

1 Chapter 22.800 TITLE, PURPOSE, SCOPE AND AUTHORITY

2 22.800.010 Title

3 This subtitle, comprised of Chapters 22.800 through  
4 22.808, shall be known as the "Stormwater Code" and may be  
5 cited as such.

6 22.800.020

7 Purpose

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

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

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

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

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

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

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



1 a. Commercial agriculture, including  
2 only those activities conducted on lands defined in RCW  
3 84.34.020(2), and production of crops or livestock for  
4 wholesale trade; and

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

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

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

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

30 2) ~~Installation of underground or~~  
31 ~~overhead utility facilities that are integral with and~~  
32 ~~contiguous to a road-related project shall comply with~~  
33 ~~Section 22.805.060 (Minimum requirements for Roadway~~  
34 ~~Projects).~~

35 b. ~~Road Pavement~~ maintenance practices  
36 limited to the following activities are not required to  
37 comply with Section 22.805.060 (Minimum requirements for  
38 Roadway Projects), Section 22.805.070 (Minimum Requirements  
39 for On-site Stormwater Management), Section 22.805.080  
40 (Minimum Requirements for Flow Control), or Section  
41 22.805.090 (Minimum Requirements for Treatment):

42 1) Pothole and square cut  
43 patching;



1 quality of receiving waters, WSDOT shall comply with the  
2 same standards to promote uniform stormwater management.

3 b. WSDOT shall comply with standards  
4 identified in watershed action plans for WSDOT rights-of-  
5 way, as to the extent required by state law ~~WAC 400-12-570~~.

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

18 B. Adjustments.

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

22 a. The adjustment provides substantially  
23 equivalent environmental protection; and

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

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

35 3. A request by the applicant for adjustments  
36 shall be submitted to the Director for approval prior to  
37 implementation. The request shall be in writing and shall  
38 provide facts substantiating the requirements of subsection  
39 ~~22.805800.080040~~.B1, and if made during construction, the  
40 factors in subsection B2. Any such modifications made during  
41 the construction of drainage control facilities shall be  
42 recorded on the final approved drainage control plan, a  
43 revised copy of which shall be filed by the Director.

1 C. Exceptions.

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

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

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

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

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

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

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

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

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

39 5. When an exception is granted, the Director  
40 may impose new or additional requirements to offset or  
41 mitigate harm that may be caused by granting the exception,

1 or that would have been prevented if the exception had not  
2 been granted.

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

7 7. The Director's decision shall be in writing  
8 with written findings of fact. Decisions approving an  
9 exception based on severe and unexpected economic hardship  
10 shall address all the factors in subsection  
11 22.805.080800.040.C.8. Decisions approving an exception  
12 based on roadway project construction feasibility shall  
13 address at least one of the factors in subsection  
14 22.800.040.C.9.

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

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

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

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

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

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

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

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

39 [[Page 7 of 91](http://www.wsdot.wa.gov/publications/fulltext/Hydraulics/HR</a></u><br/>40 <u>M/App2A_2014.pdf]</u></p></div><div data-bbox=)

1 | a. Infrastructure limitations to  
2 | construction feasibility

3 | b. Hydraulic limitations to construction  
4 | Feasibility

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

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

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

23 | 22.800.050 Potentially Hazardous Locations

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

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

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

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

1 22.800.060 Compliance with Other Laws

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

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

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

30 22.800.070 Minimum Requirements for City Agency Projects

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

33 1. City agencies are not required to obtain  
34 permits and approvals under this subtitle, other than  
35 inspections as set out in subsection B of this section, for  
36 work performed within a public right-of-way or for work  
37 performed for the operation and maintenance of park lands  
38 under the control or jurisdiction of the Department of Parks  
39 and Recreation. Where the work occurs in a public right-of-  
40 way, it shall also comply with Seattle Municipal Code Title  
41 15, Street and Sidewalk Use, including the applicable  
42 requirements to obtain permits or approvals.

43 2. A City agency project, as defined in  
44 section 22.801.170, that is not required to obtain permit(s)  
45 and approval(s) per subsection 22.800.070.A.1 and meets all

1 of the conditions set forth below, is not required to comply  
2 with the requirements of Section 22.805.070 [add other SMC  
3 sections that depend upon 22.805.070] ~~22.805.080 (Minimum~~  
4 ~~Requirements for Flow Control) or Section 22.805.090~~  
5 ~~(Minimum Requirements for Treatment).~~

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

9 b. The project complies with subsections  
10 22.805.020.F (Implement Green Stormwater  
11 Infrastructure) ~~22.802.015.C.4, 22.802.016. B.1, and~~  
12 ~~22.802.016.B.2 of the Stormwater, Grading and Drainage~~  
13 ~~Control Code that was made effective July 5, 2000~~ November  
14 30, 2009 by Ordinance ~~123105119965~~ which requires compliance  
15 with Directors' Rules ~~15-2012/DWW 201.1 and 16-2012/DWW~~  
16 201.2 effective March 1, 2013, and

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

19 1) Project funding was  
20 appropriated as identified in Ordinance ~~122863-XXXXX~~ titled,  
21 "An ordinance adopting a budget, including a capital  
22 improvement program and a position list, for the City of  
23 Seattle for ~~2009~~2015"; or

24 2) Project received or will  
25 receive voter approval of financing before January 1,  
26 ~~2009~~2015; or

27 3) Project received or will  
28 receive funds based on grant application(s) submitted before  
29 January 1, ~~2009~~2015.

30 B. Inspection.

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

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

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

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

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

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

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

16 22.800.075 Compliance by Public Agencies

17 Whether or not they are required to obtain permits or  
18 submit documents, public agencies are subject to the  
19 substantive requirements of this subtitle, unless  
20 adjustments or exceptions are granted as set forth in  
21 Section 22.800.040 (Exemptions, Adjustments, and Exceptions)  
22 or the requirements have been waived under subsection  
23 22.807.020.A.3.

24 22.800.080 Authority

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

32 B. The Director of SPU has authority regarding all  
33 other provisions of this subtitle pertaining to drainage  
34 water, drainage, and erosion control, including, but not  
35 limited to, inspection and enforcement authority. The  
36 Director of SPU may delegate authority to the Director of  
37 DPD or the Director of Seattle Department of Transportation  
38 regarding the provisions of this subtitle pertaining to  
39 review of drainage control plans, inspection of drainage  
40 control facilities, review of ~~erosion-construction~~  
41 stormwater control plans, and inspection and enforcement  
42 authority pertaining to temporary erosion and sediment

1 control measures for projects conducted in the public right-  
2 of-way.

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

22 D. The Director of SPU is authorized to develop,  
23 review, or approve drainage basin plans for managing  
24 receiving waters, drainage water, and erosion within  
25 individual basins. A drainage basin plan may, when approved  
26 by the Director of SPU, be used to modify requirements of  
27 this subtitle, provided the level of protection for human  
28 health, safety and welfare, the environment, and public or  
29 private property will equal or exceed that which would  
30 otherwise be achieved. A drainage basin plan that modifies  
31 the minimum requirements of this subtitle at a drainage  
32 basin level must be reviewed and approved by Ecology and  
33 adopted by City ordinance.

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

46 F. The Director of SPU is authorized, to the extent  
47 allowed by law, to enter into an agreement with the  
48 developer of a project for the developer to voluntarily  
49 contribute funds toward the construction of one or more

1 drainage control facilities that mitigate the impacts to the  
2 same receiving water that have been identified as a  
3 consequence of the proposed development.

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

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

48 I. Unless an adjustment per subsection 22.800.040.B  
49 or an exception per subsection 22.800.040.C is approved by  
50 | the Director, an owner or occupant who is required to

1 | ~~connect,~~ or who ~~wishes~~chooses, to connect to a public  
2 drainage system shall be required to extend the public  
3 drainage system if a public drainage system is not  
4 accessible within an abutting public area across the full  
5 frontage of the property.

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

19 22.800.090 City Not Liable

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

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

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

1 22.800.100 Transition to Revised Stormwater Code

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

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

16 C. Neither SMC 23.22.028, SMC 23.22.064, SMC  
17 23.24.050, RCW 58.17.033, nor RCW 58.17.170 shall require  
18 any permit application submitted on or after July 1, 2015,  
19 to be considered under a version of the Stormwater Code in  
20 effect prior to July 1, 2015. For purposes of this  
21 subsection (3), "permit application" means an application  
22 for any permit required for construction within a plat or  
23 short plat or for construction of facilities and  
24 improvements for a plat or short plat, including but not  
25 limited to master use, building, grading, mechanical,  
26 plumbing, and street improvement permits.

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

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

38 Chapter 22.801 DEFINITIONS

39 22.801.010 General

40 For the purpose of this subtitle, the words listed in  
41 this chapter have the following meanings, unless the context  
42 clearly indicates otherwise. Terms relating to pollutants  
43 and to hazardous wastes, materials, and substances, where  
44 not defined in this subtitle, shall be as defined in

1 Washington Administrative Code Chapters 173-303, 173-304 and  
2 173-340, the Seattle Building Code or the Seattle Fire Code,  
3 including future amendments to those codes. Words used in  
4 the singular include the plural, and words used in the  
5 plural include the singular.

6 22.801.020 "A"

7 "Agency" means any governmental entity or its  
8 subdivision.

9 Agency, City means "City agency" as defined in Section  
10 25.09.520.

11 ~~\_\_\_\_\_ "Agency with jurisdiction" means those agencies with~~  
12 ~~statutory authority to approve, condition or deny permits,~~  
13 ~~such as the United States Environmental Protection Agency,~~  
14 ~~the Washington State Department of Ecology or the Seattle-~~  
15 ~~King County Department of Public Health.~~

16 "Approved" means approved by the Director.

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

22 "Arterial" means "arterial" as defined in section  
23 11.18.010.

24 22.801.030 "B"

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

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

31 "Best management practice (BMP)" means a schedule of  
32 activities, prohibitions of practices, operational and  
33 maintenance procedures, structural facilities, or managerial  
34 practice or device that, when used singly or in combination,  
35 prevents, reduces, or treats contamination of drainage  
36 water, prevents or reduces soil erosion, or prevents or  
37 reduces other adverse effects of drainage water on receiving  
38 waters. When the Directors develop rules and/or manuals  
39 | prescribing ~~best management practices~~ BMPs for particular  
40 purposes, whether or not those rules and/or manuals are  
41 adopted by ordinance, BMPs prescribed in the rules and/or

1 manuals shall be the BMPs required for compliance with this  
2 subtitle.

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

8 22.801.040 "c"

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

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

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

24 "Civil engineer, licensed" means a person who is  
25 licensed by the state of Washington to practice civil  
26 engineering.

27 "City agency" means "City agency" as defined in  
28 section 25.09.520.

29 Combined sewer. See "public combined sewer."

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

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

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

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

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

6 22.801.050 "D"

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

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

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

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

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

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

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

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

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

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

11 "DPD" means the Department of Planning and  
12 Development.

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

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

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

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

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

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

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

3 22.801.060 "E"

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

7 "Ecology" means the Washington State Department of  
8 Ecology.

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

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

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

17 "EPA" means the United States Environmental Protection  
18 Agency.

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

27 "Erosion" means the wearing away of the ground surface  
28 as a result of mass wasting or of the movement of wind,  
29 water, ice, or other geological agents, including such  
30 processes as gravitational creep. Erosion also means the  
31 detachment and movement of soil or rock fragments by water,  
32 wind, ice, or gravity.

33 "Excavation" means the mechanical removal of earth  
34 material.

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

37 "Existing grade" means "existing grade" as defined per  
38 Section 22.170.050.

1 22.801.070 "F"

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

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

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

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

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

15 22.801.080 "G"

16 "Garbage" means putrescible waste.

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

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

27 "Green stormwater infrastructure" means a distributed  
28 BMPs, integrated into a project design, drainage control  
29 facility that uses infiltration, filtration, storage,  
30 evapotranspiration, or stormwater reuse. Examples of green  
31 stormwater infrastructure BMPs include dispersion,  
32 infiltration trenches, dry wells, rain gardens, permeable  
33 pavement, bioretention facilities, rainwater harvesting, and  
34 green vegetated roofs, detention cisterns, perforated stub-  
35 out connections, and retaining and planting trees.

36 "Groundwater" means water in a saturated zone or  
37 stratum beneath the surface of land or below a surface  
38 waterbody. Refer to Ground Water Quality Standards, Chapter  
39 173-200 WAC.

40 22.801.090 "H"

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

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

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

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

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

21 22.801.100 "I"

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

26 "Impervious Surface" means any surface exposed to  
27 rainwater from which most water runs off. ~~Common~~ Impervious  
28 surfaces include, but are not limited to, roof tops,  
29 walkways, patios, driveways, formal planters, parking lots  
30 or storage areas, concrete or asphalt paving, permeable  
31 paving, vegetated roofs, areas with underdrains designed to  
32 remove stormwater from subgrade (e.g. playfields, athletic  
33 fields, rail yards), gravel surfaces subjected to vehicular  
34 traffic, compact gravel, packed earthen materials, and oiled  
35 macadam or other surfaces which similarly impede the natural  
36 infiltration of stormwater. Open, uncovered  
37 retention/detention facilities shall not be considered as  
38 impervious surfaces for the purposes of determining whether  
39 the thresholds for application of minimum requirements are  
40 exceeded. Open, uncovered retention/detention facilities  
41 shall be considered impervious surfaces for purposes of  
42 stormwater modeling.

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

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

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

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

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

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

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

29 ~~22.801.110 "J"~~

30 ~~"Joint project" means a project that is both a parcel-~~  
31 ~~based project and a roadway project.~~

32 22.801.130 "L"

33 "Land disturbing activity" means any activity that  
34 results in a ~~movement of earth, or a change~~ in the existing  
35 soil cover, both vegetative and nonvegetative, or the  
36 existing topography. Land disturbing activities include, but  
37 are not limited to, clearing, grading, filling, excavation,  
38 or addition of new or the replacement of impervious surface.  
39 Compaction, excluding hot asphalt mix, that is associated  
40 with stabilization of structures and road construction shall  
41 also be considered a land disturbing activity. Vegetation  
42 maintenance practices, including landscape maintenance and  
43 gardening, are not considered land disturbing activities.

1 | Stormwater facility maintenance is not considered land  
2 | disturbing activity if conducted according to established  
3 | standards and procedures.

4 | "Large project" means a project including 5,000 square  
5 | feet or more of new ~~plus impervious surface or replaced~~  
6 | ~~impervious surface, individually or combined,~~ or one acre or  
7 | more of land disturbing activity.

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

14 | 22.801.140 "M"

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

18 | "Maximum extent feasible" means the requirement is to  
19 | be fully implemented, constrained only by the physical  
20 | limitations of the site, practical considerations of  
21 | engineering design, and reasonable considerations of  
22 | ~~financial costs and environmental impacts.~~

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

26 | 22.801.150 "N"

27 | "Native vegetation" means "native vegetation" as  
28 | defined in Section 25.09.520.

29 | "Nutrient-critical receiving water" means a surface  
30 | water or water segment that is determined to be impaired due  
31 | to phosphorus as prescribed in rules promulgated by the  
32 | Director of SPU that has been listed as Category 5 (impaired)  
33 | under Section 303(d) of the Clean Water Act for total  
34 | phosphorus through the State of Washington's Water Quality  
35 | Assessment program and approved by EPA.

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

39 | "NPDES permit" means an authorization, license or  
40 | equivalent control document issued by the United States  
41 | Environmental Protection Agency or the Washington State

1 Department of Ecology to implement the requirements of the  
2 NPDES program.

3 22.801.160 "o"

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

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

11 22.801.170 "P"

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

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

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

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

32 "Plan" means a graphic or schematic representation,  
33 with accompanying notes, schedules, specifications and other  
34 related documents, or a document consisting of checklists,  
35 steps, actions, schedules, or other contents that has been  
36 prepared pursuant to this subtitle, such as a site plan,  
37 drainage control plan, construction stormwater control plan,  
38 stormwater pollution prevention plan, and integrated  
39 drainage plan.

40 "Pollution-generating activity" means any activity  
41 that is regulated by the joint SPU/DPD Directors' Rule

1 | titled, "Source Control ~~Technical Requirements~~ Manual" or  
2 | activities with similar impacts on drainage water. These  
3 | activities include, but are not limited to: cleaning and  
4 | washing activities; transfer of liquid or solid material;  
5 | production and application activities; dust, soil, and  
6 | sediment control; commercial animal care and handling; log  
7 | sorting and handling; boat building, mooring, maintenance,  
8 | and repair; logging and tree removal; mining and quarrying  
9 | of sand, gravel, rock, peat, clay, and other materials;  
10 | cleaning and maintenance of swimming pool and spas; deicing  
11 | and anti-icing operations for airports and streets;  
12 | maintenance and management of roof and building drains at  
13 | manufacturing and commercial buildings; maintenance and  
14 | operation of railroad yards; maintenance of public and  
15 | utility corridors and facilities; and maintenance of  
16 | roadside ditches.

17 | "Pollution-generating impervious surface" means those  
18 | impervious surfaces considered to be a significant source of  
19 | pollutants in drainage water. Such surfaces include those  
20 | that are subject to: vehicular use; certain industrial  
21 | activities; or storage of erodible or leachable materials,  
22 | wastes, or chemicals, and which receive direct rainfall or  
23 | the run-on or blow-in of rainfall; roofs subject to venting  
24 | of significant sources of pollutants; ~~Erodible or leachable~~  
25 | ~~materials, wastes, or chemicals are those substances which,~~  
26 | ~~when exposed to rainfall, measurably alter the physical or~~  
27 | ~~chemical characteristics of the drainage water. Examples~~  
28 | ~~include: erodible soils that are stockpiled; uncovered~~  
29 | ~~process wastes; manure; fertilizers; oily substances; ashes;~~  
30 | ~~kiln dust; and garbage dumpster leakage. M metal roofs are~~  
31 | ~~also considered to be PGIS unless they are coated with an~~  
32 | ~~inert, non-leachable material (e.g., baked-on enamel~~  
33 | ~~coating).~~

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

41 | The following are not considered regularly-used  
42 | ~~surfaces by motor vehicles~~: paved bicycle pathways separated  
43 | from and not subject to drainage from roads for motor  
44 | vehicles; fenced fire lanes; and infrequently used  
45 | maintenance access roads.

46 | "Pollution-generating pervious surface" means any non-  
47 | impervious surface subject to vehicular use, industrial  
48 | activities, or storage of erodible or leachable materials,  
49 | wastes, or chemicals, and that receive direct rainfall or

1 | run-on or blow-in of rainfall, use of pesticides and  
2 | fertilizers, or loss of soil, and typically includes  
3 | permeable pavement subject to vehicular use, lawns,  
4 | landscaped areas, golf courses, parks, cemeteries, and  
5 | sports fields (natural and artificial turf).

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

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

13 | "Project site" means that portion of a property,  
14 | properties or right-of-way subject to addition or  
15 | replacement of impervious surface or the undertaking of land  
16 | disturbing activity.

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

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

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

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

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

33 | 22.801.190 "R"

34 | "Real property" means "real property" as defined in  
35 | section 3.110.

36 | "Receiving water" means the surface water or wetland  
37 | receiving to which drainage watersurface runoff is  
38 | discharged or groundwater to which surface runoff is  
39 | directed by infiltration.

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

6 "Replaced impervious surface" or "replacement of  
7 impervious surface" means for structures, the removal and  
8 replacement of impervious surfaces down to the foundation,  
9 and for other impervious surfaces, the ~~impervious surface~~  
10 ~~that is removed~~ removal down to earth material bare soil or  
11 base course and a new impervious surface is  
12 installed replacement.

13 "Responsible party" means all of the following  
14 persons:

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

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

21 "Roadway" means "roadway" as defined in Section  
22 23.84A.032.

23 "Roadway project" means a project located in the  
24 public right-of-way, that involves the creation of a new or  
25 replacement of an existing roadway, ~~or that involves the~~  
26 ~~creation of new or replacement of existing impervious~~  
27 surface. The boundary of the public right-of-way shall form  
28 the boundary between the parcel and roadway portions of a  
29 project.

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

32 22.801.200 "s"

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

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

37 "SDOT" means the Seattle Department of Transportation.

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

3 "Side sewer" means "side sewer" as defined in section  
4 21.16.030.

5 "Sidewalk" means "sidewalk" as defined in section  
6 23.84A.036.

7 "Sidewalk project" means a project that exclusively  
8 involves the creation of a new or replacement of an existing  
9 sidewalk, including any associated planting strip, curb, or  
10 gutter. A project involving a sidewalk with associated curb  
11 or gutter is considered a Sidewalk Project (as opposed to a  
12 Roadway Project) only if the sidewalk cannot be constructed  
13 without the new plus replaced impervious surface in the  
14 roadway. If the total new plus replaced impervious surface  
15 in the roadway exceeds 5,000 square feet, the entire project  
16 is a Roadway Project.

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

26 "Site" means the lot or parcel, or portion of street,  
27 highway or other right-of-way, or contiguous combination  
28 thereof, where ~~a permit for the addition or replacement of~~  
29 ~~impervious surface or the undertaking of land disturbing~~  
30 ~~activity has been issued or where any such work development~~  
31 is proposed or performed. For roadway projects, the length  
32 of the project site and the right-of-way boundaries define  
33 the site.

34 "Slope" means an inclined ground surface.

35 "Small project" means a project with:

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

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

40 "SMC" means the Seattle Municipal Code.

41 "SPU" means Seattle Public Utilities.

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

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

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

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

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

14 "Stormwater" means runoff during and following  
15 precipitation and snowmelt events, including surface runoff,  
16 drainage and interflow~~that portion of precipitation and~~  
17 ~~snowmelt that does not naturally percolate into the ground~~  
18 ~~or evaporate, but flows via overland flow, interflow, pipes~~  
19 ~~and other features of a drainage system into a receiving~~  
20 ~~water or a constructed infiltration facility.~~

21 "Stream" means a Type 2-5 water as defined in WAC 222-  
22 16-031. Used synonymously with "creek."

23 22.801.210 "T"

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

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

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

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

36 22.801.220 "U"

37 "Uncontaminated" means surface water or groundwater  
38 not containing sediment or other pollutants or contaminants

1 above natural background levels and not containing  
2 pollutants or contaminants in levels greater than City-  
3 supplied drinking water when referring to potable water.

4 22.801.230 "v"

5 "Vegetation" means "vegetation" as defined in section  
6 25.09.520.

7 22.801.240 "w"

8 "Wastewater" means "wastewater" as defined in section  
9 21.16.030.

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

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

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

24 "Wetland" means a wetland designated under section  
25 25.09.020.

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

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

36 Chapter 22.802 Prohibited and Permissible Discharges

37 22.802.010 General

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

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

18 22.802.020 Prohibited Discharges

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

- 26           1.    -acids;
- 27           2.    -alkalis including cement wash water;
- 28           3.    ammonia;
- 29           4.    animal carcasses;
- 30           5.    antifreeze, oil, gasoline, grease and all  
31 other automotive and petroleum products;
- 32           6.    chemicals not normally found in  
33 uncontaminated water;
- 34           7.    chlorinated swimming pool or hot tub water;
- 35           8.    chlorine;
- 36           9.    commercial and household cleaning  
37 materials;
- 38           10.   detergent;

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

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

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

7 D. Prohibited Discharges to Public Combined Sewers.  
8 For discharges to the public combined sewer system, the  
9 applicable prohibited discharges are stated reference the in  
10 SMC Chapter 22.16 (Side Sewer Code). for a list of  
11 prohibited discharges.

12 22.802.030 Permissible Discharges

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

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

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

43 3.-14. Discharges of street and sidewalk  
44 washwater when the surfaces are swept prior to washing,  
45 detergents are not used, and water use is minimized;

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

4 5. Discharges of water used to control dust  
5 when water use is minimized; and ~~water from street, and~~  
6 ~~sidewalk and building exteriors wash-water that does not use~~  
7 ~~detergents or chemical additives and when streets and~~  
8 ~~sidewalks are swept prior to washing;~~

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

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

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

25 ~~31. Discharges from surface waters, including~~  
26 ~~diverted stream flows;~~

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

31 35. Discharges of air conditioning  
32 condensation;

33 46. Discharges from springs;

34 57. Discharges of uncontaminated water from  
35 crawl space pumps;

36 68. Discharges from lawn watering;

37 79. Discharges from irrigation runoff,  
38 including irrigation water from agricultural sources that is  
39 commingled with stormwater and that does not contain  
40 prohibited substances;

1 | 810. Discharges from riparian habitats and  
2 | wetlands;

3 | 911. Discharges from approved footing drains  
4 | and other subsurface drains or, where approval is not  
5 | required, installed in compliance with this subtitle and  
6 | rules promulgated pursuant to this subtitle;

7 | 102. Discharges from foundation drains;

8 | ~~\_\_\_\_\_ 13. Discharges from swimming pools, hot tubs,~~  
9 | ~~fountains, or similar aquatic recreation facilities and~~  
10 | ~~constructed water features, provided the discharges have~~  
11 | ~~been de-chlorinated to a concentration of 0.1 ppm or less,~~  
12 | ~~pH adjusted and reoxygenated if necessary, and~~  
13 | ~~volumetrically and velocity controlled to prevent~~  
14 | ~~resuspension of sediments in the drainage control system;~~

15 | ~~\_\_\_\_\_ 14. Discharges of street and sidewalk wash~~  
16 | ~~water that does not use detergents or chemical additives;~~

17 | ~~\_\_\_\_\_ 15. Discharges of water used to control dust;~~

18 | ~~\_\_\_\_\_ 16. Discharges of water from routine external~~  
19 | ~~building washdown that does not use detergents or chemical~~  
20 | ~~additives;~~

21 | ~~\_\_\_\_\_ 117. Non-stormwater discharges authorized by~~  
22 | ~~another that are in compliance with a separate individual~~  
23 | ~~or general NPDES permit or State Waste Discharge permit;~~

24 | 128. Discharges that are from emergency fire  
25 | fighting activities; and

26 | 139. Discharges of ~~tracing dye~~ used to  
27 | establish or verify a drainage or sewer connection.

28 | ~~\_\_\_\_\_ 1920. Other non-stormwater discharges,~~  
29 | ~~provided these discharges are in compliance with the~~  
30 | ~~requirements of an approved stormwater pollution prevention~~  
31 | ~~plan that addresses such discharges.~~

32 | B. Permissible Discharges to Sanitary Sewers. In  
33 | consultation with the local sewage treatment agency, the  
34 | Director of SPU may approve discharges of drainage water to  
35 | a sanitary sewer if the discharging party demonstrates to  
36 | the satisfaction of the Director of SPU that other methods  
37 | of controlling pollutants in the discharge are not adequate  
38 | or reasonable, the discharging party certifies that the  
39 | discharge will not harm the environment, and the discharging  
40 | party certifies that the discharge will not overburden or  
41 | otherwise harm the sanitary sewer. Connections to the

1 sanitary sewer shall be made in accordance with Chapter  
2 21.16 (Side Sewer Code). The Director of SPU shall condition  
3 approval of such a discharge on compliance with local  
4 pretreatment regulations and on maintaining compliance with  
5 the required certifications given by the discharging party.

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

19 22.802.040 Testing for Prohibited Discharges

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

24 B. When the Director of SPU has reason to believe that  
25 any discharge is a prohibited discharge, the Director of SPU  
26 may sample and analyze the discharge and recover the costs  
27 from a responsible party ~~in an enforcement proceeding~~. When  
28 the discharge is likely to be a prohibited discharge on a  
29 recurring basis, the Director of SPU may conduct, or may  
30 require the responsible party to conduct, ongoing monitoring  
31 at the responsible party's expense.

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

34 Chapter 22.803 Minimum Requirements for All Discharges and  
35 All Real Property

36 22.803.010 General

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

39 B. No discharge from a site, real property, or  
40 drainage facility, directly or indirectly to a public  
41 drainage system, ~~private drainage system, or a receiving~~  
42 ~~water within or contiguous to Seattle city limits,~~ may  
43 cause or contribute to a prohibited discharge or a known or

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

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

13 22.803.020 Minimum Requirements for All Discharges and  
14 Real Property

15 A. Requirement to provide documentation and to map  
16 property drainage and plumbing infrastructure. The owner is  
17 required to make plans, procedures, and schedules required  
18 by this ~~subsection-subtitle~~ available to the Director of SPU  
19 when requested. When requested, the owner must provide to  
20 the Director a complete map of all stormwater and plumbing  
21 infrastructure on the property.

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

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

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

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

14 22.803.030 Minimum Requirements for Source Controls for  
15 All Real Property

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

22 A. Eliminate Illicit or Prohibited Connections to  
23 Storm Drains. It is the responsibility of the property owner  
24 or other responsible party to ensure that all plumbing  
25 connections are properly made and that only connections  
26 conveying stormwater or permissible discharges per Section  
27 22.802.030 are connected to the drainage system. when  
28 requested, the owner must provide to the Director a complete  
29 map of all stormwater and plumbing infrastructure on the  
30 property.

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

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

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

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

1 | ~~to the maximum extent feasible to prevent spills of~~  
2 | ~~pollutants and to properly clean up spills that may occur.~~

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

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

10 | 22.803.040 Minimum Requirements for Source Controls For  
11 | All Businesses and Public Entities for Specific Activities

12 | A. For all discharges except those that drain only  
13 | to the public combined sewer, source controls shall be  
14 | implemented, to the extent allowed by law, by all businesses  
15 | and public entities for specific pollution-generating  
16 | activities as specified in the joint SPU/DPD Directors'  
17 | Rule, "Source Control Technical Requirements Manual," to the  
18 | extent necessary to prevent prohibited discharges as  
19 | described in subsection 22.802.020.A through subsection  
20 | 22.802.020.DC, and to prevent contaminants from coming in  
21 | contact with drainage water. Source controls include, but  
22 | are not limited to, segregating or isolating wastes to  
23 | prevent contact with drainage water; enclosing, covering, or  
24 | containing the activity to prevent contact with drainage  
25 | water; developing and implementing inspection and  
26 | maintenance programs; sweeping; and taking management  
27 | actions such as training employees on pollution prevention.

28 | ~~B. Spill prevention shall be required for all~~  
29 | ~~businesses and public entities, as further defined in rules~~  
30 | ~~promulgated by the Director:~~

31 | ~~1. Develop and implement plans and procedures~~  
32 | ~~to prevent spills and other accidental releases of materials~~  
33 | ~~that may contaminate drainage water. This requirement may be~~  
34 | ~~satisfied by a Stormwater Pollution Prevention Plan prepared~~  
35 | ~~in compliance with an NPDES industrial stormwater permit for~~  
36 | ~~the site; and~~

37 | ~~2. Implement procedures for immediate~~  
38 | ~~containment and other appropriate action regarding spills~~  
39 | ~~and other accidental releases to prevent contamination of~~  
40 | ~~drainage water; and~~

41 | ~~3. Provide necessary containment and response~~  
42 | ~~equipment on-site, and training of personnel regarding the~~  
43 | ~~procedures and equipment to be used.~~

1 Chapter 22.805 MINIMUM REQUIREMENTS FOR ALL PROJECTS

2 22.805.010 General

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

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

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

22 22.805.020 Minimum Requirements for All Projects

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

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

43 C. Minimum Requirements for Flood-prone Areas. On  
44 sites within flood prone areas, responsible parties are

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

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

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

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

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

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

1 facilities shall be protected from siltation during the  
2 construction phase of the project.

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

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

28 7. Stabilize Soils. Prevent on-site erosion by  
29 stabilizing all exposed and unworked soils, including stock  
30 piles and earthen structures such as dams, dikes, and  
31 diversions. From October 1 to April 30, no soils shall  
32 remain exposed and unworked for more than two days. From May  
33 1 to September 30, no soils shall remain exposed for more  
34 than seven days. Soils shall be stabilized at the end of the  
35 shift before a holiday or weekend if needed based on the  
36 weather forecast. Soil stockpiles shall be stabilized from  
37 erosion, protected with sediment trapping measures, and be  
38 located away from storm drain inlets, waterways, and  
39 drainage channels. Before the completion of the project,  
40 permanently stabilize all exposed soils that have been  
41 disturbed during construction.

42 8. Protect Slopes. Erosion from slopes shall be  
43 minimized. Cut and fill slopes shall be designed and  
44 constructed in a manner that will minimize erosion. Off-site  
45 stormwater run-on or groundwater shall be diverted away from  
46 slopes and undisturbed areas with interceptor dikes, pipes,  
47 and/or swales. Pipe slope drains or protected channels shall  
48 be constructed at the top of slopes to collect drainage and  
49 prevent erosion. Excavated material shall be placed on the

1 uphill side of trenches, consistent with safety and space  
2 considerations. Check dams shall be placed at regular  
3 intervals within constructed channels that are cut down a  
4 slope.

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

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

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

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

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

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

41           d.     Maintenance, fueling, and repair of heavy  
42 equipment and vehicles involving oil changes, hydraulic  
43 system drain down, solvent and de-greasing cleaning  
44 operations, fuel tank drain down and removal, and other  
45 activities which may result in discharge or spillage of

1 pollutants to the ground or into drainage water runoff shall  
2 be conducted using spill prevention and control measures.

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

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

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

16 h. BMPs shall be used to prevent or treat  
17 contamination of drainage water by pH-modifying sources.  
18 These sources include, but are not limited to, bulk cement,  
19 cement kiln dust, fly ash, new concrete washing and curing  
20 waters, waste streams generated from concrete grinding and  
21 sawing, exposed aggregate processes, and concrete pumping  
22 and mixer washout waters. Construction site operators may be  
23 required to adjust the pH of drainage water if necessary to  
24 prevent a violation of water quality standards. Construction  
25 site operators must obtain written approval from Ecology  
26 prior to using chemical treatment other than carbon dioxide  
27 (CO<sub>2</sub>) or dry ice to adjust pH.

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

46 13. Maintain BMPs. All temporary and permanent  
47 erosion and sediment control BMPs shall be maintained and

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

8 14. Inspect BMPs. BMPs shall be periodically  
9 inspected. For projects with 5,000 square feet or more of  
10 new plus replaced impervious surface or 7,000 square feet or  
11 more of land disturbing activity, site inspections shall be  
12 conducted by a Certified Erosion and Sediment Control Lead  
13 who shall be identified in the ~~Construction Stormwater~~  
14 Control Plan prior to construction and shall be present on-  
15 site or on-call at all times.

16 15. Execute Construction Stormwater Control Plan.  
17 Construction site operators shall maintain, update, and  
18 implement their Construction Stormwater Control Plan.  
19 Construction site operators shall modify their Construction  
20 Stormwater Control Plan to maintain compliance whenever  
21 there is a change in design, construction, operation, or  
22 maintenance at the site that has, or could have, a  
23 significant effect on the discharge of pollutants to waters  
24 of the state.

25 16 Minimize Open Trenches. In the construction of  
26 underground utility lines, where feasible, no more than 150  
27 feet of trench shall be opened at one time, unless soil is  
28 replaced within the same working day, and where consistent  
29 with safety and space considerations, excavated material  
30 shall be placed on the uphill side of trenches. Trench  
31 dewatering devices shall discharge into a sediment trap or  
32 sediment pond.

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

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

44 19. Protect Green Stormwater Infrastructure BMPs

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

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

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

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

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

26 ~~\_\_\_\_\_ E. \_\_\_\_\_ Minimum Requirement to Amend Soils. Prior to~~  
27 ~~completion of the project all new, replaced, and disturbed~~  
28 ~~topsoil (including construction lay-down areas) shall be~~  
29 ~~amended with organic matter per rules promulgated by the~~  
30 ~~Director to improve onsite management of drainage water flow~~  
31 ~~and water quality.~~

32 ~~\_\_\_\_\_ F. \_\_\_\_\_ Implement Green Stormwater Infrastructure. All~~  
33 ~~single-family residential projects and all other projects~~  
34 ~~with 7,000 square feet or more of land disturbing activity~~  
35 ~~or 2,000 square feet or more of new plus replaced impervious~~  
36 ~~surface must implement green stormwater infrastructure to~~  
37 ~~infiltrate, disperse, and retain drainage water onsite to~~  
38 ~~the maximum extent feasible without causing flooding,~~  
39 ~~landslide, or erosion impacts.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28           M. Comply with Side Sewer Code.

29           1. All privately owned and operated drainage  
30 control facilities or systems, whether or not they discharge  
31 | to a public drainage system or public combined sewer, shall  
32 be considered side sewers and subject to Chapter 21.16 (Side  
33 Sewer Code), SPU Director's Rules promulgated under Title  
34 21, and the design and installation specifications and  
35 permit requirements of SPU and DPD for side sewer and  
36 drainage systems.

37           2. Side sewer permits and inspections shall be  
38 required for constructing, capping, altering, or repairing  
39 privately owned and operated drainage systems as provided  
40 for in Chapter 21.16. When the work is ready for inspection,  
41 | the permittee shall notify the Director ~~of DPD~~. If the work  
42 is not constructed according to the plans approved under

1 this subtitle, Chapter 21.16, the SPU Director's Rules  
2 promulgated under Title 21, and SPU and DPD design and  
3 installation specifications, then ~~SPU~~the Director, after  
4 ~~consulting with DPD,~~ may issue a stop work order under  
5 Chapter 22.808 and require modifications as provided for in  
6 this subtitle and Chapter 21.16.

7 22.805.030 Minimum Requirements for Single-Family  
8 Residential Projects

9 A. On-site Stormwater Management: All single-family  
10 residential projects with 7,000 square feet or more of land  
11 disturbing activity or 2,000 square feet or more of new plus  
12 replaced impervious surface shall meet the minimum  
13 requirements for On-site Stormwater Management contained in  
14 Section 22.805.070, to the extent allowed by law~~implement~~  
15 ~~green stormwater infrastructure to the maximum extent~~  
16 ~~feasible.~~

17 22.805.040 Minimum Requirements for Trail and Sidewalk  
18 Projects

19 A. On-site Stormwater Management: All trail and  
20 sidewalk projects with 2,000 square feet or more of new plus  
21 replaced impervious surface or 7,000 square feet or more of  
22 land disturbing activity shall meet the minimum requirements  
23 for On-site Stormwater Management contained in Section  
24 22.805.070, to the extent allowed by law~~implement~~  
25 ~~green stormwater infrastructure to the maximum extent~~  
~~feasible.~~

26 22.805.050 Minimum Requirements for Parcel-Based Projects

27 A. On-site Stormwater Management: All parcel-based  
28 projects with 2,000 square feet or more of new plus replaced  
29 impervious surface or 7,000 square feet or more of land  
30 disturbing activity shall meet the minimum requirements for  
31 On-site Stormwater Management contained in Section  
32 22.805.070, to the extent allowed by law.

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

37 1. Discharges to wetlands. Parcel-based projects  
38 discharging into a wetland shall comply with subsection  
39 22.805.080.B.1 (Wetland Protection Standard) if:.

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

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

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

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

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

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

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

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

31                   4) The project adds 5,000 square feet or more  
32 of new impervious surface and, through a combination of  
33 effective impervious surfaces and converted pervious  
34 surfaces, causes a 0.1 cubic feet per second increase in the  
35 100-year recurrence interval flow frequency as estimated  
36 using a continuous model approved by the Director.

37                   b. Comply with subsection 22.805.080.B.3 (Pre-  
38 developed Pasture Standard) if the criteria in subsection  
39 | 22.805.050.BA.2.a do not apply and the total new plus  
40 replaced impervious surface is 2,000 square feet or more.

41                   3. Discharges to Non-listed Creek Basins. Parcel-  
42 based projects discharging into a creek not listed in  
43 | subsection 22.805.050.BA.2 shall:

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

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

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

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

15 4) The project adds 5,000 square feet or more  
16 of new impervious surface and, through a combination of  
17 effective impervious surfaces and converted pervious  
18 surfaces, causes a 0.1 cubic feet per second increase in the  
19 100-year recurrence interval flow frequency as estimated  
20 using a continuous model approved by the Director.

21 b. Comply with subsection 22.805.080.B.3 (Pre-  
22 developed Pasture Standard) if the criteria in subsection  
23 22.805.050.BA.3.a do not apply and the total new plus  
24 replaced impervious surface is 2,000 square feet or more.

25 4. Discharges to Small Lake Basins. Parcel-based  
26 projects discharging into Bitter Lake, Green Lake, or Haller  
27 Lake drainage basins shall comply with subsection  
28 22.805.080.B.4 (Peak Control Standard) if the total new plus  
29 replaced impervious surface is 2,000 square feet or more.

30 5. Discharges to Public Combined Sewer. Unless  
31 the Director of SPU has determined that the public combined  
32 sewer has sufficient capacity to carry existing and  
33 anticipated loads, parcel-based projects discharging into  
34 the public combined sewer shall comply with subsection  
35 22.805.080.B.4 (Peak Control Standard) if the total new plus  
36 replaced impervious surface is 10,000 square feet or more.

37 6. Discharges to a Capacity-constrained System.  
38 In addition to applicable minimum requirements for flow  
39 control in subsection 22.805.050.BA.1 through subsection  
40 22.805.050.BA.5, parcel-based projects discharging into a  
41 capacity-constrained system shall also comply with  
42 subsection 22.805.080.B.4 (Peak Control Standard) if the



1 Creek, Madrona Park Creek, Mee-Kwa- Mooks Creek, Mount Baker  
2 Park Creek, Puget Creek, Riverview Creek, Schmitz Creek,  
3 Taylor Creek, or Washington Park Creek shall:

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

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

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

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

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

25 b. Comply with subsection 22.805.080.B.3 (Pre-  
26 developed Pasture Standard) if the criteria in subsection  
27 22.805.060.A.2.a do not apply and the total new plus  
28 replaced impervious surface is 10,000 square feet or more.

29 3. Discharges to Non-listed Creek Basins. Roadway  
30 projects discharging into a creek not listed in subsection  
31 22.805.060.A.2 shall:

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

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

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

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

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

11                   b. Comply with subsection 22.805.080.B.3 (Pre-  
12 developed Pasture Standard) if the criteria in subsection  
13 22.805.060.A.3.a do not apply and the total new plus  
14 replaced impervious surface is 10,000 square feet or more.

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

20                   5. Discharges to Public Combined Sewer. Unless  
21 the Director of SPU has determined that the public combined  
22 sewer has sufficient capacity to carry existing and  
23 anticipated loads, Roadway projects discharging into the  
24 public combined sewer shall comply with subsection  
25 22.805.080.B.4 (Peak Control Standard) if the total new plus  
26 replaced impervious surface is 10,000 square feet or more.

27                   6. Discharges to a Capacity-constrained System. In  
28 addition to applicable minimum requirements for flow control  
29 in subsection 22.805.060.A.1 through subsection  
30 22.805.060.A.5, roadway projects discharging into a  
31 capacity-constrained system shall also comply with  
32 subsection 22.805.080.B.4 (Peak Control Standard) if the  
33 total new plus replaced impervious surface is 10,000 square  
34 feet or more.

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

39 |                   1. The existing impervious coverage is less than  
40 35 percent of the project area and the total new plus  
41 replaced pollution-generating impervious surface is 5,000  
42 square feet or more; or

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

5 23. The total new plus replaced pollution-  
6 generating pervious surfaces is three-quarters of an acre or  
7 more and from which there is a surface discharge in a  
8 natural or man-made conveyance system from the site.

9 22.805.070 Minimum Requirements for Joint Parcel-Based and  
10 Roadway Projects

11 \_\_\_\_\_ The parcel-based portion of joint projects shall  
12 comply with the minimum requirements for parcel-based  
13 projects contained in Section 22.805.050. The roadway  
14 portion of joint projects shall comply with the minimum  
15 requirements roadway projects contained in Section  
16 22.805.060. The boundary of the public right-of-way shall  
17 form the boundary between the parcel and roadway portions of  
18 the joint project for purposes of determining applicable  
19 thresholds.

20 Minimum Requirements for On-Site Stormwater Management.

21 \_\_\_\_\_ A. Applicability. The requirements of this  
22 subsection apply as required in Section 22.805.030 to  
23 Section 22.805.060.

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

29 \_\_\_\_\_ 1. When laying out the site, retain and protect  
30 existing trees [greater than four inches in diameter at  
31 breast height] to the maximum extent feasible, and

32 \_\_\_\_\_ 2. Prior to completion of the project, all new,  
33 replaced, and disturbed topsoil (including construction lay-  
34 down areas) shall be amended with organic matter per rules  
35 promulgated by the Director, and

36 \_\_\_\_\_ 3. Comply with either:

37 \_\_\_\_\_ a. Subsection 22.805.070.C (On-site Standard),  
38 or.

39 \_\_\_\_\_ b. Subsection 22.805.070.D (On-site Lists).

1 C. On-site Performance Standard:

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

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

10 2. For all other projects:

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

16 D. On-site Lists:

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

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

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

36 1) The following federal or state laws, rules,  
37 and standards: Historic Preservation and Archaeology Laws  
38 identified in SMC 22.805.070.E (Historic Preservation and  
39 Archaeology Laws), Federal Superfund or Washington State  
40 Model Toxics Control Act, Federal Aviation Administration

1 requirements for airports, Americans with Disabilities Act;  
2 or

3 2) special zoning district design criteria  
4 adopted and being implemented pursuant to a community  
5 planning process. Special zoning district criteria include,  
6 for example, pedestrian zone overlays and minimum floor area  
7 ratio requirements. See also Municipal Stormwater Response  
8 to Comments, Part V: Response to Comments on Appendix 1 &  
9 Low Impact Development for Phase I and Western Washington  
10 Phase II Permits, Response “V-27 Competing Needs Feasibility  
11 Criteria” (Washington State Department of Ecology, August 1,  
12 2012); or

13 3) Public health and safety standards; or

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

17 5) Chapter 15.43 Tree and Vegetation  
18 Management in Public Places; Chapter 25.09 Regulations for  
19 Environmentally Critical Areas; Chapter 25.11 Tree  
20 Protection and *Chapter XXX standards for Vegetation in the*  
21 *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 <sup>a</sup>	R, S <sup>a</sup>
	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.

<sup>a</sup> 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
<u>1</u>	<u>Full Dispersion</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>2</u>	<u>Rain Gardens</u>	<u>S</u>	<u>S</u>	<u>X</u>
	<u>Infiltrating Bioretention</u>	<u>X<sup>a</sup></u>	<u>X<sup>b</sup></u>	<u>X<sup>a</sup></u>
	<u>Permeable Pavement Facilities</u>	<u>X<sup>c</sup></u>	<u>X<sup>c, d</sup></u>	<u>X</u>
	<u>Permeable Pavement Surfaces</u>	<u>S<sup>c</sup></u>	<u>S<sup>c, d</sup></u>	<u>X</u>
<u>3</u>	<u>Sheet flow Dispersion</u>	<u>S</u>	<u>S</u>	<u>S</u>
	<u>Concentrated Dispersion</u>	<u>S</u>	<u>S</u>	<u>S</u>

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
<u>1</u>	<u>Full Dispersion</u>	<u>R, S</u>
	<u>Infiltration trenches</u>	<u>R, S</u>
	<u>Dry wells</u>	<u>R, S</u>
<u>2</u>	<u>Rain Gardens <sup>c</sup></u>	<u>R <sup>c</sup>, S <sup>c</sup></u>
	<u>Infiltrating Bioretention</u>	<u>R, S</u>
	<u>Rainwater Harvesting</u>	<u>R <sup>d</sup></u>
	<u>Permeable Pavement Facilities</u>	<u>R, S</u>
	<u>Permeable Pavement Surfaces</u>	<u>S</u>
<u>3</u>	<u>Sheet flow Dispersion</u>	<u>S</u>
	<u>Concentrated Dispersion</u>	<u>S</u>
	<u>Splashblock Downspout Dispersion</u>	<u>R</u>
	<u>Trench Downspout Dispersion</u>	<u>R</u>
	<u>Non-Infiltrating Bioretention</u>	<u>R, S</u>
	<u>Vegetated Roofs</u>	<u>R <sup>e</sup></u>
<u>4</u>	<u>Perforated Stub-out Connections</u>	<u>R</u>
	<u>Newly Planted Trees</u>	<u>S</u>

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 <sup>b</sup> or for projects with less than 10,000 sf of new plus replaced rooftop surface in Flow Control Basins <sup>a</sup>.

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

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
<u>1</u>	<u>Full Dispersion</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>2</u>	<u>Rain Gardens</u>	<u>S<sup>a</sup></u>	<u>S<sup>a</sup></u>	<u>X</u>
	<u>Infiltrating Bioretention</u>	<u>S<sup>b</sup></u>	<u>S<sup>c</sup></u>	<u>X</u>
	<u>Permeable Pavement Facilities</u>	<u>X</u>	<u>X</u>	<u>X</u>
	<u>Permeable Pavement Surfaces</u>	<u>S<sup>d, f</sup></u>	<u>S<sup>d, e, f</sup></u>	<u>X</u>
<u>3</u>	<u>Sheet flow Dispersion</u>	<u>S</u>	<u>S</u>	<u>S</u>
	<u>Concentrated Dispersion</u>	<u>S</u>	<u>S</u>	<u>S</u>

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.

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

3 1. Federal Laws on Historic Preservation:

4 a. National Historic Preservation Act

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

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

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

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

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

17 g. Section 106

18 h. Professional Qualification Standards

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

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

23 2. Washington State Laws on Historic Preservation:

24 a. Executive Order 05-05

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

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

29 d. Washington State Historic Building Code (RCW  
30 19.27.120)

31 e. Heritage Barn Program (RCW 27.34.400)

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

1 3. Federal Laws on Archaeology:

2 a. Archaeological Resource Protection Act of  
3 1979

4 b. Archaeological and Historic Preservation Act  
5 of 1974

6 c. Native American Graves Protection and  
7 Repatriation Act

8 d. National Historic Preservation Act

9 4. Washington State Laws on Archaeology:

10 a. Executive Order 05-05

11 b. Indian Graves and Records (RCW 27.44)

12 c. Archaeological Sites and Resources (RCW  
13 27.53)

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

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

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

20 g. Aquatic Lands - In General (RCW 79.90.565)

21 h. Archaeological Site Public Disclosure  
22 Exemption (RCW 42.56.300)

23 i. Discovery of Human Remains (RCW 27.44)

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

27 a. Chapter 23.66 Pioneer Square international  
28 Special Review Districts

29 b. Chapter 25.12 Landmarks Preservation

30 c. Chapter 25.16 Ballard Avenue Landmark  
31 District

1 d. Chapter 25.20 Columbia City Landmark  
2 District

3 e. Chapter 25.21 Fort Lawton Landmark District

4 f. Chapter 25.22 Harvard-Belmont Landmark  
5 District

6 g. Chapter 25.24 Pike Place Market Historical  
7 District

8 h. Chapter 25.32 Table of Historical Landmarks

9 22.805.080 Minimum Requirements for Flow Control

10 A. Applicability. The requirements of this  
11 subsection apply to the extent required in Section  
12 22.805.050 to Section 22.805.0760.

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

30 1. Wetland Protection Standard. Protect the  
31 functions and values of wetlands and their buffers from all  
32 projects discharging stormwater directly or indirectly to  
33 them. All projects discharging to wetlands or their buffers  
34 shall protect t~~The hydrologic conditions, vegetative~~  
35 community, and substrate characteristics of the wetlands and  
36 their buffers to protect the functions and values of the  
37 affected wetlands~~shall be protected and impacts caused by~~  
38 changes in water flows and pollutants shall be prevented.  
39 The introduction of sediment, heat and other pollutants and  
40 contaminants into wetlands shall be minimized through the  
41 selection, design, installation, and maintenance of  
42 temporary and permanent controls. Discharges shall maintain  
43 existing flows to the extent necessary to protect the  
44 functions and values of the wetlands. The total volume of

1 stormwater discharging into a wetland shall not be more  
2 than:

- 3 • 20 percent higher or lower than the pre-developed volume  
4 during a single precipitation event, and
- 5 • 15 percent higher or lower than the pre-developed  
6 volume on a monthly basis.

7 Prior to authorizing new discharges to a wetland,  
8 alternative discharge locations shall be evaluated and  
9 infiltration options outside the wetland shall be maximized  
10 unless doing so will adversely impact the functions and  
11 values of the affected wetlands. If one or more of the flow  
12 control requirements contained in 22.805.080.B.2 through  
13 22.805.080.B.4 also apply to the project, an analysis shall  
14 be conducted to ensure that the functions and values of the  
15 affected wetland are protected before implementing these  
16 flow control requirements. Projects triggering this  
17 requirement shall refer to Guide Sheets #1 through #3  
18 presented in Appendix I-D of Ecology's Stormwater Management  
19 Manual for Western Washington (Ecology 2012) for additional  
20 guidance. Notwithstanding any provision in this subtitle, no net  
21 loss of wetland functions of values shall result from actions  
22 regulated by this subtitle.

23 2. Pre-developed Forested Standard. The post-  
24 development discharge ~~peak flow rates and flow durations~~  
25 ~~must be~~ shall ~~matched to the discharge durations of a pre-~~  
26 ~~developed forested condition for the range of pre-developed~~  
27 ~~discharge rates from 50 percent% of the 2-year recurrence~~  
28 ~~interval flow up to the 50-year recurrence interval flow.~~

29 3. Pre-developed Pasture Standard. The post-  
30 development discharge ~~peak flow rates and flow durations~~  
31 ~~must be~~ shall ~~matched to the discharge durations of a pre-~~  
32 ~~developed pasture condition for the range of pre-developed~~  
33 ~~discharge rates from 50 percent% of the 2-year recurrence~~  
34 ~~interval flow up to the 2-year recurrence interval flow.~~

35 4. Peak Flow Control Standard. The post-  
36 development peak flow with a ~~4%~~ percent annual probability  
37 (25-year recurrence flow) shall not exceed 0.4 cubic feet  
38 per second per acre. Additionally, the peak flow with a 50%  
39 percent annual probability (2-year recurrence flow) shall  
40 not exceed 0.15 cubic feet per second per acre.

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

45 22.805.090 Minimum Requirements for Treatment.

1           A.    Applicability. The requirements of this  
2 subsection apply to the extent required in Section  
3 22.805.050 to Section 22.805.0760.

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

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

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

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

25                   2)    Sum all the daily volumes and multiply by  
26 0.09.

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

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

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

40                   2)    For facilities located downstream of  
41 detention, the design flow rate is the release rate from the  
42 detention facility that has a 50 percent annual probability  
43 of occurring in any given year (2- year recurrence

1 interval), as determined using an approved continuous runoff  
2 model.

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

11 2. Basic Treatment. A basic treatment facility  
12 shall be required for all projects. The requirements of  
13 subsection 22.805.090 B3 (Oil Control Treatment), subsection  
14 22.805.090 B4 (Phosphorus Treatment), subsection  
15 22.805.090.B.5 (Enhanced Treatment) are in addition to this  
16 basic treatment requirement.

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

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

23 5. Enhanced Treatment. An enhanced treatment  
24 facility for reducing concentrations of dissolved metals  
25 shall be required for projects discharging to a fresh  
26 waters, or waters tributary to fresh waters, designated for  
27 aquatic life use or have an existing aquatic life use; or  
28 use infiltration strictly for flow control (not treatment)  
29 and the discharge is within one-quarter mile of fresh waters  
30 designated for aquatic life use or have an existing aquatic  
31 life use fish-bearing stream or lake, and to waters or  
32 drainage systems that are tributary to fish-bearing streams,  
33 creeks, or lakes, if the project meets one of the following  
34 criteria:

35 a. For a parcel-based project, ~~the total of new~~  
36 ~~plus replaced pollution-generating impervious surface is~~  
37 ~~5,000 square feet or more, and the site is an industrial,~~  
38 ~~commercial, or multi-family project.~~

39 b. For a roadway project, ~~the project adds 5,000~~  
40 ~~square feet or more of pollution-generating impervious~~  
41 ~~surface, and the site is either:~~

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



1 750 square feet or more of land disturbing activity and/or  
2 new and replaced impervious surface;

3 | be. Applications for which a grading permit or  
4 approval is required per SMC 22.170;

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

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

17 | ~~ef.~~ Permit approvals and contracts that include  
18 any new or replaced impervious surface or any land  
19 disturbing activity on a site deemed a potentially hazardous  
20 location, as specified in Section 22.800.050 (Potentially  
21 Hazardous Locations);

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

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

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

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

35 b. One acre or more of land disturbing  
36 activity;

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

39 | d. Conversion of 2.5 acres or more of native  
40 vegetation to pasture.

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

11           B. Submittal Requirements for Drainage Control  
12 Review and Approval.

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

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

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

23           **c.** Construction Stormwater Control Plan. A  
24 construction stormwater control plan demonstrating controls  
25 sufficient to determine compliance with subsection  
26 22.805.020.D shall be submitted. The Director may approve a  
27 checklist in place of a plan, pursuant to rules promulgated  
28 by the Director.

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

42           1) The legal description of the site;

43           2) A summary of the terms of the drainage  
44 control plan, including any known limitations of the

1 drainage control facilities, and an agreement by the owners  
2 to implement those terms;

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

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

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

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

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

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

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

42 b. Inspection and Maintenance Schedule. A  
43 schedule shall be submitted that provides for inspection of  
44 temporary and permanent flow control facilities, treatment

1 facilities, and source controls to comply with Section  
2 22.805.070 (Minimum Requirements for On-site Stormwater  
3 Management), Section 22.805.080 (Minimum Requirements for  
4 Flow Control), and Section 22.805.090 (Minimum Requirements  
5 for Treatment).

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

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

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

25 ~~5. where an applicant simultaneously applies for~~  
26 ~~more than one of the permits listed in subsection~~  
27 ~~22.807.020.A for the same property, the application shall~~  
28 ~~comply with the requirements for the permit that is the most~~  
29 ~~detailed and complete.~~

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

47 22.807.090 Maintenance and Inspection.

1           A.       Responsibility for Maintenance and Inspection.  
2 The owner and other responsible party shall maintain  
3 drainage control facilities, source controls, and other  
4 facilities required by this subtitle and by rules adopted  
5 hereunder to keep these facilities in continuous working  
6 order. The owner and other responsible party shall inspect  
7 permanent drainage control facilities temporary drainage  
8 control facilities, and other temporary best management  
9 practices or facilities on a schedule consistent with this  
10 subtitle and sufficient for the facilities to function at  
11 design capacity. The Director may require the responsible  
12 party to conduct more frequent inspections and/or  
13 maintenance when necessary to ensure functioning at design  
14 capacity. The owner(s) shall inform future purchasers and  
15 other successors and assignees to the property of the  
16 existence of the drainage control facilities and the  
17 elements of the drainage control plan, the limitations of  
18 the drainage control facilities, and the requirements for  
19 continued inspection and maintenance of the drainage control  
20 facilities.

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

43           C.       Entry for Inspection and Abatement Purposes.

44           1.       New Installations and Connections. When any  
45 new drainage control facility is installed on private  
46 property, and when any new connection is made between  
47 private property and a public drainage system, sanitary  
48 sewer or combined sewer, the property owner shall grant, per  
49 subsection 22.807.020.B.1.c (Memorandum of Drainage  
50 Control), the City the right to enter the property at

1 reasonable times and in a reasonable manner pursuant to an  
2 inspection program established pursuant subsection  
3 22.807.090.B, and to enter the property when the City has a  
4 reasonable basis to believe that a violation of this  
5 subtitle is occurring or has occurred, and to enter when  
6 necessary for abatement of a public nuisance or correction  
7 of a violation of this subtitle.

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

16           Section 4: Chapter 22.808 of the Seattle Municipal  
17 Code, last amended by Ordinance 122738 and previously  
18 amended by Ordinances 122055, 121276, 119965, 118396,  
19 117789, 117697, and 117432, and adopted by Ordinance 116425,  
20 is amended by readopting, relocating and amending the text  
21 of that chapter (repealed in Section 1) as follows:

22 Chapter 22.808 Stormwater Code Enforcement

23 22.808.010 violations

24           A. Civil violations.

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

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

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

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

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

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

10           f.   Interference. It is a violation for any  
11 person to interfere with or impede the correction of any  
12 violation, or compliance with any Notice of Violation,  
13 emergency order, stop work order, or the abatement of any  
14 nuisance;

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

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

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

28           B.   Criminal violations.

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

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

35           b.   Failing to comply with a court order;

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

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

5 22.808.020 Liability and Defenses of Responsible Parties

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

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

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

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

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

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

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

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

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

20 22.808.025 Right of Entry for Enforcement

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

26 22.808.030 Enforcement Actions

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

30           B. Notice of Violation.

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

36           2. Contents.

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

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

1                   2)    The date of the notice; and

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

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

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

24                   4.    Nothing in this subtitle shall be deemed to  
25 obligate or require the Director to issue a Notice of  
26 violation or order prior to the initiation of enforcement  
27 action by the City Attorney's Office pursuant to subsection  
28 22.808.030.E.

29                   c.    Stop work and Emergency Orders.

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

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

38                                   1)    A description of the violation; and

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

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

4           2. Emergency Order.

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

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

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

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

33           D. Review by Director.

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

43           2. Following receipt of a request for review, the  
44 Director shall notify the requesting party, any persons

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

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

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

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

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

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

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

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

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

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

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

16 22.808.040 Voluntary Compliance Agreement

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

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

36 C. Effect of Agreement.

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

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



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

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

8                   6) Did the responsible party fail to obtain  
9 relevant permits, certifications, and approvals that require  
10 or would have required the responsible party to manage  
11 stormwater in a manner that could have prevented or  
12 mitigated the Code violation? ~~was there a failure to~~  
13 ~~obtain necessary permits or approval;~~

14                   7) ~~Does the violation provide economic benefit~~  
15 ~~for non-compliance~~ Did anyone benefit economically from non-  
16 compliance; and

17                   8) was the violation a repeat violation.

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

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

43           E. Effect of Payment of Penalties. The responsible  
44 party named in a Notice of Violation or order is not

1 relieved of the duty to correct the violation by paying  
2 civil penalties.

3 22.808.060 Collection of Costs and Penalties

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

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

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

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

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

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

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

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

29 g. Laboratory costs and analytical  
30 expenses;

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

33 i. Any associated permit fees;

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

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

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

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

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

17           \_\_\_\_1. The amount of the penalty;

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

22           3. Notice that if the amount due is not paid  
23 within 30 days, the Director may collect the unpaid amount  
24 may be collected in any of the lawful manners, including but  
25 not limited to referral of the matter to a collection  
26 agency; identified in subsection 22.808.060.C and

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

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

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

38           ~~2. Refer, after consultation with the City~~  
39 ~~Attorney, the matter to a collection agency; or~~

40           23. Add a surcharge in the amount owed under  
41 the order to the responsible party's bill for drainage and

1 wastewater services to the site. If unpaid, the surcharge  
2 may become a lien on the property, may be foreclosed, and  
3 may accrue interest as provided by state law or Section  
4 21.33.110.

5 22.808.070 Public Nuisance

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

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

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

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

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

39 F. Collection of Abatement Costs. The costs of  
40 abatement may be collected from the responsible party,  
41 including, a reasonable charge for attorney time, and a 15%  
42 percent surcharge for administrative expenses as set forth  
43 in subsection 22.808.050.D. Abatement costs and other  
44 damages, expenses and penalties collected by the City shall  
45 go into an abatement account for the department collecting

1 the moneys. The money in the abatement account shall be used  
2 for abatements, investigations, and corrections of  
3 violations performed by the City. When the account is  
4 insufficient the Director may use other available funds.

5 22.808.080 Additional Relief

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

11 22.808.090 Suspension or Revocation

12 Approvals or permits granted on the basis of  
13 inaccurate or misleading information may be suspended or  
14 revoked. Other permits or approvals interrelated with an  
15 approval suspended or revoked under this subsection,  
16 including certificates of occupancy or approvals for  
17 occupancy, may also be suspended or revoked. When an  
18 approval or permit is suspended or revoked, the Director may  
19 require the applicant take corrective action to bring the  
20 project into compliance with this subtitle by a deadline set  
21 by the Director, or may take other enforcement action.

22 22.808.100 Fees

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

29 22.808.110 Financial Assurance and Covenants

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

34 A. Insurance.

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

40 2. The Director may also require the property  
41 owner maintain a policy of general public liability

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

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

21 B. Bonds, Cash Deposits or Instruments of Credit.

22 1. Surety Bond.

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

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

44 2. Assurance in Lieu of Surety Bond. In lieu of a  
45 surety bond, the owners may elect to file a cash deposit or  
46 instrument of credit with the Director in an amount equal to  
47 that which would be required in the surety bond and in a

1 form approved by the Director. The cash deposit or  
2 instrument of credit shall comply with the same conditions  
3 as required for surety bonds.

4 C. Covenants.

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

14 a. A legal description of the property;

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

17 c. A statement that the owners of the  
18 property understands and accepts the responsibility for the  
19 risks associated with development on the property given the  
20 described condition, and agrees to inform future purchasers  
21 and other successors and assignees of the risks;

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

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

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

36 Section 5. When a permit application for a project  
37 within the scope of this ordinance is pending on the  
38 effective date of this ordinance, this ordinance applies  
39 unless 1) the City has made a written determination on any  
40 part of the permit application under the provisions of the  
41 Seattle Municipal Code sections 22.800 through 22.802 and  
42 22.808 prior to their amendment by this ordinance, including  
43 granting an exception under those sections, 2) the

1 application is vested under currently applicable law to  
2 previous regulation, or 3) the Seattle Municipal Code or a  
3 City ordinance provides otherwise. An applicant for a  
4 permit that is not subject to the provisions of this  
5 ordinance may ask the City to review the entire application  
6 under the provisions of this ordinance.

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

15 Section 7. To the extent that sections of this  
16 ordinance recodify or incorporate into new or different  
17 sections provisions of the Seattle Municipal Code as  
18 previously in effect, this ordinance shall be construed to  
19 continue such provisions in effect. The repeal of various  
20 sections of Title 22 of the Seattle Municipal Code by this  
21 ordinance shall not relieve any person of the obligation to  
22 comply with the terms and conditions of any permit issued  
23 pursuant to the provisions of such title as in effect prior  
24 to such repeal, nor shall it relieve any person or property  
25 of any obligations, conditions, or restrictions in any  
26 agreement of instrument made or granted pursuant to, or with  
27 reference to, the provisions of such Title in effect prior  
28 to such repeal.

29 Section 8. This ordinance shall take effect and be in  
30 force on the latest of: (1) sixty days from and after its  
31 approval by the Mayor, or if not approved and returned by  
32 the Mayor within ten (10) days after presentation, 60 days  
33 from the date when it would take effect as provided by  
34 Municipal Code Section 1.04.020; (2) ~~the date when CB~~  
35 ~~116616 (revising grading regulations) takes effect, or would~~  
36 ~~be effective contingent only on the effectiveness of this~~  
37 ~~ordinance and CB 116615 (amending cross references to the~~  
38 ~~grading and stormwater regulations in the Seattle Municipal~~  
39 ~~Code); and (3) the date when CB 116615 (amending cross~~  
40 ~~references to the grading and stormwater regulations in the~~  
41 ~~Seattle Municipal Code) takes effect, or would be effective~~  
42 ~~contingent only on the effectiveness of this ordinance and~~  
43 ~~CB 116616 (revising grading regulations). The intent is~~  
44 ~~that all three ordinances will take effect at the same~~  
45 ~~time.)~~ Reserved.