than one acre of))~~ land disturbing activity to comply with the
20 more stringent requirements set forth in ~~((Section 22.805.080 or Section 22.805.090))~~ Chapter
21 22.805 when necessary to accomplish the purposes of this subtitle. In making this determination,
22 the Director of SDCI or the Director of SPU may consider, but is not limited to, the following
23 attributes of the site: location within an Environmentally Critical Area; proximity and tributary to
24 an Environmentally Critical Area; and proximity and tributary to an area with known erosion or
25 flooding problems.

26 **22.800.090 City Not Liable**

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

1 enforcement of this subtitle, or by reason of any action or inaction on the part of the City related
2 in any manner to the enforcement of this subtitle by its officers, employees or agents.

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

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

12 **22.800.100 Transition to Revised Stormwater Code**

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

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

20 C. Any master use permit issued prior to January 1, 2016, for a project not requiring a
21 building permit (a) which was not considered, either in the initial application process or in a
22 renewal process, under the version of the Stormwater Code in effect on or after January 1, 2016,
23 and (b) pursuant to which construction has not started by June 30, 2020, shall expire on June 30,
24 2020.

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

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

1 January 1, 2016, or require any permit application submitted on or after [July 1, 2021] to be
2 considered under a version of the Stormwater Code in effect prior to [July 1, 2021]. For purposes
3 of this subsection 22.800.100.E ((22.800.100.C)), “permit application” means an application for
4 any permit required for construction within a plat or short plat or for construction of facilities and
5 improvements for a plat or short plat, including, but not limited to, master use, building and
6 grading permits.

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

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

18 Section 2. Chapter 22.801 of the Seattle Municipal Code, last amended by Ordinance
19 125248, is amended as follows:

20 **Chapter 22.801 DEFINITIONS**

21 **22.801.010 General**

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

28 **22.801.020 “A”**

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

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

31 “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))~~ specified in the rules and/or manuals shall be the BMPs required for compliance
21 with this 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, curbs, gutters, and drainage control facilities. Drainage systems are not receiving
21 waters.

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

24 **22.801.060 “E”**

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

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

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

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

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

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

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

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

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

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

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

15 **22.801.070 “F”**

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

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

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

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

23 **22.801.080 “G”**

24 “Garbage” means putrescible waste.

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

28 “Grading” means excavation, filling, in-place ground modification, removal of roots or
29 stumps that includes ground disturbance, stockpiling of earth materials, or any combination
30 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))~~
11 specified in rules promulgated by the Director of SPU which shall be based on consideration of
12 waterbodies reported by Ecology, and approved by EPA, under Category 5 (impaired) under
13 Section 303(d) of the Clean Water Act for total phosphorus through Ecology’s Water Quality
14 Assessment.

15 **22.801.160 “O”**

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

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

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

21 **22.801.170 “P”**

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

25 “Person” means an individual, receiver, administrator, executor, assignee, trustee in
26 bankruptcy, trust estate, firm, partnership, joint venture, club, company, joint stock company,
27 business trust, municipal corporation, the State of Washington, political subdivision or agency of
28 the State of Washington, public authority or other public body, corporation, limited liability
29 company, association, society or any group of individuals acting as a unit, whether mutual,
30 cooperative, fraternal, nonprofit or otherwise, and the United States or any instrumentality
31 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((;)) ; industrial activities((~~;~~)) ; 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 Single-family Residential
21 9,600 (SF 9600), Single-family Residential 7,200 (SF 7200), or Single-family Residential 5,000
22 (SF 5000) pursuant to Section 23.30.010, and the total new plus replaced hard surface is less than
23 ~~((10,000))~~ 5,000 square feet ~~((, and the total new plus replaced pollution-generating hard surface~~
24 ~~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 “Standard Plans and Specifications” means the City of Seattle Standard Plans and
13 Specifications for Road, Bridge, and Municipal Construction in effect on the date of permit
14 application.

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

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

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

21 **22.801.210 “T”**

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

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

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

28 “Treatment facility” means a drainage control facility designed to remove pollutants from
29 drainage water.

22.801.220 “U”

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

22.801.230 “V”

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

22.801.240 “W”

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

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

“Watercourse” means the route, constructed or formed by humans or by natural processes, generally consisting of a channel with bed, banks or sides, in which surface waters flow. Watercourse includes small lakes, bogs, streams, creeks, and 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

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

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

10 **22.802.020 Prohibited Discharges**

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

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

- 1 17. food and food waste;
- 2 18. gravel;
- 3 19. herbicides;
- 4 20. human and animal waste;
- 5 21. ink;
- 6 22. laundry waste;
- 7 23. metals in excess of naturally occurring amounts, whether in liquid or solid
- 8 form;
- 9 24. painting products;
- 10 25. pesticides;
- 11 26. process wastewater;
- 12 27. sand;
- 13 28. soap;
- 14 29. solid waste;
- 15 30. solvents and degreasers;
- 16 31. steam-cleaning waste; and
- 17 32. yard waste.

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

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

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

27 **22.802.030 Permissible Discharges**

28 A. Conditionally Permissible Discharges to Drainage Systems and Receiving Waters.
29 Discharges from the sources listed below are permissible discharges only if the stated conditions
30 are met and unless the Director of SPU determines that the type of discharge, directly or
31 indirectly to a public drainage system, private drainage system, or a receiving water within or

1 contiguous to Seattle city limits, whether singly or in combination with others, is causing or
2 contributing to a violation of the City's NPDES stormwater permit or is causing or contributing
3 to a water quality problem:

4 1. Discharges from potable water sources, including, but not limited to, flushing
5 of potable water lines, hyperchlorinated water line flushing, fire hydrant system flushing,
6 pipeline hydrostatic test water, and washing of potable water storage reservoirs. Planned
7 discharges shall be de-chlorinated to a total residual chlorine concentration of 0.1 ppm or less,
8 pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of
9 sediments in the drainage system. No chemicals may be added, and settleable solids must be
10 removed prior to discharge;

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

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

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

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

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

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

- 1 1. Discharges from surface waters, including diverted stream flows;
- 2 2. Discharges of uncontaminated groundwater, including uncontaminated
- 3 groundwater infiltration (as defined at 40 CFR 35.2005(b)(20), uncontaminated pumped
- 4 groundwater, and rising groundwaters;
- 5 3. Discharges of air conditioning condensation;
- 6 4. Discharges from springs;
- 7 5. Discharges of uncontaminated water from crawl space pumps;
- 8 6. Discharges from lawn watering;
- 9 7. Discharges from irrigation runoff, including irrigation water from agricultural
- 10 sources that is commingled with stormwater and that does not contain prohibited substances;
- 11 8. Discharges from riparian habitats and wetlands;
- 12 9. Discharges from approved footing drains and other subsurface drains or, where
- 13 approval is not required, installed in compliance with this subtitle and rules promulgated
- 14 pursuant to this subtitle;
- 15 10. Discharges from foundation drains;
- 16 11. Non-stormwater discharges authorized by another NPDES permit or State
- 17 Waste Discharge permit;
- 18 12. Discharges that are from emergency fire fighting activities; and
- 19 13. Discharges of tracing dye used to establish or verify a drainage or sewer
- 20 connection.

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

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

9 **22.802.040 Testing for Prohibited Discharges**

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

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

17 Section 4. Chapter 22.803 of the Seattle Municipal Code, last amended by Ordinance
18 124872, is amended as follows:

19 **Chapter 22.803 MINIMUM REQUIREMENTS FOR ALL DISCHARGES AND ALL**
20 **REAL PROPERTY**

21 **22.803.010 General**

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

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

28 C. Every permit issued to implement this subtitle shall contain a performance standard
29 requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to
30 a public drainage system, private drainage system, or a receiving water within or contiguous to
31 Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of

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

3 **22.803.020 Minimum Requirements for All Discharges and Real Property**

4 A. Requirement to provide documentation and to map infrastructure. The owner is
5 required to make plans, procedures, and schedules required by this subtitle available to the
6 Director when requested. When requested to aid in applying the Stormwater Code, the owner
7 must provide to the Director a complete map of all drainage, side sewer, and plumbing
8 infrastructure on the property.

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

15 C. Requirements to maintain facilities. All treatment facilities, flow control facilities,
16 drainage control facilities, and drainage systems shall be maintained as (~~prescribed~~) specified
17 in rules promulgated by the Director in order for these facilities and systems to be kept in
18 continuous working order.

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

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

1 **22.803.030 Minimum Requirements for Source Controls for All Real Property**

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

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

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

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

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

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

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

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

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

4 **22.803.040 Minimum Requirements for Source Controls For Businesses and Public Entities**
5 **for Specific Activities**

6 A. For all discharges, source controls shall be implemented, to extent allowed by law, by
7 businesses and public entities for the following specific pollution-generating activities as
8 specified in the joint SPU/ (~~DPD~~) SDCI Directors’ Rule titled “Seattle Stormwater Manual” at
9 “Volume 4 – Source Control,” to the extent necessary to prevent prohibited discharges as
10 described in subsection 22.802.020.A through subsection 22.802.020.D, and to prevent
11 contaminants from coming in contact with drainage water or being discharged to the drainage
12 system, public combined sewer, or directly into receiving waters.

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

14 2. Mobile Fueling of Vehicles and Heavy Equipment.

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

16 4. Maintenance and Repair of Vehicles and Equipment.

17 5. Concrete and Asphalt Mixing and Production.

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

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

20 8. Storage of Liquids in Aboveground Tanks.

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

25 B. For all discharges except those that drain only to the public combined sewer, source
26 controls shall be implemented, to the extent allowed by law, by businesses and public entities for
27 specific pollution-generating activities as specified in the joint SPU/ (~~DPD~~) SDCI Directors’
28 Rule titled “Seattle Stormwater Manual” at “Volume 4 – Source Control,” to the extent
29 necessary to prevent prohibited discharges as described in subsection 22.802.020.A through
30 subsection 22.802.020.C, and to prevent contaminants from coming in contact with drainage
31 water or being discharged to the drainage system or directly into receiving waters. Source

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

5 Section 5. Chapter 22.805 of the Seattle Municipal Code, last amended by Ordinance
6 124919, is amended as follows:

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

8 **22.805.010 General**

9 A. All projects are required to comply with this chapter, even where drainage control
10 review is not required.

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

17 C. When an application requires preliminary drainage review according to subsection
18 22.807.020.A, applications for building permits, grading permits, and other construction permits
19 on the site receiving preliminary drainage review shall comply with the provisions of the
20 approved preliminary drainage control plan.

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

22 1. In the case of a subdivision under SMC chapter 23.22, drainage control
23 facilities or drainage systems that are identified on the associated preliminary drainage control
24 plan or the approved preliminary plat and will serve multiple proposed lots, parcels, or tracts
25 shall be:

26 a. Constructed prior to approval of the final plat; or

27 b. Constructed after approval of the final plat, if

28 1) The construction permit for the facilities or systems is issued
29 prior to issuance of the first building permit and prior to any other grading permit for other
30 construction within the subdivision; and

1 2) The construction of the facilities or system is completed before
2 final approval of any building permit within the subdivision; and

3 3) The recorded plat includes these requirements as a condition.

4 2. In the case of a short plat under SMC chapter 23.24, the following shall occur:

5 1) The construction permits for drainage control facilities or drainage
6 systems that are identified on the preliminary drainage control plan and will serve multiple
7 proposed lots, parcels, or tracts for the facilities or systems are issued prior to issuance of the
8 first building permit and prior to any other grading permit for other construction within the short
9 plat; and

10 2) The construction of the facilities or systems is completed before final
11 approval of any building permit within the short plat; and

12 3) The recorded short plat includes the above requirements as a condition.

13 ((B)) E. No discharge from a site, real property, or drainage facility, directly or indirectly
14 to a public drainage system, private drainage system, or a receiving water within or contiguous to
15 Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely
16 violation of water quality standards in the receiving water or a known or likely violation of the
17 City's municipal stormwater NPDES permit.

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

24 **22.805.020 Minimum requirements for all projects**

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

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

7 C. Minimum Requirements for Flood-prone Areas. On sites within flood-prone areas,
8 responsible parties are required to employ procedures to minimize the potential for flooding on
9 the site and to minimize the potential for the project to increase the risk of floods on adjacent or
10 nearby properties. Flood control measures shall include those set forth in other titles of the
11 Seattle Municipal Code and rules promulgated thereunder, including, but not limited to, Chapter
12 23.60 (Shoreline District), Chapter 25.06 (Floodplain Development) and Chapter 25.09
13 (Environmentally Critical Areas) of the Seattle Municipal Code.

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

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

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

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

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

11 5. Prevent Erosion and Sediment Transport from the Site. Pass all drainage water
12 from disturbed areas through a sediment trap, sediment pond, or other appropriate sediment
13 removal BMP before the water leaves the site or prior to discharge to an infiltration facility.
14 Sediment controls intended to trap sediment on site shall be constructed as one of the first steps
15 in grading and shall be functional before other land disturbing activities take place. BMPs
16 intended to trap sedimentation shall be located in a manner to avoid interference with the
17 movement of juvenile salmonids attempting to enter off-channel areas or drainages. Provide and
18 maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase
19 sediment removal and maximize stormwater infiltration where feasible.

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

29 7. Stabilize Soils. Prevent on-site erosion by stabilizing all exposed and unworked
30 soils, including stock piles and earthen structures such as dams, dikes, and diversions. From
31 October 1 to April 30, no soils shall remain exposed and unworked for more than two days.

1 From May 1 to September 30, no soils shall remain exposed for more than seven days. Soils
2 shall be stabilized at the end of the shift before a holiday or weekend if needed based on the
3 weather forecast. Soil stockpiles shall be stabilized from erosion, protected with sediment
4 trapping measures, and be located away from storm drain inlets, waterways, and drainage
5 channels. Before the completion of the project, permanently stabilize all exposed soils that have
6 been disturbed during construction.

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

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

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

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

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

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

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

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

10 e. Contaminated soils shall be removed and surfaces shall be cleaned
11 immediately following any discharge or spill incident.

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

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

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

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

29 j. Uncontaminated water from water-only based shaft drilling for
30 construction of building, road, and bridge foundations may be infiltrated provided the wastewater
31 is managed in a way that prevents discharge to surface waters. Prior to infiltration, water from

1 water-only based shaft drilling that comes into contact with curing concrete must be neutralized
2 until pH is in the range of 6.5 to 8.5 (su).

3 k. Train all employees on proper BMPS for preventing illicit discharges,
4 including spills.

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

17 13. Maintain BMPs. All temporary and permanent erosion and sediment control
18 BMPs shall be maintained and repaired as needed to assure continued performance of their
19 intended function. All temporary erosion and sediment controls shall be removed within five
20 days after final site stabilization is achieved or after the temporary controls are no longer needed,
21 whichever is later. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas
22 resulting from removal shall be permanently stabilized.

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

28 15. Execute Construction Stormwater Control Plan. Construction site operators
29 shall maintain, update, and implement their Construction Stormwater Control Plan. Construction
30 site operators shall modify their Construction Stormwater Control Plan to maintain compliance

1 whenever there is a change in design, construction, operation, or maintenance at the site that has,
2 or could have, a significant effect on the discharge of pollutants to waters of the state.

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

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

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

16 19. Protect Stormwater BMPs

17 a. Protect all stormwater BMPs from sedimentation through installation
18 and maintenance of erosion and sediment control BMPs. Restore the BMPs to their fully
19 functioning condition if they accumulate sediment during construction. Restoring the stormwater
20 BMP must include removal of sediment and any sediment-laden stormwater BMP soils, and
21 replacing the removed soils with soils meeting the design specification.

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

25 c. Control erosion and avoid introducing sediment from surrounding land
26 uses onto permeable pavements. Do not allow muddy construction equipment on the base
27 material or pavement. Do not allow sediment-laden runoff onto permeable pavements or base
28 materials.

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

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

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

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

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

14 H. Ensure Sufficient Capacity. All large projects, all projects with an excavation depth of
15 12 feet or more below the existing grade, and all projects with an excavation depth of less than
16 12 feet located in an area expected to have shallow groundwater depths, shall ensure that
17 sufficient capacity exists in the public drainage system and public combined sewer to carry
18 existing and anticipated loads, including any flows from dewatering activities. Capacity analysis
19 shall extend to at least 1/4-mile from the discharge point of the site. Sites at which there is
20 insufficient capacity may be required to install a flow control facility or improve the drainage
21 system or public combined sewer to accommodate flow from the site. Unless approved otherwise
22 by the Director as necessary to meet the purposes of this subtitle:

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

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

27 I. Install Source Control BMPs. Source control BMPs shall be installed for discharges,
28 properties, and by businesses and public entities for specific pollution-generating activities as
29 specified in Chapter 22.803 and in the joint SPU/DPD Directors' Rule titled "Seattle Stormwater
30 Manual" at "Volume 4 – Source Control," to the extent necessary to prevent prohibited
31 discharges as described in Section 22.802.020 and to prevent contaminants from coming in

1 contact with drainage water. This requirement applies to the pollution-generating activities that
2 are stationary or occur in one primary location and to the portion of the site being developed.

3 Examples of installed source controls include, but are not limited to, the following:

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

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

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

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

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

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

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

22 K. Comply with Side Sewer Code

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

28 2. Side sewer permits and inspections shall be required for constructing, capping,
29 altering, or repairing privately owned and operated drainage systems as provided for in Chapter
30 21.16. When the work is ready for inspection, the permittee shall notify the Director of SDCI. If
31 the work is not constructed according to the plans approved under this Subtitle VIII, Chapter

1 21.16, the SPU Director's Rules promulgated under Title 21, and SPU and SDCI design and
2 installation specifications, then the Director may issue a stop work order under Chapter 22.808
3 and require modifications as provided for in this Subtitle VIII and Chapter 21.16.

4 L. Extension of the Public Drainage System: For projects not constructed in the public
5 right-of-way, extension of the piped public drainage system across the full extent of the parcel
6 boundary shall be required for any of the following:

7 1. All projects where the Director has determined an extension is required
8 considering, but not limited to, the following attributes of the project:

- 9 a. Poses a hazard to public health, safety or welfare;
10 b. Endangers any property;
11 c. Adversely affects the safety and operation of public right-of-way,
12 utilities, or other property owned or maintained by the City;
13 d. Adversely affects the functions and values of an environmentally
14 critical area or buffer;
15 e. Adversely affects an area with known erosion or flooding problems; or
16 f. Adversely impacts receiving waters, any properties, or right-of-way.

17 2. All projects with 5,000 square feet or more of new plus replaced hard surface,
18 unless:

- 19 a. The piped public drainage system is already accessible within an
20 abutting public place; or
21 b. The project is otherwise not required to extend by rules promulgated by
22 the Director.

23 M. Extension of the Public Drainage System: For projects constructed in the public right-
24 of-way, extension of the piped public drainage system across the full extent of the site shall be
25 required for any of the following:

- 26 1. All projects where the Director has determined an extension is required
27 considering, but not limited to, the following attributes of the project:
28 a. Poses a hazard to public health, safety or welfare;
29 b. Endangers any property;
30 c. Adversely affects the safety and operation of city right-of-way, utilities,
31 or other property owned or maintained by the City;

1 d. Adversely affects the functions and values of an environmentally
2 critical area or buffer;

3 e. Adversely affects an area with known erosion or flooding problems; or

4 f. Adversely impacts receiving waters, any properties, or right-of-way.

5 2. The project's total new plus replaced hard surface is 50 percent or more of the
6 existing hard surfaces within the project limits. The project limits are defined by the length of
7 the project and the width of the right-of-way. If a project encompasses more than one
8 intersection, the project limits are further defined by one intersection to the other and blocks may
9 vary in length, unless:

10 a. The piped public drainage system is already accessible within the site
11 across the full extent of the site; or

12 b. The project is otherwise not required to extend by rules promulgated by
13 the Director.

14 N. Public Drainage System Requirements. Public drainage systems shall be constructed
15 in accordance with the City's Standard Plans and Specifications, SPU's Design Standards and
16 Guidelines, and as specified in rules promulgated by the Director of SPU.

17 **22.805.030 Minimum Requirements for Single-Family Residential Projects**

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

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

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

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

22.805.040 Minimum Requirements for Trail and Sidewalk Projects

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

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

22.805.050 Minimum Requirements for Parcel-Based Projects

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

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

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

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

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

1. Discharges to Wetlands. Parcel-based projects discharging into a wetland or to the drainage basin of a wetland, shall:

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

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

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

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

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

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

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

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

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

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

27 4) The project adds 5,000 square feet or more of new hard surface
28 and, through a combination of effective hard surfaces and converted pervious surfaces, causes a
29 ~~((0.4))~~ 0.15 cubic feet per second increase in the 100-year recurrence interval flow frequency as
30 estimated using a continuous model approved by the Director.

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

3 1) The ~~((the))~~ total new plus replaced hard surface is ~~((2,000))~~
4 5,000 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 constructed 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))~~
10 constructed conveyance system from the site.

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

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

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

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

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

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

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

30 1) The ~~((the))~~ total new plus replaced hard surface is ~~((2,000))~~
31 5,000 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 constructed 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~~))
6 constructed conveyance system from the site.

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

11 5. Discharges to Public Combined Sewer. Unless the Director of SPU has
12 determined that the public combined sewer has sufficient capacity to carry existing and
13 anticipated loads, parcel-based projects discharging into the public combined sewer or its basin
14 shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus
15 replaced hard surface is ((~~40,000~~)) 5,000 square feet or more.

16 6. Discharges to a Capacity-constrained System. In addition to applicable
17 minimum requirements for flow control in subsection 22.805.050.C.1 through subsection
18 22.805.050.C.5, parcel-based projects discharging into a capacity-constrained system or its basin
19 shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus
20 replaced hard surface is 2,000 square feet or more unless the downstream system only includes
21 ditches or culverts and the system has been determined to have sufficient capacity as specified in
22 22.805.020.H (Ensure Sufficient Capacity).

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

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

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

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

6 **22.805.060 Minimum Requirements for Roadway Projects**

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

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

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

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

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

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

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

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

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

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

7 1) The total new 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 constructed
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 constructed conveyance
13 system from the site.

14 2. Discharges to Listed Creek Basins. Roadway projects discharging into Blue
15 Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden
16 Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-
17 Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek,
18 Taylor Creek, or Washington Park Creek, or to the drainage basin of such creek, shall:

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

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

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

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

30 4) The project adds 5,000 square feet or more of new hard surface
31 and, through a combination of effective hard surfaces and converted pervious surfaces, causes a

1 ((0.1)) 0.15 cubic feet per second increase in the 100-year recurrence interval flow frequency as
2 estimated using a continuous model approved by the Director.

3 b. Comply with subsection 22.805.080.B.3 (~~Pre-developed Pasture~~
4 ~~Standard~~)) 22.805.080.B.4 (Existing Condition Standard) if the criteria in subsection
5 22.805.060.C.2.a do not apply and the total new (~~plus replaced~~) hard surface is 10,000 square
6 feet or more, and

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

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

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

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

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

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

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

27 4) The project adds 5,000 square feet or more of new hard surface
28 and, through a combination of effective hard surfaces and converted pervious surfaces, causes a
29 ((0.1)) 0.15 cubic feet per second increase in the 100-year recurrence interval flow frequency as
30 estimated using a continuous model approved by the Director.

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

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

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

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

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

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

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

30 ~~((6.))~~ 5. Discharges to a Capacity-constrained System. In addition to applicable
31 minimum requirements for flow control in subsection 22.805.060.C.1 through subsection

1 ~~((22.805.060.C.5))~~ 22.805.060.C.4, roadway projects discharging into a capacity-constrained
2 system or its basin shall also comply with subsection 22.805.080.B.4 (Existing Condition
3 Standard) ~~((Peak Control Standard))~~ if the total new ~~((plus replaced))~~ hard surface is 10,000
4 square feet or more unless the downstream system only includes ditches or culverts and has been
5 determined to have sufficient capacity as specified in 22.805.020.H (Ensure Sufficient Capacity).

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

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

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

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

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

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

1 3. If the total new plus replaced pollution-generating pervious surfaces is 3/4
2 acres or more, and from the project there is a surface discharge in a natural or ((~~man-made~~)
3 constructed conveyance system from the site, comply with the minimum requirements for
4 treatment contained in Section 22.805.090 for flows from the total new plus replaced pollution-
5 generating pervious surface and the new plus replaced pollution-generating hard surface.

6 E. For a roadway project that adds less than 50 percent to the existing hard surface within
7 the project limits on a site having greater than 35 percent existing hard surface coverage, the
8 requirements of subsections 22.805.060.B, 22.805.060.C and 22.805.060.D to install drainage
9 control facilities are modified based on infeasibility to the degree that (a) complete installation
10 would require that an existing major publicly or privately-owned infrastructure or utility element
11 be relocated, or (b) the drainage control facility cannot be built and operated to discharge
12 stormwater from the site under gravity flow conditions while meeting the applicable engineering
13 standards. Compliance with subsections 22.805.060.B, 22.805.060.C and 22.805.060.D is
14 required to the degree that the project can avoid the infeasibility described in this subsection
15 22.805.060.E. Standard drainage ((~~control~~)) review and approval shall be required whenever this
16 subsection is used, whether or not Section 22.800.070 applies.

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

28 **22.805.070 Minimum Requirements for On-((S)) site Stormwater Management**

29 A. Applicability. The requirements of this subsection 22.805.070 apply as required in
30 Section 22.805.030 to Section 22.805.060.

1 B. Requirements. On-site stormwater management shall be installed to the extent allowed
2 by law and maintained in compliance with the rules promulgated by the Director to receive flows
3 from that portion of the site being developed and shall:

4 1. Comply with either:

5 a. Subsection 22.805.070.C (On-site Performance Standard); or

6 b. Subsection 22.805.070.D (On-site Lists).

7 C. On-site Performance Standard:

8 1. If the existing hard surface coverage is less than 35 percent and the project
9 discharges to a listed creek, or to the drainage basin of such creek:

10 a. The post-development discharge durations shall match the discharge
11 durations of a pre-developed forested condition for the range of pre-developed discharge rates
12 from 8 percent of the 2-year peak flow to 50 percent of the 2-year peak flow.

13 2. For all other projects:

14 a. The post-development discharge durations shall match the discharge
15 durations of a pre-developed pasture condition for the range of pre-developed discharge rates
16 between the 1 percent and 10 percent exceedance values.

17 D. On-site Lists:

18 1. For each project surface, follow the appropriate project table in subsection
19 22.805.070.D.2 to subsection 22.805.070.D.5 to evaluate on-site BMPs shown for that type of
20 surface, by category. The project tables apply to roofs and other hard (non-roof) surfaces. All on-
21 site BMPs used must comply with the rules promulgated by the Director. For each surface,
22 consider all of the applicable on-site BMPs in the first category. Use any that is considered
23 feasible. If none is feasible for that surface, move on to each successive category and repeat the
24 selection process as necessary. Once one on-site BMP is used for a surface, no other on-site
25 BMP is necessary for that surface. If no BMP in the appropriate categories is feasible, then no
26 further evaluation is required for that surface under this subsection 22.805.070.D.1. Feasibility
27 shall be determined by evaluation against:

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

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

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

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

15 3) Public health and safety standards; or

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

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

21 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)) <u>Drywells</u>	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

Table A for 22.805.070 On-site List for Single-family Residential Projects		
Category	BMPs	All Discharge Locations
	<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>
((4)) <u>5</u>	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)) <u>Drywells</u>	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))

**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
	((Vegetated Roofs))	((R^e))	((X))
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)) <u>5</u>	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 ((of)) 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.

24 a. The post-development discharge durations shall be limited as follows:

25 1) Match the discharge durations of the existing land cover
26 condition for the range of discharge rates from 50 percent of the 2-year peak flow to the 25-year
27 peak flow.

28 2) For discharges to a creek or a creek drainage basin, match the
29 discharge durations of the existing land cover condition for the range of discharge rates from 50
30 percent of the 2-year peak flow to the 50-year peak flow.

1 ~~((4.))~~ 5. Peak Control Standard. ~~((The post-development peak flow with a 4~~
2 ~~percent annual probability (25-year recurrence flow) shall not exceed 0.4 cubic feet per second~~
3 ~~per acre. Additionally, the peak flow with a 50 percent annual probability (recurrence flow) shall~~
4 ~~not exceed 0.15 cubic feet per second per acre.))~~

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

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

8 2) The peak flow with a 20 percent annual probability (5-year
9 recurrence flow) shall not exceed 0.10 cubic feet per second per acre; and

10 3) The peak flow with a 4 percent annual probability (25-year
11 recurrence flow) shall not exceed 0.40 cubic feet per second per acre.

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

15 **22.805.090 Minimum Requirements for Treatment**

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

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

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

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

4 1) Rank the daily runoff volumes from highest to lowest.
5 2) Sum all the daily volumes and multiply by 0.09.
6 3) Sequentially sum daily runoff volumes, starting with the highest
7 value, until the total equals 9 percent of the total runoff volume. The last daily value added to the
8 sum is defined as the water quality design volume.

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

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

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

18 c. Infiltration facilities designed for water quality treatment must infiltrate
19 91 percent of the total runoff volume as determined using an approved continuous runoff model.
20 To prevent the onset of anaerobic conditions, an infiltration facility designed for water quality
21 treatment purposes must be designed to drain the water quality design treatment volume (the 91st
22 percentile, 24-hour volume) within 48 hours.

23 2. Basic Treatment. A basic treatment facility shall be required for all projects.
24 The requirements of subsection 22.805.090.B.3 (Oil Control Treatment), subsection
25 22.805.090.B.4 (Phosphorus Treatment), and subsection 22.805.090.B.5 (Enhanced Treatment)
26 are in addition to this basic treatment requirement.

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

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

1 5. Enhanced Treatment. Unless a project discharges to a basic treatment receiving
2 water (subsection 22.801.030 “B”), ((An)) an enhanced treatment facility for reducing
3 concentrations of dissolved metals shall be required for projects that discharge, directly or
4 through conveyance systems, to fresh waters designated for aquatic life use or having an existing
5 aquatic life use, or that use infiltration strictly for flow control (not treatment) and discharge
6 within one-quarter mile of fresh waters designated for aquatic life use or having an existing
7 aquatic life use, if the project meets one of the following criteria:

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

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

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

13 2) Any other road with an Annual Average Daily Traffic count of
14 7,500 or greater.

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

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

20 Section 6. Chapter 22.807 of the Seattle Municipal Code, last amended by Ordinance
21 125248, is amended as follows:

22 **Chapter 22.807 DRAINAGE CONTROL REVIEW AND APPLICATION**
23 **REQUIREMENTS**

24 **22.807.010 General**

25 A. No discharge from a site, real property, or drainage facility, directly or indirectly to a
26 public drainage system, private drainage system, or a receiving water within or contiguous to
27 Seattle city limits, may cause or contribute to a prohibited discharge or a known or likely
28 violation of water quality standards in the receiving water or a known or likely violation of the
29 City’s municipal stormwater NPDES permit.

30 B. Every permit issued to implement this subtitle shall contain a performance standard
31 requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to

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

5 **22.807.020 Drainage control review and application requirements**

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

8 1. Preliminary drainage review and approval is required for applications for the
 9 following approvals:

10 a. Subdivisions (Chapter 23.22);

11 b. Short plats (Chapter 23.24);

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

13 d. Lot boundary adjustments (Chapter 23.28);

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

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

19 2) Proximity and tributary to an environmentally critical area or
 20 buffer; and

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

23
 24 ~~((+))~~ 2. Standard drainage ~~((control))~~ review and approval ~~((shall be))~~ is required
 25 for the following:

26 a. ~~((Any))~~ Applications other than those listed in subsection
 27 22.807.020.A.1 that include any land disturbing activity encompassing an area of ~~((750))~~ 5,000
 28 square feet or more, including demolition permits;

29 b. Applications for ~~((either))~~ a ~~((master use permit or))~~ building permit or
 30 other construction permit that ~~((includes the cumulative addition))~~ authorizes the construction or

1 installation of 750 square feet or more of ~~((land-disturbing activity and/or))~~ new ~~((and))~~ plus
2 replaced ~~((impervious))~~ hard surface;

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

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

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

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

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

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

25 i. Whenever roadway project infeasibility pursuant to subsection
26 22.805.060.E is applied, whether or not review and approval would otherwise be required.

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

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

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

31 3. Maintenance and Repair of Vehicles and Equipment.

1 4. Concrete and Asphalt Mixing and Production.

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

3 6. Storage of Liquids in Aboveground Tanks.

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

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

11 a. 5,000 square feet or more of new plus replaced hard surface;

12 b. 1 acre or more of land disturbing activity;

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

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

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

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

25 B. Submittal Requirements for Drainage Control Review and Approval

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

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

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

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

13 2) The preliminary drainage control plan shall include all drainage
14 control facilities required to meet the minimum requirements for flow control (Section
15 22.805.080), water quality treatment (Section 22.805.090), and on-site stormwater management
16 using the on-site performance standard (subsection 22.805.070.C) as well as all other best
17 management practices to ensure drainage adequacy.

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

21 a. Five thousand square feet or more of new plus replaced
22 hard surface;

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

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

26 d. Conversion of 2.5 acres or more of native vegetation to
27 pasture.

28 e. No accessible off-site discharge point.

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

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

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

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

11 c. Construction Stormwater Control Plan. A construction stormwater
12 control plan demonstrating controls sufficient to determine compliance with subsection
13 22.805.020.D shall be submitted. The Director may approve a checklist in place of a plan,
14 pursuant to rules promulgated by the Director.

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

23 1) The legal description of the site;

24 2) A summary of the terms of the drainage control plan, including
25 any known limitations of the drainage control facilities, and an agreement by the owners to
26 implement those terms;

27 3) An agreement that the owner(s) shall inform future purchasers
28 and other successors and assignees of the existence of the drainage control facilities and other
29 elements of the drainage control plan, the limitations of the drainage control facilities, and of the
30 requirements for continued inspection and maintenance of the drainage control facilities;

1 4) The side sewer permit number and the date and name of the
2 permit or approval for which the drainage control plan is required;

3 5) Permission for the City to enter the property for inspection,
4 monitoring, correction, and abatement purposes;

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

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

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

13 ((2)) 3. Information Required for Comprehensive ((~~Large Project~~)) Drainage
14 ((~~Control~~)) Review. In addition to the submittal requirements for standard drainage ((~~control~~))
15 review, the following information is required to be submitted to the Director for ((large)) projects
16 for which comprehensive drainage review is required:

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

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

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

29 ((3)) 4. Applications for drainage control review and approval shall be prepared
30 and submitted in accordance with provisions of this subsection, with Chapter 21.16 (Side Sewer

1 Code), and with associated rules and regulations adopted jointly by the Directors of SDCI and
2 SPU.

3 ((4)) 5. The Director may require additional information necessary to adequately
4 evaluate applications for compliance with the requirements and purposes of this subtitle and
5 other laws and regulations, including, but not limited to, Chapter 25.09 (Regulations for
6 Environmentally Critical Areas) and Chapter 23.60A. The Director may also require appropriate
7 information about adjoining properties that may be related to, or affected by, the drainage control
8 proposal in order to evaluate effects on the adjacent property. This additional information may be
9 required as a precondition for permit application review and approval.

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

21 **22.807.090 Maintenance and Inspection**

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

1 control plan, the limitations of the drainage control facilities, and the requirements for continued
2 inspection and maintenance of the drainage control facilities and the implementation of a
3 landscape management plan, if one exists.

4 B. Inspection by City. The Director of SPU may establish inspection programs to
5 evaluate and, when required, enforce compliance with the requirements of this subtitle and
6 accomplishment of its purposes. Inspection programs may be established on any reasonable
7 basis, including, but not limited to: routine inspections; random inspections; inspections based
8 upon complaints or other notice of possible violations; inspection of drainage basins or areas
9 identified as higher than typical sources of sediment or other contaminants or pollutants;
10 inspections of businesses or industries of a type associated with higher than usual discharges of
11 contaminants or pollutants or with discharges of a type more likely than the typical discharge to
12 cause violations of state or federal water or sediment quality standards or the City's NPDES
13 stormwater permit; and joint inspections with other agencies inspecting under environmental or
14 safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair
15 records; sampling discharges, surface water, groundwater, and material or water in drainage
16 control facilities; and evaluating the condition of drainage control facilities and other best
17 management practices.

18 C. Entry for Inspection and Abatement Purposes.

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

28 2. Existing Real Property and Discharges. Owners of property with existing
29 discharges or land uses subject to this subtitle who are not installing a new drainage control
30 facility or making a new connection between private property and a public drainage system,

1 sanitary sewer, or combined sewer shall have the option to execute a permission form for the
2 purposes described above when provided with the form by the Director of SPU.

3 Section 7. Chapter 22.808 of the Seattle Municipal Code, last amended by Ordinance
4 124872, is amended as follows:

5 **Chapter 22.808 STORMWATER CODE ENFORCEMENT**

6 **22.808.010 Violations**

7 A. Civil Violations

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

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

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

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

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

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

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

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

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

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

7 B. Criminal Violations

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

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

13 b. Failing to comply with a court order;

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

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

20 **22.808.020 Liability and Defenses of Responsible Parties**

21 A. Who Must Comply. It is the specific intent of this subtitle to place the obligation of
22 complying with its requirements upon the responsible parties, as defined in subsection
23 22.801.190. The City and its agencies are intended to have the same obligation for compliance
24 when the City is a responsible party. No provision of this subtitle is intended to impose any other
25 duty upon the City or any of its officers or employees.

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

30 2. Allocation of Damages. In the event enforcement action is taken against more
31 than one responsible party, recoverable damages, costs, and expenses may be allocated among

1 the responsible parties by the court based upon the extent to which each responsible party's acts
2 or omissions caused the violation. If this factor cannot be determined the court may consider:

- 3 a. Awareness of the violation;
- 4 b. Ability to correct the violation;
- 5 c. Ability to pay the damages, costs, and expenses;
- 6 d. Cooperation with government agencies;
- 7 e. Degree to which any impact or threatened impact on water or sediment
8 quality, human health, the environment, or public or private property is related to acts or
9 omissions by each responsible party;
- 10 f. Degree to which the responsible parties made good-faith efforts to avoid
11 a violation or to mitigate its consequences; and
- 12 g. Other equitable factors.

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

- 15 1. The violation was caused solely by an act of God;
- 16 2. The violation was caused solely by another responsible party over whom the
17 defending responsible party had no authority or control and the defending responsible party
18 could not have reasonably prevented the violation;
- 19 3. The violation was caused solely by a prior owner or occupant when the
20 defending responsible party took possession of the property without knowledge of the violation,
21 after using reasonable efforts to identify violations. But, the defending responsible party shall be
22 liable for all continuing, recurrent, or new violations after becoming the owner or occupant; or
- 23 4. The responsible party implemented and maintained all appropriate drainage
24 control facilities, treatment facilities, flow control facilities, erosion and sediment controls,
25 source controls, and best management practices identified in rules promulgated by the Director
26 or in manuals published by Ecology, or as otherwise identified and required of the responsible
27 party by the Director in writing.

28 **22.808.025 Right of Entry for Enforcement**

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

22.808.030 Enforcement Actions

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

B. Notice of Violation

1. Issuance. The Director is authorized to issue a Notice of Violation to a responsible party whenever the Director determines that a violation of this subtitle has occurred or is occurring. The Notice of Violation shall be considered an order of the Director.

2. Contents

a. The Notice of Violation shall include the following information:

1) A description of the violation and the action necessary to correct it;

2) The date of the notice; and

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

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

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

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

C. Stop Work and Emergency Orders

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

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

6 1) A description of the violation; and

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

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

11 2. Emergency Order

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

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

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

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

1 D. Review by Director.

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

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

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

16 a. Sustain the Notice of Violation, order, or invoice;
17 b. Withdraw the Notice of Violation, order, or invoice;
18 c. Continue the review to a date certain for receipt of additional
19 information; or

20 d. Modify or amend the Notice of Violation, order, or invoice.

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

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

28 F. Appeal to Superior Court. Because civil actions to enforce Title 22 are brought
29 exclusively in Municipal Court, notices of violation, orders, and all other actions made under this
30 subtitle are not subject to judicial review under chapter 36.70C RCW. Instead, final decisions of

1 the Municipal Court on enforcement actions authorized by this subtitle may be appealed under
2 the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

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

5 H. Change of Ownership. When a Notice of Violation, voluntary compliance agreement,
6 or an order issued by the Director or court has been filed with the King County Recorder's
7 Office, a Notice of Violation or an order regarding the same violations need not be served upon a
8 new owner of the property where the violation occurred. If no Notice of Violation or order is
9 served upon the new owner, the Director may grant the new owner the same number of days to
10 comply as was given the previous owner. The compliance period for the new owner shall begin
11 on the date that the conveyance of title to the new owner is completed.

12 **22.808.040 Voluntary Compliance Agreement**

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

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

25 C. Effect of Agreement

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

30 2. Penalties may be reduced or waived if violations are corrected or mitigated
31 according to the terms and schedule of a voluntary compliance agreement. If the responsible

1 party fails to perform according to the terms and schedule of the voluntary compliance
2 agreement, penalties for each violation addressed in the agreement may be assessed starting from
3 the date the violation occurred, or as otherwise provided for in a Notice of Violation or
4 Director's order.

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

9 **22.808.050 Penalties and Damages**

10 A. Assessment of Penalties by the Director. The Director, after considering all available
11 information, may assess a penalty for each violation of this subtitle based upon the Schedule of
12 Civil Penalties in subsection 22.808.050.B.

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

14 1. Basic Penalty.

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

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

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

- 25 1) Did the violation pose a public health risk?
- 26 2) Did the violation result in environmental damage or adverse
27 impacts to infrastructure?
- 28 3) Was the action a willful and knowing violation?
- 29 4) Was the responsible party unresponsive in correcting the
30 violation?

1 5) Was the violation a result of improper operation, inadequate
2 maintenance or inadequate implementation of a required plan that addresses stormwater
3 management (e.g. TESC plans, SWPPP, O&M Manual, DCP)?

4 6) Did the responsible party fail to obtain and comply with relevant
5 permits, certifications, and approvals that require or would have required the responsible party to
6 manage stormwater in a manner that could have prevented or mitigated the Code violation?

7 7) Did anyone benefit economically from non-compliance?

8 8) Was the violation a repeat violation?

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

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

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

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

27 **22.808.060 Collection of Costs and Penalties**

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

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

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

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

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

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

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

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

15 g. Laboratory costs and analytical expenses;

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

17 i. Any associated permit fees;

18 2. Either a legal description of the property corresponding as nearly as possible to
19 that used for the property on the rolls of the King County Assessor or, where available, the
20 property’s street address;

21 3. Notice that the responsible party may request a Director’s review pursuant to
22 subsection 22.808.030.D;

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

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

27 B. Invoice and Demand for Payment of Civil Penalties. The Director may issue an
28 invoice and demand for payment of civil penalties when the responsible party has failed to pay a
29 penalty by the deadline in a Notice of Violation or order and has failed to request a Director’s
30 review or file an appeal within the required time periods established in subsection 22.808.030.D.

31 The invoice shall include:

1 1. The amount of the penalty;

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

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

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

10 C. Collection Following a Judicial Review or Issuance of a Court Order Affirming the
11 Penalty Due. If a court has issued an order or judgment imposing penalties, costs, damages, or
12 expenses for a violation of this subtitle, and the court's order or judgment is not appealed within
13 30 days, the Director may:

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

16 2. Add a surcharge in the amount owed under the order to the responsible party's
17 bill for drainage and wastewater services to the site. If unpaid, the surcharge may become a lien
18 on the property, may be foreclosed, and may accrue interest as provided by state law or Section
19 21.33.110.

20 **22.808.070 Public Nuisance**

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

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

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

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

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

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

18 **22.808.080 Additional Relief**

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

22 **22.808.090 Suspension or Revocation**

23 Approvals or permits granted on the basis of inaccurate or misleading information may be
24 suspended or revoked. Other permits or approvals interrelated with an approval suspended or
25 revoked under this subsection, including, but not limited to, certificates of occupancy or
26 approvals for occupancy, may also be suspended or revoked. When an approval or permit is
27 suspended or revoked, the Director may require the applicant take corrective action to bring the
28 project into compliance with this subtitle by a deadline set by the Director, or may take other
29 enforcement action.

22.808.100 Fees

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

22.808.110 Financial Assurance and Covenants

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

A. Insurance

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

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

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

B. Bonds, Cash Deposits or Instruments of Credit**1. Surety Bond**

a. The Director may require that the property owners or contractor deliver to the Director for filing in the Office of the City Clerk a surety bond, cash deposit or an instrument of credit in such form and amounts deemed by the Director to be necessary to ensure

1 that requirements of the permit or approval are met. A surety bond may be furnished only by a
2 surety company licensed to do business in The State of Washington. The bond shall be
3 conditioned that the work will be completed in accordance with the conditions of the permit or
4 approval, or, if the work is not completed, that the site will be left in a safe condition. The bond
5 shall also be conditioned that the site and nearby, adjacent or surrounding areas will be restored
6 if damaged or made unsafe by activities conducted pursuant to the permit or approval.

7 b. The bond will be exonerated one year after a determination by the
8 Director that the requirements of the permit or approval have been met. For work under a
9 building permit, issuance of a certificate of occupancy or approval for occupancy following a
10 final inspection shall be considered to be such a determination.

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

16 C. Covenants

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

- 23 a. A legal description of the property;
- 24 b. A description of the property condition making this subsection
25 applicable;
- 26 c. A statement that the owners of the property understand and accept the
27 responsibility for the risks associated with development on the property given the described
28 condition, and agrees to inform future purchasers and other successors and assignees of the risks;
- 29 d. The application date, type, and number of the permit or approval for
30 which the covenant is required; and

1 e. A statement waiving the right of the owners, the owners' heirs,
2 successors and assigns, to assert any claim against the City by reason of or arising out of
3 issuance of the permit or approval by the City for the development on the property, except only
4 for such losses that may directly result from the sole negligence of the City.

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

8 **22.808.140 Severability**

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

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

1 Passed by the City Council the _____ day of _____, 2021,
2 and signed by me in open session in authentication of its passage this _____ day of
3 _____, 2021.

4 _____
5 President _____ of the City Council

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

7 _____
8 Jenny A. Durkan, Mayor

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

10 _____
11 Monica Martinez Simmons, City Clerk

12 (Seal)