ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5905

AN ORDINANCE repealing Chapter 24.06 of the Bellevue City Code in its entirety and replacing it with a new chapter; providing for severability; and establishing an effective date.

WHEREAS, the City of Bellevue (the "City") is subject to the terms of the National Pollutant Discharge Elimination System and State Waste Discharge General Permit for Discharges from Small Municipal Separate Storm Sewer Systems ("Permit"), issued January 17, 2007, and modified on June 17, 2009, by the State of Washington Department of Ecology ("Ecology") in compliance with the federal Clean Water Act and state law; and

WHEREAS the Permit requires that the City adopt ordinances and other enforceable documents for new development and redevelopment contained in Appendix 1 of the Permit or equivalent to relevant portions of Ecology's 2005 Stormwater Management Manual for Western Washington ("Ecology's 2005 Manual") or an equivalent approved by Ecology under the Phase I NPDES Permit; and

WHEREAS this ordinance also contains amendments, initiated by the City and beyond the requirements of the Permit, to improve water quality and to further the purposes of this ordinance; and

WHEREAS this ordinance, furthermore, contains amendments intended to provide clarity, consistency, and improve current practices; and

WHEREAS, preserving and enhancing Bellevue's water resources is a goal of the City's Environmental Stewardship Initiative and the City's Comprehensive Plan; and

WHEREAS, the City updated its critical areas regulations in 2006, including changes in definitions and changes in permitting requirements related to development proposals within and near critical areas; and

WHEREAS, the amendments contained herein include terminology and references to the City's regulations of such critical areas that are now out of date; and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, chapter 22.02 BCC; now, therefore,

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

Section 1. Chapter 24.06 of the Bellevue City Code is hereby repealed in its entirety and replaced with the following new chapter:

Sections:

24.06.010 Title.

This chapter shall be known as the storm and surface water utility code and shall be referred to herein as the "code."

24.06.015 Purpose.

This code is enacted as an exercise of the city of Bellevue's ("city") police power as set forth in section 11 of the Washington Constitution. The purpose of this code shall be liberally construed to:

A. Provide for the planning, security, design, construction, use, maintenance, repair and inspection of public and private storm and surface water systems;

B. Establish programs and regulations to assure the quality of the water, to preserve the integrity of the storm and surface water system, and to minimize the chance of flooding;

C. Protect the public interest in drainage and related functions;

D. Protect receiving waters or waters of the state from pollution, mechanical damage, excessive flows and other conditions, which may increase erosion, turbidity, or other forms of pollution, which reduce flow or which degrade the environment;

E. Comply with the requirements of local, state, and federal law, including the national pollutant discharge elimination system ("NPDES") permit for municipal storm water discharges;

F. Protect the functions and values of critical areas as required under the state's Growth Management Act, Shoreline Management Act, and land use code ("LUC") Part 20.25H;

G. Provide for the enforcement of the provisions of this code, the engineering standards and related city manuals and code provisions; and

H. Provide for and promote the health, safety and welfare of the general public and not to create, establish, or designate any particular class or group of persons who may be especially protected or benefitted.

24.06.020 Applicability and Compliance with Other Laws.

A. This code supplements and references certain provisions of chapter 23.76BCC, LUC Title 20, chapter 1.18 BCC, and other city ordinances and regulations regarding protection of the storm and surface water system.

B. Approvals, decisions, and permits granted under this code are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state, and local laws and regulations.

C. Compliance with the provisions of this code, the engineering standards, permits or other approvals, rules promulgated by the director, or in manuals published by the Washington State Department of Ecology do not necessarily mitigate all impacts to the environment. The primary obligation for compliance with such regulations and standards is prevention of environmental harm, which ultimately is placed upon property owners and responsible parties as defined in this code and chapter 1.18 BCC.

24.06.025 Conflict of Provisions.

Should a conflict occur between the provisions of this code, the engineering standards or manuals adopted the city in relation to this code, or between this code, the engineering standards and related manuals with laws, regulations, codes or rules promulgated by other authority having jurisdiction within the city, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this code.

24.06.030 Severability.

If any provision of this code, engineering standards, or related manuals, or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the code, engineering standards, or related manuals, or the application of the provision to other persons or circumstances is not affected, and to this end the provisions of this code are declared to be severable.

24.06.035 City Not Liable.

A. Nothing contained in this code is intended to nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents for any injury or damage resulting from the failure of property owners or responsible parties to comply with the provisions of this code, engineering standards, or related manuals, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued in connection with the application or enforcement of this code, engineering standards, or related manuals, or by reason of any action or inaction on the part of the city related in any manner to the application or enforcement of this code, engineering standards, or related manuals by the city, its officers, employees, or agents.

B. Nothing in this code, engineering standards, or related manuals shall impose any liability on the city or any of its officers, employees, or agents for cleanup or any harm relating to sites containing hazardous materials, wastes or contaminated soil.

C. Nothing contained in this code, engineering standards, or related manuals shall require city involvement or enforcement of this code for private disputes occurring between property owners.

24.06.040 Definitions.

Except where specifically defined herein, all words used in this code shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; and the word "shall" is always mandatory, whereas the word "may" denotes a use of discretion in making a decision.

A. A Definitions.

"Area of Special Flood Hazard" (ASFH) means the land in the floodplain subject to a one percent or greater chance of flooding in any given year as calculated in this code and in the engineering standards.

"Arterial" means a road or street primarily for through traffic. A major arterial connects an interstate highway to cities and counties. A minor arterial connects major arterials to collectors. A collector connects an arterial to a neighborhood. A collector is not an arterial. A local access road connects individual homes to a collector. The definition of arterial set forth herein is limited to application and enforcement of this code and does not apply to other city codes and standards.

"As-built" means a final drawing of the actual installation of structures, materials and equipment.

B. B Definitions.

"Basin Plan or Planning" means a plan or study to manage the quality and/or quantity of storm and surface water in a watershed or a drainage basin as provided for in BCC 24.06.140.

"Best Management Practice" (BMP) means those physical, structural and/or managerial practices that, when used individually or in combination, prevent or reduce pollution of water.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

C. C Definitions.

"Capital Recovery Charge" means a monthly charge imposed on improvements, developments, redevelopments or existing structures that place additional demand on each utility system after January 1, 1997. The capital recovery charge shall be based on an allocation of the utility's in-service costs plus interest and the number of single-family equivalents served by each utility.

"Certified Erosion and Sediment Control Lead CESCL" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the utility or by chapter 23.76 BCC (see also BMP C160 in the Storm Water Management Manual for Western Washington (2005)). A CESCL is knowledgeable in the principals and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of storm water and, the effectiveness of erosion and sediment control measures used to control the quality of storm water discharges. Certification is

obtained through the Washington State Department of Ecology approved erosion and sediment control course.

"Conditionally Permissible Discharges" refers to those discharges permitted under BCC 24.06.125(D).

"Connection Charges" means charges imposed as a condition of connecting to the utility system so that each connecting property bears its equitable share of the costs of the public drainage system and of the costs of facilities that benefit the property. connection charges include latecomer charges, capital recovery charges and direct facilities charges.

"Conveyance System" means that part of the storm and surface water system that conveys runoff from any portion of public right-of-way.

D. D Definitions.

"Detention Facility" means an above or below ground facility, such as a pond or vault, that temporarily stores storm water runoff and subsequently releases it at a slower rate than it is collected by the drainage facility. There is little or no infiltration of stored storm water.

"Director" means the director of the city's utilities department, or his/her designated representative, including enforcement officers, or other persons designated by the city manager.

"Direct Facilities Charge" refers to a connection charge for utility-funded facilities that directly benefit a property. Storm water direct facilities charge shall be applied as specified in BCC 24.06.110.

"Drainage System" refer to the definition of storm and surface water system.

E. E Definitions.

"Effective Impervious Surface" means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Runoff from impervious surfaces on residential development sites is not considered effective impervious surface if the runoff is dispersed through at least one hundred feet of native vegetation.

"Emergency" means any natural or human-caused event or set of circumstances that disrupts or threatens to disrupt or endanger the operation, structural integrity or safety of the drainage system; or endangers the health and safety of the public or environment; or otherwise requires immediate action by the utility.

"Emergency Management Plan" provides the foundation, framework and guidelines for initiating and maintaining direction and control of the utility's response efforts during all emergency or disaster scenarios. The emergency management plan is consistent with and supports the city of Bellevue emergency operations plans and emergency response plans maintained at the regional, state and federal levels of government.

"Emergency Operation Plan" provides guidance for mitigation, preparedness, response and recovery operations including disaster and emergency responsibilities and procedures, training and community education. The plan provides for the coordination of operations throughout the city during emergencies and disasters, and the best utilization of the city's resources. The plan meets the requirements of a comprehensive emergency management plan as described in Title 118-30 WAC.

"Engineering Standards" means the city's utility engineering standards, which include standards for the design and construction of water, storm and surface water drainage and sanitary sewer facilities.

F. F Definitions.

"Flow Control BMPs," refer to the definition of Runoff Control BMPs.

G. G Definitions (Reserved)

H. H Definitions.

"Highway" means a main public road connecting towns and cities. The definition of highway is limited to application and enforcement of this code and does not apply to other city codes and standards.

"Hydroperiod" means the seasonal occurrence of flooding and/or soil saturation; encompasses the depth, frequency, duration and seasonal pattern of inundation.

I. I Definitions.

"Illicit Connection" means any man-made conveyance that is connected to a storm and surface water system without a permit or approval, excluding roof drains and connections, which do not require a permit or approval under this code. Examples of illicit connections, but are not limited to, sanitary sewer connections and floor drains that are connected directly to the storm and surface water system.

"Illicit Discharge" or otherwise referred to as a "prohibited discharge" means any direct or indirect non-storm water discharge to the storm and surface water system, except as expressly allowed by this code.

"Illicit Discharge Detection and Elimination System Program" (IDDE) means an ongoing program authorized by BCC 24.06.045 to detect and remove illicit connections, discharges as defined in 40 CFR 122.26(b)(2), and improper disposal, including any spills not under the purview of another responding authority with jurisdiction, into the storm and surface water systems.

"Impervious surface" means a hard surface that prevents or retards the entry of water into the soil mantle, and causes water to run off the surface in greater quantities or at an increased rate of flow than it did under pre-developed conditions. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for purposes of determining whether the thresholds for application of minimum requirements are exceeded. Open, uncovered retention/detention facilities shall be considered impervious surfaces for purposes of runoff modeling.

J. J Definitions (Reserved).

K K Definitions (Reserved).

L. L Definitions.

"Land Disturbing Activity" means any activity, which results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity.

"Latecomer Agreements" means a contract that provides for the reimbursement of costs to developers who construct facilities that directly benefit other properties.

M. M Definitions.

"Maintenance" means repair and maintenance activities conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing, and results in no significant adverse hydrologic impact. Maintenance, likewise, includes activities taken to prevent a decline, lapse or cessation in the use of structures and systems and includes replacement of drainage facilities, even if permits for said replacement require a different type of structure, provided the functioning characteristics of the original structure are not changed (e.g. replacement of a fish-blocking round culvert with a new box culvert under the same span of roadway.)

"Maintenance Standards" means the city's utility maintenance standards, which include minimum requirements for maintaining the storm and surface water system so the system functions as intended and provides water quality protection and flood control.

"Maximum Extent Practicable" or "MEP" refers to the Clean Water Act requirement that permits for discharges from municipal storm facilities shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including use of Best Management Practices, control techniques, and system, design, and engineering methods, and other such provisions as the utility determines appropriate for the control of such pollutants.

"Minimum Requirements" (MRs) refer to the regulations contained in BCC 24.06.065 and applicable engineering standards, which describe requirements for storm water management for development and redevelopment as required by the NPDES Permit.

"Municipal Separate Storm Sewer System", also referred to as an "MS4", is a regulated municipal storm utility system as defined in the Western Washington Phase II Municipal Stormwater Permit.

N. N Definitions.

"National Pollutant Discharge Elimination System" (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as the NPDES permit and, in Washington State, are administered by the Washington State Department of Ecology.

"NPDES Permit" means an authorization, license or equivalent control document issued by the United States Environmental Protection Agency or the Washington State Department of Ecology to implement the requirements of the NPDES program.

"Native Vegetation" means vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples of native vegetation include, but are not limited to trees such as douglas fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

"New development" means land disturbing activities, including Class IV general forest practices that are conversions from timber land to other uses;

structural development including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans as defined in chapter 58.17 RCW and in chapters 20.45A and 20.45B LUC. Projects meeting the definition of redevelopment shall not be considered new development.

O. O Definitions.

"One Hundred-Year, 24-hour Storm" (100-year, 24-hour storm) means a rain storm with a 24-hour duration with a 0.01 probability of exceedance in any one year, derived from historical rainfall records for the central Puget Sound area.

P. P Definitions.

"Permissible Discharge" refers to those discharges permitted under BCC 24.06.125(C).

"Pollution" means the contamination or other alteration of the physical, chemical, or biological properties of any natural waters including change in temperature, taste, color, turbidity, or odor of the waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, per RCW 90.48.20.

"Pollution-generating impervious surface: (PGIS) means any impervious surface which is a significant source of pollutants in storm water runoff, such as surfaces subject to regular vehicular use (paved or not), industrial activities, storage of erodible or leachable materials, wastes, or chemicals, and which receive direct or indirect (run-on or blown in) of rainfall. Erodible or leachable materials, wastes, or chemicals are those substances which, when exposed to rainfall, measurably alter the physical or chemical characteristics of the rainfall runoff. Examples include, but are not limited to erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage. Metal roofs are also considered to be PGIS unless they are coated with an inert, non-leachable material (e.g., baked-on enamel coating). A surface, whether paved or not, shall be considered subject to vehicular use if it is regularly-used surfaces; roads, un-vegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unfenced fire lands, vehicular equipment storage yards, and airport runways. The following are not considered regularly-used surfaces: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, fenced fire lands, and infrequently used maintenance access roads.

"Pollution-generating Pervious Surface" (PGPS) means any non-impervious surface subject to the use of pesticides and fertilizers, or loss of soil. Examples

include, but are not limited to lawns, landscaped areas, golf courses, parks, cemeteries, and sports fields.

"Pre-developed Condition" means the native vegetation and soils that existed at a site prior to the influence of Euro-American settlement. The pre-developed condition shall be assumed to be forested land cover unless reasonable, historic information is provided that indicates the site was prairie prior to settlement.

"Private Storm and Surface Water System" or "Private Drainage Facility" means any element of the storm and surface water system, which is not a part of the public storm and surface water system as defined in this code.

"Procedure" means a procedure adopted by the utility, by and through the director, to implement this code, or to carry out other responsibilities as may be required by this code, engineering standards, related manuals, or other codes, ordinances, or resolutions of the city or other agencies. Procedure as defined herein is often referred to as a standard operating procedure or (SOP).

"Project Site" means that portion of a property, properties, or right-of-way subject to land disturbing activities, new impervious surfaces, or replaced impervious surfaces. The definition of project site applies solely to application and enforcement of this code and does not supersede or replace the definition of "site" as defined elsewhere in the Bellevue City Code.

"Prohibited Discharge" refer to definition of illicit discharge.

"Property Owner" means any individual, company, partnership, joint venture, corporation, association, society or group that owns or has a contractual interest in the subject property or has been authorized by the owner to act on his/her behalf, including but not limited to an agent, contractor, operation, applicant, or developer.

"Public Storm and Surface Water System" or "Public Drainage System" means those elements of the storm and surface water system maintained and operated by the utility, which includes elements located on property owned by the utility or in public right-of-way except to the extent that private ownership is indicated as a matter of record or by law and elements located on property on which the city has an easement, license, or other right of use for utility purposes.

Q. Q Definitions (Reserved).

R. R Definitions.

"Receiving Waters" are waters of the state which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt water, and all other surface waters and water courses within the jurisdiction of the State of Washington to which runoff is discharged via a point source or sheet flow.

"Redevelopment" means, on a site that is already substantially developed (i.e. has 35% or more existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation, or expansion of a building or other structure; replacement of impervious surface that is not part of a maintenance activity; and land disturbing activities.

"Replaced Impervious Surface" means, for buildings and structures, the removal and replacement of any exterior impervious surface or foundation. For other impervious surfaces, it means the removal down to bare soil or base course, and replacement.

"Runoff Control BMPs," also referred to as "Flow Control BMPs," means BMPs that are intended to control or manage the rate and/or quantity of storm water runoff.

"Runoff Treatment BMPs" means BMPs that are intended to remove sediment and other pollutants from storm water runoff.

S. S Definitions.

"Site" means the area defined by the legal boundaries of a parcel or parcels of land that is (are) subject to new development or redevelopment. For road projects, the length of the project site and the right-of-way boundaries, plus any permanent easements associated with the project, define the site. The definition of site applies solely to application and enforcement of this code and does not supersede or replace the definition of "site" as defined elsewhere in the Bellevue city code.

"Source Control BMP" means a structure or operation that is intended to prevent pollutants from entering storm and surface water, through physical separation or management of activities that are sources of pollution. Source control BMPs include the following: (1) structural source control BMP means a physical, structural, or mechanical device or facility intended to prevent pollutants from entering storm water; and (2) operational BMP means a non-structural practice intended to prevent or reduce pollutants from entering storm water.

"Standard Operating Procedure" or "SOP" refer to the definition of procedure.

"Storm and Surface Water Comprehensive Plan" (or a similarly titled document) means the latest version of the city's storm and surface water comprehensive plan as adopted by the city council.

"Storm and Surface Water System," also referred to as the drainage system, means the entire system within the city, both public and private, naturally existing and manmade, for the drainage, conveyance, detention, treatment or storage of storm and surface waters. However, facilities directly associated with buildings or

structures such as foundation drains, rockery/retaining wall drains, gutters and downspouts or groundwater under-drains are not considered parts of the storm and surface water system.

"Stream" means any aquatic area where surface water produces a channel, not including a wholly artificial channel, unless the artificial channel is: (1) used by salmonids; or (2) used to convey a stream that occurred naturally before construction of the artificial channel. The definition of stream and designation thereof is set forth in chapter 20.25H LUC.

"Structure" means a combination of materials constructed and erected permanently on or under the ground or attached to something having permanent location on or under the ground. Not included are residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height and similar improvements of a minor character.

T. T Definition.

"Threshold Discharge Area" means an on-site area draining to a single natural discharge location, or to multiple natural discharge locations that combine within one-quarter mile downstream, as determined by the shortest flowpath. Refer to the engineering standards for additional information.

U. U Definition.

"Unsafe Condition" means any condition on any premises which is a hazard to public health, safety, welfare, or environment that does or may impair or impede the operation or functioning of any portion of the public drainage system or which may cause damage thereto.

"Utility" means the storm and surface water utility administered as part of the Bellevue Utilities Department, as provided by Chapter 3.38 BCC.

"Utility Developer Extension Agreement" means a contract between the utility and a developer that provides for plan review and inspection of storm drainage facilities that satisfy new development or redevelopment requirements.

V. V Definition (Reserved).

W. W Definition.

"Water Quality Design Storm" means the runoff predicted from either a 24-hour duration storm with a six-month return period; or the 91st percentile 24-hour runoff volume as indicated by an approved continuous runoff model.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under

normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non wetland areas to mitigate the conversion of wetlands.

X. X Definition (Reserved).

Y. Y Definition (Reserved).

Z. Z Definition (Reserved).

24.06.045 Authority of the Utility.

The utility, by and through its director or his designee, including enforcement officers, shall have the authority to:

A. Develop, adopt, and carry out procedures as needed to implement this code, engineering standards and related manuals, and to carry out other responsibilities of the utility, including, but not limited to, procedures pertaining to the billing and collection of monthly drainage charges and procedures for periodic adjustment of fees and charges imposed pursuant to this code;

B. Prepare, adopt, update, administer and enforce as needed engineering standards to establish requirements for the design and construction of drainage facilities and requirements for protecting existing facilities during construction. The engineering standards shall be consistent with this code and adopted city policies;

C. Administer and enforce this code and all procedures and standards relating to the planning, acquisition, security, design, construction and inspection of new storm and surface water systems and any alterations thereof;

D. Enter into any contract pursuant to chapter 35.91 RCW, the Municipal Water and Sewer Facilities Act, including contracts which provide for the reimbursement of owners constructing facilities (latecomer agreements) and agreements with private property owners for the extension of the drainage system (utility developer extension agreements);

E. Prepare, adopt, update, administer and enforce as needed maintenance standards to establish requirements for the maintenance of drainage facilities so they function as intended, protect water quality and provide flood control;

F. Develop and implement programs (including the private drainage inspection program), that administer, inspect, and enforce private storm and surface water systems to ensure continued compliance with provisions of this code. This program may include a requirement that property owners obtain 3rd party inspections and certification of private systems and/or facility conditions, required maintenance, and system and/or facility performance;

G. Advise the city council, city manager, other city departments, and commissions on matters relating to the utility;

H. Prepare, revise as needed, recommend and implement a storm and surface water comprehensive plan for adoption by the city council. Prepare other planning studies as appropriate.

I. Coordinate development of a city-wide storm water management program, as required by state and/or federal agencies, for review and adoption by the city council;

J. Establish and implement programs to protect and maintain water quality and to manage storm water runoff within the storm and surface water system in order to maintain compliance to the maximum extent practicable with applicable water quality standards established by state and/or federal agencies;

K. Perform or direct the performance of financial review and analysis of the utility's revenues, expenses, indebtedness, rates and accounting and recommend budgets, rates and financial policy for adoption by the city council;

L. Carry out such other responsibilities as required by this code or other city codes, ordinances or regulations consistent with the city's comprehensive plan and the storm and surface water comprehensive plan;

M. Conduct public education programs related to protection and enhancement of the storm and surface water system;

N. Develop and implement a program that includes administration, inspection and enforcement of new provisions or modifications to this code relating to the storm and surface water system for activities listed under BCC 24.06.060 and BCC 24.06.065 to ensure continued compliance of storm and surface water systems with the provisions of this code. Repair and/or replacement of private drainage facilities in kind are exempt from this program unless applicable under other portions of the code;

O. Enter into, to the extent allowed by law, an agreement with property owners for said owner to voluntarily contribute funds toward the construction of one or more drainage facilities that mitigate the impacts to the same receiving waters that have been identified as a consequence of the proposed new development or redevelopment;

P. Enforce the applicable provisions of this code should the director determine that a discharge from a site, real property, or storm and surface water system has exceeded, exceeds, or will exceed water quality standards at the point of assessment, or has caused or contributed, is causing or contributing, or will cause or contribute to a prohibited discharge or a known or likely known violation of water quality standards in the receiving water or a known or likely violation of the city's municipal storm water NPDES permit, and cannot be adequately addressed by the required best management practices;

Q. Take enforcement action, to the extent allowed by law pursuant to chapter 1.18 BCC;

R. Develop and implement an illicit discharge detection and elimination system program (IDDE) for storm and surface water systems;

S. Direct authorized representatives of the utility or enforcement officers to enter private property consistent with the provisions contained in BCC 24.06.130 for inspections, tests, or to carry out other duties imposed by this code;

T. Direct authorized representatives of the utility or enforcement officers to take necessary abatement action during an emergency situation, to conduct inspections, take remedial action, or to carry out other duties imposed or required by this code subject to the provisions of chapter 1.18 BCC;

U. Develop drainage basin plans pursuant to BCC 24.06.140;

V. Prepare and update an emergency plan as required by state law, as part of the city's emergency operation plan; and

W. Rely, reference, and condition projects during development review with compliance of other applicable chapters of the Bellevue city code not otherwise contained in this code, including but not limited to Title 20 BCC, chapter 1.18 BCC, and chapter 23.76 BCC.

24.06.050 Connections or Modifications to the Drainage System.

Connections or modifications to the public storm and surface water system or connections or modifications to a Private storm and surface water system subject to BCC 24.06.065, and abandonment or removal of any building or structure connected to the public storm and surface water system shall be allowed only when:

A. Approval has been received from the utility (see BCC 24.06.060);

B. All applicable requirements of this code, related manuals, and procedures have been met;

C. All applicable engineering standards have been met or alternative standards have been approved by the utility as substantially equal; and

D. The property owner has paid all applicable fees and charges.

24.06.055 Facility Ownership.

A. The utility owns all elements of the public storm and surface water system, including those systems located in public rights-of-way and in easements or tracts dedicated to and accepted by the utility except to the extent that private ownership is indicated as a matter of record or by law.

B. The utility may accept ownership (or other property rights) and responsibility for privately built drainage facilities when all of the following conditions are met:

1. Ownership of the private drainage facility by the utility would provide a public benefit;

2. Necessary and appropriate property rights are offered by the property owner at no cost;

3. The private drainage facility substantially meets current code and engineering standards, as determined by the utility, or is brought up to current code and engineering standards by the property owner;

4. The site has access for facility maintenance in accordance with criteria provided in the code and the engineering standards;

5. The Utility has adequate resources to maintain the facility;

6. In the case of runoff control or water quality facilities, the private drainage facility serves a residential subdivision or short plat (rather than a commercial property or an individual single family residence or duplex); and

7. The private drainage facility is transferred to the utility by bill of sale at no cost to the city.

24.06.060 Permits – Approvals.

A. General Requirements.

1. The utility shall administratively develop submittal requirements for the various utility permits/approvals;

2. When a drainage connection permit or utility developer extension agreement is required, the property owner shall build all the drainage facilities

necessary to serve the property including, but not limited to, conveyance systems, runoff treatment best management practices, detention facilities and other system components as required by the utility;

3. When a drainage connection permit or utility developer extension agreement is required to provide drainage facilities for commercial or multifamily structures, the utility shall not approve issuance of the building permit until the utility has issued the drainage connection permit or the utility developer extension agreement has been executed. When a drainage connection permit or utility developer extension agreement is required to relocate a drainage facility from under a proposed building or structure, the utility shall not approve issuance of the building permit until the replacement drainage work has been completed and accepted by the utility, unless the building permit is conditioned to require relocation prior to site construction; and

4. When applicable, the director or his designee may approve projects through combined permit review processes, including but not limited to clearing and grading and building permits. The vested status of the provisions contained in this code are governed and subject by the vesting provisions contained in BCC 23.76.045.

B. Drainage Connection Permit.

1. A drainage connection permit is required to connect to or modify the public storm and surface water system or to modify a private storm and surface water system for activities referenced in BCC 24.06.065, unless a utility developer extension agreement is required pursuant to subsection (C)(1) of this section or unless the work is specifically covered under another permit, such as a clearing and grading permit, or right-of-way use permit, or unless the work falls below thresholds for any other permit required under this code or related codes;

2. If required, a drainage connection permit application shall be submitted and attested to by the property owner or their licensed and bonded contractor;

3. Drainage connection permits expire two years from the date of issuance. The director or his designee may extend the duration of an open drainage connection permit for up to one year; provided the utility receives payment for any applicable fees; and

4. Open applications for drainage connection permits that have not been issued shall be canceled by the utility if not issued within one year from the date of submittal.

C. Utility Developer Extension Agreement.

1. The property owner and the utility shall enter into a utility developer extension agreement whenever new development or redevelopment requires any of the following:

a. Detention or other runoff control facilities;

b. Runoff treatment, other than spill control structures; or

c. Work on the public storm and surface water system or within the right-of-way except when the following is required:

i. Lateral connections to the public storm and surface water system;

ii. Limited conveyance system modifications such as the installation of catchbasins or manholes;

iii. Culverts for new driveways that can be covered under a drainage connection permit or another permit such as a clearing and grading or right-of-way use permit; or

iv. Work on Private storm and surface water systems that may be addressed under another permit such as a building or clearing and grading permit.

2. The utility may accept complete constructed drainage facilities; provided:

a. the facility was built consistent with plans and specifications approved by the utility, as confirmed by utility inspectors and/or consultants retained or as authorized by the utility;

b. the property owner has submitted complete as-built drawings as specified in the engineering standards;

c. the property owner has submitted an operation and maintenance manual where applicable; and

d. all applicable fees and charges have been paid.

3. Prior to approval or as a condition of the utility developer extension agreement, the property owner shall provide a surety device, in a form approved by the utility, for utility extensions required during construction and for a one-year warranty period following acceptance by the utility.

D. Contractors.

Contractors shall be licensed in accordance with Washington State requirements and shall be registered with the city of Bellevue tax office.

E. Other Permits.

It is the property owner's sole responsibility to identify and obtain all permits/approvals required for any proposed work, such as any approvals required by the Washington State Department of Fish and Wildlife, the Washington State Department of Ecology and the Army Corps of Engineers.

24.06.065 Minimum Requirements for New Development and Redevelopment.

A. Applicability.

1. The minimum requirements (MRs) contained in this section shall apply to new development, redevelopment, and construction activities that result in land disturbing activity or otherwise meet the thresholds defined herein; and

2. In addition to the minimum requirements of this section, property owners shall comply with all applicable provisions contained in the Storm Water Management Manual for Western Washington (2005), engineering standards, Title 23.76 BCC (Clearing and Grading Code), Title 20 LUC, and any other applicable codes or standards.

B. Exemptions. The following activities are exempt from complying with the Minimum Requirements contained in this section:

1. Forest practices regulated under Title 222 WAC, except for Class IV general forest practices that are conversions from timber land to other uses;

2. Commercial agriculture practices involving working the land for production, except for the conversion from timberland to agriculture, and the construction of impervious surfaces;

3. Construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure, such as pipeline natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations, and crude oil pumping stations are exempt. Operators of such practices are encouraged to implement and maintain best management practices to minimize erosion and control sediment during and after construction activities to help ensure protection of surface water quality during storm events;

4. Road maintenance practices that include:

a. pothole and square cut patching;

b. overlaying existing asphalt or concrete pavement with asphalt or concrete without expanding the area of coverage;

c. shoulder grading;

d. reshaping or re-grading drainage systems;

e. crack sealing;

f. resurfacing with in-kind material without expanding the road prism; and

g. vegetation management.

5. In regard to replaced impervious surface requirements, a redevelopment project may be exempt or institute a stop-loss provision from compliance with MR6 (treatment), MR7 (flow control), and MR8 (Wetlands protection) should the city adopt a plan and schedule that fulfills those requirements through a regional drainage facility.

C. Exceptions.

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

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

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

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

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

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

3. The director may require an applicant to provide additional information at the applicant's expense, including, but not limited to an engineer's report or analysis;

4. When an exception is granted, the director may impose new or additional requirements to offset or mitigate harm that may be caused by granting the exception, or that would have been prevented if the exception had not been granted;

5. Public notice of an application for an exception and of the director's decision on the application shall be provided for in the manner prescribed for process II land use decisions as set forth in chapter 20.35 LUC;

6. The director's decision shall be in writing with written findings of fact. Decisions approving an exception based on severe and unexpected economic hardship shall address all the factors contained in subsection (8) set forth below;

7. An application for an exception on the grounds of severe and unexpected financial hardship shall describe, at a minimum, all of the following:

a. The current, pre-project use of the site;

b. How application of the requirement(s) for which an exception is being requested restricts the proposed use of the site compared to the restrictions that existed prior to adoption of this section;

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

d. The uses of the site that would have been allowed prior to the adoption of this section;

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

f. The feasibility of the applicant to alter the project to apply the requirements of this subsection.

8. An applicant aggrieved by the director's decision on an application for an exception may appeal the decision to the hearing examiner's office by complying with the appeal process for process II decisions as set forth in LUC 20.35.250;

9. The hearing examiner shall affirm the director's decision unless the examiner finds the decision is clearly erroneous based on substantial evidence. The

applicant for the exception shall carry the burden of proof on all issues related to justifying the exception; and

10. The director shall keep a record including the director's findings of fact, on all approved requests for exceptions.

D. Adjustments.

1. The director may approve a request for adjustments to the requirements of this section, and shall prepare written findings of fact, when the director finds the following:

a. The adjustment provides substantially equivalent environmental protection; and

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

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

3. A request by the applicant for an adjustment shall be submitted to the Director or his/her designee prior to implementation. The request shall be in writing and shall provide facts substantiating the requirements of subsection (D)(1), and if made during construction, the factors in subsection (D)(2). Any such modifications made during the construction of drainage control facilities shall be included with the final approved drainage control plan.

E. New Development – Thresholds.

1. New development shall comply with construction storm water pollution prevention plan (SWPP) requirements (MR2) as set forth in chapter 23.76 BCC;

2. New development which creates or adds 2000 square feet or greater of new, replaced, or new plus replaced impervious surface area, or has land disturbing activity of 7000 square feet or greater within a twelve month period, shall comply with MRs 1 – 5 as set forth in this section and in chapter 23.76 BCC; and

3. New development which creates or adds 5000 square feet, or more, of new Impervious Surface area or converts ¾ acres, or more, of native vegetation to lawn or landscaped areas, or converts 2.5 acres, or more, of native vegetation to pasture, or a project that through a combination of effective impervious

surfaces and converted pervious surfaces causes a 0.1 cubic feet per second increase in the 100-year flow frequency from a threshold discharge area as estimated using an approved model, shall comply with MRs 1 – 9 as set forth in this section and chapter 23.76 BCC.

F. Redevelopment – Thresholds.

1. Redevelopment shall comply with construction storm water pollution prevention plan (SWPP) requirements (MR2) as set forth in chapter 23.76 BCC;

2. Redevelopment for which new, replaced, or total of new plus replaced impervious surfaces is 2000 square feet or greater, or has land disturbing activity of 7000 square feet or greater within a twelve month period, shall comply with the MRs 1 – 5 as set forth in this section and chapter 23.76 BCC;

3. Redevelopment which adds 5000 square feet, or more, of new impervious surfaces or converts ¾ acres, or more, of native vegetation to lawn or landscaped areas, or converts 2.5 acres, or more, of native vegetation to pasture, or a project that through a combination of effective impervious surfaces and converted pervious surfaces causes a 0.1 cubic feet per second increase in the 100-year flow frequency from a threshold discharge area as estimated using an approved model within a twelve month period, shall comply with MRs 1 – 9 as set forth in this section and Chapter 23.76 BCC;

4. Redevelopment for which new and replaced impervious surfaces total 5000 square feet, or more, and the valuation of proposed improvements, including interior improvements, exceeds 50% of the assessed value of the existing site improvements within a twelve month period, shall comply with MRs 1 – 9 as set forth in this section and chapter 23.76 BCC;

5. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics are only subject to MR2, construction storm water pollution prevention plan (SWPP) as set forth in chapter 23.76 BCC;

6. For road redevelopment projects where new impervious surfaces total 5000 square feet, or more, and total 50% or more of existing impervious surfaces within the project limits (as defined by the length of the project and the width of the right of way plus any permanent easements associated with the project), runoff from the replaced and new impervious surfaces within a twelve month period shall comply with MRs 1 – 9 as set forth in this section and chapter 23.76 BCC;

7. For road redevelopment projects where a paved surface is removed and replaced to base course or lower, or for repair of the base course, and where impervious surfaces are not expanded, the project shall comply with the MRs 1 – 5 as set forth in section and chapter 23.76 BCC; and

8. The following road maintenance practices are considered to be Redevelopment and thus subject to the thresholds described herein:

a. removal and replacement of a paved surface to base course or lower;

b. repairing the roadway base course;

c. extending the pavement edge without increasing the road prism;

d. paving graveled shoulders;

e. resurfacing by upgrading from dirt to gravel, asphalt or concrete;

f. resurfacing by upgrading from gravel to asphalt or concrete; and

g. resurfacing by upgrading from a bituminous surface treatment ("chip seal") to asphalt or concrete.

9. For road redevelopment projects where the pavement edge is extended without increasing the size of the road prism, or where gravel shoulders are paved, the new pavement shall be considered new impervious surfaces.

G. Minimum Requirements. The following contains the minimum requirements for storm water management at development and redevelopment Sites in accordance with the city's Western Washington Phase II Municipal Storm Water Permit, including Appendix 1 Minimum Technical Requirements, the Storm Water Management Manual for Western Washington (2005) and supplemented by engineering standards where applicable:

1. Preparation of Storm Water Site Plans (MR1). The property owner or his/her agent or contractor thereof shall provide a storm water site plan for all projects meeting the threshold requirements contained in this section. The storm water site plan shall be prepared in accordance with chapter 3 of Volume 1 of the Storm Water Management Manual for Western Washington (2005);

2. Construction Storm Water Pollution Prevention Plan (SWPPP) (MR2). The regulations associated with this minimum regulation are contained in the Clearing and Grading Code, located at chapter 23.76 BCC;

3. Source Control of Pollution (MR3). All known, available and reasonable source control BMPs shall be required for all projects approved by the director or his designee. Source control BMPs shall be selected, designed, and

maintained in accordance with Volume IV of the Storm Water Management Manual for Western Washington (2005);

4. Preservation of Natural Drainage Systems and Outfalls (MR4). Natural drainage patterns shall be maintained, and discharges from the Site shall occur at the natural location, to the maximum extent practicable. The manner by which runoff is discharged from the site shall not cause a significant adverse impact to downstream receiving waters and down gradient properties. All outfalls require energy dissipation;

5. On-site Storm Water Management (MR5). Onsite storm water management BMPs to infiltrate, disperse, and retain storm water runoff onsite are required where feasible, without causing flooding or erosion impacts. Roof downspout control BMPs, functionally equivalent to those described in Chapter 3 of Volume III of the Storm Water Management Manual for Western Washington (2005) and dispersion and soil quality BMPs, functionally equivalent to those in Chapter 5 of Volume V, of the Storm Water Management Manual for Western Washington (2005) shall be required to reduce the hydrologic disruption of developed sites;

6. Runoff Treatment (MR6). Project thresholds based on pollution-generating impervious and pervious surface areas, treatment-type thresholds, and treatment facility design requirements are set forth in the engineering standards. The discharge of untreated storm water from pollution-generating impervious surfaces to ground water shall not be authorized, except for the discharge achieved by infiltration or dispersion of runoff from residential sites through the use of on-site storm water management BMPs;

7. Flow Control (MR7).

a. Thresholds.

i. Flow control shall be required for all new development and redevelopment to reduce the impacts of storm water runoff from impervious surfaces and land cover conversions, and shall be designed in accordance with the engineering standards;

ii. Flow control is not required for new development and redevelopment that discharge directly to, or indirectly through an MS4 to Lake Washington, Lake Sammamish, or Mercer Slough via a conveyance system meeting the requirements and subject to the restrictions set forth in the engineering standards;

iii. Flow control is required for any discharge to a stream that leads to a wetland, or to a wetland that has an outfall to a stream. In this instance, compliance is required with both this minimum requirement and the minimum requirements contained in Subsection 8;

iv. Flow control is not required for properties within the Meydenbauer Drainage Basin to the extent provided for in Ordinance No. 3372;

v. Flow control facilities and/or land use management BMPs that will achieve the standard flow control requirement for Western Washington (refer to the applicable engineering standards) are required for the following development and redevelopment projects:

A. Projects in which the total of effective impervious surfaces is 10,000 square feet or more in a threshold discharge area;

B. Projects that convert ¾ acres or more of native vegetation to lawn or landscape, or convert 2.5 acres or more of native vegetation to pasture in a threshold discharge area, and from which there is a surface discharge in a natural or man-made conveyance system from the site; or

C. Projects that through a combination of effective impervious surfaces and converted pervious surfaces cause a 0.1 cubic feet per second increase in the 100-year flow frequency from a threshold area as estimated using the western Washington hydrology model or an otherwise approved model as defined in the engineering standards.

vi. For any portion of a development project in which the thresholds contained subsections (A) - (C) of subsection (vi) set forth above are not exceeded in a threshold discharge area, the property owner shall apply onsite storm water management BMPs in accordance with minimum requirement No. 5.

vii. The director may waive flow control requirements for sites that, in his discretion, will reliably infiltrate all runoff from impervious surfaces and converted pervious surfaces.

b. Standard Requirements.

i. Flow Control BMPs shall be selected, designed, and maintained in accordance with Volume III of the Storm Water Management Manual for Western Washington (2005); and

ii. Storm Water discharges shall match developed discharge durations to pre-developed durations for the range of pre-development condition discharge rates from 50% of the 2-year peak flow up to the full 50-year flow, as directed in the engineering standards. The pre-developed condition to be matched shall be a forested land cover unless:

A. Reasonable, historic information is available that indicates the Site was prairie prior to settlement (modeled as "pasture" in the western Washington hydrology model); or

B. The drainage area of the immediate stream and all subsequent downstream basins have at least 40% total impervious surface area since 1985. In this case, the pre-developed condition to be matched shall be the existing land cover condition. Where basin-specific studies determine a stream channel to be unstable, even though the above criterion is met, the pre-developed condition assumption shall be the "historic" land cover condition, or a land cover condition commensurate with achieving a target flow regime identified by an approved basin study.

c. Western Washington Alternative Requirement. Alternative flow control requirements may be established through application of watershed-scale hydrological modeling and supporting field observations. Refer to BCC 24.06.140 for provisions relating to basin planning. Possible reasons for an alternative flow control requirement may include:

i. Establishment of a stream (ex: specific threshold of significant bed-load movement other than the assumed 50% of the 2-year peak flow);

ii. Zoning, land use, or clearing and grading restrictions that, in combination with an alternative flow control standard, maintain or reduce the naturally occurring erosive forces on the stream channel; or

iii. A duration control standard is not necessary for protection, maintenance, or restoration of designated beneficial uses or Clean Water Act compliance.

8. Wetlands Protection (MR8). For development or redevelopment projects where storm water discharges into a wetland, either directly or indirectly through a storm and surface water system and for discharges to a stream that leads to a wetland, or to a wetland that has an outfall to a stream, the minimum requirements contained in the engineering standards shall be met, in addition to minimum requirement Nos. 6 and 7. A basin plan may be used to adjust development requirements for wetlands that are tailored to a specific basin.

9. Operations and Maintenance (MR9).

a. Parties responsible for maintenance and operation shall develop a utility operations and maintenance manual in accordance with the provisions in Volume V of the Storm Water Management Manual for Western Washington (2005) and the engineering standards for all proposed drainage facilities and BMPs. Parties responsible for maintenance and operation shall be identified in the utility operations and maintenance manual;

b. For private drainage facilities approved by the director or his designee, a copy of the manual shall be retained onsite or within reasonable access to the site, and shall be transferred with the property to the new owner;

c. For public drainage facilities, a copy of the manual shall be retained in the appropriate department; and

d. For public drainage facilities and private drainage facilities a log of maintenance activity that indicates what actions were taken shall be kept and be available for inspection by the applicable city department.

24.06.070 Additional Requirements for New Development and Redevelopment.

The following additional requirements supplement the minimum requirements contained in BCC 24.06.060, BCC 24.06.065, and the engineering standards, and apply to all development or redevelopment activity subject to utility approval, regardless of whether such activity is subject to BCC 24.06.065.

A. General.

1. The property owner is responsible for the drainage design and performance of their private drainage facilities;

2. The drainage designer used by the property owner shall be a civil engineer licensed in the state of Washington, provided this requirement does not apply to single family development or redevelopment that does not require a utility developer extension agreement per BCC 24.06.060(C);

3. Subject to approval by the utility, the property owner may contribute an equitable cost share, as determined by the director, to runoff-control or runoff-treatment facilities that serve multiple sites in lieu of providing such facility(s) on-site; and

4. The utility may impose, on any development or redevelopment, requirements that differ from the requirements of this section based on adopted basin plans or other studies adopted by the city council; provided that such alternative requirements provide an equal or greater level of protection than the requirements of this section.

B. Site Drainage.

1. All development and redevelopment shall provide for the control of storm water runoff so as to minimize impact to downstream properties;

2. The property owner shall maintain natural drainage patterns and discharge drainage in a manner and location that existed prior to undertaking land/runoff altering activities, to the maximum extent practicable, unless the utility determines alterations would be beneficial and would not cause adverse impacts. The utility may require the property owner to complete an off-site capacity analysis per section (D) below;

3. Drainage that originates within a building or structure shall be discharged to the sanitary sewer;

4. For conveyance to a Public or Private Surface Water Systems, the Property Owner shall:

a. Accept and convey existing storm water runoff from upstream properties;

b. Downstream property shall receive and convey waters that are historically tributary to such property;

c. Use gravity conveyance, unless downslope conditions make gravity systems not feasible according to criteria in the engineering standards;

d. Extend drainage conveyance to the extremes of the property being developed or redeveloped when the utility determines such extension is needed for the orderly extension of the drainage system;

e. Design conveyance that, in conjunction with runoff control pursuant to flow control (MR7) requirements contained in BCC 24.06.060(E)(7), accommodates runoff from a 100-year, 24-hour storm, using methods contained in the engineering standards; and

f. Ensure that improvements do not reduce or constrict the conveyance capacity or storage volume of existing drainage systems, including natural streams.

5. Drainage pipe setbacks shall originate from other utilities, structures, and buildings, and structures and buildings shall be set back from existing pipes, as required by the engineering standards; and

6. Regardless of whether the development or redevelopment requires city approval or review, the city is not liable for any impact, should it occur to downstream properties from runoff or for any impact to adjacent or downstream properties from natural drainage patterns and discharge.

C. Critical Area Protection and Work in Streams. For any activity within the Critical Areas Overlay District, the property owner shall comply with all requirements contained in chapter 20.25H LUC, including:

1. Protection of open channel conveyances that are located within a stream and associated critical area buffer as defined and designated in chapter 20.25H LUC;

2. Where stream bridging is allowed by the land use code, design the bridge to ensure hydraulic capacity pursuant to the engineering standards and to protect water quality as specified in the engineering standards;

3. Where relocation or piping of a stream (as defined and designated in chapter 20.25H LUC) is allowed, provide hydraulic capacity pursuant to the engineering standards and provide the same or better water quality protection; and

4. When development or redevelopment is contributing to an existing water quality or capacity problem within an on-site Stream or an adjacent-property stream, which could be improved through on-site planting of native vegetation, adding energy dissipation at outfalls, extending roof and footing drains to protect geologic hazard areas, or removing yard debris, obstructions, and rubbish from stream banks, such measures shall be required.

D. Off-Site Capacity Analysis. Where the rate or location of discharge will be changed by a proposed development or redevelopment, the utility may require the property owner analyze the capacity of the receiving system. Such analysis shall be in accordance with the requirements of the engineering standards. The property owner shall mitigate insufficient capacity impacts caused by the proposed development.

24.06.075 Installation Responsibility.

A. Property Owner Installation. The property owner shall install all private drainage facilities as required by this code. Installation shall be authorized by issuance of a drainage connection permit or execution of a utility developer extension agreement as required in BCC 24.06.060 unless covered under another permit pursuant to BCC 24.06.060(C).

B. Costs. All installation costs are the property owner's responsibility, except that:

1. If the utility requires a property owner to oversize a public drainage facility, the utility shall compensate the property owner for the difference in cost between the normally sized facility and the oversized facility, based on the lowest of three bids furnished by the property owner from, in the discretion of the utility, a reputable licensed contractors;

2. A property owner who constructs a public drainage system extension that directly benefits another property in addition to the proper owner's property may request execution of a latecomer agreement in order to be reimbursed from benefitting properties that connect to the extension during the agreement's duration. See BCC 24.06.080 regarding latecomer agreements; and

3. The utility may choose to install public or private drainage facilities to facilitate development, coordinate with other city projects, or for other utility

purposes, and may recover its costs, including interest, through a connection charge.

24.06.080 Latecomer Agreements.

A. General. The utility may enter into any contracts authorized under chapter 35.91 RCW, the Municipal Water and Sewer Facilities Act, including contracts which provide for the reimbursement of property owners constructing public drainage facilities, commonly known as latecomer agreements;

B. Requesting a Latecomer Agreement. A property owner may request a latecomer agreement if said owner constructs a public drainage facility that benefits property in addition to the property owner's property and it is not feasible for the property owner to include such other property owners in the utility developer extension agreement. The request shall be made in writing by the property owner and unit costs shall be provided before the utility accepts the public drainage facility.

C. Zone of Benefit. The utility shall determine what properties benefit from the public drainage facility and which properties shall be subject to the latecomer agreement.

D. Method of Cost Allocation. The utility shall determine the method of cost allocation used.

E. Recording. The utility shall record the latecomer agreement with the King County Recorder's Office against the benefitting properties at the property owner's expense.

F. Cost to Latecomer. As a condition of connection to the public drainage facility, each latecomer shall pay, at the time of connection, his/her pro rata share of the construction costs of the public drainage facility, which are determined by the utility and specified in the latecomer agreement. Construction costs shall include but are not limited to design, installation, inspection, construction management, interest and the utility's project management costs.

G. Agreement Duration. Latecomer agreements may be in effect for up to twenty (20) years following the utility's acceptance of the drainage facility.

H. Forwarding Latecomer Payment. While the latecomer agreement is in effect, the utility will collect the latecomer payments and forward them to the property owner who paid for the drainage facility, as specified in the agreement.

24.06.085 Drainage Easement Requirements.

A. When Required. An easement is required whenever a private drainage facility will be built on property owned by a different private party and whenever a private drainage facility will serve two or more properties that are not in common

ownership or that will no longer be in common ownership following the sale of lots in a subdivision. In addition, public drainage facilities, including any drainage facilities that will be publicly maintained, shall be located in public rights-of-way, drainage easements, or tracts acceptable to and deeded to the utility;

B. Requirements. All of the following requirements shall be met before the utility will accept, approve, or execute an easement:

1. Clear title in the grantor shall be demonstrated;

2. The proposed easement shall be compatible with utility clearance standards and setback standards and with other utilities, structures, buildings, or easements;

3. The easement shall provide for access to the facility for repair and maintenance. When deemed necessary by the utility, the easement shall contain provisions for long-term maintenance;

4. The easement shall prohibit all buildings and structures within the easement except those which can readily be removed by the property owner at the owner's expense when access to the drainage facility is required by the utility. If such buildings or structures are within the easement area, an agreement to remove the buildings or structures upon request by the utility, approved by the city, shall be recorded; and

5. The easement dimensions and other requirements shall conform with the engineering standards.

C. Costs. The property owner shall pay all costs of providing or obtaining and recording the easement.

D. Relinquishment of Easement. An easement granted to the utility may be relinquished only if the utility determines it is no longer needed and the city council authorizes the relinquishment.

24.06.090 Utility Relocations – Developer Initiated.

A. Public Drainage System Relocations. When relocations of the public drainage system are necessary to accommodate any improvement associated with new development or redevelopment, the property owner shall relocate the affected facilities in accordance with all city codes, standards and permit conditions, and shall be responsible for all costs and expenses incurred due to such relocation.

B. Non-Municipal Utility Relocations. When relocations of non-municipal utility facilities located in the right-of-way, on city property, or in a city easement, are necessary to accommodate any public drainage facility improvement associated with new development or redevelopment, the property owner shall arrange for the

relocation of the impacted utility at no cost to the city; except as provided for in BCC 14.60.230.

24.06.095 Construction Requirements.

A. General. When constructing or modifying drainage facilities, compliance is required with this code, the engineering standards, the approved permit, plans and specifications, the terms of any utility developer extension agreement, the recommendations of the manufacturer of the materials or equipment used and any applicable local, state or federal requirements;

B. Safety Requirements. Utility staff will perform inspections only if shoring and other site conditions conform with WISHA safety standards and other safety requirements, as applicable;

C. Failure to Complete Work or Meet Requirements.

1. The Utility may complete construction of a drainage facility started by a property owner, or take steps to restore the site (such as backfilling trenches and restoring the public way) if the complete or incomplete work done does not meet utility requirements; provided the property owner fails to rectify the problem following notification by the utility, and the work, in the opinion of the utility, constitutes a hazard to public safety, health or the drainage system.

2. Utility costs incurred pursuant to subsection (C)(1) of this section shall be calculated pursuant to BCC 24.06.110(B) and charged to the property owner in charge of such work. The property owner or contractor shall pay the utility immediately after written notification is delivered to the responsible person or is posted at the location of the work. Such costs shall constitute a civil debt owed to the utility jointly and severally by such persons who have been given notice as herein provided. The debt shall be collectable in the same manner as any other civil debt owing the utility. In addition, if an assurance device was collected for the project, the city may collect the debt from the assurance device; and

3. If in the opinion of the director, the work being performed is not in accordance with this code or the engineering standards and the responsible person is unwilling to change or correct the deficiencies, the director may issue a correction notice or stop work order until the deficiencies are corrected as authorized by Chapter 1.18 BCC.

D. Authorized Drainage Construction. Only the following persons are authorized to install Drainage Facilities:

1. Contractors licensed in accordance with BCC 24.06.60; and

2. Property Owners working on their own property.

E. Posting of Drainage Connection Permit. If a drainage connection permit is required for the work, the permit shall be readily available at the job site to city inspectors.

F. Location of Connection. Connection to the drainage system shall be made at a point approved by the utility.

G. As-Builts. An As-Built plan of the site's drainage facilities shall be completed according to the requirements in the engineering standards prior to the utility's acceptance of the improvements, issuance of a certificate of occupancy or final sign-off of any permit by city inspectors.

24.06.100 Construction and Warranty Inspections and Tests.

A. Construction/Installation Inspection. All projects permitted or approved by the utility under a utility developer extension agreement or a drainage connection permit are subject to utility inspection to ensure compliance with the code and permit/approval conditions. As a condition of permit issuance or execution of the utility developer extension agreement, the property owner shall consent to inspection and testing.

B. Warranty Inspections and Tests. Facilities and equipment accepted by the utility under specific warranties may be re-inspected at the utility's discretion and, if necessary, retested prior to the expiration of the warranty period.

24.06.105 Maintenance of Drainage Facilities.

A. Maintenance Responsibility.

1. The Utility shall maintain public drainage facilities;

2. Property owners of private drainage facilities, including but not limited to detention facilities, runoff treatment facilities and conveyance facilities, are responsible for the operation and maintenance of those facilities;

3. In new subdivisions and short plats, maintenance responsibility for private drainage facilities shall be specified on the recorded subdivision or short plat or in a separately recorded document;

4. If a private drainage facility serves multiple lots and the responsibility for maintenance has not been specified on the subdivision plat, short plat or other legal document, maintenance responsibility shall rest with the homeowners association, if one exists, or otherwise with the properties served by the facility, or finally, with the owners of the property on which the facilities are located;

B. Maintenance Standards. Drainage facilities shall be maintained so that they operate as intended. Maintenance shall be in accordance with the utility's maintenance standards and in accordance with the project operation and maintenance manual, if one was prepared.

24.06.110 Connection Charges.

A. General.

1. The utility shall collect connection charges so that each developed property bears its equitable share of the cost of the public drainage system;

2. Connection Charges shall be paid:

a. When property is changed from an undeveloped to a developed condition; and

b. At the time of redevelopment of the property, if a direct facilities charge applies that has not yet been paid, such as a charge for a new facility that directly benefits the property.

3. Connection charges that have been paid as a result of prior development activities on the property or through participation in an LID or ULID shall not be reassessed; and

4. The utility may enter into contracts with property owners of existing single-family homes and with the property owners of redevelopment projects that meet criteria specified by the utility for payment of connection charges over time instead of as a lump sum. The utility shall charge interest as determined by the director, on any outstanding debt covered by a payment contract. A contract shall be payable in full at the time of closing upon sale of the property.

B. Direct Facilities Charges.

1. The utility shall collect direct facilities charges from property owners that directly benefit from utility-built or privately built public drainage facilities, except property owners who previously paid their fair share through an LID or ULID;

2. The direct facilities charge is the property owner's equitable share of the established costs of the facilities he/she benefits from. The equitable share shall include interest charges applied from the date of construction acceptance of the facility until the property connects, or for a period not to exceed 10 years, whichever is less, at a rate determined by the director and based on established industry construction cost indices, but not to exceed 10 percent per year; provided, that the aggregate amount of interest shall not exceed the equitable share of the cost of the facility allocated to such property owner;

3. The facilities' costs shall be allocated to benefitting property owners based on the number of single-family equivalents. The director may, however, make such allocation based on front footage or other reasonably based methodology if the director determines that such alternate basis or methodology better assures equitable sharing of cost by all properties benefiting from the facilities; and

4. Properties within the Meydenbauer Drainage Basin and properties within the Central Business District (CBD), lying between N.E. 2nd Street and N.E. 12th Street, are subject to a facilities charge in an amount and to the extent provided in Sections 4 and 5 of Ordinance No. 3372, as now or hereafter amended.

C. Administrative Procedures, Adjustment of Charges. The director is authorized to adopt administrative procedures for the purpose of administering the provisions of this section, and to adjust the charges established by subsections A and B of this section from time to time to reflect the actual cost of the facilities for which the charges are made.

24.06.115 Storm and Surface Water Rates.

A. General. The city council shall establish service rates for use of the public drainage system and related drainage services; such rates are in addition to connection charges and fees for specific services. The utility may establish classifications of customers or service and rate structures, using any method or methods authorized by law.

B. Rate Basis. Drainage rates shall be based on revenue requirements necessary to cover all costs of the utility, as authorized by the city council by the adoption of the city's budget and subsequent amendments and shall be guided by adopted financial policies and bond covenants.

C. Rate Adjustments. Rates shall be evaluated periodically as part of the review and adoption of the city's budget. Rate adjustments shall be recommended as needed to meet revenue requirements. The recommendation shall consider equity, adequacy, costs and other factors allowed by law.

D. Billing and Collection. The utility shall develop and implement procedures and systems pertaining to the billing and collection of drainage service charges and fees in accordance with state law.

E. Rate Relief. The city council may establish drainage rate relief measures for specific customer classes as authorized by state law.

24.06.120 Capital Recovery Charges.

A. The utility shall establish and collect a monthly capital recovery charge so that each new improvement, development, redevelopment or existing building or

structure that places an additional demand on the storm and surface water system bears its equitable share of the cost of said system;

B. The capital recovery charge shall be based on the cost of the storm and surface water utility plant-in-service, less the cost of donated facilities, less the cost of city-built local facilities for which direct facilities charges are imposed, plus recoverable interest divided by the customer base as quantified by single family equivalent units; and

C. The capital recovery charge shall be placed on affected properties as a monthly charge for a period of 10 years. The director is authorized to adjust the capital recovery charge value based upon updated values of the above described elements.

24.06.125 Prohibited, Permissible, and Conditional Discharges.

A. General.

1. No person, whether singly or combination with others, shall dump, throw, drain or otherwise discharge, either directly or indirectly, non-storm water and/or prohibited discharges into the storm and surface water system or receiving water within or contiguous to city of Bellevue municipal limits; and

2. Every permit issued to implement this code shall contain a performance standard requiring that no discharge of non-storm water and/or prohibited discharges from a site or real property, directly or indirectly to the storm and surface water system or a receiving water.

B. Prohibited Discharges.

1. The following substances are prohibited from entering, either directly or indirectly, a storm and surface water system or receiving water within or contiguous to city of Bellevue municipal limits, including but not limited to:

1	Petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil;
2	Trash or debris;
3	Domestic animal wastes;
4	Chemicals;
5	Paints;
6	Steam cleaning wastes;
7	Washing of fresh concrete for cleaning and/or finishing purposes or to expose aggregates

8	Laundry wastes;
9	Soaps, including biodegradable soaps, detergents, or ammonia;
10	Pesticides, herbicides, or fertilizers;
11	Sewage;
12	Heated water;
13	Chlorinated water, chlorine, bromine, or other disinfectants;
14	Degreasers and/or solvents;
15	Bark and other fibrous material;
16	Antifreeze or other automotive products;
17	Lawn clippings, leaves, or branches;
18	Animal carcasses;
19	Silt or Sediment;
20	Concrete, cement or gravel
21	Acids, alkalis, or bases;
22	Recreational vehicle wastes;
23	Dyes (without prior permission of the Utility);
24	Construction materials;
25	Food wastes;
26	Metals in either particulate or dissolved form;
27	Flammable or explosive materials;
28	Radioactive material;
29	Batteries;
30	Paints, stains, resins, lacquers, or varnishes;
31	Drain cleaners;
32	Swimming pool or spa filter backwash;
33	Chemicals not normally found in uncontaminated water;

34	Any other process-associated discharges except as otherwise allowed in this section;
35	Any hazardous material or waste not listed above.

C. Permissible Discharges. The following types of discharges are permissible discharges unless the director determines that the type of discharge, directly or indirectly to a storm and surface water system or receiving water within or contiguous to city of Bellevue city limits, whether singly or combination with others, is causing or contributing to a violation of the city's NPDES permit or is causing or contributing to a water quality problem:

1	Diverted stream flows;
2	Rising ground waters;
3	Uncontaminated ground water infiltration;
4	Uncontaminated pumped ground water;
5	Foundation drains;
6	Air conditioning condensation;
7	Irrigation water from agricultural sources that is comingled with urban stormwater;
8	Springs;
9	Water from crawl space pumps;
10	Footing drains;
11	Flows from Streams and associated buffers and Wetlands;
12	Non-stormwater discharges covered by another NPDES permit, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted by the Washington State Department of Ecology for any discharge to the storm drain system; and
13	Discharges from emergency fire fighting activities.

D. Conditionally Permissible Discharges. The following types of discharges are conditionally permissible discharges if they meet the stated conditions or unless the director determines that the type of discharge, directly or indirectly to a storm and surface water system or a receiving water within or contiguous to Bellevue city limits, whether singly or combination with others, is causing or contributing to a violation of the city's NPDES permit or is causing or contributing to a water quality problem:

1. Potable water, including water from water line flushing, fire sprinkler system testing, hyper- chlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Such planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the storm and surface water system;

2. Lawn watering and other irrigation runoff, which shall be minimized through, at a minimum, public education activities and water conservation efforts;

3. De-chlorinated swimming pool discharges, which shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted and reoxygenized, if necessary, and in volumes and velocities controlled to prevent re-suspension of sediments in the storm and surface water system. Swimming pool cleaning wastewater and filter backwash shall not be discharged into the storm and surface water system;

4. Street, parking areas and sidewalk wash water, water used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water used is minimized, best management practices are used to prevent and/or minimize dirt, soil, other pollutants from entering the storm and surface water system, and public education activities and/or water conservations efforts include information on reducing impacts of these discharges. At active construction sites, street sweeping shall be performed prior to washing the street;

5. Non-storm water discharges covered by another NPDES permit, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted by the Washington State Department of Ecology for any discharge to the storm and surface water system;

6. Other non-storm water discharges related to construction site de-watering discharges shall comply with the requirements of a storm water pollution prevention plan (SWPPP) reviewed and approved by the city;

7 Other non-storm water discharges from utility owned infrastructure failures due to aging infrastructure or acts of god that result in non-storm water

discharges shall be minimized through implementation of municipal utility infrastructure programs, such as utility infrastructure repair, replacement, or rehabilitation; asset management programs, or preventive system repairs and maintenance; and

8. Other non-storm water discharges resulting from city response to emergency or weather related events.

E. Prohibition of Non-storm water Connections. The construction, use, maintenance, or continued existence of non-storm water connections (also known as illicit connections) to the storm and surface water system are prohibited regardless of whether such connections were previously made or lawful under past regulations in place at the time of connection.

F. Discharge of Pollutants – Liability for Expenses Incurred by the Utility. Any person responsible for pollutant discharge into the storm and surface water system who fails to immediately collect, remove, contain, treat or disperse such pollutant materials at the director or his designee's request shall be responsible for the necessary expenses incurred by the city in carrying out any pollutant abatement procedures, including the collection, removal, containment, treatment or disposal of such materials.

G. Source Control Best Management Practices. To prevent discharge of illicit or prohibited discharge materials into the storm and surface water system, source controls shall be applied in accordance with the storm and surface water operation and maintenance standards.

24.06.130 Code Violations, Enforcement, and Penalties.

The enforcement procedures and penalties associated with violations of this code are set forth in BCC 1.18.075

24.06.135 Right of Entry for Inspection.

A. An authorized representative of the utility may enter private property at all reasonable times to conduct inspections, tests or to carry out other duties imposed by the code, provided the utility shall first notify the proper owner or person responsible for the premises. If entry is refused; the director shall have recourse to every remedy provided by law to secure entry.

B. For inspection programs authorized by BCC 24.06.45, the utility may provide advance mailings of its intent to inspect properties consistent with such inspection programs; provided the utility receives no objection from the property owner, the city may inspect private facilities consistent with the terms provided in the advance mailings.

24.06.140 Basin Planning.

A. Basin planning may be used to evaluate and propose solutions for and/or to manage the quality and or quantity of drainage water in a watershed or a drainage basin and prepare other studies as appropriate, and in addition may:

1. Support alternative treatment, flow control, and/or wetland protection requirements in BCC 24.06.065;

2. Demonstrate an equivalent level of treatment, flow control, and/or wetland protection through the construction and use of regional storm water facilities.

3. Evaluate and analyze a basin or watershed with respect to the minimum requirements contained in BCC 24.06.065 and through implementation of BMPs;

4. Develop control strategies to address impacts from future development and to correct specific problems whose sources are known or suspect; or

5. Address long term cumulative impacts of pollutant loads and short term acute impacts of pollutant concentrations, as well as hydrologic impacts to streams, wetlands, and ground water resources.

B. Basin Plan recommendations, which impact development or land use regulations shall be reviewed and adopted by the city council; and

C. Basin Plan recommendations which modify minimum requirements (MRs) as contained in BCC 24.06.065 shall be adopted by the city council and reviewed and approved by the Washington State Department of Ecology.

Section 3. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 4. This ordinance shall take effect on January 1, 2010; provided sections 24.06.130 and 24.06.125 contained in this ordinance shall take effect and be in force thirty (30) days after passage and legal publication.

1120-ORD
09/30/09

Passed by the City Council this 5th day of October, 2009 and signed in authentication of its passage this 5th day of October, 2009.

(SEAL)

Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Lacey L. Madche, Assistant City Attorney

Attest:

Myrna L. Basich, City Clerk

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