DCLU

Director's Rule 8-93

Applicant	Page 1 of 2	Supersedes N/A
CITY OF SEATTLE DEPARTMENT OF CONSTRUCTION AND LAND USE	**Publication** 2/1/93	**Effective** 12/1/93
	Code and Section Reference SMC 22.804.040 and 22.806.130	
Subject Acknowledgment of Risk of Development on Sites With Potentially Hazardous Conditions	**Type of Rule** Code Interpretation	
	Ordinance Authority 3.060.040 SMC	
Index Grading/Technical Requirements	**Approved** R F Krochalis	**Date** 11/24/93

The purpose of this rule is to clarify in what circumstances the Director will require certain submittals of acknowledgment and disclosure by an owner prior to permit issuance. The Stormwater, Grading and Drainage Control Code allows the Director to require property owners to submit a letter and a covenant stating that the owner understands the risks of developing on a site with potentially hazardous conditions and promising to give written notice of these conditions to prospective purchasers. Most commonly, the site condition under consideration is one of landslide potential where the effects of potentially unstable soil must be addressed. Areas other than landslide potential are also addressed.

The relevant code sections include:

Section 22.804.040 (C)(2)

2. **Required after Initial Screening.** The Director of Construction and Land Use may require the following information after the initial screening of a grading application:

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f. A letter in a form acceptable to the Director from the owner of the site stating that the owner understands and accepts the risk of developing in an area with potentially unstable soils and that the owner will advise, in writing any prospective purchasers of the site, structures or portions of a structure about the landslide potential of the site.

Section 22.806.130, paragraph C states:

22.806.130 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 Section.

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C. Covenants.

1. The Director may require a covenant between the owner(s) of the property and the City. The covenant shall be signed by the owner(s) of the site and notarized prior to issuance of any permit or approval in a potential landslide area, potentially hazardous location, flood prone zone, or other area of potentially hazardous soils or drainage or erosion conditions. The covenant shall not be required where the permit or approval is for work done by the City. The covenant shall include:

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

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This rule will clarify in what circumstances such letters and covenants will be required.

RULE

Owners of new development in landslide prone areas shall submit both a covenant of risk and responsibility in compliance with Seattle Municipal Code Section 22.806.130 and an acknowledgment letter of risk and responsibility in compliance with Seattle Municipal Code Section 22.804.040. The covenant shall be the mechanism to notify future owners of risk and responsibility. These documents shall be submitted before a permit or approval will be issued. The geotechnical report shall contain the minimum risk statement required by Seattle Municipal Code Section 22.804.040 unless it can be shown to the Director's satisfaction that the risk of instability on the site is negligible.

The letter, covenant and minimum risk statement shall be required in those areas of slope greater than fifteen (15) percent where the Director notes physical evidence indicating landslide potential. However, the minimum risk statement may be modified to eliminate reference to the stabilization of all disturbed areas. Owners of sites immediately adjacent to high slopes shall submit the covenant only if the Director determines that the apparent hazard from offsite slope failure is sufficiently high.

Development on sites presenting risks other than being prone to landslide shall be evaluated by the Director. If the Director determines the risks have not been sufficiently mitigated, the Director may require a covenant of risk and responsibility before a permit or approval will be issued.