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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3339

AN ORDINANCE adopting a Storm and Surface Water Utility Inspection and Maintenance Code; establishing a program for the inspection of storm and surface water control and detention facilities; providing for abatement of violations of this ordinance and the Utility Standards and Regulations; providing for civil and criminal penalties for such violations; establishing an appeal procedure; adding a new Chapter 24.08 to the Bellevue City Code; adding a new section to Ordinance No. 3262 and Chapter 3.40 of the Bellevue City Code; and amending Ordinance No. 2090 Section 1 (part), as amended by Ordinance No. 2427, and BCC 9.10.020.

WHEREAS, by Ordinance No. 2429 as amended, the Storm and Surface Water Utility of the City of Bellevue established rate classifications and service charges for all real property in the City of Bellevue; and

WHEREAS, said rate classification and service charge schedule recognizes that those properties which have provided for the construction and maintenance of storm and surface water control or detention facilities thereon have a hydrologic response substantially similar to properties of a lower classification of intensity of development, and should therefore be billed at a corresponding rate by adjustment of the intensity of development classification of said properties; and

WHEREAS, the City of Bellevue's storm and surface water drainage system is planned, designed and operated to handle runoff flows based on the proper construction, maintenance and operation of private drainage systems connecting thereto; and

WHEREAS, it is in the public interest to have said private drainage systems maintained to facilitate the proper functioning of the City's storm and surface water drainage system and to provide good water quality within the City of Bellevue; and

WHEREAS, it is necessary that the City provide for the inspection of all storm and surface water drainage facilities; and

WHEREAS, it is necessary that standards and regulations for the operation, maintenance, and repair of said storm and surface water drainage facilities be enforced; and

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WHEREAS, it is necessary that the City provide for civil and criminal penalties for violations of said standards and regulations and provide a procedure for the abatement of such violations; now, therefore,

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

Section 1. A new Chapter 24.08 is hereby added to the Bellevue City Code, to read as follows:

24.08.010. Title. This Chapter shall be known as the Storm and Surface Water Inspection and Maintenance Code. It shall be referred to herein as the "Code."

24.08.020. Purpose. It is the purpose of the Code to:

- A. Provide for the inspection and regulation of public or private storm and surface water system control or detention facilities in order to provide for a proper functioning City Storm and Surface Water Drainage System and to protect the public health, safety and welfare.
- B. Authorize the Storm and Surface Water Utility to inspect storm and surface water system control and detention facilities and to require owners of such systems to maintain, operate and repair such systems in conformity with the Code and the Utility Standards and Regulations.

24.08.030. Definitions. The following words when used herein shall have the meanings indicated unless the context clearly indicates otherwise.

- A. Director shall mean the Director of the Storm and Surface Water Utility or his/her authorized representative.
- B. Utility shall mean the Storm and Surface Water Utility of the City of Bellevue.
- C. Utility Standards and Regulations shall mean any standard, regulation, rule, design criteria, requirement or specification adopted by the City Council pertaining to the construction, operation, maintenance or repair of storm and surface water system control or detention facilities.
- D. Storm and surface water system shall mean the entire system within the boundaries of the City of Bellevue's

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service area for the movement and detention of storm and surface water, regardless of ownership or control, and including both naturally occurring and man-made facilities.

- E. Detention facilities shall mean public or private storm and surface water system control or detention facilities.
- F. Person shall mean any natural person or persons, and any corporation, partnership, association or other legal entity recognized as such by the laws of the State of Washington.

24.08.040. Compliance. Each owner or person responsible for the maintenance, operation or repair of detention facilities within the City of Bellevue shall maintain, operate and repair said detention facilities in compliance with the requirements of this Code and in compliance with the Utility Standards and Regulations.

24.08.050. Inspection Program. The Director is directed and authorized to develop an inspection program for all detention facilities within the City of Bellevue.

24.08.060. Inspection. The Director, whenever implementing the provisions of the Utility's inspection program or whenever he/she has cause to believe that a violation of this Code or the Utility Standards and Regulations has been or is being committed, is authorized to inspect during regular working hours and at other reasonable times all detention facilities within the City of Bellevue to determine compliance with the provisions of this Code and the Utility Standards and Regulations.

24.08.070. Procedure. Prior to making any inspection, the Director shall present identification credentials, state the reason for the inspection, and request entry.

- A. If said property or any building or structure on said property is unoccupied, he/she shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portion thereof and request entry.
- B. If after reasonable effort, the Director is unable to locate the owner or such other person(s) having charge or control of the property, and he/she has reason to believe the condition of the detention facility creates

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an imminent hazard to persons or property, he/she may make entry.

- C. Unless entry is consented to by the owner or person(s) in control of said property or portion thereof or unless conditions are reasonably believed to exist which create an imminent hazard, the Director, prior to entry, shall obtain a search warrant as authorized by the laws of the State of Washington.
- D. The Director may inspect the detention facility without obtaining a search warrant pursuant to Subsection 24.08.070(C) if said inspection can be conducted while he/she remains on public property or on other property on which he/she has permission to be.

24.08.080. Public Nuisance. The Director may order the abatement of any detention facility or condition thereof constituting a violation of this Code or of the Utility Standards and Regulations where such detention facility or condition thereof has been declared to be a public nuisance pursuant to BCC 9.10.020. Whenever such a public nuisance is declared pursuant to BCC 9.10.020 the Director shall issue a notice, by certified mail, pursuant to BCC 9.10.050, directing abatement within ten (10) days after receipt of said notice. If the required corrective work is not completed within the time specified, the Director may proceed to abate the violation pursuant to BCC 9.10.060. Summary abatement may be commenced without notice whenever the provisions of BCC 9.10.080 are applicable.

24.08.090. Abatement Proceedings - Legal Relief. Notwithstanding the existence or use of any other remedy, the Director may seek legal or equitable relief to enjoin any acts or practices which constitute a violation of this Code or the Utility Standards and Regulations or to abate any conditions which constitute a public nuisance pursuant to Section 24.08.080.

24.08.100. Adjustment of Development Classification. In the event any person, whose property has previously been provided with a reduced intensity of development classification as the result of the existence of a detention facility on said property, refuses to allow the Director to inspect said detention facility or commits a violation of this Code or the Utility Standards and Regulations, the Director may adjust the intensity of development classification for said property and the billing rate for said property. Whenever the Director

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shall make such an adjustment, a notice and order of adjustment shall be mailed to the owner of said property by certified mail.

24.08.110. Notice and Order. Whenever the Director determines that any detention facility is in violation of this Code or of the Utility Standards and Regulations, he/she may issue a notice and order of violation with a correction schedule to either the owner or operator of the source of the violation, the person in possession or control of the property where the violation originates, or the person otherwise causing or responsible for the violation. The notice and order shall be sent to such person by certified mail and shall contain:

- A. The street address, when available, and a description of the property sufficient for identification of where the violation occurred or is located;
- B. A statement specifying the nature of the violation and citing the provision of this Code or of the Utility Standards and Regulations violated;
- C. A statement of the corrective action required to be taken. The notice and order shall provide that all required permits be secured and the work completed within such time as the Director determines is reasonable;
- D. A statement advising that i) if any required work is not completed within the time specified a civil penalty in the amount authorized by Section 24.08.120 may be assessed; and ii) if any assessment is not paid the Director will initiate action in Superior Court to collect such assessment.
- E. A statement advising that the notice and order shall become final and binding, unless, no later than 10 days after the notice and order is received, any person aggrieved by the notice and order files an appeal with the Utility.

24.08.120. Civil Penalty. Whenever the Director determines that any person, who has been issued a notice and order pursuant to Section 24.08.110, has not completed any corrective action required by the Director pursuant to said notice and order within the time period specified in such notice and order, the Director shall assess a civil penalty of

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not more than \$500 a day for every day the violation has existed beyond the date provided for corrective action to have been completed. A notice and order of penalty assessment shall be sent by certified mail to such person along with a copy of the previous notice and order issued pursuant to Section 24.08.110.

24.08.130. Board of Appeals. The Storm and Surface Water Advisory Commission, as established by Resolution No. 2802 and as empowered by B.C.C. 3.40.050, shall act as a Board of Appeals. Any person aggrieved by any notice and order of change in rate issued pursuant to Section 24.08.100, by a notice and order of violation issued by the Director pursuant to Section 24.08.110, or by a notice and order of penalty assessment issued pursuant to Section 24.08.120, may appeal such notice and order to the Board of Appeals by filing said appeal with the Utility. Any appeal must be received by the Utility within 10 calendar days of receipt of the notice and order or said notice and order shall be deemed final and binding. A notice is deemed received three days after mailing.

24.08.140. Appeal - Hearing. Upon receiving an appeal, the Utility shall forward such appeal to the Board of Appeals. The Board of Appeals shall then set a date for the hearing of the appeal. The parties to the appeal are the appellant and the Utility. The Board of Appeals is authorized to establish procedures for the processing of such appeals and the conduct of its hearings.

24.08.150. Appeal - Determination. The Board of Appeals shall make its determination based on the record before it. In making its decision, the Board of Appeals shall state for the record the basis for its decision or, in the alternative, may elect to issue a written decision.

24.08.160. Final Determination. Decisions of the Board of Appeals shall be final and binding.

24.08.170. Misdemeanor. Any person who willfully or knowingly violates the provisions of this Code or of the Utility Standards and Regulations or who modifies or tampers with any detention facility, or part thereof, such as to render it out of compliance with this Code or the Utility Standards and Regulations or by each act of commission or omission procures, aids or abets such violation, is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500 and/or imprisonment in the County jail for a term not to exceed 90 days. Each day such violation

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continues shall be considered an additional misdemeanor offense.

24.08.180. Collection of Penalties. Any civil penalty assessed pursuant to Section 24.08.120 of this Code which is not timely appealed or becomes final after determination by the Board of Appeals pursuant to Section 24.08.100 shall be paid to the Director within ten days of receipt of demand for such payment. In the event payment is not made, an action for recovery of said assessment shall be brought in Superior Court. Any costs incurred in collecting said assessment, including attorney fees, shall be paid by the person owing the outstanding assessment.

Section 2. Ordinance No. 3262 and Chapter 3.40 of the Bellevue City Code is hereby amended by adding the following new section.

3.40.065. Civil penalties and change in billing rate --
Appeal.

Any person aggrieved by any notice and order of the Director of the Storm and Surface Water Utility issued pursuant to BCC 24.08.100, BCC 24.08.110, or BCC 24.08.120 may appeal such determination to the Board of Appeals.

Section 3. Ordinance No. 2090 Section 1 (part), as amended by Ordinance No. 2427 and BCC 9.10.020 are hereby amended by the addition of the following Subsection R:

9.10.020 Types of Nuisances.

Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the enforcement officer determines that any of these conditions exist upon any premises or in any lake, river, stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter:

R. The existence of any condition of a storm or surface water system control or detention facility such as to cause such detention facility to be in violation of any provision of Chapter 24.08 of the Bellevue City Code or of the Storm and Surface Water Utility Standards and Regulations as defined in BCC 24.08.030(C) where such violation in any way interferes with the proper operation and functioning of the City's Storm and Surface Water Drainage System.

Section 4. Severability. If any one or more sections, subsections

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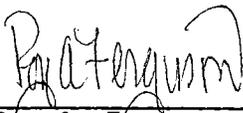
or sentences of this Code are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Code and the same shall remain in full force and effect.

Section 5. In the event of any conflict with any provision of this Code by any prior Code, ordinance, resolution, or regulation adopted by the City, the provision of this Code shall prevail.

Section 6. This ordinance shall take effect and be in force thirty days after final passage by the Council.

PASSED by the City Council this 19th day of December, 1983, and signed in authentication of its passage this 19th day of December 1983.

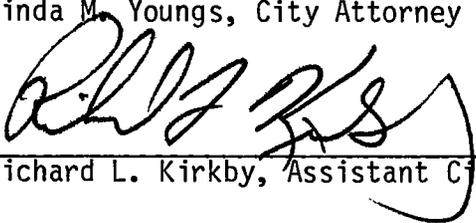
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Roy A. Ferguson, Mayor

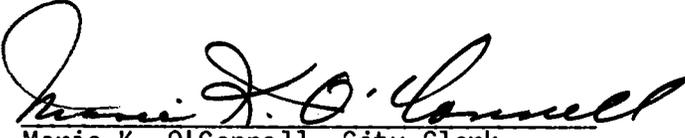
Approved as to form:

Linda M. Youngs, City Attorney



Richard L. Kirkby, Assistant City Attorney

Attest:



Marie K. O'Connell, City Clerk

Published December 24, 1983