Chapter 23.76
CLEARING AND GRADING CODE

Sections

23.76.005 Purpose.

A. The purpose of this code is to comply with the requirements of local, state, and federal law, including the National Pollutant Discharge Elimination System ("NPDES") Permit for municipal stormwater discharges and 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 required provisions of the city's National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Discharges from Small Municipal Separate Storm Sewers in Western Washington. ~~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. These regulations also provide for the enforcement of the provisions of this ~~o~~dechapter, the clearing and grading development standards and related City manuals and ~~co~~dechapter provisions.

B. It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public, and not . ~~This chapter is not intended to~~ create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by its terms.

23.76.010 Related Codes and regulations.

A. The requirements of this chapter supplement other city codes and regulations, including the Land Use Code (BCC Title 20), the Shorelines Overlay District, LUC Part 20.25E, the Critical Areas Overlay District, LUC Part 20.25H, and the Storm and Surface Water Utility Code, Chapter 24.06 of the Bellevue City Code.

B. To comply with the provisions of this chapter, the applicant shall comply with the applicable engineering standards contained in the clearing and grading development standards, which include Chapters 3 and 4 of Volume II of the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2005)

C. Approvals, decisions, and permits granted under this chapter are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state, and local laws and regulations. The responsibility for determining the existence and application of other agency requirements rests solely with the applicant; provided, that to the extent known, the city will inform the applicant of other agency requirements or permits that may apply to a site.

23.76.015 Conflict of Provisions.

Should a conflict occur between the provisions of this chapter, the Storm and Surface Water Code (Chapter 24.06 BCC), the Clearing and Grading Development Standards, or manuals adopted by the City in relation to this chapter, or between this chapter, the Clearing and Grading Development Standards and related manuals with laws, regulations, codes or rules promulgated by other authority having jurisdiction within the City, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this chapter.

23.76.020 Severability.

If any provision of this chapter, clearing and grading development standards, or related manuals, or its application to any person or circumstance is held invalid by a Court of competent jurisdiction, the remainder of this chapter, clearing and grading development standards, or related manuals, or the application of the provision to other persons or circumstances is not affected, and to this end the provisions of this chapter

23.76.025 Director's authority

1. The director shall have the authority to rely on the enforcement provisions in 24.06.130 to address violations of this chapter.

2. The director shall have the authority to prepare and update, as needed, clearing and grading development standards to establish minimum requirements for the design and construction of erosion and sedimentation controls and other best management practices. The development standards shall be consistent with this chapter and adopted city policies.

23.76.~~015~~ 030 Definitions.

(A) A Definitions.

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

(B) B Definitions.

"Best management practices (BMPs)" are the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to the city's Storm and Surface Water System or receiving waters.~~mean 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)~~.

"Building site" shall have the meaning set forth in Chapter 20.50 LUC, now or as hereafter amended.

(C) C Definitions.

"Certified Erosion and Sediment Control Lead (CESCL)" means an individual who has current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Department (see

BMP C160 in the Stormwater Management Manual for Western Washington (2005)). A CESCL is knowledgeable in the principals and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater and, the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. Certification is obtained through the Department of Ecology approved erosion and sediment control course.

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

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

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

~~"Colluvium" or "colluvial deposits" means a soil deposit derived from downslope movement of material from other soil formations as the result of one or more small earth slides. These deposits are typically found on steep hillsides or at the base of slopes.~~

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

(D) D Definitions.

"Director" means the director of the development services department or his/her designee or other person designated by the city manager.

"Discharge" means the addition of stormwater, runoff, or pollutants into either the Storm and Surface Water System or receiving waters. ~~for the purpose of the NPDES permit, means, unless indicated otherwise, any discharge from a MS4 owned or operated by the city.~~

(E) E Definitions.

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

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

(F) F Definitions.

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

"Filling" means any act by which fill is deposited or placed. ~~earth, sand, gravel, rock, asphalt, or other solid material is deposited or placed to raise the ground elevation or to replace excavated material.~~

(G) G Definitions.

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

"Grading" means any excavating or filling or combination thereof.

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

(H) H Definitions.

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

(I) I Definitions.

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

(J) J Definitions. *(Reserved)*

(K) K Definitions. *(Reserved)*

(L) L Definitions.

"Land disturbing activity" means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to

clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

"Landscaping" or "landscaped areas" means land that has been modified by altering soil levels and/or vegetation for aesthetic or practical purposes. "Landscaping" when used as a verb is a land disturbing activity.

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

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

(M) M Definitions.

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

"Minimum Requirements (MRs)" refer to the regulations contained in BCC 23.76.090, 24.06.065 and applicable development and ~~e~~Engineering Standards, which describe requirements for storm~~-~~water management for Development and Redevelopment as required by the NPDES Permit.

(N) N Definitions.

"New development" means land disturbing activities, including Class IV ~~–~~general forest practices that are conversions from timber land to other uses; structural development, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW. Projects meeting the definition of redevelopment shall not be considered new development.

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

(O) O Definitions. (*Reserved*)

(P) P Definitions.

"Permanent erosion control" means permanent improvements, such as landscaping or drainage control structures, that cover the soil such that ~~no~~ erosion ~~can occur~~is minimized or eliminated.

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

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

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

~~"Protected area" shall have the meaning set forth in Chapter 20.50 LUC, now or as hereafter amended.~~

"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. See "Permittee."

(Q) Q Definitions. (*Reserved*)

(R) R Definitions.

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

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

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

"Redevelopment" means that on sites that are substantially developed, (i.e. has 35% or more of existing impervious surface coverage), the creation or addition of impervious surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing practices. This definition applies only to this chapter.

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

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

~~"Routine landscape maintenance" means pruning, weeding, planting annuals, mowing turf lawns and other activities associated with maintaining an already established~~

~~landscaped area. This definition does not include felling or topping of trees or removal of invasive plants resulting from lack of regular maintenance.~~

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

(S) S Definitions.

"Significant tree" shall have the meaning set forth in Chapter 20.50 LUC, now or as hereafter amended.

"Site" shall have the meaning set forth in Chapter 20.50 LUC, now or as hereafter amended.

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

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

"Storm and Surface Water System," also means the entire system within the city, both public and private, naturally existing and manmade, for the drainage, conveyance, detention, treatment or storage of storm and surface waters. Facilities directly associated with buildings or structures such as foundation drains, rockery/retaining wall drains, gutters and downspouts or groundwater are not considered parts of the Storm and Surface Water System.

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

(T) T Definitions. (*Reserved*)

(U) U Definitions.

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

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

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

(W) W Definitions.

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

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

"Water quality standards" means Surface Water Quality Standards, Chapter 173-201A WAC, Ground Water Quality Standards, Chapter 173-200, WAC, and Sediment Management Standards, Chapter 173-204 WAC.

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

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

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

23.76.~~025~~ 035 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 of this section. In applying this section, the total proposal must be considered. Any project that requires a permit must also comply with applicable provisions of Chapter 24.06, Title 20 (LUC), and other applicable city codes.

1. Any clearing, filling, or excavation in a ~~protected~~ critical area or critical area buffer.

2. Fill and/or excavation totaling over 50 cubic yards. Quantities of fill and excavation are separately calculated and then added together, even if excavated material is used as fill on the same site.

3. Creation or addition of 2,000 square feet, or greater, of new, replaced, or new plus replaced impervious surface area.

~~3~~4. Over 1,000 square feet of clearing, as measured at the ground level. Clearing includes disturbance of over 1,000 square feet at grade due to ~~felling or topping~~removal or pruning of trees.

45. Rockeries and modular block walls over four feet in height as measured from the bottom of the base rock or block.

~~5~~6. Removal of more than 25 percent of the live crown of any significant tree that is required to be preserved by a city code, plat condition, or other requirement. The live crown is the crown of the tree containing live foliage ~~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~~7. Any regrading or repaving of a parking lot used for stormwater detention.

~~7~~8. Removal of any significant tree from any lot in an R-1 land use district in the Bridle Trails subarea, pursuant to the provisions of LUC 20.20.900, now or as hereafter amended.~~.~~

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

1. Agricultural crop management of existing farmed areas.

2. Routine landscape maintenance, as described in LUC 20.25H.055.C.3.h, as now or hereafter amended. ~~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 (Chapter 20.25H LUC) with landscaping in what are now protected areas,~~

~~routine landscape maintenance can occur without a clearing and grading permit, provided the soil level is not changed.~~

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

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

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

6. Roadway repairs and overlays within public street rights-of-way for the purpose of maintaining the pavement on existing paved roadways. This exemption does not apply to curbs, gutters, sidewalks, utilities, new traffic calming devices, new roadways, or the widening of the paved surface of existing roadways.

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

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

E. The director shall specify what submittal and application materials are required for a complete clearing and grading permit application, including the type of submittals, the required level of detail, the minimum qualifications of preparers of technical documents, and the number of copies. The director may 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~~ 040 Permit issuance.

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

1. A valid building permit application; provided, that if a discretionary land use approval pursuant to the provisions of Chapter 20.30 LUC or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval is issued and SEPA determination made, any city appeal period has passed, and, if a city appeal is filed, until the city has made a final decision on any 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, where the clearing and grading permit is approved only for infrastructure construction, and not for clearing or grading building sites.

5. Preliminary plat or preliminary short plat approval, where the clearing and grading permit is approved for clearing or grading building sites; provided, that such approval may be granted only in compliance with BCC ~~23.76.032~~23.76.042.

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

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

8. A demolition permit.

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

10. A valid right-of-way use permit application; provided, that if a discretionary land use approval pursuant to the provisions of Chapter 20.30 LUC or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval is received and SEPA determination made, any city appeal period has passed, and, if a city appeal is filed, until the city has made a final decision on any appeal.

11. Completion of environmental (SEPA) review for surcharging a site or for environmental or toxics cleanup at a site; provided, that if a discretionary land use approval pursuant to the provisions of Chapter 20.30 LUC is required, the clearing and grading permit shall not be issued until the land use approval is issued and the SEPA determination made, any city appeal period has passed, and if a city appeal is filed, until the city has made a final decision on any 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 of this section; provided, that all of the following criteria are met (in addition to other applicable requirements of this code and other city codes):

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

2. Approval of the proposal will not pose a threat to or be detrimental to the public health, safety, and welfare, nor be materially detrimental to fish and wildlife habitat and/or water resources.

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

4. The proposal is not in a ~~protected area~~critical area or critical area buffer, or if in a ~~protected~~ critical area or critical area buffer, complies with Chapter 20.25H LUC.

5. If a discretionary land use approval pursuant to the provisions of Chapter 20.30 LUC or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval is received and SEPA determination made, any city appeal period has passed, and, if a city appeal is filed, until the city has made a final decision on any appeal.

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

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

23.76.~~032~~ 042 Clearing and/or grading building sites with preliminary plat or preliminary short plat approval.

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

1. No portion of the building site:

~~a. Is designated as a protected area;~~

~~b~~a. Is within 200 feet of a critical area or critical area buffer ~~the top-of-bank of a Type A, B or C riparian corridor, as defined in Chapter 20.50 LUC~~;

~~c. Is within 200 feet of the wetland edge of Type A or B wetland, as defined in Chapter 20.50 LUC;~~

~~d. Is within 200 feet of the top- or toe-of-slope of a protected slope, as designated in LUC 20.25H.070;~~

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

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

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

a. Sufficiency of the Construction Stormwater Pollution Prevention Plan required by BCC 23.76.090 to prevent silt-laden runoff from leaving the site and prevent impacts to critical areas and critical area buffers including:

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

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

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

~~b. Proposed construction schedule and the proposed erosion and sedimentation control BMPs. The construction schedule and BMPs must be designed and implemented to prevent sediment from leaving the project site and prevent impacts to protected areas; and~~

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

~~3. If the project lies entirely or partially within the drainage basins listed in subsection (A)(5)(a) of this section, the following additional conditions must be met:~~

~~a. Performance monitoring must be provided by the applicant to determine compliance with state water quality standards or any more stringent standards adopted by the city. Turbidity and pH monitoring shall be conducted in accordance with the procedures and requirements in the clearing and grading development standards. Turbidity and pH monitoring shall be conducted during clearing and grading operations and continue until site soils are permanently stabilized, unless a different period is specified by the director.~~

~~b. Clearing and grading work and hauling is not allowed during periods of heavy rain.~~

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

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

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

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

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

~~a. The following drainage basins are subject to the conditions listed in subsection (A)(3) of this section and BCC 23.76.093(A): Coal Creek, Newport Area, Lewis Creek, South Sammamish, Vasa Creek, Spirit Ridge, Phantom Creek, North Sammamish Area, Wilkens Creek, Rosemont Area, Ardmore Area, Sears Creek, Valley Creek, Kelsey Creek, Goff Creek, West Tributary, Mercer Slough, Richards Creek, East Creek, Sunset Creek, and Sunset Creek Island.~~

A.~~b.~~ If approval for clearing or grading of building sites is granted and the city subsequently issues three stop work orders (or fewer as provided in the conditions of the project permit) for insufficient erosion and sedimentation control, the approval will be suspended or revoked for all building sites in the plat or short plat. If the approval is

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

B. When clearing or grading of building sites is interrupted for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs.

23.76.~~035~~ 045 Expiration of permits and applications.

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

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

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

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

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

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

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

D. Clearing and grading permits expire as follows:

1. If a building permit is issued or a building permit application is in review for the same site, the clearing and grading permit shall automatically expire or be extended when the building permit or building permit application 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.

~~**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 (BCC Title 20) and the city's coal mine area regulations (adopted by Resolution 5712). This chapter also supplements and references certain provisions of Chapter 24.06 of the Belleuve City Code.~~

~~B. In order to be in compliance~~To comply ~~with the provisions of this code, the applicant shall comply with the applicable engineering standards contained in the clearing and grading development standards, which include Chapters 3 and 4 of Volume II of the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2005) 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. Approvals, decisions, and permits granted under this Code are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance is still required with all applicable federal, state, and local laws and regulations. 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.~~

23.76.060 Clearing – Vegetation preservation and replacement.

The applicant/permittee shall:

A. Meet applicable Land Use Code requirements for tree retention and vegetation preservation, disturbance limitation, and new landscaping (in particular, see LUC 20.20.520, Landscape development; LUC 20.20.900, Tree retention; Chapter 20.25H LUC, Critical Areas Overlay District; and Chapter 20.25E LUC, Shoreline Overlay District).

B. Preserve ~~Where possible, maintain~~ natural vegetation for erosion and sedimentation control and water quality and quantity control~~.~~ as detailed in the clearing and grading development standards.

C. Follow the methodology in the clearing and grading development standards (or equivalent methodology approved by the director) for preserving/replacing vegetation.

D. Mark clearing limits in the field prior to clearing.

23.76.070 Grading.

The applicant/permittee shall:

A. Meet applicable Land Use Code requirements related to grading, filling and excavation; in particular see Chapter 20.25H LUC, the ~~Sensitive~~ Critical Areas Overlay District and Chapter 20.25E LUC, the Shoreline Overlay District~~, and the city's coal mine area regulations adopted by Resolution 5712~~.

B. Follow the methodology in the clearing and grading 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.~~ Meet applicable minimum requirements set forth in BCC 23.76.090 and 24.06.065, now or as hereafter amended.

23.76.080 Slopes.

The applicant/permittee shall:

A. Submit a geotechnical report, prepared by a geotechnical engineer, when required pursuant to the Land Use Code or clearing and grading development standards. The clearing and grading development standards specify when a subsurface investigation is required and the level of investigation and information required in the report.

B. Minimize clearing and grading on slopes 15 percent or greater and meet the ~~sensitive~~ Geologic Hazard Areas ~~earth conditions~~ performance standards set forth in LUC 20.25H.110(D).

C. Comply with the Land Use Code restrictions applicable to Geologic Hazard Areas ~~slopes 40 percent or greater and to areas of colluvial or landslide deposit on slopes of 15 percent or greater~~ (see LUC 20.25H.125~~Chapter 20.25H LUC~~).

D. Limit the maximum gradient of artificial slopes to no steeper than 2:1 (two feet of horizontal run to one foot of vertical fall) unless a geotechnical engineering report and slope stability analysis is provided and shows that a factor of safety of at least 1.5 for static loads and 1.1 for pseudostatic loads can be met, as demonstrated per the methodology in the clearing and grading development standards.

E. 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 ground water, subsurface, or surface water drainage encountered on a cut slope and discharge it at a location approved by the director in consultation with the Bellevue utilities department.

H. Follow the procedures and standards in the clearing and grading development standards related to slopes.

I. Design and protect cut and fill slopes to minimize erosion.

23.76.088 Subsurface drains.

Installation of subsurface drains for intercepting groundwater, including footing and wall drains, must comply with the clearing and grading development standards, ~~with~~ the provisions of Chapter 20.25H LUC, Chapter 24.06 BCC, and all other applicable city of Bellevue regulations.

23.76.085 Trenching

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 clearing and grading development standards, and the BMPs shall be maintained daily.

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. Erosion Control Measures.~~

~~1. The following standard erosion and sedimentation control requirements apply to all projects:~~

~~a. 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 shall be removed in a manner that prevents it from entering the drainage system.~~

~~b. Exposed and unworked soils shall be stabilized using BMPs described in the clearing and grading 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 at the threat of rain, or, when working from May 1st through September 30th, by the end of the work week; except that a shorter time period may be imposed for street use permits.~~

~~c. Adjacent and downstream properties, storm drain inlets, and the downstream natural and built drainage system shall be protected from sediment deposition using BMPs described in the clearing and grading 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.~~

~~d. 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).~~

~~e. 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.~~

~~f. 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 clearing and grading development standards, and the BMPs shall be maintained daily.~~

A. Applicability

1. This section sets forth Minimum Requirement 2 requiring property owners to prepare a construction stormwater pollution prevention plan for new development, redevelopment, and land disturbing activities that meet the thresholds in this chapter or those set forth in 24.06.065. Property owners ~~-~~are responsible for preventing erosion and discharge of sediment and other pollutants into the Storm and Surface Water System and receiving waters.

2. In addition to complying with this chapter, including Minimum Requirement 2, property owners shall comply with all applicable provisions contained in Title 24.06 (Storm and Surface Water Code), Title 20 (Land Use Code), the clearing and grading development standards, any other applicable codes and standards, and the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (2005).

B. General Requirements for erosion and sedimentation control related to new development and redevelopment - Minimum Requirement 2.

1. Clearing and grading activities for developments shall be permitted only if conducted pursuant to an approved site development plan (e.g., subdivision approval) that establishes permitted areas of clearing, grading, cutting, and filling. When establishing these permitted clearing and grading areas, significant trees shall be maintained consistent with Title 20 LUC, specifically Part 20.25B LUC and 20.20.900 LUC. Consideration should be given to minimizing removal of other trees and minimizing disturbance/compaction of native soils except as needed for building purposes.

~~1~~2. Property owners must prepare and submit a Construction Stormwater Pollution Prevention Plan (CSWPPP) for all projects that meet the thresholds for permitting in section 23.76.035. The CSWPPP shall be implemented beginning with initial soil disturbance and until final stabilization. These permitted clearing and grading areas and any other areas required to preserve critical areas or critical area buffers, native growth protection areas, retained vegetation areas, or tree retention areas as the city may require, shall be delineated on the site plans and the development site.

3. The CSWPPP shall include a narrative, ~~and~~ drawings, and a turbidity and pH monitoring plan as described in the clearing and grading development standards. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The CSWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project.

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

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

6. Seasonal Work Limitations —

(i) From October 1 through April 30, clearing, grading, and other soil disturbing activities may only be authorized by the city if silt-laden runoff will be prevented from leaving the site through a combination of the following:

A. Site conditions including existing vegetative coverage, slope, soil type and proximity to receiving waters; and

B. Limitations on activities and the extent of disturbed areas; and

C. Proposed erosion and sediment control measures.

D. Compliance with applicable provisions of BCC 23.76.093.

Based on the information provided and/or local weather conditions, the director may expand or restrict the seasonal limitation on site disturbance.

(ii). The following activities are exempt from the seasonal clearing and grading limitations:

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

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

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

7. Land disturbing activities and hauling is not allowed during periods of heavy rain.

8. Erosivity waivers are not allowed.

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

The property owner shall include each of the twelve elements below in the CSWPPP and ensure that they are implemented unless site conditions render the element unnecessary and the exemption from that element is clearly justified in the CSWPPP. The CSWPPP shall include both narrative and drawings. All BMPs shall be clearly referenced in the narrative and marked on the drawings. The CSWPPP narrative shall include documentation to explain and justify the pollution prevention decisions made for the project.

1. Preserve Vegetation/Mark Clearing Limits:

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

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

2. Establish Construction Access:

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

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

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

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

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

3. Control Flow Rates:

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

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

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

4. Install Sediment Controls:

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

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

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

5. Stabilize Soils:

a. Exposed and unworked soils shall be stabilized by application of effective BMPs that prevent erosion.

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

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

ii. During the wet season (October 1 - April 30): 2 days

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

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

e. Soil stockpiles must be stabilized from erosion, protected with sediment trapping measures, and where possible, be located away from storm drain inlets, waterways and drainage channels.

6. Protect Slopes:

a. Comply with applicable provisions of BCC 23.76.080.

a. Design and construct cut and fill slopes in a manner that will minimize erosion.

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

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

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

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

7. Protect Drain Inlets:

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

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

8. Stabilize Channels and Outlets:

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

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

9. Control Pollutants:

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

b. Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment. On-site fueling tanks shall include secondary containment.

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

d. Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the sanitary sewer with Metro and Bellevue Utilities approval.

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

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

g. Construction site operators are required to obtain written approval from the Washington State Department of Ecology before using chemical treatment other than CO2 or dry ice to adjust pH. Property owners shall provide a copy of the written approval to the city before commencing treatment.

10. Control De-Watering:

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

b. Clean, non-turbid de-watering water, such as well-point ground water, can be discharged to the Storm and Surface Water System or systems tributary to, or directly into receiving waters, as specified in 8, above, provided the de-watering flow does not cause erosion or flooding of receiving waters. Clean de-watering water should not be routed through stormwater sediment ponds.

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

d. Highly turbid or contaminated dewatering water shall be handled separately from stormwater.

11. Maintain BMPs:

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

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

12. Manage the Project:

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

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

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

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

D. Additional requirements.

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

a. Funding additional city inspection time, up to a full-time inspector;
b. Stopping work if necessary to control erosion and sedimentation; and
c. Construction of additional erosion and sedimentation control structures.

2. If the initially implemented erosion and sedimentation BMPs do not adequately control erosion and sedimentation, additional BMPs shall be installed, including but not limited to the extraordinary BMPs described in subsection (D)(1) of this section. It is the property owner's or permittee's responsibility to ensure sediment or other pollutants do not leave the site and enter the Storm and Surface Water System or receiving waters in an amount that would violate the discharge prohibitions set forth in BCC 24.06.125.

E. Permanent erosion and sedimentation control

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

~~2. In addition to or as an alternative to the above measures, the director may impose the following extraordinary erosion control measures, or other additional measures, as appropriate for the project:~~

a. Performance monitoring to determine compliance with state water quality standards, or more stringent standards if adopted by the city;

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

c. Stopping work if necessary to control erosion and sedimentation;

d. Construction of additional siltation/sedimentation ponds;

e. Use of a series of portable sedimentation tanks or temporary filter vaults;

f. Use of high quality catch basin inserts to filter runoff;

g. Use of erosion control blankets, nets, or mats in addition to or in conjunction with straw mulch.

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 two-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, including but not limited to the extraordinary BMPs described in subsection (A)(2) of this section. 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.

32. 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 subsections (A)(1) through (4) of this section, Cclearing and grading may be permitted to continue or to be initiated during the rainy season, only if the director grants specific approval per subsection C of this section. In determining whether to permit rainy season construction, the director shall consult with the Bellevue utilities department. Such consultation shall occur on a regular basis to ensure

consistent implementation of the city's environmental and water quality policies and shall occur as needed regarding individual projects on specific sites.

~~1. The drainage basins listed in BCC 23.76.032(A)(5)(a);~~

~~2. Protected areas;~~

~~3. Areas identified by the city or by a 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. An area is considered to drain directly to a stream or lake when it has a flow path of one-quarter mile or less 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 subsections (A)(1) through (4) of this section~~ 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 subsection C of this section shall be made by the director on a site-specific basis. However the following limitations apply:

1. Rainy season construction generally will be prohibited for proposals requiring large scale clearing and grading.
2. Rainy season construction generally will be approved for smaller-scale clearing and grading proposals that have limited shallow utility installation and are on sites with less than 15 percent slopes, predominant soils that have low runoff potential, and are not hydraulically connected to sediment/erosion-sensitive features.
3. Rainy season construction generally will be approved if extraordinary BMPs to control erosion/sedimentation and slope stability are proposed and included in the Construction Stormwater Pollution Prevention Plan 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 as described in this section if the BMPs that are initially implemented are not working. If the permit was issued in the dry season, and work is allowed to continue in the rainy season, the city may modify the previously issued permit to require additional, extraordinary BMPs.

F. If a clearing and grading permit is issued, and the city subsequently issues three stop work orders (or fewer as provided in the conditions of the project permit) for insufficient erosion and sedimentation control, the permit will be suspended until the dry season, or, if violations occurred in the dry season, until weather conditions are favorable and effective erosion and sedimentation control is in place. The director may reinstate the permit within 60 days of suspension upon finding that satisfactory erosion and sedimentation control measures will be maintained by the permittee.

G. 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.

23.76.160 Project inspections – City access.

A. All projects with a clearing and grading permit are subject to city inspections to ensure compliance with the permit. As a condition of permit issuance, the applicant must grant right of entry for such inspections and city emergency corrective measures.

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

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

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

23.76.170 Stop work orders and corrective actions.

A. The director shall notify the permittee or property owner ~~, 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~~Storm and Surface Water System or receiving waters; 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 subsection A of this section 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 subsection 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 subsection 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 cannot 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 or property owner. The permittee or property owner 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 subsection B of this section, 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, ~~protected areas~~critical areas or critical area buffers, the drainage system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, critical areas or critical area buffers~~protected areas~~, the drainage system or other utilities;

F. The permit has not been acted upon or extended within the time allowed pursuant to BCC 23.76.035(B).

23.76.190 Violations – Penalties.

A. The director is charged with the enforcement of this chapter and may rely on the enforcement provisions in BCC 24.06.130 in addition to those in Chapter 1.18 BCC.

B. Civil Violation. Any violation of any of the provisions of this chapter constitutes a civil violation as provided for in Chapter 1.18 BCC, 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 or BCC 24.06.130 if compliance is not achieved through BCC 23.76.170.

~~B~~C. Destruction of Notice. It shall be unlawful for any person to remove, mutilate, destroy, or conceal any notice issued and posted by the director pursuant to this chapter.