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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3776

AN ORDINANCE relating to the regulation of environmentally sensitive areas and to clearing and grading; amending Bellevue City Code Chapter 23.76, the Clearing and Grading Code, Sections 23.76.005, 23.76.015, 23.76.020, 23.76.025, 23.76.030, 23.76.035, 23.76.040, 23.76.050, 23.76.052, 23.76.055, 23.76.060, and 23.76.070.

WHEREAS, the City Council did on May 6th, 1985, adopt the Natural Determinants Element of the Comprehensive Plan; and

WHEREAS, it is desirable to implement the goals, objectives and policies of that Element through the adoption of regulations which both respect private property rights and protect the public health, safety and welfare; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act and with the City's Environmental Procedures Ordinance; now, therefore,

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

Section 1. Bellevue City Code (Clearing and Grading Code) 23.76.005 is amended to read as follows:

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. This chapter is necessary in order to provide minimum required 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 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 nonconsenting persons caused by improper land development and maintenance practices; to maintain and protect groundwater 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-ways; to decrease potential landslide, flood, and erosion damage to public and private property; and to promote site planning

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and building practices which are consistent with the city's natural topographical, vegetational, and hydrological features.

This chapter is intended to require that development in environmentally sensitive areas be accomplished in a manner which protects those areas from damage or degradation.

This chapter is intended to promote the health, safety and welfare of the public and nothing in this chapter 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 in this chapter 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.

Section 2. Bellevue City Code (Clearing and Grading Code)
23.76.015 is amended to read as follows:

23.76.015 Definitions.

For the purpose of this chapter, the definitions listed hereunder shall be construed as specified in this section.

1. "Applicant" means the individual, partnership, association, or corporation applying for a permit to do work authorized under this chapter and includes property owners, employees, agents, consultants, contractors, and successors in interest.
2. "Approved" means approved by the designated permit authority for clearing and grading permits.
3. "Area of Special Flood Hazard" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year as calculated in the Storm and Surface Water Utility Code (BCC 24.06).
4. "As-graded" means the surface and subsurface condition after the completion of grading.
5. "Best Available Technology" means the most effective method, technique, or product available which is generally accepted in the field, and which is demonstrated to be reliable and effective, which requires a low level of maintenance, and which is responsive to the needs of the specific situation for which it is proposed to mitigate adverse impacts on the natural system.

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For the purposes of this chapter, "Best Available Technology" means the most effective methods, techniques, or products available for preventing erosion, treating surface runoff to remove pollutants or contaminants, or preventing flooding, which are commonly available, are technically feasible, have a history of demonstrated effectiveness in the field, and relate to the needs of receiving waters and to site conditions.

6. "Brush" means vegetation one foot to four feet in height.
7. "Civil engineer" means a professional engineer licensed by the State of Washington in civil engineering.
8. "Clearing" means the act of destroying vegetation by mechanical or chemical means.
9. "Clearing and grading permit" means 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.
10. "Creek" means a stream.
11. "Colluvium" means a soil deposit derived from downslope movement of material from other soil formations. These deposits are most often found on the walls of ravines or on steep hillsides.
12. "Culvert" means a drainpipe crossing under a road or an embankment.
13. "Development standards" means Department of Public Works and Utilities Development Standards, latest edition as approved by the city council.
14. "Earth material" means any rock, natural soil or any combination thereof.
15. "Erosion" means the wearing away of the ground surface as a result of action by wind, water and/or ice.
16. "Excavation" means the physical, manmade removal of earth material.
17. "Existing grade" means the land surface elevation prior to grading.
18. "Fill" means a solid material which increases the ground

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surface elevation.

19. "Filling" means 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.
20. "Finished grade" means the land surface elevations of the site after alterations are completed.
21. "Geologist" means a professional trained and experienced in geology. This definition shall include a category of registered engineering geologist or equivalent if such a category of registration is instituted by the State of Washington.
22. "Geotechnical Engineer" means a professional engineer licensed by the State of Washington in Civil Engineering, or geotechnical engineering should such a category be instituted, who is qualified by reason of experience and education in the practice of evaluating and predicting the engineering properties of soils and geologic formations.
23. "Grade" means the vertical elevation of the ground surface.
24. "Grading" means any act which changes the elevation of the ground surface.
25. "Groundcover" means vegetation normally less than one foot in height.
26. "Grubbing" means the act of root vegetation removal from beneath the surface of the earth.
27. "Hydrologist" means a professional who has experience or specialized training in hydrology.
28. "Impervious" means resistant to infiltration or absorption of moisture.
29. "Intermittent" means interrupted at intervals, periodic, recurrent, flowing in the same direction (streams), or depressions which fill on a frequent basis (ponds).
30. "Mass Movement" means any sizeable displacement of large aggregations of soil under the influence of gravity; a slump; a landslide; a creep zone.
31. "Manmade Fills" means all artificially placed deposits of

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earth material.

32. "Overstory" means vegetation above ten feet in height.
33. "Permit" For the definition of "permit," see clearing and grading permit.
34. "Permit Authority" means the Director of the Storm and Surface Water Utility. He/she may designate subordinate(s) to make approvals, sign permits, and carry out other responsibilities in application of this code.
35. "Permittee" means the person(s) or entity to whom a clearing and grading permit is issued.
36. "Phasing Plan" means a narrative or pictorial description of the sequencing of one or more elements comprising the project development or land restoration schedule.
37. "Potential Slide Block" means the area near the surface of a slope between the toe of the slope and a line drawn upward at two feet horizontal to one foot vertical from said toe to the surface of the ground above the slope, or as otherwise determined by a geotechnical engineer.
38. "Professional finding" means 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.
39. "Protected Area" means an area designated by Land Use Code Section 20.25H.070 where use or development is subject to special limitations due to its physical characteristics.
40. "Registered professional" means a person currently licensed by the state to practice in engineering, architecture, landscape architecture, and/or surveying.
41. "Regulatory agencies" means appropriate departments of a governmental body with permitting or decision making authority relative to an action.
42. "Regulatory floodway" means the channel of a river, stream, or other watercourse and the adjacent land areas that must be reserved in order to discharge the hundred-year flood without cumulatively increasing the water surface elevation more than a designated height. The height designated for the city in

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the flood insurance study is 0.0'. Therefore, the regulatory floodway is the same as the hundred-year floodplain for the streams studies.

43. "Restoration" means replacing or restoring original attributes or amenities such as natural biological productivity or cultural and aesthetic resources which have been diminished or lost by past alterations or activities. Active restoration involves the use of specific remedial action such as modification of vegetation to diversify types of habitat. Passive restoration is the use of natural processes, sequences or timing to bring about restoration after the removal or reduction of adverse stresses.
44. "Riparian Corridor" means the area mapped or defined as a riparian corridor in the City of Bellevue Sensitive Area Notebook. Riparian corridors are classified as one of three types as follows:
 - a. Type A Riparian Corridors: Are stable and established corridors which have an established floodplain as mapped by FEMA National Flood Insurance Program, or generally satisfy the following conditions:
 - 1) Include Riparian habitat, as distinguished from other terrestrial habitats, which includes a vegetation community that is integrated with the stream ecosystem and provides food, shelter, breeding and rearing areas for aquatic and terrestrial animals. Type A Riparian Corridors are measured from the top of each stream bank and extend away from the stream on each side a distance of fifty feet, and
 - 2) May contribute to or establish a natural open space character, and
 - 3) Scored 40 or less on the City of Bellevue Storm and Surface Water Utility Department Comprehensive Watercourse Inventory, or are bounded upstream and downstream by corridor reaches with scores of 40 or less (unless the subject reach is longer than the sum of the lengths of the adjacent upstream and downstream reaches).
 - b. Type B Riparian Corridors: Are Riparian Corridors with perennial watercourses which are not rated as Type A Riparian Corridors and which scored between 41 and 60

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on the City of Bellevue Storm and Surface Water Utility Department Comprehensive Watercourse Inventory, or are bounded upstream and downstream by corridor reaches with scores between 41 and 60 (unless the subject reach is longer than the sum of the lengths of the adjacent upstream and downstream reaches). Type B Riparian Corridors are measured from the top of each stream bank and extend away from the stream on each side a distance of twenty-five feet.

- c. Type C Riparian Corridors: Are Riparian Corridors not rated as Types A and B, including all seasonal or intermittent flows or ponding, which are not mapped as wetlands by the City of Bellevue, which are fed by groundwater seepage or stormwater runoff, or corridors which scored 61 or greater on the City of Bellevue Storm and Surface Water Utility Department Comprehensive Watercourse Inventory, or are bounded upstream and downstream by corridor reaches with scores greater than 60 (unless the subject reach is longer than the sum of the lengths of the adjacent upstream and downstream reaches). Type C Riparian Corridors consist of the open or closed conveyance channel extending to the top of the bank of the open channel or swale or the sides of a pipe or culvert.
45. "Rough grade" means the stage of construction at which the ground elevations are near the finished elevations planned.
46. "Sediment" means waterborne particles, graded or undefined, occurring by erosive action.
47. "Sedimentation" means the process of deposition of soil and organic particles displaced, transported, and deposited by water or wind.
48. "Sensitive Area Notebook" means a collection of maps and descriptive text describing the characteristics and locations of sensitive areas as designated by the City of Bellevue, and methods for identification and confirmation.
49. "Siltation" means deposition of fine textured sediment in streams and surfaced waters.
50. "Site" means 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.
51. "Slide" means the movement of a mass of loosened rocks or

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earth down a hillside or slope.

52. "Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance or as an angle from the horizontal.
53. "Slope Failure" - The tendency of a slope to slide or slump due to natural or human induced changes.
54. "Slump" means the collapse or sliding of a small portion of the surface of a hillside.
55. "Soil" means unaggregated or uncemented deposits of mineral and/or organic particles or fragments derived from the breakdown of massive rocks or decay of living matter.
56. "Stage" means a defined increment of work.
57. "Storm return interval" is an expression of the probability with which a storm of a given intensity and duration can be expected to occur; term used by a hydrologist to predict runoff quantities.
58. "Stream" means 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 intermittent; the channel and intervening artificial components, excluding flows which do not persist more than twenty-four hours after cessation of a rainfall of one-tenth of an inch.
59. "Subsidence" means sinking or settlement of the surface of the land or a foundation.
60. "Substrate" means a part or substance which lies beneath and supports another.
61. "Surface waters" means water bodies exposing a free water surface, with or without movement, such as streams, lakes, bogs, ponds, and the like.
62. "Tree" means a woody perennial plant with one or more main stem(s) or trunk(s) which develop many branches.
63. "Understory" means vegetation four feet to ten feet in height.
64. "Unstable Slopes" means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit, mass movement of earth.

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65. "Vegetation" means all organic plantlife growing on the surface of the earth.
66. "Wetlands" means the area mapped or defined as wetland in the City of Bellevue Sensitive Area Notebook.

Section 3. Bellevue City Code (Clearing and Grading Code)
23.76.020 is amended to read as follows:

23.76.020 Permit Authority.

The Director of the Storm and Surface Water Utility or his/her 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 prepare regulations and set administrative procedures to carry out the purposes and intent of the clearing and grading code. The Permit Authority shall also have the authority to enforce the provisions of this chapter. Such regulations and procedures shall be prepared as authorized under the Storm and Surface Water Utility Code.

Section 4. Bellevue City Code (Clearing and Grading Code)
23.76.025 is amended to read as follows:

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, and unless any other permits which may be required have been obtained. These exemptions shall not apply under those conditions listed in paragraph 23.76.025.I.

- A. Agricultural crop management limited to the preparation of soil by turning, discing, or other means in common local useage and the harvesting of fruit from bushes or trees, or of non-woody, herbaceous row crops, except in sensitive areas as defined in Section 23.76.030F herein, where a permit is required;
- B. Cemetery graves involving not more than 50 cubic yards of excavation and related filling per each cemetery plot;
- C. Routine landscape maintenance involving not more than 50 cubic yards of excavation and fill on a single parcel of property per year;

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- D. Landscape installation where fill is confined to less than one foot of topsoil or landscape berms not exceeding four feet in height and fifty cubic yards in volume with side slopes flatter than three feet horizontal to one foot vertical (thirty-three percent) and not subject to the special conditions of subsection I of this section;
- E. Emergency situations involving immediate danger to life or property, substantial fire hazards or other public safety hazards within seven (7) days of the onset of the emergency or during the period covered by an emergency declaration by the City of Bellevue.
- F. In any one year an excavation of less than fifty cubic yards of material which:
 - 1. Is less than two feet in depth, or
 - 2. 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 (twenty percent) or a fill less than three feet in depth and not intended to support structures, which does not exceed fifty cubic yards on any one lot and does not obstruct a stream or surface waters;
- H. A clearing less than one thousand 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:
 - 1. In wetlands or on unstable slope areas or on slopes steeper than forty percent.
 - 2. In any area within fifty feet by horizontal measurement from the top of the natural banks of a stream, the edge of an area of special flood hazard, the mean high watermark (line of vegetation) of a lake, or the outer limits of the associated wetlands of the stream or lake, whichever is the greater distance.
 - 3. Within the required setback area from a protected slope

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as designated in Section 20.25H.090.B.4.

All projects within the areas described in this paragraph are subject to issuance of a clearing and grading permit.

Section 5. Bellevue City Code (Clearing and Grading Code)
23.76.030 is amended to read as follows:

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. Permit issuance. A clearing and grading permit shall be issued only in conjunction with one or more of the following:
1. A valid building permit application; provided no clearing and grading permit will be issued until a decision has been issued by the director of design and development approving any required design review (Bellevue City Code Part 20.30F) for the subject property and the time for appealing that decision has expired without an appeal pursuant to Process V or VI (Section 20.35.500 or .600) having been filed. If an appeal pursuant to Process V or VI (Section 20.35.500 or .600) is filed, no permit shall be issued until the city has made a final decision;
 2. Utility extension approved by the Director of Public Works or his/her designee;
 3. Property access road to existing developed property;
 4. Conditional use permit;
 5. Approved street, water, storm and sanitary sewer construction drawings for a preliminary plat or approved short plat, provided that approval will only be given for infrastructure construction, not for the clearing of individual building sites;
 6. Approved landscape, street, water, storm and sanitary sewer construction drawings for an approved final PUD;
 7. Approval of a Shorelines Substantial Development Permit

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or Shorelines Management Exemption for the subject property by the City and after expiration of all appeal periods pursuant to WAC 173-14-180.

8. Special permission of the permit authority for site work under five hundred cubic yards based on a demonstration that extenuating circumstances are present and that the project is consistent with the intent and purposes of this chapter, in conjunction with a clearing, grading and drainage plan with erosion and sedimentation control, landscaping, soil stabilization and surface groundcover elements including continuous maintenance;
9. For site work over five hundred cubic yards, the purpose of which is not to achieve approval or development under subdivisions 1 through 7 of this subsection, the permit authority shall use process II (Section 20.35.200).
 - a. Decision Criteria. The permit authority may approve or approve with modifications an application submitted under this subsection only if due consideration has been given to the guidance contained in the Comprehensive Plan, and
 - i. The proposal is in accord with the Comprehensive Drainage Plan, and other city codes and adopted standards, regulations, and policies, and
 - ii. The approval of the proposal will not pose a threat to or be detrimental to the public health, safety, and welfare, and
 - iii. The applicant has demonstrated that approval of the proposal is necessary for the reasonable development or maintenance of the property, and
 - iv. Significant trees will be retained in compliance with Land Use Code Section 20.20.520, and
 - v. The proposal meets all requirements for perimeter landscaping in compliance with the Land Use Code, Bellevue City Code Chapter 20.20.520.F.1. and F.2., and

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- vi. The proposal is not in a sensitive area overlay district as defined in the Land Use Code Part 20.25H.
 - b. Time Limits May Be Imposed. For any permit authorized under this subsection the permit authority may impose a time limit within which the proposed site work must be completed, generally not to exceed one year.
- 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 according to the Land Use Code Section 20.20.520 or restored or replaced by approved landscaping according to the Land Use Code, Chapter 20.20, General Development Requirements, and the Development Standards.
 2. Preservation and restoration requirements for vegetation shall be performed in accordance with guidelines and procedures set forth in the development standards.
 3. No clearing shall be allowed in a protected area without a clearing and grading permit and such other approvals as may be required by the Bellevue City Code. The limits of sensitive area setbacks (Land Use Code Section 20.25H.090) and all other vegetation to be preserved shall be fenced during all construction-related activities as per the development standards prior to any clearing adjacent to a setback area or sensitive area.
 4. No clearing shall be allowed in any designated native growth protection easement or greenbelt without a permit and such other approvals as may be required by the Bellevue City Code. The limits of said native growth protection easement or greenbelt shall be fenced during all construction-related activities as per the requirements of the development standards prior to any clearing adjacent to any such native growth protection easement or greenbelt.
- C. Grading. Changes in site topography shall conform to the following restrictions and those set forth in the development

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standards:

1. Fills in the regulatory floodway shall not be permitted pursuant to Land Use Code Section 20.25H.090.
 2. The project shall be designed to minimize changes in grade, cleared areas, and volumes of excavation or fill consistent with Part 20.25H. of the Land Use Code.
 3. The maximum surface gradient on any artificially created slope shall be two feet of horizontal run to one foot of vertical fall. This gradient may be increased to that gradient which can be demonstrated through engineering calculations as outlined in the Development Standards to be stable with a 1.5 factor of safety, if in the opinion of the Permit Authority, it has been demonstrated by the applicant through engineering calculations that surface erosion can be controlled to that erosion rate equal to a two-to-one slope under the same conditions.
 4. The permittee shall at all times protect improvements to adjacent private properties and public rights-of-way or easements from damage during grading operations. The permittee shall restore public improvements damaged by his/her operations to the standards in effect at the time of the issuance of the permit.
- 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 designated 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 habitat or other damage to the existing Riparian Corridor, drainage course, or public or private drainage facilities, and/or to streams and surface waters by erosion, siltation or sedimentation, or

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significant changes in quality or increased off-site velocity of storm surface water, or significant harmful deterioration of groundwater drainage. It is prohibited, without the authorization of the permit authority, and the obtaining of both a favorable environmental determination from the city (when applicable) and those permits or certificates as may be required by the provisions of RCW Chapters 90.03 and 90.44, 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 available treatment.
3. Stormwater control and detention structures shall be designed to release runoff from a developed site at no greater than the rate produced from the undeveloped site by a "10 year" storm of twenty four hour duration. Detention facilities shall be designed to store the runoff produced by the developed site in excess of the allowed release rate up to the volume of runoff produced by a "100-year" twenty-four hour storm. The Permit Authority may require that the maximum release rate be adjusted downward to prevent downstream habitat or water quality damage, erosion, or flooding. Standards for design and construction of stormwater control and detention facilities shall be published in the Development Standards.

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4. Storm water detention and control and restoration or rehabilitation of any Type A or B Riparian Corridor on the property, as described in the Development Standards shall be provided for the entire property if, in any one year period, greater than three thousand square feet of new impervious surface is created or if there is more than a 20% increase in gross floor area, or if there is greater than a fifty percent increase in the value of improvements to the property over and above that shown on the latest King County Assessor's records. For increases in impervious surface of greater than three thousand square feet but not resulting in a gross floor area addition of greater than twenty percent or a greater than fifty percent increase in valuation, detention shall be required for only the added impervious surface area.

E. Erosion Control

1. Temporary erosion and sedimentation control.
 - a. A temporary erosion and sedimentation control plan is required for all construction requiring a long form Clearing and Grading Permit. The plan shall clearly indicate the construction sequence for establishment of all erosion control work, both temporary and permanent. Said plan shall be designed by, and carry the seal of, a Civil Engineer. The erosion control plan shall be based on the best available technology for water quality and quantity control.
 - b. All surfaces where bare soil is exposed during clearing and grading operations shall be covered or otherwise protected from erosion as specified in the Development Standards if left unworked for more than seven days.
 - c. Temporary erosion and sedimentation control devices shall be maintained by the permittee until all possibility for erosion has passed and permanent vegetation has been established, as determined by the Permit Authority.
2. Permanent erosion control and vegetation restoration.
 - a. Permanent erosion control shall be considered and set forth in the original design of the project

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- to provide erosion control following completion of construction.
- b. Said erosion control shall include, but not be limited to, permanently installed landscaping, terracing, or other grading design methods, drainage control structures such as ponds or catch basins, and retention or reestablishment of native vegetation.
 - c. Vegetation shall be restored as specified in the Development Standards on those areas of the site disturbed by the land alteration activity which are not covered by permanent impervious surface improvement (e.g. buildings, parking lots, etc.) within seven (7) days of the completion of grading, unless seasonal or weather conditions are unfavorable for transplanting. In this case, temporary erosion control measures shall be installed and maintained until such time as restoration can be completed. The soil shall be stabilized in the area of vegetation restoration prior to that restoration to the satisfaction of the Permit Authority.
 - d. In no case shall the period between the completion of work authorized under this chapter and final and complete restorative vegetation planting for a given project or project phase be more than one year. Said planting shall restore the vegetation on the site to a condition equal to or better than the precleared condition to the maximum extent possible as determined by the Permit Authority.
 - e. Rockeries are considered to be an erosion protection method and may be used to protect cut slopes of up to eight feet in height or fill slopes of up to three feet in height if constructed in accordance with the Development Standards. Cut or fill slopes of up to twelve feet in height may be protected by a rockery if a geotechnical engineer evaluates the slope and demonstrates with engineering calculations as outlined in the Development Standards that it is suitably stable to be protected by a rockery. The geotechnical engineer shall also provide recommendations for rockery construction. Construction observation reports shall be

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submitted by the geotechnical engineer prior to approval of any construction by the City.

F. Clearing and Grading on Environmentally Sensitive Lands.

1. Environmentally sensitive lands include, but are not limited to, the following:
 - a. Areas of Special Flood Hazard - (see Section 20.50.010 Land Use Code);
 - b. Riparian Corridors - (see Section 20.50.044 - Land Use Code);
 - c. Wetlands - (see Section 20.50.054 - Land Use Code);
 - d. Areas of colluvial or landslide deposits on slopes of fifteen percent or more, or areas where there is other evidence of instability;
 - e. Slopes of forty percent or greater;
 - f. Shorelines as designated in Bellevue City Code 20.25E (Land Use Code); and
 - g. Other areas which may be identified by the City in accordance with the provisions of the State Environmental Policy Act and Chapter 22.02, Environmental Procedures Code.

Categories a. through e. above are as defined in Land Use Code Chapter 20.25H, the Sensitive Area Overlay District.

2. Any activity governed by this chapter is prohibited on Environmentally Sensitive Lands except for activity conducted in connection with an approved use allowed under the Land Use Code where such activity, in the opinion of the Permit Authority, can be accomplished in a manner which meets the following criteria:
 - a. Assures the protection and safety of persons and property, public and private;
 - b. Is harmonious with the existing natural environment;
 - c. Will not result in significant erosion causing rilling, sedimentation, water quality

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degradation, and siltation on-site or in downslope or downstream areas;

- d. Assures long-term slope and soil stability with minimum maintenance or replacement costs; and
- e. Provides reasonable financial assurance in a form approved by the Permit Authority that future repairs and maintenance will be performed, when required.

Provided, that essential public services will be permitted where no feasible alternative exists in which event the development shall be accomplished in a manner which assures the protection and safety of persons and property, public and private, and which as nearly as possible:

- f. Is harmonious with the existing natural environment;
 - g. Will not result in significant erosion causing rilling, sedimentation, water quality degradation, or siltation on-site or in downslope or downstream areas; and
 - h. Assures long-term slope and soil stability with minimum maintenance.
- 3. No structure, stockpile, clearing, fill, or other activity governed by this chapter which may increase the weight loaded onto, or erosion of, an unstable or potentially unstable slope shall occur within the potential slide block of said unstable or potentially unstable slope.
 - 4. No structure, stockpile, clearing, excavation, fill, or other activity governed by this chapter shall occur on any former landslide deposit or any other unstable or potentially unstable areas where said activity increases the risk of damage to adjacent property or resources, or injury to persons, unless said activity can be accomplished in a manner consistent with Land Use Code Part 20.25H and paragraph 2 above.
 - 5. For protected areas, special, more stringent conditions than otherwise provided for herein may be required by the Permit Authority if in the opinion of the Permit Authority for reasons of health and safety, stability,

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or environmental sensitivity, such special conditions are needed to mitigate adverse impacts.

6. Restoration

a. When Required:

Any person who alters Environmentally Sensitive Land without a permit, in violation of a permit, or in any way not permitted, and any property owner upon whose property such an area has been so altered, shall submit a plan for restoration of said sensitive area within thirty days of notification of such a requirement by the Director of the Storm and Surface Water Utility. Upon approval of said restoration plan and other necessary permits, said person and/or property owner shall restore the sensitive area in accordance with the approved plan at his/her expense pursuant to a schedule approved by the Permit Authority.

b. Approval:

The Director of the Storm and Surface Water Utility and the Director of Design and Development must review and approve or approve with modifications, a restoration plan submitted pursuant to Paragraph a. Such approval does not eliminate the need to obtain any other City permit otherwise required to accomplish the work.

c. Plan Requirements:

- i. The Storm and Surface Water Utility Director shall specify plan submittal requirements, including the type, level of detail, and number of copies for an enhancement or restoration plan to be deemed complete and acceptable.
- ii. The Storm and Surface Water Utility Director may waive specific submittal requirements determined to be unnecessary, or may require such additional material as may be determined to be necessary to fully review the proposed restoration or enhancement.

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G. Maintenance

It shall be the responsibility of the permittee to maintain all erosion control and drainage devices in good operating condition during the lifetime of the permit. The permittee shall clean and repair or replace all erosion control facilities or devices as often as necessary and as directed by the Permit Authority to maintain their effectiveness and level of performance. In addition, the permittee shall be responsible for assuring that any such facilities damaged during floods, storms, or other adverse weather conditions are returned to normal operating condition within twenty-four hours of receipt of notice from the Storm and Surface Water Utility.

H. General

1. Staged construction shall be approved by the permit authority only if each stage of the project involves construction of the necessary drainage and erosion control facilities to assure compliance with this section and with the Storm and Surface Water Code and if a phasing plan is approved by the Permit Authority.
2. Activities governed by this chapter shall not be commenced during unfavorable weather conditions as determined by the Permit Authority unless authorized in writing by the Permit Authority based on a demonstration of an emergency situation described in Section 23.76.025E. Work halted by unfavorable weather conditions shall not be resumed until soil moisture conditions are acceptable to the Permit Authority. Unfavorable weather conditions shall be as listed in the Development Standards.
3. No work shall occur under a clearing and grading permit within a setback area from a Protected Area, other than a riparian corridor, between September 15 and April 1, unless otherwise authorized in writing by the Permit Authority. No work shall occur within a setback area from a Type A or B riparian corridor between September 15 and June 15 unless otherwise authorized in writing by the Permit Authority.
4. Crossings of Riparian Corridors, where allowed, shall be made by bridging roadways, driveways or aboveground utilities to minimize damage to the stream. Required supporting structures shall be designed to not raise the flooding elevation greater than 0.0 feet.

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5. Vegetation on all disturbed areas shall be restored in accordance with Section 23.76.030.F6, the Development Standards, and the Land Use Code prior to approval of construction by the City.
6. All work permitted under this chapter shall proceed continuously to completion in an expeditious manner unless authorized by the Permit Authority with the intent that work may be halted due to weather conditions or the need to coordinate other construction on the site.

Section 6. Bellevue City Code (Clearing and Grading Code)
23.76.035 is amended to read as follows:

23.76.035 Exception procedures.

Technical review of proposed exceptions to standards and practices promulgated by this chapter shall be accomplished through Section 20.35.700, Process VII: Administrative Review Process, Land Use Code. The Review Committee shall review the petition for review submitted by the applicant in accordance with the procedures contained in Section 20.35.730, Land Use Code. In addition, the Review Committee may approve the exception only if:

1. The exception requested is for a technical standard only and does not countermand the intents and purposes of this chapter or allow activities which are expressly prohibited by City ordinances, and
2. Results in performance equal to or better than methods listed in the Development Standards, and
3. Does not result in increased difficulty or frequency of maintenance or in increased chance of failure over methods listed in the Development Standards, and
4. Does not increase risk of damage to property or injury to persons.

Section 7. Bellevue City Code (Clearing and Grading Code)
23.76.040 is amended to read as follows:

23.76.040 Permit applications.

A. Application.

1. The Storm and Surface Water Utility Director shall specify the submittal and application requirements,

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including type, level of detail and number of copies for a Clearing and Grading permit application to be deemed complete and accepted for filing.

2. The Storm and Surface Water Utility Director may waive specific submittal requirements determined to be unnecessary, or may require such additional information as may be determined to be necessary, for review of an application.
- B. Short-form Application. In the case of a fill or excavation of less than five hundred cubic yards or clearing less than six thousand square feet, where no Environmentally Sensitive Land as defined in Section 23.76.030F.1 is on or within fifty feet of the property, or as 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 two hundred feet of any stream, surface water or wetland; or if any part of the lot or property has greater than a fifteen percent 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.
- The Permit Authority may require the applicant to submit sufficient technical data or reports in order to substantiate compliance with this chapter.

Information on plans and in specifications shall be as specified in Chapters 2 and 4 of the Development Standards.

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- 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.

Section 8. Bellevue City Code (Clearing and Grading Code)
23.76.050 is amended to read as follows:

23.76.050 Security.

A. Abatement Security

For all long-form permits, the Permit Authority shall require the applicant to establish a security in accordance with Section 20.40.490, Land Use Code. Said security shall be in an amount determined 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, erosion, restoration of vegetation, water quality control, modification of drainage patterns, or any other purpose authorized herein.

Should the City, at any time during the course of construction, find it necessary to expend any portion of the security to correct any work not in accordance with the approved plans and specifications, or abate conditions as stated above, a Stop Work Order shall be issued to the Permittee, prohibiting any additional work until the original amount of the security has been reestablished by the Permittee.

B. Performance Security

For all Long-Form Clearing and Grading Permits, the Permit Authority shall require the applicant to establish a security to guarantee the completion of the work in accordance with the approved plans, specifications, and permit conditions. Said security shall be in a form as specified in Section 20.40.490, Land Use Code. The amount of said security shall be equal to one hundred and fifty (150) percent of the estimated cost of construction of all items of work outside of any habitable structures which contribute to soil or geologic structure stability, control of drainage, habitat restoration or permanent erosion control, and shall include, but not be limited to, site clearing and grubbing,

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excavation, fill, import of structural fill, export and disposal of unsuitable material, retaining walls, rockeries, surface and subsurface drainage systems, storm water detention systems, curbs, gutters, paving, restoration of vegetation, surface treatment of slopes, habitat restoration and enhancement plantings, and other items as may be required by the Permit Authority. Said performance guarantee security shall be maintained in full until final occupancy permits are issued or until the work has been completed and all possibility for erosion has passed. Said performance guarantee shall be in addition to the abatement security in paragraph A above. The amounts may be combined into one instrument.

Should the Permittee fail to complete the work in accordance with the approved plans, specifications and permit conditions the City may enter the property and cause the work to be completed and shall be reimbursed for all expenses so incurred from the proceeds of said security.

- C. Insurance. The Permittee shall maintain and keep in force during the term of the Permit, a comprehensive liability policy with limits of at least \$100,000 for bodily injury to any one person, \$300,000 for bodily injury to persons injured in any one accident and \$100,000 for property damages. The City shall be named as an additional insured under such policy. Proof of the existence of such insurance shall be provided to the City prior to the issuance of any Clearing and Grading Permit. This amount may be increased if, in the opinion of the Permit Authority, the amounts listed above are insufficient to cover the potential exposure of the City to liability.

Section 9. Bellevue City Code (Clearing and Grading Code)
23.76.052 is amended to read as follows:

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 therefor, and shall further have a duty to be familiar with and comply with the terms and conditions of the permit and approved plans and specifications.

Section 10. Bellevue City Code (Clearing and Grading Code)
23.76.055 is amended to read as follows:

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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. Said inspection and testing shall be at minimum schedules as listed in the Development Standards, or as published by the Permit Authority.
- B. It shall be the permittee's responsibility to notify the permit authority and his designee, if applicable, at least twenty-four 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

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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.

Section 11. Bellevue City Code (Clearing and Grading Code)
23.76.060 is amended to read as follows:

23.76.060 Final reports.

Upon completion of the work, a reproducible as-built drawing of the storage, conveyance 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.

Section 12. Bellevue City Code (Clearing and Grading Code)
23.76.070 is amended to read as follows:

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 in this section 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 of this chapter shall be deemed to be a public nuisance and may be abated in the manner provided by this code, Chapter 9.10.

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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. Civil Violation.

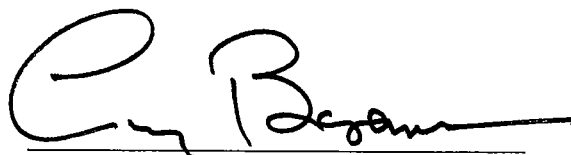
1. The violation of or failure to comply with any of the provisions of this chapter or of any lawful order or requirement of the permit authority made in accordance with the provisions of this chapter is a civil violation. The provisions of Bellevue City Code Chapter 1.18 (Civil Infractions Code) shall be used to enforce this chapter in addition to other procedures authorized by the Bellevue City Code.
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 who violates any provision 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.
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 site unless all security deemed necessary by the permit authority and authorized by Section 23.76.050 of this chapter is established or reestablished.

Section 13. This Ordinance shall be in force and take effect thirty days after final passage by the City Council.

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PASSED by the City Council this 26th day of May,
1987, and signed in authentication of its passage this 26th day
of May, 1987.

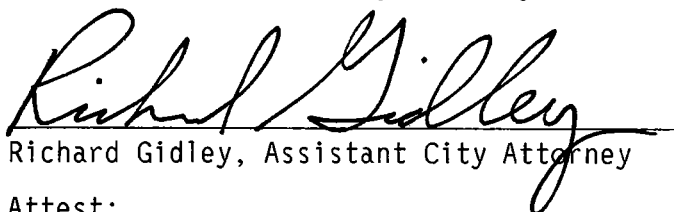
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Cary E. Bozeman, Mayor

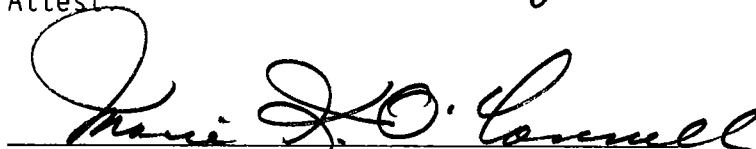
Approved as to form:

Richard L. Andrews, City Attorney



Richard L. Andrews, City Attorney

Attest:



Marie K. O'Connell, City Clerk

Published May 30, 1987