

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6321

AN ORDINANCE amending Chapter 24.06 of the Bellevue City Code, specifically amending sections 24.06.040, 24.06.045, 24.06.060, 24.06.065, 24.06.080, 24.06.125; 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 ("NPDES") Phase II Western Washington Municipal Stormwater Permit ("Phase II Permit" or "Permit"), issued August 1, 2012, and modified on January 16, 2014, 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 that include the minimum requirements contained in Appendix 1 of the Permit or equivalent to relevant portions of Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, ("Ecology's Manual"), which went into effect on January 16, 2015 as an update to Ecology's 2005 Stormwater Manual; and

WHEREAS, this Ordinance also contains amendments, initiated by the City and beyond the requirements of the Permit, related to which includes housekeeping and other conformance amendments, which are necessary to more effectively implement the mandatory Permit requirements, ensure consistency with Ecology's Manual, provide efficient and predictable review for project applicants and other stakeholders, 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; now, therefore; and

WHEREAS, the City has complied with the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, and the City's Environmental Procedures Code, chapter 22.02 BCC, through incorporation by reference of the Determination of Nonsignificance issued for the Low Impact Development Principles Project on July 7, 2016 and through application of the SEPA exemption for procedural actions allowed by WAC 197-11-800(19), now, therefore,

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

Section 1. Section 24.06.040.A – A Definitions of the Bellevue City Code is hereby amended to read as follows:

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. The term generally includes roads or streets considered collectors. It does not include local access roads which are generally limited to providing access to abutting property. See also RCW 35.78.010 and RCW 47.05.021. 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.

Section 2. Section 24.06.040.B – B Definitions of the Bellevue City Code is hereby amended to read as follows:

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 Practices (BMP)” means the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices approved by Ecology that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State.

“Bioretention” means engineered facilities that treat stormwater by passing it through a specified soil profile, and either retain or detain the treated stormwater for flow attenuation. Refer to the SWMMWW, Chapter 7 of Volume V for Bioretention BMP types and design specifications.

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

Section 3. Section 24.06.040.C – C Definitions of the Bellevue City Code is hereby amended to read as follows:

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 Washington State Department of Ecology (Ecology) (see BMP C160 in the SWMMWW). A CESCL is knowledgeable in the principles 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 an Ecology approved erosion and sediment control course.

“Commercial Agriculture” means those activities conducted on lands defined in RCW 84.34.020(2) and activities involved in the production of crops or livestock for commercial trade. An activity ceases to be considered commercial agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

“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.

“Converted vegetation (areas)” means the surfaces on a project site where native vegetation, pasture, scrub/shrub, or unmaintained non-native vegetation (e.g., Himalayan blackberry, scotch broom) are converted to lawn or landscaped areas, or where native vegetation is converted to pasture.

“Conveyance system” means the drainage facilities, both natural and man-made, which collect, contain, and provide for the flow of surface and stormwater from the highest points on the land down to a receiving water. The natural elements

of the conveyance system include swales and small drainage courses, streams, rivers, lakes, and wetlands. The human-made elements of the conveyance system include gutters, ditches, pipes, channels, and most retention/detention facilities.

Section 4. Section 24.06.040.D – D Definitions of the Bellevue City Code is hereby amended to read as follows:

**D. Definitions.**

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

“Direct facilities charge” refers to a connection charge for utility-funded facilities that directly benefit a property. Stormwater direct facilities charges shall be applied as specified in BCC 24.06.110.

“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.

“Drainage System” Refer to the definition of “storm and surface water system.”

Section 5. Section 24.06.040.E – E Definitions of the Bellevue City Code is hereby amended to read as follows:

**E. Definitions.**

“Effective impervious surface” means those impervious surfaces that are connected via sheet flow or discrete conveyance to a drainage system. Impervious surfaces are considered ineffective if: 1) the runoff is dispersed through at least one hundred feet of native vegetation in accordance with BMP T5.30 – “Full Dispersion” as described in Chapter 5 of Volume V of the SWMMWW; 2) residential roof runoff is infiltrated in accordance with Downspout Full Infiltration Systems in BMP T5.10A in Volume III of the SWMMWW; or 3) approved continuous runoff modeling methods indicate that the entire runoff file is infiltrated.

“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 Chapter 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.

“Erodible or leachable materials” means wastes, chemicals, or other substances that measurably alter the physical or chemical characteristics of runoff when exposed to rainfall. Examples include erodible soils that are stockpiled, uncovered process wastes, manure, fertilizers, oily substances, ashes, kiln dust, and garbage dumpster leakage.

Section 6. Section 24.06.040.H – H Definitions of the Bellevue City Code is hereby amended to read as follows:

#### H. Definitions.

“Hard Surface” means an impervious surface, a permeable pavement, or a vegetated roof.

“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; it encompasses depth, frequency, duration and seasonal pattern of inundation.

Section 7. Section 24.06.040.I – I Definitions of the Bellevue City Code is hereby amended to read as follows:

#### I. Definitions.

“Illicit connection” means any infrastructure connection to the MS4 that is not intended, permitted or used for collecting and conveying stormwater or non-stormwater discharges allowed as specified in the NPDES permit (S5.C.3 and S6.D.3). Examples include, but are not limited to, sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the MS4.

“Illicit discharge” or otherwise referred to as a “prohibited discharge” means any discharge to the MS4 that is not composed entirely of stormwater or of non-stormwater discharges allowed as specified in the NPDES permit (S5.C.3 and S6.D.3).

“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 non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated 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 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.

Section 8. Section 24.06.040.L – Definitions of the Bellevue City Code is hereby amended to read as follows:

L. Definitions.

“Land disturbing activity” means any activity that results in 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, including landscape maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

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

“Low Impact Development (LID)” means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

“LID Best Management Practices” means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

“LID Principles” means land use management strategies that emphasize conservation, use of on-site natural features, and site planning to minimize impervious surfaces, native vegetation loss, and stormwater runoff.

Section 9. Section 24.06.040.M – M Definitions of the Bellevue City Code is hereby amended to read as follows:

#### M. Definitions.

“Maintenance” means repair and maintenance activities conducted on currently serviceable structures, facilities, and equipment that involve no expansion or use beyond that previously existing, and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse or cessation in the use of structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed. One example is the replacement of a collapsed, fish blocking, round culvert with a new box culvert under the same span, or width, of roadway. In regard to stormwater facilities, maintenance includes assessment to ensure ongoing proper operation, removal of built up pollutants (i.e. sediments), replacement of failed or failing treatment media, and other actions taken to correct defects as identified in the maintenance standards of Chapter 4, Volume V of the SWMMWW. See also Pavement Maintenance exemptions in Section 1 of Appendix 1 of the Western Washington Phase II Municipal Stormwater Permit.

"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 paragraph 402(p)(3)(B)(iii) of the federal Clean Water Act, now or as hereafter amended, which reads as follows: Permits for discharges from municipal storm sewers shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design, and engineering methods, and other such provisions as the [utility] or the State 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 stormwater management for development and redevelopment as required by the NPDES permit.

"Municipal separate storm sewer system," or "MS4," is a regulated municipal storm utility system as defined in the Western Washington Phase II Municipal Stormwater Permit.

Section 10. Section 24.06.040.N – N Definitions of the Bellevue City Code is hereby amended to read as follows:

#### 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 sections 307, 402, 318, and 405 of 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 NPDES permits and, in Washington State, are administered by the Washington State Department of Ecology.

"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 hard 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.

"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.

Section 11. Section 24.06.040.O – O Definitions of the Bellevue City Code is hereby amended to read as follows:

O. Definitions.

"On-site Stormwater Management BMPs" is a synonym for Low Impact Development BMPs.

Section 12. Section 24.06.040.P – P Definitions of the Bellevue City Code is hereby amended to read as follows:

P. Definitions.

"Permeable pavement" means pervious concrete, porous asphalt, permeable pavers or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

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

"Pervious Surface" means any surface material that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

"Pollution" means the contamination or other alteration of the physical, chemical, or biological properties, of waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state 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.

“Pollution-generating hard surface (PGHS)” means those hard surfaces considered to be a significant source of pollutants in stormwater runoff. See the listing of surfaces under pollution-generating impervious surface.

“Pollution-generating impervious surface (PGIS)” means those impervious surfaces considered to be a significant source of pollutants in stormwater runoff. Such surfaces include those which are subject to: vehicular use, industrial activities (as further defined in the glossary of Volume I of the SWMMWW); storage of erodible or leachable materials, wastes, or chemicals, and which receive direct rainfall or the run-on or blow-in of rainfall; metal roofs unless they are coated with an inert, non-leachable material (e.g., baked-on enamel coating); or roofs that are subject to venting significant amounts of dusts, mists, or fumes from manufacturing, commercial, or other indoor activities.

“Pollution-generating pervious surface (PGPS)” means any non-impervious surface subject to vehicular use, industrial activities (as further defined in the glossary of the SWMMWW); or storage of erodible or leachable materials, wastes, or chemicals, and that receive direct rainfall or run-on or blow-in of rainfall, use of pesticides and fertilizers, or loss of soil. Typical PGPS include permeable pavement subject to vehicular use, lawns, landscaped areas including: golf courses, parks, cemeteries, and sports fields (natural and artificial turf).

“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 hard surfaces, or replaced hard 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.

Section 13. Section 24.06.040.R – R Definitions of the Bellevue City Code is hereby amended to read as follows:

#### R. Definitions.

"Rain Garden" means a non-engineered shallow landscaped depression, with compost-amended native soils and adapted plants. The depression is designed to pond and temporarily store stormwater runoff from adjacent areas, and to allow stormwater to pass through the amended soil profile.

Receiving waterbody or Receiving waters" are bodies of water or surface water systems to which surface runoff is discharged via a point source of stormwater or via sheet flow. Ground water to which surface runoff is directed by infiltration.

"Redevelopment" means, on a site that is already substantially developed (i.e., has 35 percent or more existing hard surface coverage), the creation or addition of hard 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 hard surface that is not part of a maintenance activity; and land disturbing activities.

"Replaced hard surface" means, for structures, the removal and replacement of hard surfaces down to the foundation. For other hard surfaces, the removal down to bare soil or base course and replacement.

**“Replaced impervious surface”** means, for structures, the removal and replacement of impervious surfaces down to the 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 stormwater runoff.

**“Runoff treatment BMPs”** means BMPs that are intended to remove sediment and other pollutants from stormwater runoff.

Section 14. Section 24.06.040.S – S Definitions of the Bellevue City Code is hereby amended to read as follows:

**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 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 coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollution. The SWMMWW separates source control BMPs into two types. **“Structural Source Control BMPs”** are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. **“Operational BMPs”** are non-structural practices that prevent or reduce pollutants from entering stormwater.

**“Standard Operating Procedure”** or **“SOP”** Refer to the definition of **“procedure.”**

**“Storm and surface water system plan”** (or a similarly titled document) means the latest version of the city’s storm and surface water system 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 those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the passage of water and includes, but is not limited to, indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction. Those topographic features that resemble streams but have no defined channels (i.e., swales) shall be considered streams when hydrologic and hydraulic analyses done pursuant to a development proposal predict formation of a defined channel after development. The definition of “stream” set forth herein is limited to application and enforcement of this code and does not apply to other city codes and standards.

“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. “Structure” can also mean a catchbasin or manhole in reference to a storm drainage system.

“SWMMWW” means the Washington State Department of Ecology 2012 Stormwater Management Manual for Western Washington (as amended in 2014) (now or hereafter amended).

Section 15. Section 24.06.040 T – T Definitions of the Bellevue City Code is hereby amended to read as follows:

T. Definitions.

“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 SWMMWW for additional information.

Section 16. Section 24.06.040.V – V Definitions of the Bellevue City Code is hereby amended to read as follows:

V. Definitions.

“Vehicular Use” means regular use of an impervious or pervious surface by motor vehicles. The following are subject to regular vehicular use: roads, un-vegetated road shoulders, bike lanes within the traveled lane of a roadway, driveways, parking lots, unrestricted access fire lanes, vehicular equipment storage yards, and airport runways.

The following are not considered subject to regular vehicular use: paved bicycle pathways separated from and not subject to drainage from roads for motor vehicles, restricted access fire lanes, and infrequently used maintenance access roads.

Section 17. Section 24.06.040.W – W Definitions of the Bellevue City Code is hereby amended to read as follows:

**W. Definitions.**

“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.

Section 18. Section 24.06.045 of the Bellevue City Code is hereby amended to read as follows:

**24.06.045 Authority of the utility.**

The utility, by and through its director, 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 third 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 stormwater 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 stormwater 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 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 known violation of the city's municipal stormwater 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 BCC Title 20 and Chapters 1.18 and 23.76 BCC.

Section 19. Section 24.06.060.A – General Requirements of the Bellevue City Code is hereby amended to read as follows:

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 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 is governed by and subject to the vesting provisions contained in BCC 23.76.045.

Section 20. Section 24.06.060.B – Drainage Connection Permit of the Bellevue City Code is hereby amended to read as follows:

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 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.

Section 21. Section 24.06.065 of the Bellevue City Code is hereby amended to read as follows:

**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 SWMMWW, engineering standards, Chapter 23.76 BCC (Clearing and Grading Code), BCC Title 20, and any other applicable codes or standards.

**B. Exemptions.** Unless otherwise indicated in Appendix 1, Section 1 of the Western Washington Phase II Municipal Stormwater Permit, the practices described in Appendix 1, Section 1 are exempt from the Minimum Requirements, even if such practices meet the definition of new development or redevelopment.

**C. Exceptions/Variations.**

1. The director may approve a request for an Exception/Variance (exceptions) to the Minimum Requirements when the applicant demonstrates that the exception will not increase risk to the public health

and welfare, nor be injurious to other properties in the vicinity and/or downstream, and to the quality of waters of the state, and the exception is the least possible exception that could be granted to comply with the intent of the Minimum Requirements, 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 (C)(7) of this section;
  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, and;
- b. How application of the Minimum Requirement(s) restricts the proposed use of the site compared to the restrictions that existed prior to adoption of the Minimum Requirements of this section, and;
- c. The possible remaining uses of the site if the exception were not granted, and;
- d. The uses of the site that would have been allowed prior to the adoption of the Minimum Requirements of this section, and;
- e. A comparison of the estimated amount and percentage of value loss as a result of the Minimum Requirements versus the estimated amount and percentage of value loss as a result of requirements that existed prior to adoption of the Minimum Requirements of this section; and
- f. The feasibility of the applicant to alter the project to apply the Minimum Requirements of this section;

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 Adjustments to the Minimum 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 prior to implementation. The request shall be in writing and shall provide facts substantiating the requirements of subsection (D)(1) of this section and, if made during construction, the factors in subsection (D)(2) of this section. 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. All new development shall comply with Minimum Requirement #2 as set forth in this section and Chapter 23.76 BCC;

2. The thresholds used to determine the applicability of the Minimum Requirements to new development are as specified in Appendix 1, Section 3.2 of the Western Washington Phase II Municipal Stormwater Permit

**F. Redevelopment – Thresholds.**

1. All redevelopment shall comply with Minimum Requirement #2 as set forth in this section and Chapter 23.76 BCC;

2. The thresholds and additional requirements used to determine the applicability of the Minimum Requirements to redevelopment are as specified in Appendix 1, Sections 3.3 and 3.4 of the Western Washington Phase II Municipal Stormwater Permit.

**G. Minimum Requirements.** The Minimum Requirements for stormwater management at new development and redevelopment sites are as specified in Appendix 1, Section 4 of the Western Washington Phase II Municipal Stormwater Permit, the SWMMWW, and supplemented by engineering standards where applicable. The following requirements also supplement the Minimum Requirements:

1. Construction Stormwater 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;

2. Flow Control (MR7). Flow control is not required for properties within the Meydenbauer Drainage Basin to the extent provided for in Ordinance No. 3372.

Section 22. Section 24.06.080.G – Agreement Duration of the Bellevue City Code is hereby amended to read as follows:

G. Agreement Duration. Latecomer agreements may be in effect for 20 years, or for a longer period if extended in accordance with RCW 35.91.020, following the utility's acceptance of the drainage facility.

Section 23. Section 24.06.125.F – Discharge of Pollutants of the Bellevue City Code is hereby amended to read as follows:

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'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.

Section 24. 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.

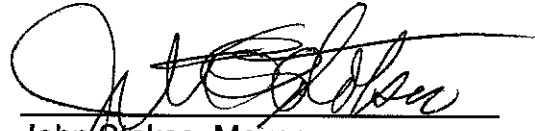
Section 25. This ordinance shall take effect on December 31, 2016.

**ORIGINAL**


1555-ORD  
11/21/2016

Passed by the City Council this 21<sup>st</sup> day of November, 2016  
and signed in authentication of its passage this 23<sup>rd</sup> day of November,  
2016.

(SEAL)

  
\_\_\_\_\_  
John Stokes, Mayor

Approved as to form:  
Lori M. Riordan, City Attorney

  
\_\_\_\_\_  
Catherine A. Drews, Assistant City Attorney

Attest:

  
\_\_\_\_\_  
Kyle Stannert, City Clerk

Published 11-25-2016