

# ORIGINAL

## CITY OF BELLEVUE, WASHINGTON

### ORDINANCE NO. 5452

AN ORDINANCE amending the clearing & grading provisions of the Bellevue City Code, Chapter 23.76 to improve clarity, allow individual lot clearing within some plats, and to expand rainy season restrictions to other areas of the City; amending Sections 3.43.335, 23.76.015, 23.76.025, 23.76.030, 23.76.040.B, 23.76.060.C, 23.76.070.B, 23.76.080, 23.76.085, 23.76.090, 23.76.093, 23.76.110.A and 23.76.175 of the Bellevue City Code; creating new Sections 23.76.032, 23.76.086 and 23.76.088 of the Bellevue City Code; and establishing an effective date.

WHEREAS, the City of Bellevue has determined that clearing and grading permits may be issued with sufficient erosion and other controls in additional circumstances than currently allowed under the existing Clearing and Grading Code; and

WHEREAS, the City of Bellevue has determined that it is appropriate to administer rainy season restrictions across sensitive drainage basins City-wide; and

WHEREAS, additional definitions and clarifications of practices and requirements will improve the Clearing and Grading Code and benefit the public; and

WHEREAS, the Clearing and Grading Code has not been updated since 1995; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

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

Section 1. Section 3.43.335 of the Bellevue City Code is hereby amended to read as follows:

**3.43.335 Trees and Vegetation -- City Property.**

A. It shall be unlawful for any person to clear, cut, damage or remove any tree or vegetation located on property owned or leased by the city without the express written permission of the city manager or his or her designee.

B. Violation of this section is a civil violation under Chapter 1.18 BCC, subject to penalties set forth in BCC 1.18.045.

Section 2. Section 23.76.015 of the Bellevue City Code is hereby amended to read as follows:

**23.76.015 Definitions.**

"Applicant" means the individual, partnership, association, or corporation applying for a permit to do work under this chapter, including the property owner, and any employee, agent, consultant or contractor acting on behalf of the applicant, and any successor in interest.

"Best management practices (BMPs)" means physical, structural, and/or managerial practices that, when used singly, or in combination, prevent or reduce pollution of water. BMPs include, but are not limited to, structural solutions covered by the terms "best available technology" (BAT) and "all known available and reasonable methods of treatment" (AKART).

"Building Site" shall have the meaning set forth in Land Use Code Part 20.50, now or as hereafter amended.

"Clearing" means the act of destroying or removing vegetation by any means, including chemical, mechanical, or by hand.

"Clearing & grading development standards" means City of Bellevue Clearing & Grading Development Standards, now or as hereafter amended.

"Clearing and grading permit" means the written permission of the director to the permittee to proceed with the act of clearing and grading within the provisions of this chapter. The clearing and grading permit includes the associated approved plans and any conditions of approval as well as the permit form itself.

"Colluvium" or "colluvial deposits" means a soil deposit derived from downslope movement of material from other soil formations as the result of one or more small earth slides. These deposits are typically found on steep hillsides or at the base of slopes.

"Director" means the director of the Department of Planning and Community Development or his/her designee or other person designated by the city manager.

"Engineered fill" means soil fill which is wetted or dried to near its optimum moisture content, placed in lifts of 12 inches or less and each lift compacted to a minimum percent compaction as specified by a geotechnical engineer.

"Excavation" means the removal of material such as earth, sand, gravel, rock, or asphalt.

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"Fill" means earth, sand, gravel, rock, asphalt, or other solid material used to increase the ground surface elevation or to replace excavated material.

"Filling" means any act by which earth, sand, gravel, rock, asphalt, or other solid material is deposited or placed to raise the ground elevation or to replace excavated material.

"Geotechnical engineer" means a professional engineer currently registered in the State of Washington, qualified by reason of experience and education in the practice of geotechnical engineering, and designated by the owner as the geotechnical engineer of record for the project.

"Grading" means any excavating or filling or combination thereof.

"Landscaping" or "landscaped areas" means land that has been modified by altering soil levels and/or vegetation for aesthetic or practical purposes.

"Landslide deposit" means a large mass of earth and/or rock that has moved physically downslope by gravity and broken into discrete fragments.

"Modular block wall" means a wall constructed of manufactured modular wall units acting as a protective facing for an exposed soil face or as a gravity retaining wall.

"Permanent erosion control" means permanent improvements, such as landscaping or drainage control structures, that cover the soil such that no erosion can occur.

"Permit" Unless noted otherwise, "permit" refers to the clearing and grading permit; see "clearing and grading permit".

"Permittee" means the property owner to whom the clearing and grading permit is issued. The property owner may be a person(s), partnership, association, or corporation.

"Potential slide block (failure envelope)" 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 the toe to the surface of the ground above the slope, or as otherwise determined by a geotechnical engineer.

"Protected area" shall have the meaning set forth in Land Use Code Part 20.50, now or as hereafter amended.

"Rainy season" means that period from November 1<sup>st</sup> through April 30<sup>th</sup> unless the director modifies these dates based on weather patterns and forecasts.

"Reinforced fill" or "reinforced soil" means soil fill, designed by an engineer which includes reinforcement consisting of metal or synthetic materials in bars, trips, grids or sheets.

"Retaining wall" means a wall designed to resist the lateral displacement of soil or other materials.

"Rockery" or "rock wall" means one or more courses of large rocks stacked near vertical in front of an exposed soil face to protect the soil face from erosion and sloughing. A rockery or rock wall is not considered a retaining wall.

"Routine landscape maintenance" means pruning, weeding, planting annuals, mowing turf lawns and other activities associated with maintaining an already established landscaped area. This definition does not include felling or topping of trees or removal of invasive plants resulting from lack of regular maintenance.

"Significant tree" shall have the meaning set forth in Land Use Code Part 20.50, now or as hereafter amended.

"Site" shall have the meaning set forth in Land Use Code Part 20.50, now or as hereafter amended.

"Slide" means the movement of a mass of rocks and/or earth down a slope.

"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.

"Uncontrolled fill" means fill which has been placed under unknown conditions or without any controls such as geotechnical inspection or monitoring.

"Unstable slopes" means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely exhibit mass movement of earth.

"Wall drain" means a drainage system behind retaining walls, rockeries, rock walls or modular block walls used to collect water moving through the soil or rock behind the wall or rockery.

Section 3. Section 23.76.025 of the Bellevue City Code is hereby amended to read as follows:

**23.76.025 Permit requirements.**

A. A clearing and grading permit is required for a project involving any of the following, except as provided for in subsection B. In applying this section, the total proposal must be considered.

1. Any clearing, filling, or excavation in a protected area.
2. Fill and/or excavation totalling over 50 cubic yards. Quantities of fill and excavation are separately calculated and then added together, even if excavated material is used as fill on the same site.
3. Over 1,000 square feet of clearing, as measured at the ground level. Clearing includes disturbance of over 1,000 square feet at grade due to felling or topping of trees.
4. Rockeries and modular block walls over four feet in height as measured from the bottom of the base rock or block.
5. The cutting down or topping by more than one quarter of any significant trees that are required to be preserved by a city code, plat condition, or other requirement.
6. Any regrading or repaving of a parking lot used for storm water detention.

B. The following activities are exempt from the requirements for a clearing and grading permit even if the criteria in subsection A are exceeded:

1. Agricultural crop management of existing farmed areas.
2. Routine landscape maintenance of existing landscaped areas on developed lots, including pruning, weeding, planting annuals, and other activities associated with maintaining an already established landscape. For lots developed prior to the adoption of sensitive area regulations (Land Use Code Part 20.25H) with landscaping in what are now protected areas, routine landscape maintenance can occur without a clearing and grading permit provided the soil level is not changed.
3. Work needed to correct an immediate danger to life or property in an emergency situation as declared by the mayor or the city manager or his/her designee.
4. Cemetery graves involving less than 50 cubic yards of excavation, and related filling, per each cemetery plot.
5. Routine drainage maintenance of existing, constructed stormwater drainage facilities located outside of a protected area, including but not limited to: detention/retention ponds, wetponds, sediment ponds, constructed drainage swales, water quality treatment facilities such as filtration systems, and regional storm facilities that are necessary to preserve the water quality treatment and flow control functions of the facility. This exemption does not apply to any expansion and/or modification to already excavated and constructed stormwater drainage facilities.

6. Roadway repairs and overlays within public street rights-of-way for the purpose of maintaining the pavement on existing paved roadways. This exemption does not apply to curbs, gutters, sidewalks, utilities, new traffic calming devices, new roadways, or the widening of the paved surface of existing roadways.

C. An exemption from a clearing and grading permit does not exempt the person doing the work from meeting all applicable city codes, including, but not limited to, the storm and surface water utility code (Chapter 24.06 BCC) which requires that sediment and other pollutants be kept from the drainage system.

D. The director may categorize clearing and grading permits by different types for administrative purposes, and different fees may be charged for different types. A clearing and grading permit may be issued as a component of a building permit, or other permit, rather than as a separate permit. The director may require that single family building permits and clearing and grading permits be combined.

E. The director shall specify what submittal and application materials are required for a complete clearing and grading permit application, including the type of submittals, the required level of detail, the minimum qualifications of preparers of technical documents, and the number of copies. The director may establish different submittal requirements for different types of clearing and grading permits. He/she may waive specific submittal requirements if he/she determines them to be unnecessary, or may require additional information if needed for review of an application.

F. As a condition of applying for a permit for a project that includes clearing and grading, the applicant shall allow the city to enter the subject property in order to evaluate the proposed clearing and grading.

Section 4. Section 23.76.030 of the Bellevue City Code is hereby amended to read as follows:

A. A clearing and grading permit shall be issued only in conjunction with, or as part of, one or more of the following permits or approvals, except as described in subsection B:

1. A valid building permit application; provided, that if a discretionary land use approval pursuant to the provisions of Land Use Code Chapter 20.30 or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval is issued and SEPA determination made, any city appeal period has passed, and, if a city appeal is filed, until the city has made a final decision on any appeal.

2. A utility system extension agreement approved by the Bellevue utilities department director.

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3. An approved conditional use permit or planned unit development approval.
  4. Preliminary plat or preliminary short plat approval, where the clearing and grading permit is approved only for infrastructure construction, and not for clearing or grading building sites.
  5. Preliminary plat or preliminary short plat approval, where the clearing and grading permit is approved for clearing or grading building sites, provided that, such approval may be granted only in compliance with Section 23.76.032.
  6. A planned unit development (PUD) approval where the clearing and grading permit is approved for infrastructure construction and for clearing and grading building sites.
  7. An approved shoreline conditional use, shoreline substantial development permit or shoreline management exemption, provided all appeal periods pursuant to WAC 173-14-180 must have expired without the filing of an appeal.
  8. A demolition permit.
  9. Inclusion of the project in the city's approved capital improvement program.
  10. A valid right-of-way use permit application; provided, that if a discretionary land use approval pursuant to the provisions of Land Use Code Chapter 20.30 or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval is received and SEPA determination made, any city appeal period has passed, and, if a city appeal is filed, until the city has made a final decision on any appeal.
  11. Completion of environmental (SEPA) review for surcharging a site or for environmental or toxics cleanup at a site; provided that if a discretionary land use approval pursuant to the provisions of Land Use Code Chapter 20.30 is required, the clearing and grading permit shall not be issued until the land use approval is issued and the SEPA determination made, any city appeal period has passed, and if a city appeal is filed, until the city has made a final decision on any appeal.
- B. The director may approve issuance of a clearing and grading permit without an accompanying permit or other approval as listed in subsection A, provided that all of the following criteria are met (in addition to other applicable requirements of this code and other city codes):

1. The proposed clearing and grading is not related to a project for which one or more of the approvals listed in subsection A is required.

2. Approval of the proposal will not pose a threat to or be detrimental to the public health, safety, and welfare, nor be materially detrimental to fish and wildlife habitat and/or water resources.

3. The applicant has demonstrated that approval of the proposal is necessary for the reasonable development or maintenance of the property.

4. The proposal is not in a protected area, or if in a protected area, complies with Land Use Code Part 20.25H.

5. If a discretionary land use approval pursuant to the provisions of Land Use Code Chapter 20.30 or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval is received and SEPA determination made, any city appeal period has passed, and, if a city appeal is filed, until the city has made a final decision on any appeal.

C. If construction necessitates access, construction, or intrusion onto or across property not under the applicant's control, then the applicant must provide the city with a copy of a valid construction easement or right of entry before the permit can be issued.

D. The permit may be issued to the property owner or his/her agent. Both the property owner and the agent will be considered the permittee and are each responsible for ensuring compliance with the terms of the permit.

Section 5. A new Section 23.76.032 is hereby added to the Bellevue City Code as follows:

**23.76.032. Clearing and/or Grading Building Sites with Preliminary Plat or Preliminary Short Plat Approval.**

A. The director may issue a clearing and grading permit in conjunction with preliminary plat or preliminary short plat approval for clearing and/or grading of building sites if the following criteria are met:

1. No portion of the building site:
  - a. is designated as a protected area;
  - b. is within 200 feet of the top-of-bank of a Type A, B or C riparian corridor, as defined in the Land Use Code part 20.50;
  - c. is within 200 feet of the wetland edge of Type A or B wetland, as defined in the Land Use Code part 20.50;

d. is within 200 feet of the top- or toe-of-slope of a Protected Slope, as designated in the Land Use Code Section 20.25H.070;

e. is within the Shoreline Overlay District, as defined in the Land Use Code part 20.25.E; or

f. drains by pipe, open ditch, sheetflow, or a combination of these directly to a stream or lake. A building site is considered to drain directly to a stream or lake when it has a flow path of one-quarter mile or less where there is no intermediary permanent sediment trap or detention system between the site and the tributary waterbody.

2. The director, based on an evaluation of site and project conditions, determines the proposal adequately protects receiving waters from increased erosion and sedimentation during construction and after the building sites have been cleared and/or graded, and that the proposal complies with all other applicable provision of the Land Use Code and Bellevue City Code. The City's review of the site and the proposed project shall include, but not be limited to, an evaluation of the following:

a. Size of the area and number of building sites to be cleared and/or graded, quantities of proposed cuts and/or fills, and classification of the predominant site soils and their erosion and runoff potential;

b. Proposed construction schedule and the proposed erosion and sedimentation control BMPs. The construction schedule and BMPs must be designed and implemented to prevent sediment from leaving the project site and prevent impacts to protected areas; and

c. The proposed interim stabilization and maintenance of the cleared and/or graded building site(s) until final development and stabilization of the building site(s).

3. If the project lies entirely or partially within the drainage basins listed in 23.76.032.B, the following additional conditions must be met:

a. Performance monitoring must be provided by the applicant to determine compliance with state water quality standards or any more stringent standards adopted by the city. Turbidity monitoring shall be conducted in accordance with the procedures and requirements in the clearing & grading development standards. Turbidity monitoring shall be conducted during clearing and grading operations and continue until site soils are permanently stabilized, unless a different period is specified by the director.

b. Clearing and grading work and hauling is not allowed during periods of heavy rain.

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4. The director's approval may be limited to less than all of the proposed building sites, and may be limited to allowing clearing on only a portion of any building site. The director may impose conditions on approval, including but not limited to:

a. requiring extraordinary BMPs, as described in Section 23.76.090.

b. When clearing and grading is suspended or interrupted, the permittee shall stabilize the site using appropriate erosion and sedimentation control BMPs and shall maintain the BMPs.

c. Additional restrictions and conditions may be imposed after the permit is issued, based on the demonstrated ability of the permittee to control erosion and sedimentation.

5. For work approved under this section, an abatement security device is required per Section 23.76.140. The permittee may establish a single abatement security device for the entire project, or separate abatement security devices may be established for the infrastructure construction and for clearing and grading of building sites. If separate abatement security devices are established, the City shall release the abatement security device for infrastructure construction once the infrastructure construction is complete, and shall release the abatement security device for clearing and grading of building sites after the building permits for all building sites that were cleared and graded with preliminary plat or preliminary short plat approval have been issued.

A. The following drainage basins are subject to the conditions listed in Sections 23.76.032.A.3 and 23.76.093.A: Coal Creek, Newport Area, Lewis Creek, South Sammamish, Vasa Creek, Spirit Ridge, Phantom Creek, North Sammamish Area, Wilkens Creek, Rosemont Area, Ardmore Area, Sears Creek, Valley Creek, Kelsey Creek, Goff Creek, West Tributary, Mercer Slough, Richards Creek, East Creek, Sunset Creek, and Sunset Creek Island.

B. If approval for clearing or grading of building sites is granted and the City subsequently issues three stop work orders (or fewer as provided in the conditions of the project permit) for insufficient erosion and sedimentation control, the approval will be suspended or revoked for all building sites in the plat or short plat. If the approval is suspended or revoked, the permittee must cease all clearing and grading work on the building sites, stabilize the building sites, and maintain the erosion control BMPs. The director may reinstate a suspended approval within 60 days of suspension upon finding that satisfactory erosion and sedimentation control measures will be maintained by the permittee. If a suspended approval is not reinstated, or the approval is revoked, clearing and grading on building sites is not allowed until the time of building site development.

B. When clearing or grading of building sites is interrupted for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs.

Section 6. Section 23.76.040.B of the Bellevue City Code is hereby amended to read as follows:

**23.76.040 Related Codes and Regulations.**

B. In order to be in compliance with the provisions of this code, the applicant shall comply with the applicable engineering standards contained in the clearing & grading development standards or equivalent standards approved by the director. In addition, the applicant shall comply with those minimum requirements for temporary erosion and sedimentation control and associated BMPs set forth in the State Stormwater Management Manual for the Puget Sound Basin.

Section 7. Section 23.76.060.C of the Bellevue City Code is hereby amended to read as follows:

**23.76.060 Clearing -- Vegetation preservation and replacement.**

C. Follow the methodology in the clearing & grading development standards (or equivalent methodology approved by the director) for preserving/replacing vegetation.

Section 8. Section 23.76.070.B of the Bellevue City Code is hereby amended to read as follows:

**23.76.070 Grading.**

B. Follow the methodology in the clearing & grading development standards (or equivalent methodology approved by the director) for any proposed filling or excavation.

Section 9. Section 23.76.080 of the Bellevue City Code is hereby amended to read as follows:

**23.76.080 Slopes.**

The applicant/permittee shall:

A. Submit a geotechnical report, prepared by a geotechnical engineer, when required pursuant to the Land Use Code or clearing & grading development standards. The clearing & grading development standards specify when a subsurface investigation is required and the level of investigation and information required in the report.

B. Minimize clearing and grading on slopes 15 percent or greater and meet the sensitive earth conditions performance standards set forth in Land Use Code Section 20.25H.110.D.

C. Comply with the Land Use Code restrictions applicable to slopes 40 percent or greater and to areas of colluvial or landslide deposit on slopes of 15 percent or greater (See Land Use Code Part 20.25H).

D. Limit the maximum gradient of artificial slopes to no steeper than 2:1 (two feet of horizontal run to one foot of vertical fall) unless a geotechnical engineering report and slope stability analysis is provided and shows that a factor of safety of at least 1.5 for static loads and 1.1 for pseudostatic loads can be met, as demonstrated per the methodology in the clearing & grading development standards.

E. Do no clearing, excavation, stockpiling or filling on the potential slide block of an unstable or potentially unstable slope unless it is demonstrated to the director's satisfaction that the activity would not increase the load, drainage, or erosion on the slope.

F. Do no clearing, excavation, stockpiling or filling on any unstable or potentially unstable areas (such as landslide deposits) unless it is demonstrated to the director's satisfaction that the activity would not increase the risk of damage to adjacent property or natural resources or injury to persons.

G. Intercept any ground water, subsurface, or surface water drainage encountered on a cut slope and discharge it at a location approved by the director in consultation with the Bellevue utilities department.

H. Follow the procedures and standards in the clearing & grading development standards related to slopes.

I. Design and protect cut and fill slopes to minimize erosion.

Section 10. Section 23.76.085 of the Bellevue Land Use Code is hereby amended to read as follows:

**23.76.085 Rockeries.**

A. Rockeries may be used for erosion protection of cut or fill slopes. The primary function of a rockery is to protect the slope face from soil erosion and sloughing.

B. Rockeries used to protect uncontrolled fill slopes may be no higher than four feet, as measured from the bottom of the base rock.

C. Rockeries used to protect cut slopes or reinforced or engineered fill slopes may be up to a maximum height of 12 feet, as measured from the bottom of the base rock, with the approval of the director. Any rockery that is over four feet high, as measured from the bottom of the base rock (cut slopes and reinforced or engineered fill slopes only) shall be designed by a geotechnical engineer.

D. A wall drain must be provided for all rockeries greater than 4 feet in height as measured from the bottom of the base rock. The drains shall be installed in accordance with the clearing & grading development standards.

E. The procedures and requirements in the clearing & grading development standards related to rockery design and construction must be followed. If the rockery is within a property line setback, see also the height restrictions of Land Use Code Section 20.20.025.

F. The geotechnical engineer must provide construction monitoring and/or testing as required by the permit conditions, and submit construction inspection reports to the Department for all rockeries that require design by a geotechnical engineer. For each project, or phase of a project, the geotechnical engineer must provide a final letter or report summarizing the results of the construction monitoring for each rockery, verifying that the rockery construction meets the geotechnical recommendations and design guidelines. The final letter or report must be submitted to the Department prior to the final clearing and grading inspection.

Section 11. A new section 23.76.086 is hereby added to the Bellevue City Code as follows:

**23.76.086 Modular Block Walls**

A. Modular block walls over four feet in height as measured from the bottom of the base block must be designed by a professional civil or geotechnical engineer.

B. A wall drain must be provided for all modular block walls greater than 4 feet in height as measured from the bottom of the base block. The drains must be installed per the clearing & grading development standards.

C. The procedures and requirements in the clearing & grading development standards and guidelines related to the wall design and construction must be followed. If the wall is within a structure setback, see also the height restrictions of Land Use Code section 20.20.025.

D. The geotechnical engineer must provide construction monitoring and/or testing as required by the permit conditions, and submit construction inspection reports to the Department for all modular block walls that require design by a geotechnical engineer. For each project, or phase of a project, the geotechnical

engineer must provide a final letter or report summarizing the results of the construction monitoring for each modular block wall, verifying that the wall construction meets the geotechnical recommendations and design guidelines. The final letter or report must be submitted to the Department prior to the final clearing and grading inspection.

Section 12. A new section 23.76.088 is hereby added to the Bellevue City Code as follows:

**23.76.088 Subsurface Drains.**

Installation of subsurface drains for intercepting groundwater, including footing and wall drains, must comply with the clearing & grading development standards, with the provisions of LUC Part 20.25H, and all other applicable City of Bellevue regulations.

Section 13. Section 23.76.090 of the Bellevue City Code is hereby amended to read as follows:

**23.76.090 Erosion and sedimentation control.**

The property owner shall design and implement erosion and sedimentation control BMPs necessary to prevent sediment from leaving the project site, including but not limited to the requirements described in this section.

A. Erosion Control Measures.

1. The following standard erosion and sedimentation control requirements apply to all projects:

a. Construction access shall be limited to one route if possible and a hard-surface construction access pad shall be used. Sediment deposited on the paved right-of-way shall be removed in a manner that prevents it from entering the drainage system.

b. Exposed and unworked soils shall be stabilized using BMPs described in the clearing & grading development standards. Exposed soils shall be covered at the end of each working day when working from October 1st through April 30th. Exposed soils shall be covered at the threat of rain, or, when working from May 1st through September 30th, by the end of the work week; except that a shorter time period may be imposed for street use permits.

c. Adjacent and downstream properties, storm drain inlets, and the downstream natural and built drainage system shall be protected from sediment deposition using BMPs described in the clearing & grading development standards. If protection is inadequate and deposition occurs on adjoining property or

public right-of-way or the drainage system, the permittee shall immediately remove the deposited sediment and restore the affected area to original conditions.

d. Dewatering devices shall be discharged where sediment, and/or other pollutants, will not enter the drainage system (for example, discharge them into a sediment pond or trap).

e. Downstream properties and waterways shall be protected from erosion and sedimentation during construction due to temporary increases in the volume, velocity, and peak flow rate of runoff from the site.

f. When constructing underground utility lines, no more trench shall be opened than can be closed in a single day, or no more than 500 feet, whichever is less. Excavated material shall be placed on the uphill side of the trench where consistent with safety and space considerations and temporary trench dewatering devices shall be discharged into a sediment trap or pond. Trenches shall be closed at the end of each day unless otherwise allowed by the director. For utility trenching and other clearing or grading work in street rights-of-way, erosion and sedimentation control BMPs specific to such work shall be applied, as described in the clearing & grading development standards, and the BMPs shall be maintained daily.

g. Permanent erosion control shall be provided per the clearing & grading development standards. Disturbed areas of the site that are not covered by permanent improvements such as buildings, parking lots, and decks shall be vegetated.

2. In addition to or as an alternative to the above measures, the director may impose the following extraordinary erosion control measures, or other additional measures, as appropriate for the project:

a. Performance monitoring to determine compliance with state water quality standards, or more stringent standards if adopted by the city;

b. Funding additional city inspection time, up to a full-time inspector;

c. Stopping work if necessary to control erosion and sedimentation;

d. Construction of additional siltation/sedimentation ponds;

e. Use of a series of portable sedimentation tanks or temporary filter vaults;

f. Use of high quality catch basin inserts to filter runoff;

g. Use of erosion control blankets, nets, or mats in addition to or in conjunction with straw mulch.

B. The following additional requirement applies to projects that are not individual single-family homes and that involve one acre or more of clearing: Temporary on-site conveyance systems shall be designed, constructed and stabilized to prevent erosion from the expected flow velocity from a two-year, 24-hour storm for the developed condition. Stabilization shall be provided, at conveyance system outlets to prevent erosion of outlets, adjacent streambanks, slopes, and downstream reaches or properties.

C. If the initially implemented erosion and sedimentation BMPs do not adequately control erosion and sedimentation, additional BMPs shall be installed, including but not limited to the extraordinary BMPs described in subsection A.2 above. It is the permittee's responsibility to ensure sediment does not leave the site in an amount that would violate applicable state or city water quality standards. The city has the authority to enforce state water quality standards, or, if adopted by the city, more stringent water quality standards.

D. The timing/sequencing requirements for implementing/removing erosion and sedimentation control measures are as follows:

1. The permittee must install the temporary erosion and sedimentation control BMPs prior to all other clearing, grading, or construction.
2. The permittee must remove all temporary erosion and sediment control BMPs within 30 days after final site stabilization or after the BMP is no longer needed, per agreement of the Director. Before removing such BMPs, the permittee must remove trapped sediment or stabilize on-site. Any soils disturbed during sediment removal must be permanently stabilized by the permittee.
3. The permittee must complete the required permanent erosion control within seven days of completed grading unless the weather is unsuitable for transplanting. In that case, the permittee must maintain temporary erosion control until permanent restoration can be completed. The period between work completion and final planting shall not exceed one year without written authorization from the director.

Section 14. Section 23.76.093 of the Bellevue City Code is hereby amended to read as follows:

**23.76.093 Temporary restrictions on clearing and grading.**

A. In the areas listed below in subsections A1 through 4, clearing and grading may be permitted to continue or to be initiated during the rainy season, only if the director grants specific approval per subsection C. In determining whether to permit rainy season construction, the director shall consult with the Bellevue utilities

department. Such consultation shall occur on a regular basis to ensure consistent implementation of the city's environmental and water quality policies and shall occur as needed regarding individual projects on specific sites.

1. The drainage basins listed in Section 23.76.032.B;
2. Protected areas;
3. Areas identified by the city or a by geotechnical report as prone to landslides due to the presence of colluvial soils or other geologic or hydrologic factor;
4. Areas that drain, by pipe, open ditch, sheetflow, or a combination of these, directly to a stream or lake. An area is considered to drain directly to a stream or lake when it has a flow path of one-quarter mile or less where there is no intermediary permanent sediment trap or detention system between the site and the tributary waterbody), with the exception of the Meydenbauer Drainage Basin.

B. If clearing and grading is prohibited during the rainy season, building construction can nonetheless proceed as long as necessary clearing and grading is complete and effective erosion control is in place and effectively maintained.

C. The director shall grant approval to initiate or continue clearing or grading activity in the areas listed in subsections A1 through 4 during the rainy season only if, based on an evaluation of site and project conditions, the director determines the proposal ensures slope stability and adequately protects receiving waters from increased erosion and sedimentation during construction. The evaluation of site and project conditions shall include, but not be limited to, an evaluation of the following:

1. Whether the clearing and grading is near completion if the project is already underway;
2. Average existing slope of the site;
3. Quantity of proposed cut and/or fill;
4. Classification of the predominant soils and their erosion and runoff potential;
5. Proposed deep utility installation;
6. Hydraulic connection of the site to features that are sensitive to the impacts of erosion/sedimentation;
7. Ability to phase clearing and grading and to create a feasible clearing and grading schedule;

8. Extent of clearing and grading BMPs proposed, and if the project is underway, the project's track record at controlling erosion and sedimentation.

D. Determinations under subsection C shall be made by the director on a site-specific basis. However:

1. Rainy season construction generally will be prohibited for proposals requiring large scale clearing and grading.

2. Rainy season construction generally will be approved for smaller-scale clearing and grading proposals that have limited shallow utility installation and are on sites with less than 15 percent slopes, predominant soils that have low runoff potential, and are not hydraulically connected to sediment/erosion-sensitive features.

3. Rainy season construction generally will be approved if extraordinary BMPs to control erosion/sedimentation and slope stability are proposed when:

a. Moderate scale clearing and grading is proposed;

b. The proposal involves deep utility installation; or

c. The proposal is located on sites with greater than 15 percent slopes, soils with a high runoff potential, or sites hydraulically near a sediment/erosion-sensitive feature.

E. Whenever rainy season clearing and grading is allowed, the applicant may be required to implement extraordinary BMPs as described in Section 23.76.090 if the BMPs that are initially implemented are not working. If the permit was issued in the dry season, and work is allowed to continue in the rainy season, the city may modify the previously issued permit to require additional, extraordinary BMPs.

F. If a clearing and grading permit is issued, and the city subsequently issues three stop work orders (or fewer as provided in the conditions of the project permit) for insufficient erosion and sedimentation control, the permit will be suspended until the dry season, or, if violations occurred in the dry season, until weather conditions are favorable and effective erosion and sedimentation control is in place. The director may reinstate the permit within 60 days of suspension upon finding that satisfactory erosion and sedimentation control measures will be maintained by the permittee.

G. The director has the authority to temporarily stop clearing and grading during periods of heavy rain.

H. When clearing and grading is suspended during the rainy season or interrupted at any time of the year due to heavy rain or for other reasons, the permittee shall stabilize the site and maintain the erosion control BMPs.

Section 15. Section 23.76.110.A of the Bellevue City Code is hereby amended to read as follows:

**23.76.110 Construction phasing and work progress.**

A. Staged construction is allowed only if each phase complies with the code, and if the director approves a phasing plan.

Section 16. Section 23.76.175 of the Bellevue City Code is hereby amended to read as follows:

**23.76.175 Permit revocation.**

The director may revoke or suspend the clearing and grading permit whenever:

- A. The permittee requests such revocation or suspension;
- B. The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other city ordinances;
- C. Entry upon the property for the purpose of investigation or inspection has been denied;
- D. The permittee has made a misrepresentation of a material fact in applying for such permit;
- E. The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, protected areas, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, protected areas, the drainage system or other utilities;
- F. The permit has not been acted upon or extended within the time allowed pursuant to BCC 23.76.035(B).

Section 17. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

ORIGINAL

PASSED by the City Council this 7<sup>th</sup> day of July, 2003,  
and signed in authentication of its passage this 7<sup>th</sup> day of July,  
2003.

(SEAL)

Connie B Marshall  
Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan  
Lori M. Riordan, Assistant City Attorney

Attest:

Myrna L Basich  
Myrna L. Basich, City Clerk

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