

PUBLIC REVIEW DRAFT  
**STORMWATER CODE**  
CHAPTERS 22.800 – 22.808  
SEATTLE MUNICIPAL CODE

CITY OF SEATTLE  
SEATTLE PUBLIC UTILITIES  
DEPARTMENT OF CONSTRUCTION AND INSPECTIONS

March 2020

**CITY OF SEATTLE**  
**ORDINANCE \_\_\_\_\_**  
**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to the Stormwater Code; amending Chapters 22.800, 22.801, 22.802, 22.803, 22.805, 22.807, and 22.808 of the Seattle Municipal Code.

..body

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

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

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

**22.800.010 Title**

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

**22.800.020 Purpose**

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

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

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

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

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

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

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

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

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

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

21 **22.800.030 Scope and Applicability**

22 This subtitle applies to:

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

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

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

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

29                   E. All new and existing land uses; and

30                   F. All real property.

1 **22.800.040 Exemptions, Adjustments, and Exceptions**

2 A. Exemptions

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

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

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

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

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

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

23 ~~2))~~ 1) Installation of underground or overhead utility facilities that  
24 are integral with and contiguous to a road-related project shall comply with Section 22.805.060  
25 (Minimum Requirements for Roadway Projects).

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

31 1) Pothole and square cut patching;



1 ~~22.805.020.I (Install Source Control BMPs) unless~~ the Director has the authority, to the extent  
2 allowed by law, to issue an order under Chapter 22.808 requiring the responsible party to  
3 undertake more stringent or additional source controls for the activities regulated by 22.803.040,  
4 if the Director determines that these activities pose a hazard to public health, safety or welfare;  
5 endanger any property; adversely affect the safety and operation of city right-of-way, utilities, or  
6 other property owned or maintained by the City; or adversely affect the functions and values of  
7 an environmentally critical area or buffer.

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

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

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

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

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

1 jurisdiction stormwater standards when WSDOT elects, and is granted permission, to discharge  
2 stormwater runoff into a municipality's drainage system or combined sewer system.

3 B. Adjustments

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

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

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

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

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

21 C. Exceptions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **22.800.050 Potentially Hazardous Locations**

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

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

- 27 1. Existing and/or abandoned solid waste disposal sites;  
28 2. Hazardous waste treatment, storage, or disposal facilities, all as defined by the  
29 federal Solid Waste Disposal Act, 42 U.S.C. Section 6901, et seq.

1 **22.800.060 Compliance With Other Laws**

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

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

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

20 **22.800.070 Minimum Requirements for City Agency Projects**

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

23 1. City agencies are not required to obtain permits and approvals under this  
24 subtitle, other than inspections as set out in subsection B of this Section 22.800.070 and review  
25 and approval when applying roadway project infeasibility as provided in subsection  
26 22.805.060.E, for work performed within a public right-of-way or for work performed for the  
27 operation and maintenance of park lands under the control or jurisdiction of the Department of  
28 Parks and Recreation. Where the work occurs in a public right-of-way, it shall also comply with  
29 Title 15, Street and Sidewalk Use, including the applicable requirements to obtain permits or  
30 approvals.

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

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

8                   b. The project complies with the Stormwater Code that was made effective  
9 November 30, 2009, by Ordinance 123105 which requires compliance with Directors' Rules 15-  
10 2012/DWW 201.1 and 16-2012/DWW 201.2 effective March 1, 2013, as amended by Ordinance  
11 124758; and

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

13                   1) Project funding was appropriated as identified in Ordinance  
14 124648 titled, "An ordinance adopting a budget, including a capital improvement program and  
15 position modifications, for the City of Seattle for 2015"; or

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

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

20                   B. Inspection

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

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

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

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

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

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

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

### 8 **22.800.075 Compliance by Public Agencies**

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

### 13 **22.800.080 Authority**

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

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

25 C. The Directors of SDCI, SDOT, and SPU are authorized to take actions necessary to  
26 implement the provisions and purposes of this Subtitle VIII in their respective spheres of  
27 authority to the extent allowed by law, including, but not limited to, the following: promulgating  
28 and amending rules and regulations, pursuant to the Administrative Code, Chapter 3.02;  
29 establishing and conducting inspection programs; establishing and conducting or, as set forth in  
30 Section 22.802.040, requiring responsible parties to conduct monitoring programs, which may  
31 include sampling of discharges to or from drainage control facilities, the public drainage system,

1 or receiving waters; taking enforcement action; abating nuisances; promulgating guidance and  
2 policy documents; and reviewing and approving, conditioning, or disapproving required  
3 submittals and applications for approvals and permits. The Directors are authorized to exercise  
4 their authority under this Subtitle VIII in a manner consistent with their legal obligations as  
5 determined by the courts or by statute.

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

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

20 F. The Director of SPU is authorized, to the extent allowed by law, to enter into an  
21 agreement with the developer of a project for the developer to voluntarily contribute funds  
22 toward the construction of one or more drainage control facilities that mitigate the impacts to the  
23 same receiving water that have been identified as a consequence of the proposed development.  
24 For a project that discharges to a receiving water or its basin, the Director of SPU is only  
25 authorized to allow the project's flow control, water quality treatment, on-site stormwater  
26 management or wetlands protection requirements to be met at an alternative location (via facility  
27 construction or voluntary contribution of funds for facility construction) if:

- 28 1. The site has greater than or equal to 35 percent existing hard surface coverage,  
29 and  
30 2. The alternative location has equivalent or greater flow protection or pollutant  
31 removal, and

1                    3. The equivalent area discharges to the same receiving water.

2                    4. Other scenarios may be allowed with Ecology's approval.

3                    G. The Director of SPU is authorized, to the extent allowed by law, to enter into an  
4 agreement with the developer of a project for the developer to voluntarily construct one or more  
5 drainage control facilities at an alternative location, determined by the Director, to mitigate the  
6 impacts to the same receiving water that have been identified as a consequence of the proposed  
7 development. For a project that discharges to a receiving water or its basin, the Director of SPU  
8 is only authorized to allow the project's flow control, water quality treatment, on-site stormwater  
9 management or wetlands protection requirements to be met at an alternative location (via facility  
10 construction or voluntary contribution of funds for facility construction) if:

11                    1. The site has greater than or equal to 35 percent existing hard surface coverage,  
12 and

13                    2. The alternative location has equivalent or greater flow protection or pollutant  
14 removal, and

15                    3. The equivalent area discharges to the same receiving water.

16                    4. Other scenarios may be allowed with Ecology's approval.

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

1 controls, treatment facilities, constructed facilities such as enclosures, covering and/or berming  
2 of container storage areas, and revised drainage systems. For existing discharges as opposed to  
3 new projects, the Director may allow 12 months to install a new flow control facility, structural  
4 source control, or treatment facility after the Director notifies the responsible party in writing of  
5 the Director's determination pursuant to this subsection 22.800.080.H and of the flow control  
6 facility, structural source control, or treatment facility that must be installed.

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

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

### 21 **22.800.090 City Not Liable**

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

29 B. The Director or any employee charged with the enforcement of this subtitle, acting in  
30 good faith and without malice on behalf of the City, shall not be personally liable for any damage  
31 that may accrue to persons or property as a result of any act required by the City, or by reason of

1 any act or omission in the discharge of these duties. Any suit brought against the Director of  
2 SDCI, Director of SPU, or other employee because of an act or omission performed in the  
3 enforcement of any provisions of this Subtitle VIII, shall be defended by the City.

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

7 **22.800.100 Transition to Revised Stormwater Code**

8 A. Any building or grading permit (a) which was not considered, either in the initial  
9 application process or in a renewal process, under the version of the Stormwater Code in effect  
10 on or after January 1, 2016, and (b) pursuant to which construction has not started by June 30,  
11 2020, shall expire on June 30, 2020.

12 B. Any master use permit for a project not requiring a building permit (a) which was not  
13 considered, either in the initial application process or in a renewal process, under the version of  
14 the Stormwater Code in effect on or after January 1, 2016, and (b) pursuant to which  
15 construction has not started by June 30, 2020, shall expire on June 30, 2020.

16 C. Neither Section 23.22.028, Section 23.22.064, Section 23.24.050, RCW 58.17.033,  
17 nor RCW 58.17.170 shall require any permit application submitted on or after January 1, 2016,  
18 to be considered under a version of the Stormwater Code in effect prior to January 1, 2016. For  
19 purposes of this subsection 22.800.100.C, “permit application” means an application for any  
20 permit required for construction within a plat or short plat or for construction of facilities and  
21 improvements for a plat or short plat, including, but not limited to, master use, building and  
22 grading permits.

23 D. Neither Section 23.22.028 nor Section 23.22.064 shall authorize starting construction,  
24 after June 30, 2020, of facilities or improvements for any plat without compliance with the  
25 version of the Stormwater Code in effect on or after January 1, 2016.

26 E. For purposes of this section, “starting construction” or “started construction” means  
27 the site work associated with and directly related to the approved project has begun. For  
28 example: grading the project site to final grade or utility installation such as water, sewer,  
29 stormwater, gas, or electrical infrastructure installed to serve the project and associated with the  
30 application. For example, simply ((Simply)) clearing the project site or installing conduit does  
31 not constitute the start of construction.

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

3 **Chapter 22.801 DEFINITIONS**

4 **22.801.010 General**

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

11 **22.801.020 “A”**

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

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

14 “Approved” means approved by the Director.

15 “Aquatic life use” means “aquatic life use” as defined in WAC 173-201A-200 and 173-  
16 201A-210. For the purposes of this subtitle, at minimum the following water bodies are  
17 designated for aquatic life use: small lakes, creeks, and (~~freshwater~~) fresh or marine designated  
18 receiving waters.

19 “Arterial” means “arterial” as defined in Section 11.14.035.

20 **22.801.030 “B”**

21 “Basic treatment facility” means a drainage control facility designed to reduce  
22 concentrations of total suspended solids in drainage water.

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

1           “Building permit” means a document issued by the Seattle Department of Construction  
2 and Inspections authorizing construction or other specified activity in accordance with the Seattle  
3 Building Code (Chapter 22.100) or the Seattle Residential Code (Chapter 22.150).

4 **22.801.040 “C”**

5           “Capacity-constrained system” means a drainage system or public combined sewer that  
6 the Director of SPU has determined to have inadequate capacity to carry existing and anticipated  
7 loads, or a drainage system that includes ditches or culverts.

8           “Certified Erosion and Sediment Control Lead” (CESCL) means an individual who has  
9 current certification through an approved erosion and sediment control training program that  
10 meets the minimum training standards established by Ecology.

11           “Civil engineer, licensed” means a person who is licensed by the State of Washington to  
12 practice civil engineering.

13           “City agency” means “City agency” as defined in Section 25.09.520.

14           “Combined sewer.” See “public combined sewer.”

15           “Combined sewer basin” or “public combined sewer basin” means the area tributary to a  
16 public combined sewer feature, including, but not limited to, a combined sewer overflow outfall,  
17 trunk line connection, pump station, or regulator.

18           “Compaction” means the densification, settlement, or packing of earth material or fill in  
19 such a way that permeability is reduced by mechanical means.

20           “Construction Stormwater Control Plan” means a document that explains and illustrates  
21 the measures to be taken on the construction site to ~~((control))~~ prevent erosion and discharge of  
22 sediment and other pollutants on a construction project.

23           “Containment area” means the area designated for conducting pollution-generating  
24 activities for the purposes of implementing source controls or designing and installing source  
25 controls or treatment facilities.

26           “Contaminate” means the addition of sediment, any other pollutant or waste, or any illicit  
27 or prohibited discharge.

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

1 **22.801.050 “D”**

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

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

13 “Detention” means temporary storage of drainage water for the purpose of controlling the  
14 drainage discharge rate.

15 “Development” means activities including:

16 1. land disturbing activity; ((~~or~~))

17 2. the addition or replacement of hard surfaces;

18 3. expansion of a building footprint or addition or replacement of a structure;

19 4. structural development, including construction, installation, or expansion of a building  
20 or other structure;

21 5. seeking approval of building permit and other construction permits; and

22 6. seeking approval of subdivision, short plat, and binding site plans, as defined and  
23 applied in chapter 58.17 RCW, and other master use permit.

24 Development is a type of project.

25 “Director” means the Director of the Department authorized to take a particular action,  
26 and the Director’s designees, who may be employees of that department or another City  
27 department.

28 “Director of SDCI” means the Director of the Seattle Department of Construction and  
29 Inspections or the designee of the Director of the Seattle Department of Construction and  
30 Inspections, who may be employees of that department or another City department.

1           “Director of SDOT” means the Director of Seattle Department of Transportation of The  
2 City of Seattle or the designee of the Director of Seattle Department of Transportation, who may  
3 be employees of that department or another City department.

4           “Director of SPU” means the Director of Seattle Public Utilities of The City of Seattle or  
5 the designee of the Director of Seattle Public Utilities, who may be employees of that department  
6 or another City department.

7           “Discharge point” means the location from which drainage water from a site is released.

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

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

13          “Drainage basin plan” means a plan to manage the quality and quantity of drainage water  
14 in a watershed or a drainage basin, including watershed action plans.

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

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

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

26          “Drainage system” means a system intended to collect, convey and control release of  
27 only drainage water. The system may be either publicly or privately owned or operated, and the  
28 system may serve public or private property. It includes components such as pipes, ditches,  
29 culverts, and drainage control facilities. Drainage systems are not receiving waters.

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

1 **22.801.060 “E”**

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

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

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

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

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

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

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

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

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

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

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

23 **22.801.070 “F”**

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

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

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

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

1 **22.801.080 “G”**

2 “Garbage” means putrescible waste.

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

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

9 “Green stormwater infrastructure” means distributed BMPs, integrated into a project  
10 design, that use infiltration, filtration, storage, or evapotranspiration, or provide stormwater  
11 reuse.

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

14 **22.801.090 “H”**

15 “Hard surface” means an impervious surface, a permeable pavement, or a vegetated roof.

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

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

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

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

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

28 **22.801.100 “I”**

29 “Illicit connection” means any direct or indirect infrastructure connection to the public  
30 drainage system or receiving water that is not intended, not permitted, or not used for collecting  
31 drainage water.

1           “Impervious surface” means any surface exposed to rainwater from which most water  
2 runs off. Impervious surfaces include, but are not limited to, roof tops, walkways, patios,  
3 driveways, formal planters, parking lots or storage areas, concrete or asphalt paving, areas with  
4 underdrains designed to remove stormwater from subgrade (e.g. playfields, athletic fields, rail  
5 yards), gravel surfaces subjected to vehicular traffic, compact gravel, packed earthen materials,  
6 and oiled macadam or other surfaces which similarly impede the natural infiltration of  
7 stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious  
8 surfaces for the purposes of determining whether the thresholds for application of minimum  
9 requirements are exceeded. Open, uncovered retention/detention facilities shall be considered  
10 impervious surfaces for purposes of stormwater modeling.

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

20           “Infiltration” means the downward movement of water from the surface to the subsoil.

21           “Infiltration facility” means a drainage control facility that temporarily stores, and then  
22 percolates, drainage water into the underlying soil.

23           “Integrated Drainage Plan” means a plan developed, reviewed, and approved pursuant to  
24 subsection 22.800.080.E.

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

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

1 **22.801.110 Reserved.**

2 **22.801.130 “L”**

3 “Land disturbing activity” means any activity that results in a change in the existing soil  
4 cover, both vegetative and nonvegetative, or the existing topography. Land disturbing activities  
5 include, but are not limited to, clearing, grading, filling, excavation, or addition of new or the  
6 replacement of hard surface. Compaction, excluding hot asphalt mix, that is associated with  
7 stabilization of structures and road construction is also considered a land disturbing activity.  
8 Vegetation maintenance practices, including landscape maintenance and gardening, are not  
9 considered land disturbing activities. Stormwater facility maintenance is not considered land  
10 disturbing activity if conducted according to established standards and procedures.

11 “Large project” means a project including:

- 12 1. 5,000 square feet or more of new plus replaced hard surface;  
13 2. ~~((one))~~ One acre or more of land disturbing activity;  
14 3. ~~((conversion))~~ Conversion of 3/4 acres or more of vegetation to lawn or landscaped  
15 area; or

- 16 4. ~~((conversion))~~ Conversion of 2.5 acres or more of native vegetation to pasture.

17 “Listed creeks” means Blue Ridge Creek, Broadview Creek, Discovery Park Creek,  
18 Durham Creek, Frink Creek, Golden Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton  
19 Springs Creek, Madrona Park Creek, Mee-Kwa-Mooks Creek, Mount Baker Park Creek, Puget  
20 Creek, Riverview Creek, Schmitz Creek, Taylor Creek, and Washington Park Creek.

21 **22.801.140 “M”**

22 “Master use permit” means a ~~((document issued by SDCI giving permission for  
23 development or use of land or street right-of-way in accordance with Chapter 23.76))~~ “master  
24 use permit” as defined in subsection 23.84A.025.

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

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

30 **22.801.150 “N”**

31 “Native vegetation” means “native vegetation” as defined in Section 25.09.520.

1           “New hard surface” means a surface that is: changed from a pervious surface to a hard  
2 surface (e.g., converting lawn to permeable pavement, resurfacing by upgrading from dirt to  
3 gravel, a bituminous surface treatment (“chip seal”), asphalt, concrete, or a hard surface  
4 structure); or upgraded from gravel to chip seal, asphalt, concrete, or a hard surface structure; or  
5 from a hard surface to a hard surface structure. Note that if asphalt or concrete has been overlaid  
6 by a chip seal, the existing condition should be considered as asphalt or concrete.

7           When an existing hard surface is converted to a pollution-generating hard surface or  
8 when the point of discharge of the runoff from an existing hard surface is revised to a new point  
9 of discharge in a different drainage basin, these hard surfaces are considered to be “new hard  
10 surfaces” in determining the applicable flow control, water quality, and source control standards.

11           “New impervious surface” means a surface that is: changed from a pervious surface to a  
12 impervious surface (e.g. resurfacing by upgrading from dirt to gravel, a bituminous surface  
13 treatment (“chip seal”), asphalt, concrete or an impervious structure); or upgraded from gravel to  
14 chip seal, asphalt, concrete, or an impervious structure; or from a impervious surface to an  
15 impervious structure. Note that if asphalt or concrete has been overlaid by a chip seal, the  
16 existing condition should be considered as asphalt or concrete.

17           When an existing impervious surface is converted to a pollution-generating impervious  
18 surface or when the point of discharge of the runoff from an existing impervious surface is  
19 revised to a new point of discharge in a different drainage basin, these impervious surfaces are  
20 considered to be “new impervious surfaces” in determining the applicable flow control, water  
21 quality, and source control standards.

22           “Non-listed creeks” means any creek not identified in the definition of “Listed creeks” in  
23 22.801.130.

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

26           “NPDES permit” means an authorization, license or equivalent control document issued  
27 by the EPA or Ecology to implement the requirements of the NPDES program.

28           “Nutrient-critical receiving water” means a surface water or water segment that is  
29 determined to be impaired due to phosphorus contributed by stormwater, as prescribed in rules  
30 promulgated by the Director of SPU which shall be based on consideration of waterbodies

1 reported by Ecology, and approved by EPA, under Category 5 (impaired) under Section 303(d)  
2 of the Clean Water Act for total phosphorus through Ecology’s Water Quality Assessment.

3 **22.801.160 “O”**

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

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

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

9 **22.801.170 “P”**

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

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

20 “Pervious surface” means a surface that is not impervious. See also, “impervious  
21 surface”.

22 “Phosphorus treatment facility” means a drainage control facility designed to reduce  
23 concentrations of phosphorus in drainage water.

24 “Plan” means a graphic or schematic representation, with accompanying notes,  
25 schedules, specifications and other related documents, or a document consisting of checklists,  
26 steps, actions, schedules, or other contents that has been prepared pursuant to this subtitle, such  
27 as a site plan, drainage control plan, construction stormwater control plan, stormwater pollution  
28 prevention plan, or integrated drainage plan.

29 “Pollution-generating activity” means any activity that is regulated by the joint SPU/DPD  
30 Directors’ Rule titled “Seattle Stormwater Manual” at “Volume 4 – Source Control” or any  
31 activity with similar impacts on drainage water. These activities include, but are not limited to:

1 cleaning and washing activities; transfer of liquid or solid material; production and application  
2 activities; dust, soil, and sediment control; commercial animal care and handling; log sorting and  
3 handling; boat building, mooring, maintenance, and repair; logging and tree removal; mining and  
4 quarrying of sand, gravel, rock, peat, clay, and other materials; cleaning and maintenance of  
5 swimming pool and spas; deicing and anti-icing operations for airports and streets; maintenance  
6 and management of roof and building drains at manufacturing and commercial buildings;  
7 maintenance and operation of railroad yards; maintenance of public and utility corridors and  
8 facilities; and maintenance of roadside ditches.

9 “Pollution-generating hard surface” means those hard surfaces considered to be a  
10 significant source of pollutants in drainage water. See definition of pollution-generating  
11 impervious surface in this Section 22.801.170 for surfaces that are considered significant sources  
12 of pollutants in drainage water.

13 “Pollution-generating impervious surface” means those impervious surfaces considered  
14 to be a significant source of pollutants in drainage water. Such surfaces include those that are  
15 subject to any of the following: vehicular use; certain industrial activities; ~~(( $\otimes$ ))~~ storage of  
16 erodible or leachable materials, wastes, or chemicals, and ~~((which))~~ that receive direct rainfall or  
17 the run-on or blow-in of rainfall. ~~(( $\ddot{\text{;}}$ ))~~ Such surfaces also include roofs subject to venting of  
18 significant sources of pollutants ~~(( $\ddot{\text{;}}$ ))~~ and metal roofs unless coated with an inert, non-leachable  
19 material (e.g., baked-on enamel coating).

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

25 The following are not considered regularly-used by motor vehicles: sidewalks and trails  
26 not subject to drainage from roads for motor vehicles; paved bicycle pathways separated from  
27 and not subject to drainage from roads for motor vehicles; fenced fire lanes; and infrequently  
28 used maintenance access roads with a recurring use of no more than one routine vehicle access  
29 per week.

30 “Pollution-generating pervious surface” means any non-impervious surface subject to  
31 vehicular use, industrial activities, or storage of erodible or leachable materials, wastes, or

1 chemicals, and that receives direct rainfall or run-on or blow-in of rainfall, use of pesticides and  
2 fertilizers, or loss of soil. Typical pollution-generating pervious surfaces include lawns,  
3 landscaped areas, golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

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

7 “Private drainage system” means a drainage system that is not a public drainage system.

8 “Project” means ~~((the addition or replacement of hard surface or the undertaking of land~~  
9 ~~disturbing activity on a site))~~ any proposed action to alter or develop a site. Development is a  
10 types of project.

11 “Project site” means that portion of a property, properties, ~~((or))~~ rights-of-way subject to  
12 ~~((addition or replacement of hard surface or the undertaking of land disturbing activity))~~ land  
13 disturbing activities, new hard surfaces or replaced hard surfaces.

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

16 “Public drainage system” means a drainage system owned or operated by the City of  
17 Seattle.

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

21 “Public sanitary sewer” means the sanitary sewer that is owned or operated by the City of  
22 Seattle.

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

## 25 **22.801.190 “R”**

26 “Real property” means “real property” as defined in Chapter 3.110.

27 “Receiving water” means the surface water, such as a creek, stream, river, lake, wetland  
28 or marine water, or groundwater, receiving drainage water. Drainage systems and public  
29 combined sewers are not receiving waters.

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

4           “Replaced hard surface” or “replacement of hard surface” means, for structures, the  
5 removal and replacement of hard surfaces down to the foundation and, for other hard surfaces,  
6 the removal down to existing subgrade or base course and replacement. “Down to foundation”  
7 means the removal down to bare soil, existing subgrade, or base course and replacement.

8           “Replaced impervious surface” or “replacement of impervious surface” means, for  
9 structures, the removal and replacement of impervious surfaces down to the foundation and, for  
10 other impervious surfaces, the removal down to existing subgrade or base course and  
11 replacement. “Down to foundation” means the removal down to bare soil, existing subgrade, or  
12 base course and replacement.

13           “Responsible party” means all of the following persons:

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

16           “Right-of-way” means “right-of-way” as defined in Section 23.84A.032.

17           “Roadway” means “roadway” as defined in Section 23.84A.032.

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

21           “Runoff” means the portion of rainfall or other precipitation that becomes surface flow  
22 and interflow.

23 **22.801.200 “S”**

24           “Sanitary sewer” means a system that conveys wastewater and is not designed to convey  
25 drainage water.

26           “SDCI” means the Seattle Department of Construction and Inspections.

27           “SDOT” means the Seattle Department of Transportation.

28           “Service drain” means “service drain” as defined in Section 21.16.030.

29           “Side sewer” means “side sewer” as defined in Section 21.16.030.

30           “Sidewalk” means “sidewalk” as defined in Section 23.84A.036.

1           “Sidewalk project” means a project for the creation of a new sidewalk or replacement of  
2 an existing sidewalk, including any associated planting strip, apron, curb ramp, curb, or gutter,  
3 and necessary roadway grading and repair. If the total new plus replaced hard surface in the  
4 roadway exceeds 10,000 square feet, the entire project is a roadway project. Projects that meet  
5 the definition of roadway projects are not sidewalk projects.

6           “Single-family residential project” means a project that constructs one Single-family  
7 Dwelling Unit pursuant to Section 23.44.006.A and associated accessory dwelling unit(s)  
8 pursuant to Section 23.44.041 located in land classified as being Single-family Residential 9,600  
9 (SF 9600), Single-family Residential 7,200 (SF 7200), or Single-family Residential 5,000 (SF  
10 5000) pursuant to Section 23.30.010, and the total new plus replaced hard surface is less than  
11 10,000 square feet, and the total new plus replaced pollution-generating hard surface is less than  
12 5,000 square feet.

13           “Site” means the ~~((lot or parcel, or portion of street, highway or other right-of-way, or~~  
14 ~~contiguous combination thereof, where development is proposed or performed))~~ area defined by  
15 the legal boundaries of a parcel or parcels of land that are subject to development. For roadway  
16 projects, the length of the project site and the right-of-way boundaries define the site.

17           “Slope” means an inclined ground surface.

18           “Small lakes” means Bitter Lake, Green Lake and Haller Lake.

19           “Small project” means a project with:

- 20           1. Less than 5,000 square feet of new and replaced hard surface; and
- 21           2. Less than one acre of land disturbing activities.

22           “SMC” means the Seattle Municipal Code.

23           “Soil” means naturally deposited non-rock earth materials.

24           “Solid waste” means “solid waste” as defined in Section 21.36.016.

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

28           “SPU” means Seattle Public Utilities.

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

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

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

3 “Stream” means a Type 2-5 water as defined in WAC 222-16-031 and is used  
4 synonymously with “creek.”

5 **22.801.210 “T”**

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

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

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

12 “Treatment facility” means a drainage control facility designed to remove pollutants from  
13 drainage water.

14 **22.801.220 “U”**

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

18 **22.801.230 “V”**

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

20 **22.801.240 “W”**

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

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

25 “Watercourse” means the route, constructed or formed by humans or by natural  
26 processes, generally consisting of a channel with bed, banks or sides, in which surface waters  
27 flow. Watercourse includes small lakes, bogs, streams, creeks, and other receiving waters but  
28 does not include designated receiving waters.

29 “Watershed” means a geographic region within which water drains into a particular river,  
30 stream, or other body of water.

31 “Wetland” means a wetland designated under Section 25.09.020.

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

6           “Wetland values” means wetland processes, characteristics, or attributes that are  
7 considered to benefit society.

8           Section 3. Chapter 22.802 of the Seattle Municipal Code, last amended by Ordinance  
9 124872, is amended as follows:

## 10 **Chapter 22.802 PROHIBITED AND PERMISSIBLE DISCHARGES**

### 11 **22.802.010 General**

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

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

### 23 **22.802.020 Prohibited Discharges**

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

- 28           1. acids;
- 29           2. alkalis including cement wash water;
- 30           3. ammonia;
- 31           4. animal carcasses;

- 1 5. antifreeze, oil, gasoline, grease and all other automotive and petroleum
- 2 products;
- 3 6. chemicals not normally found in uncontaminated water;
- 4 7. chlorinated swimming pool or hot tub water;
- 5 8. chlorine;
- 6 9. commercial and household cleaning materials;
- 7 10. detergent;
- 8 11. dirt;
- 9 12. domestic or sanitary sewage;
- 10 13. drain cleaners;
- 11 14. fertilizers;
- 12 15. filter backwash wastewater;
- 13 16. flammable or explosive materials;
- 14 17. food and food waste;
- 15 18. gravel;
- 16 19. herbicides;
- 17 20. human and animal waste;
- 18 21. ink;
- 19 22. laundry waste;
- 20 23. metals in excess of naturally occurring amounts, whether in liquid or solid
- 21 form;
- 22 24. painting products;
- 23 25. pesticides;
- 24 26. process wastewater;
- 25 27. sand;
- 26 28. soap;
- 27 29. solid waste;
- 28 30. solvents and degreasers;
- 29 31. steam-cleaning waste; and
- 30 32. yard waste.

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

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

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

### 10 **22.802.030 Permissible Discharges**

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

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

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

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

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

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

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

9                   B. Permissible Discharges. Discharges from the sources listed below are permissible  
10 discharges unless the Director of SPU determines that the type of discharge, directly or indirectly  
11 to a public drainage system, private drainage system, or a receiving water within or contiguous to  
12 Seattle city limits, whether singly or in combination with others, is causing or contributing to a  
13 violation of the City’s NPDES stormwater permit or is causing or contributing to a water quality  
14 problem:

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

16                   2. Discharges of uncontaminated groundwater, including uncontaminated  
17 groundwater infiltration (as defined at 40 CFR 35.2005(b)(20), uncontaminated pumped  
18 groundwater, and rising groundwaters;

19                   3. Discharges of air conditioning condensation;

20                   4. Discharges from springs;

21                   5. Discharges of uncontaminated water from crawl space pumps;

22                   6. Discharges from lawn watering;

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

25                   8. Discharges from riparian habitats and wetlands;

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

29                   10. Discharges from foundation drains;

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

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

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

4 C. Permissible Discharges to Sanitary Sewers. In consultation with the local sewage  
5 treatment agency, the Director of SPU may approve discharges of drainage water to a sanitary  
6 sewer if the discharging party demonstrates to the satisfaction of the Director of SPU that other  
7 methods of controlling pollutants in the discharge are not adequate or reasonable, the discharging  
8 party certifies that the discharge will not harm the environment, and the discharging party  
9 certifies that the discharge will not overburden or otherwise harm the sanitary sewer.

10 Connections to the sanitary sewer shall be made in accordance with Chapter 21.16 (Side Sewer  
11 Code). The Director of SPU shall condition approval of such a discharge on compliance with  
12 local pretreatment regulations and on maintaining compliance with the required certifications  
13 given by the discharging party.

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

22 **22.802.040 Testing for Prohibited Discharges**

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

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

30 Section 4. Chapter 22.803 of the Seattle Municipal Code, last amended by Ordinance  
31 124872, is amended as follows:

1 **Chapter 22.803 MINIMUM REQUIREMENTS FOR ALL DISCHARGES AND ALL**  
2 **REAL PROPERTY**

3 **22.803.010 General**

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

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

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

16 **22.803.020 Minimum Requirements for All Discharges and Real Property**

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

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

28 C. Requirements to maintain facilities. All treatment facilities, flow control facilities,  
29 drainage control facilities, and drainage systems shall be maintained as prescribed in rules  
30 promulgated by the Director in order for these facilities and systems to be kept in continuous  
31 working order.

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

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

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

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

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

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

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

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

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

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

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

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

16 I. Fueling at Dedicated Stations. Businesses and public agencies that operate a facility  
17 used exclusively for the transfer of fuels from a stationary pumping station to vehicles or  
18 equipment must design the fueling island to minimize stormwater contamination, to control  
19 spills, and to collect and direct stormwater an appropriate treatment facility prior to discharging  
20 to the sanitary sewer or a dead-end sump.

21 J. Mobile Fueling of Vehicles and Heavy Equipment. Businesses and public agencies that  
22 conduct mobile fueling operations must follow a set of operational BMPs to ensure that  
23 pollutants are not discharged to the drainage system or directly into receiving waters.

24 K. In-Water and Over-Water Fueling. Businesses and public agencies that operate a  
25 facility used for the transfer or fuels from a stationary station to vehicles or equipment in water  
26 must follow a set of operational BMPs to ensure that pollutants are not discharged directly into  
27 receiving waters.

28 L. Maintenance and Repair of Vehicles and Equipment. Businesses and public agencies  
29 engaging in vehicle and equipment repair and maintenance activities must follow a set of  
30 operational and structural BMPs to ensure that pollutants are not discharged to the drainage  
31 system or directly into receiving waters.

1           M. Concrete and Asphalt Mixing and Production. Businesses and public agencies  
2 engaged in activities related to concrete and asphalt mixing and production at stationary sites  
3 must follow a set of operational and structural BMPs to ensure that pollutants are not discharged  
4 to the drainage system or directly into receiving waters.

5           N. Concrete Pouring, Concrete/Asphalt Cutting, and Asphalt Application. Businesses and  
6 public agencies engaged in activities related to concrete pouring and cutting and asphalt  
7 application must follow a set of operational and structural BMPs to ensure that pollutants are not  
8 discharged to the drainage system or directly into receiving waters.

9           O. Recycling, Wrecking Yard, and Scrap Yard Operations. Businesses and public  
10 agencies that operate recycling, wrecking yard, and scrap yard operations must follow a set of  
11 operational and structural BMPs to ensure that pollutants are not discharged to the drainage  
12 system or directly into receiving waters.

13           P. Storage of Liquids in Above-ground Tanks. Businesses and public agencies that store  
14 liquids in above-ground tanks must follow a set of operational and structural BMPs to ensure that  
15 pollutants are not discharged to the drainage system or directly into receiving waters.

16 **22.803.040 Minimum Requirements for Source Controls For Businesses and Public Entities**  
17 **for Specific Activities**

18 For all discharges (~~(except those that drain only to the public combined sewer)~~), source controls  
19 shall be implemented, to the extent allowed by law, by businesses and public entities for specific  
20 pollution-generating activities as specified in the joint SPU/DPD Directors' Rule titled "Seattle  
21 Stormwater Manual" at "Volume 4 – Source Control," to the extent necessary to prevent  
22 prohibited discharges as described in subsection 22.802.020.A through subsection 22.802.020.D  
23 (~~22.802.020.C~~), and to prevent contaminants from coming in contact with drainage water.

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

28           Section 5. Chapter 22.805 of the Seattle Municipal Code, last amended by Ordinance  
29 124919, is amended as follows:

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

2 **22.805.010 General**

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

5 B. The Director shall determine whether closely related projects will be evaluated  
6 separately or as a single project as specified in the joint SPU/DPD Directors’ Rule titled “Seattle  
7 Stormwater Manual” at “Volume 1 – Project Minimum Requirements.”

8 C. When a master use permit requires preliminary drainage review per subsection  
9 22.807.020.A.1, the thresholds for application of minimum requirements in this subtitle shall be  
10 determined by including all proposed or potential development on all associated properties and  
11 rights-of-way included in the master use permit as well as all closely related projects.  
12 Applications for building permits and other construction permits related to the master use permit  
13 shall comply with the provisions of the approved preliminary drainage control plan.

14 D. Stormwater facilities that will serve multiple proposed lots, parcels, or tracts or that  
15 are required to achieve the minimum requirements in this subtitle as approved on a preliminary  
16 drainage control plan for a subdivision or short plat shall be constructed prior to recording the  
17 final plat unless a condition is added to the plat that instead requires construction of the  
18 stormwater facilities prior to the sale of any proposed lots, parcels, or tracts and prior to final  
19 inspection of any related construction permit, including building permits. Permitting for  
20 construction requires approval of a standard or comprehensive drainage control plan that shows  
21 the stormwater facilities.

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

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

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

3 **22.805.020 Minimum requirements for all projects**

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

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

16 C. Minimum Requirements for Flood-prone Areas. On sites within flood-prone areas,  
17 responsible parties are required to employ procedures to minimize the potential for flooding on  
18 the site and to minimize the potential for the project to increase the risk of floods on adjacent or  
19 nearby properties. Flood control measures shall include those set forth in other titles of the  
20 Seattle Municipal Code and rules promulgated thereunder, including, but not limited to, Chapter  
21 23.60 (Shoreline District), Chapter 25.06 (Floodplain Development) and Chapter 25.09  
22 (Environmentally Critical Areas) of the Seattle Municipal Code.

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

29 1. Mark Clearing Limits and Environmentally Critical Areas. Within the  
30 boundaries of the project site and prior to beginning land disturbing activities, including clearing  
31 and grading, clearly mark all clearing limits, easements, setbacks, all environmentally critical

1 areas and their buffers, and all trees and drainage courses that are to be preserved within the  
2 construction area.

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

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

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

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

25           6. Prevent Erosion and Sediment Transport from the Site by Vehicles. Whenever  
26 construction vehicle access routes intersect paved roads, the transport of sediment onto the paved  
27 road shall be minimized. If sediment is transported onto a paved road surface, the roads shall be  
28 cleaned thoroughly at the end of each day. Sediment shall be removed from paved roads by  
29 shoveling or sweeping and shall be transported to a controlled sediment disposal area. If  
30 sediment is tracked off site, roads shall be cleaned thoroughly at the end of each day, or at least  
31 twice daily during wet weather. Street washing is allowed only after sediment is removed, and

1 street wash wastewater shall be prevented from entering the drainage system and receiving  
2 waters.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 obtain written approval from Ecology prior to using chemical treatment other than carbon  
2 dioxide (CO<sub>2</sub>) or dry ice to adjust pH.

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

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

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

26           15. Execute Construction Stormwater Control Plan. Construction site operators  
27 shall maintain, update, and implement their Construction Stormwater Control Plan. Construction  
28 site operators shall modify their Construction Stormwater Control Plan to maintain compliance  
29 whenever there is a change in design, construction, operation, or maintenance at the site that has,  
30 or could have, a significant effect on the discharge of pollutants to waters of the state.

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

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

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

14                   19. Protect Stormwater BMPs

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

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

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

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

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

1 E. Protect Wetlands. All projects discharging into a wetland or its buffer, either directly  
2 or indirectly through a drainage system, shall prevent impacts to wetlands that would result in a  
3 net loss of functions or values. All projects are required to meet Sections 25.09.060 (General  
4 development standards) and 25.09.160 (Development standards for wetlands and wetland  
5 buffers) of Chapter 25.09 (Regulations for Environmentally Critical Areas).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22           K. Comply with Side Sewer Code

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

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

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

4 **22.805.030 Minimum Requirements for Single-Family Residential Projects**

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

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

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

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

19 **22.805.040 Minimum Requirements for Trail and Sidewalk Projects**

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

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

28 **22.805.050 Minimum Requirements for Parcel-Based Projects**

29 A. Soil Amendment. Retain and protect undisturbed soil in areas not being developed,  
30 and prior to completion of the project, amend all new, replaced, and disturbed topsoil (including

1 construction lay-down areas) with organic matter to the extent required by and in compliance  
2 with the rules promulgated by the Director.

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

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

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

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

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

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

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

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

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

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

29 2. Discharges to Listed Creek Basins. Parcel-based projects discharging into Blue  
30 Ridge Creek, Broadview Creek, Discovery Park Creek, Durham Creek, Frink Creek, Golden  
31 Gardens Creek, Kiwanis Ravine/Wolfe Creek, Licton Springs Creek, Madrona Park Creek, Mee-

1 Kwa-Mooks Creek, Mount Baker Park Creek, Puget Creek, Riverview Creek, Schmitz Creek,  
2 Taylor Creek, or Washington Park Creek, or to the drainage basin of such creek, shall:

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

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

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

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

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

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

21 1) The ((the)) total new plus replaced hard surface is 2,000 square  
22 feet or more; or ((-))

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

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

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

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

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

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

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

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

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

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

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

22 1. The ~~(the)~~ total new plus replaced hard surface is 2,000 square  
23 feet or more.

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

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

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

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

3 4. Discharges to Small Lake Basins. Parcel-based projects discharging into Bitter  
4 Lake, Green Lake, or Haller Lake, or to the drainage basin of such lake, shall comply with  
5 subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus replaced hard surface is  
6 2,000 square feet or more.

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

12 6. Discharges to a Capacity-constrained System. In addition to applicable  
13 minimum requirements for flow control in subsection 22.805.050.C.1 through subsection  
14 22.805.050.C.5, parcel-based projects discharging into a capacity-constrained system or its basin  
15 shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new plus  
16 replaced hard surface is 2,000 square feet or more.

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

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

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

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

1 **22.805.060 Minimum Requirements for Roadway Projects**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 4) The project adds 5,000 square feet or more of new hard surface  
13 and, through a combination of effective hard surfaces and converted pervious surfaces, causes a  
14 0.1 cubic feet per second increase in the 100-year recurrence interval flow frequency as  
15 estimated using a continuous model approved by the Director.

16 b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture  
17 Standard) if the criteria in subsection 22.805.060.C.2.a do not apply and one or more of the  
18 following apply:

19 1) The ~~((the))~~ total new ~~((plus replaced))~~ hard surface is 10,000  
20 square feet or more; ~~or ((-))~~

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

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

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

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

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

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

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

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

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

17                   b. Comply with subsection 22.805.080.B.3 (Pre-developed Pasture  
18 Standard) if the criteria in subsection 22.805.060.C.3.a do not apply and one or more of the  
19 following apply:

20                                 1) The ((the)) total new ((plus replaced)) hard surface is 10,000  
21 square feet or more; or ((-))

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

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

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

1                   4. Discharges to Small Lake Basins. Projects discharging into Bitter Lake, Green  
2 Lake, or Haller Lake, or to the drainage basin of such lake, shall comply with subsection  
3 22.805.080.B.4 (Peak Control Standard) if the total new (~~plus replaced~~) hard surface is 10,000  
4 square feet or more.

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

10                  6. Discharges to a Capacity-constrained System. In addition to applicable  
11 minimum requirements for flow control in subsection 22.805.060.C.1 through subsection  
12 22.805.060.C.5, roadway projects discharging into a capacity-constrained system or its basin  
13 shall also comply with subsection 22.805.080.B.4 (Peak Control Standard) if the total new (~~plus~~  
14 ~~replaced~~) hard surface is 10,000 square feet or more.

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

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

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

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

30                      a. If the new pollution-generating hard surface adds 50 percent or more to  
31 the existing hard surfaces within the project limits, comply with the minimum requirements for

1 treatment contained in Section 22.805.090 for flows from the total new plus replaced pollution-  
2 generating hard surface and new plus replaced pollution-generating pervious surface. The project  
3 limits are defined by the length of the project and the width of the right-of-way; or

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

9                   3. If the total new plus replaced pollution-generating pervious surfaces is 3/4  
10 acres or more, and from the project there is a surface discharge in a natural or man-made  
11 conveyance system from the site, comply with the minimum requirements for treatment  
12 contained in Section 22.805.090 for flows from the total new plus replaced pollution-generating  
13 pervious surface and the new plus replaced pollution-generating hard surface.

14           E. For a roadway project that adds less than 50 percent to the existing hard surface within  
15 the project limits on a site having greater than 35 percent existing hard surface coverage, the  
16 requirements of subsections 22.805.060.B, 22.805.060.C and 22.805.060.D to install drainage  
17 control facilities are modified based on infeasibility to the degree that (a) complete installation  
18 would require that an existing major publicly or privately-owned infrastructure or utility element  
19 be relocated, or (b) the drainage control facility cannot be built and operated to discharge  
20 stormwater from the site under gravity flow conditions while meeting the applicable engineering  
21 standards. Compliance with subsections 22.805.060.B, 22.805.060.C and 22.805.060.D is  
22 required to the degree that the project can avoid the infeasibility described in this subsection  
23 22.805.060.E. Standard drainage ((~~control~~)) review and approval shall be required whenever this  
24 subsection is used, whether or not Section 22.800.070 applies.

25                   1. The following are considered existing major infrastructure or utility elements:

26                   a. Gravity flow pipe greater than or equal to 24 inches in diameter or  
27 gravity flow pipe which cannot be relocated to discharge under gravity flow conditions;

28                   b. High-pressure gas pipe;

29                   c. Pressure gas pipe greater than 8 inches in diameter;

30                   d. Any other pressure pipe greater than 12 inches in diameter (e.g. water or  
31 steam);

1 e. Duct banks, vaults, or handholes, for underground electrical, fiber optic,  
2 or telecommunication services;

3 f. Bridge, building, or tunnel structural foundations; and

4 g. Foundations for walls greater than 6 feet in height or 15 feet in length.

5 **22.805.070 Minimum Requirements for On-((S)) site Stormwater Management**

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

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

11 1. Comply with either:

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

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

14 C. On-site Performance Standard:

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

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

20 2. For all other projects:

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

24 D. On-site Lists:

25 1. For each project surface, follow the appropriate project table in subsection  
26 22.805.070.D.2 to subsection 22.805.070.D.5 to evaluate on-site BMPs shown for that type of  
27 surface, by category. The project tables apply to roofs and other hard (non-roof) surfaces. All on-  
28 site BMPs used must comply with the rules promulgated by the Director. For each surface,  
29 consider all of the applicable on-site BMPs in the first category. Use any that is considered  
30 feasible. If none is feasible for that surface, move on to each successive category and repeat the  
31 selection process as necessary. Once one on-site BMP is used for a surface, no other on-site

1 BMP is necessary for that surface. If no BMP in the appropriate categories is feasible, then no  
2 further evaluation is required for that surface under this subsection 22.805.070.D.1. Feasibility  
3 shall be determined by evaluation against:

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

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

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

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

22 3) Public health and safety standards. For example, the Director  
23 has determined that permeable pavement in active zones of a skate park, bike park, or sport court  
24 violates safety standards; or

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

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

1

2. For single-family residential projects, Table A for 22.805.070 applies.

<b>Table A for 22.805.070</b> <b>On-site List for Single-family Residential Projects</b>		
Category	BMPs	All Discharge Locations
1	Full Dispersion	R, S
	Infiltration Trenches	R, S <sup>X</sup>
	Dry Wells	R, S <sup>X</sup>
2	Rain Gardens <sup>a</sup>	R, S
	Infiltrating Bioretention	R, S
	Rainwater Harvesting	X
	Permeable Pavement Facilities	R, S
	Permeable Pavement Surfaces	S
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S</u>
3	Sheet Flow Dispersion	R, S
	Concentrated Flow Dispersion	S
	Splashblock Downspout Dispersion	R
	Trench Downspout Dispersion	R
	<del>((Non-infiltrating Bioretention))</del>	<del>((R, S))</del>
	<del>((Vegetated Roofs))</del>	<del>((X))</del>
4	<u>Non-infiltrating Bioretention</u>	<u>R, S</u>
	<u>Vegetated Roofs</u>	<u>X</u>
((4)) <u>5</u>	Single-family Residential Cisterns	R
	Perforated Stub-out Connections	R
	<del>((Newly Planted))</del> Trees	S

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

Key to Table A for 22.805.070

R = Evaluation is required for all roof runoff from Single-family residential projects.

S = Evaluation is required for all other hard (non-roof) surfaces of Single-family residential projects.

X = Evaluation is not required but is allowed.

<sup>a</sup> Installation is only allowed for projects with less than 5,000 square feet of hard surface infiltrating on the project site.

1

3. For trail and sidewalk projects, Table B for 22.805.070 applies.

<b>Table B for 22.805.070 On-site List for Trail and Sidewalk Projects</b>				
<b>Category</b>	<b>BMPs</b>	<b>Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, or its Basin</b>	<b>Projects Discharging to a Public Combined Sewer or Capacity-constrained System,<sup>c</sup> or its Basin</b>	<b>Projects Discharging to a Designated Receiving Water, or its Basin</b>
1	Full Dispersion	S	S	S
2	Rain Gardens	S	S	X
	Permeable Pavement Facilities	X	X <sup>a</sup>	X <sup>a, b</sup>
	Permeable Pavement Surfaces	S	S <sup>a</sup>	X <sup>a, b</sup>
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S</u>	<u>S</u>	<u>S</u>
3	Sheet Flow Dispersion	S	S	S
	Concentrated Flow Dispersion	S	S	S
4	<u>Trees</u>	<u>S</u>	<u>S</u>	<u>S</u>

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

Key to Table B for 22.805.070

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

X = Evaluation is not required for trail or sidewalk projects.

<sup>a</sup> Minimum permeable pavement area allowed in right-of-way is 2,000 square feet of pavement within the project site.

<sup>b</sup> Installation is not allowed in the right-of-way if new plus replaced pollution-generating hard surface area is less than 2,000 square feet of pavement within the project site.

<sup>c</sup> Does not include any project discharging to a receiving water not designated by Section 22.801.050, or its basin, even if the project discharges to a capacity-constrained system or its basin.

1

4. For parcel-based projects, Table C for 22.805.070 applies.

<b>Table C for 22.805.070</b>			
<b>On-site List for Parcel-based Projects</b>			
<b>Category</b>	<b>BMPs</b>	<b>Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, Public Combined Sewer, or Capacity-constrained System, or its Basin</b>	<b>Projects Discharging to a Designated Receiving Water or its Basin</b>
1	Full Dispersion	R, S	R, S
	Infiltration Trenches	R, S <sup>X</sup>	R, S <sup>X</sup>
	Dry Wells	R, S <sup>X</sup>	R, S <sup>X</sup>
2	Rain Gardens	R <sup>a</sup> , S <sup>a</sup>	R <sup>a</sup> , S <sup>a</sup>
	Infiltrating Bioretention	R, S	R, S
	Rainwater Harvesting	R <sup>b</sup>	X
	Permeable Pavement Facilities	R, S	R, S
	Permeable Pavement Surfaces	S	S
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S</u>	<u>S</u>
3	Sheet Flow Dispersion	R, S	R, S
	Concentrated Flow Dispersion	S	S
	Splashblock Downspout Dispersion	R	R
	Trench Downspout Dispersion	R	R
	<del>((Non-infiltrating Bioretention))</del>	<del>((R, S))</del>	<del>((R, S))</del>
	<del>((Vegetated Roofs))</del>	<del>((R<sup>e</sup>))</del>	<del>((X))</del>

**Table C for 22.805.070  
 On-site List for Parcel-based Projects**

Category	BMPs	Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, Public Combined Sewer, or Capacity-constrained System, or its Basin	Projects Discharging to a Designated Receiving Water or its Basin
4	<u>Non-infiltrating Bioretention</u>	R, S	R, S <sup>1</sup>
	<u>Vegetated Roofs</u>	R <sup>c</sup>	X
((4)) 5	Perforated Stub-out Connections	R	R
	((Newly Planted)) Trees	S	S

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

**Key to Table C for 22.805.070**

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

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

X = Evaluation is not required but is allowed.

<sup>a</sup> Installation is 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 square feet of hard surface infiltrating on the project site.

<sup>b</sup> Evaluation is not required for projects with less than 10,000 square feet of new plus replaced rooftop surface.

<sup>c</sup> Evaluation is not required for projects with less than 5,000 square feet of new plus replaced rooftop surface.

<sup>1</sup> Installation of water quality treatment BMPs sized to meet Section 22.805.090 (Minimum Requirements for Treatment) may be installed in lieu of non-infiltrating bioretention.

1

5. For roadway projects, Table D for 22.805.070 applies.

<b>Table D for 22.805.070 On-site List for Roadway Projects</b>				
<b>Category</b>	<b>BMPs</b>	<b>Projects Discharging to a Receiving Water Not Designated by Section 22.801.050, or its Basin</b>	<b>Projects Discharging to a Public Combined Sewer or Capacity-constrained System,<sup>g</sup> or its Basin</b>	<b>Projects Discharging to a Designated Receiving Water or its Basin</b>
1	Full Dispersion	S	S	S
2	Rain Gardens	S <sup>a</sup>	S <sup>a</sup>	S <sup>a</sup>
	Infiltrating Bioretention	S	S <sup>b</sup>	S <sup>b, c</sup>
	Permeable Pavement Facilities	X <sup>d</sup>	X <sup>e, f</sup>	X <sup>c, e, f</sup>
	Permeable Pavement Surfaces	S <sup>d</sup>	S <sup>e, f</sup>	S <sup>c, e, f</sup>
	<u>Sidewalk / Trail Compost-Amended Strip</u>	<u>S</u>	<u>S</u>	<u>S</u>
3	Sheet Flow Dispersion	S	S	S
	Concentrated Flow Dispersion	S	S	S
<u>4</u>	<u>Trees</u>	<u>S</u>	<u>S</u>	<u>S</u>

Note that subsection 22.805.070.D.1 requires consideration of all on-site BMPs in a category for feasibility before moving on to each successive category as necessary. Within a category, BMPs may be considered in any order.

**Key to Table D for 22.805.070**

S = Evaluation is required for all surfaces of Roadway Projects.

X = Evaluation is not required for Roadway Projects, but is allowed.

<sup>a</sup> Installation is 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 square feet of hard surface infiltrating on the project site.

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

<sup>c</sup> Evaluation is not required, and installation is not allowed, if new plus replaced pollution-generating hard surface is less than 2,000 square feet.

<sup>d</sup> Evaluation of roadway surfaces is not required, and installation is not allowed, if roadway is an arterial street/collector.

**Table D for 22.805.070  
On-site List for Roadway Projects**

<sup>e</sup> Evaluation of roadway surfaces, including alleys, is not required and installation is not allowed.

<sup>f</sup> Minimum permeable pavement area allowed in right-of-way is 2,000 square feet of pavement within the project site.

<sup>g</sup> Does not include any project discharging to a receiving water not designated by Section 22.801.050, or its basin, even if the project discharges to a capacity-constrained system or its basin.

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

3 1. Federal Laws on Historic Preservation:

4 a. 16 U.S.C. 470, et seq. (National Historic Preservation Act);

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

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

8 d. 36 CFR Part 63 (Determinations of Eligibility for Inclusion in the  
9 National Register of Historic Places);

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

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

13 g. Section 106 of National Historic Preservation Act;

14 h. Secretary of the Interior's Standards and Guidelines for Professional  
15 Qualifications Standards;

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

18 j. Executive Order 13006 (Locating Federal Facilities in Historic  
19 Properties).

20 2. Washington State Laws on Historic Preservation:

21 a. Archaeological and Cultural Resources (Executive Order 05-05);

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

23 c. Washington State Historic Building Code (RCW 19.27.120);

24 d. Heritage Barn Program (RCW 27.34.400);

- 1 e. State Historical Societies – Historic Preservation (RCW 27.34); and  
2 f. Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60).
- 3 3. Federal Laws on Archaeology:
- 4 a. 16 U.S.C. 470aa, et seq. (Archaeological Resources Protection Act of  
5 1979);
- 6 b. 16 U.S.C. 469 (Archaeological and Historic Preservation Act of 1974);  
7 c. 25 U.S.C. 3001, et seq. (Native American Graves Protection and  
8 Repatriation Act); and
- 9 d. 16 U.S.C. 470, et seq. (National Historic Preservation Act).
- 10 4. Washington State Laws on Archaeology:
- 11 a. Archaeological and Cultural Resources (Executive Order 05-05);  
12 b. Registration of Historic Archaeological Resources on State-Owned  
13 Aquatic Lands (WAC 25-46);
- 14 c. Archaeological Excavation and Removal Permit (WAC 25-48);  
15 d. Indian Graves and Records (RCW 27.44);  
16 e. Archaeological Sites and Resources (RCW 27.53);  
17 f. Archaeological Site Public Disclosure Exemption (RCW 42.56.300);  
18 g. Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60);  
19 and
- 20 h. Archaeological Activities on State-owned Aquatic Lands – Agreements,  
21 Leases, or Other Conveyances (RCW 79.105.600).
- 22 5. City of Seattle Laws on Historic Preservation as listed below and historic  
23 districts that have been or may be designated by ordinance:
- 24 a. Chapter 23.66 (Pioneer Square and International Special Review  
25 Districts);
- 26 b. Chapter 25.12 (Landmarks Preservation);  
27 c. Chapter 25.16 (Ballard Avenue Landmark District);  
28 d. Chapter 25.20 (Columbia City Landmark District);  
29 e. Chapter 25.21 (Fort Lawton Landmark District);  
30 f. Chapter 25.22 (Harvard-Belmont Landmark District);  
31 g. Chapter 25.24 (Pike Place Market Historical District); and

1 h. Chapter 25.32 (Table of Historical Landmarks).

2 **22.805.080 Minimum Requirements for Flow Control**

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

5 B. Requirements. Flow control facilities shall be installed to the extent allowed by law  
6 and maintained pursuant to rules promulgated by the Director to receive flows from that portion  
7 of the site being developed. Post-development discharge determination must include flows from  
8 dewatering activities. All projects shall use on-site BMPs identified in Section 22.805.070.D to  
9 the maximum extent feasible to meet the minimum requirements. Flow control facilities that  
10 receive flows from less than that portion of the site being developed may be installed if the total  
11 new plus replaced impervious surface is less than 10,000 square feet, the project site uses only  
12 on-site BMPs to meet the requirement, and the on-site BMPs provides substantially equivalent  
13 environmental protection as facilities not using on-site BMPs that receive flows from all of the  
14 portion of the site being developed.

15 1. Wetland Protection Standards. Protect the functions and values of wetlands and  
16 their buffers from all projects discharging stormwater directly or indirectly to them. The  
17 hydrologic conditions, vegetative community, and substrate characteristics of the wetlands shall  
18 be protected, and impacts caused by changes in water flows and pollutants shall be prevented.  
19 The introduction of sediment, heat and other pollutants and contaminants into wetlands shall be  
20 minimized through the selection, design, installation, and maintenance of temporary and  
21 permanent controls.

22 Before authorizing new discharges to a wetland, alternative discharge locations  
23 shall be evaluated and infiltration options outside the wetland shall be maximized unless doing  
24 so will adversely impact the functions and values of the affected wetlands. If one or more of the  
25 flow control requirements contained in subsections 22.805.080.B.2 through 22.805.080.B.4 also  
26 apply to the project, an analysis shall be conducted to ensure that the functions and values of the  
27 affected wetland are protected before implementing these flow control requirements.  
28 Notwithstanding any provision in this subtitle, no net loss of wetland functions of values shall  
29 result from actions regulated by this subtitle.

30 Refer to the *Washington State Wetland Rating System for Western Washington:*  
31 *2014 Update* (Hruby, 2014) to determine the category, characteristics, and habitat score of the

1 wetland. Wetland classification shall be determined by a wetland professional per rules  
2 promulgated under section 25.09.33.C (Regulations for Environmentally Critical Areas).

3 a. Comply with subsection 22.805.080.B.1.c (Wetland Protection Standard  
4 – Method 1: Monitoring and Wetland Stage Modeling) if one or more of the following apply:

5 1) The project discharges to a Category I or II depressional or  
6 riverine impounding wetland; and

7 2) The project [proponent] has legal access to the [entire] wetland  
8 [and its buffer] for purposes of conducting monitoring in the wetland.

9 b. Comply with subsection 22.805.080.B.1.d (Wetland Protection  
10 Standard – Method 2: Site Discharge Modeling) if the criteria in subsection 22.805.080.B.1.a do  
11 not apply and one or more of the following apply (or is unknown):

12 1) The wetland is Class I or II and does not meet the requirements  
13 of subsection 22.805.080.B.1.a.

14 2) The wetland is Class III or IV and:

15 a) Has a habitat score greater than 5;

16 b) Is interdunal and has special characteristics;

17 c) Provides habitat for rare, threatened, endangered, or  
18 sensitive species; or

19 d) Contains breeding population of any native amphibian.

20 Per Ecology’s guidance, wetlands with permanent or seasonal ponding or inundation are  
21 assumed to have breeding population of native amphibian.

22 c. Wetland Protection Standard – Method 1: Monitoring and Wetland  
23 Stage Modeling. Comply with I-C.4, Wetland Hydroperiod Protection, presented in Appendix C  
24 of Ecology’s Stormwater Management Manual for Western Washington (Ecology 2019).

25 Projects triggering Method 1 shall refer to I-C-5, Wetland Hydroperiod  
26 Data Collection and Evaluation Procedures, presented in Appendix C of Ecology’s Stormwater  
27 Management Manual for Western Washington (Ecology 2019) for additional guidance.

28 d. Wetland Protection Standard – Method 2: Site Discharge Modeling. The  
29 total volume of stormwater discharging [from the site] into a wetland shall not be more than:

30 1) On a daily basis during a single precipitation event, 20 percent  
31 higher or lower than the pre-project volume, and



1           B. Requirements. Water quality treatment facilities shall be installed to the extent allowed  
2 by law and maintained pursuant to rules promulgated by the Director to treat flows from the  
3 pollution-generating pervious and (~~(impervious)~~) hard surfaces on the site being developed.  
4 When stormwater flows from other areas, including non-pollution generating surfaces (e.g.,  
5 roofs), dewatering activities, and off-site areas, cannot be separated or bypassed, treatment BMPs  
6 shall be designed for the entire area draining to the treatment facility. All projects shall use on-  
7 site BMPs identified in Section 22.805.070.D to the maximum extent feasible to meet the  
8 minimum requirements.

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

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

- 14                           1) Rank the daily runoff volumes from highest to lowest.
- 15                           2) Sum all the daily volumes and multiply by 0.09.
- 16                           3) Sequentially sum daily runoff volumes, starting with the highest  
17 value, until the total equals 9 percent of the total runoff volume. The last daily value added to the  
18 sum is defined as the water quality design volume.

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

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

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

28           c. Infiltration facilities designed for water quality treatment must infiltrate  
29 91 percent of the total runoff volume as determined using an approved continuous runoff model.  
30 To prevent the onset of anaerobic conditions, an infiltration facility designed for water quality

1 treatment purposes must be designed to drain the water quality design treatment volume (the 91st  
2 percentile, 24-hour volume) within 48 hours.

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

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

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

11           5. Enhanced Treatment. An enhanced treatment facility for reducing  
12 concentrations of dissolved metals shall be required for projects that discharge, directly or  
13 through conveyance systems, to fresh or marine waters designated for aquatic life use or having  
14 an existing aquatic life use, or that use infiltration strictly for flow control (not treatment) and  
15 discharge within one-quarter mile of fresh or marine waters designated for aquatic life use or  
16 having an existing aquatic life use, if the project meets one of the following criteria:

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

19                   b. For a roadway project, the site is either:  
20                           1) A fully controlled or a partially controlled limited access  
21 highway with Annual Average Daily Traffic counts of 15,000 or more; or  
22                           2) Any other road with an Annual Average Daily Traffic count of  
23 7,500 or greater.

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

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

29           Section 6. Chapter 22.807 of the Seattle Municipal Code, last amended by Ordinance  
30 125248, is amended as follows:

1 **Chapter 22.807 DRAINAGE CONTROL REVIEW AND APPLICATION**  
2 **REQUIREMENTS**

3 **22.807.010 General**

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

9 B. Every permit issued to implement this subtitle shall contain a performance standard  
10 requiring that no discharge from a site, real property, or drainage facility, directly or indirectly to  
11 a public drainage system, private drainage system, or a receiving water within or contiguous to  
12 Seattle city limits, cause or contribute to a prohibited discharge or a known or likely violation of  
13 water quality standards in the receiving water or a known or likely violation of the City’s  
14 municipal stormwater NPDES permit.22.807.020 Drainage control review and application  
15 requirements

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

18 1. Preliminary drainage review and approval is required for the following:

19 a. Applications for the following approvals:

- 20 1) Subdivisions (Chapter 23.22);  
21 2) Short plats (Chapter 23.24);  
22 3) Lot boundary adjustments (Chapter 23.28);  
23 4) Major institution master plans (Section 23.69.028);  
24 5) Major (Section 23.50.015);  
25 6) Cluster housing planned developments (Section 23.44.024);  
26 7) Planned residential development (Section 23.44.034);  
27 8) Downtown planned community developments (Section  
28 23.49.036);  
29 9) Shoreline substantial development permits (Section 23.60A.063)  
30 10) Environmentally critical areas administrative conditional use  
31 (Section 25.09.260);

1                                    11) Yard and setback reduction and variance to preserve  
2 environmentally critical area buffers and riparian corridor management areas (Section  
3 25.09.280);

4                                    12) Steep slope erosion hazard area variance (Section 25.09.290);  
5 and

6                                    13) Environmentally critical area exception (Section 25.09.300).

7                                    b. Master use permits that would allow development within an  
8 Environmentally Critical Area; proximity and tributary to an Environmentally Critical Area; and  
9 proximity and tributary to an area with known adequacy, erosion, water quality, or flooding  
10 problems.

11                                    ((+) 2. Standard drainage ((control)) review and approval ((shall be)) is required  
12 for the following:

13                                    a. ((Any)) Applications or approvals that include any land disturbing  
14 activity encompassing an area of (( ) 5,000 square feet or more, including demolition permits;

15                                    b. Applications for ((either)) a ((master use permit or)) building permit or  
16 other construction permit that ((~~includes the cumulative addition~~)) authorizes the construction or  
17 installation of 750 square feet or more of ((~~land disturbing activity and/or~~)) new ((and)) plus  
18 replaced ((~~impervious~~)) hard surface;

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

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

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

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

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

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

10 i. Whenever roadway project infeasibility pursuant to subsection  
11 22.805.060.E is applied, whether or not review and approval would otherwise be required.

12 j. Applications or approvals for activities or projects that require  
13 installation of Source Control best management practices per subsection 22.805.020.I, “Install  
14 Source Control BMPs,” including, but not limited to, building and master use permits.

15 2. ~~((Large project))~~ Comprehensive drainage ~~((control))~~ review and approval is  
16 ~~((shall be))~~ required for projects that include:

17 a. 5,000 square feet or more of new plus replaced hard surface;  
18 b. 1 acre or more of land disturbing activity;  
19 c. Conversion of 3/4 acres or more of vegetation to lawn or landscaped  
20 area; or

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

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

28 B. Submittal Requirements for Drainage Control Review and Approval

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

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

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

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

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

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

23                                    a. Five thousand square feet or more of new plus replaced  
24 hard surface;

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

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

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

30                                    e. No accessible off-site discharge point.





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

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

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

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

25 **22.807.090 Maintenance and Inspection**

26 A. Responsibility for Maintenance and Inspection. The owner and other responsible  
27 parties shall maintain drainage control facilities, source controls, and other facilities required by  
28 this subtitle and by rules adopted hereunder to keep these facilities in continuous working order.  
29 The owner and other responsible parties shall inspect permanent drainage control facilities,  
30 temporary drainage control facilities, and other temporary best management practices or facilities  
31 on a schedule consistent with this subtitle and sufficient for the facilities to function at design

1 capacity. The Director may require the responsible party to conduct more frequent inspections  
2 and/or maintenance when necessary to ensure functioning at design capacity. The owner(s) shall  
3 inform future purchasers and other successors and assignees to the property of the existence of  
4 the drainage control facilities and the elements of the drainage control plan, the limitations of the  
5 drainage control facilities, and the requirements for continued inspection and maintenance of the  
6 drainage control facilities.

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

21         C. Entry for Inspection and Abatement Purposes.

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

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

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

8 **Chapter 22.808 STORMWATER CODE ENFORCEMENT**

9 **22.808.010 Violations**

10                   A. Civil Violations

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

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

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

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

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

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

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

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

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

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

#### 10 B. Criminal Violations

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

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

16 b. Failing to comply with a court order;

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

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

#### 23 **22.808.020 Liability and Defenses of Responsible Parties**

24 A. Who Must Comply. It is the specific intent of this subtitle to place the obligation of  
25 complying with its requirements upon the responsible parties, as defined in subsection  
26 22.801.190. The City and its agencies are intended to have the same obligation for compliance  
27 when the City is a responsible party. No provision of this subtitle is intended to impose any other  
28 duty upon the City or any of its officers or employees.

29 1. Joint and Several Liability. Each responsible party is jointly and severally liable  
30 for a violation of this subtitle. The Director may take enforcement action, in whole or in part,

1 against any responsible party. All applicable civil penalties may be imposed against each  
2 responsible party.

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

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

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

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

1 **22.808.025 Right of Entry for Enforcement**

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

5 **22.808.030 Enforcement Actions**

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

8 B. Notice of Violation

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

12 2. Contents

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

- 14 1) A description of the violation and the action necessary to correct  
15 it;
- 16 2) The date of the notice; and
- 17 3) A deadline by which the action necessary to correct the  
18 violation must be completed.

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

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

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

4                   C. Stop Work and Emergency Orders

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

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

10                                 1) A description of the violation; and  
11                                 2) An order that the work be stopped until corrective action has  
12 been completed and approved by the Director.

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

15                   2. Emergency Order

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

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

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

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

3                   D. Review by Director.

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

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

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

- 18                   a. Sustain the Notice of Violation, order, or invoice;
- 19                   b. Withdraw the Notice of Violation, order, or invoice;
- 20                   c. Continue the review to a date certain for receipt of additional  
21 information; or
- 22                   d. Modify or amend the Notice of Violation, order, or invoice.

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

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

30                   F. Appeal to Superior Court. Because civil actions to enforce Title 22 are brought  
31 exclusively in Municipal Court, notices of violation, orders, and all other actions made under this

1 subtitle are not subject to judicial review under chapter 36.70C RCW. Instead, final decisions of  
2 the Municipal Court on enforcement actions authorized by this subtitle may be appealed under  
3 the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

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

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

### 13 **22.808.040 Voluntary Compliance Agreement**

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

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

#### 26 C. Effect of Agreement

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

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

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

11 **22.808.050 Penalties and Damages**

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

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

16                   1. Basic Penalty.

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

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

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

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

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

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

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

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

10 8) Was the violation a repeat violation?

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

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

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

1 **22.808.060 Collection of Costs and Penalties**

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

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

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

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

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

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

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

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

19 g. Laboratory costs and analytical expenses;

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

21 i. Any associated permit fees;

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

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

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

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

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

5 The invoice shall include:

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

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

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

25 **22.808.070 Public Nuisance**

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

30           B. Dysfunctional Facility or Practice. Any private drainage control facility or best  
31 management practice not installed or maintained as required by this subtitle, or otherwise found

1 to be in a state of dysfunction creating, a threat to the public health, safety or welfare, the  
2 environment, or public or private property is a public nuisance.

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

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

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

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

23 **22.808.080 Additional Relief**

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

27 **22.808.090 Suspension or Revocation**

28 Approvals or permits granted on the basis of inaccurate or misleading information may be  
29 suspended or revoked. Other permits or approvals interrelated with an approval suspended or  
30 revoked under this subsection, including, but not limited to, certificates of occupancy or  
31 approvals for occupancy, may also be suspended or revoked. When an approval or permit is

1 suspended or revoked, the Director may require the applicant take corrective action to bring the  
2 project into compliance with this subtitle by a deadline set by the Director, or may take other  
3 enforcement action.

4 **22.808.100 Fees**

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

8 **22.808.110 Financial Assurance and Covenants**

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

12 A. Insurance

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

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

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

1           B. Bonds, Cash Deposits or Instruments of Credit

2                   1. Surety Bond

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

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

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

21           C. Covenants

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

- 28                           a. A legal description of the property;  
29                           b. A description of the property condition making this subsection  
30 applicable;

1                                   c. A statement that the owners of the property understand and accept the  
2 responsibility for the risks associated with development on the property given the described  
3 condition, and agrees to inform future purchasers and other successors and assignees of the risks;

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

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

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

13 **22.808.140 Severability**

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

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

