

---

**Council Bill Number:** 116616

**Ordinance Number:** 123107

---

AN ORDINANCE relating to land disturbing activity; adding a Chapter 22.170 as a new subtitle IB of Title 22 and repealing Chapter 22.804 of the Seattle Municipal Code to consolidate and revise provisions regulating grading and other land disturbing activity.

**Status:** Passed

**Note:** Unified Grocers Rezone

**Vote:** 8-0 (Excused: McIver)

**Date filed with the City Clerk:** 2009/10/05

**Date of Mayor's signature:** 2009/09/29 ([about the signature date](#))

**Date introduced/referred to committee:** 2009/08/17

**Committee:** Environment, Emergency Management and Utilities

**Sponsor:** CONLIN

**Committee Recommendation:** Pass

**Index Terms:** LAND-USE-CODE, GRADING, DRAINAGE, FLOOD-CONTROL-AND-DRAINAGE, FLOOD-CONTROL, SURFACE-WATER, STORM-SEWERS, RETENTION-DETENTION, BUILDING-CODES, LAND-USE-PERMITS, WETLANDS, WATER-POLLUTION, SHORELANDS, ENVIRONMENTAL-PROTECTION, PUBLIC-REGULATIONS

**Fiscal Note:** [Fiscal Note to Council Bill No. 116616](#)

**Electronic Copy:** [PDF scan of Ordinance No. 123107](#)

**Reference:** Related: [Clerk File 310134](#), [Council Bill 116615](#), [Council Bill 116614](#), [Ordinance 119965](#)

---

**Text:**

ORDINANCE \_\_\_\_\_

AN ORDINANCE relating to land disturbing activity; adding a Chapter 22.170 as a new subtitle IB of Title 22 and repealing Chapter 22.804 of the Seattle Municipal Code to consolidate and revise provisions regulating grading and other land disturbing activity.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 22.170 of the Seattle Municipal Code, to be codified as a new subtitle IB, "Grading Code," of Title 22, is enacted to read as follows:

22.170.010 Title

This subtitle shall be known as the "Seattle Grading Code" or "Grading Code" and may be cited as either. It is referred to in this chapter as "this code". References in the Seattle Building Code to the "Stormwater, Grading and Drainage Control Code," shall be construed to include a reference to this code.

22.170.020 Scope

This code applies to all grading and other land disturbing activity, including addition and replacement of impervious surface, within the City of Seattle; to the maintenance and protection of grades, slopes, and soil stability; and to the correction of hazards related to any of the foregoing.

#### 22.170.030 Purpose

The purposes of this code are to protect 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; and to provide for and promote the health, safety and welfare of the general public. This code is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms.

#### 22.170.040 Authority

A. Implementation. The Director has authority to take actions appropriate to implement the provisions and purposes of this code, including, but not limited to promulgating rules and regulations; issuing interpretations; establishing and conducting inspection programs; taking enforcement action; abating nuisances; and reviewing and approving or disapproving required submittals and applications for approvals and permits.

B. Right of entry. With the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued warrant, or as may be otherwise authorized by law, the Director may enter a building or premises to implement this code.

#### 22.170.050 Definitions

For the purpose of this code, the words and phrases listed in this Section 22.170.050 in quotations have the meanings stated in this Section 22.170.050 unless the context clearly indicates otherwise. Terms that are not defined in this code and are defined in the Stormwater Code, the Seattle Building Code, Seattle Mechanical Code or Seattle Plumbing Code, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in those codes, and if definitions of a term appear in more than one such other code, the definition shall be chosen based on the order stated in this sentence, so that a definition in the Stormwater Code shall prevail over another definition not contained in this Section 22.170.050. Words used in the singular include the plural, and words used in the plural include the singular.

"Abandoned solid waste disposal site" means a site where solid waste was disposed of, with or without a permit, that is no longer in use as a site for disposal of solid waste.

"Approved" means acceptable to the Director.

"Backfilling" means returning a site to its original or approved contours after earth materials were removed.

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

"Business day" is a day that is not a Saturday, Sunday, or federal, state or City holiday.

"Civil engineer, licensed" means a person licensed by the State of Washington as a professional civil engineer.

"Clearing" means removal of vegetation, and removal of roots or stumps that includes ground disturbance.

"Compaction" means the densification of earth material or fill.

"Cut" means the changing of a grade by excavation.

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

"Director" means the Director of the Department of Planning and Development, and the Director's designees.

"Earth material" means any rock, soil, or combination thereof.

"Engineer of record" means a licensed engineer who has overall responsibility for the grading portion of the application and whose stamp is on the application materials.

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

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

"Excavation" means the mechanical removal of fill or earth material.

"Existing grade" means the current surface contour of a site, including minor adjustments to the surface of the site in preparation for construction, or the surface contour that existed immediately prior to grading done without a permit.

"Exploratory excavation" means borings or small pits, hand-dug or excavated by mechanical equipment, for the purpose of determining soil characteristics or location of utilities.

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

"Filling" means the activity of depositing fill.

"Geologic hazard area" has the meaning set forth in SMC Section 25.09.020, Regulations for Environmentally Critical Areas.

"Geotechnical engineer" means a person licensed by the State of Washington as a professional civil engineer who has expertise in geotechnical engineering.

"Grade" means the ground surface contour (see also "Existing grade").

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

"Grading permit" means a document issued by the Department of Planning and Development giving permission for land disturbing activity, including approval granted as a component of a building permit.

"Impervious surface" means any surface exposed to rainwater from which most water runs off. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, formal planters, parking lots or storage areas, concrete or asphalt paving, permeable paving, gravel surfaces subjected to vehicular traffic, compact gravel, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of stormwater modeling.

"In-place ground modification" means activity occurring at or below the surface that is designed to alter the engineering parameters and physical characteristics of soil, including, but not limited to, in- situ consolidation, solidification, void space reduction and compaction.

"Land disturbing activity" means any activity resulting in a movement of earth, or a change in the existing soil cover, both vegetative and nonvegetative, or the existing topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, excavation, or addition of new or the replacement of impervious surface. Compaction, excluding hot asphalt mix, that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activities.

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

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

"Potentially hazardous location" includes:

1. All sites on the Hazardous Sites List compiled by the Washington State Department of Ecology pursuant to WAC 173-340-330 or any successor rule, or listed on the National Priorities List by the U.S. Environmental Protection Agency pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), commonly known as the Superfund statute. When a site is no longer on either list, or when the owner otherwise establishes contamination does not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.
2. When designated by the Director, existing and abandoned solid waste disposal sites; and facilities for hazardous waste treatment, storage, or disposal, all as defined by the federal Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

"Preloading" means the temporary stockpiling of earth material over a site for the purpose of consolidating the existing soils.

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

"Replaced impervious surface" or "replacement of impervious surface" means for structures, the removal and replacement of impervious surface down to the foundation. For other impervious surface, the impervious surface that is removed down to earth material and a new impervious surface is installed.

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

"Slope" means an inclined ground surface.

"SMC" means Seattle Municipal Code.

"Soil" means a mass of mineral particles, with or without organic constituents, resulting from chemical and mechanical weathering of rock and decomposition of organic matter.

"Solid waste" means solid waste as defined by SMC Section 21.36.016.

"SPU" means Seattle Public Utilities.

"Terrace" means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

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

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

#### 22.170.060 Grading Permit Required

A. Grading Permit Required. Except as otherwise specifically provided in this code, a grading permit shall be obtained from the Director before commencing any activity for which a permit is required as specified in subsection 22.170.060.A. The required grading permit may be a component of a building permit, and, in this case, a separate grading permit is not required. The provisions of this chapter apply to a grading permit that is a component of a building permit except as expressly otherwise stated. Actions exempt from the requirement for a grading permit are specified in subsection 22.170.060.B.

1. General. A grading permit is required prior to any of the actions in subsection 22.170.060.A.1, whether or not the site is subject to any other provision of subsection 22.170.060.A:

- a. Changing existing grade at any location more than 4 feet measured vertically, if the combined volume of excavation, filling, and other movement of earth material on a site is more than 50 cubic yards;
- b. Changing the existing grade at any location more than 4 feet measured vertically, if the grading will result in a permanent slope steeper than 3 horizontal to 1 vertical;
- c. Changing the existing grade at any location more than 4 feet measured vertically, if there will be a temporary slope steeper than 1 horizontal to 1 vertical;
- d. Any grading if the combined volume of excavation, filling, and other movement of earth material exceeds 500 cubic yards;
- e. One acre or more of land disturbing activity on a site;
- f. Two thousand square feet or more of new plus replaced impervious surface.

2. Shoreline District. In the Shoreline District as established in Section 23.60.010 a grading permit is required:

- a. If there will be any grading of lands covered by water;
- b. If there will be any land disturbing activity within 100 feet of the ordinary high water mark; or
- c. If the combined volume of excavation, filling, and other movement of earth material is more than 25 cubic yards in the area between 100 and 200 feet of the ordinary high water mark.

3. Environmentally Critical Areas and Buffers. A grading permit is required for:

- a. Any land disturbing activity in riparian corridors, wetlands, wetland buffers, and shoreline buffers;
- b. Land disturbing activity in liquefaction-prone areas, abandoned landfills, seismic hazards areas, peat settlement-prone areas, and volcanic hazard areas, if any threshold in subsection 22.170.060.A.1 is met or exceeded;

c. Land disturbing activity in any Environmentally Critical Area not listed in subsections 22.170.060.A.3.a and 22.170.060.A.3.b, if the combined volume of excavation, filling, and other movement of earth material is more than 25 cubic yards or grading reaches any threshold in subsection 22.170.060.A.1.

4. Potentially Hazardous Locations. A grading permit is required for any volume of excavation, filling, or other movement of earth material in potentially hazardous locations as defined in Section 22.170.050.

5. In-Place Ground Modification. A grading permit is required for any in-place ground modification. The Director may waive the requirement for a grading permit if the Director determines the in-place ground modification will be insignificant in amount or type.

6. Temporary Stockpiles. A grading permit is required for temporary stockpiles that meet or exceed any applicable threshold of subsection 22.170.060.A.1 through 22.170.060.A.5 and that are not located on sites for which a valid grading permit has been issued.

7. Grading Near Public Places. A grading permit is required to excavate or fill in excess of 3 feet, measured vertically, on private property within any area between the vertical prolongation of the margin of a public place, and a 100 percent slope line (45 degrees from a horizontal line) from the existing elevation of the margin of a public place to the proposed elevation of the private property. See Sections 15.44.020 and 15.44.030.

B. Exemptions. A grading permit is not required for the activities listed in subsection 22.170.060.B.

1. Activity conducted in the public right of way by a City agency, or under a street use permit that specifically authorizes the activity;

2. Excavation and filling of cemetery graves;

3. Exploratory excavations that comply with the requirements of subsection 22.170.190.N;

4. Operation of sewage treatment plant sludge settling ponds;

5. Operation of surface mines for the extraction of mineral and earth materials subject to the regulations and under a permit of the State of Washington;

6. Stockpiling and handling of earth material when the earth material is consumed or produced in a process that is the principal use of the site and that complies with the requirements of subsection 22.170.190.M;

7. Maintenance or reconstruction of active tracks and yards of a railroad in interstate commerce within its existing right-of-way;

8. Maintenance or reconstruction of the facilities of parks and playgrounds including work required for the protection, repair, replacement or reconstruction of any existing paths, trails, sidewalks, public improvement or public or private utility, and the stockpiling of material for these maintenance and reconstruction activities;

9. Excavation and filling of post holes;

10. Trenching and backfilling for the installation, reconstruction or repair of utilities on property other than a public right-of-way;

11. Grading done as part of a City public works project (see also Section 22.800.070);

12. Public works and other publicly funded activities on property owned by public entities, when all of the following conditions are satisfied:

- a. Stormwater discharges from the property do not enter the public drainage control system or the public combined sewer system;
- b. The project will not undercut or otherwise endanger adjacent property; and
- c. The Director has waived grading permit requirements by interagency agreement.

13. Underground storage tank removal and replacement that is subject to regulation by a state or federal agency, unless any grading is done on a potentially hazardous location. See subsection 22.170.060.A.

14. Development undertaken by the Washington State Department of Transportation in state highway right-of-way that complies with standards established pursuant to Chapter 173-270 Washington Administrative Code, the Puget Sound Highway Runoff Program;

15. On-site work required for construction, repair, repaving, replacement or reconstruction of an existing road, street or utility installation in a public right-of-way.

C. Compliance Required. All grading and other land disturbing activity, whether or not it requires a grading permit, shall comply with the provisions of this code, the Stormwater Code, and all other applicable laws.

#### 22.170.070 Application Requirements for Grading Permits

A. General. To obtain a grading permit, the owner shall first file an application with the Director. All applications shall contain the information required in Section 22.170.070, and all additional information required by or pursuant to the Stormwater Code.

B. Plans and Information Required.

1. Projects Requiring Plans. The information listed in subsection 22.170.070.B shall be provided on plans submitted with each application for a grading permit.

Exceptions:

a. When the only grading included in an application is for an approved drainage control plan the information required in subsection 22.170.070.B is not required.

b. When the only grading included in an application for a building permit is excavation and replacement of earth material within an area 4 feet or less from the footing lines of a building or structure, plans are not required, except that the applicant shall show the location of temporary stockpiles and the slope of temporary cuts.

2. Requirements for Plans. The following information shall be submitted with applications for grading permits requiring plans.

a. A general vicinity map and legal description of the site;

b. A site plan showing:

1) location of existing buildings and structures, easements, utilities and other surface and above-ground improvements on the site;

2) the approximate location of all buildings, structures, impervious surface and other improvements on adjacent land;

3) the location of existing and planned temporary and permanent drainage control facilities, existing and proposed

drainage discharge points, watercourses, drainage patterns, environmentally critical areas, and areas of standing water;

4) the approximate location, type and size of trees and other vegetation on the site;

5) designation of trees and vegetation to be removed, and the minimum distance between tree trunks and the nearest excavation and/or fill; and

6) areas where equipment traffic will be permitted and excluded;

c. A topographic map, including cross-sections of the site and adjacent property, showing the present and proposed contours of the land at not more than 2-foot contour intervals, and the location and amount of all temporary stockpiles and excavations. On steeper sites, the Director may authorize plans to show a contour interval greater than 2 feet but in no case more than a 5-foot interval. The information relating to adjacent properties may be approximated;

d. A drainage control plan as set forth in SMC Chapter 22.807, except when the grading is limited to the area providing for vehicular and pedestrian access to the building or to the temporary stockpiling of excavated material.

3. Number Required. If a grading permit is sought as a component of another permit, the minimum number of plan sets required for the grading permit application shall be the same as the number of plan sets required for the other permit application. If only a grading permit is sought, the applicant shall submit at least 3 sets of plans. Additional sets may be required by the Director.

4. Clarity of Plans. Plans shall be drawn to a clearly indicated and commonly accepted scale upon substantial paper such as blueprint quality or standard drafting paper. Tissue paper, poster board or cardboard will not be accepted. The plans shall be of microfilm quality and limited to a minimum size of 18 inches by 18 inches and a maximum size of 41 inches by 54 inches.

5. Preparation by Civil Engineer. The grading plans shall be prepared by, or under the direction of, a licensed civil engineer for all applications where the total amount of materials graded is more than 2,500 cubic yards. The Director may require that grading plans for lesser quantities be prepared by or under the direction of a licensed civil engineer for sites such as, but not limited to, those in geologic hazard areas and areas with known erosion problems.

6. Stamping by Geotechnical Engineer. When required by the Director in accordance with the provisions of this code, the grading plans shall be reviewed and stamped by the geotechnical engineer who performed the geotechnical investigation to indicate that the plans conform to the conclusions and recommendations of the investigation.

### C. Information Required.

1. Information Required with Plans. The following information shall be submitted with grading plans at the time of application:

a. The disposal site for excavated materials to be removed from the site.

1) The disposal site shall be one of the following:

i. A site within the City of Seattle for which a grading permit application has been submitted;

ii. A site within the City of Seattle where a grading permit is not required for deposit of the material; or

iii. A site outside the City of Seattle.

2) The site for disposal of contaminated soils, if any, shall be consistent with all other applicable laws, regulations and ordinances, including without limitation those related to contaminated, toxic or hazardous materials.



3) If the applicant is unable to specify the disposal site at the time of application, the applicant shall request a postponement of the identification of the disposal site. The request shall include a commitment that the applicant will specify a disposal site that complies with subsection 22.170.070.C.1.a prior to any excavation.

b. Where placement of a structural fill is proposed, a description of the composition of fill material and its structural qualities;

c. Where any portion of the grading will encroach on an adjacent property, proof of ownership of the adjacent property or an easement or authorization in accordance with Section 22.170.200;

d. The immediate and long-term intended use of the property;

e. Identification of past industrial or manufacturing uses or hazardous materials treatment, disposal or storage that have occurred on the site;

f. Where a site is located in a potentially hazardous location, a copy of all applicable permit or approval applications, permits and approvals from the appropriate regulatory agencies; and

g. When required by Section 22.807.020, a Construction Stormwater Control Plan.

2. Required after Initial Screening. The Director may require the following information after the initial screening of a grading permit application:

a. Sediment and pollution. A description of methods to be used to minimize sediment or other pollution from leaving the site during and after construction and to protect cleared areas and cut and fill slopes from erosion,

b. Schedule. A time schedule of operations, including, but not limited to, implementation of the applicable requirements of Sections 22.805.010 and 22.807.020, clearing, minimization of grading of unprotected soil surfaces, restoration of topsoil and vegetative cover, and construction of improvements,

c. Survey. A survey of boundaries and topography of the site and the grades of adjacent public rights-of-way prepared by a surveyor licensed by the State of Washington,

d. Geotechnical investigation.

1) When required. A geotechnical investigation may be required when an application for a grading permit is made for property located:

i. In potentially hazardous locations;

ii. In geologic hazard areas;

iii. In areas where grading may result in instability of the site or adjoining property;

iv. In areas where soils may not be suitable for the use intended;

v. In areas where the Director determines pollutants are likely to be present; or

vi. In any area where the Director determines that the information that would be supplied by a geotechnical investigation is necessary for the review of the application.

2) Information required. The geotechnical investigation shall provide information needed to assess potential hazards associated with the site and to determine whether a grading permit should be issued. It shall comply with rules promulgated by the Director.

3) Preparation. The geotechnical investigation shall be prepared by a geotechnical engineer or other equally qualified person approved by the Director. The Director may require that the plans and specifications be stamped and signed by the geotechnical engineer to indicate that the grading and proposed structure comply with the conclusions and recommendations of the investigation.

e. Site Analysis. For properties located in any of the areas identified in subsection 22.170.070.C.2.d, an analysis and report of the following site factors, prepared by a licensed civil engineer or other person approved by the Director:

1) The hydrology of the site and the drainage basin in which the development is located; and

2) The effect of grading upon surrounding properties, watercourses and the drainage basin, including impacts on water quality and fish habitat when a stream, lake or other body of water is affected.

f. Additional information. The Director may require additional information pertaining to the specific site and any other relevant information needed in order to assess potential hazards associated with the site and to determine whether a grading permit should be issued.

3. Fees. A fee for each grading permit and for other activities related to the enforcement of this code shall be paid as set forth in the Fee Subtitle (SMC Chapters 22.900A-22.900G).

#### 22.170.075 Code Modifications

A. Grading Code modifications. The Director, upon the request of the applicant, may modify the requirements of this code for individual cases if the Director finds: (1) there are unusual practical difficulties involved in complying with the provisions of this code; (2) the modification is appropriate to mitigate the practical difficulties, and (3) the modification is in substantial conformity with the intent and purposes of this code when considered together with the characteristics of the site and other relevant circumstances. The Director may, but is not required to, record the approval of modifications and any relevant information in the files of the Director or on the approved permit plans.

B. Modifications of other codes. Nothing in this Section 22.170.075 or any other provision of this code authorizes modifications of requirements of the Stormwater Code, regulations for Environmentally Critical Areas, or any other codes, ordinances or regulations.

#### 22.170.080 Financial Assurance and Covenants

As a condition precedent to issuance of any grading permit provided for in this code, the Director may require an applicant to submit financial assurances and a covenant as provided in this Section 22.170.080.

##### A. Insurance.

1. The Director may require the owner(s) or contractor to carry liability and property damage insurance against bodily injury, death, disability, property damage and/or loss from or related to land disturbing activities or resulting conditions, or operation of equipment on or about the property, naming the City as an additional insured, covering any occurrence prior to determination by the Director that the requirements of the grading permit have been met. The amount and policy terms shall be commensurate with the risks as determined by the Director. The Director may require proof that the insurance is in effect prior to issuance of a grading permit.

2. The Director may also require the owner(s) to maintain a policy of general public liability insurance against personal injury, death, property damage and/or loss from activities conducted pursuant to the grading permit, or conditions caused by grading activities, and naming the City as an additional insured. The policy shall be in an amount and on terms that the Director determines to be commensurate with the risks. It shall cover a period of not more than ten years from the date of issuance of a Certificate of Occupancy or finalization of the grading permit. A certificate evidencing the insurance shall be filed with the Director before issuance of a grading permit.

3. The insurance policy shall provide that the City will be notified of cancellation of the policy at least 30 days prior to cancellation. The notice shall be sent to the Director and shall state the insured's name and the property address. If a property owner's insurance is canceled and not replaced ten days prior to a lapse in coverage, the Director may order that any further work under a grading permit stop, or issue a notice of violation, or the grading permit and any interrelated permit or approval may be revoked, including a Certificate of Occupancy or approval for occupancy.

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

1. The Director may require that the owner or contractor deliver to the Director a surety bond, cash deposit or an instrument of credit in a form and amount deemed by the Director to be necessary to ensure that requirements of the grading permit are met. Surety bonds shall be furnished by a surety company licensed to do business in the State of Washington. The bond shall be conditioned that the work will be completed in accordance with the conditions of the grading permit, or, if the work is not completed, that the site will be left in a safe condition and that erosion control measures will be in place. The bond shall also be conditioned that the site and nearby, adjacent and surrounding areas will be restored if damaged or made unsafe by activities conducted pursuant to the grading permit.
2. The bond will be exonerated, or other security released, not more than one year after a determination by the Director that the requirements of the grading permit have been met. For work under a building permit, issuance of a Certificate of Occupancy or approval for occupancy following a final inspection shall be considered to be such a determination. For work under a separate grading permit, the Director's approval after completion of the final grading inspection and submittal of all required reports shall be such a determination.

#### C. Covenants.

1. The Director may require a covenant between the owner(s) of the property and the City prior to issuance of any permit or approval in a potential landslide area, potentially hazardous location, flood prone zone, or other area of potentially hazardous soils or drainage or erosion conditions. The covenant shall not be required where the permit or approval is for work done by the City. The covenant shall be tailored to the specific types of risks presented, shall be signed by the owner(s) of the property, shall be notarized, shall run with the land and shall include, but need not be limited to, the following:
  - a. A legal description of the property;
  - b. A description of the property condition making this subsection 22.170.080.C applicable;
  - c. As relevant to the property condition, commitment by the owner to maintain features of the site in such condition and such manner as will prevent harm to the public, to residents of the property, to nearby property, to streets, alleys and drainage facilities, from the activities to be done pursuant to the permit and from the related changes to the site, and to indemnify the City and its officers, employees, contractors and agents from any claims arising from the failure of the owner to comply with the commitment;
  - d. A statement that the owner(s) of the property understands and accepts the responsibility for the risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees of the risks;
  - e. The application date, type, and number of the permit or approval for which the covenant is required; and
  - f. A waiver and release of any right of the owner(s), the owner's heirs, successors and assigns to assert any claim against the City and its officers, employees, contractors and agents by reason of or arising out of issuance of the permit or approval by the City for the development on the property, or arising out of any inspection, statement, assurance, delay, act or omission by or on behalf of the City related to the permit or approval or the work done thereunder, and agreeing to defend and indemnify the City and its officers, employees, contractors and agents for any liability, claim or demand arising out of any of the foregoing or out of work done or omitted by or for the owner, except in each case only for such

losses, claims or demands that directly result from the sole negligence of the City.

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

D. Bonds for Grading Near Public Places. Security for grading activity covered under Section 15.44.020 shall be in accordance with Section 15.44.030.

#### 22.170.090 Grading Permit Application Referral and Consultation

The Director may refer applications for grading permits, including plans and other required information and reports, to, and may consult with, other agencies or City departments as may be appropriate. Comments and recommendations received shall be considered by the Director in making a decision regarding the grading application.

#### 22.170.100 Cancellation of Grading Permit Applications

A. Applicability of codes. Subsections 22.170.100.B through 22.170.100.D apply to applications for grading permits that are not components of building permits. Cancellation of grading permit components of building permit applications shall be done pursuant to the applicable provisions of the Seattle Building Code or the Seattle Residential Code.

B. Grounds for Cancellation. Applications may be cancelled if no permit is issued by the earlier of the following: (1) 12 months following the date of application; or (2) 60 days from the date of written notice that the permit is ready to be issued. After cancellation, plans and other data submitted for review may be returned to the applicant or destroyed by the Director.

C. Notice of Cancellation. The Director will notify the applicant in writing at least 30 days before the application is cancelled. The notice shall specify a date by which a request for extension must be submitted in order to avoid cancellation. The date shall be no more than two weeks prior to the date on which the application will be cancelled.

D. Inspection After Cancellation. If the application is canceled, the site may be inspected to verify that no work has taken place.

#### 22.170.110 Granting or Denial of Grading Permits

##### A. Granting.

1. If the Director finds that an application for a grading permit complies with the requirements of this code and rules promulgated hereunder, that the fees specified in the Fee Subtitle have been paid, and that the applicant has satisfied all other conditions precedent imposed by or pursuant to this code, the Stormwater Code, and rules promulgated under those codes, the Director shall issue a permit to the applicant. A permit may be granted with or without conditions. Conditions may include, but are not limited to: restricting grading work to specific seasons, months or weather conditions; limiting vegetation removal; sequencing of work; requiring that recommendations contained in the geotechnical investigation are followed; requiring observation by a licensed civil or geotechnical engineer; requiring special inspection pursuant to Section 22.170.130; requiring structural safeguards; specifying methods of erosion, sedimentation, and drainage control; specifying methods for maintenance of slope stability; retaining existing trees; requiring revegetation and grass seeding and/or long term maintenance activities; requiring compliance with SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other regulations of the City or other agencies with jurisdiction.

2. The Director may require that plans and specifications be stamped and signed by a licensed civil engineer or geotechnical engineer to indicate that the grading and proposed structure comply with the conclusions and recommendations of any required investigation or report.

B. Denial. The application for grading permit may be denied if the Director determines that the plans or proposed

activity do not comply with the requirements of this code and rules promulgated hereunder, or do not accomplish the purposes of this code, or the grading or other land disturbing activity is inconsistent with the proposed development on the site, or the plans or other proposed activity do not comply with other applicable federal, state and local laws and regulations, or that the applicant has failed to satisfy any condition precedent to issuance of the permit imposed by or pursuant to this code, the Stormwater Code or rules promulgated under either code.

C. Limitations. The issuance or granting of a grading permit shall not be construed to be permission for, or an approval of, any violation of any of the provisions of this code or rules promulgated hereunder, or of any other law or regulation. A grading permit does not remove the need to obtain any other permit or approval required under any other law, ordinance or regulation.

#### 22.170.120 Expiration and Renewal of Grading Permit

A. Applicability of codes. Subsections 22.170.120.B through 22.170.120.D apply to applications for grading permits that are not components of building permits. Expiration and renewal of grading components of building permits shall occur pursuant to the applicable provisions of the Seattle Building Code or the Seattle Residential Code.

B. Expiration. Authority to do the work authorized by a grading permit expires 18 months from the date of issuance unless otherwise stated in the permit. Where advisable to satisfy the requirements or purposes of this code, the Director may issue nonrenewable grading permits that expire less than 18 months from date of issuance. Requirements of this code and conditions included in any permit do not terminate with the expiration of the grading permit unless they are explicitly identified as temporary for the duration of grading operations.

C. Renewal or Extension.

1. Unless otherwise stated in the permit, a grading permit may be renewed once for up to 18 additional months if the following conditions are met:

a. Application for renewal is made within the 30-day period immediately preceding the date of expiration of the permit; and

b. If an application for renewal is made either more than 18 months after the date of mandatory compliance with amendments to this code or the Seattle Building Code or after the effective date of an amendment to applicable provisions of the Environmentally Critical Areas Ordinance (Chapter 25.09 of the Seattle Municipal Code), the permit shall not be renewed unless:

1) The Director determines that the permit complies, or the permit is modified to comply, with the code or codes in effect on the date of application renewal; or

2) The work authorized by the permit is substantially underway and progressing at a rate approved by the Director. "Substantially underway" means that work such as excavation and inspections is being completed on a continuing basis.

2. Where advisable to satisfy the requirements or purposes of this code, the Director may issue grading permits that are not renewable, or are renewable only under specified special conditions.

3. In addition to renewals under subsection 22.170.120.C.1, a permit may be renewed, or the Director may extend a permit to expire more than 18 months from the date of issuance, if commencement or completion of the work authorized by the permit is delayed by litigation, appeals, strikes or other causes related to the work authorized by the permit, beyond the permit holder's control and the applicant submits a request for extension prior to expiration of the permit.

#### 22.170.130 Inspection

A. General. The Director may conduct or require inspection of sites to determine that work is done according to the

grading permit and other applicable requirements. The Director may notify the permittee and owner if the Director determines that work is in violation of this code or the grading permit. The Director may initiate enforcement action for work that is in violation.

**B. Special Inspections.** The Director may require the property owner to employ a licensed civil engineer, geotechnical engineer or other person with appropriate expertise as a special inspector to conduct periodic or continuous inspection during grading, other land disturbing activity, and construction. Licensed civil and geotechnical engineers or special inspectors shall be designated in accordance with Chapter 17 of the Seattle Building Code. They shall inspect in accordance with the duties specified in Chapter 17 of the Seattle Building Code and rules adopted thereunder. The inspectors shall:

1. Not undertake or engage in other occupations that interfere or create a conflict of interest with the inspection duties during the work on the project;
2. Inspect the clearing, excavating, filling, compaction, grading, preloading, erosion and drainage control measures, and all other soils control aspects of the construction, and observe whether it complies with the approved plans;
3. Inspect soils for evidence of hazardous substances or wastes;
4. Observe whether the approved plans are sufficient to control the soil on the site and prevent off-site transport of sediment;
5. Immediately report all evidence of hazardous substances or wastes, irregularities, insufficiencies, substitutions of material or other changes from approved plans, and violations of this code to the owner's architect, engineer or contractor, and, if the project is not brought immediately into compliance, immediately notify the Director;
6. Immediately notify the Director when any condition threatens public health, safety or welfare, private or public property, or the environment, whether or not the threat is immediate or likely; and
7. Notify the Director of the time schedule for off-site disposal of excavated material and, when within the City limits, of the location of and permit number of the approved disposal site.

**C. Other Inspections.** Subject to the approval of the Director, a person other than a licensed civil or geotechnical engineer or special inspector may conduct the required inspection if the person is under the supervision of a licensed civil engineer or geotechnical engineer and is qualified to conduct the inspection.

#### 22.170.140 Completion of Work under Grading Permit

**A. Final Inspection.** Upon completion of the work, the owner shall notify the Director that the site is ready for final inspection. The Director shall not give final approval until all work, including installation of all drainage control facilities and their protective devices and all erosion control measures, has been completed in accordance with the final approved plans and required reports have been submitted.

**B. Final Plans.** When grading plans have been modified during construction, the Director may require an as-graded plan including existing grade, location of discharge points, elevations, and location and maintenance requirements of all surface and subsurface drainage control facilities as called out by a drainage control plan.

#### 22.170.150 Modifications During Construction

The Director may require that grading operations, other land disturbing activity, and project designs be modified during operations if physical conditions are discovered on the site that are inconsistent with the assumptions upon which the permit was based, including, but not limited to, unexpected soil or water conditions, and weather-generated problems, or if undue delays make modifications necessary. The Director may require tests, reports and geotechnical investigations to be performed and prepared by a licensed civil engineer or geotechnical engineer. Requirements may

include field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading but not shown on the approved plans and their effect on the recommendations of the engineer of record.

If the permit holder makes changes after the permit has been issued, the Director may require that the changes be evaluated by the engineer of record.

#### 22.170.155 Review By Construction Codes Advisory Board.

A. Request for review. Upon request by the applicant, the Construction Codes Advisory Board as described in the Seattle Building Code (CCAB) may review decisions or actions pertaining to the administration and enforcement of this code other than stop work orders, emergency orders, notices of violations, cancellations of grading applications, and revocations of permits. Requests for CCAB review shall be submitted in writing to the Director prior to final inspection. Requests for CCAB review are not appeals.

B. Conduct of review. The review shall be conducted by a panel of three or more members of the Construction Codes Advisory Board, chosen by the Chair. The Chair shall consider the issue under review when selecting members to conduct the review. The role of the review panel is advisory only. The Director shall make any decision required. A request for review and any review process or recommendation shall not affect or defer any obligation of an applicant to comply with provisions of this code or any permit.

#### 22.170.160 Unsafe Premises

A. Definition. For the purpose of this Section 22.170.160 unsafe premises include all premises, whether improved or unimproved, and all structures whenever erected or altered, that are structurally unsound or unsafe, or that are otherwise dangerous to human life or constitute a hazard to safety, health, the environment or public welfare, because of any activity regulated by this code or any erosion, flooding, landslides, soil liquefaction, accelerated soil creep, settlement and subsidence, or earth movement.

B Emergency Orders. Whenever the Director finds that any premises or portion thereof are in such a dangerous and unsafe condition as to constitute an imminent hazard to life or limb, the Director may issue an emergency order directing that the premises, or portion thereof, be restored to a safe condition. The order shall specify the time for compliance. The Director may order that the premises, or portion thereof, be vacated within a reasonable time, to be specified in the order. In the case of extreme danger, the order may specify immediate vacation of the premises, or may authorize disconnection of the utilities or energy source, or both. No person may occupy the premises, or portion thereof after the date on which the premises are required to be vacated until they are restored to a safe condition as required by the order and this code.

C Hazard Correction Order. Whenever the Director finds that unsafe premises exist the Director may issue a hazard correction order specifying the conditions causing the premises to be unsafe and directing the owner or any other person responsible for the unsafe premises, or both, to correct the condition by a date certain. In lieu of correction, the owner or other person responsible may submit, not later than the date specified in the order, a report or analysis to the Director analyzing the conditions and establishing that the premises are not unsafe premises. The Director may require that the report or analysis be prepared by a licensed civil engineer. If the Director accepts the conclusions of the report or analysis, the Director shall withdraw the hazard correction order. If the Director determines that the report or analysis is not sufficient to establish that the premises are not unsafe premises, the Director shall notify the owner, and the hazard correction order shall remain in effect. The Director may issue a revised hazard correction order with a new date for correction of the condition and any other changes to the terms of the original order that the Director deems appropriate, in which case the owner or other responsible person shall not have the alternative to submit a further report or analysis unless expressly allowed by the new order.

#### 22.170.170 Violations And Penalties

A. Violations. It is a violation of this code to:

1. Violate or fail to comply with any requirement of this code;
2. Violate or fail to comply with a final order, a stop work order, an emergency order or a hazard correction order issued pursuant to the provisions of this code;
3. Act in a manner prohibited by this code or a permit, approval, rule, or order issued pursuant to this code;
4. Aid, abet, counsel, encourage, incite, induce, hire or otherwise procure another person to violate this code;
5. Remove, mutilate, destroy or conceal any notice or order issued or posted by the Director pursuant to the provisions of this code, or any notice or order issued or posted by the Director in response to a natural disaster or other emergency;  
or
6. Make or submit any false or misleading statement or information as part of or in connection with any application for any grading permit or any approval under this code.

#### B. Notice of Violation.

1. Issuance of Notice. If after investigation the Director determines that any standard or requirement of this code has been violated or that any order or requirement has not been complied with, the Director may serve a notice of violation upon the owner and on any other persons responsible for the action or condition. The notice of violation shall state the standards, orders or requirements violated, shall state what corrective action, if any, is necessary to comply with the standards, order or requirements, and shall set a time for compliance.

2. Service of Notice. The notice shall be served by personal service or regular first class mail addressed to the last known address of the person to whom it is directed. If no address is available after reasonable inquiry, the notice may be posted in a conspicuous place on the property. The notice may also be posted even if served by personal service or first class mail. The notice of violation shall be considered a final order of the Director if no request for review by the Director is made within the period allowed by subsection 22.170.170.B.3. Nothing in this Section 22.170.170 limits or precludes any action or proceeding pursuant to Section 22.170.160, and nothing in this Section 22.170.170 shall obligate or require the Director to issue a notice of violation prior to the imposition of civil or criminal penalties.

#### 3. Review by the Director for Notice of Violation

a. Any person affected by a notice of violation issued pursuant to this code may obtain a review of the notice by making a request in writing by the earlier of ten days after service of the notice, or the date compliance is required. When the last day of the period computed is a Saturday, Sunday, federal or City holiday, the period runs until 5:00 p.m. of the next business day.

b. The review shall occur not less than ten nor more than 20 days after the request is received by the Director unless otherwise agreed by the person requesting the review.

c. Any person aggrieved by or interested in the notice of violation may submit additional information to the Director.

d. The review shall be made by a representative of the Director who will review the basis for issuance of the notice of violation and any additional information that is submitted. The reviewer may request clarification of the information received and a site visit.

e. After the review, the Director shall:

1) Sustain the notice; or

2) Withdraw the notice; or



3) Continue the review to a date certain; or

4) Amend the notice.

f. The Director shall issue an order containing the decision within 15 days of the date that the review is completed and shall cause the order to be mailed by regular first class mail to the persons requesting the review and the persons named on the notice of violation, addressed to their last known addresses.

C. Judicial Review. Because civil actions to enforce this Chapter are brought in Seattle Municipal Court pursuant to subsection 22.170.170.D, orders of the Director issued under this code are not subject to judicial review pursuant to Chapter 36.70C RCW.

D. Civil Penalties.

1. Amount of Penalties. Any person violating or failing to comply with the provisions of this code shall be subject to a cumulative civil penalty in an amount not to exceed \$500 per day for each violation from the date the violation occurs or begins until compliance is achieved. In cases where the Director has issued a notice of violation, the violation will be deemed to begin, for purposes of determining the number of days of violation, on the date compliance is required by the notice of violation.

2. Municipal Court. Civil actions to enforce this code shall be brought exclusively in Seattle Municipal Court, except as otherwise required by law or court rule. In any civil action for a penalty, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed. The issuance of a notice of violation or of an order following a review by the Director is not itself evidence that a violation exists or existed.

E. Alternative Criminal Penalty. Any person who violates or fails to comply with this code shall, upon conviction thereof, be punished by a fine of not more than \$5000 or by imprisonment for not more than 365 days or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

F. Additional Relief. The Director may request that the City Attorney seek legal or equitable relief, including without limitation orders to enjoin any acts or practices or to abate or remedy any condition, when the Director deems it necessary to achieve compliance or to protect the public or the environment.

G. Notices. The Director may record a copy of any order or notice with the King County Recorder's Office, at the expense of the owner, so as to become part of the King County real property records. The Director may record with the King County Recorder's Office a notification that a grading permit has expired without a final inspection after reasonable efforts have been made to provide a final inspection.

H. Stop Work Orders.

1. Issuance of Stop Work Order. The Director may issue a stop work order whenever any work is being done contrary to the provisions of this code or contrary to the terms of any grading permit, or in the event of dangerous or unsafe conditions related to grading or any other activity regulated by this code or any grading permit, or if required insurance is not maintained or is cancelled. The stop work order shall identify the violation and may prohibit work or other activity on the site, and may require that the site be secured or put into a safe condition.

2. Service of Stop Work Order. The Director may serve the stop work order by posting it in a conspicuous place at the site, if posting is physically practicable. If posting is not physically practicable, then the stop work order may be served in the manner set forth in RCW 4.28.080 for service of a summons or by sending it by first class mail to the last known address of the property owner, the person doing or causing the work to be done, and the holder of a permit if work is being stopped on a permit. For purposes of this Section 22.170.170, service is complete at the time of posting or of personal service, or if mailed, three days after the date of mailing. When the last day of the period so computed is not a business day, the period runs until 5:00 p.m. on the next business day.

3. Effective Date of Stop Work Order. Stop work orders are effective when posted, or if posting is not physically practicable, when one of the persons identified in subsection 22.170.170.H.2 is served.

4. Review by the Director for Stop Work Orders.

a. Any person aggrieved by a stop work order may obtain a review of the order by delivering to the Director a request in writing within two business days of the date of service of the stop work order.

b. The review shall occur within two business days after receipt by the Director of the request for review unless the requestor agrees to a longer time.

c. Any person aggrieved by or interested in the stop work order may submit additional information to the Director for consideration as part of the review at any time prior to the review.

d. The review will be made by a representative of the Director who will review all additional information received and may also request a site visit. After the review, the Director may:

1) Sustain the stop work order;

2) Withdraw the stop work order;

3) Modify the stop work order; or

4) Continue the review to a date certain for receipt of additional information.

e. The Director shall issue an order of the Director containing the decision within two business days after the review and shall cause the order to be sent by first class mail to the person or persons requesting the review, any person on whom the stop work order was served, and any other person who requested a copy before issuance of the order. The City and all parties shall be bound by the order.

I. No Duty to Enforce. Nothing in this chapter shall impose on the City, the Director, or any City officer any duty to investigate, enforce, abate, or give notice of any violation of this code or any hazard or condition of any property.

J. No Duties to Other Parties Created. Nothing in this chapter creates any duty enforceable by any person except The City of Seattle.

#### 22.170.180 Obligations Of Owners; Liability

A. The owner and any other applicant, relying on their own professional consultants as may be required, have the obligation to determine that all proposed actions and all acts to be performed under any permit issued pursuant to this code or that are otherwise subject to this code, and resulting property conditions, are consistent with applicable laws, ordinances and regulations, and with all duties arising by law, contract or otherwise to others, including without limitation owners and occupiers of property in the vicinity. The owner and any other applicant, and their successors, have the obligations to maintain the property and ensure that the property conforms with applicable laws, ordinances, regulations, and permit conditions, and with all such duties, taking account of changing circumstances; to determine what additional or different measures may be required in order to ensure that the activities permitted and the resulting condition of property are safe; and to obtain such additional permits or modifications and take such additional measures as may be necessary for such purposes. The foregoing notwithstanding, nothing in this chapter shall increase the duties or obligations of the City with respect to any property owned or controlled by the City or any work done by or for the City.

B. The issuance of any permit and any approval of any activity under this code do not constitute or imply any determination either that the grading or other activity or the resulting condition of any property will be consistent with

any duty that the owner, applicant, contractor or other person may have by law, contract or otherwise; or that the plans, reports, facts or opinions submitted by or for any applicant are accurate or correct. No owner, applicant, successor or other person shall be entitled to rely on the issuance of any grading permit or any terms or conditions thereof, or any approval of work thereunder, or any statement or omission of any officer, contractor or agent of the City with respect to any grading permit or any activity regulated under this code, as providing any assurance or indication that compliance with such permit or conditions or any such activity will be sufficient to protect against, or that work performed does not cause, any risk, hazard, damages, breach of duty to other parties, or violation of any law, ordinance or regulation.

C. Nothing in this code is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees, contractors or agents, for any injury or damage resulting from the failure of any premises or activity, whether undertaken by the City or any other person, to conform to the provisions of this code, or by reason or in consequence of any inspection, notice, order, certificate, permit or approval authorized or issued, done or omitted in connection with the implementation or enforcement of this code, or by reason of any action or inaction on the part of the City related in any manner to compliance with or enforcement of this code by its officers, employees or agents.

D. This code and any grading permit shall not be construed to relieve or lessen the responsibility of any person owning, operating, responsible for or controlling any property, building or structure, nor to relieve or lessen the liability of any such person, whether to the City or to any other person, for any death, injury, or damage to persons or property, nor shall the Department of Planning and Development or the City or its officers, employees, contractors or agents be held to have assumed or waived any such responsibility or liability by reason of anything done or omitted under this code.

#### 22.170.190 General Requirements

A. Earth Movement. Grading or other land disturbing activity shall not create or increase the likelihood of earth movement or the risk of damage due to earth movement, including, but not limited to, landslides, accelerated soil creep, settlement and subsidence, and hazards associated with strong ground motion and soil liquefaction of the site or adjoining properties.

B. Natural Features. Each grading proposal shall contain provisions for the preservation of natural drainage patterns and watercourses; for reasonable preservation of natural land and water features and other indigenous natural features of the site; and, where necessary, replacement of vegetation or other means to control runoff.

C. Watercourses. Grading shall not create or contribute to flooding, erosion, or increased turbidity, siltation or other forms of pollution in a watercourse, and shall comply with the applicable requirements of SMC Chapter 22.805. Watercourses shall not be obstructed.

D. Pollution Control. Grading and other land disturbing activity shall be performed in accordance with, and the completed work shall be in accordance with, all applicable environmental laws, rules and regulations, and with the applicable requirements of SMC Title 22, Subtitle VIII, the Stormwater Code.

E. Conformance with Application. Grading and other land disturbing activity shall be performed in accordance with the permit application approved by the Director except as allowed by Section 22.170.150, Modifications During Construction.

F. Slopes.

1. Final graded slopes shall be no steeper than is safe for the intended use. Final graded slopes shall not be steeper than 2 horizontal to 1 vertical, except that the Director may approve permanent slopes of greater steepness based on a design by the geotechnical engineer of record. If a slope stability analysis is deemed necessary by the geotechnical engineer or the Director, the analysis shall show a factor of safety of at least 1.5 for static conditions and 1.1 for pseudostatic conditions. In areas of known unsuitable soils, the Director may require slopes of lesser steepness.

2. Slopes shall be designed and constructed in a manner that will minimize erosion.

3. For requirements for the slope of temporary stockpiles, see Section 22.170.190 M.

G. Surface Preparation. The ground surface shall be prepared to receive fill by removing vegetation, non-approved materials, topsoil and other unsuitable materials, including, but not limited to, mud, peat, and other materials with insufficient strength to satisfy the design, as determined by the Director.

H. Fills. Fills shall be located so that the base edge of the fill is located more than 12 feet horizontally from the top edge of an existing slope or a planned cut slope. A sloping fill shall not be placed on top of slopes that are steeper than 1-1/2 horizontal to 1 vertical.

I. Requirements For Fill Material. Materials used in fills shall comply with the following requirements:

1. Material used in fills shall be appropriate to the site and the intended use of that portion of the site.
2. Any rock or other similar irreducible material used in a fill shall have no dimension greater than 12 inches and shall compose not more than 20% of the total fill material.
3. Topsoil shall not be used as a fill material except that the upper 12 inches of a fill site may consist of topsoil.
4. No frozen or thawing material shall be used as fill.
5. No solid waste, hazardous waste or hazardous material may be used as fill.
6. No organic material shall be used as fill unless approved by the Director.
7. As necessary, the Director may specify other characteristics of the fill material used, the degree of compaction, moisture content and the method of placement appropriate to the site and the intended use of that portion of the site and the requirements for water retention, drainage control and erosion control.

J. Terraces. The Director may require steps and terraces sufficient to control surface drainage and deposit of debris. Suitable access to the terraces shall be provided to permit proper maintenance.

K. Subsurface Drainage. Cut and fill slopes shall be provided with subsurface drainage when needed to maintain slope stability.

L. Access. When an adjoining site relies on the site to be graded for pedestrian or vehicular access, the Director may require reasonable access to be maintained to the adjoining site.

M. Stockpiling of Earth Materials.

1. General. Stockpiling of any kind shall not adversely affect the lateral support or significantly increase the stresses in or pressure upon any adjacent or contiguous property. Stockpiling shall comply with the applicable erosion control requirements for temporarily exposed soils set forth in SMC Section 22.805.010 and rules promulgated under that section.
2. Temporary Stockpiling During Construction or Grading. Temporary stockpiles of earth materials during construction or grading shall not exceed 10 feet in height. Stockpiles shall have slopes no steeper than one horizontal to one vertical.
3. Stockpiling and Handling of Earth Materials in Processing. Earth materials consumed or produced in a process may be stockpiled and handled on a site if the process is the principal use of the site.
4. Removal. Temporary stockpiles shall be removed prior to final inspection for a grading permit where no building permit is issued on the same site. Where grading is approved as a component of a building permit, temporary stockpiles

shall be removed prior to issuance of a Final Certificate of Occupancy or approval for occupancy after a final inspection.

N. Exploratory Excavations. Exploratory excavations shall be performed under the direction of a licensed civil engineer or geotechnical engineer. No stockpiles of materials shall remain after completion of the exploratory activities. The grading shall comply with other requirements that may be established by the Director.

O. Excavations Near Footings or Foundations. Excavations for any purpose shall not remove lateral support from any footing or foundation without first underpinning or protecting the footing or foundation against settlement or lateral translation.

#### 22.170.200 Protection Of Adjoining Property

A. General. The provisions of this Section 22.170.200 apply to permanent and temporary protection of, and encroachment on, adjoining property except as specifically limited. If grading will permanently encroach on adjoining property, a separate permit shall be obtained for the adjoining property according to Section 22.170.060.

B. Maximum Slopes. When the existing grade of a site is altered by filling, excavating, or moving of earth materials, the owner shall protect all adjoining property during grading and construction from encroachment or collapse by sloping the sides of the temporary grading at a slope that is safe and not steeper than 1 horizontal to 1 vertical. In addition, adjoining property shall be protected from encroachment or collapse by sloping the sides of the permanent grading at a slope not steeper than 2 horizontal to 1 vertical. The Director may approve permanent slopes of greater steepness based on a design by the geotechnical engineer of record. If a slope stability analysis is deemed necessary by the geotechnical engineer or the Director, the analysis shall show a factor of safety of at least 1.5 for static conditions and 1.1 for pseudostatic conditions. In areas of known unsuitable soils, the Director is authorized to require slopes of lesser steepness.

C. Encroachments.

1. All grading and other land disturbing activity shall occur entirely within the site unless encroachment on adjoining property is allowed by the Director. Encroachment may be permitted where the applicant provides one of the following:

a. Proof of ownership of the adjoining property by the applicant; or

b. An easement, granted by the fee owner of the encroached-upon property, which authorizes the encroachment on the adjoining property; or

c. A letter or agreement signed by the fee owner of the adjoining property, which authorizes such temporary encroachments during construction on the adjoining property as temporary change of grade, temporary stockpiling or shoring tiebacks.

2. When an application for grading permit includes an easement authorizing permanent encroachment on adjoining property, the easement instrument shall be provided to the Director by the applicant prior to issuance of any grading permit. The instrument shall specify the purpose for granting the encroachment. The instrument shall be recorded with the King County Recorder's Office.

3. Any instrument, letter or agreement authorizing temporary encroachment shall state that it will terminate only after the grading work is completed in accordance with Section 22.170.140.

D. Setbacks. The tops and toes of graded slopes shall be set back from property boundaries and structures as far as is necessary for safety and foundation support and to prevent damage resulting from drainage or other water runoff, erosion or excessive loading.

#### 22.170.210 Grading in Areas of Special Flood Hazard

A. In addition to requirements for grading permit set forth in this code, all grading in areas of special flood hazard, as identified in the report entitled "Flood Insurance Study for King County, Washington and Incorporated Areas" and the accompanying Flood Insurance Rate Maps that are filed with the City Clerk in C.F. 296948, is subject to additional standards and requirements, including floodplain development approval or a Floodplain Development License, as set forth in SMC Chapter 25.06, the Seattle Floodplain Development Ordinance. Grading in a flood-prone area as defined in SMC 25.09.020 is subject to the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

B. Grading and fill shall not be done or permitted in areas of special flood hazard.

Exceptions:

1. Where fill is placed, compacted and sloped to minimize shifting, slumping and erosion during the rise and fall of flood water and, as applicable, wave action;
2. In floodways, where it has been demonstrated through hydrologic and hydraulic analyses performed by a registered design professional in accordance with standard engineering practice that the proposed grading or fill, or both, will not result in any increase in flood levels during the occurrence of the design flood as defined in the Seattle Building Code;
3. In flood hazard areas subject to high-velocity wave action as defined in the Seattle Building Code, where filling is conducted and/or fill is placed to avoid diversion of water and waves toward any building or structure;
4. Where the Federal Emergency Management Agency has specified design flood elevations but has not designated floodways and the applicant demonstrates that the cumulative effect of the proposed flood hazard area encroachment, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 1 foot at any point.

#### 22.170.220 Erosion Control

A. Methods. Grading and other land disturbing activity shall comply with the applicable requirements set forth in SMC Title 22, Subtitle VIII, the Stormwater Code and rules promulgated thereunder. Devices or procedures for erosion control shall be initiated or installed prior to commencing grading operations when technically feasible, and in any case as soon thereafter as is technically feasible, and shall be maintained or altered to prevent erosion and sediment transport from the site according to the means and methods of construction activity.

B. Exposure. Grading and other land disturbing activity shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. Grading and other land disturbing activity shall comply with the applicable requirements for exposed soils, including best management practices, promulgated pursuant to SMC Title 22, Subtitle VIII, the Stormwater Code.

C. Project Completion. Before the completion of the project, all exposed soils that have been disturbed shall be permanently stabilized. Methods such as permanent seeding, planting, and sodding may be specified by rules promulgated by the Director.

#### 22.170.230 Boundary Location

The Director may require sufficient staking of property lines, top and toe of the fill and all areas where equipment traffic is to be excluded. Stakes shall be at least 2-inch by 2-inch posts or one and 1/2 -inch pipes that are readily visible and durable. Stakes shall be maintained and visible during grading operations to enable the Director to determine property lines, the top and toe of the fill and excluded areas. The Director may require a survey prepared by a land surveyor licensed by the State of Washington.

#### 22.170.240 Fencing

The Director may, during grading operations at a permitted grading site, require fencing and a lockable gate of suitable materials to control access to the grading site until all grading activity is complete, or until a Certificate of Occupancy is issued, whichever occurs last. Failure of the Director to require a fence does not relieve the owner of liability arising out of access to and use of the site.

#### 22.170.250 Severability

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

Section 2. Chapter 22.804, which Chapter was last amended by Ordinance 119965, is repealed:

#### ~~Chapter 22.804 GRADING~~

##### ~~22.804.010 Scope:~~

~~All grading shall comply with this subtitle and with federal, state and local laws and regulations, even where no permit or approval is required.~~

##### ~~22.804.020 Grading in areas of special flood hazard:~~

~~In addition to requirements for grading approval or permit set forth in this subtitle, any grading in areas of special flood hazard, as identified in the report entitled "Flood Insurance Study for King County, Washington and Incorporated Areas" and the accompanying Flood Insurance Rate Maps that are filed with the City Clerk in C.F. 296948, or located in a flood-prone area, is subject to additional standards and requirements, including floodplain development approval or a floodplain development license, as set forth in Chapter 25.06, the Seattle Floodplain Development Ordinance, of the Seattle Municipal Code, and any applicable requirements of Chapter 25.09, the Environmentally Critical Areas Ordinance.~~

##### ~~22.804.030 Grading permit or approval required:~~

~~A. Grading Permit Required. A grading permit is required for all grading activities as specified below. Actions exempt from a grading permit are specified in subsection C.~~

~~1. Special Sites. A permit shall be required for any site located in any of the following areas if the combined volume of excavation, fill, dredging, or other movement of earth materials is more than twenty-five (25) cubic yards:~~

~~a. Shoreline districts as defined in SMC Section 23.60.010. In addition to the permit requirement established in subsection A1 of this section, a permit is also required for any grading within ten (10) feet of the line of mean higher high tide adjoining saltwater or the line of mean high water adjoining fresh water and for any grading of lands covered by water;~~

~~b. Environmentally critical areas as defined in SMC Chapter 25.09 except liquefaction-prone and abandoned landfills. In addition to the permit requirement established in subsection A1 of this section:~~

~~i. A permit is required for any grading within wetlands and their buffers, or riparian corridor buffers;~~

~~ii. Grading activities that increase the potential for earth movements or the risk of damage due to earth movement within steep slopes or other landslide hazard areas is prohibited;~~

~~e. The drainage basins of Thornton Creek, Pipers Creek, Longfellow Creek, and Taylor Creek, as mapped by SPU;~~

~~unless stormwater runoff from the site is discharged to a combined sewer system or otherwise piped (tightlined) to a drainage basin other than the named drainage basin.~~

~~2. Potentially Hazardous Locations. A permit is required for any site identified under the provisions of Section 22.800.050 for any volume of excavation, fill, dredging or other movement of earth materials.~~

~~3. Grading Near Public Places. A permit is required for all grading activities in excess of four (4) feet, measured vertically, on private property within any area between the vertical prolongation of the margin of a public place, and a one hundred (100) percent slope line (forty-five (45) degrees from a horizontal line) from the existing elevation of the margin of a public place to the proposed elevation of the private property.~~

~~4. General Sites. For sites not included in subsections A1 and A2 above, a permit is required where the grade at any location is changed more than three (3) feet and either:~~

~~a. The cumulative volume of excavation, fill, dredging or other movement of earth materials is more than one hundred (100) cubic yards over the lifetime of the site; or~~

~~b. The grading will result in a slope steeper than three (3) horizontal to one (1) vertical.~~

~~5. In-place Ground Modification. A permit is required for any site where in-place ground modification will take place. The Director of DCLU may waive the requirement for a permit when the Director determines the in-place ground modification will be insignificant in amount or type.~~

~~6. Temporary Stockpiles. A grading permit or approval is required for temporary stockpiles which meet the thresholds of subsections A1, A2 and A4 above and are not located on sites for which a valid grading permit or grading approval has been issued.~~

#### ~~B. Grading Approvals Required:~~

~~1. A grading approval is required for grading activities located on any site where a concurrent building permit is requested except that no approval is required for grading activities where the combined volume is less than the amounts specified for each site in subsection A above.~~

~~2. Where a grading approval is required and issued as a component of a building permit, no separate grading permit shall be required. This provision shall apply to grading which is incidental to construction, the temporary stockpiling of earth materials during construction and grading needed for other site improvements. Where there will be construction or placement of a building within the lifetime of the permit, the grading approval shall be a component of the building permit.~~

~~C. Exemptions. The following grading activities shall be exempt from a grading permit, but shall still comply with the provisions of this subtitle:~~

~~1. Activity conducted under a street use permit that specifically authorizes the grading work to be performed;~~

~~2. Excavations and filling of cemetery graves;~~

~~3. Exploratory excavations that comply with the requirements of Section 22.804.050;~~

~~4. Operation of sewage treatment plant sludge settling ponds;~~

~~5. Operation of surface mines for the extraction of mineral and earth materials subject to the regulations and under a permit of The State of Washington;~~

~~6. Stockpiling and handling of earth material when the earth material is consumed or produced in a process which is the~~



~~principal use of the site and which complies with the requirements of Section 22.804.050;~~

~~7. Maintenance or reconstruction of active tracks and yards of a railroad in interstate commerce within its existing right-of-way;~~

~~8. Maintenance or reconstruction of the facilities of parks and playgrounds including work required for the protection, repair, replacement or reconstruction of any existing paths, trails, sidewalks, public improvement or public or private utility, and the stockpiling of material for maintenance activities;~~

~~9. Excavation and filling of post holes;~~

~~10. On-site work required for construction, repair, repaving, replacement or reconstruction of an existing road, street or utility installation in a public right-of-way;~~

~~11. Trenching and backfilling for the installation, reconstruction or repair of utilities on property other than a public right-of-way;~~

~~12. Grading done in performance of work authorized by the City for public works projects (see also Section 22.800.070);~~

~~13. Public works and other publicly funded activities on property owned by public entities, when discharges from the property do not enter the public drainage control system or the public combined sewer system, and the project will not undercut or otherwise endanger adjacent property, and the Director has waived the permit requirements by interagency agreement;~~

~~14. Underground storage tank removal and replacement that is subject to regulation by a state or federal agency, except where excavation meets the criteria of Section 22.804.030 A3, Grading Near Public Places.~~

~~D. Compliance Required for All Grading. Any grading activity, whether or not it requires a grading permit or approval, shall comply with the provisions of this subtitle.~~

~~22.804.040 Grading permit or approval--Application requirements.~~

~~A. General. Application for a grading permit or approval shall be made to the Director of DCLU by the owner of the property to be graded. All applications shall contain the submittal information detailed in this section:~~

~~B. Plans Required:~~

~~1. Projects Requiring Plans. The information listed in subsection B2 below shall be provided on plans submitted with each application for a grading permit or approval. However, when the only grading included in an application is for an approved drainage control plan or is for excavation and replacement of earth material within an area four (4) feet or less from the footing lines of a building or structure, the only information required is the location of temporary stockpiles.~~

~~2. Information to be Submitted on Plans. The following information shall be submitted with applications for projects requiring plans:~~

~~a. A general vicinity map and legal description of the site;~~

~~b. A plot plan showing: location of existing buildings and structures, easements, utilities and other surface and aboveground improvements on the property where the work is to be performed; the approximate location of all buildings, structures and other improvements on adjacent land; the location of existing and planned temporary and permanent drainage control facilities, existing and proposed drainage discharge points, watercourses, drainage patterns, environmentally critical areas, and areas of standing water; the approximate location, type and size of trees and other vegetation on the site; designation of trees and vegetation to be removed, and the minimum distance between tree~~

~~trunks and the nearest excavation and/or fill; and areas where equipment traffic will be permitted and excluded;~~

~~e. The latest available topographic map, including cross-sections of the site and adjacent property, showing the present and proposed contours of the land at not more than two (2)-foot contour intervals, and the location and amount of all temporary stockpiles and excavations. On steeper sites, the Director of DCLU may authorize plans to show a contour interval greater than two (2) feet but in no case more than a five (5)-foot interval. The information relating to adjacent properties may be approximated;~~

~~d. A drainage control plan as set forth in Section 22.802.020, except when the grading is limited to the area providing for vehicular and pedestrian access to the building or to the temporary stockpiling of excavated material.~~

~~3. Number Required. A minimum of three (3) sets of plans shall be submitted with each application for a grading permit. The number of plan sets required for grading approval applications shall be the same as required for the specific permit application. Additional sets may be required by the Director.~~

~~4. Clarity of Plans. Plans shall be drawn to a clearly indicated and commonly accepted scale upon substantial paper such as blueprint quality or standard drafting paper. Tissue paper, posterboard or cardboard will not be accepted. The plans shall be of microfilm quality and limited to a minimum size of eighteen (18) inches by eighteen (18) inches and a maximum size of forty-one (41) inches by fifty-four (54) inches.~~

~~5. Preparation by Civil Engineer. The grading plans shall be prepared by, or under the direction of, a licensed civil engineer for all applications where the total amount of materials graded is more than two thousand five hundred (2,500) cubic yards. The Director of DCLU may require that grading plans for lesser quantities be prepared by or under the direction of a licensed civil engineer for sites such as, but not limited to, those in geologic hazard zones and areas with known erosion problems.~~

~~6. Stamping by Geotechnical Engineer. When required by the Director of DCLU in accordance with the provisions of this subtitle, the grading plans shall be reviewed and stamped by the geotechnical engineer who performed the site analysis and report to indicate that the plans conform to the conclusions and recommendations of the report.~~

#### ~~C. Information Required:~~

~~1. Required with Application. The following information shall be submitted with grading plans at the time of application:~~

~~a. The disposal site for any excavated materials to be removed from the site. If the disposal site is located within the City limits and is not an approved disposal site, an application for a grading permit for the disposal site shall be submitted at the same time as the application for grading permit or approval at the excavation site. In the event that the applicant is unable to specify the disposal site at the time of application, the applicant shall request, in writing, a postponement of the identification of the disposal site. The request shall include a commitment that the applicant will specify a disposal site acceptable to the Director of DCLU prior to any excavation;~~

~~b. Where placement of a fill is proposed, a description of the composition of fill material and its structural qualities;~~

~~c. Where any portion of the grading will encroach on an adjacent property, proof of ownership and an easement or authorization in accordance with Section 22.804.100;~~

~~d. The immediate and long-term intended use of the property;~~

~~e. Identification of past industrial or manufacturing uses or hazardous materials treatment, disposal or storage that have occurred on the site;~~

~~f. Where a site is located in an area identified pursuant to Section 22.800.050, a copy of all applicable permit or approval applications, and/or permits and approvals from the appropriate regulatory agencies;~~

- ~~g. When required by Section 22.802.020, an erosion/sediment control plan;~~
- ~~h. Where the site is located in an area of potential landslide, a draft covenant complying with the requirements of Section 22.808.130;~~
- ~~i. Each grading proposal shall contain provisions for the preservation of natural drainage patterns and watercourses; for reasonable preservation of natural land and water features and other indigenous natural features of the site; and for replacement, where necessary, of vegetation or other means to control runoff.~~

~~2. Required after Initial Screening. The Director of DCLU may require the following information after the initial screening of a grading application:~~

- ~~a. A description of methods to be used to minimize sediment or other pollution from leaving the site during and after construction and to protect cleared areas and cut and fill slopes from erosion;~~
- ~~b. A time schedule of operations, including but not limited to, implementation of the applicable requirements of Sections 22.802.015 and 22.802.016, clearing, minimization of grading of unprotected soil surfaces, restoration of topsoil and vegetative cover, and construction of improvements;~~
- ~~c. A survey of boundaries and topography of the site and the grades of adjacent public rights-of-way prepared by a surveyor licensed by The State of Washington;~~

~~d. A soils analysis complying with the following:~~

~~i. When Required. A soils analysis and report may be required when an application for a grading permit or approval is made for property located:~~

~~(A) In areas described in Section 22.800.050;~~

~~(B) In areas where there is a potential for landslide;~~

~~(C) In areas where grading may result in instability of the site or adjoining property;~~

~~(D) In areas where soils may not be suitable for the use intended;~~

~~(E) In areas where the Director determines pollutants are likely to be present, or~~

~~(F) In any area where the Director determines that the information which would be supplied by a soils analysis and report is necessary for the review of the application;~~

~~ii. Contents. The soils analysis and report shall include:~~

~~(A) Data regarding the nature, distribution and strength of existing soils and subsurface conditions;~~

~~(B) History of the site including history of landslides, known excavations and fills, and location of utilities;~~

~~(C) Where appropriate as indicated by information provided under subsection B above, analytical testing of soils to determine the concentration of pollutants;~~

~~(D) Conclusions and recommendations for clearing the site, of the adequacy of the site for proposed immediate and long-term intended use, foundation, retaining and structural designs, grading methods, and construction and post-construction monitoring, and~~

~~(E) Other information as determined necessary by the Director to adequately evaluate compliance with the requirements of this subtitle and accomplishment of its purposes, such as an assessment of contamination when past industrial or chemical use have been present on the site;~~

~~iii. Preparation. The soils analysis and report shall be prepared by an experienced geotechnical engineer or other equally qualified person approved by the Director. The Director may require that the plans and specifications be stamped and signed by the geotechnical engineer to indicate that the grading and proposed structure comply with the conclusions and recommendations of the reports;~~

~~iv. Minimal Risk. In geologic hazard areas as identified in SMC Chapter 25.09, Regulations for Environmentally Critical Areas, the geotechnical engineer who prepared the soils analysis and report may be required to submit a letter stating that the plans and specifications conform to the recommendations of the soils analysis and report. The letter shall also state that, so long as conditions stated in the soils report are satisfied, areas disturbed by construction will be stabilized, the risk of damage to the proposed development or to adjacent properties from soil instability will be minimal, and the proposed grading and development will not increase the potential for soil movement;~~

~~e. Site Analysis. For properties located in any of the areas identified in subsection C2d, an analysis and report of the following site factors. The analysis and report shall be prepared by a licensed civil engineer or other person approved by the Director:~~

~~i. A description of the hydrology of the site and the drainage basin in which the development is located;~~

~~ii. The effect of grading upon surrounding properties, watercourses and the drainage basin, including impacts on water quality and fish habitat when a stream, lake or other body of water is affected. Where applicable, the analysis specified in Section 22.802.016 B5 may also be required;~~

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

~~g. The Director may require additional information pertaining to the specific site and any other relevant information needed in order to assess potential hazards associated with the site and to determine whether a grading permit or approval should be issued.~~

#### ~~22.804.050 Grading requirements.~~

~~A. Earth Movement. Grading shall not create or increase the likelihood of earth movement, including but not limited to, landslides, accelerated soil creep, settlement and subsidence, and hazards associated with strong ground motion and soil liquefaction of the site to be graded and adjoining properties.~~

~~B. Natural Features. Each grading proposal shall contain provisions for the preservation of natural drainage patterns and watercourses; for reasonable preservation of natural land and water features and other indigenous natural features of the site; and replacement, where necessary, of vegetation or other means to control runoff.~~

~~C. Watercourses. Grading shall not create or contribute to flooding, erosion, or increased turbidity, siltation or other forms of pollution in a watercourse, and shall comply with the applicable requirements of Chapter 22.802.~~

~~D. Pollution Control. Grading shall be performed, and the completed work shall be in accordance with, all applicable environmental laws, rules and regulations, and with the applicable requirements of Chapter 22.802.~~

~~E. Conformance with Plans. Grading shall be performed in accordance with the plans approved by the Director of DCLU.~~

~~F. Slopes. Final graded slopes shall be no steeper than is safe for the intended use, and shall in no case be steeper than~~

~~two (2) horizontal to one (1) vertical. For requirements for temporary slopes see Sections 22.804.050 M and 22.804.100.~~

~~G. Surface Preparation. The ground surface shall be prepared to receive fill by removing vegetation, nonapproved materials, topsoil and other unsuitable materials, including but not limited to mud, peat and other materials with insufficient strength to satisfy the design as determined by the Director.~~

~~H. Fills. Fills shall be located so that the base edge of the fill is located more than twelve feet (12') horizontally from the top edge of an existing slope or a planned cut slope. A sloping fill shall not be placed on top of slopes which are steeper than one and one-half (1) horizontal to one (1) vertical.~~

~~I. Requirements for Fill Material. Materials used in fills shall comply with the following requirements:~~

- ~~1. Material used in filling shall be appropriate to the site and the intended use of that portion of the site.~~
- ~~2. Fill shall be composed of earth materials. Any rock or other similar irreducible material used in a fill shall be of a maximum diameter of twelve (12) inches and shall compose not more than twenty (20) percent of the total fill material.~~
- ~~3. Topsoil shall not be used as a fill material except that the upper twelve (12) inches of a fill site may be covered with topsoil.~~
- ~~4. No frozen or thawing material shall be used in a fill.~~
- ~~5. No solid waste, hazardous waste or hazardous material may be used in a fill.~~
- ~~6. No organic material shall be used in a fill unless approved by the Director.~~
- ~~7. As necessary, the Director shall specify other characteristics of the fill material used, the degree of compaction, moisture content, and the method of placement appropriate to the site and the intended use of that portion of the site and the requirements for water retention, drainage control and erosion control.~~

~~J. Terraces. The Director may require steps and terraces sufficient to control surface drainage and deposit of debris. Suitable access to the terraces shall be provided to permit proper cleaning and maintenance.~~

~~K. Subsurface Drainage. Cut-and-fill slopes shall be provided with subsurface drainage when needed to maintain slope stability.~~

~~L. Access. When an adjoining site relies on the site to be graded for pedestrian or vehicular access, the Director may require reasonable access to be maintained to the adjoining site.~~

~~M. Stockpiling of Earth Materials:~~

- ~~1. General. Stockpiling of any kind shall not adversely affect the lateral support or significantly increase the stresses in or pressure upon any adjacent or contiguous property. Stockpiling shall comply with the applicable erosion control requirements for temporarily exposed soils set forth in Sections 22.802.015 and 22.802.016 and rules promulgated under those sections.~~
- ~~2. Temporary Stockpiling During Construction or Grading. Temporary stockpiles of earth materials during construction or grading shall not exceed ten (10) feet in height. Stockpiles shall have slopes no greater than one (1) horizontal to one (1) vertical.~~
- ~~3. Temporary Stockpiling During Dredging. Temporary stockpiles of earth materials excavated during dredging or maintenance dredging shall be subject to the approval of the Director of DCLU.~~

~~4. Stockpiling and Handling of Earth Materials in Processing. Earth materials consumed or produced in a process may be stockpiled and handled on a site provided the process is the principal use of the site.~~

~~5. Removal. Temporary stockpiles shall be removed prior to final inspection for a grading permit where no building permit is issued on the same site. Where grading is approved as a component of a building permit, temporary stockpiles shall be removed prior to issuance of a final certificate of occupancy or approval for occupancy after a final inspection.~~

~~N. Exploratory Excavations. Exploratory excavations shall be under the direction of a licensed civil engineer or experienced geotechnical engineer. No stockpiles of materials shall remain after completion of the exploratory activities. The grading shall comply with other requirements that may be established by the Director.~~

#### ~~22.804.100 Protection of adjoining property.~~

~~A. General. The provisions of this section shall apply to permanent and temporary protection of, and encroachment on, adjoining property except as specifically limited. Permanent encroachment of grading on adjoining property shall require a separate permit under Section 22.804.030 for the adjoining property.~~

~~B. Maximum Slopes. When the existing grade of a site is altered by filling, excavating, dredging or moving of earth materials, the owner shall protect all adjoining property during construction from encroachment or collapse by sloping the sides of the temporary grading at a slope which is safe and not more than one (1) horizontal to one (1) vertical. In addition, adjoining property shall be protected from encroachment or collapse by sloping the sides of the permanent grading at a slope not greater than two (2) horizontal to one (1) vertical. The Director may approve temporary or permanent slopes of greater steepness based on a design by an experienced geotechnical/civil engineer. In areas of known unsuitable soils, the Director may require slopes of lesser steepness to assure protection of adjoining property.~~

#### ~~C. Encroachments:~~

~~1. All grading shall occur entirely within the site unless encroachment on adjoining property is allowed by the Director of DCLU. Encroachment may be permitted where the applicant provides one of the following:~~

~~a. Proof of ownership; or~~

~~b. An easement, granted by the fee owner of the encroached-upon property, which authorizes the encroachment on the adjoining property; or~~

~~c. A letter signed by the owner of the adjoining property, which authorizes such temporary encroachments during construction on the adjoining property as temporary change of grade, temporary stockpiling or shoring tiebacks.~~

~~2. Where an application for grading permit or approval includes an easement authorizing permanent encroachment on adjoining property, the easement instrument shall be provided to the Director by the applicant prior to issuance of any grading permit or approval. The instrument shall specify the purpose for granting the encroachment. The instrument shall be recorded with the King County Department of Records and Elections.~~

~~3. Any instrument authorizing temporary encroachment may terminate only after the grading work is completed in accordance with Section 22.804.200.~~

~~D. Setbacks. The tops and toes of graded slopes shall be set back from property boundaries and structures as far as is necessary for safety and foundation support and to prevent damage resulting from drainage or other water runoff, erosion or excessive loading.~~

~~E. Screening. The Director shall require view-obscuring planting or ground cover on sites with cut-or-fill slopes more than four (4) feet in height adjacent to lots zoned for or developed with residential uses.~~

#### ~~22.804.110 Erosion control.~~

~~A. Methods. Grading operations shall comply with the applicable requirements set forth in Sections 22.802.015 and 22.802.016 and rules promulgated thereunder. Devices or procedures for erosion control shall be initiated or installed prior to commencing grading operations when technically feasible, and in any case as soon thereafter as is technically feasible, and shall be maintained to function at design capacity.~~

~~B. Exposure. Grading operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. Grading operations shall comply with the applicable requirements for exposed soils, including best management practices, promulgated pursuant to Sections 22.802.015 and 22.802.016.~~

#### ~~22.804.120 Boundary location:~~

~~The Director may also require sufficient staking of property lines, top and toe of the fill and all areas where equipment traffic is to be excluded. Stakes shall be at least two (2)-inch by two (2)-inch posts or one-half ( 1/2)-inch pipes which are readily visible and durable. Stakes shall be maintained and visible during grading operations to enable the Director to determine property lines, the top and toe of the fill and excluded areas. A survey prepared by a land surveyor licensed by The State of Washington may be required.~~

#### ~~22.804.130 Fencing:~~

~~The Director may, where unauthorized material has been deposited during grading operations at a permitted grading site, require fencing and a lockable gate of suitable materials to control access to the grading site until all grading activity is complete, or until a Certificate of Occupancy is issued, whichever occurs last. Failure of the Director to require a fence shall not relieve the owner of liability arising out of access to and use of the site.~~

#### ~~22.804.140 Grading application--Referral and consultation:~~

~~The Director of DCLU may refer applications for grading, including plans and other required information and reports, to, and consult with, other agencies or City departments as may be appropriate. Comments and recommendations received shall be considered by the Director in making a decision regarding the grading application.~~

#### ~~22.804.150 Grading application--Cancellation:~~

~~A. An application shall be deemed abandoned and void if a permit is not issued after a period of sixty (60) days from the date of notice of approval for issuance or if corrections are not received after a period of sixty (60) days from the date of notification of required corrections. The Director of DCLU may extend the period for issuance or submission of corrections if it is determined that there are good reasons for the delay, such as litigation or appeals.~~

~~B. If the application is canceled, the site may be inspected to verify that no work has taken place. The application and any accompanying plans and specifications may be destroyed.~~

#### ~~22.804.160 Granting or denial of grading approvals and permits:~~

##### ~~A. Approval:~~

~~1. The Director of DCLU may grant a grading permit or approval that complies with the requirements of this subtitle and rules promulgated thereunder. An approval may be granted with or without conditions, to assure compliance with the requirements of this subtitle. Conditions may include, but are not limited to, the following:--restricting permit work to specific seasons or weather conditions; limiting vegetation removal; sequencing of work; requiring recommendations contained in the soils analysis and report to be followed; requiring observation by a licensed civil or geotechnical engineer; requiring special inspection pursuant to Section 1701 of the Seattle Building Code; limiting quantities of soils; requiring structural safeguards; specifying methods of erosion, sedimentation, and drainage control; requiring compliance with other applicable provisions of this subtitle; specifying methods for maintenance of slope stability; retaining existing trees; requiring revegetation and grass seeding and/or long term maintenance activities; requiring~~

~~compliance with SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other regulations of the City or other agencies with jurisdiction.~~

~~2. The Director may require that plans and specifications be stamped and signed by a licensed civil engineer or experienced geotechnical engineer to indicate that the grading and proposed structure comply with the conclusions and recommendations of any required reports.~~

~~B. Denial. The application for grading permit or approval may be denied if the Director determines that the plans do not comply with the requirements of this subtitle and rules promulgated hereunder, or do not accomplish the purposes of this subtitle, or the grading is inconsistent with the proposed development of the site, or the plans do not comply with other applicable federal, state and local laws and regulations.~~

~~C. Limitations. The issuance or granting of a grading permit of approval shall not be construed to be permission for, or an approval of, any violation of any of the provisions of this subtitle or rules promulgated hereunder, or of any other law or regulation.~~

#### ~~22.804.170 Expiration of grading permit.~~

~~Grading permits shall be valid for eighteen (18) months and may be renewed for up to eighteen (18) additional months. Where advisable to satisfy the requirements or purposes of this subtitle, the Director may issue nonrenewable grading approvals which shall expire within a period less than eighteen (18) months from date of issue. Requirements of this subtitle that are not explicitly temporary during the grading operations, including but not limited to requirements for erosion control, drainage and slope management, do not terminate with the expiration of the grading approval.~~

#### ~~22.804.180 Grading inspection.~~

~~A. General. The Director of DCLU may conduct or require inspection of grading sites to determine that work is done according to the grading approval. The permittee and owner shall be notified if the work is in violation. The Director may initiate enforcement action for work that is in violation.~~

~~B. Preloading. Preloading shall be conducted as directed and supervised by a licensed civil or experienced geotechnical engineer.~~

~~C. Special Inspections. The Director of DCLU may require periodic or continuous inspection from site inspection through foundation inspection by a licensed civil engineer, experienced geotechnical engineer or special inspector at the permittee's expense. Licensed civil and experienced geotechnical engineers or special inspectors shall be designated in accordance with Section 1701 of the Seattle Building Code, Chapter 22.100 of the Seattle Municipal Code. The approved inspector shall inspect in accordance with the duties specified in Section 1701 of the Seattle Building Code and rules adopted thereunder and shall:~~

- ~~1. Be present during the execution of all work the inspector has been approved to inspect;~~
- ~~2. Report to the job site in advance of grading operations to become familiar with approved plans and to inspect all materials to be used;~~
- ~~3. Not undertake or engage in other occupations which interfere or create a conflict of interest with the inspection duties during the work on the project;~~
- ~~4. Inspect the clearing, excavating, filling, compaction, grading, erosion and drainage control measures, and all other soils control aspects of the construction, and observe whether there is compliance with the approved plans;~~
- ~~5. Inspect soils for evidence of hazardous substances or wastes;~~
- ~~6. Observe whether the approved plans are sufficient to control the soil on the site and prevent off-site transport of~~



~~-sediment;~~

~~7. Immediately report all evidence of hazardous substances or wastes, irregularities, insufficiencies, substitutions of material or other changes from approved plans, and violations of this subtitle to the owner's architect, engineer or contractor. If the project is not brought immediately into compliance, the Director of DCLU shall be immediately notified. In any event, the Director of DCLU shall be immediately notified when any condition threatens public health, safety or welfare, private or public property, or the environment, whether or not the threat is immediate or likely;~~

~~8. Notify DCLU of the time schedule for off-site disposal of excavated material and, when within the City limits, of the location of and permit number of the approved disposal site; and~~

~~9. The special inspector may require soil grading reports prepared by a licensed civil engineer or experienced geotechnical engineer. These tests may include field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading but not shown on the approved plans and their effect on the recommendations:~~

~~D. Other Inspections. Subject to the approval of the Director of DCLU, a person other than a licensed civil or experienced geotechnical engineer or special inspector may conduct the required inspection provided the person is under the supervision of a licensed civil engineer or experienced geotechnical engineer and is qualified to conduct the inspection.~~

#### ~~22.804.200 Completion of grading work:~~

~~A. Final Inspection. Upon completion of the work, the owner shall notify the Director of DCLU that the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage control facilities and their protective devices and all erosion control measures, have been completed in accordance with the final approved plans and required reports have been submitted. The owner also shall submit proof of the approval of other agencies with jurisdiction, if any is required, before a final grading approval is issued.~~

~~B. Final Plans and Reports. When grading plans have been modified during construction, the Director of DCLU may require an as-graded plan including original ground-surface elevations, as-graded ground-surface elevations, lot drainage patterns and locations, location of discharge points, elevations, and location and maintenance requirements of all surface and subsurface drainage control facilities as called out by a drainage control plan. The Director may require the comments from the person who prepared the original grading plans or soils report about changes made during grading and the effect of the changes:~~

#### ~~22.804.210 Grading modifications during construction:~~

~~The Director of DCLU may require that grading operations and project designs be modified during operations if physical conditions are discovered on the site which are inconsistent with the assumptions upon which the approval was based, including but not limited to unexpected soil and/or water conditions, weather-generated problems, and undue delays caused by labor disputes:~~

Section 3. To the extent that sections of this ordinance recodify or incorporate into new or different sections provisions of the Seattle Municipal Code as previously in effect, this ordinance shall be construed to continue such provisions in effect. The repeal of various sections of Title 22 of the Seattle Municipal Code by this ordinance shall not relieve any person of the obligation to comply with the terms and conditions of any permit issued pursuant to the provisions of such title as in effect prior to such repeal, nor shall it relieve any person or property of any obligations, conditions, or restrictions in any agreement of instrument made or granted pursuant to, or with reference to, the provisions of such Title in effect prior to such repeal.

Section 4. This ordinance shall take effect and be in force on the latest of: (1) sixty (60) days from and after its approval by the Mayor, or if not approved and returned by the Mayor within ten (10) days after presentation, sixty (60) days after the date when it would take effect as provided by Municipal Code Section 1.04.020; (2) the date when CB 116614

(revising stormwater regulations) takes effect, or would be effective contingent only on the effectiveness of this ordinance and CB 116615 (amending cross references to the grading and stormwater regulations in the Seattle Municipal Code) ; and (3) the date when CB 116615 (amending cross references to the grading and stormwater regulations in the Seattle Municipal Code) takes effect, or would be effective contingent only on the effectiveness of this ordinance and CB 116614 (revising the stormwater regulations). The intent is that all three ordinances will become effective on the same date.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2009, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2009. \_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2009. \_\_\_\_\_ Gregory J. Nickels, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2009. \_\_\_\_\_ City Clerk

September 10, 2009 Version #6 t