

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

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

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

22 22.800.030 Scope and Applicability

23 This subtitle applies to:

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

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

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

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

33 E. All new and existing land uses; and

34 F. All real property.

35 22.800.040 Exemptions, Adjustments, and Exceptions

36 A. Exemptions.

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

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

27 b. Pavement maintenance practices
28 limited to the following activities are not required to
29 comply with Section 22.805.060 (Minimum requirements for
30 Roadway Projects), Section 22.805.070 (Minimum Requirements
31 for On-site Stormwater Management), Section 22.805.080
32 (Minimum Requirements for Flow Control), or Section
33 22.805.090 (Minimum Requirements for Treatment):

34 1) Pothole and square cut
35 patching;

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

39 3) Shoulder grading;

40 4) Reshaping or regrading drainage
41 ditches;

42 5) Crack sealing; and

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

7 B. Adjustments.

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

11 a. The adjustment provides substantially
12 equivalent environmental protection; and

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

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

24 3. A request by the applicant for adjustments
25 shall be submitted to the Director for approval prior to
26 implementation. The request shall be in writing and shall
27 provide facts substantiating the requirements of subsection
28 22.800.040.B1, and if made during construction, the factors
29 in subsection B2. Any such modifications made during the
30 construction of drainage control facilities shall be
31 recorded on the final approved drainage control plan, a
32 revised copy of which shall be filed by the Director.

33 C. Exceptions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 [[http://www.wsdot.wa.gov/publications/fulltext/Hydraulics/HR](http://www.wsdot.wa.gov/publications/fulltext/Hydraulics/HRM/App2A_2014.pdf)
26 [M/App2A_2014.pdf](http://www.wsdot.wa.gov/publications/fulltext/Hydraulics/HRM/App2A_2014.pdf)]

27 a. Infrastructure limitations to
28 construction feasibility

29 b. Hydraulic limitations to construction
30 Feasibility

31 9. In addition to rights under Chapter 3.02 of
32 the Seattle Municipal Code, any person aggrieved by a
33 Director's decision on an application for an exception may
34 appeal to the Hearing Examiner's Office by filing an appeal,
35 with the applicable filing fee, as set forth in Section
36 23.76.022. However, appeals of a Notice of Violation,
37 Director's order, or invoice issued pursuant to this
38 subtitle shall follow the required procedure established in
39 Chapter 22.808 of this subtitle.

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

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

10 22.800.050 Potentially Hazardous Locations

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

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

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

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

30 22.800.060 Compliance with Other Laws

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

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

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

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

16 22.800.070 Minimum Requirements for City Agency Projects

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

19 1. City agencies are not required to obtain
20 permits and approvals under this subtitle, other than
21 inspections as set out in subsection B of this section, for
22 work performed within a public right-of-way or for work
23 performed for the operation and maintenance of park lands
24 under the control or jurisdiction of the Department of Parks
25 and Recreation. Where the work occurs in a public right-of-
26 way, it shall also comply with Seattle Municipal Code Title
27 15, Street and Sidewalk Use, including the applicable
28 requirements to obtain permits or approvals.

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

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

38 b. The project complies with subsection
39 22.805.020.F (Implement Green Stormwater Infrastructure) of
40 the Stormwater, Code that was made effective November 30,
41 2009 by Ordinance 123105 which requires compliance with
42 Directors' Rules 15-2012/DWW 201.1 and 16-2012/DWW 201.2
43 effective March 1, 2013, and

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

3 1) Project funding was
4 appropriated as identified in Ordinance XXXXX titled, "An
5 ordinance adopting a budget, including a capital improvement
6 program and a position list, for the City of Seattle for
7 2015"; or

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

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

14 B. Inspection.

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

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

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

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

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

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

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

40 22.800.075 Compliance by Public Agencies

1 Whether or not they are required to obtain permits or
2 submit documents, public agencies are subject to the
3 substantive requirements of this subtitle, unless
4 adjustments or exceptions are granted as set forth in
5 Section 22.800.040 (Exemptions, Adjustments, and Exceptions)
6 or the requirements have been waived under subsection
7 22.807.020.A.3.

8 22.800.080 Authority

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

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

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

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

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

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

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

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

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

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

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

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

46 22.800.090 City Not Liable

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

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

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

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

24 22.800.100 Transition to Revised Stormwater Code

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

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

39 C. Neither SMC 23.22.028, SMC 23.22.064, SMC
40 23.24.050, RCW 58.17.033, nor RCW 58.17.170 shall require
41 any permit application submitted on or after July 1, 2015,
42 to be considered under a version of the Stormwater Code in
43 effect prior to July 1, 2015. For purposes of this
44 subsection (3), "permit application" means an application
45 for any permit required for construction within a plat or
46 short plat or for construction of facilities and
47 improvements for a plat or short plat, including but not

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

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

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

14 Chapter 22.801 DEFINITIONS

15 22.801.010 General

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

26 22.801.020 "A"

27 "Agency" means any governmental entity or its
28 subdivision.

29 Agency, City means "City agency" as defined in Section
30 25.09.520.

31 "Approved" means approved by the Director.

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

37 "Arterial" means "arterial" as defined in Section
38 11.18.010.

39 22.801.030 "B"

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

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

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

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

24 22.801.040 "C"

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

31 "

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

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

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

42 Combined sewer. See "public combined sewer."

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

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

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

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

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

17 22.801.050 "D"

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

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

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

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

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

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

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

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

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

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

21 "DPD" means the Department of Planning and
22 Development.

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

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

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

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

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

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

12 "Drainage water" means stormwater and all other
13 discharges that are permissible per subsection 22.802.030.A.
14 22.801.060 "E"

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

18 "Ecology" means the Washington State Department of
19 Ecology.

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

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

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

28 "EPA" means the United States Environmental Protection
29 Agency.

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

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

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

3 "Excavation" means the mechanical removal of earth
4 material.

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

7 "Existing grade" means "existing grade" as defined per
8 Section 22.170.050.

9 22.801.070 "F"

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

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

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

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

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

23 22.801.080 "G"

24 "Garbage" means putrescible waste.

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

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

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

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

6 "Groundwater" means water in a saturated zone or
7 stratum beneath the surface of land or below a surface
8 waterbody. Refer to Ground Water Quality Standards, Chapter
9 173-200 WAC.

10 22.801.090 "H"

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

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

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

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

26 4. A road intersection with a measured ADT
27 count of 25,000 vehicles or more on the main roadway and
28 15,000 vehicles or more on any intersecting roadway,
29 excluding projects proposing primarily pedestrian or bicycle
30 use improvements.

31 22.801.100 "I"

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

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

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

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

13 "Industrial activities" means material handling,
14 transportation, or storage; manufacturing; maintenance;
15 treatment; or disposal. Areas with industrial activities
16 include plant yards, access roads and rail lines used by
17 carriers of raw materials, manufactured products, waste
18 material, or by-products; material handling sites; refuse
19 sites; sites used for the application or disposal of process
20 waste waters; sites used for the storage and maintenance of
21 material handling equipment; sites used for residual
22 treatment, storage, or disposal; shipping and receiving
23 areas; manufacturing buildings; storage areas for raw
24 materials, and intermediate and finished products; and areas
25 where industrial activity has taken place in the past and
26 significant materials remain and are exposed to stormwater.

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

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

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

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

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

41 22.801.130 "L"

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

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

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

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

22 22.801.140 "M"

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

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

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

34 22.801.150 "N"

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

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

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

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

9 22.801.160 "o"

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

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

17 22.801.170 "p"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 22.801.190 "R"

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

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

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

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

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

8 "Responsible party" means all of the following
9 persons:

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

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

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

16 "Roadway" means "roadway" as defined in Section
17 23.84A.032.

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

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

25 22.801.200 "s"

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

28 "SDOT" means the Seattle Department of Transportation.

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

31 "Side sewer" means "side sewer" as defined in section
32 21.16.030.

33 "Sidewalk" means "sidewalk" as defined in section
34 23.84A.036.

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

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

9 "Single-family residential project" means a project,
10 that constructs one single-family Dwelling Unit per Section
11 23.44.006.A located in land classified as being Single-
12 family Residential 9,600 (SF 9600), Single-family
13 Residential 7,200 (SF 7200), or Single-family Residential
14 5,000 (SF 5000) per Section 23.30.010, and the total new
15 plus replaced impervious surface is less than 10,000 square
16 feet and the total new plus replaced pollution-generating
17 impervious surface is less than 5,000 square feet.

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

23 "Slope" means an inclined ground surface.

24 "Small project" means a project with:

- 25 1. Less than 5,000 square feet of new and
26 replaced impervious surface; and
- 27 2. Less than one acre of land disturbing
28 activities.

29 "SMC" means the Seattle Municipal Code.

30 "SPU" means Seattle Public Utilities.

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

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

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

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

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

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

9 "Stream" means a Type 2-5 water as defined in WAC 222-
10 16-031. Used synonymously with "creek."

11 22.801.210 "T"

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

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

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

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

24 22.801.220 "U"

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

30 22.801.230 "V"

31 "Vegetation" means "vegetation" as defined in Section
32 25.09.520.

33 22.801.240 "W"

34 "Wastewater" means "wastewater" as defined in Section
35 21.16.030.

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

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

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

15 "Wetland" means a wetland designated under Section
16 25.09.020.

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

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

27 Chapter 22.802 Prohibited and Permissible Discharges

28 22.802.010 General

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

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

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

3 22.802.020 Prohibited Discharges

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

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

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

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

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

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

31 22.802.030 Permissible Discharges

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

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

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

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

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

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

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

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

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

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

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

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

11 3. Discharges of air conditioning
12 condensation;

13 4. Discharges from springs;

14 5. Discharges of uncontaminated water from
15 crawl space pumps;

16 6. Discharges from lawn watering;

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

21 8. Discharges from riparian habitats and
22 wetlands;

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

27 10. Discharges from foundation drains;

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

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

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

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

1 the satisfaction of the Director of SPU that other methods
2 of controlling pollutants in the discharge are not adequate
3 or reasonable, the discharging party certifies that the
4 discharge will not harm the environment, and the discharging
5 party certifies that the discharge will not overburden or
6 otherwise harm the sanitary sewer. Connections to the
7 sanitary sewer shall be made in accordance with Chapter
8 21.16 (Side Sewer Code). The Director of SPU shall condition
9 approval of such a discharge on compliance with local
10 pretreatment regulations and on maintaining compliance with
11 the required certifications given by the discharging party.

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

25 22.802.040 Testing for Prohibited Discharges

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

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

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

40 Chapter 22.803 Minimum Requirements for All Discharges and
41 All Real Property

42 22.803.010 General

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

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

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

16 22.803.020 Minimum Requirements for All Discharges and
17 Real Property

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

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

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

40 D. Requirements for disposal of waste from
41 maintenance activities. Disposal of waste from maintenance
42 of drainage control facilities shall be conducted in
43 accordance with federal, state and local regulations,
44 including the Minimum Functional Standards for Solid Waste
45 Handling, Chapter 173-304 WAC, guidelines for disposal of
46 waste materials, and, where appropriate, Dangerous Waste
47 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 Drainage System.
32 All drainage system components, including, but not limited
33 to catch basins, flow control facilities, treatment
34 facilities, green stormwater infrastructure, and unimproved
35 drainage pathways shall be kept in continuously working
36 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 prevent spills of pollutants and to properly clean up
2 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 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 businesses and
15 public entities for specific pollution-generating
16 activities as specified in the joint SPU/DPD Directors'
17 Rule, "Source Control Manual," to the extent necessary to
18 prevent prohibited discharges as described in subsection
19 22.802.020.A through subsection 22.802.020.D, and to prevent
20 contaminants from coming in contact with drainage water.
21 Source controls include, but are not limited to, segregating
22 or isolating wastes to prevent contact with drainage water;
23 enclosing, covering, or containing the activity to prevent
24 contact with drainage water; developing and implementing
25 inspection and maintenance programs; sweeping; and taking
26 management actions such as training employees on pollution
27 prevention.

28 Chapter 22.805 MINIMUM REQUIREMENTS FOR ALL PROJECTS

29 22.805.010 General

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

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

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

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

6 22.805.020 Minimum Requirements for All Projects

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 These sources include, but are not limited to, bulk cement,
2 cement kiln dust, fly ash, new concrete washing and curing
3 waters, waste streams generated from concrete grinding and
4 sawing, exposed aggregate processes, and concrete pumping
5 and mixer washout waters. Construction site operators may be
6 required to adjust the pH of drainage water if necessary to
7 prevent a violation of water quality standards. Construction
8 site operators must obtain written approval from Ecology
9 prior to using chemical treatment other than carbon dioxide
10 (CO₂) or dry ice to adjust pH.

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

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

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

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

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

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

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

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

24 19. Protect Green Stormwater Infrastructure BMPs

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

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

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

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

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

8

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 M. Comply with Side Sewer Code.

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

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

22 22.805.030 Minimum Requirements for Single-Family
23 Residential Projects

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

30 22.805.040 Minimum Requirements for Trail and Sidewalk
31 Projects

32 A. On-site Stormwater Management: All trail and
33 sidewalk projects with 2,000 square feet or more of new plus
34 replaced impervious surface or 7,000 square feet or more of
35 land disturbing activity shall meet the minimum requirements
36 for On-site Stormwater Management contained in Section
37 22.805.070, to the extent allowed by law.

38 22.805.050 Minimum Requirements for Parcel-Based Projects

39 A. On-site Stormwater Management: All parcel-based
40 projects with 2,000 square feet or more of new plus replaced
41 impervious surface or 7,000 square feet or more of land
42 disturbing activity shall meet the minimum requirements for
43 On-site Stormwater Management contained in Section
44 22.805.070, to the extent allowed by law.

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

5 1. Discharges to wetlands. Parcel-based projects
6 discharging into a wetland shall comply with subsection
7 22.805.080.B.1 (Wetland Protection Standard) if:.

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

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

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

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

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

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

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

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

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

1 surfaces, causes a 0.1 cubic feet per second increase in the
2 100-year recurrence interval flow frequency as estimated
3 using a continuous model approved by the Director.

4 b. Comply with subsection 22.805.080.B.3 (Pre-
5 developed Pasture Standard) if the criteria in subsection
6 22.805.050.B.2.a do not apply and the total new plus
7 replaced impervious surface is 2,000 square feet or more.

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

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

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

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

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

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

31 b. Comply with subsection 22.805.080.B.3 (Pre-
32 developed Pasture Standard) if the criteria in subsection
33 22.805.050.B.3.a do not apply and the total new plus
34 replaced impervious surface is 2,000 square feet or more.

35 4. Discharges to Small Lake Basins. Parcel-based
36 projects discharging into Bitter Lake, Green Lake, or Haller
37 Lake drainage basins shall comply with subsection
38 22.805.080.B.4 (Peak Control Standard) if the total new plus
39 replaced impervious surface is 2,000 square feet or more.

40 5. Discharges to Public Combined Sewer. Unless
41 the Director of SPU has determined that the public combined
42 sewer has sufficient capacity to carry existing and

1 anticipated loads, parcel-based projects discharging into
2 the public combined sewer shall comply with subsection
3 22.805.080.B.4 (Peak Control Standard) if the total new plus
4 replaced impervious surface is 10,000 square feet or more.

5 6. Discharges to a Capacity-constrained System.
6 In addition to applicable minimum requirements for flow
7 control in subsection 22.805.050.B.1 through subsection
8 22.805.050.B.5, parcel-based projects discharging into a
9 capacity-constrained system shall also comply with
10 subsection 22.805.080.B.4 (Peak Control Standard) if the
11 total new plus replaced impervious surface is 2,000 square
12 feet or more.

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

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

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

24 22.805.060 Minimum Requirements for Roadway Projects

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

31 B. Flow Control. Roadway projects shall meet the
32 minimum requirements for flow control contained in Section
33 22.805.080, to the extent allowed by law, as prescribed
34 below.

35 1. Discharges to Wetlands. Roadway projects
36 discharging into a wetland shall comply with subsection
37 22.805.080.B.1 (Wetland Protection Standard) if:

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

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

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

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

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

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

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

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

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

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

35 b. Comply with subsection 22.805.080.B.3 (Pre-
36 developed Pasture Standard) if the criteria in subsection
37 22.805.060.A.2.a do not apply and the total new plus
38 replaced impervious surface is 10,000 square feet or more.

39 3. Discharges to Non-listed Creek Basins. Roadway
40 projects discharging into a creek not listed in subsection
41 22.805.060.A.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 vegetation to lawn or landscaped areas and from which there
9 is a surface discharge into a natural or man-made conveyance
10 system from the site; or

11 3) The project converts 2.5 acres or more of
12 vegetation to pasture and from which there is a surface
13 discharge into a natural or man-made conveyance system from
14 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 22.805.060.A.3.a do not apply and the total new plus
24 replaced impervious surface is 10,000 square feet or more.

25 4. Discharges to Small Lake Basins. Projects
26 discharging into Bitter Lake, Green Lake, or Haller Lake
27 drainage basins shall comply with subsection 22.805.080.B.4
28 (Peak Control Standard) if the total new plus replaced
29 impervious surface is 10,000 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, roadway projects discharging into the
34 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. In
38 addition to applicable minimum requirements for flow control
39 in subsection 22.805.060.A.1 through subsection
40 22.805.060.A.5, roadway 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 total new plus replaced impervious surface is 10,000 square
2 feet or more.

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

7 1. The existing impervious coverage is less than
8 35 percent of the project area and the total new plus
9 replaced pollution-generating impervious surface is 5,000
10 square feet or more; or

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

15 3. The total new plus replaced pollution-
16 generating pervious surfaces is three-quarters of an acre or
17 more and from which there is a surface discharge in a
18 natural or man-made conveyance system from the
19 site.22.805.070 Minimum Requirements for On-Site
20 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.*

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

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

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

5 R Evaluation required for all roof runoff from single-family
 6 residential projects.
 7 S Evaluation required for all surfaces of single-family residential
 8 projects.
 9 X Evaluation not required.
 10 ^a Installation only allowed for projects with less than 5,000 sf of
 11 impervious surface infiltrating on site.
 12

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

3 Table 805.2 On-site List for Trail and Sidewalk Projects

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

- 4 S Evaluation required for all surfaces of trail or sidewalk projects.
- 5 X Evaluation not required for Trail or Sidewalk Projects.
- 6 a Minimum bioretention cell size top area in right-of-way is 500 sf
- 7 (including pre-settling area). Installation only allowed when
- 8 contributing area is sufficient to warrant minimum bioretention cell
- 9 size in right-of-way.
- 10 b Minimum bioretention cell size top area in right-of-way is 500 sf
- 11 (including pre-settling area). Installation only allowed when
- 12 contributing area is sufficient to warrant minimum bioretention cell
- 13 size in right-of-way and the PGIS directed to the cell is 2,000 sf or
- 14 greater.
- 15 c Minimum permeable pavement size allowed in right-of-way is 2,000 sf of
- 16 contiguous pavement within the project site.
- 17 d Evaluation not required if new plus replaced PGIS is less than 2,000 sf
- 18 of pavement.

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

Table 805.3 On-site List for Parcel-Based Projects

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

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

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

^a Flow Control Basins include: wetland, Creek, Public Combined Sewer, Small Lake, Capacity-Constrained System

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

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

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

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

5. For roadway projects, Table 805.4 applies.

Table 805.4 On-site List for Roadway Projects

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

S Evaluation required for all surfaces of Roadway Projects.

X Evaluation not required for Roadway Projects, but allowed.

NA Not applicable to Roadway Projects

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

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

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

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

^e Evaluation not required if new plus replaced PGIS is less than 2,000 sf of pavement.

^f Evaluation of roadway surfaces, including alleys, not required if roadway is an arterial/collector or does not discharge to a Creek or Wetland Basin.

- 1 E. Historic Preservation and Archaeology Laws. For
2 use with subsection 22.805.070.D.1.b.1: 1. Federal
3 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 22.805.060.

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. The hydrologic conditions, vegetative community, and
34 substrate characteristics of the wetlands shall be protected
35 and impacts caused by changes in water flows and pollutants
36 shall be prevented. The introduction of sediment, heat and
37 other pollutants and contaminants into wetlands shall be
38 minimized through the selection, design, installation, and
39 maintenance of temporary and permanent controls. The total
40 volume of stormwater discharging into a wetland shall not be
41 more than:

- 42 • 20 percent higher or lower than the pre-developed volume
- 43 during a single precipitation event, and

- 1 • 15 percent higher or lower than the pre-developed
2 volume on a monthly basis.

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

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

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

31 4. Peak Control Standard. The post-development
32 peak flow with a 4percent annual probability (25-year
33 recurrence flow) shall not exceed 0.4 cubic feet per second
34 per acre. Additionally, the peak flow with a 50percent
35 annual probability (2-year recurrence flow) shall not exceed
36 0.15 cubic feet per second per acre.

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

41 22.805.090 Minimum Requirements for Treatment.

42 A. Applicability. The requirements of this
43 subsection apply to the extent required in Section
44 22.805.050 to section 22.805.060.

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

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

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

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

22 2) Sum all the daily volumes and multiply by
23 0.09.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Chapter 22.807 DRAINAGE CONTROL REVIEW AND APPLICATION
7 REQUIREMENTS

8 22.807.010 General

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

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

26 22.807.020 Drainage Control Review and Application
27 Requirements

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

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

33 a. Applications for either a master use permit
34 or building permit that includes the cumulative addition of
35 750 square feet or more of land disturbing activity and/or
36 new and replaced impervious surface;

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

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

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

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

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

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

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

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

28 b. One acre or more of land disturbing
29 activity;

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

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

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

1 B. Submittal Requirements for Drainage Control
2 Review and Approval.

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

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

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

13 c. Construction Stormwater Control Plan. A
14 construction stormwater control plan demonstrating controls
15 sufficient to determine compliance with subsection
16 22.805.020.D shall be submitted. The Director may approve a
17 checklist in place of a plan, pursuant to rules promulgated
18 by the Director.

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

31 1) The legal description of the site;

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

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

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

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

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

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

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

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

33 b. Inspection and Maintenance Schedule. A
34 schedule shall be submitted that provides for inspection of
35 temporary and permanent flow control facilities, treatment
36 facilities, and source controls to comply with Section
37 22.805.070 (Minimum Requirements for On-site Stormwater
38 Management), Section 22.805.080 (Minimum Requirements for
39 Flow Control), and Section 22.805.090 (Minimum Requirements
40 for Treatment).

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

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

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

17
18 C. Authority to Review. The Director may approve
19 those plans that comply with the provisions of this subtitle
20 and rules promulgated hereunder, and may place conditions
21 upon the approval in order to assure compliance with the
22 provisions of this subtitle. Submission of the required
23 drainage control application information shall be a
24 condition precedent to the processing of any of the above-
25 listed permits. Approval of drainage control shall be a
26 condition precedent to issuance of any of the above-listed
27 permits. The Director may review and inspect activities
28 subject to this subtitle and may require compliance
29 regardless of whether review or approval is specifically
30 required by this subsection. The Director may disapprove
31 plans that do not comply with the provisions of this
32 subtitle and rules promulgated hereunder. Disapproved plans
33 shall be returned to the applicant, who may correct and
34 resubmit the plans.

35 22.807.090 Maintenance and Inspection.

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

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

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

30 C. Entry for Inspection and Abatement Purposes.

31 1. New Installations and Connections. When any
32 new drainage control facility is installed on private
33 property, and when any new connection is made between
34 private property and a public drainage system, sanitary
35 sewer or combined sewer, the property owner shall grant, per
36 subsection 22.807.020.B.1.c (Memorandum of Drainage
37 Control), the City the right to enter the property at
38 reasonable times and in a reasonable manner pursuant to an
39 inspection program established pursuant subsection
40 22.807.090.B, and to enter the property when the City has a
41 reasonable basis to believe that a violation of this
42 subtitle is occurring or has occurred, and to enter when
43 necessary for abatement of a public nuisance or correction
44 of a violation of this subtitle.

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

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

4 Section 4: Chapter 22.808 of the Seattle Municipal
5 Code, last amended by Ordinance 122738 and previously
6 amended by Ordinances 122055, 121276, 119965, 118396,
7 117789, 117697, and 117432, and adopted by Ordinance 116425,
8 is amended by readopting, relocating and amending the text
9 of that chapter (repealed in Section 1) as follows:

10 Chapter 22.808 Stormwater Code Enforcement

11 22.808.010 violations

12 A. Civil violations.

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

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

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

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

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

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

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

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

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

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

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

16 B. Criminal Violations.

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

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

23 b. Failing to comply with a court order;

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

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

33 22.808.020 Liability and Defenses of Responsible Parties

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

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

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

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

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

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

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

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

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

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

7 22.808.025 Right of Entry for Enforcement

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

13 22.808.030 Enforcement Actions

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

17 B. Notice of Violation.

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

23 2. Contents.

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

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

28 2) The date of the notice; and

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

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

34 3. Service. The Director shall serve the notice
35 upon a responsible party either by personal service, by
36 first class mail, or by certified mail return receipt
37 requested, to the party's last known address. If by first
38 class mail, service shall be deemed complete upon the third

1 day following the day upon which the notice is placed in the
2 mail, or if the third day falls on a Saturday, Sunday or
3 legal holiday, then on the next day following that is not a
4 Saturday, Sunday or legal holiday. If the address of the
5 responsible party cannot be found after a reasonable search,
6 the notice may be served by posting a copy of the notice at
7 a conspicuous place on the property. Alternatively, if the
8 whereabouts of the responsible party is unknown and cannot
9 be ascertained in the exercise of reasonable diligence, and
10 the Director makes an affidavit to that effect, then service
11 may be accomplished by publishing the notice once each week
12 for two consecutive weeks in the City official newspaper.

13 4. Nothing in this subtitle shall be deemed to
14 obligate or require the Director to issue a Notice of
15 Violation or order prior to the initiation of enforcement
16 action by the City Attorney's Office pursuant to subsection
17 22.808.030.E.

18 C. Stop Work and Emergency Orders.

19 1. Stop Work Order. The Director may order work on
20 a site stopped when he or she determines it is necessary to
21 do so in order to obtain compliance with or to correct a
22 violation of any provision of this subtitle or rules
23 promulgated hereunder or to correct a violation of a permit
24 or approval granted under this subtitle.

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

27 1) A description of the violation; and

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

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

34 2. Emergency Order.

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

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

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

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

21 D. Review by Director.

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

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

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

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

3 b. Withdraw the Notice of violation, order or
4 invoice;

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

7 d. Modify or amend the Notice of violation,
8 order, or invoice.

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

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

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

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

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

43 22.808.040 Voluntary Compliance Agreement

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

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

20 C. Effect of Agreement.

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

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

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

42 22.808.050 Penalties and Damages

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

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

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

5 1. Basic Penalty.

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

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

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

20 1) Did the violation pose a public health
21 risk;

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

24 3) Was the action a willful and knowing
25 violation;

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

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

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

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

1 8) was the violation a repeat violation.

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

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

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

31 22.808.060 Collection of Costs and Penalties

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

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

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

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

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

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

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

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

15 g. Laboratory costs and analytical
16 expenses;

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

19 i. Any associated permit fees;

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

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

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

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

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

- 1 1. The amount of the penalty;
- 2 2. Either a legal description of the property
3 corresponding as nearly as possible to that used for the
4 property on the rolls of the King County Assessor or, where
5 available, the property's street address;
- 6 3. Notice that if the amount due is not paid
7 within 30 days, the Director may collect the unpaid amount
8 in any lawful manner, including but not limited to referral
9 of the matter to a collection agency; and
- 10 4. Notice that interest shall accrue on the
11 unpaid balance if not paid within 30 days after the invoice
12 date.

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

- 19 1. Refer the matter to the City Attorney to
20 initiate any appropriate legal action;
- 21 2. Add a surcharge in the amount owed under
22 the order to the responsible party's bill for drainage and
23 wastewater services to the site. If unpaid, the surcharge
24 may become a lien on the property, may be foreclosed, and
25 may accrue interest as provided by state law or Section
26 21.33.110.

27 22.808.070 Public Nuisance

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

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

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

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

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

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

19 F. Collection of Abatement Costs. The costs of
20 abatement may be collected from the responsible party,
21 including, a reasonable charge for attorney time, and a
22 15percent surcharge for administrative expenses as set forth
23 in subsection 22.808.050.D. Abatement costs and other
24 damages, expenses and penalties collected by the City shall
25 go into an abatement account for the department collecting
26 the moneys. The money in the abatement account shall be used
27 for abatements, investigations, and corrections of
28 violations performed by the City. When the account is
29 insufficient the Director may use other available funds.

30 22.808.080 Additional Relief

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

36 22.808.090 Suspension or Revocation

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

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

3 22.808.100 Fees

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

10 22.808.110 Financial Assurance and Covenants

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

15 A. Insurance.

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

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

34 3. The insurance policy shall provide that the
35 City will be notified of cancellation of the policy at least
36 30 days prior to cancellation. The notice shall be sent to
37 the Director who required the insurance and shall state the
38 insured's name and the property address. If a property
39 owner's insurance is canceled and not replaced, the permit
40 or approval and any interrelated permit or approval may be
41 revoked, including a certificate of occupancy or approval
42 for occupancy.

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

1 1. Surety Bond.

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

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

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

30 C. Covenants.

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

40 a. A legal description of the property;

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

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

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

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

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

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

18 Section 5. When a permit application for a project
19 within the scope of this ordinance is pending on the
20 effective date of this ordinance, this ordinance applies
21 unless 1) the City has made a written determination on any
22 part of the permit application under the provisions of the
23 Seattle Municipal Code Sections 22.800 through 22.802 and
24 22.808 prior to their amendment by this ordinance, including
25 granting an exception under those sections, 2) the
26 application is vested under currently applicable law to
27 previous regulation, or 3) the Seattle Municipal Code or a
28 City ordinance provides otherwise. An applicant for a
29 permit that is not subject to the provisions of this
30 ordinance may ask the City to review the entire application
31 under the provisions of this ordinance.

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

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

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

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