Chapter 22.800 TITLE, PURPOSE, SCOPE AND AUTHORITY

22.800.010 Title

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

22.800.020

Purpose

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

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

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

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

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

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

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

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

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

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

22.800.030 Scope and Applicability

This subtitle applies to:

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

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

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

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

E. All new and existing land uses; and

F. All real property.

22.800.040 Exemptions, Adjustments, and Exceptions

A. Exemptions.

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

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

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

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

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

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

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

1) Pothole and square cut patching;

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

3) Shoulder grading;

4) Reshaping or regrading drainage ditches;

5) Crack sealing; and

6) Vegetation maintenance.

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

4. When a portion of the site being developed discharges only to the public combined sewer, that portion is not required to comply with the provision of subsection 22.805.020.K (Install Source Control BMPs) unless the Director determines that these activities pose a hazard to public health, safety or welfare; endanger any property; adversely affect the safety and operation of city right-of-way, utilities, or other property owned or maintained by the City; or adversely affect the functions and values of an environmentally critical area or buffer.

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

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

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

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

c. Other instances where more stringent local stormwater standards apply are projects subject to tribal government standards or to the stormwater management-related permit conditions imposed under Chapter 25.09 to protect environmentally critical areas and their buffers

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

B. Adjustments.

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

a. The adjustment provides substantially equivalent environmental protection; and

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

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

3. A request by the applicant for adjustments shall be submitted to the Director for approval prior to implementation. The request shall be in writing and shall provide facts substantiating the requirements of subsection 22.800.040.B1, and if made during construction, the factors in subsection B2. Any such modifications made during the construction of drainage control facilities shall be recorded on the final approved drainage control plan, a revised copy of which shall be filed by the Director.

C. Exceptions.

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

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

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

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

d. The project is a roadway project and the requirement would cause a severe construction feasibility hardship that outweighs the requirement's benefits, and the criteria for an adjustment cannot be met; or

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

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

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

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

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

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

7. The Director's decision shall be in writing with written findings of fact. Decisions approving an exception based on severe and unexpected economic hardship shall address all the factors in subsection 22.800.040.C.8. Decisions approving an exception based on roadway project construction feasibility shall address at least one of the factors in subsection 22.800.040.C.9.

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

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

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

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

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

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

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

9. An application for an exception for a roadway project on the grounds of construction feasibility must describe, at a minimum, one or more of the following:

[http://www.wsdot.wa.gov/publications/fulltext/Hydraulics/HRM/App2A_2014.pdf]

a. Infrastructure limitations to construction feasibility

b. Hydraulic limitations to construction Feasibility

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

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

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

22.800.050 Potentially Hazardous Locations

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

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

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

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

22.800.060 Compliance With Other Laws

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

B. Approvals and permits granted under this subtitle are not waivers of the requirements of any other

laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state and local laws and regulations, including rules promulgated under authority of this subtitle.

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

22.800.070 Minimum Requirements for City Agency Projects

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

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

2. A City agency project, as defined in Section 22.801.170, that is not required to obtain permit(s) and approval(s) per subsection 22.800.070.A.1 and meets all of the conditions set forth below, is not required to comply with the requirements of Section 22.805.070 [add other SMC sections that depend upon 22.805.070].

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

b. The project complies with subsection 22.805.020.F (Implement Green Stormwater Infrastructure) of the Stormwater, Code that was made effective November 30, 2009 by Ordinance 123105 which requires compliance with Directors' Rules 15-2012/DWW 201.1 and 16-2012/DWW 201.2 effective March 1, 2013, and

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

1) Project funding was appropriated as identified in Ordinance XXXXX titled, "An ordinance adopting a budget, including a capital improvement program and a position list, for the City of Seattle for 2015"; or

2) Project received or will receive voter approval of financing before January 1, 2015; or

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

B. Inspection.

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

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

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

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

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

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

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

22.800.075 Compliance by Public Agencies

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

22.800.080 Authority

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

B. The Director of SPU has authority regarding all other provisions of this subtitle pertaining to drainage water, drainage, and erosion control, including, but not limited to, inspection and enforcement authority. The Director of SPU may delegate authority to the Director of DPD or the Director of Seattle Department of Transportation regarding the provisions of this subtitle pertaining to review of drainage control plans, inspection of drainage control facilities, review of construction stormwater control plans, and inspection and enforcement authority pertaining to temporary erosion and sediment control measures for projects conducted in the public right-of-way.

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

D. The Director of SPU is authorized to develop, review, or approve drainage basin plans for managing

receiving waters, drainage water, and erosion within individual basins. A drainage basin plan may, when approved by the Director of SPU, be used to modify requirements of this subtitle, provided the level of protection for human health, safety and welfare, the environment, and public or private property will equal or exceed that which would otherwise be achieved. A drainage basin plan that modifies the minimum requirements of this subtitle at a drainage basin level must be reviewed and approved by Ecology and adopted by City ordinance.

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

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

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

H. If the Director of SPU determines that a discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, a private drainage system, or a receiving water within or contiguous to Seattle city limits, has exceeded, exceeds, or will exceed water quality standards at the point of assessment, or has caused or contributed, is causing or contributing, or will cause or contribute to a prohibited discharge or a known or likely violation of water quality standards in the receiving water or a known or likely violation of the City's municipal stormwater NPDES permit, and cannot be adequately addressed by the required best

management practices, then the Director of SPU has the authority, to the extent allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to undertake more stringent or additional best management practices. These best management practices may include additional source control or structural best management practices or other actions necessary to cease the exceedance, the prohibited discharge, or causing or contributing to the known or likely violation of water quality standards in the receiving water or the known or likely violation of the City's municipal stormwater NPDES permit. Structural best management practices may include but shall not be limited to: drainage control facilities, structural source controls, treatment facilities, constructed facilities such as enclosures, covering and/or berming of container storage areas, and revised drainage systems. For existing discharges as opposed to new projects, the Director may allow 12 months to install a new flow control facility, structural source control, or treatment facility after the Director notifies the responsible party in writing of the Director's determination pursuant to this subsection and of the flow control facility, structural source control, or treatment facility that must be installed.

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

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

22.800.090 City Not Liable

A. Nothing contained in this subtitle is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers,

employees or agents for any injury or damage resulting from the failure of responsible parties to comply with the provisions of this subtitle, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this subtitle, or by reason of any action or inaction on the part of the City related in any manner to the enforcement of this subtitle by its officers, employees or agents.

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

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

22.800.100 Transition to Revised Stormwater Code

A. Any building, grading, mechanical, gas, side sewer, or plumbing permit (a) which was not considered, either in the initial application process or in a renewal process, under the version of the Stormwater Code in effect on or after July 1, 2015, and (b) pursuant to which construction has not started by June 30, 2020, shall expire on June 30, 2020.

B. Any master use permit for a project not requiring a building permit (a) which was not considered, either in the initial application process or in a renewal process, under the version of the Stormwater Code in effect on or after July 1, 2015, and (b) pursuant to which construction has not started by June 30, 2020, shall expire on June 30, 2020.

C. Neither SMC 23.22.028, SMC 23.22.064, SMC 23.24.050, RCW 58.17.033, nor RCW 58.17.170 shall require any permit application submitted on or after July 1, 2015, to be considered under a version of the Stormwater Code in effect prior to July 1, 2015. For purposes of this subsection (3), “permit application” means an application for any permit required for construction within a plat or short plat or for construction of facilities and improvements for a plat or short plat, including but not

limited to master use, building, grading, mechanical, plumbing, and street improvement permits.

D. Neither SMC 23.22.028 nor SMC 23.22.064 shall authorize starting construction, after June 30, 2020, of facilities or improvements for any plat without compliance with the version of the Stormwater Code in effect on or after July 1, 2015.

E. For purposes of this section, “starting construction” or “started construction” means the site work associated with, and directly related to the approved project has begun. For example: grading the project site to final grade or utility installation. Simply clearing the project site does not constitute the start of construction.

Chapter 22.801 DEFINITIONS

22.801.010 General

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

22.801.020 "A"

"Agency" means any governmental entity or its subdivision.

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

"Approved" means approved by the Director.

“Aquatic life use” means “aquatic life use” as defined WAC 173-201A-200. At minimum, the following water bodies are designated for aquatic life use: small lakes, creeks, and fresh water designated receiving waters and tributaries to these waters.

“Arterial” means "arterial" as defined in Section 11.18.010.

22.801.030 "B"

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

"Basic treatment facility" means a drainage control facility designed to reduce concentrations of total suspended solids in drainage water.

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

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

22.801.040 "C"

"Capacity-constrained system" means a drainage system or a public combined sewer that the Director of SPU has determined to have inadequate capacity to carry drainage water, a public drainage system or public combined sewer to which groundwater is permanently discharged, and the informal drainage system (including ditches and culverts).

"

"Certified Erosion and Sediment Control Lead (CESCL)" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington State Department of Ecology.

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

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

Combined sewer. See "public combined sewer."

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

"Compaction" means the densification, settlement, or packing of soil, earth material or fill in such a way that permeability is reduced.

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

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

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

22.801.050 "D"

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

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

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

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

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

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

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

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

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

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

"DPD" means the Department of Planning and Development.

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

For the combined sewer service areas, “drainage basin” means the area tributary to a public combined sewer feature, including, but not limited to, a combined sewer overflow outfall, trunk line connection, pump station, or regulator.

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

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

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

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

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

22.801.060 "E"

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

"Ecology" means the Washington State Department of Ecology.

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

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

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

"EPA" means the United States Environmental Protection Agency.

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

"Erosion" means the wearing away of the ground surface as a result of mass wasting or of the movement of wind, water, ice, or other geological agents, including such processes as gravitational creep. Erosion also means the

detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

"Excavation" means the mechanical removal of earth material.

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

“Existing grade” means “existing grade” as defined per Section 22.170.050.

22.801.070 "F"

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

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

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

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

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

22.801.080 "G"

"Garbage" means putrescible waste.

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

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

"Green stormwater infrastructure" means distributed BMPs, integrated into a project design, that use infiltration, filtration, storage, evapotranspiration, or

stormwater reuse. Green stormwater infrastructure BMPs include dispersion, infiltration trenches, dry wells, rain gardens, permeable pavement, bioretention, rainwater harvesting, vegetated roofs, detention cisterns, perforated stub-out connections, and retaining and planting trees.

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

22.801.090 "H"

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

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

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

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

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

22.801.100 "I"

"Illicit Connection" means any direct or indirect infrastructure connection to the public drainage system or receiving water that is not intended, permitted, or used for collecting drainage water.

"Impervious Surface" means any surface exposed to rainwater from which most water runs off. Impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, formal planters, parking lots or storage areas, concrete or asphalt paving, permeable paving, vegetated roofs, areas with underdrains designed to remove stormwater from subgrade (e.g. playfields, athletic

fields, rail yards), gravel surfaces subjected to vehicular traffic, compact gravel, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of stormwater modeling.

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

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

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

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

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

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

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

22.801.130 "L"

"Land disturbing activity" means any activity that results in a change in the existing soil cover, both

vegetative and nonvegetative, or the existing topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, excavation, or addition of new or the replacement of impervious surface. Compaction, excluding hot asphalt mix, that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activities. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

"Large project" means a project including 5,000 square feet or more of new plus replaced impervious surface or one acre or more of land disturbing activity.

"Listed creek basins" means Blue Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek, Taylor Creek, or Washington Park Creek.

22.801.140 "M"

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

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

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

22.801.150 "N"

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

"Nutrient-critical receiving water" means a surface water or water segment that is determined to be impaired due to phosphorus as prescribed in rules promulgated by the Director of SPU.

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

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

22.801.160 "O"

"Oil control treatment facility" means a drainage control facility designed to reduce concentrations of oil in drainage water.

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

22.801.170 "P"

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

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

"Pervious surface" means a surface that is not impervious. See also, "impervious surface".

"Phosphorus treatment facility" means a drainage control facility designed to reduce concentrations of phosphorus in drainage water.

"Plan" means a graphic or schematic representation, with accompanying notes, schedules, specifications and other related documents, or a document consisting of checklists, steps, actions, schedules, or other contents that has been

prepared pursuant to this subtitle, such as a site plan, drainage control plan, construction stormwater control plan, stormwater pollution prevention plan, and integrated drainage plan.

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

"Pollution-generating impervious surface" means those impervious surfaces considered to be a significant source of pollutants in drainage water. Such surfaces include those that are subject to: vehicular use; certain industrial activities; or storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall; roofs subject to venting of significant sources of pollutants; metal roofs unless coated with an inert, non-leachable material (e.g., baked-on enamel coating).

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

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

"Pollution-generating pervious surface" means any non-impervious surface subject to vehicular use, industrial activities, or storage of erodible or leachable materials, wastes, or chemicals, and that receive direct rainfall or run-on or blow-in of rainfall, use of pesticides and

fertilizers, or loss of soil, and typically includes permeable pavement subject to vehicular use, lawns, landscaped areas, golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

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

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

“Project site” means that portion of a property, properties or right-of-way subject to addition or replacement of impervious surface or the undertaking of land disturbing activity.

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

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

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

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

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

22.801.190 "R"

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

"Receiving water" means the surface water or wetland to which surface runoff is discharged or groundwater to which surface runoff is directed by infiltration.

"Repeat Violation" means a prior violation of this subtitle within the preceding five years that became a final order or decision of the Director or a court. The violation

does not need to be the same nor occur on one site to be considered repeat.

"Replaced impervious surface" or "replacement of impervious surface" means for structures, the removal and replacement of impervious surfaces down to the foundation and for other impervious surfaces, the removal down to bare soil or base course and replacement.

"Responsible party" means all of the following persons:

1. Owners, operators, and occupants of property; and,

2. Any person causing or contributing to a violation of the provisions of this subtitle.

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

"Roadway" means "roadway" as defined in Section 23.84A.032.

"Roadway project" means a project located in the public right-of-way, that involves the creation of a new or replacement of an existing roadway. The boundary of the public right-of-way shall form the boundary between the parcel and roadway portions of a project.

"Runoff" means the portion of rainfall or other precipitation that becomes surface flow and interflow.

22.801.200 "S"

"Sanitary sewer" means a system that conveys wastewater and is not designed to convey drainage water.

"SDOT" means the Seattle Department of Transportation.

"Service drain" means "service drain" as defined in Section 21.16.030.

"Side sewer" means "side sewer" as defined in Section 21.16.030.

"Sidewalk" means "sidewalk" as defined in Section 23.84A.036.

"Sidewalk project" means a project that exclusively involves the creation of a new or replacement of an existing

sidewalk, including any associated planting strip, curb, or gutter. A project involving a sidewalk with associated curb or gutter is considered a Sidewalk Project (as opposed to a Roadway Project) only if the sidewalk cannot be constructed without the new plus replaced impervious surface in the roadway. If the total new plus replaced impervious surface in the roadway exceeds 5,000 square feet, the entire project is a Roadway Project.

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

"Site" means the lot or parcel, or portion of street, highway or other right-of-way, or contiguous combination thereof, where development is proposed or performed. For roadway projects, the length of the project site and the right-of-way boundaries define the site.

"Slope" means an inclined ground surface.

"Small project" means a project with:

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

2. Less than one acre of land disturbing activities.

"SMC" means the Seattle Municipal Code.

"SPU" means Seattle Public Utilities.

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

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

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

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

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

"Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff, drainage and interflow.

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

22.801.210 "T"

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

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

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

"Treatment facility" means a drainage control facility designed to remove pollutants from drainage water.

22.801.220 "U"

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

22.801.230 "V"

"Vegetation" means "vegetation" as defined in Section 25.09.520.

22.801.240 "W"

"Wastewater" means "wastewater" as defined in Section 21.16.030.

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

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

"Watershed" means a geographic region within which water drains into a particular river, stream, or other body of water.

"Wetland" means a wetland designated under Section 25.09.020.

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

"Wetland values" means wetland processes, characteristics, or attributes that are considered to benefit society.

Chapter 22.802 Prohibited and Permissible Discharges

22.802.010 General

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

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

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

22.802.020 Prohibited Discharges

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

1. acids;

2. alkalis including cement wash water;

3. ammonia;

4. animal carcasses;

5. antifreeze, oil, gasoline, grease and all other automotive and petroleum products;

6. chemicals not normally found in uncontaminated water;

7. chlorinated swimming pool or hot tub water;

8. chlorine;

9. commercial and household cleaning materials;

10. detergent;

11. dirt;

12. domestic or sanitary sewage;

13. drain cleaners;

14. fertilizers;

15. flammable or explosive materials;

16. food and food waste;

17. gravel.

18. herbicides;

19. human and animal waste;

20. industrial process wastewater,

21. ink;

22. laundry waste;

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

24. painting products;

25. pesticides;

26. sand;

27. soap;

28. solid waste;

29. solvents and degreasers;

30. steam-cleaning waste; and,

31. yard waste.

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

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

D. Prohibited Discharges to Public Combined Sewers. For discharges to the public combined sewer, the applicable prohibited discharges are stated in SMC Chapter 22.16 (Side Sewer Code).

22.802.030 Permissible Discharges

A. Conditionally Permissible Discharges to Drainage systems and Receiving Waters. Discharges from the sources

listed below are permissible discharges only if the stated conditions are met and unless the Director of SPU determines that the type of discharge, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous to Seattle city limits, whether singly or in combination with others, is causing or contributing to a violation of the City's NPDES stormwater permit or is causing or contributing to a water quality problem:

1. Discharges from potable water sources, including, but not limited to, flushing of potable water lines, hyperchlorinated water line flushing, fire hydrant system flushing, pipeline hydrostatic test water and washing or rinsing of potable water storage reservoirs. Planned discharges shall be de-chlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the drainage system;

2. Discharges from swimming pools, spas, hot tubs, fountains, or similar aquatic recreation facilities and constructed water features, provided the discharges have been de-chlorinated to a total residual chlorine concentration of 0.1 ppm or less, pH-adjusted and reoxygenated if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments in the drainage system, and thermally controlled to prevent an increase of temperature in the receiving water;

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

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

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

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

B. Permissible Discharges: Discharges from the sources listed below are permissible discharges unless the Director of SPU determines that the type of discharge, directly or indirectly to a public drainage system, private drainage system, or a receiving water within or contiguous

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

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

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

3. Discharges of air conditioning condensation;

4. Discharges from springs;

5. Discharges of uncontaminated water from crawl space pumps;

6. Discharges from lawn watering;

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

8. Discharges from riparian habitats and wetlands;

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

10. Discharges from foundation drains;

11. Non-stormwater discharges authorized by another NPDES permit or State Waste Discharge permit;

12. Discharges that are from emergency fire fighting activities; and

13. Discharges of tracing dye used to establish or verify a drainage or sewer connection.

B. Permissible Discharges to Sanitary Sewers. In consultation with the local sewage treatment agency, the Director of SPU may approve discharges of drainage water to a sanitary sewer if the discharging party demonstrates to

the satisfaction of the Director of SPU that other methods of controlling pollutants in the discharge are not adequate or reasonable, the discharging party certifies that the discharge will not harm the environment, and the discharging party certifies that the discharge will not overburden or otherwise harm the sanitary sewer. Connections to the sanitary sewer shall be made in accordance with Chapter 21.16 (Side Sewer Code). The Director of SPU shall condition approval of such a discharge on compliance with local pretreatment regulations and on maintaining compliance with the required certifications given by the discharging party.

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

22.802.040 Testing for Prohibited Discharges

A. Any person conducting dye testing to establish or verify a drainage connection shall notify the Director of SPU no less than twenty four (24) hours prior to the date of the test.

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

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

Chapter 22.803 Minimum Requirements for All Discharges and All Real Property

22.803.010 General

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

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

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

22.803.020 Minimum Requirements for All Discharges and Real Property

A. Requirement to provide documentation and to map property drainage and plumbing infrastructure. The owner is required to make plans, procedures, and schedules required by this subtitle available to the Director when requested. When requested, the owner must provide to the Director a complete map of all stormwater and plumbing infrastructure on the property.

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

C. Requirements to maintain facilities. All treatment facilities, flow control facilities, drainage control facilities, and drainage systems shall be maintained as prescribed in rules promulgated by the Director in order for these facilities and systems to be kept in continuous working order consistent with design and permitting.

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

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

22.803.030 Minimum Requirements for Source Controls for All Real Property

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

A. Eliminate Illicit or Prohibited Connections to Storm Drains. It is the responsibility of the property owner or other responsible party to ensure that all plumbing connections are properly made and that only connections conveying stormwater or permissible discharges per Section 22.802.030 are connected to the drainage system. When requested, the owner must provide to the Director a complete map of all stormwater and plumbing infrastructure on the property.

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

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

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

E. Spill Prevention and Cleanup. All property owners having the potential to spill pollutants shall take measures

to prevent spills of pollutants and to properly clean up spills that may occur.

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

G. Site Maintenance. Consider the location of pollution-generating activities, sweep paved areas where required, and inspect loading, unloading, storage and parking areas to prevent pollutant transport.

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

A. For all discharges except those that drain only to the public combined sewer, source controls shall be implemented, to the extent allowed by law, by businesses and public entities for specific pollution- generating activities as specified in the joint SPU/DPD Directors' Rule, "Source Control Manual," to the extent necessary to prevent prohibited discharges as described in subsection 22.802.020.A through subsection 22.802.020.D, and to prevent contaminants from coming in contact with drainage water. Source controls include, but are not limited to, segregating or isolating wastes to prevent contact with drainage water; enclosing, covering, or containing the activity to prevent contact with drainage water; developing and implementing inspection and maintenance programs; sweeping; and taking management actions such as training employees on pollution prevention.

Chapter 22.805 MINIMUM REQUIREMENTS FOR ALL PROJECTS

22.805.010 General

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

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

C. Every permit issued to implement this subtitle shall contain a performance standard requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to a public drainage system, private

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

22.805.020 Minimum Requirements for All Projects

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

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

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

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

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

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

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

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

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

6. Prevent Erosion and Sediment Transport from the Site by Vehicles. Whenever construction vehicle access routes intersect paved roads, the transport of sediment onto the paved road shall be minimized. If sediment is transported onto a paved road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be

removed from paved roads by shoveling or sweeping and shall be transported to a controlled sediment disposal area. If sediment is tracked off-site, roads shall be cleaned thoroughly at the end of each day, or at least twice daily during wet weather. Street washing is allowed only after sediment is removed and street wash wastewater shall be prevented from entering the public drainage system and receiving waters.

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

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

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

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

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

a. All pollutants, including sediment, waste materials, and demolition debris, that occur on-site shall be handled and disposed of in a manner that does not cause contamination of drainage water and per all applicable disposal laws.

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

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

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

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

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

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

h. BMPs shall be used to prevent or treat contamination of drainage water by pH-modifying sources.

These sources include, but are not limited to, bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, and concrete pumping and mixer washout waters. Construction site operators may be required to adjust the pH of drainage water if necessary to prevent a violation of water quality standards. Construction site operators must obtain written approval from Ecology prior to using chemical treatment other than carbon dioxide (CO_2) or dry ice to adjust pH.

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

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

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

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

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

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

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

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

19. Protect Green Stormwater Infrastructure BMPs

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

b. Prevent compacting Green Stormwater Infrastructure BMPs by excluding construction equipment and foot traffic. Protect completed lawn and landscaped areas from compaction due to construction equipment.

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

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

e. Keep all heavy equipment off existing soils under Green Stormwater Infrastructure BMPs that have been excavated to final grade to retain the infiltration rate of the soils.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

M. Comply with Side Sewer Code.

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

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

22.805.030 Minimum Requirements for Single-Family Residential Projects

A. On-site Stormwater Management: All single-family residential projects with 7,000 square feet or more of land disturbing activity or 2,000 square feet or more of new plus replaced impervious surface shall meet the minimum requirements for On-site Stormwater Management contained in Section 22.805.070, to the extent allowed by law.

22.805.040 Minimum Requirements for Trail and Sidewalk Projects

A. On-site Stormwater Management: All trail and sidewalk projects with 2,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity shall 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. On-site Stormwater Management: All parcel-based projects with 2,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity shall meet the minimum requirements for On-site Stormwater Management contained in Section 22.805.070, to the extent allowed by law.

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

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

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

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

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

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

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

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

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

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

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

surfaces, causes a 0.1 cubic feet per second increase in the 100-year recurrence interval flow frequency as estimated using a continuous model approved by the Director.

b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture Standard) if the criteria in subsection 22.805.050.B.2.a do not apply and the total new plus replaced impervious surface is 2,000 square feet or more.

3. Discharges to Non-listed Creek Basins. Parcel-based projects discharging into a creek not listed in subsection 22.805.050.B.2 shall:

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

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

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

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

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

b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture Standard) if the criteria in subsection 22.805.050.B.3.a do not apply and the total new plus replaced impervious surface is 2,000 square feet or more.

4. Discharges to Small Lake Basins. Parcel-based projects discharging into Bitter Lake, Green Lake, or Haller Lake drainage basins shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 2,000 square feet or more.

5. Discharges to Public Combined Sewer. <u>Unless the Director of SPU has determined that the public combined sewer</u> <u>*has sufficient capacity to carry existing and*</u>

anticipated loads, parcel-based projects discharging into the public combined sewer shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 10,000 square feet or more.

6. Discharges to a Capacity-constrained System. In addition to applicable minimum requirements for flow control in subsection 22.805.050.B.1 through subsection 22.805.050.B.5, parcel-based projects discharging into a capacity-constrained system shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 2,000 square feet or more.

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

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

2. The total new plus replaced pollution-generating pervious surfaces is 3/4 of an acre or more and from which there is a surface discharge in a natural or man-made conveyance system from the site.

22.805.060 Minimum Requirements for Roadway Projects

A. All roadway projects with 2,000 square feet or more of new plus replaced impervious surface or 7,000 square feet or more of land disturbing activity shall meet the minimum requirements for On-site Stormwater Management contained in Section 22.805.070, to the extent allowed by law.

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

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

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

b. The project converts 3/4 acres or more of vegetation to lawn or landscaped areas and from which there

is a surface discharge into a natural or man-made conveyance system from the site; or

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

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

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

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

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

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

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

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

3. Discharges to Non-listed Creek Basins. Roadway projects discharging into a creek not listed in subsection 22.805.060.A.2 shall:

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

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

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

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

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

b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture Standard) if the criteria in subsection 22.805.060.A.3.a do not apply and the total new plus replaced impervious surface is 10,000 square feet or more.

4. Discharges to Small Lake Basins. Projects discharging into Bitter Lake, Green Lake, or Haller Lake drainage basins shall comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced impervious surface is 10,000 square feet or more.

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

6. Discharges to a Capacity-constrained System. In addition to applicable minimum requirements for flow control in subsection 22.805.060.A.1 through subsection 22.805.060.A.5, roadway projects discharging into a capacity-constrained system shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the

total new plus replaced impervious surface is 10,000 square feet or more.

C. Treatment. Roadway projects not discharging to the public combined sewer shall comply with the minimum requirements for treatment contained in Section 22.805.090, to the extent allowed by law, if:

1. The existing impervious coverage is less than 35 percent of the project area and the total new plus replaced pollution-generating impervious surface is 5,000 square feet or more; or

2. The total new pollution-generating impervious surface is 5,000 square feet or more and results in a 50 percent or more expansion of the existing impervious surfaces within the project site; or

3. The total new plus replaced pollution-generating pervious surfaces is three-quarters of an acre or more and from which there is a surface discharge in a natural or man-made conveyance system from the site.22.805.070 Minimum Requirements for On-Site Stormwater Management.

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

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

1. Prior to completion of the project, all new, replaced, and disturbed topsoil (including construction lay-down areas) shall be amended with organic matter per rules promulgated by the Director, and

2. Comply with either:

a. Subsection 22.805.070.C (On-site Standard), or.

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

C. On-site Performance Standard:

1. If the existing impervious coverage is less than 35 percent and the project discharges to a listed creek basin:

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

2. For all other projects:

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

D. On-site Lists:

1. For each project surface, follow the appropriate project table in subsection 22.805.070.D.2 to subsection 22.805.070.D.5 to evaluate GSI BMPs in the order shown for that type of surface, by category. Consider any of the GSI BMPs in the first category. Use the first GSI BMP that is considered feasible. Consider all GSI BMPs in a category for feasibility before moving on to each successive category as necessary. Once a GSI BMP is used for a surface no other GSI BMP is necessary for that surface. Feasibility shall be determined by evaluation against:

a. Design criteria, limitations, and infeasibility criteria identified for each BMP in this subsection and the rules promulgated by the Director. A BMP is considered infeasible for this purpose if the minimum design criteria for the BMP cannot be met for the project in the space remaining on the project site; and

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

1) The following federal or state laws, rules, and standards: Historic Preservation and Archaeology Laws identified in SMC 22.805.070.E (Historic Preservation and Archaeology Laws), Federal Superfund or Washington State Model Toxics Control Act, Federal Aviation Administration requirements for airports, Americans with Disabilities Act; or

2) Special zoning district design criteria adopted and being implemented pursuant to a community planning process. Special zoning district criteria include, for example, pedestrian zone overlays and minimum floor area ratio requirements. See also Municipal Stormwater Response to Comments, Part V: Response to Comments on Appendix 1 & Low Impact Development for Phase I and Western Washington Phase II Permits, Response "V-27 Competing Needs Feasibility Criteria" (Washington State Department of Ecology, August 1, 2012); or

3) Public health and safety standards; or

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

5) Chapter 15.43 Tree and Vegetation Management in Public Places; Chapter 25.09 Regulations for Environmentally Critical Areas; Chapter 25.11 Tree Protection and *Chapter XXX Standards for Vegetation in the Shoreline Master Plan*.

2. For single-family residential projects, Table 805.1 applies.

Table 805.1. On-site List for Single-family Residential Projects

Category	GSI BMPs	All Basins
1	Full Dispersion	R, S
	Infiltration trenches	R, S
	Dry wells	R, S
2	Rain Gardens [a]	R, S [a]
	Infiltrating Bioretention	R, S
	Rainwater Harvesting	X
	Permeable Pavement Facilities	R, S
	Permeable Pavement Surfaces	S
3	Sheet flow Dispersion	S
	Concentrated Dispersion	S
	Splashblock Downspout Dispersion	R
	Trench Downspout Dispersion	R
	Non-infiltrating Bioretention	R, S
	Vegetated Roofs	X
	Single-Family Residential Cisterns	R
4	Perforated Stub-out Connections	R
	Newly Planted Trees	S

R Evaluation required for all roof runoff from Single-family residential projects.
S Evaluation required for all surfaces of Single-family residential projects.
X Evaluation not required.
[a] Installation only allowed for projects with less than 5,000 sf of impervious surface infiltrating on site.

3. For trail and sidewalk projects, Table 805.2 applies.

Table 805.2 On-site List for Trail and Sidewalk Projects

Category	GSI BMPs	Projects Discharging to a Wetland, Creek, Public Combined Sewer, Small Lake, or Capacity Constrained System Basins	Projects Discharging to a Designated Receiving Water Basin	
		All Impervious Surface	Pollution Generating Impervious Surface	All Other Impervious Surface
1	Full Dispersion	S	S	S
2	Rain Gardens	S	S	X
	Infiltrating Bioretention	X [a]	X [b]	X [a]
	Permeable Pavement Facilities	X [c]	X [c, d]	X
	Permeable Pavement Surfaces	S [c]	S [c, d]	X
3	Sheet flow Dispersion	S	S	S
	Concentrated Dispersion	S	S	S

S Evaluation required for all surfaces of trail or sidewalk projects.

X Evaluation not required for Trail or Sidewalk Projects.

[a] Minimum bioretention cell size top area in right-of-way is 500 sf (including pre-settling area). Installation only allowed when contributing area is sufficient to warrant minimum bioretention cell size in right-of-way.

[b] Minimum bioretention cell size top area in right-of-way is 500 sf (including pre-settling area). Installation only allowed when contributing area is sufficient to warrant minimum bioretention cell size in right-of-way and the PGIS directed to the cell is 2,000 sf or greater.

[c] Minimum permeable pavement size allowed in right-of-way is 2,000 sf of contiguous pavement within the project site.

[d] Evaluation not required if new plus replaced PGIS is less than 2,000 sf of pavement.

4. For parcel-based projects, Table 805.3 applies.

Table 805.3 On-site List for Parcel-Based Projects

Category	GSI BMPs	All Basins
1	Full Dispersion	R, S
	Infiltration trenches	R, S
	Dry wells	R, S
2	Rain Gardens [c]	R [c], S [c]
	Infiltrating Bioretention	R, S
	Rainwater Harvesting	R [d]
	Permeable Pavement Facilities	R, S
	Permeable Pavement Surfaces	S
3	Sheet flow Dispersion	S
	Concentrated Dispersion	S
	Splashblock Downspout Dispersion	R
	Trench Downspout Dispersion	R
	Non-Infiltrating Bioretention	R, S
	Vegetated Roofs	R [e]
4	Perforated Stub-out Connections	R
	Newly Planted Trees	S

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

S Evaluation required for all surfaces of Parcel-based projects, unless otherwise noted below.

[a] Flow Control Basins include: Wetland, Creek, Public Combined Sewer, Small Lake, Capacity-Constrained System

[b] Non-Flow Control Basins include: Designated Receiving Water.

[c] Installation only allowed for projects not required to meet Section 22.805.080 (Minimum Requirements for Flow Control) or Section 22.805.090 (Minimum requirements for Treatment) and with less than 5,000 sf of impervious surface infiltrating on site.

[d] Evaluation not required for projects in Non-Flow Control Basins [b] or for projects with less than 10,000 sf of new plus replaced rooftop surface in Flow Control Basins [a].

[e] Evaluation not required for projects in Non-Flow Control Basins [b] or for projects with less than 5,000 sf of new plus replaced rooftop surface in Flow Control Basins [a].

5. For roadway projects, Table 805.4 applies.

Table 805.4 On-site List for Roadway Projects

Category	GSI BMPs	Projects Discharging to a Wetland, Creek, Public Combined Sewer, Small Lake, or Capacity Constrained System Basin	Projects Discharging to a Designated Receiving Water Basin	
		All Impervious Surface	Pollution Generating Impervious Surface	All Other Impervious Surface
1	Full Dispersion	S	S	S
2	Rain Gardens	S [a]	S [a]	X
	Infiltrating Bioretention	S [b]	S [c]	X
	Permeable Pavement Facilities	X	X	X
	Permeable Pavement Surfaces	S [d, f]	S [d, e, f]	X
3	Sheet flow Dispersion	S	S	S
	Concentrated Dispersion	S	S	S

S Evaluation required for all surfaces of Roadway Projects.
X Evaluation not required for Roadway Projects, but allowed.
NA Not applicable to Roadway Projects
[a] Installation only allowed for projects not required to meet Section 22.805.080 (Minimum Requirements for Flow Control) or Section 22.805.090 (Minimum requirements for Treatment) and with less than 5,000 sf of impervious surface infiltrating on site.
[b] Minimum bioretention cell size top area in right-of-way is 500 sf (including pre-settling area). Evaluation only required and installation only allowed when contributing area is sufficient to warrant minimum bioretention cell size in right-of-way.
[c] Minimum bioretention cell size top area in right-of-way is 500 sf (including pre-settling area). Evaluation only required and installation only allowed when contributing area is sufficient to warrant minimum bioretention cell size in right-of-way and the PGIS directed to the cell is 2,000 sf or greater.
[d] Minimum permeable pavement size allowed in right-of-way is 2,000 sf of contiguous pavement within the project site.
[e] Evaluation not required if new plus replaced PGIS is less than 2,000 sf of pavement.
[f] Evaluation of roadway surfaces, including alleys, not required if roadway is an arterial/collector or does not discharge to a Creek or Wetland Basin.

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

a. National Historic Preservation Act

b. 36 CFR Part 60 (National Register of Historic Places)

c. 36 CFR Part 61 (Procedures for State, Tribal, and Local Government Historic Preservation Programs)

c. 36 CFR Part 63 (Determinations of Eligibility for Inclusion in the National Register of Historic Places)

e. 36 CFR Part 65 (National Historic Landmarks Program)

f. 36 CFR Part 68 (The Secretary of the Interior's Standards for the Treatment of Historic Properties)

g. Section 106

h. Professional Qualification Standards

i. Executive Order 11593 (Protection and Enhancement of the Cultural Environment)

j. Executive Order 13006 (Locating federal Facilities in Historic Properties)

2. Washington State Laws on Historic Preservation:

a. Executive Order 05-05

b. Advisory Council on Historic Preservation (WAC 25-12)

c. Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60)

d. Washington State Historic Building Code (RCW 19.27.120)

e. Heritage Barn Program (RCW 27.34.400)

f. State Historical Societies - Historic Preservation (RCW 27.34)

3. Federal Laws on Archaeology:

a. Archaeological Resource Protection Act of 1979

b. Archaeological and Historic Preservation Act of 1974

c. Native American Graves Protection and Repatriation Act

d. National Historic Preservation Act

4. Washington State Laws on Archaeology:

a. Executive Order 05-05

b. Indian Graves and Records (RCW 27.44)

c. Archaeological Sites and Resources (RCW 27.53)

d. Archaeological Excavation and Removal Permit (WAC 25-48)

e. Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60)

f. Registration of Historic Archaeological Resources on State-Owned Aquatic Lands (WAC 25-46)

g. Aquatic Lands - In General (RCW 79.90.565)

h. Archaeological Site Public Disclosure Exemption (RCW 42.56.300)

i. Discovery of Human Remains (RCW 27.44)

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

a. Chapter 23.66 Pioneer Square 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

g. Chapter 25.24 Pike Place Market Historical District

h. Chapter 25.32 Table of Historical Landmarks

22.805.080 Minimum Requirements for Flow Control

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

B. Requirements. Flow control facilities shall be installed to the extent allowed by law and maintained per rules promulgated by the Director to receive flows from that portion of the site being developed. Post-development discharge determination must include flows from dewatering activities. All projects shall use green stormwater infrastructure to the maximum extent feasible to meet the minimum requirements. Flow control facilities that receive flows from less than that portion of the site being developed may be installed if the total new plus replaced impervious surface is less than 10,000 square feet, the project site uses only green stormwater infrastructure to meet the requirement, and the green stormwater infrastructure provides substantially equivalent environmental protection as facilities not using green stormwater infrastructure that receive flows from all of the portion of the site being developed.

1. Wetland Protection Standard. Protect the functions and values of wetlands and their buffers from all projects discharging stormwater directly or indirectly to them. The hydrologic conditions, vegetative community, and substrate characteristics of the wetlands shall be protected and impacts caused by changes in water flows and pollutants shall be prevented. The introduction of sediment, heat and other pollutants and contaminants into wetlands shall be minimized through the selection, design, installation, and maintenance of temporary and permanent controls. The total volume of stormwater discharging into a wetland shall not be more than:

- 20 percent higher or lower than the pre-developed volume during a single precipitation event, and

- 15 percent higher or lower than the pre-developed volume on a monthly basis.

Prior to authorizing new discharges to a wetland, alternative discharge locations shall be evaluated and infiltration options outside the wetland shall be maximized unless doing so will adversely impact the functions and values of the affected wetlands. If one or more of the flow control requirements contained in 22.805.080.B.2 through 22.805.080.B.4 also apply to the project, an analysis shall be conducted to ensure that the functions and values of the affected wetland are protected before implementing these flow control requirements. Projects triggering this requirement shall refer to Guide Sheets #1 through #3 presented in Appendix I-D of Ecology's Stormwater Management Manual for Western Washington (Ecology 2012) for additional guidance. Notwithstanding any provision in this subtitle, no net loss of wetland functions of values shall result from actions regulated by this subtitle.

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

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

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

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

22.805.090 Minimum Requirements for Treatment.

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

B. Requirements. Water quality treatment facilities shall be installed to the extent allowed by law and maintained per rules promulgated by the Director to treat flows from the pollution generating pervious and impervious surfaces on the site being developed. When stormwater flows from other areas, including non-pollution generating surfaces (e.g., roofs), dewatering activities, and off-site areas, cannot be separated or bypassed, treatment BMPs shall be designed for the entire area draining to the treatment facility. All projects shall use green stormwater infrastructure to the maximum extent feasible to meet the minimum requirements.

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

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

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

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

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

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

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

2) For facilities located downstream of detention, the design flow rate is the release rate from the detention facility that has a 50 percent annual probability of occurring in any given year (2- year recurrence interval), as determined using an approved continuous runoff model.

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

2. Basic Treatment. A basic treatment facility shall be required for all projects. The requirements of subsection 22.805.090 B3 (Oil Control Treatment), subsection 22.805.090 B4 (Phosphorus Treatment), subsection 22.805.090.B.5 (Enhanced Treatment) are in addition to this basic treatment requirement.

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

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

5. Enhanced Treatment. An enhanced treatment facility for reducing concentrations of dissolved metals shall be required for projects discharging to fresh waters, or waters tributary to fresh waters, designated for aquatic life use or have an existing aquatic life use; or use infiltration strictly for flow control (not treatment) and the discharge is within one-quarter mile of fresh waters designated for aquatic life use or have an existing aquatic life use, if the project meets one of the following criteria:

a. For a parcel-based project, the site is an industrial, commercial, or multi-family project.

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

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

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

6. Discharges to Groundwater. Direct discharge of untreated drainage water from pollution-generating impervious surfaces to ground water is prohibited.

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

Chapter 22.807 DRAINAGE CONTROL REVIEW AND APPLICATION REQUIREMENTS

22.807.010 General

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

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

22.807.020 Drainage Control Review and Application Requirements

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

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

a. Applications for either a master use permit or building permit that includes the cumulative addition of 750 square feet or more of land disturbing activity and/or new and replaced impervious surface;

b. Applications for which a grading permit or approval is required per SMC 22.170;

c. Applications for street use permits for the cumulative addition of 750 square feet or more of new and replaced impervious surface and land disturbing activity;

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

e. Permit approvals and contracts that include any new or replaced impervious surface or any land disturbing activity on a site deemed a potentially hazardous location, as specified in Section 22.800.050 (Potentially Hazardous Locations);

f. Permit approvals that include any new impervious surface in a Category I peat settlement-prone area delineated pursuant to subsection 25.09.020; or

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

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

a. Five thousand square feet or more of new plus replaced impervious surface;

b. One acre or more of land disturbing activity;

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

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

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

B. Submittal Requirements for Drainage Control Review and Approval.

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

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

b. Standard Drainage Control Plan. A drainage control plan shall be submitted to the Director. Standard designs for drainage control facilities as set forth in rules promulgated by the Director may be used.

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

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

1) The legal description of the site;

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

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

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

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

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

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

2. Information Required for Large Project Drainage Control Review. In addition to the submittal requirements for standard drainage control review, the following information is required for projects that include: one acre or more of land disturbing activities; 5,000 square feet or more of new and replaced impervious surface; conversion of 3/4 acres or more of vegetation to lawn or landscaped area; or conversion of 2.5 acres or more of vegetation to pasture.

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

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

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

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

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

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

22.807.090 Maintenance and Inspection.

A. Responsibility for Maintenance and Inspection. The owner and other responsible party shall maintain drainage control facilities, source controls, and other facilities required by this subtitle and by rules adopted hereunder to keep these facilities in continuous working order. The owner and other responsible party shall inspect permanent drainage control facilities temporary drainage control facilities, and other temporary best management practices or facilities on a schedule consistent with this subtitle and sufficient for the facilities to function at design capacity. The Director may require the responsible party to conduct more frequent inspections and/or maintenance when necessary to ensure functioning at design

capacity. The owner(s) shall inform future purchasers and other successors and assignees to the property of the existence of the drainage control facilities and the elements of the drainage control plan, the limitations of the drainage control facilities, and the requirements for continued inspection and maintenance of the drainage control facilities.

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

C. Entry for Inspection and Abatement Purposes.

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

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

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

Section 4: Chapter 22.808 of the Seattle Municipal Code, last amended by Ordinance 122738 and previously amended by Ordinances 122055, 121276, 119965, 118396, 117789, 117697, and 117432, and adopted by Ordinance 116425, is amended by readopting, relocating and amending the text of that chapter (repealed in Section 1) as follows:

Chapter 22.808 Stormwater Code Enforcement

22.808.010 Violations

A. Civil Violations.

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

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

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

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

d. Obstruction of Watercourse. It is a violation to obstruct a watercourse without authorization or approval by the Director;

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

f. Interference. It is a violation for any person to interfere with or impede the correction of any violation, or compliance with any Notice of Violation,

emergency order, stop work order, or the abatement of any nuisance;

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

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

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

B. Criminal Violations.

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

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

b. Failing to comply with a court order;

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

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

22.808.020 Liability and Defenses of Responsible Parties

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

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

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

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

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

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

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

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

4. The responsible party implemented and maintained all appropriate drainage control facilities,

treatment facilities, flow control facilities, erosion and sediment controls, source controls, and best management practices identified in rules promulgated by the Director or in manuals published by the State Department of Ecology, or as otherwise identified and required of the responsible party by the Director in writing.

22.808.025 Right of Entry for Enforcement

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

22.808.030 Enforcement Actions

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

B. Notice of Violation.

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

2. Contents.

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

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

2) The date of the notice; and

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

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

3. Service. The Director shall serve the notice upon a responsible party either by personal service, by first class mail, or by certified mail return receipt requested, to the party's last known address. If 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. Stop Work Order. The Director may order work on a site stopped when he or she determines it is necessary to do so in order to obtain compliance with or to correct a violation of any provision of this subtitle or rules promulgated hereunder or to correct a violation of a permit or approval granted under this subtitle.

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

1) A description of the violation; and

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

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

2. Emergency Order.

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

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

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

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

D. Review by Director.

1. A Notice of Violation, Director's order, or invoice issued pursuant to this subtitle shall be final and not subject to further appeal unless an aggrieved party requests in writing a review by the Director within ten business days after service of the Notice of Violation, order or invoice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until 5:00 p.m. on the next business day.

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

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

a. Sustain the Notice of Violation, order, or invoice;

b. Withdraw the Notice of Violation, order or invoice;

c. Continue the review to a date certain for receipt of additional information; or

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

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

E. Referral to City Attorney for Enforcement. If a responsible party fails to correct a violation or pay a penalty as required by a Notice of Violation, or fails to comply with a Director's order, the Director may refer the matter to the City Attorney's Office for civil or criminal enforcement action. Civil actions to enforce this subtitle shall be exclusively in Municipal Court, unless the specific cause of action asserted by the City requires initiating the enforcement action in a different court.

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

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

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

22.808.040 Voluntary Compliance Agreement

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

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

C. Effect of Agreement.

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

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

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

22.808.050 Penalties and Damages

A. Assessment of Penalties by the Director. The Director, after considering all available information, may

assess a penalty for each violation of this subtitle based upon the Schedule of Civil Penalties.

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

1. Basic Penalty.

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

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

c. Assessment Matrix. The penalty shall be assessed using a matrix of criteria and scored as defined in rules promulgated by the Director. The total score will equate with a penalty up to a maximum of $5000 for each violation. The penalty shall be rated for severity by using the criteria listed below and by answering "No", "Possibly", "Probably", or "Definitely":

1) Did the violation pose a public health risk;

2) Did the violation result in environmental damage or adversely impact infrastructure;

3) Was the action a willful and knowing violation;

4) Was the responsible party unresponsive in correcting the violation;

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

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

7) Did anyone benefit economically from non-compliance; and

8) Was the violation a repeat violation.

C. Penalty for Significant Violation. For violations causing significant harm to public health, safety, welfare, the environment, or private or public property, the Director may, as an alternative to the Basic Penalty, refer the matter to the City Attorney's Office for enforcement and request the City Attorney seek a penalty equivalent to the economic benefit the responsible party derived from the violation. Significant harm is damage or injury which cannot be fully corrected or mitigated by the responsible party, and which cannot be adequately compensated for by assessment of the Basic Penalty and costs, expenses, or damages under this subtitle. Economic benefit may be determined by savings in costs realized by the responsible party, value received by the responsible party, increased income to the responsible party, increase in market value of property, or any other method reasonable under the circumstances.

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

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

22.808.060 Collection of Costs and Penalties

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

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

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

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

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

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

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

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

g. Laboratory costs and analytical expenses;

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

i. Any associated permit fees;

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

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

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

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

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

1. The amount of the penalty;

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

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

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

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

1. Refer the matter to the City Attorney to initiate any appropriate legal action;

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

22.808.070 Public Nuisance

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

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

C. Obstruction of Watercourse. Obstruction of a watercourse without authorization by the Director, and

obstruction in such a manner as to increase the risk of flooding or erosion should a storm occur, is a public nuisance.

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

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

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

22.808.080 Additional Relief

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

22.808.090 Suspension or Revocation

Approvals or permits granted on the basis of inaccurate or misleading information may be suspended or revoked. Other permits or approvals interrelated with an approval suspended or revoked under this subsection, including certificates of occupancy or approvals for occupancy, may also be suspended or revoked. When an approval or permit is suspended or revoked, the Director may require the applicant take corrective action to bring the

project into compliance with this subtitle by a deadline set by the Director, or may take other enforcement action.

22.808.100 Fees

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

22.808.110 Financial Assurance and Covenants

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

A. Insurance.

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

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

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

B. Bonds, Cash Deposits or Instruments of Credit.

1. Surety Bond.

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

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

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

C. Covenants.

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

a. A legal description of the property;

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

c. A statement that the owners of the property understands and accepts the responsibility for the

risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees of the risks;

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

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

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

Section 5. When a permit application for a project within the scope of this ordinance is pending on the effective date of this ordinance, this ordinance applies unless 1) the City has made a written determination on any part of the permit application under the provisions of the Seattle Municipal Code Sections 22.800 through 22.802 and 22.808 prior to their amendment by this ordinance, including granting an exception under those Sections, 2) the application is vested under currently applicable law to previous regulation, or 3) the Seattle Municipal Code or a City ordinance provides otherwise. An applicant for a permit that is not subject to the provisions of this ordinance may ask the City to review the entire application under the provisions of this ordinance.

Section 6. The provisions of this ordinance are hereby declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, subsection or portion of this ordinance or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 7. To the extent that sections of this ordinance recodify or incorporate into new or different sections provisions of the Seattle Municipal Code as previously in effect, this ordinance shall be construed to continue such provisions in effect. The repeal of various sections of Title 22 of the Seattle Municipal Code by this ordinance shall not relieve any person of the obligation to comply with the terms and conditions of any permit issued

pursuant to the provisions of such title as in effect prior to such repeal, nor shall it relieve any person or property of any obligations, conditions, or restrictions in any agreement of instrument made or granted pursuant to, or with reference to, the provisions of such Title in effect prior to such repeal.

Section 8. This ordinance shall take effect and be in force on the latest of: (1) sixty days from and after its approval by the Mayor, or if not approved and returned by the Mayor within ten (10) days after presentation, 60 days from the date when it would take effect as provided by Municipal Code Section 1.04.020; (2) Reserved.