

**ORIGINAL**

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5906

AN ORDINANCE amending Chapter 23.76 of the Bellevue City Code, specifically amending sections 23.76.005, 23.76.015, 23.76.025, 23.76.030, 23.76.032, 23.76.035, 23.46.040, 23.76.060, 23.76.070, 23.76.080, 23.76.088, 23.76.090, 23.76.093, 23.76.095, 23.76.100, 23.76.140, 23.76.160, 23.76.170, 23.76.175, 23.76.190; creating sections 23.76.010, 23.76.020; repealing section 23.76.120; 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, 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 Clearing and Grading Code, Bellevue City Code Chapter 23.76 uses terminology and references to the City's regulations of these critical areas that are now out of date; and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. Section 23.76.005 of the Bellevue Land Use Code is hereby amended to read as follows:

**23.76.005 Purpose.**

A. The purpose of this chapter is to enact regulations consistent with the environmental element of the city's comprehensive plan to protect water and earth resources, fish and wildlife habitat, and public health and safety from the potential adverse impacts associated with clearing and grading private and public land in the city. It is also the purpose of this chapter to protect the functions and values of critical areas as required under the State's Growth Management Act, Shoreline Management Act, and Part 20.25H of the City of Bellevue Land Use Code.

B. The regulations contained in this chapter implement required provisions of the city's National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Discharges from Small Municipal Separate Storm Sewers in Western Washington. These provisions are intended to 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, reduce flow or which degrade the environment.

C. The regulations contained in this chapter focus on prevention of potential adverse impacts associated with clearing and grading activities through a proactive approach rather than remediation of (or a reactive approach to) adverse impacts.

D. It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public.

E. This chapter is not intended to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms.

Section 2. A new section 23.76.010 of the Bellevue City Code is hereby adopted to read as follows:

**23.76.010 Related codes and regulations.**

A. The requirements of this chapter supplement other city codes and regulations, including the land use code (Title 20 BCC), the shorelines overlay district (Part 20.25E LUC) the critical areas overlay district (Part 20.25H LUC) and the storm and surface water utility code (chapter 24.06 BCC).

B. To comply with the provisions of this chapter, the applicant shall comply with the applicable engineering standards contained in the clearing and grading

development standards, which include Chapters 3 and 4 of Volume II of the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2005).

C. Approvals, decisions, and permits granted under this chapter 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. The responsibility for determining the existence and application of other agency requirements rests solely with the applicant; provided, that to the extent known, the city will inform the applicant of other agency requirements or permits that may apply to a site.

Section 3. Section 23.76.015 of the Bellevue City Code is hereby amended to read as follows:

**23.76.015 Conflict of Provisions.**

Should a conflict occur between the provisions of this chapter, the storm and surface water code (chapter 24.06 BCC), the clearing and grading development standards, manuals adopted by the city in relation to this chapter, or between this chapter, the clearing and grading development standards and related manuals with laws, regulations, codes, or rules promulgated by other authority having jurisdiction within the city, the most restrictive requirement shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this chapter.

Section 4. A new section 23.76.020 of the Bellevue City Code is hereby adopted to read as follows:

**23.76.020 Severability.**

If any provision of this chapter, clearing and grading development standards, or related manuals, or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this chapter, clearing and grading development 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 chapter are severable.

Section 5. Section 23.76.025 of the Bellevue City Code is hereby amended to read as follows:

**23.76.025 Director's authority.**

A. The director is charged with the enforcement of this chapter and whenever the director has reason to believe a violation has occurred, the director may initiate enforcement actions pursuant to chapter 1.18 BCC.

B. The director shall have the authority to prepare and update, as needed, clearing and grading development standards to establish minimum requirements for

the design and construction of erosion and sedimentation controls and other best management practices. The clearing and grading development standards shall be consistent with this chapter and adopted city policies.

Section 6. Section 23.76.030 of the Bellevue City Code is hereby amended to read:

**23.76.015 030 Definitions.**

The following definitions are specific to this chapter and shall have the following meanings:

**A. A Definitions.**

“Abandoned Construction Site” means a lot or group of lots, including subdivisions, building or buildings, or other development where work has ceased for any reason for a period of 90 days. Circumstances indicating abandonment of a construction site include, but are not limited to, failure to call for inspections, absence of workers, or removal of equipment and supplies. A valid permit or approval issued by the city does not alter the status of a construction site deemed abandoned.

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

**B. B Definitions.**

“Best management practices (BMPs)” are the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to the city’s storm and surface water system or receiving waters.

“Building site” shall have the meaning set forth in chapter 20.50 LUC, now or as hereafter amended.

**C. C Definitions.**

“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 Washington State Department of Ecology (see BMP C160 in the Stormwater 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 stormwater and, the effectiveness of erosion and sediment control

measures used to control the quality of stormwater discharges. Certification is obtained through the Washington State Department of Ecology's approved erosion and sediment control course.

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

"Clearing and grading development standards" means city of Bellevue clearing and grading development standards that contain appropriate engineering standards and includes relevant provisions of Chapters 3 and 4 of Volume II of the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2005).

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

"Critical area" shall have the same meaning set forth in chapter 20.50 LUC, now or as hereafter amended.

#### **D. D Definitions.**

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

"Discharge" means the addition of stormwater, runoff, or pollutants into either the storm and surface water system or receiving waters

#### **E. E Definitions.**

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

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

#### **F. F Definitions.**

"Fill" means earth, sand, peat, gravel, rock, asphalt, concrete, or other solid material used above or below the ordinary-high water mark to increase the ground surface elevation or to replace excavated material.

"Filling" means any act by which fill is deposited or placed.

#### **G. G Definitions.**

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

“Grading” means any excavating or filling or combination thereof.

“Ground water” means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

#### **H. H Definitions.**

“Heavy rain” means rainfall at a rate greater than or equal to 0.03 inches per 6 minutes or 0.30 inches per hour.

#### **I. I Definitions.**

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. It is also a hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. 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 that 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 that 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. Maintenance of existing landscape, as described in LUC 20.25H.055.C is not considered a land disturbing activity.

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

“Landslide” means the movement of a mass of rocks and/or earth down a slope.

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

**M. M Definitions.**

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

“Minimum Requirements (MRs)” refer to the regulations contained in BCC 23.76.090, BCC 24.06.065, and applicable development and engineering standards, which describe requirements for stormwater management for development and redevelopment as required by the NPDES Permit.

**N. N Definitions.**

“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 and applied in chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

“NPDES Permit” means an authorization, license, or equivalent control document issued by either the United States Environmental Protection Agency or authorized state authority, which in Washington is the Department of Ecology, to authorize point source discharges to surface waters and implement the provisions of 33 U.S.C. 1342 (section 402) of the federal Clean Water Act.

**O. O Definitions (Reserved).**

**P. P Definitions.**

“Peak volumetric stream flow” means the maximum instantaneous rate of flow, expressed in terms of volume per unit of time, during a storm.

“Permanent erosion control” means permanent improvements, such as landscaping or drainage control structures, that cover the soil such that erosion is minimized or eliminated.

“Permit,” unless noted otherwise, refers to the clearing and grading permit; see “clearing and grading permit.”

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

corporation. Both the property owner and its agent are considered the permittee and are responsible for ensuring compliance with this chapter.

“Potential slide block (failure envelope)” means the area near the surface of a slope between the toe of the slope and a line drawn upward at two feet horizontal to one foot vertical from the toe to the surface of the ground above the slope, or as otherwise determined by a geotechnical engineer.

**Q. Q Definitions (Reserved).**

**R. R Definitions.**

“Rainy season” means that period from October 1st through April 30th unless the director modifies these dates based on weather patterns and forecasts.

“Receiving waters” are waters of the state which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, 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.

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

“Redevelopment” means that on sites that are substantially developed, (i.e. has 35% or more of 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 routine maintenance activity; and land disturbing practices.

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

“Rockery” or “rock wall” means one or more courses of rocks stacked against an exposed soil face to protect the soil face from erosion and sloughing. The bottom course of rocks bears on the foundation soils and the upper rocks bear partially or entirely on the rocks below. The face of inclination of a rockery varies from near vertical to about 1H:4V. A rockery or rock wall is not considered a retaining wall.

“Runoff” is water that travels across the land surface and discharges to water bodies either directly or through a collection and conveyance system. See also “stormwater.”

**S. S Definitions.**



“Significant tree” shall have the meaning set forth in chapter 20.50 LUC, now or as hereafter amended.

“Site” shall have the meaning set forth in chapter 20.50 LUC, now or as hereafter amended.

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

“Soil” means unaggregated or uncemented deposits of mineral and/or organic particles or fragments derived from the breakdown of massive rocks or decay of living matter.

“Storm and surface water system,” also 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. Facilities directly associated with buildings or structures such as foundation drains, rockery/retaining wall drains, gutters and downspouts or groundwater are not considered parts of the storm and surface water system.

“Stormwater” means runoff during and following precipitation and snowmelt events, including surface runoff and drainage. See also “runoff.”

“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 Definitions (Reserved).**

**U. U Definitions.**

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

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

**V. V Definitions (Reserved).**

**W. W Definitions.**

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

“Waters of the state” includes those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface water and water courses within the jurisdiction of the State of Washington.

“Water quality standards” means the Surface Water Quality Standards, chapter 173-201A WAC, Ground Water Quality Standards, chapter 173-200, WAC, and Sediment Management Standards, chapter 173-204 WAC.

**X. X Definitions (Reserved).**

**Y. Y Definitions (Reserved).**

**Z. Z Definitions (Reserved).**

Section 7. Section 23.76.025 of the Bellevue City Code is hereby amended to read as follows:

**23.76.035 Permit requirements.**

A. A clearing and grading permit is required for a project that involves any of the following described in subsections 1-8 as set forth below, except as provided for in subsection B of this section. In applying this section, the total proposal shall be considered. Any project that requires a permit shall also comply with applicable provisions of chapter 24.06 BCC, Title 20 LUC, and any other applicable city codes.

1. Any clearing, filling, or excavation in a critical area or critical area buffer;
2. Fill and/or excavation totaling over 50 cubic yards. Quantities of fill and excavation are separately calculated and then added together, even if excavated material is used as fill on the same site;
3. Creation or addition of 2,000 square feet, or greater, of new, replaced, or new plus replaced impervious surface area;
4. Over 1,000 square feet of clearing, as measured at the ground level. Clearing includes disturbance of over 1,000 square feet at grade due to removal or pruning of trees;
5. Rockeries and modular block walls over four feet in height as measured from the bottom of the base rock or block;
6. Removal of more than 25 percent of the live crown of any significant tree, as defined in LUC 20.50.046, that is required to be preserved by a city code, plat

condition, or other requirement. The live crown is the crown of the tree containing live foliage;

7. Any regrading or repaving of a parking lot used for stormwater detention; and

8. Removal of any significant tree from any lot in an R-1 land use district in the Bridle Trails subarea, pursuant to the provisions of LUC 20.20.900, now or as hereafter amended.

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

1. Agricultural crop management of existing farmed areas;

2. Routine landscape maintenance, as described in LUC 20.25H.055.C.3.h, now or as hereafter amended;

3. Work needed to correct an immediate danger to life or property in an emergency situation as declared by the mayor or the city manager or his/her designee;

4. Cemetery graves involving less than 50 cubic yards of excavation, and related filling, per each cemetery plot;

5. Routine drainage maintenance of existing, constructed stormwater drainage facilities located outside of a critical area or critical area buffer, including, but not limited to, detention/retention ponds, wetponds, sediment ponds, constructed drainage swales, water quality treatment facilities such as filtration systems, and regional stormwater facilities that are necessary to preserve the water quality treatment and flow control functions of the facility. This exemption does not apply to any expansion and/or modification to already excavated and constructed stormwater drainage facilities; or

6. Roadway repairs and overlays within public street rights-of-way for the purpose of maintaining the pavement on existing paved roadways, such that asphalt removal or milling does not expose more than 1,000 square feet of gravel base or subgrade. This exemption does not apply to curbs, gutters, sidewalks, utilities, new traffic calming devices, new roadways, or the widening of the paved surface of existing roadways.

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

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

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

F. A construction stormwater pollution prevention plan or checklist, if required, must be submitted with the permit submittal and application materials described in subsection E above.

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

Section 8. Section 23.76.040 of the Bellevue City Code is hereby amended to read as follows:

**23.76.040 Permit issuance.**

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

1. A valid building permit application; provided, that if a discretionary land use approval pursuant to the provisions of Chapter 20.30 LUC or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended;

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

3. An approved conditional use permit or planned unit development approval;

4. Preliminary plat or preliminary short plat approval, where the clearing and grading permit is approved only for infrastructure construction, and not for clearing or grading building sites;

5. Preliminary plat or preliminary short plat approval, where the clearing and grading permit is approved for clearing or grading building sites; provided, that such approval may be granted only in compliance with BCC 23.76.042;

6. A planned unit development (PUD) approval where the clearing and grading permit is approved for infrastructure construction and for clearing and grading building sites;

7. An approved shoreline conditional use, shoreline substantial development permit or shoreline management exemption, provided all appeal periods pursuant to WAC 173-14-180, now or as hereafter amended, must have expired without the filing of an appeal;

8. A demolition permit;

9. Inclusion of the project in the city's approved capital improvement program;

10. A valid right-of-way use permit application; provided, that if a discretionary land use approval pursuant to the provisions of chapter 20.30 LUC or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended; or

11. Completion of environmental (SEPA) review for surcharging a site or for environmental or toxics cleanup at a site; provided, that if a discretionary land use approval pursuant to the provisions of chapter 20.30 LUC is required, the clearing and grading permit shall not be issued until the land use approval and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended.

B. The director may approve issuance of a clearing and grading permit without an accompanying permit or other approval as listed in subsection A of this section; provided, that all of the following criteria are met (in addition to other applicable requirements of this chapter and other city codes):

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

2. Approval of the proposal will not pose a threat to or be detrimental to the public health, safety, and welfare, nor be materially detrimental to fish and wildlife habitat, the storm and surface water system, or receiving waters;

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

4. The proposal is not in a critical area or critical area buffer, or if in a critical area or critical area buffer, complies with chapter 20.25H LUC; and

5. If a discretionary land use approval pursuant to the provisions of chapter 20.30 LUC or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended.

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

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

Section 9. Section 23.76.032 of the Bellevue City Code is hereby amended to read as follows:

**23.76.042 Clearing and/or grading building sites with preliminary plat or preliminary short plat approval.**

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

1. No portion of the building site:

a. Is within 200 feet of a critical area or critical area buffer, as defined in Chapter 20.50 LUC;

b. Is within the shoreline overlay district, as defined in the Chapter 20.25E LUC; or

c. Drains by pipe, open ditch, sheetflow, or a combination of these directly to receiving waters. A building site is considered to drain directly to receiving waters when it has a flow path of one-quarter mile or less where there is no intermediary permanent sediment trap or stormwater detention system between the site and receiving waters;

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

a. Sufficiency of the construction stormwater pollution prevention plan required by BCC 23.76.090 to prevent pollutants and silt-laden runoff from leaving the site and prevent impacts to receiving waters, or critical areas and critical area buffers including:

i. Proposed construction schedule and the proposed erosion and sedimentation control BMPs. The construction schedule and BMPs must be designed and implemented to prevent sediment from leaving the project site and prevent impacts to critical areas or critical area buffers; and

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

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

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

a. Requiring extraordinary BMPs, as described in BCC 23.76.090;

b. When clearing and grading is suspended or interrupted, the permittee shall stabilize the site using appropriate erosion and sedimentation control BMPs and shall maintain the BMPs, as required pursuant to BCC 23.76.090; and

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

4. For work approved under this section, an abatement security device is required per BCC 23.76.140. The permittee may establish a single abatement security device for the entire project, or separate abatement security devices may be established for the infrastructure construction and for clearing and grading of building sites. If separate abatement security devices are established, the city shall release the abatement security device for infrastructure construction once the infrastructure construction is complete and final approval is granted pursuant to BCC 23.76.180. The city shall release the abatement security device for clearing and grading of building sites after the building permits for all building sites that were cleared and graded with preliminary plat or preliminary short plat approval have been issued.

5. If approval for clearing or grading of building sites is granted and the city subsequently issues three stop work orders (or fewer as provided in the conditions

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

B. When clearing or grading of building sites is interrupted or suspended for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090.E and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation pursuant to BCC 23.76.090.F.

Section 10. Section 23.76.035 of the Bellevue City Code is hereby amended to read as follows:

**23.76.045 Vesting and expiration of permits and applications.**

A. Projects Requiring Only Clearing and Grading Permits.

1. Vesting Date. An application for an independent clearing and grading permit pursuant to BCC 23.76.040, shall vest to this chapter, chapter 24.06 BCC, and the corresponding development and engineering standards, on the date that a complete clearing and grading permit application is submitted consistent with the requirements of BCC 23.76.035.E.

2. Expiration of Vested Status.

a. Before Issuance. An application for clearing and grading permit shall expire as follows:

i. An application for a clearing and grading permit for which no permit is issued within one year following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with state law. The director may, prior to expiration, extend the time for action by the applicant for a period not exceeding 180 days.

ii. An application for a clearing and grading permit may be cancelled for inactivity if an applicant fails, without reasonable justification, to respond to the department's written request for revisions or corrections within 90 days. The director may extend the response period beyond 90 days if the applicant provides and adheres to a reasonable schedule for submitting the full revisions.



iii. In addition to the extension allowed in subsection (A) of this section, the director may extend the life of an application if any of the following conditions exist:

A. Compliance with the State Environmental Policy Act is in progress; or

B. Any other city review is in progress; provided the applicant has submitted a complete response to city requests or the director determines that unique or unusual circumstances exist that warrant additional time for such response, and the director determines that the review is proceeding in a timely manner toward final city decision; or

C. Litigation against the city or the applicant is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such application.

iv. In no event may the director extend the application for a period of more than 180 days following the conclusion of the applicable condition described in this subsection.

b. After Permit Issuance. The clearing and grading permit shall expire as follows:

i. The permit shall expire if the authorized work is not begun within one year from the date of permit issuance, or if work is abandoned for over 180 days.

ii. If the authorized work is continually performed, the permit shall expire one year from the date of issuance unless a different time frame is specified on the permit or an extension is granted. Two one-year extensions may be granted by the director; provided, that conditions which were relevant to issuance of the permit have not changed substantially and no material detriment to the public welfare will result from the extension.

iii. If the clearing and grading permit is revoked pursuant to BCC 23.76.175 or otherwise cancelled, the vested status of the clearing and grading permit shall expire on the date of revocation or cancellation.

B. Projects Requiring Prior Discretionary Land Use Permit or Approval.

1. Vesting Date. The vesting date for a clearing and grading permit requiring a prior discretionary land use permit or approval is contingent on the level of engineering detail provided by the applicant as described below:

a. Engineering Details Provided. For applicants that satisfy the submittal requirements of the Director specified in BCC 23.76.035.E, and also satisfy the Storm and Surface Code submittal requirements for site development engineering, the vesting date to this chapter, chapter 24.06 BCC, and the corresponding development and engineering standards, is the date of issuance of the discretionary land use decision.

b. Conceptual Details Provided. For applicants that choose not to provide submittal requirements for site development engineering, the vesting date to this chapter, chapter 24.06 BCC, and the corresponding development and engineering standards, is the date that a complete building permit is submitted consistent with the requirements of BCC 23.05.090.E.

2. Expiration of Vested Status.

a. Clearing and Grading Permit Vested with a Discretionary Permit or Approval. The vested status of a clearing and grading permit with a vesting date established pursuant to paragraph B.1.a above, shall run with the vested status of the underlying land use permit or approval and expire pursuant to the terms of LUC 20.40.500.

b. Clearing and Grading Permit Vested with a Complete Building Permit Application. The vested status of a clearing and grading permit with a vesting date established pursuant to paragraph B.1.b above, shall expire as follows:

i. Before Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the building permit application and expire pursuant to the terms of BCC 23.05.090.H.

ii. After Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the issued building permit and expire pursuant to the terms of BCC 23.05.100.E. The vested status of the clearing and grading permit shall be automatically extended for the life of the building permit. If the building permit expires, or is revoked or cancelled pursuant to BCC 23.05.100 or otherwise, then the vested status of a clearing and grading permit shall also expire, or be revoked or cancelled.

C. Projects Requiring Building Permits and No Prior Discretionary Land Use Permit or Approval.

1. Vesting Date. A clearing and grading permit for a project that requires building permits and no prior discretionary land use permit or approval, shall vest to this chapter, chapter 24.06 BCC, and the corresponding development and engineering standards, on the date that a complete building permit application is submitted consistent with the requirements of BCC 23.05.090.E.

2. Expiration of Vested Status.

a. Before Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the building permit application and expire pursuant to the terms of BCC 23.05.090.H.

b. Post Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the issued building permit and expire pursuant to the terms of BCC 23.05.100.E. The vested status of the clearing and grading permit shall be automatically extended for the life of the building permit. If the building permit expires, or is revoked or cancelled pursuant to BCC 23.05.100 or otherwise, then the vested status of a clearing and grading permit shall also expire, or be revoked or cancelled.

Section 11. Section 23.76.060 of the Bellevue City Code is hereby amended to read as follows:

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

The applicant/permittee shall:

- A. Meet applicable Land Use Code requirements for tree retention and vegetation preservation, disturbance limitation, and new landscaping (including but not limited to LUC 20.20.520, Landscape development; LUC 20.20.900, Tree retention; Chapter 20.25H LUC, Critical Areas Overlay District; and Chapter 20.25E LUC, Shoreline Overlay District, now or as hereafter amended).
- B. Preserve natural vegetation for erosion and sedimentation control and water quality and quantity control as detailed in the clearing and grading development standards.
- C. Follow the methodology in the clearing and grading development standards (or equivalent methodology approved by the director) for preserving/replacing vegetation.
- D. Mark clearing limits in the field prior to clearing.
- E. When clearing activity is interrupted or suspended for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090 and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F.

Section 12. Section 23.76.070 of the Bellevue City Code is hereby amended to read as follows:

**23.76.070 Grading.**

The applicant/permittee shall:

- A. Meet applicable land use code requirements related to grading, filling and excavation; including, but not limited to, chapter 20.25H LUC, the critical areas overlay district and chapter 20.25E LUC, the shoreline overlay district, now or as hereafter amended.
- B. Follow the methodology in the clearing and grading development standards) for any proposed filling or excavation.
- C. Meet applicable minimum requirements set forth in BCC 23.76.090 and 24.06.065, now or as hereafter amended.
- D. When grading activity is interrupted or suspended for any reason, stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090 and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F.

Section 13. Section 23.76.080 of the Bellevue City Code is hereby amended to read as follows:

**23.76.080 Slopes.**

The applicant/permittee shall:

- A. Submit a geotechnical report, prepared by a geotechnical engineer, when required pursuant to the Land Use Code or clearing and grading development standards. The clearing and grading development standards specify when a subsurface investigation is required and the level of investigation and information required in the report;
- B. Minimize clearing and grading on slopes 15 percent or greater and meet the Geologic Hazard Areas performance standards set forth in LUC 20.25H.110(D), When clearing or grading of building sites is interrupted or suspended for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090.E and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F;
- C. Comply with the land use code restrictions applicable to geologic hazard areas (see LUC 20.25H.125, now or as hereafter amended);

- D. Limit the maximum gradient of artificial slopes to no steeper than 2:1 (two feet of horizontal run to one foot of vertical fall) unless a geotechnical engineering report and slope stability analysis is provided and shows that a factor of safety of at least 1.5 for static loads and 1.1 for pseudostatic loads can be met, as demonstrated per the methodology in the clearing and grading development standards;
- E. Perform no clearing, excavation, stockpiling or filling on the potential slide block of an unstable or potentially unstable slope unless it is demonstrated to the director's satisfaction that the activity would not increase the load, drainage, or erosion on the slope;
- F. Perform no clearing, excavation, stockpiling filling on any unstable or potentially unstable areas (such as landslide deposits) unless it is demonstrated to the director's satisfaction that the activity would not increase the risk of damage to adjacent property or natural resources or injury to persons;
- G. Intercept any ground water, subsurface, or surface water drainage encountered on a cut slope and discharge it at a location approved by the director in consultation with the Bellevue utilities department;
- H. Follow the procedures and standards in the clearing and grading development standards related to slopes; and
- I. Design and protect cut and fill slopes to minimize erosion.

Section 14. Section 23.76.088 of the Bellevue City Code is hereby amended to read as follows:

**23.76.088 Subsurface drains.**

Installation of subsurface drains for intercepting groundwater, including footing and wall drains, must comply with the clearing and grading development standards, the provisions of chapter 20.25H LUC, chapter 24.06 BCC, for connections to the storm and surface water system, and all other applicable city of Bellevue regulations, now or as hereafter amended.

Section 15. Section 23.76.090 of the Bellevue City Code is hereby amended to read as follows:

**23.76.090 Erosion and sedimentation control -- Minimum Requirement 2.**

- A. Purpose. The purpose of minimum requirement 2 is to prevent erosion and the discharge of sediment and other pollutants in to the storm and surface water system and receiving waters using appropriate BMPs and site management techniques.
- B. Applicability.

1. Minimum Requirement 2. This section describes requirements for applicants to prepare a construction stormwater pollution prevention plan for new development, redevelopment, and land disturbing activities that meet the thresholds set forth in this chapter and BCC 24.06.065. Applicants and permittees are responsible for preventing erosion and discharge of sediment and other pollutants into the storm and surface water system and receiving waters. The city does not offer erosivity waivers.

2. Applicants and permittees shall comply with all applicable provisions of the Bellevue City Code, rules, standards, and manuals adopted for this chapter and chapter 24.06 BCC including, but not limited to, chapter 24.06 (storm and surface water code) and corresponding engineering standards, Title 20 (Land Use Code), the clearing and grading development standards, any other applicable codes and standards, and the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2005), now or as the provisions are hereafter amended.

3. Exemption. The director may exempt specific projects from the requirements of preparing a CSWPPP when those projects are covered under the Washington State Department of Ecology's Construction Stormwater General Permit and the permittee is fully implementing and in compliance with the requirements of that permit. To apply for this exemption, the applicant must provide with its permit application materials, a copy of the permit coverage letter from the Washington State Department of Ecology, and a copy of the corresponding stormwater pollution prevention plan (SWPPP).

#### C. General Requirements.

1. Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval) that establishes permitted areas of clearing, grading, cutting, and filling. When establishing these permitted clearing and grading areas, significant trees shall be maintained consistent with Title 20 LUC, including, but not limited to, LUC 20.20.520 and 20.20.900, now or as hereafter amended. Consideration should be given to minimizing removal of other trees and minimizing disturbance and/or compaction of native soils except as needed for building purposes.

2. Applicants must prepare and submit a construction stormwater pollution prevention plan (CSWPPP) for all projects that meet the permitting thresholds in BCC 23.76.035 and chapter 24.06 BCC. The CSWPPP shall be implemented beginning with initial soil disturbance and until final stabilization. The permitted clearing and grading areas and any other areas required to preserve critical areas or critical area buffers, native growth protection areas, retained vegetation areas, or tree retention areas as the city may require, shall be delineated on the site plans and the development site.

3. For projects with clearing totaling less than 7,000 square feet and grading less than 100 cubic yards, the CSWPPP may consist of a CSWPPP checklist and a site plan. A turbidity and pH monitoring plan may also be required depending on site characteristics, such as topography, proximity to receiving waters, or critical areas and critical area buffers.

4. Sediment and erosion control BMPs shall be consistent with the BMPs contained in the clearing and grading development standards.

5. Seasonal Work Limitations.

From October 1 through April 30, clearing and grading activities may only be authorized by the city if silt-laden runoff will be prevented from leaving the site through compliance with applicable provisions of BCC 23.76.093. Based on the information provided and/or local weather conditions, the director may expand or restrict the seasonal limitation on site disturbance.

a. The following activities are exempt from the seasonal clearing and grading limitations:

i. Routine maintenance and necessary repair of erosion and sediment control BMPs;

ii. Routine maintenance of public facilities or existing utility structures that do not expose the soil or result in the removal of the vegetative cover to soil; and

iii. Activities where there is one hundred percent infiltration of surface water runoff within the site in approved and installed erosion and sediment control facilities.

b. Clearing, grading, and hauling are not allowed during periods of heavy rain.

D. Construction Stormwater Pollution Prevention Plan (CSWPPP) elements.

The applicant shall include each of the twelve elements below in the CSWPPP and ensure that they are implemented, unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the CSWPPP. The CSWPPP shall include a narrative, drawings, and a turbidity and pH monitoring plan as described in the clearing and grading development standards. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The CSWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project.

1. Preserve Vegetation/Mark Clearing Limits:

a. Before beginning land disturbing activities, including clearing and grading, clearly mark all clearing limits, critical areas and critical area buffers, and trees that are to be preserved within the construction area.

b. The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum degree practicable, and where applicable, meet the requirements of LUC 20.20.520.

2. Establish Construction Access:

a. Construction vehicle access and exit shall be limited to one route, if possible.

b. Access points shall be stabilized with quarry spalls, crushed rock, or other equivalent BMP to minimize the tracking of sediment onto public roads.

c. Wheel wash or tire baths shall be located on site, if the stabilized constructions entrance is not effective in preventing sediment from being tracked onto public roads.

d. If sediment is tracked off site, roads shall be cleaned thoroughly as directed by the city or at a minimum at the end of each day, or more frequently during wet weather. Sediment shall be removed from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area.

e. Street washing is allowed only after sediment is removed in accordance with section 2.d, above. Street wash wastewater shall be controlled by pumping back on site or otherwise be prevented from discharging into the storm and surface water system or receiving waters.

3. Control Flow Rates:

a. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site.

b. Where necessary to comply with section 3.a, above, stormwater retention or detention facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional before construction of site improvements (e.g., impervious surfaces).

c. If permanent infiltration ponds are used for flow control during construction, these facilities should be protected from siltation during the construction phase.

4. Install Sediment Controls:

a. Stormwater runoff from disturbed areas shall pass through a sediment pond, or other appropriate sediment removal BMP, before leaving a construction site or prior to discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but shall meet the flow control performance standard of section 3.a, above.



b. Sediment control BMPs (sediment ponds, traps, filters, etc.) shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land-disturbing activities take place.

c. BMPs intended to trap sediment on site shall be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.

5. Stabilize Soils:

a. Exposed and unworked soils shall be stabilized by application of effective BMPs described in the clearing and grading development standards that prevent erosion.

b. To prevent erosion, no soils should remain exposed and unworked for more than the time periods set forth below:

i. During the dry season (May 1 - September 30): 7 days.

ii. During the wet season (October 1 - April 30): 1 day.

c. The time period may be adjusted by the city, if the permittee can show that local precipitation data justify a different standard.

d. Soils shall be stabilized at the end of the shift before a holiday or weekend, if needed, based on the weather forecast.

e. Soil stockpiles must be stabilized from erosion, protected with sediment trapping measures, and where possible, be located away from the storm and surface water system and receiving waters.

6. Protect Slopes:

a. Comply with applicable provisions of BCC 23.76.080.

b. Design and construct cut and fill slopes to minimize erosion.

c. Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and undisturbed areas with interceptor dikes, pipes, and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.

d. At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion. Temporary pipe slope drains shall handle the expected peak 10-minute flow velocity from a Type 1 A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, 1-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The

hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model to predict flows, bare soil areas should be modeled as "landscaped area."

e. Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

f. Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.

7. Protect Drain Inlets:

a. Storm drain inlets made operable during construction shall be protected so that stormwater runoff does not enter the conveyance system without first being filtered or treated to remove sediment.

b. Inlet protection devices shall be cleaned or removed and replaced when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).

8. Stabilize Channels and Outlets:

a. All temporary on-site conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the following expected peak flows. Channels shall handle the expected peak 10-minute flow velocity from a Type 1 A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, 1-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis shall use the existing land cover condition for predicting flow rates from tributary areas outside the project limits. For tributary areas on the project site, the analysis shall use the temporary or permanent project land cover condition, whichever will produce the highest flow rates. If using the Western Washington Hydrology Model to predict flows, bare soil areas should be modeled as "landscaped area."

b. Stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes, and downstream reaches shall be provided at the outlets of all conveyance systems.

9. Control Pollutants:

a. All pollutants, including waste materials and demolition debris, that occur onsite shall be handled and disposed of in a manner that does not cause contamination of stormwater.

b. Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the

potential to pose a threat to human health or the environment. On-site fueling tanks shall include secondary containment.

c. Maintenance, fueling, and repair of heavy equipment and vehicles shall be conducted using spill prevention and control measures. Contaminated surfaces shall be cleaned immediately following any spill incident.

d. Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the sanitary sewer upon approval by the King County Wastewater Treatment Division and the city's utilities department.

e. Application of fertilizers and pesticides shall be conducted in a manner and at application rates that will not result in loss of chemicals to stormwater runoff. Manufacturers' label requirements for application rates and procedures shall be followed.

f. BMPs shall be used to prevent or treat contamination of stormwater runoff by pH modifying sources. These sources include, but are not limited to: bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, dewatering concrete vaults, concrete pumping and mixer washout waters. Permittees are required to adjust the pH of stormwater if necessary to prevent violations of water quality standards.

g. Permittees are required to obtain written approval from the Washington State Department of Ecology before using chemical treatment other than CO<sub>2</sub> or dry ice to adjust pH. Permittees shall provide the city with a copy of Ecology's written approval before commencing treatment.

#### 10. Control De-Watering:

a. Foundation, vault, and trench de-watering water, which have similar characteristics to stormwater runoff at the site, shall be discharged into a controlled conveyance system prior to discharge to a sediment trap or sediment pond.

b. Clean, non-turbid water from de-watering activities, such as well-point ground water, can be discharged to the storm and surface water system or directly into receiving waters; provided the de-watering flow does not cause erosion or flooding of receiving waters. Clean de-watering water should not be routed through stormwater sediment ponds.

c. Other de-watering disposal options may include: (i) infiltration; (ii) transport offsite in vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute receiving waters; (iii) on-site chemical treatment or other suitable treatment technologies approved by the city; (iv) sanitary sewer discharge upon approval from the King County Wastewater Treatment Division and the city's utilities department, if there is no other option; or (v) use of a sedimentation bag with outfall to a ditch or swale for small volumes of localized de-watering.

d. Highly turbid or contaminated de-watering water shall be handled separately from stormwater.

11. Maintain BMPs:

a. All temporary and permanent erosion and sediment control BMPs shall be inspected, maintained and repaired as needed to assure continued performance of their intended function in accordance with BMP specifications.

b. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed.

12. Manage the Project:

a. Development projects shall be phased to the maximum degree practicable and shall take into account seasonal work limitations.

b. Permittees shall maintain, and repair as needed, all sediment and erosion control BMPs to assure continued performance of their intended function.

c. Permittees are required to periodically inspect their sites. Site inspections shall be conducted by a Certified Erosion and Sediment Control Lead who shall be identified in the CSWPPP and shall be present on-site or on-call at all times.

d. Permittees are required to maintain, update and implement their CSWPPP. Permittees are required to modify their CSWPPP whenever there is a change in design, construction, operation, or maintenance at the construction site that has, or could have, a significant effect on the discharge of pollutants to the storm and surface water system or receiving waters.

E. Additional erosion and sedimentation control requirements.

1. In addition to the 12 CSWPPP elements listed above, the director may impose the following extraordinary BMPs or other additional measures, as appropriate for the project:

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

b. Stopping work if necessary to control erosion and sedimentation; or

c. Constructing additional erosion and sedimentation BMPs.

2. If the initially implemented BMPs do not adequately control pollutants, erosion, and sedimentation, additional BMPs shall be installed, including but not limited to, the extraordinary BMPs described in paragraph (E)(1) above. It is the

permittee's responsibility to ensure sediment or other pollutants do not leave the site and enter the storm and surface water system or receiving waters in an amount that would violate the discharge prohibitions set forth in BCC 24.06.125.

F. Permanent erosion and sedimentation control.

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

2. The permittee must complete the required permanent erosion control within seven days of completed grading unless the weather is unsuitable for transplanting. In that case, the permittee must maintain temporary erosion control until permanent restoration can be completed. The period between work completion and final planting shall not exceed six months without written authorization from the director.

Section 16. Section 23.76.093 of the Bellevue City Code is hereby amended to read:

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

A. Clearing and grading may be permitted to continue or to be initiated during the rainy season, only if the director grants specific approval per subsection C of this section. In determining whether to permit rainy season construction, the director shall consult with the Bellevue utilities department. Such consultation shall occur on a regular basis to ensure consistent implementation of the city's environmental and water quality policies and shall occur as needed regarding individual projects on specific sites.

B. If clearing and grading is prohibited during the rainy season, building construction can nonetheless proceed as long as necessary clearing and grading is complete and effective erosion control is in place and effectively maintained, as described in BCC 23.76.090.

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

1. Whether the clearing and grading is near completion if the project is already underway;

2. Average existing slope of the site;

3. Quantity of proposed cut and/or fill;
4. Classification of the predominant soils and their erosion and runoff potential;
5. Proposed deep utility installation;
6. Hydraulic connection of the site to features, which are sensitive to the impacts of erosion/sedimentation;
7. Ability to phase clearing and grading and to create a feasible clearing and grading schedule;
8. Extent of clearing and grading BMPs proposed, and if the project is underway, the permittee's historical record at controlling erosion and sedimentation.

D. Determinations under subsection C of this section shall be made by the director on a site-specific basis. However, the following limitations apply:

1. Rainy season construction generally will be prohibited for proposals requiring large scale clearing and grading.
2. Rainy season construction generally will be approved for smaller-scale clearing and grading proposals that have limited shallow utility installation and are on sites with less than 15 percent slopes, predominant soils that have low runoff potential, and are not hydraulically connected to sediment/erosion-sensitive features.
3. Rainy season construction generally will be approved if extraordinary BMPs to control erosion/sedimentation and slope stability are proposed and included in the construction stormwater pollution prevention plan and when:
  - a. Moderate scale clearing and grading is proposed;
  - b. The proposal involves deep utility installation; or
  - c. The proposal is located on sites with greater than 15 percent slopes, soils with a high runoff potential, or sites hydraulically near a sediment/erosion-sensitive feature.

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

F. If a clearing and grading permit is issued, and the city subsequently issues three stop work orders (or fewer as provided in the conditions of the project permit)

for insufficient erosion and sedimentation control, the permit will be suspended until the dry season, or, if violations occurred in the dry season, until weather conditions are favorable and effective erosion and sedimentation control is in place. The director may reinstate the permit within 60 days of suspension upon finding that satisfactory erosion and sedimentation control measures will be maintained by the permittee.

G. At any time, the director has the authority to temporarily stop clearing and grading during periods of heavy rain.

H. When clearing and grading is suspended during the rainy season or interrupted at any time of the year due to heavy rain or for other reasons, the permittee shall stabilize the site and maintain the erosion control BMPs. If the city deems a construction site abandoned, the permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F.

Section 17. Section 23.76.095 of the Bellevue City Code is hereby amended to read as follows:

**23.76.095 Dust suppression.**

Dust from clearing, grading, and other construction activities shall be minimized at all times. Impervious surfaces on or near the construction area shall be swept, vacuumed, or otherwise maintained to suppress dust entrainment. Any dust suppressants used shall be approved by the director. Petrochemical dust suppressants are prohibited. Watering the site to suppress dust is also prohibited unless it can be done in a way that keeps sediment out of the storm and surface water system and receiving waters.

Section 18. Section 23.76.100 of the Bellevue City Code is hereby amended to read as follows:

**23.76.100 Control of other pollutants.**

The permittee must properly handle and dispose of other pollutants that are on-site during construction so as to avoid possible health risks or environmental contamination. Direct and indirect discharge of pollutants to the storm and surface water system and receiving waters is prohibited per chapter 24.06 BCC.

Section 19. Section 23.76.120 of the Bellevue City Code is hereby repealed.

Section 20. Section 23.76.140 of the Bellevue City Code is hereby amended to read:

**23.76.140 Abatement security.**

- A. An abatement security device is required for all projects that are not individual single-family homes and that involve more than 5,000 square feet of clearing and/or more than 50 cubic yards of excavation and/or fill. In addition, the director may require an abatement security device for other projects, including individual single-family homes, that can cause problems related to earth and water resources such as erosion and sedimentation or slope instability.
- B. The director shall determine the amount of the abatement security device; it must be sufficient to correct or eliminate problems related to earth or water resources, either on or off-site, caused by project clearing and grading.
- C. The director shall determine acceptable forms (such as assigned savings accounts or letters of credit) for abatement security devices. Interest from any interest-bearing form of the abatement security device shall accrue to the depositor.
- D. Should the city, at any time during the life of the permit, find it necessary to expend any portion of the abatement security device to correct any work not in accordance with the approved plans, or abate conditions, per chapter 1.18 BCC, a stop work order shall be issued to the permittee prohibiting any additional work until the permittee re-establishes the original amount of the security and implements more rigorous erosion control BMPs to prevent reoccurrences of the problem. If the city uses any of the abatement security, it shall give the permittee an itemized statement of all funds used. If city costs exceed the amount of the abatement security, the permittee shall reimburse the city for the excess costs.
- E. The city shall release the abatement security device once final clearing and grading approval has been given per BCC 23.76.180.
- F. If at any time the city manager determines that clearing and/or grading associated with an abatement security device has created an emergency situation endangering the public health, safety, or welfare, creating a potential liability for the city, or endangering city streets, utilities, or property; the city may use the abatement security device to correct the emergency situation. The city may have city employees or a contractor working under the city's direction do the work or make the improvements. If the city uses the abatement security device as provided by this section, the permittee shall be notified in writing within four days of the commencement of emergency work. The notice must state the work that was completed and the nature or timing of the emergency that necessitated the use of the abatement security device without prior notification.

Section 21. Section 23.76.160 of the Bellevue City Code is hereby amended to read:

**23.76.160 Project inspections – City access.**

- A. All projects with a clearing and grading permit are subject to city inspections to ensure compliance with the permit. As a condition of permit issuance, the applicant



must grant right of entry for such inspections and city emergency corrective measures.

B. At a minimum, city inspections are required before clearing, grading, or construction and during construction to verify proper installation and maintenance of required erosion and sediment controls, and upon completion of construction. The director will specify other stages of work when city inspection is required. The director may also require inspection and testing by an approved testing agency, to be paid by the applicant.

C. The director shall specify inspection and testing requirements applicable to a given project prior to permit issuance; however, the director may require additional inspection, testing, or professional analysis and recommendations when conditions exist that were not covered in the permit application documents or were not sufficiently known at the time of permit issuance.

D. The permittee must give the director at least 24 hours of advance notice prior to needed inspections. Inspections will be scheduled for the next working day after receiving the request, except if the notice is received on Friday, the inspection will be scheduled for Tuesday. If the city does not inspect the project within eight working hours of the scheduled inspection time, the permittee may proceed, but must still comply with all permit conditions and the requirements of this chapter.

Section 22. Section 23.76.170 of the Bellevue City Code is hereby amended to read as follows:

**23.76.170 Responsibility for damage arising from clearing and grading activities.**

The permittee or property owner shall bear the costs of measures needed to correct damage caused by clearing and grading activities, including impacts to the storm and surface water system. The permittee is required to correct on-site or off-site damages that are caused by the project per the direction of the director and within the time specified in the director's written correction notice. Otherwise, the city, or a contractor working under the direction of the city, shall do so using the abatement security device, or other remedies available under chapter 1.18 BCC. If no abatement security device was provided, the city will provide an invoice to the permittee or property owner that must be paid in 30 days, or otherwise undertake enforcement action under chapter 1.18 BCC.

Section 23. Section 23.76.175 of the Bellevue City Code is hereby amended to read as follows:

**23.76.175 Permit revocation.**

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

- A. The permittee requests such revocation or suspension;
- B. The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this chapter or other city ordinances;
- C. Entry upon the property for the purpose of investigation or inspection has been denied;
- D. The permittee has made a misrepresentation of a material fact in applying for such permit;
- E. The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, the street, critical areas or critical area buffers, receiving waters, the storm and surface water system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, critical areas or critical area buffers, receiving waters, the storm and surface water system or other utilities; or
- F. The permit has not been acted upon or extended within the time allowed pursuant to BCC 23.76.045.B.

Section 24. Section 23.76.190 of the Bellevue City Code is hereby amended to read as follows:

**23.76.190 Violations – Penalties.**

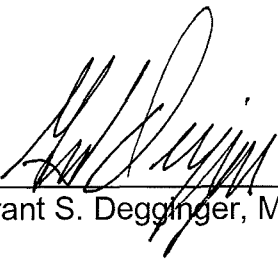
- A. Violations of this chapter are detrimental to the public health, safety, and welfare.
- B. Civil Violation. Any violation of any of the provisions of this chapter constitutes a civil violation as provided for in BCC 1.18.075, for which a monetary penalty may be assessed and abatement may be required as provided therein.
- C. Destruction of Notice. It shall be unlawful for any person to remove, mutilate, destroy, or conceal any notice issued and posted by the director pursuant to this chapter.

Section 25. 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 26. This ordinance shall take effect on January 1, 2010; provided section 10 of this ordinance shall take effect and be in force thirty (30) days after passage and legal publication.

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

(SEAL)

  
\_\_\_\_\_  
Grant S. Degginger, Mayor

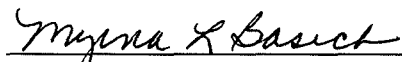
Approved as to form:

Lori M. Riordan, City Attorney



\_\_\_\_\_  
Lacey Madche, Assistant City Attorney

Attest:



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Myrna L. Basich, City Clerk

Published October 8, 2009