

WP0430C-ORD
03/30/95

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4754

AN ORDINANCE repealing Chapter 23.76 of the Bellevue City Code (the Clearing and Grading Code); and adopting a new Chapter 23.76 to implement the City's current practices for clearing and grading, meet the goals of the Comprehensive Plan, and implement the requirements of the Stormwater Management Manual for the Puget Sound Basin.

WHEREAS, the City of Bellevue adopted an updated Comprehensive Plan on December 6, 1993; and

WHEREAS, the Environmental Element of the Plan sets forth the goal of integrating the natural and built environments to create a sustainable urban habitat with clean air and water, habitat for wildlife, and comfortable and secure places for people to live and work; and

WHEREAS, the State Department of Ecology and the Puget Sound Water Quality Authority published the Storm Water Management Manual for the Puget Sound Basin, which mandates certain minimum standards and sets forth Best Management Practices for stormwater and erosion control; and

WHEREAS, the City has adjusted its practices under the existing Clearing and Grading Code to better achieve the purposes of the Code, but has not significantly updated the Code since its enactment in 1979; and

WHEREAS, the City has complied with the Environmental Procedures Code and the State Environmental Policy Act, now, therefore,

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

Section 1. Chapter 23.76 of the Bellevue City Code (Clearing and Grading Code) is hereby repealed.

Section 2. A new Chapter 23.76 of the Bellevue City Code is hereby adopted as follows:

Chapter 23.76
Clearing and Grading Code

- 23.76.005 Purpose
- 23.76.015 Definitions
- 23.76.025 Permit Requirements
- 23.76.030 Permit Issuance
- 23.76.035 Expiration of Permits and Applications
- 23.76.040 Related Codes and Regulations
- 23.76.050 Conditions of Approval/Project Denial
- 23.76.060 Clearing: Vegetation Preservation and Replacement
- 23.76.070 Grading
- 23.76.080 Slopes
- 23.76.085 Rockeries
- 23.76.090 Erosion and Sedimentation Control
- 23.76.093 Temporary Restrictions on Clearing and Grading
- 23.76.095 Dust Suppression
- 23.76.100 Control of Other Pollutants
- 23.76.110 Construction Phasing and Work Progress
- 23.76.120 Maintenance
- 23.76.140 Abatement Security
- 23.76.150 Responsibility to Have Permit
- 23.76.160 Project Inspections/City Access
- 23.76.170 Stop Work Orders and Corrective Actions
- 23.76.175 Permit Revocation
- 23.76.180 Final Approval
- 23.76.185 As-Built Plans
- 23.76.190 Violations/Penalties

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.

In addition to implementing goals of the Environmental Element, these regulations implement best management practices required to meet federal and state environmental law requirements.

These regulations 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.

- B. It is expressly the purpose of this Chapter to provide for and promote the health, safety, and welfare of the general public. 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 benefitted by its terms.

23.76.015 Definitions

- A. Applicant: 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. Best management practices (BMPs): physical, structural, and/or managerial practices that, when used singly, or in combination, prevent or reduce pollution of water. BMPs include, but are not limited to, structural solutions covered by the terms "best available technology" (BAT) and "all known available and reasonable methods of treatment" (AKART).
- C. Clearing: the act of destroying or removing vegetation by any means, including chemical, mechanical, or by hand.
- D. Clearing and grading permit: 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.
- E. Colluvium, or colluvial deposits: a soil deposit derived from downslope movement of material from other soil formations. (These deposits are most often found on or below the walls of ravines or on steep hillsides.)
- F. Development Standards: City of Bellevue Development Standards.
- G. Director: The director of the Department of Community Development or his/her designee or other person designated by the City Manager.
- H. Excavation: the removal of material such as earth, sand, gravel, rock, or asphalt.

- I. **Fill:** earth, sand, gravel, rock, asphalt, or other solid material used to increase the ground surface elevation or to replace excavated material.
- J. **Filling:** any act by which earth, sand, gravel, rock, asphalt, or other solid material is deposited or placed to raise the ground elevation or to replace excavated material.
- K. **Geotechnical engineer:** a professional engineer licensed by the state of Washington in civil engineering, or geotechnical engineering should such a category be instituted, who is qualified by reason of experience and education in the practice of evaluating and predicting the engineering properties of soils and geologic formations.
- L. **Grading:** any excavating or filling or combination thereof.
- M. **Permanent erosion control:** Permanent improvements, such as landscaping or drainage control structures, that cover the soil such that no erosion can occur.
- N. **Permit:** unless noted otherwise, "permit" refers to the clearing and grading permit; see clearing and grading permit.
- O. **Permittee:** the property owner to whom the clearing and grading permit is issued. The property owner may be a person(s), partnership, association, or corporation.
- P. **Potential slide block (failure envelope):** 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. **Protected Area:** an area designated by Land Use Code section 20.25H where use or development is subject to special limitations due to its physical characteristics.
- R. **Sensitive Area:** an area that is mapped as a Sensitive Area in the City of Bellevue Sensitive Areas Notebook or that fits the definition of a Sensitive Area based on the definitions in the Sensitive Areas Notebook. Sensitive Areas include Areas of Special Flood Hazard, Wetlands, Riparian Corridors, and Slopes equal to or exceeding 15%.
- S. **Significant tree:** A healthy evergreen tree, eight inches in diameter or greater, measured four feet above existing grade, and a healthy deciduous

tree, twelve inches in diameter or greater, measured four feet above existing grade.

- T. Site: A lot or group of contiguous lots associated with a certain application, building or buildings, or other development.
- U. Slide: the movement of a mass of loosened rocks or earth down a slope.
- V. Soil: unaggregated or uncemented deposits of mineral and/or organic particles or fragments derived from the breakdown of massive rocks or decay of living matter.
- W. Unstable slopes: those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely exhibit mass movement of earth.

23.76.025 Permit Requirements

- A. A clearing and grading permit is required for a project involving any of the following, except as provided for in subsection B. In applying this section, the total proposal must be considered.
 - 1. Any clearing, filling, or excavation in a Protected Area or Protected Area setback.
 - 2. Fill and/or excavation totalling over 50 cubic yards. Quantities of fill and excavation are separately calculated and then added together, even if excavated material is used as fill on the same site.
 - 3. Over 1,000 square feet of clearing, as measured at the ground level. Clearing includes disturbance of over 1000 square feet at grade due to felling or topping of trees.
 - 4. Rockeries over three feet in height as measured from the bottom of the base rock.
 - 5. The cutting down or topping by more than one quarter of any significant trees that are required to be preserved by a city code, plat condition, or other requirement.
 - 6. Any re-grading or re-paving of a parking lot used for stormwater detention.
- B. The following activities are exempt from the requirements for a clearing and grading permit even if the criteria in subsection A are exceeded:
 - 1. Agricultural crop management of existing farmed areas.
 - 2. Routine landscape maintenance of existing landscaped areas on developed lots, including pruning, weeding, planting annuals,

and other activities associated with maintaining an already established landscape. For lots developed prior to the adoption of Sensitive Area regulations (Land Use Code Part 20.25H) with landscaping in what are now Protected Areas or Protected Area setbacks, routine landscape maintenance can occur without a clearing and grading permit provided the soil level is not increased.

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.
- C. An exemption from a clearing and grading permit does not exempt the person doing the work from meeting all applicable City codes, including, but not limited to, the Storm and Surface Water Utility Code (Bellevue City Code Chapter 24.06) which requires that sediment and other pollutants be kept from the drainage system.
- D. The Director may categorize clearing and grading permits by different types for administrative purposes, and different fees may be charged for different types. A clearing and grading permit may be issued as a component of a building permit, or other permit, rather than as a separate permit. The Director may require that single family building permits and clearing and grading permits be combined.
- E. The Director shall specify what submittal and application materials are required for a complete clearing and grading permit application, including the type of submittals, the required level of detail, the minimum qualifications of preparers of technical documents, and the number of copies. The Director may establish different submittal requirements for different types of clearing and grading permits. He/she may waive specific submittal requirements if he/she determines them to be unnecessary, or may require additional information if needed for review of an application.
- F. As a condition of applying for a permit for a project that includes clearing and grading, the applicant shall allow the City to enter the subject property in order to evaluate the proposed clearing and grading.

23.76.030 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:
1. A valid building permit application; provided, that if a discretionary Land Use approval pursuant to the provisions of Bellevue City Code Chapter 20.30 or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval is received, the City appeal period has passed, and, if a City appeal is filed, until the City has made a final decision on the appeal.
 2. A Utility 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, provided that, at this stage, a clearing and grading permit may be approved only for infrastructure construction, and not for clearing or grading building sites on individual lots.
 5. An approved shoreline conditional use, shoreline substantial development permit or shoreline management exemption, provided all appeal periods pursuant to WAC 173-14-180 must have expired without the filing of an appeal.
 6. A demolition permit.
 7. Inclusion of the project in the City's approved capital improvement program.
 8. A right of way use permit.
 9. 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 Bellevue City Code Chapter 20.30 is required, the clearing and grading permit shall not be issued until the land use approval is received, the City appeal period has passed, and if an appeal is filed, until the City has made a final decision on the appeal.
- B. The Director may approve issuance of a clearing and grading permit without an accompanying permit or other approval as listed in subsection A, provided:
1. All of the following criteria are met (in addition to other applicable requirements of this code and other City codes):
 - a. The proposed clearing and grading is not related to a project for which one or more of the approvals listed in subsection A is required.

- b. Approval of the proposal will not pose a threat to or be detrimental to the public health, safety, and welfare, nor be materially detrimental to fish and wildlife habitat and/or water resources.
 - c. The applicant has demonstrated that approval of the proposal is necessary for the reasonable development or maintenance of the property.
 - d. The proposal is not in a Protected Area or Protected Area setback as defined in Land Use Code Part 20.25H.
 2. If the proposed work involves more than 500 cubic yards of filling and excavation combined or involves work in a Protected Area or Protected Area setback, the Director shall use Land Use Code Process II (Land Use Code section 20.35.200 - .255) to approve or deny the application.
- 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. However, the property owner is the permittee and is responsible for ensuring compliance with the terms of the permit.

23.76.035 Expiration of Permits and Applications

- A. 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 60 days. The Director may extend the response period beyond 60 days if the applicant provides and adheres to a reasonable schedule for submitting the full revisions.
- B. Clearing and grading permits expire as follows:
 1. If a building permit is issued for the same site, the clearing and grading permit shall automatically expire or be extended when the building permit expires or is extended.
 2. If a building permit is not issued for the same site, the clearing and grading permit shall expire as follows:
 - a. 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.
 - b. 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.

- C. When a permit is ready to be issued, the applicant shall be notified and must pick up the permit within 60 days of notification. If the permit is not picked up, it may be canceled by the director and become null and void. If the permit is canceled, the Director shall notify the applicant by mail.

23.76.040 Related Codes and Regulations

- A. The requirements of this Chapter are in addition to other City codes and regulations, including the Land Use Code (Title 20 of the Bellevue City Code) and the City's Coal Mine Area regulations (adopted by Resolution 5712).
- B. In order to be in compliance with the provisions of this code, the applicant shall comply with the applicable engineering standards contained in the Development Standards or equivalent standards approved by the Director. In addition, the applicant shall comply with those minimum requirements for temporary erosion and sedimentation control and associated BMPs set forth in the *State Stormwater Management Manual for the Puget Sound Basin*.
- C. Requirements administered by other state and local agencies may also apply. 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.

23.76.050 Conditions of Approval/Project Denial

The Director may impose conditions on permit approval as needed to mitigate identified project impacts and shall deny permit applications that are inconsistent with the provisions of this Chapter.

23.76.060 Clearing: Vegetation Preservation and Replacement

The applicant/permittee shall:

- A. Meet applicable Land Use Code requirements for vegetation preservation, disturbance limitation, and new landscaping (in particular, see Land Use Code sections 20.20.520, Tree Preservation and Landscape Development; 20.25H, the Sensitive Area Overlay District; and 20.25E, the Shoreline Overlay District).
- B. Where possible, maintain natural vegetation for erosion and sedimentation control and water quality and quantity control.
- C. Follow the methodology in the Development Standards (or equivalent methodology approved by the Director) for preserving/replacing vegetation.
- D. Mark clearing limits in the field prior to clearing.

23.76.070 Grading

The applicant/permittee shall:

- A. Meet applicable Land Use Code requirements related to grading, filling and excavation; in particular see Land Use Code Part 20.25H, the Sensitive Area Overlay District and Part 20.25E, the Shoreline Overlay District, and the City's Coal Mine Area regulations adopted by Resolution 5712.
- B. Follow the methodology in the Development Standards (or equivalent methodology approved by the Director) for any proposed filling or excavation.
- C. Protect adjacent property, including but not limited to public rights-of-way and drainage systems, from damage from grading, filling and excavation.

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 Development Standards. The 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% or greater and meet the Sensitive Earth Conditions Performance Standards set forth in Land Use Code Section 20.25H.110.D.
- C. Comply with the Land Use Code restrictions applicable to slopes 40% or greater and to areas of colluvial or landslide deposit on slopes of 15% or greater (See Land Use Code 20.25H).
- D. Limit the maximum gradient of artificial slopes to no steeper than 2:1 (two feet of horizontal run to one foot of vertical fall) unless a geotechnical engineering report and slope stability analysis is provided and shows that a factor of safety of at least 1.5 for static loads and 1.1 for pseudostatic loads can be met, as demonstrated per the methodology in the Development Standards.
- E. Do no clearing, excavation, stockpiling or filling on the potential slide block of an unstable or potentially unstable slope unless it is demonstrated to the Director's satisfaction that the activity would not increase the load, drainage, or erosion on the slope.
- F. Do no clearing, excavation, stockpiling or filling on any unstable or potentially unstable areas (such as landslide deposits) unless it is demonstrated to the Director's satisfaction that the activity would not increase the risk of damage to adjacent property or natural resources or injury to persons.
- G. Intercept any groundwater, 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 Development Standards related to slopes.
- I. Design and protect cut and fill slopes to minimize erosion.

23.76.085 Rockeries

- A. Rockeries may be used for erosion protection of cut or fill slopes.
- B. Rockeries used to protect fill slopes may be no higher than four feet.
- C. Rockeries used to protect cut slopes may be up to a maximum height of twelve feet with the approval of the Director. Any rockery that is over four feet high (cut slopes only) shall be designed by a

geotechnical engineer; the geotechnical engineer must be on site during construction and submit construction inspection reports for such rockeries to the Department.

- D. Drainage control of the area behind the rockery must be provided. Rockery drains are required for all rockeries greater than 30 inches in height.
- E. The procedures and requirements in the Development Standards related to rockery design and construction must be followed. If the rockery is within a property line setback, see also the height restrictions of Land Use Code section 20.20.025.

23.76.090 Erosion and Sedimentation Control

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

- A. The following erosion and sedimentation control requirements apply to all projects:
 - 1. Construction access shall be limited to one route if possible and a hard-surface construction access pad shall be used. Sediment deposited on the paved right-of-way in a manner that prevents it from entering the drainage system shall be removed.
 - 2. Exposed and unworked soils shall be stabilized using BMPs described in the Development Standards. Exposed soils shall be covered at the end of each working day when working from October 1st through April 30th. Exposed soils shall be covered within seven days when working from May 1st through September 30th, except that a shorter time period may be imposed for street use permits.
 - 3. Adjacent and downstream properties, storm drain inlets, and the downstream drainage system shall be protected from sediment deposition using BMPs described in the Development Standards. If protection is inadequate and deposition occurs on adjoining property or public right-of-way or the drainage system, the Permittee shall immediately remove the deposited sediment and restore the affected area to original conditions.
 - 4. Dewatering devices shall be discharged where sediment, and/or other pollutants, will not enter the drainage system (for example, discharge them into a sediment pond or trap).
 - 5. Downstream properties and waterways shall be protected from erosion and sedimentation during construction due to temporary

- increases in the volume, velocity, and peak flow rate of runoff from the site.
6. When constructing underground utility lines, no more trench shall be opened than can be closed in a single day, or no more than 500 feet, whichever is less. Excavated material shall be placed on the uphill side of the trench where consistent with safety and space considerations and temporary trench dewatering devices shall be discharged into a sediment trap or pond. Trenches shall be closed at the end of each day unless otherwise allowed by the Director. For utility trenching and other clearing or grading work in street rights-of-way, erosion and sedimentation control BMPs specific to such work shall be applied, as described in the Development Standards, and the BMPs shall be maintained daily.
 7. Permanent erosion control shall be provided per the Development Standards. Disturbed areas of the site that are not covered by permanent improvements such as buildings, parking lots, and decks shall be vegetated.
- B. The following additional requirement applies to projects that are not individual single-family homes and that involve one acre or more of clearing: Temporary on-site conveyance systems shall be designed, constructed and stabilized to prevent erosion from the expected flow velocity from a 2-year, 24-hour storm for the developed condition. Stabilization shall be provided, at conveyance system outlets to prevent erosion of outlets, adjacent streambanks, slopes, and downstream reaches or properties.
- C. If the initially implemented erosion and sedimentation BMPs do not adequately control erosion and sedimentation, additional BMPs shall be installed. It is the permittee's responsibility to ensure sediment does not leave the site in an amount that would violate applicable state or City water quality standards. The City has the authority to enforce state water quality standards, or, if adopted by the City, more stringent water quality standards.
- D. The timing/sequencing requirements for implementing/removing erosion and sedimentation control measures are as follows:
1. The permittee must install the temporary erosion and sedimentation control BMPs prior to all other clearing, grading, or construction.

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

23.76.093. Temporary Restrictions on Clearing and Grading

- A. In the areas listed below in 23.76.093.A.1 through 4, clearing and grading may be permitted to continue or to be initiated during the rainy season, only if the Director grants specific approval per 23.76.093.C. The rainy season is defined as November 1st through April 30th, unless the Director modifies these dates based on weather patterns and forecasts. In determining whether to permit rainy season construction, the Director shall consult with the Bellevue Utilities Department. Such consultation shall occur on a regular basis to ensure consistent implementation of the City's Environmental and Water Quality policies and shall occur as needed regarding individual projects on specific sites.
 1. The Coal Creek and Lake Sammamish watersheds.
 2. Protected Areas or Protected Area setbacks;
 3. Areas identified by the City or a by geotechnical report as prone to landslides due to the presence of colluvial soils or other geologic or hydrologic factor.
 4. Areas that drain, by pipe, open ditch, sheetflow, or a combination of these, directly to a stream or lake (i.e., where there is no intermediary permanent sediment trap or detention system between the site and the tributary waterbody), with the exception of the Meydenbauer Drainage Basin.

- B. If clearing and grading is prohibited during the rainy season, building construction can nonetheless proceed as long as necessary clearing and grading is complete and effective erosion control is in place and effectively maintained.
- C. The Director shall grant approval to initiate or continue clearing or grading activity in the areas listed in 23.76.093.A.1. through 4 during the rainy season only if, based on an evaluation of site and project conditions, the Director determines the proposal ensures slope stability and adequately protects receiving waters from increased erosion and sedimentation during construction. The evaluation of site and project conditions, shall include, but not be limited to, an evaluation of the following:
1. Whether the clearing and grading is near completion if the project is already underway;
 2. Average existing slope of the site;
 3. Quantity of proposed cut and/or fill;
 4. Classification of the predominant soils and their erosion and runoff potential;
 5. Proposed deep utility installation;
 6. Hydraulic connection of the site to features that are sensitive to the impacts of erosion/sedimentation;
 7. Ability to phase clearing and grading and to create a feasible clearing and grading schedule;
 8. Extent of clearing and grading BMPs proposed, and if the project is underway, the project's track record at controlling erosion and sedimentation.
- D. Determinations under 23.76.093.C shall be made by the Director on a site-specific basis. However:
1. Rainy season construction generally will be prohibited for proposals requiring large scale clearing and grading.
 2. Rainy season construction generally will be approved for smaller-scale clearing and grading proposals that have limited shallow utility installation and are on sites with less than 15 percent slopes, predominant soils that have low runoff potential, and are not hydraulically connected to sediment/erosion-sensitive features.

3. Rainy season construction generally will be approved if extraordinary BMPs to control erosion/sedimentation and slope stability are proposed when:
 - a. moderate scale clearing and grading is proposed;
 - b. the proposal involves deep utility installation; or
 - c. the proposal is located on sites with greater than 15 percent slopes, soils with a high runoff potential, or sites hydraulically near a sediment/erosion-sensitive feature.

- E. Whenever rainy season clearing and grading is allowed, the applicant may be required to implement extraordinary BMPs 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. Extraordinary BMPs may include, but not be limited to:
 1. Performance monitoring to determine compliance with state water quality standards, or more stringent standards if adopted by the City.
 2. Funding additional City inspection time, up to a full-time inspector.
 3. Shutting down work if necessary to control erosion and sedimentation.
 4. Construction of additional siltation/sedimentation ponds.
 5. Use of a series of Baker tanks or temporary filter vaults.
 6. Use of high quality catch basin inserts to filter runoff.
 7. Use of erosion control blankets, nets, or mats in addition to or in conjunction with straw mulch.

- F. If a clearing and grading permit is issued, and the City subsequently issues three stop work orders or correction notices 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.

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

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

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 drainage system.

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 drainage system is prohibited per Bellevue City Code 24.06.

23.76.110 Construction Phasing and Work Progress

- A. Staged construction is allowed only if each phase complies with the code, and if the permit authority approves a phasing plan.
- B. The permittee shall expeditiously proceed with permitted work until completion unless the Director allows (or requires) delays due to bad weather or the need to coordinate other construction on the site.

23.76.120 Maintenance

The permittee shall:

- A. Regularly inspect, including on weekends, all temporary and permanent erosion and sedimentation BMPs and maintain them per the Development Standards so that they function as intended until the site has been permanently stabilized, and the potential for on-site erosion has passed.
- B. Submit a schedule for operation and maintenance of all construction-related BMPs if the project is not an individual single-family home and involves more than 5,000 square feet of clearing and/or more than 50 cubic yards of excavation and/or fill. The operation and maintenance schedule must identify the responsible parties and provide their day and evening phone numbers.

- C. Return any BMPs that are damaged or not working properly to normal operating conditions as directed by the field inspector or within 24 hours of receiving notice from the Director.

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 section 23.76.170, 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 section 23.76.180.

23.76.150 Responsibility to Have Permit

Every contractor or other person working or directing work that requires a permit under this chapter must:

- A. Have a copy of the permit before starting and during all phases of the work. The permit, approved plans, and applicable terms and conditions of approval shall be kept on site at all times.
- B. Be familiar with and comply with the terms and conditions of the permit.

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. The Director will specify the general stages of work when City inspection is required and may 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 twenty-four 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 code.

23.76.170 Stop Work Orders and Corrective Actions

- A. The Director shall notify the permittee, or person doing the work, whenever the Director determines that:
 - 1. During the life of the permit, the project is causing problems related to earth and water resources, such as sediment leaving the site or entering the drainage system; or
 - 2. The act or intended act of clearing or grading has become or will constitute a hazard to life and limb, or endangers property,

- or adversely affects the safety, use or stability of a public way, drainage channel, street, or surface water; or
3. Clearing and grading is occurring without a required permit; or
 4. The project is otherwise violating this chapter or the provisions of a permit issued under this chapter.
- B. Initial notice per section 23.76.170.A may be verbal. If verbal notice is given, it shall be followed by a written correction notice if compliance is not readily achieved. When issuing a written correction notice, the Director shall serve it to the persons doing the work or causing the work to be done or by posting notice on the site. Any written correction notice shall specify:
1. The work that must be done to correct the violation or abate the problem.
 2. The amount of time that the permittee has to commence and complete the required work.
 3. That, if the work is not commenced and completed within the time specified, the City will use the proceeds of the abatement security device, if an abatement security device was provided for the project, to have the required work completed.
- C. A written correction notice per section 23.76.170.B may include a stop work order, or a stop work order may be independently issued, whenever the continuation of work is likely to harm or pose a hazard to property, safety, or the downstream drainage system. In addition, a stop work order shall also be issued as specified in section 23.76.140.D.
1. In the stop work order, the Director shall specify which work must stop (in order to prevent further damage). The Director has the authority to stop all work on the site.
 2. If a stop work order is issued, it shall be served to the persons doing the work or causing the work to be done or by posting notice on the site.
 3. Work suspended through a stop work order can not resume until measures are in place to prevent a reoccurrence of the problem and until continued work is authorized in writing by the Director.
- D. The cost of measures needed to correct damage caused by the project clearing and grading, including impacts to the downstream

drainage system, shall be born by the permittee. 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, if a device was provided for the site.

- E. If at any time the City Manager determines that clearing and 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; and if the nature or timing of such an emergency precludes notification per section 23.76.170.B, 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.

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, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, the drainage system or other utilities.
- F. The permit has not been acted upon within the time allowed for extensions pursuant to section 23.76.035.B.

WP0430C-ORD
03/30/95

- G. The related building permit has expired without renewal or has been revoked or canceled.

23.76.180 Final Approval

The Director shall give final clearing and grading approval once all work is completed per the permit.

23.76.185 As-Built Plans

For clearing and grading undertaken to develop plat or short plat infrastructure, the permittee shall submit a copy of the as-built plans submitted to the Utility and Transportation Departments. Such plan(s) shall be submitted prior to final approval per section 23.76.180.

23.76.190 Violations/Penalties

- A. **Civil violation:** Any violation of any of the provisions of this chapter constitutes a civil violation as provided for in Bellevue City Code Chapter 1.18, for which a monetary penalty may be assessed and abatement may be required as provided therein. The City shall seek compliance through the civil violations code if compliance is not achieved through section 23.76.170 of this chapter.
- B. **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.

WP0430C-ORD
03/30/95

Section 3. This ordinance shall take effect and be in force thirty (30) days after its final passage.

PASSED by the City Council this 3rd day of April, 1995, and signed in authentication of its passage this 3rd day of April, 1995.

(SEAL)


Donald S. Davidson, DDS, Mayor

Approved as to form:

Richard L. Andrews, City Attorney


Richard L. Andrews, City Attorney

Attest:


Myrna L. Basich, City Clerk

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