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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 2799

AN ORDINANCE relating to the excavation, clearing and grading of land; repealing Ordinance No. 1803 as amended and Bellevue City Code, Section 23.10.140, and adding a new chapter to the Bellevue City Code, designated as Chapter 23.76.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 1803 as amended and Bellevue City Code, Section 23.10.140 are each hereby repealed.

Section 2. There is hereby added to the Bellevue City Code a new chapter, 23.76, to read as follows:

Chapter 23.76

CLEARING AND GRADING CODE

Sections:

- 23.76.005 Purpose
- 23.76.010 Description
- 23.76.015 Definitions
- 23.76.020 Permit Authority
- 23.76.025 Application of Regulations
- 23.76.030 Regulations
- 23.76.035 Variance Procedures
- 23.76.036 Appeals
- 23.76.040 Permit Applications
- 23.76.045 Permit Fees
- 23.76.046 Expiration of Permits and Applications
- 23.76.050 Security
- 23.76.052 Obligation of Person Performing Work
- 23.76.055 Project Inspection
- 23.76.060 Final Reports
- 23.76.065 Notification of Completion
- 23.76.070 Enforcement

23.76.005 Purpose. The purpose of this chapter is to promote, protect and preserve the public interest by regulating land alteration, particularly the clearing and grading of land in the City of Bellevue. This chapter is necessary in order to provide minimum development regulations and construction procedures which will preserve, replace or enhance to the maximum extent practicable, consistent with the zoning and subsequent development of the land, evergreens, specimen deciduous trees, understory and groundcover so as to preserve and enhance the natural qualities of lands and watercourses within the City; to minimize water quality

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degradation and the sedimentation of creeks, streams, ponds, lakes, wetlands and other water bodies; to minimize the impact of increased runoff erosion and sedimentation on non-consenting persons caused by improper land development and maintenance practices; to maintain and protect ground water resources; to minimize adverse effects of alterations in ground and surface water quantities, locations, and flow patterns; to promote safety upon City roads and rights-of-way; to decrease potential landslide, flood, and erosion damage to public and private property; and to promote site planning and building practices which are consistent with the City's natural topographical, vegetational, and hydrological features.

This chapter is intended to promote the health, safety and welfare of the public and nothing herein is intended to or shall be deemed to create a duty in the City to protect or promote the interests of any particular person or class of persons. The existence of these regulations or any failure, refusal or omission of the City to enforce any provision herein shall not prevent, supplant or affect the right of any person affected by the clearing and grading operations of another to invoke such private remedies as may be available against such other person.

23.76.010 Description. This chapter sets forth rules and regulations to control land clearing, excavation, grading and earthwork construction, including fills and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of clearing and grading projects and provides for enforcement and penalties.

23.76.015 Definitions. For the purposes of this chapter the definitions listed hereunder shall be construed as specified in this section.

Approved: approved by the designated Permit Authority for Clearing and Grading Permits.

As-Graded: the surface condition after the completion of grading.

Brush: vegetation one foot to four feet in height.

Civil Engineer: a professional engineer licensed by the State in civil engineering.

Clearing: the act of destroying vegetation by mechanical or chemical means.

Clearing and Grading Permit: the written permission of the Permit Authority to the permittee to proceed with the act of clearing, grading and land development within the provisions of this chapter.

Development Standards: Department of Public Works, Development Standards as approved by the City Council.

Earth Material: any rock, natural soil or any combination thereof.

Erosion: the wearing away of the ground surface as a result of action by wind, water and/or ice.

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Excavation: the physical, man-made removal of earth material.

Existing Grade: the land elevation prior to grading.

Fill: a solid material which increases the ground surface elevation.

Filling: any act by which earth, sand, gravel, rock or other solid material is deposited, placed, pushed, pulled or transported to a place other than the place from which it is excavated and the materials so placed.

Finished Grade: the grade of the site after alterations are completed.

Geologist: a professional trained and experienced in geology.

Ground Cover: vegetation normally less than one foot in height.

Grade: the vertical elevation of the ground surface.

Grading: any act which changes the elevation of the ground surface.

Grubbing: the act of root vegetation removal from beneath the surface of the earth.

Hydrologist: a professional who has experience or specialized training in hydrology.

Impervious: without significant capacity to transmit water.

Intermittent: interrupted at intervals, periodic, recurrent, flowing in the same direction (streams), or depressions which fill on a frequent basis (ponds).

Overstory: vegetation above ten feet in height

Permit: see Clearing and Grading Permit.

Permit Authority: the Director of Public Works and Utilities. He/she may designate subordinate(s) to make approvals, sign permits, and carry out other responsibilities in application of this code.

Permittee: the person(s) or entity to whom a Clearing and Grading permit is issued.

Professional Finding: a written professional opinion with the professional's seal, if registered, stating the facts observed or found and comparison of the characteristics of the work with the known minimal required criteria, followed by an opinion of the suitability of such work to perform the intended function.

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Registered Professional: a person currently licensed by the State to practice in engineering, architecture, landscape architecture, and/or surveying.

Regulatory Agencies: appropriate departments of a governmental body.

Regulatory Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than a designated height. The height designated for the City of Bellevue in the Flood Insurance Study is 0.0'. Therefore, the regulatory floodway is the same as the 100-year flood plain for the streams studies (see Ordinance No. 2645, Flood Plain Management).

Rough Grade: the stage of construction at which the ground elevations are near the finished elevations planned.

Sediment: waterborne particles, graded or undefined, occurring by erosive action.

Sedimentation: the process of deposition of soil and organic particles displaced, transported, and deposited by water or wind.

Siltation: deposition of fine textured sediment in streams and surfaced waters.

Site: that defined portion of any lot(s) or parcel(s) of land or contiguous combination thereof, where clearing and/or grading is performed or permitted.

Slope: an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

Soil: naturally occurring surficial deposits overlying bedrock.

Soil Engineer: a Registered Professional engineer trained and experienced in soil mechanics.

Stage: a defined increment of work.

Storm Return Interval: an expression of the probability with which a storm of a given intensity and duration can be expected to occur. A term used by a hydrologist to predict runoff quantities. Available as a graph from the National Weather Service.

Stream: the surface water route generally consisting of a channel with bed, banks, or sides, in which surface waters flow in draining from higher to lower land, both perennial and intervening; the channel and intervening artificial components, excluding flows which do not persist more than 24 hours after cessation of rainfall at some time of the year.

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Surface Waters: water bodies exposing a free water surface, with or without movement, such as streams, lakes, bogs, ponds, and the like.

Technical Committee: see Section 23.76.035.

Tree: a woody perennial plant with one or more main stem(s) or trunk(s) which develop many branches.

Understory: vegetation four feet to ten feet in height.

Vegetation: all organic plant life growing on the surface of the earth.

Wetlands: the Shoreline Overlay District (see the Land Use Code, 20.10); and lands within the Regulatory Floodway, or other ground area as defined by the City of Bellevue.

23.76.020 Permit Authority. The Director of Public Works and Utilities, or his designee, hereinafter termed the Permit Authority, is the designated agent for the issuance of Clearing and Grading Permits. The Permit Authority shall have the authority to set administrative procedures to carry out the purposes and intent of the Clearing and Grading Code. Such administrative procedures shall be developed in consultation with the Technical Committee and shall be made available to the public for comment at least 17 days before adoption.

23.76.025 Application of Regulations. No person shall make changes or cause changes to be made in the surface of any land by grading, excavating, or the removal or disturbance of the natural topsoil, trees, or other vegetative covering thereon without first having obtained a valid Clearing and Grading Permit or having ascertained that a valid Clearing and Grading Permit has been issued, except as provided in the exemptions following:

- A. Agricultural crop management.
- B. Cemetery graves.
- C. Routine landscape maintenance.
- D. Landscape installation where fill is confined to less than one foot of topsoil or landscape berms not exceeding four feet in height and 50 cubic yards in volume with side slopes flatter than 3 feet horizontal to 1 foot vertical (33%) and not subject to the special conditions of Subsection I of this Section.
- E. Emergency situations involving immediate danger to life or property or substantial fire hazards.
- F. In any one year an excavation of less than 50 cubic yards of material which (a) is less than two feet in depth, or (b) which does not create a cut slope greater than five feet in height and steeper than two horizontal to one vertical.

- G. During any one year a fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical (20%) or a fill less than three feet in depth and not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a stream or surface waters.
- H. A clearing less than 1,000 square feet where the existing zoning is single-family residential. Only one exempted clearing or grading operation per site per year shall be permitted under the exception provided in this Subsection.
- I. Except for Subsections A, C, and E of this Section, the exemptions set forth in this section shall not apply in wetlands or unstable slope areas or in any area within 50 feet by horizontal measurement from the top of the natural bank of a stream, the mean high water mark (line of vegetation) of a lake, or the outer limits of the associated wetlands of the stream or lake, whichever is the greater distance. All projects within the areas described in this paragraph are subject to issuance of a Clearing and Grading Permit.

23.76.030 Regulations. It is the intent of this section to promote practices consistent with the City's natural topographic, vegetational, and hydrologic features, and to control substantial land alterations of a speculative nature. In considering whether to issue a permit, and in considering whether and what type of conditions should be imposed thereon, the Permit Authority shall apply the following standards and criteria:

- A. General. A Clearing and Grading Permit shall be issued only in conjunction with one or more of the following:
 - 1. A valid Building Permit application.
 - 2. Developer extension.
 - 3. Property access road.
 - 4. Conditional Use Permit.
 - 5. Approved street, water, storm and sanitary sewer construction drawings for a preliminary plat.
 - 6. Approved short plat.
 - 7. Approved street, water, storm and sanitary sewer construction drawings for a final PUD or PRUD.
 - 8. Special permission of the Permit Authority based on a demonstration that extenuating circumstances are present and that the project is consistent with the intents and purposes of this chapter such as site work under 10,000 cubic yards in conjunction with a clearing, grading and drainage plan with landscaping, soil stabilization and surface ground cover elements including continuous maintenance.
- B. Clearing. All clearing of vegetation shall conform to the specifications of this section and those set forth in the Development Standards unless such clearing qualifies as an exemption.

1. Minimum levels of existing vegetation shall be preserved or restored or replaced by approved landscaping according to the Land Use Code, Chapter 20.20, General Development Requirements.
 2. Preservation and restoration requirements for vegetation shall be performed in accordance with guidelines and procedures set forth in the Development Standards.
 3. For wetlands and unstable slopes, special, more stringent conditions than otherwise provided for herein may be required by the Permit Authority if, for reasons of safety, stability, or environmental sensitivity, such special conditions are merited.
- C. Grading. Changes in site topography shall conform to the following restrictions and those set forth in the Development Standards:
1. Fills shall be limited to less than 10,000 cubic yards unless a Conditional Use Permit is obtained pursuant to Section 20.20.515 of the Land Use Code.
 2. Fills in the Regulatory Floodway shall not be permitted pursuant to Chapter 23.72 of the Construction Code, Floodplain Management.
 3. Stream relocations and wetland fills shall not be permitted unless approved by the Permit Authority with the intent that open streams and wetlands generally should be preserved. In making such determination, the Permit Authority shall not approve stream relocations or wetland fills unless the proposal results in an overall benefit to or maintains a surface water system of equal quality in terms of water quantity and quality control, and improves aquatic wildlife habitat.
 4. For wetlands and unstable slopes, special, more stringent conditions than otherwise provided for herein may be required by the Permit Authority if for reasons of safety, stability, or environmental sensitivity such special conditions are merited.
- D. Drainage. All clearing and grading activities shall make provisions for drainage pursuant to the following requirements and those set forth in the Development Standards.
1. Disposal. All drainage facilities shall be designed to carry water to the nearest practicable drainage way approved by the Permit Authority as a safe place to deposit such waters. Whenever the streams and/or surface waters in the vicinity are adequate, or by the use of engineering design or equipment can be made adequate to handle the anticipated water runoff, the streams and/or surface waters shall be utilized. The Permit Authority shall not approve plans if the cumulative incremental effects of the proposed project considered alone or together with existing or future similar projects or practices in the vicinity or drainage basin

could likely result in substantial damage to the existing drainage course or facilities, and/or to streams and surface waters by erosion, siltation or sedimentation, or significant changes in quality or increased off-site velocity of storm surface water, or significant harmful deterioration of ground water drainage. It is prohibited, without the authorization of the Permit Authority, and the obtaining of both an acceptable environmental determination from the City (when applicable) and those permits or certificates as may be required by the provisions of Chapter 90.03, RCW and 90.44, Revised Code of Washington, to:

- a. Change the point of discharge of surface waters or concentrate them in ditches.
 - b. Divert waters which would have naturally escaped in another direction.
 - c. Discharge them at a higher velocity.
 - d. Add to their pollution.
2. Drainage Improvements. Control structures may be necessary to reduce velocities and moderate the flow if the possibility exists that damage could occur downstream from the project. Drainage improvements and control structures shall not include the enclosing of streams except to provide for site access and essential internal vehicular movement as specified in the Development Standards and to control excessive water flows beyond the capacity of the watercourse. All discharges of water from the project shall be of like quality, quantity, and velocities as previously flowed at the disposal location prior to the clearing or grading for which the permit is sought, within the bounds of best practicable treatment.
3. Erosion Control. Control of erosion from the general clearing and grading operations as well as the cut and fill slopes shall be implemented according to procedures set forth in the Development Standards to prevent damage by sedimentation to streams, floodplains, surface waters, natural areas and property of others. Control of erosion shall be both permanent and temporary:
- a. Permanent. This control shall be considered and set forth in the original design of the project to provide erosion control following completion of construction.
 - b. Temporary. This control is to be exercised by the clearing and grading contractor during the construction phase and prior to completion of the permanent erosion control facilities.

23.76.035 Variance Procedures. A Technical Committee advisory to the Permit Authority shall be formed for the purposes of technical review of

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proposed exceptions or variances to standards and practices promulgated by this chapter. The Technical Committee shall be chaired by the Permit Authority and composed of an additional representative each from Public Works, the Planning Department, and the Building Department. The Committee shall be confined to a technical review and shall not have authorization to countermand the intents and purposes of this Chapter or allow activities which are expressly prohibited by City ordinances.

23.76.036 Appeals. Appeals of administrative decisions of the Permit Authority made under authority of this chapter shall be heard by the Hearing Examiner. Appeals shall be filed in writing with the Public Works and Utilities Department within twenty (20) days of the issuance of the determination appealed from. Procedures upon appeals shall be the same as for administrative determinations under the Land Use Code as set forth in Sections 20.30.075 through 20.30.095 of that Code except that references therein to the "Planning Director" and "Planning Department" shall be deemed, respectively, to mean the Permit Authority and Department of Public Works and Utilities.

23.76.040 Permit Applications.

- A. Application. To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
1. Identify the responsible person for the permit and include the address and phone number(s) of same.
 2. Identify and describe the work to be covered by the permit for which application is made;
 3. Describe the site on which the proposed work is to be done, by legal description, by lot, block, tract, or house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
 4. Indicate the use or occupancy for which the proposed work is intended;
 5. Estimate the quantities of work involved;
 6. Be accompanied by plans and specifications as required in Subsection C of this Section; unless short-form application is made according to Subsection B.
 7. State the valuation of the proposed work;
 8. Be signed by the permittee, or his authorized agent, who may be required to submit evidence to indicate such authority;
 9. Give such other information as reasonably may be required by the Permit Authority.

- B. Short-Form Application. In the case of a fill or excavation of less than 500 cubic yards or clearing less than 6,000 square feet, or otherwise approved upon determination by the Permit Authority the applicant may elect to submit a short-form application. The short-form application shall include all information required by Subsection A of this section. In addition, the short-form shall indicate whether the area lies within a plat; within 200 feet of any stream, surface water or wetland; or if any part of the lot or property has greater than a 15% slope. The form shall also include a set of standard specifications which the applicant must agree to abide by during the course of clearing and grading operations. The Permit Authority shall review the short-form application to determine whether information is sufficient to act on a permit. If information is inadequate to make a determination, plans and specifications as required by subsections C, D, and E of this section shall be required for further processing of the permit.
- C. Plans and Specifications. Each application for a permit shall be accompanied by three sets of plans and specifications. The Permit Authority may require, as supporting data, one or more reports covering soils engineering, engineering geology and hydrology, and an environmental checklist. The plans and specifications shall be prepared and sealed by a registered professional engineer, when required by the Permit Authority.
- D. Information on Plans and in Specifications. Plans shall be drawn to a scale of not more than one inch equals 50 feet upon reproducible media and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they conform to the provisions of this Chapter.

The plans shall include the following information:

1. The first sheet of each set of plans shall give:
 - a. the correct legal description of the property;
 - b. the name(s), address(es) and phone number(s) of the owner(s) of the land and the person(s) ordering the work to be performed;
 - c. the total clearing to be performed in acres;
 - d. the total impervious surface to be created in acres;
 - e. the estimated total amount of excavation to be performed in cubic yards;
 - f. the estimated total amount of fill to be performed in cubic yards;
 - g. the name(s), address(es), phone number(s) and seal, if registered, of professional(s) preparing the plans;
 - h. the name(s), address(es) and phone number(s) of professional(s) preparing the soils engineering, engineering geology, and/or hydrology reports, when such reports are required;

- i. a general vicinity map to a scale showing the site and all streets within 300 feet, together with the names, addresses, and locations of all abutting landowners, as shown by King County Assessor's records.
2. An accurate plan of the entire site as it exists at the time of the application showing the following minimum information:
 - a. topography, taken at not more than a two-foot contour interval over the entire site. Ninety (90) percent of the contours shall be plotted within one-half of a contour interval and the remainder within one contour of the true location. Aerial compilation methods are acceptable; however, all areas obscured by vegetation shall be checked and verified by on-site measurements;
 - b. two (2) contour intervals that extend a minimum of 200 feet off-site, when available;
 - c. all property lines shown in true location with respect to the plans' topographic information;
 - d. a copy of a current, generally available aerial photo of the site with property lines;
 - e. a graphic representation of existing vegetation on the site delineating vegetation boundaries, predominant types (common names) and approximate density of cover according to the following categories:
 1. bare ground: no existing vegetation
 2. ground cover: up to one foot in height
 3. brush: one foot to four feet in height
 4. understory: four feet to ten feet in height
 5. overstory: greater than ten feet in height
 6. impervious: rock, artificial condition
 - f. description of the upper 36 inches of soil mantle according to the procedures in the Development Standards;
 - g. location of all existing drainage facilities which transport surface water onto, across, or from the site including: streams and surface waters, artificial channels, drainpipe or culverts;
 - h. location and estimated capacity of all natural or artificial basins which impound surface water;
 - i. location and estimated discharge of all visible springs in excess of one gallon per minute;
 - j. location and elevations of all buildings, structures, utilities or other appurtenances on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property.
3. An accurate plan of the entire site as it will appear after construction showing the following minimum information:

- a. limiting dimensions, elevations, or finished contours to be achieved by the grading;
 - b. location and capacity of all drainage facilities and related construction;
 - c. boundaries of all areas to remain in the existing or natural condition;
 - d. location of all vegetation shown on the plan which will remain after completion of the work and the minimum distance to the nearest excavation and/or filling;
 - e. boundaries of all areas that will be paved or otherwise altered in a manner that will increase storm water runoff;
 - f. boundaries of all areas in which the percolative capacity of the soil will be retained and/or improved;
 - g. method of discharging storm water off-site at the naturally occurring location together with the provisions needed to restrict the velocity and direction of the discharge in order to avoid damage to other properties;
 - h. detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with or as a part of the proposed work;
 - i. methods of preventing sediment or other pollution from leaving the site during and after construction; i.e. an erosion control plan, and their timing of installation;
 - j. a site plan.
- E. The Permit Authority may require additional information when the Permit Authority finds that the submitted plans, specifications and other data are not sufficiently clear to allow a determination that the proposed work fully conforms to this section, or if there is reasonable cause to believe that the proposed clearing or grading will have a significant effect upon other properties. This information may consist of but is not necessarily limited to any of the following:
1. where recorded or established water rights or ground water rights will be significantly affected;
 - a. a recorded assignment of ground water rights from all owners who may be significantly affected by the modification of the groundwater table and/or;
 - b. a recorded waiver of claim from downstream or upstream property owners which could be adversely affected should the proposed stormwater discharge vary in location, velocity, or direction from that which previously existed;
 2. calculations of the expected peak runoff of storm water for the 10- and 100-year return period storms both reaching and leaving the site for the then-existing conditions of the area tributary to the site and the ultimate watershed development based upon the current Comprehensive Land Use Plan, as now existing or as hereafter amended. If water is to be impounded during construction or as part of the final plan of the site development, inflow-outflow hydrographs shall be plotted for the 10- and

100-year return period storms showing the impounded volume and maximum discharge;

3. a scaled drawing showing cross sections of the channel and/or pipe at both upstream and downstream property lines with the elevations of the water surface shown for the specified return period storms thereon for the then-existing conditions.
4. a soil engineering report which shall include data regarding the nature, distribution, and strength of existing soils, conclusions and recommendations for clearing and grading procedures, and design criteria for corrective measures when necessary; together with opinions and recommendations covering adequacy of sites to be developed and the extent of significant effects of the site development upon surrounding properties by the proposed clearing and grading. Recommendations included in the report shall be incorporated in the clearing and grading plans, specifications, or support material.
5. an engineering geology report which shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed and the extent of significant effects of the site development upon surrounding properties by the proposed clearing and grading. Recommendations included in the report shall be incorporated in the plans, specifications, or support material.
6. an hydrology report which shall include an adequate hydrology study of the drainage basin in which the development site is located, conclusions setting forth existing and future changes in the hydrology and the extent of significant effects on the surrounding and downstream properties as a result of the proposed clearing, grading, and development and design criteria for corrective measures whenever necessary, together with opinions and recommendations covering the hydrologic suitability of the site for the proposed project. Recommendations included in the report shall be incorporated in the plans, specifications, or support material.
7. Additional reports may be required if in the judgment of the Permit Authority such information is deemed advisable, including but not limited to biological, wildlife, chemical, water quality, bacterial or other factors related to environmental impact.

23.76.045 Permit Fees. Before accepting a set of plans and specifications for checking, the Permit Authority shall collect a plan check fee. The Permit Authority shall collect a permit fee at issuance of the permit. Such fees shall be determined according to a standard fee schedule approved by the City Council. The purpose of such fees is to defray the City's cost in processing the application and inspecting the construction.

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23.76.046 Expiration of Permits and Applications. The expiration of Clearing and Grading Permits and applications shall follow the same specifications as for Building Permits and applications therefore (Ordinance No. 2768) as now or hereinafter amended except that the Permit Authority shall be the Official; provided, however, that the Permit Authority may set specific limits to the permit for project initiation and/or completion if for environmental reasons or for coordination with other permitted site work he/she finds it is advisable to do so.

23.76.050 Security. The Permit Authority may require the applicant to establish a security in the form of cash escrow account or an irrevocable letter of credit or other form of credit which may be acceptable to the City at its sole discretion, with his bank in an amount deemed by the Permit Authority to be sufficient to reimburse the City if it should become necessary for the City to enter the property for the purpose of correcting and/or eliminating hazardous conditions relating to soil stability and/or erosion, or to restore vegetation, and/or for other purposes authorized herein.

In no case shall the security be less than the Permit Authority's estimate of the cost of correcting or eliminating hazardous conditions that reasonably may occur, and/or of insuring compliance with the stipulations of the permit and the approved plans and specifications. In addition, security may be required to protect the City from potential damage claims of others and/or damage to City streets, utilities or property in the same manner and extent as may be required prior to issuance of a Building Permit pursuant to Section 23.10.060 of the City Code.

Should the City, during the course of construction, find it necessary to expend the security to correct any work not in accordance with the approved plans and specifications, a stop work order shall be issued to the Permittee on any additional work until the security is re-established by the Permittee.

23.76.052 Obligation of Person Performing Work. Every contractor or other person performing or directing the performance of any work requiring a permit under this chapter shall have in his/her possession prior to commencement of and during all phases of the work, an original or copy of a valid permit therefore, and shall further have a duty to be familiar with the terms and conditions of the permit and approved plans and specifications.

23.76.055 Project Inspection.

- A. General: All projects which include clearing and grading shall be subject to inspection by the Permit Authority or his designee. The Permit Authority or his designee shall be granted unlimited right of entry to the work site by the applicant for the purposes of making inspections to determine that the requirements of the plans and permits are being complied with, and for the purposes of taking corrective measures of an emergency nature. The cost of such corrective measures shall be borne by the applicant. The Permit Authority may require inspection and testing by an approved testing agency at any stage of the application or project.

- B. It shall be the Permittee's responsibility to notify the Permit Authority or his designee at least 24 hours prior to the time required for inspection. If the Permit Authority fails to inspect the project within eight working hours after the scheduled inspection time, the Permittee may proceed with the project but shall not be relieved from compliance with the requirements of the plans, specifications, and permit as approved. All inspections and testing required shall be determined prior to issuance of the permit, except those that may be required when conditions exist that were not covered in the documents submitted when requesting a permit. The Permit Authority may require additional inspection or testing if conditions are found to be different than those presented in the plans or supporting documents. However, if and when conditions change, it shall be the responsibility of the applicant or the professional consultants who submitted the plans or documents to provide the Permit Authority with recommended changes in procedures, for its review and approval.
- C. Suspension of Permits. Whenever the Permit Authority determines that the act or intended act of clearing, grading, excavation or fill has become or will constitute a hazard to life and limb, or endangers property, or adversely effects the safety, use or stability of a public way, drainage channel, stream or surface water, including siltation and sedimentation therein, the Permit Authority shall immediately suspend the Clearing and Grading Permit. The Permittee or other person or agent in control of said property, upon receipt of notice in writing from the Permit Authority shall, within the period specified therein, terminate such clearing, grading, excavation, embankment or fill, or eliminate the same from the development plans, or modify the plans, as may be required so as to eliminate the hazard and be in conformance with the requirements of this Code. The Permittee shall also be required to take measures to correct damages caused to adjacent and/or downstream or upstream properties, under the direction of the Permit Authority, or if not accomplished in a reasonable period of time the City shall do so using the security provided as part of the Clearing and Grading Permit under which the work was done.

23.76.060 Final Reports. Upon completion of the work an as-built drawing of the capacity and discharge elements of the detention system and the newly constructed downstream components of the storm drainage system shall be required. The Permit Authority may require additional information with respect to any significant deviations from the approved plans, specifications and/or reports.

23.76.065 Notification of Completion. The Permittee or his agent shall notify the Permit Authority or his designee when the clearing and grading operation at each stage is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the final approved project plan and the required final reports have been submitted. (Prior code § 16.11.105.)

23.76.070 Enforcement. The violation of or failure to comply with any of the provisions of this chapter is declared to be unlawful. The remedies provided in this section, whether civil or criminal, shall be cumulative and shall be in addition to any other remedy provided by law. The cumulative effects of a failure to abide by clearing and grading regulations is detrimental to the health, safety and welfare of this community and it is the desire and intent of the Council that the penalties contained herein be strictly enforced without suspensions and deferrals of sentences except as may be necessary under exceptional circumstances to achieve substantial justice.

A. Civil Remedies.

1. Any structures, works, facilities, excavations, fills or other activities which are constructed, reconstructed, operated, or performed without a permit required by this chapter or in violation of any lawful order or requirement of the Permit Authority made in accordance with the provisions hereof shall be deemed to be a public nuisance and may be abated in the manner provided by Bellevue City Code, Chapter 9.10.
2. Injunction proceedings or other appropriate action may be initiated in a court of competent jurisdiction against any person who violates or fails to comply with any provision of this chapter, or against any person who performs or threatens to perform an unlawful clearing or grading operation or the owner of the property on which the unlawful operation is conducted, to prevent, enjoin, abate or terminate violations of this chapter and/or to restore the property to its original conditions, as nearly as practicable.

B. Criminal Penalties.

1. The violation of or failure to comply with any of the provisions of this chapter or of any lawful order or requirement of the Permit Authority, made in accordance with the provisions hereof is a misdemeanor. Each day during which any violation of or failure to comply with any of the provisions of this chapter is committed, continued or permitted constitutes a separate offense. Upon conviction of an offense, the violator shall be punished as follows:
 - (a) Upon first conviction of any offense, except the failure to obtain a permit required by this chapter, by a fine of \$250;
 - (b) Upon first conviction for failure to obtain a permit required by this chapter, by a fine of \$500;
 - (c) Upon second conviction, or any additional convictions thereafter, of a violation of this chapter within any five year period, by a fine of \$500 and, in addition, if the repeat offense includes a failure to obtain a permit required by this chapter, by imprisonment not exceeding thirty days.

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2. It shall not be a defense to the prosecution for failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site, or person authorizing or directing the work believed a permit had been issued to the property owner or any other person unless that belief was verified in writing by the Permit Authority prior to commencement of the work.
3. In addition, any person convicted of a violation or violations of this chapter shall be required to abate any conditions on the subject property in a manner which will achieve full compliance with this chapter and/or restore such property to its original condition, as nearly as practicable.

C. Additional Enforcement Provisions.

1. Any conditions not properly abated or otherwise corrected within 10 days after conviction of a violation or issuance of a lawful order providing therefore, may be abated or corrected by the City at its option, and the costs thereof charged to the violator or person(s) given notice of abatement. Such charges shall constitute a civil debt owing to the City and no future permits under this chapter shall be issued to a person liable on the debt or one acting on his/her behalf until such debt is paid in full. Corrective action by the City authorized by this Subsection shall be in addition to the City's authority to use cash escrow accounts or letters of credit or other security pursuant to Section 23.76.050 of this Chapter. Neither the City nor any of its agents shall be liable for any damage to property when corrective action is taken under this section.
2. Duly authorized officers and employees of the City shall have authority to issue citations on or off a job site charging a violation(s) of this chapter to any person(s) authorizing, directing or committing such violation(s). Said citations may, to the extent consistent with orders or directions of a court of competent jurisdiction, specify an amount of bail and a time by which such bail must be posted. A personal appearance at a trial or hearing is not required provided that a cash bail is posted and forfeited in the maximum amount of the fines prescribed in this section for the particular offense(s) cited and provided that the person cited has not previously been convicted of a violation of this chapter or previously disposed of a citation thereunder by forfeiting bail.
3. The Permit Authority shall have authority to withhold issuance of a permit or revoke a permit already issued, to any contractor or other person cited for performing work in violation of this chapter and to not issue or reissue permits for further clearing or grading upon the


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site unless all security deemed necessary by the Permit Authority and authorized by Section 23.76.050 of this Chapter is established or re-established.

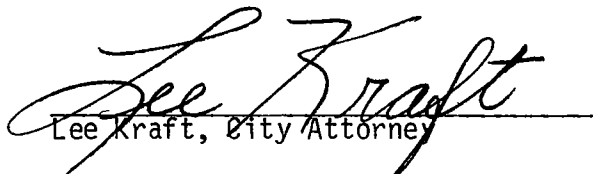
Section 3. This ordinance shall take effect and be in force thirty days after enactment by the Council.

PASSED by the City Council this 17 day of December, 1979,
and signed in authentication of its passage this 17 day
of December, 1979.

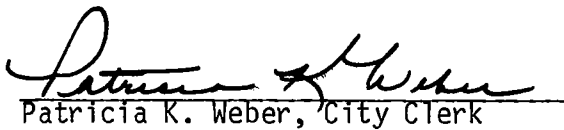
(SEAL)


Gary A. Zimmermann, Mayor

Approved as to form:


Lee Kraft, City Attorney

Attest:


Patricia K. Weber, City Clerk

Published December 22, 1979