

# ORIGINAL

## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6181

AN ORDINANCE repealing Ordinance No.4822 in its entirety, (codified as Bellevue City Code Chapters 14.60 relating to transportation development) and enacting a new Bellevue City Code Chapter 14.60 entitled "Transportation Development Code".

WHEREAS, the Transportation Development Code (TDC) (Chapter 14.60) was adopted in 1995 via Ordinance No. 4822; and

WHEREAS, TDC is consistent with the comprehensive plan of the city, as adopted pursuant to the Growth Management Act, Chapter 35.70A RCW, and is intended to implement the provisions of such plan; and

WHEREAS, the provisions contained in this code are necessary for the protection and preservation of the health, safety, and general welfare of the citizens and businesses of the city; and

WHEREAS, the TDC provides authority for implementation of the policy and plan elements of the Comprehensive Plan, the Pedestrian and Bicycle Transportation Facilitates Plan(Ped/Bike Plan), the Transportation Facilities Plan (TFP) and other adopted plans and guidelines; and

WHEREAS, the TDC is used by the Transportation Department's development review engineers in conjunction with the department's Design Manual to review development applications and assess their potential impacts on transportation; and

WHEREAS, the review engineers use the plans, code, and standards to identify needed transportation infrastructure improvements and to provide the authority to require developer mitigation; and

WHEREAS, the TDC has not been updated since its inception; and

WHEREAS, the primary goals of this code update are to 1) clarify and expand definitions, 2) remove conflicts and inconsistencies, 3)clarify the required design of public streets, private roads, and driveways, and 4) increase consistency with other city codes; and

WHEREAS, notice of the update of the entire chapter was provided to the Washington State Department of Commerce as required by RCW 36.70A.106; and

WHEREAS, acknowledgement of the notice has been received by staff and approval by the Department of Commerce has been received; and

WHEREAS, the Transportation Commission has overseen the public review portion of the code update consistent with the intent of BCC 3.63, which directs that the Commission review, advise and make recommendations to Council regarding construction design standards; and

WHEREAS, Staff introduced the proposed amendments to the Transportation Commission on October 10, 2013, and following the initial review by the Commission, the Transportation Department staff sent notices to citizens, the Bellevue Downtown Association, the Chamber of Commerce, and consultants and developers; and

WHEREAS, the Transportation Commission held a public hearing on January 9, 2014, and no comments were received; and

WHEREAS, following the public hearing, the Transportation Commission unanimously approved a motion to recommend Council adoption of the proposed code update; and

WHEREAS, adoption of the proposed code update was presented to Council on March 17, 2014; and

WHEREAS, following review by Council, Council directed staff to undertake additional outreach; and

WHEREAS, staff conducted the requested additional outreach and returned to the Transportation Commission with the resulting communications, staff response, and code edits; and

WHEREAS, the Transportation Commission reviewed the code changes and recommended adoption of the modified code to Council; and

WHEREAS, on September 2, 2014, Council indicated a desire to have individual briefings; and

WHEREAS, individual briefings with members of Council have taken place; and

WHEREAS, Council is prepared to accept the recommendations of the Transportation Commission; now, therefore,

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

Section 1. Ordinance 4822 codified as Bellevue City Code Section 14.60 is hereby repealed in its entity.

Section 2. A new Bellevue City Code Section 14.60 entitled "Transportation Development Code" is adopted in its place and reads as follows.

**Chapter 14.60  
TRANSPORTATION  
DEVELOPMENT CODE**

Sections:

14.60.010	Title.
14.60.020	Purpose.
14.60.021	Authority.
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14.60.200	Traffic signals.
14.60.210	Street lighting.
14.60.220	Traffic control.
14.60.230	Public and franchise utility relocations – developer initiated.
14.60.240	Street intersection sight obstruction.
14.60.241	Sight distance requirements for pedestrian safety.
14.60.250	Pavement restoration for trenching in right-of-way.
14.60.260	Assurance device.
14.60.265	Severability.

**14.60.010 Title.**

This chapter shall be known as the transportation development code and shall be referred to herein as the "code". (Ord. 4822 § 1, 1995.)

**14.60.020 Purpose.**

The purpose of this code is to provide a policy framework for transportation impact mitigation requirements relating to new development and redevelopment. This code is consistent with the Comprehensive Plan of the City of Bellevue (City), as adopted pursuant to the Growth Management Act, Chapter 36.70A RCW, and is intended to implement the provisions of such plan. The provisions contained in this code are necessary for the protection and preservation of the health, safety, and general welfare of the citizens and businesses of the City. (Ord. 4822 § 1, 1995.)

**14.60.021 Authority.**

A. The Transportation Department by and through its director is charged with the administration and enforcement of the provisions of this code.

B. The director shall have the authority to:

1. Develop and adopt procedures as needed, including an appeal procedure, to implement this code and to carry out the responsibilities of the Transportation Department.

2. Request the assistance of other City departments to administer and enforce this code.

3. Assign the responsibility for interpretation and application of specified procedures within the Transportation Department.

4. Prepare, adopt and update as needed design standards to establish minimum requirements for the design and construction of transportation facilities and requirements for protecting existing facilities during construction. The design standards shall be consistent with Bellevue City Code, adopted City policies, and adopted street design plans.

C. When authorized by a provision of this Chapter 14.60 BCC, the Transportation Department may require or allow a performance or maintenance assurance device in conformance with Section 14.60.260 of this code.

**14.60.022 Violation – Penalty.**

Violation of any provision of this code 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 Chapter 1.18 BCC if compliance is not achieved through this code.

**14.60.030 Application.**

This code shall be in effect throughout the City.

**14.60.040 Definitions.**

For additional definitions, see Chapter 20.50 LUC. Except where specifically defined herein, all words used in this code shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "shall" is always mandatory, whereas the word "may" denotes a use of discretion in making a decision. The following words and phrases, when used in this code, shall have the following meanings:

A. A definitions.

"Activity centers" means locations such as schools, parks, retail areas and shopping centers, places of employment, or public service agencies that attract people.

"Approach" means the cement concrete or asphalt section between a public street and a residential driveway, commercial driveway, or private road that provides a transition from the street to the driveway or private road for vehicle ingress and egress and facilitates pedestrian traffic across the driveway or private road.

B. B definitions.

"Bicycle facilities" means improvements that accommodate or encourage bicycling, including parking facilities, bike racks, bicycle route mapping, and bicycle route development.

"Bicycle lane" means a portion of a public street designated by striping, pavement markings, and signage for the preferential or exclusive use of bicyclists. Refer to the City's Pedestrian and Bicycle Transportation Plan.

"Bicycle route" means any route specifically designated for bicycle travel, whether exclusive for bicyclists or to be shared with other transportation modes, as indicated in the Pedestrian and Bicycle Transportation Plan

"Breakaway object" means any object, such as a street tree, having properties up to and including that of a 4-inch by 4-inch wooden post.

C. C definitions.

"Commercial use" means any land use other than detached single-family dwelling.

"Curb ramp" means a ramp cut into a roadway curb to allow universal access to and from sidewalks and streets.

D. D definitions.

"Dedication" means the transfer of land or interest in land by the owner of such land to the City for public uses, reserving no other rights than such as are compatible with the full exercise and enjoyment of the uses to which the property has been dedicated.

"Developer" means the property owner and his/her authorized agents or contractors responsible for a given project.

"Development" means all structures and other modifications of the natural landscape above and below ground or water, on a particular site.

"Director" means the director of the Transportation Department of the City of Bellevue, the director's authorized representative, or such other persons authorized by the City Manager.

"Driveway" means a private way of vehicular ingress and egress to site, extending into the site from a public street or private road.

"Driveway, residential joint use" means a driveway that provides access to two single-family residential lots.

E. E definitions.

"Easement" means a grant of an interest in land by the property owner for a designated use by another person or entity or the public in general.

F. F definitions.

"Fixed object" means any object, such as a fire hydrant or power pole, having properties greater than a 4-inch by 4-inch wooden post.

"Franchise utilities" means private electrical power, communications, natural gas, or liquid fuels providers or other such providers operating under contractual agreement with the City.

G. G definitions.  
(Reserved)

H. H definitions.

"High occupancy vehicle (HOV)" means an automobile or vanpool with two or more occupants.

I. I definitions.

"Infill" means the development or redevelopment of a lot that is entirely or substantially surrounded by developed lots.

J. J definitions.  
(Reserved)

K. K definitions.  
(Reserved)

L. L definitions.

"Landing" means the flattened portion of a driveway or private road immediately past the approach that provides a transition, with the approach, from the traveled way to the driveway or road.

M. M. definitions.

"Mixed use development" means the development of a contiguous tract of land, a building or a structure with two or more different uses as identified on the Land Use Charts in the Land Use Code.

"Mode split" means the percentage of person trips made by different means of transportation, including transit, carpool and vanpool (High Occupancy Vehicle), driving alone (Single Occupancy Vehicle), bicycling, and walking.

N. N definitions.  
(Reserved)

O. O definitions.  
(Reserved)

P. P definitions.

"PM peak period" means the two hours between 4:00 PM and 6:00 PM.

"Proportionate share" means that portion of the cost of transportation improvements that are reasonably related to the service demands and needs of new development.

"Public utilities" means all drinking water, wastewater, and storm drainage facilities and their appurtenances thereto that are in the right of way or that have been dedicated and accepted by the City for ownership and operation, unless otherwise designated.

Q. Q definitions.  
(Reserved)

R. R definitions.

"Residential" means a building, project, street, or area associated with single-family dwellings.

"Review engineer" means the director of the Transportation Department of the City of Bellevue or his/her authorized representative.

"Right-of-way" means all public streets and property dedicated to public use for streets together with public property reserved for public utilities, transmission lines and extensions, walkways, sidewalks, bicycle facilities, or equestrian trails.

"Road, private" means a way, located on private property, open to vehicular ingress and egress established as a separate tract or easement for the benefit of three to nine adjacent properties or dwelling units, or as otherwise allowed by BCC 14.60.130. This definition shall not apply to driveways.

S. S definitions.

"Single-occupancy vehicle (SOV)" means an automobile transporting the driver only.

"Street, arterial" means a street that provides connections between neighborhoods, commercial activities, regional facilities, and other arterials as described in the Transportation Element of the City of Bellevue Comprehensive Plan.

"Street frontage" means any part of private or public property that borders a public street.

"Street, local" means a street that provides access to abutting land uses and serves to carry local traffic to arterials, as described in the Transportation Element of the City of Bellevue Comprehensive Plan.

"Street, public" means publicly-owned land for the movement of vehicles and pedestrians and providing for access to adjacent parcels, and also means land subject to an easement or dedication in favor of the public for the movement of vehicles and pedestrians and providing for access to adjacent parcels.

"Street tree" means a tree planted within the public right-of-way, or between a curb and a pedestrian facility.

T. T definitions.

"Transit" means a rubber tire bus or light rail vehicle operated on a schedule and fixed route by a public transit agency.

"Transportation system impact mitigation" means a way by which to offset the burdens upon transportation facilities and programs created by new development through imposing a proportionate share of the cost of mitigating impacts on development projects.

U. U definitions.

(Reserved)

V. V definitions.

(Reserved)

W. W definitions

(Reserved)

X. X definitions

(Reserved)

Y. Y definitions

(Reserved)

Z. Z definitions  
(Reserved)

**14.60.050 Traffic impact analysis reports.**

Traffic impact analysis reports are required for proposed development projects when the City has reason to believe that the direct traffic impacts on the City's existing or planned future transportation facilities resulting from a development may be significant or may require mitigation

**14.60.060 Transportation system traffic impact mitigation.**

A. The director may impose mitigation measures reasonably necessary to mitigate the direct traffic impacts resulting from a development project. Mitigation measures may include, but are not limited to, traffic signal or street light installation or modifications, traffic monitoring devices, transit facilities, intersection modifications, installation of left turn barriers, and neighborhood traffic calming devices such as traffic diverters and installation of medians.

B. The director may require the developer to participate in the funding of mitigation measures reasonably necessary to mitigate direct traffic impacts resulting from development or to establish a fund for a specified period of time, not to exceed five years, to be used by the City for costs associated with additional traffic mitigation measures required as a result of such traffic impacts.

**14.60.070 Transportation management program.**

A. The owner of property upon which new structural development is proposed shall, prior to any initial occupancy of any building, establish a transportation management program (TMP) to the extent required by BCC 14.60.070(E) and in accordance with the provisions thereof.

B. Existing structures are not subject to the requirements of this section except where a substantial remodel is proposed.

C. The director shall specify the TMP submittal requirements, including type, detail, format, methodology, and number of copies, for an application subject to this section to be deemed complete and accepted for filing. The director may waive specific submittal requirements determined to be unnecessary for review of an application.

D. For the purposes of this section, the term "employees" includes all on-site workers in buildings subject to the requirements of this section.

E. The owner of any property for which a TMP is required shall include those components identified as requirements on the following Transportation Management Program Requirements Chart. The chart identifies the total gross square footage (for one or more structures) at which specific requirements become applicable. The requirements identified on the chart are described in BCC 14.60.070(F).

**TRANSPORTATION MANAGEMENT PROGRAM REQUIREMENTS**

Programmatic Requirement (1)	Office & High Technology Light Industry (2)	Mfgng/Assembly (other than High Tech)	Professional Services Medical Clinics & Other Health Care Services	Hospitals	Retail/ Mixed Retail/ Shopping Centers	Residential: Multiple Family Dwellings	Mixed Uses (3)
No requirements	Less than 30,000 gsf	Less than 50,000 gsf	Less than 30,000 gsf	Less than 80,000 gsf	Less than 60,000 gsf	Less than 100 units	(4)
Post information (See subsection (F)(1)(a) and (b))	30,000 gsf and over	50,000 gsf and over	30,000 gsf and over	80,000 gsf and over	60,000 gsf and over	100 units and over	(4)
Distribute information (See subsection (F)(2))	30,000 gsf and over	50,000 gsf and over	30,000 gsf and over	80,000 gsf and over	N/A	N/A	(4)
Provide transportation coordinator (See subsection (F)(3)(a) and (b))	50,000 gsf and over	150,000 gsf and over	50,000 gsf and over	80,000 gsf and over	150,000 gsf and over	N/A	(4)
Provide preferential parking (See subsection (F)(4)(a), (b) and (c))	50,000 gsf and over	150,000 gsf and over	50,000 gsf and over	80,000 gsf and over	150,000 gsf and over	N/A	(4)
Provide financial incentive (See subsection (F)(5))	50,000 gsf and over	150,000 gsf and over	50,000 gsf and over	80,000 gsf and over	N/A	N/A	(4)
Provide guaranteed ride home (See subsection (F)(6))	50,000 gsf and over	150,000 gsf and over	50,000 gsf and over	80,000 gsf and over	N/A	N/A	(4)

Footnotes to Transportation Program Requirements Chart:

(1) Specific actions that the owner of the property must take to mitigate parking and traffic impacts.

(2) Excluding medical clinics and other health care services.

(3) Other than mixed retail.

(4) Requirements for mixed uses will be determined on a project basis as described in subsection (G)(1) of this section.

F. As indicated on the Transportation Management Program Requirements Chart, the property owner shall:

1. Post Information.

a. Post ridesharing and transit information from Metro or other approved sources in a visible central location in the building, such as the lobby or other public area near the major entrance to the building on a continual basis. This requirement applies to each building in a building complex.

b. All posting materials required by the Transportation Management Program Requirements Chart must be provided by a source approved by the director.

2. Distribute Information. Distribute ridesharing and transit information from Metro or other approved sources annually to all tenants and employees and to new tenants and new employees. Such information must identify available ridesharing and transit services.

3. Provide a Transportation Coordinator.

a. The coordinator shall publicize the availability of ridesharing options, provide reports to the City (see BCC 14.60.070(I)), act as liaison to the City, and provide ridesharing matching assistance in conjunction with Metro or a private system sponsored by the property owner as approved by the City.

b. The property owner must provide the transportation coordinator's name to the City. The coordinator must be available for meetings and training sessions conducted by the City or other agency approved by the City.

4. Provide Preferential Parking.

a. Provide specially marked parking spaces in a preferential location between 6:00 a.m. and 9:00 a.m. for each registered carpool and vanpool in which tenants and their employees participate. A preferential location includes proximity to the building and covered parking when possible.

b. Preferential parking must be enforced and monitored through on-site inspection at least three mornings a week.

c. To facilitate monitoring, carpools and vanpools must be certified by the coordinator through a registration system as approved by the City, and be recertified quarterly.

5. Provide Financial Incentive. Provide a minimum of \$15.00 per month financial incentive for employees on-site who commute by carpool, vanpool or transit. The financial incentive for transit riders and Metro vanpool riders will be a discounted Metro Transit (or a comparable service) bus/vanpool pass. The financial incentive for each carpool and non-Metro vanpool participant will be a cash bonus to the participant, a coupon redeemable for gasoline, or an equivalent discount in parking charges.

6. Provide Guaranteed Ride Home. Provide a taxi-scrip system of low-cost rides home for on-site employee transit riders or registered on-site employee carpoolers and vanpoolers who miss a bus or ride because of an employer requirement to work late or because of a need to leave early due to illness or home emergency.

G. Determination of Requirements for Mixed Uses. The director shall determine the transportation management program requirements for mixed uses. These requirements shall be limited to the requirements described in subsections E and F. The director shall apply the requirements for the same or most similar uses as described in subsections E and F.

H. Substitution of Alternate Program. With the approval of the director, an alternate transportation management program may be substituted by the property owner for those components identified as requirements in subsection F if, in the judgment of the director, the alternate program is at least equal in potential benefits to the requirements in subsection F.

I. Reporting Requirements. Beginning one year after the issuance of a final certificate of occupancy, and every two years thereafter for development subject to this section, the property owner shall submit a report to the director, who shall then determine compliance with this section. The report shall describe each of the required transportation management program components that were in effect for all previous years, the total number of on-site employees, the expenditures for financial incentives and guaranteed ride home, the number of bus passes sold, and the number of registered carpools and vanpools. A report form will be provided to the property owner by the City.

J. Recording. Prior to the issuance of a building permit or of any approvals made pursuant to Chapter 20.30 BCC, the owner of property subject to this section shall record an agreement between the City and the property owner with King County division of records and elections and with the Bellevue city clerk that requires compliance with this section by the present and future owners of the property. (Ord. 4822 § 1, 1995.)

#### **14.60.080 Transportation management program – Downtown.**

A. The director may require a transportation management program (TMP) for any project proposed within the downtown in order to reduce congestion, reduce peak hour trips, or implement the policies of the comprehensive plan.

##### **B. Programmatic Requirements.**

1. The owner of a building with 50,000 gross square feet or more of office shall, in addition to the programmatic elements identified in the Transportation Management Requirement Chart in BCC 14.60.070(F), perform or cause to be performed the following elements:

a. Commuting options information boards for each tenant with 50 or more employees.

b. Leases in which the tenants are required to participate in periodic employee surveys.

c. Identification of parking cost as a separate line item in such leases and a minimum rate for monthly long-term parking, not less than the cost of a current Metro two-zone pass.

d. A personalized ridematching service for building employees to encourage carpool and vanpool formation. The ridematching service must enhance the computerized ridematching service available from Metro (or a comparable service), with personalized follow-up with individual employees.

2. Duration. The programmatic requirements shall continue for the life of the building.

C. Performance Goals.

1. The owner of a building with 50,000 gross square feet or more of office shall, as part of the TMP for the building, comply with the following performance goals:

a. For every other year beginning with the building's first certificate of occupancy (CO) anniversary and for 10 years thereafter, the performance goals shall become more restrictive, so that by the tenth year the maximum SOV rate will be reduced by 35 percent from the CO year baseline.

b. The City may adjust the above rates every other year based on review of current conditions in the downtown, the characteristics of the building, and other local or state regulations.

c. These performance goals apply to present and future property owners for the life of the building.

D. Survey and Analysis Requirements.

1. Employee Survey. The property owner shall conduct a survey to determine the employee mode split. The survey must be conducted by an independent agent approved by the City. This survey shall be conducted in a manner to produce a 70 percent response rate and shall be representative of the employee population. If the response rate is less than 70 percent, all nonresponses up to 70 percent shall be considered SOV trips. The survey results shall be used as the basis for calculating performance levels. The City shall provide a survey form to the property owner.

2. Schedule of Survey. The survey is to be conducted every two years; the first survey shall be conducted one year after the issuance of the CO.

3. Analysis of Performance Goals.

a. Single-Occupancy Vehicle Use Formula:

$(NS/NT)(100) =$  percent SOV use, where:

NS = number of employees who commute to work by SOV

NT = total number of employees.

E. Reporting Requirements.

1. Content of Evaluation Report. The property owner shall submit a report to the City which includes the following elements:

a. The property owner's compliance with the performance goals listed in BCC 14.60.080(C), including the number of HOV spaces, their location, how HOV spaces are monitored, loading and van parking locations, transportation coordinator activities, the number and location of commuter information centers and employer commuter options boards, an example of lease language, past and current parking costs and ridematch activities.

b. The results of the employee survey, including the survey procedures and the percent SOV use by employees.

c. Any nonrequired activities undertaken by the property owner to encourage HOV and transit use or any unusual circumstances which have affected SOV use.

The City will provide a report form to the property owner.

2. Reporting Schedule. An initial action plan for implementing the TMP shall be submitted within six months of the issuance of the temporary certificate of occupancy. The action plan shall describe transportation management techniques that the property owner will use to encourage HOV use by employees and reduce peak period vehicle trips as necessary to meet the performance goals. City staff will be available to assist in the development of the action plan. The evaluation reports shall occur by building's first CO anniversary, and every two years thereafter.

F. Failure to Meet Performance Goals.

1. Remedies. If the City determines that the property owner has failed to meet the performance goals of BCC 14.60.080(C), the property owner shall comply with the action plan, employee survey and reporting requirements as set forth below.

2. Action Plan Requirement.

a. Plan Required. If the property owner fails to meet the performance goals, the property owner shall prepare, submit to the City and implement an action plan to meet the performance goals within one year.

b. Adequacy of Plan. The property owner will be allowed flexibility in developing the action plan subject to City review and approval, which approval shall not be unreasonably withheld. As a guide to this review, the City will evaluate the following:

i. The relationship of the number of employees that would be affected by the plan actions to the size of the deficiency which must be reduced.

ii. The effectiveness of proposed actions as they have been applied elsewhere in comparable settings.

iii. The schedule for implementation of the action plan and the assignment of responsibilities for each task.

3. Annual Employee Survey Requirements. An employee survey shall be conducted within one year of the date of submission of the previous report to the City. This survey shall be conducted under the same conditions and using the same methods as described in BCC 14.60.080(D)(1).

4. Annual Report Requirement. A report shall be submitted one year after the submission of the previous report. The report shall include all of the contents described in BCC 14.60.080(E)(1), and in addition shall include descriptions of:

a. Implementation of the action plan, including expenditures; and

b. Summary of effectiveness of elements of the action plan.

5. Duration. The property owner shall comply with the action plan, the annual survey and the annual report requirements every year that the property owner fails to meet the performance goals up to a maximum of six years after submission of the first report.

6. Assurance Device. In the event of a failure by the property owner to meet the performance goals, the property owner shall provide to the City an assurance bond, or other assurance device referenced in BCC 14.60.021(C), at the property owner's option, securing any financial incentives prescribed in an action plan. The assurance device shall equal the cost of the maximum incentive levels which could

be required for the following year as referenced in the action plan. The amount of the assurance device shall be determined when the level of activity is determined on the action plan. The assurance device shall be issued not later than 60 days after this determination.

G. Violations. The property owner shall be in violation of the requirements of BCC 14.60.080 if he/she fails to:

1. Comply with the programmatic requirements of BCC 14.60.080(B)(1); or
2. Comply with the reporting requirements of BCC 14.60.080(E); or
3. Submit the required action plans required in BCC 14.60.080(F)(2); or
4. Implement the required action plans required in BCC 14.60.080(F)(2); or
5. Conduct the required employee survey of BCC 14.60.080(F)(3). (Ord. 4822 § 1, 1995.)

#### **14.60.090 Dedication of right-of-way.**

A. The City may require the dedication of right-of-way by the developer as a condition of development approval in order to incorporate transportation improvements that are reasonably necessary to mitigate the direct impacts of the development. The developer may be required to dedicate right-of-way to accommodate:

1. Motorized and nonmotorized transportation facilities including, but not limited to bicycle lanes, street lighting, and traffic control devices; and/or
2. Street frontage improvements where the existing right-of-way is not adequate; and/or
3. The extension of existing or future public street improvements; and/or
4. Planned improvements identified in the Bellevue City Code, and the City guidelines or standards or adopted plans including, but not limited to, the Capital Investment Program Plan, Transportation Facilities Plan, Pedestrian and Bicycle Transportation Plan, and Comprehensive Plan.

B. Some reduction in the minimum right-of-way requirement may be granted by the review engineer where it can be demonstrated that sufficient area has been provided for all frontage improvements, including public utilities, within the right-of-way.

C. The developer of a subdivision may be required to dedicate right-of-way, as a condition of approval of the subdivision, where existing right-of-way for public streets is not adequate to incorporate necessary frontage improvements for public safety and to provide compatibility with the area's circulation system.

D. The developer of a short subdivision may be required to dedicate right-of-way as a condition of approval of the short subdivision where such dedication is necessary to mitigate the direct impacts of the short subdivision and:

1. The short subdivision abuts an existing substandard public street and the additional right-of-way is necessary to incorporate future frontage improvements for public safety; or
2. Right-of-way is needed for the extension of existing public street improvements necessary for public safety; or
3. Right-of-way is needed to provide future street improvements necessary for public safety for planned new public streets.

E. The developer shall provide legal descriptions prepared and certified by a licensed land surveyor, together with a graphic exhibit, in a form acceptable to the review engineer, for right-of-way to be dedicate pursuant to this section.

**14.60.100 Easements and tracts.**

A. Easements for all public facilities and public utilities needed to serve the proposed development consistent with the provisions of the Comprehensive Plan and other adopted City plans, including the Pedestrian and Bicycle Transportation Plan, shall be granted by the developer. Easements may also be required for private roads, sidewalks, bicycle and pedestrian facilities, street lighting, traffic control devices or temporary construction. Design features of a street may necessitate the granting of slope, wall, and drainage easements.

B. The granting of nonmotorized easements may be required as a condition of development approval where necessary to facilitate pedestrian circulation between neighborhoods, schools, shopping centers and other activity centers even if the facility is not specifically shown on the City's Pedestrian and Bicycle Transportation Plan, or where pedestrian walkways are identified on school "Recommended Walking Routes" maps designated by the Bellevue School District and City of Bellevue, provided, such easements are reasonably necessary to mitigate the direct impacts of the development.

C. Nonmotorized facility easements and tracts shall be wide enough to include the trail width and a minimum clear distance of two feet on each side of the trail. The clear distance shall remain free of obstructions such as fencing, signage, trees, and shrubs. Easement width may vary according to site-specific design issues such as topography, buffering, landscaping, and fencing.

D. Nonmotorized facility easements and tracts shall be staked by a licensed land surveyor with permanent survey markers as directed by the review engineer.

E. The developer shall provide legal descriptions prepared and certified by a licensed land surveyor, together with a graphic exhibit, in a form acceptable to the review engineer, for easements and tracts proposed or required pursuant to this section. Nonmotorized facility easements shall be designated "City of Bellevue Nonmotorized Public Easement." Nonmotorized facility easement documents shall specify the maintenance responsibility for the facility as determined by the review engineer.

F. Easement shall be submitted to the City and recorded as follows:

1. For commercial development, including planned unit developments not combined with a subdivision, prior to issuance of a building permit.

2. For subdivisions, short subdivisions and planned unit developments combined with a subdivision:

a. Off-site easements shall be recorded prior to issuance of a clear and grade permit:

b. On-site easements shall be recorded with the final plat.

**14.60.105 Lots with multiple frontages.**

When a lot abuts two or more public streets, private roads, or combination thereof, the City may prohibit access from one or more of those streets or roads if the City determines that such prohibition is necessary for the safe movement of traffic or

would mitigate identified adverse traffic impacts to the surrounding neighborhood or circulation system; provided, that access from at least one street or road shall always be permitted.

**14.60.110 Street frontage improvements.**

A. The installation of street frontage improvements is required for all new development, subdivisions, and short subdivisions as a condition of development approval in order to incorporate transportation improvements that are reasonably necessary to mitigate the direct impacts of the development. Installation of street frontage improvement is also required when necessary for the mitigation of adverse environmental impacts identified pursuant to the State Environmental Policy Act. For additions and remodels to existing buildings see Sections LUC 20.20.560 and 20.25D.060. This requirement shall not apply to single family dwellings.

B. Complete street frontage improvements shall be installed along the entire street frontage of the property at the sole cost of the developer as directed by the review engineer. Street frontage improvements may include curb, gutter, sidewalk, storm drainage, street lighting, traffic signal equipment, public utility relocation, franchise utility relocation, landscaping strip, street trees and landscaping, irrigation, street pavement widening, bicycle lanes, safety railings, street signs, pavement marking, and channelization. For additional requirements regarding franchise utility relocations, see BCC 14.60.230. Beyond the property frontage, the developer shall provide ramps or other appropriate transition from the new sidewalk or walkway to the existing shoulder, and pavement and channelization tapering back to the existing pavement and channelization as needed for safety. The street frontage improvements shall be continued off-site if, and to the extent, deemed necessary by the review engineer in order to provide a safe condition.

C. The installation of street frontage improvements is required prior to issuance of any certificate of occupancy (including temporary certificate of occupancy) for new construction other than single-family dwellings, or prior to final approval for subdivisions or short subdivisions. Exceptions to this requirement are allowed pursuant to BCC 14.60.260.

D. When (due to site topography, City plans for improvement projects, or other similar reasons) the review engineer determines that street frontage improvements cannot or should not be constructed at the time of building, subdivision, or short subdivision construction, the developer shall, prior to issuance of the building permit or final approval for subdivisions and short subdivisions at the direction of the review engineer, and as authorized by and in a manner consistent with RCW 82.02.020:

1. Pay to the City an amount equal to the developer's cost of installing the required improvements prior to issuance of a building permit, such construction value to be based on reasonable estimates of costs, as approved by the director in consultation with the director of the Utilities Department; or
2. Record an agreement that provides for these improvements to be installed by the developer by a date acceptable to the City; or
3. Record an agreement to not protest a local improvement district to improve the street frontage.

E. If, at a time subsequent to the issuance of a building permit, a local improvement district is established that includes the property for which the building

permit was issued, and if such condition or agreement as prescribed in this section has been performed by the developer, the condition or agreement may be considered in the compilation of the local improvement district assessment roll as a pre-existing contract with the City, for which the developer may be credited against the assessment with the appropriate amount of costs of construction expended by the developer.

F. The requirement for installation of frontage improvements may be waived or modified by the review engineer if:

1. Adjacent street frontage improvements are unlikely to be installed in the foreseeable future; or
2. Installation of the required improvement would cause significant adverse environmental or safety impacts.

**14.60.120 Landscaping in right-of-way, easements and access tracts.**

A. Applicability. The requirements of this Section BCC 14.60.120 apply when street frontage improvements are required as part of any development by BCC 14.60.110 or the Land Use Code, as may be hereinafter amended

B. Required Review. The City shall review proposed street frontage improvements for compliance with this section and other applicable City policies and codes

C. Preservation of Existing Street Trees and Landscaping.

1. Retention of existing vegetation may be required along City streets.
2. When permitted to remove or relocate plant materials from the right-of-way in connection with the widening of the street or highway, the paving of a sidewalk, or the installation of ingress or egress, the developer shall replant such trees or replace them according to City standards.
3. Any landscaping in the right-of-way that is disturbed by construction activity on private property, including but not limited to damaged trees or trees that need to be removed, shall be replaced or restored to its original condition by the developer. If such replacement or restoration is not physically or practically possible, as determined by the review engineer, the developer may be required to instead reimburse the City for the value of the removed, damaged or destroyed landscaping. Such reimbursement value shall be determined under the methods described in the Guide for Establishing Value of Trees and Other Plants, published by the International Society of Arboriculture, now or as hereafter amended. The value of other landscape plants shall be determined by the City based upon reasonable estimates.

4. Landscaping and other improvements such as fencing and rockeries within the right-of-way are subject to removal by the City or at the request of the City.

D. Street Tree and Landscaping Installation Requirement.

1. Street landscape installation or improvement is required when applicable projects are to be undertaken along any public street as identified in, and according to the guidelines of, City codes, standards, adopted street design plans, and adopted City plans including the Capital Investment Plan, Transportation Facilities Plan, Pedestrian and Bicycle Transportation Plan, and Comprehensive Plan.2. Where not in conflict with other applicable code provisions, ground cover shall be provided for street frontage of the site in order to control erosion.

E. Species Selection. Refer to LUC 20.25A.060 and LUC 20.25D for selection of tree species. If not otherwise specified in code, tree species selection shall be listed in the City of Bellevue Environmental Best Management Practices and Design Standards, now or as hereafter amended.

F. Maintenance of Plant Materials.

1. Landscaping in the right-of-way shall be maintained by the abutting property owner(s) unless maintenance has been accepted by the City.

2. All landscape materials in the right-of-way shall be maintained to industry standards. Trees shall be pruned according to standards adopted by the International Society of Arboriculture.

3. The property owner is responsible for ensuring that landscaping fronting his/her property does not impair driver or pedestrian sight-distance as described in the Transportation Department Design Manual.

4. Topping of street trees and other pruning that does not conform to industry standards is a civil violation under BCC 1.18 and subject to penalties set forth in BCC 1.18.045.

**14.60.130 Private roads.**

A. Private roads shall be contained in an easement or tract and will be allowed when:

1. A covenant that provides for maintenance and repair of the private road by property owners has been approved by the City and recorded with King County; and

2. The covenant includes a condition that the private road will remain open at all times for emergency and public service vehicles; and

3. The private road would not hinder public street circulation; and

4. At least one of the following conditions exists:

a. The road would ultimately serve no fewer than three lots and no more than nine lots; or

b. The road would ultimately serve more than nine lots, and the review engineer and the fire marshal determine that, that due to physical site constraints or pre-existing development no other reasonable access is available. In addition, the proposed private road would be adequate for transportation and fire access needs, and the private road would be compatible with the surrounding neighborhood character; or

c. The private road would be part of a commercial or residential planned unit development; or

d. The private road would serve commercial or industrial facilities where no circulation continuity is necessary. (Ord. 4822 § 1, 1995.)

5. Absent any of the above, public streets are required.

B. The design and construction of private roads shall conform to the requirements of the Transportation Department Design Manual and the Fire Department development standards.

C. Private roads shall be designed such that vehicles attempting to enter the private road will not impede vehicles in the travel lane of the public street.

D. Combined vehicular access for adjoining properties is encouraged. Joint access shall be established in a tract or easement.

E. Access onto arterial streets from private roads may be denied at the discretion of the review engineer if alternate access is available.

F. The continued use of a pre-existing private road is not guaranteed with the development of a site.

G. All abandoned private roads on the street frontage to be improved shall be removed and new curb, gutter and sidewalk shall be installed.

H. Private road grade and configuration shall accommodate future street widening as described in adopted City plans and codes to prevent the need for major private road reconstruction.

I. No private road shall be approved where undesirable impacts, such as vehicles backing onto the public sidewalk or street, will occur.

J. Left turns to and from a private road may be restricted either at the time of development or in the future if such maneuvers are found by the City to be hazardous.

K. The requirements of this section may be modified by the director if:

1. The modification is reasonable and necessary for development of the property; and

2. The modification will result in more efficient access to and circulation within the property; and

3. The modification will not create a hazardous condition for motorists or pedestrians.

#### **14.60.140 Dedication of private roads as public streets.**

The City may accept the dedication of a private road as a public street if the road meets all public street design and construction standards. Consideration of acceptance is also subject to the requirements of City policies and codes. Final acceptance is subject to City Council approval and the following criteria:

A. Acceptability of road and public utilities construction, including pavement condition. B. Condition of title.

C. Survey requirements for monumentation and conveyance.

D. The need for additional right-of-way and easements.

E. Cost of accepting the road and of future maintenance.

#### **14.60.150 Driveways.**

A. Driveways and parking areas shall be designed such that vehicles attempting to enter the driveway or parking area will not unreasonably impede vehicles in the travel lane of the public street.

B. Wherever available, access for commercial and multifamily property shall be provided onto streets that do not abut R-1, R-1.8, R-2.5, R-3.5, R-4, R-5 or R-7.5 land use districts.

C. Combined driveways for adjoining properties are encouraged. Combined driveways or joint access shall be established in a tract or easement.

D. The installation of driveways onto arterials may be denied at the discretion of the review engineer if alternate access is available.

E. The continued use of pre-existing driveways is not guaranteed with the development of a site.

F. All abandoned driveways on the street frontage to be improved shall be removed and new curb, gutter and sidewalk shall be installed or the frontage shall be improved to match existing improvements.

G. Driveway approach grade and configuration shall accommodate planned future street widening to prevent the need for major driveway reconstruction.

H. No commercial driveway shall be approved where backing onto the sidewalk or street will occur.

I. Left turns to and from a driveway may be restricted either at the time of development or in the future if such maneuvers are found by the City to be hazardous.

J. The requirements of this section may be modified by the director if:

1. The modification is reasonable and necessary for development of the property; and

2. The modification will result in more efficient access to and circulation within the property; and

3. The modification will not create a hazardous condition for motorists or pedestrians.

K. If any provision of this Section BCC 14.60.150 relating to driveways conflicts with any other provision, limitation, or restriction under any other chapter or section of the Bellevue City Code, including, but not limited to, the Land Use Code, the most stringent provision shall apply.

#### **14.60.160 Private intersection opening.**

A private intersection opening may, with the approval of the review engineer, be used in lieu of a conventional driveway when the following criteria are met:

A. Projected driveway usage is greater than 2,000 vehicles per day; and

B. Traffic signalization and easements are provided as required by the review engineer.

#### **14.60.170 Street ends.**

A. All dead-end public streets and private roads greater than 150 feet in length shall be constructed with a turnaround facility per the Transportation Department Design Manual Standard 7 - Street End Designs, as currently adopted or hereafter amended. The street or road may extend up to 150 feet beyond the approved turnaround facility.

B. Streets that temporarily dead-end and will be extended in the future need not have a turnaround facility unless determined necessary by the review engineer and the fire marshal. When no turnaround facility is provided, street-end barricading shall be installed and must conform to the most recent edition of the Manual on Uniform Traffic Control Devices.

C. Where the turnaround facility is a circular turnaround, a landscaped island delineated by curbing shall be provided in the circular turnaround by the developer. The landscaping shall be maintained by the homeowners' association or adjacent property owners. The developer shall record an agreement to ensure maintenance of the landscaping, either with the recording of the final plat or as a separate document if the development is occurring outside a plat.

**14.60.180 Parking circulation and loading space.**

Parking lot circulation needs and site loading needs shall be met on-site unless on-street loading and/or service location are approved by the director pursuant to LUC 20.25D.140.F.3.b. The public right-of-way shall not be used as part of the overall parking lot flow.

**14.60.181 Americans with Disabilities Act.**

A. All street frontage improvements and non-motorized facilities shall be designed and constructed to meet the intent of applicable requirements of the Americans with Disabilities Act.

B. In accordance with the state law and federal guidelines established by the Americans with Disabilities Act, curb ramps shall be provided at all pedestrian crossings with curbs.

**14.60.190 Nonmotorized facilities.**

A. The City's goals and policies for nonmotorized facilities are as described in the current Pedestrian and Bicycle Transportation Plan. Non-motorized facilities are separated in that plan into two categories: pedestrian facilities and bicycle facilities. Internal pedestrian circulation systems shall be provided within and between existing, new, and redeveloping commercial, multifamily, and single-family developments and other activity centers and shall connect to pedestrian systems and transit facilities fronting the development. If the nonmotorized facility is intended to serve more than one property, the review engineer may require that it be placed within an easement as described in BCC 14.60.100.B. Cement concrete sidewalks shall be provided:

1. On both sides of all arterial streets;
2. On both sides of all local streets 300 feet or longer and on one side of all local streets less than 300 feet in length;
3. On both sides of all public streets that provide access to existing or planned sidewalks, activity centers, parks, schools, neighborhoods, public transit facilities, or the regional trail system;
4. On one side of public dead-end streets, ending at the property line nearest the transition to a circular turnaround or hammerhead. This requirement may be waived at the discretion of the review engineer.
5. On one side of private dead-end roads providing access to facilities mentioned in paragraph B.3 above, ending at the property line nearest the transition to a circular turnaround or hammerhead. This requirement may be waived at the discretion of the review engineer.

C. The review engineer may grant an exception to the requirement for cement concrete sidewalk when:

1. The subdivision design provides an acceptably surfaced and maintained public walkway system; or
2. A paved path as described in BCC 14.60.190(D) is provided.

D. A paved path may be provided in lieu of cement concrete sidewalk when:

1. The paved path is determined by the City to be of a temporary nature; or
2. The City determines that soil or topographic conditions dictate a flexible pavement; or

3. The Pedestrian and Bicycle Transportation Plan or other City publications and studies indicate that neighborhood character does not warrant cement concrete sidewalks.

E. When street frontage improvements are required under BCC 14.60.110, additional right-of-way and pavement may be required if indicated on a designated bicycle route as identified in the Pedestrian and Bicycle Transportation Plan.

F. The developer shall construct one or more trails through the development if either:

1. The need for such trail is identified in the City's Pedestrian and Bicycle Transportation Plan, or other City publications and studies, or

2. The review engineer determines that such trail:

a. Is necessary for the safe, efficient, or convenient movement of pedestrians and/or bicycles, and

b. Will connect to an existing or planned nonmotorized facility. Such trail shall be placed within an easement or tract pursuant to BCC 14.60.100.

#### **14.60.200 Traffic signals.**

A. When a proposed street or driveway design interferes with existing traffic signal facilities, traffic signal modification or relocation must be provided by the developer.

B. To mitigate the traffic impacts of a development, modification of an existing signal or installation of a new signal may be required.

C. All traffic signal plans and specifications shall be prepared by a licensed engineer experienced in traffic signal design. (Ord. 4822 § 1, 1995.)

#### **14.60.210 Street lighting.**

A. Public street lighting is required along all public streets, including new public streets in subdivisions and fronting short subdivisions. The developer is responsible for analysis of existing light levels, design and installation of new lighting and relocation of existing lighting along the street frontage of the development.

B. All street light installations fronting the development, including wiring, conduit, and power connections, shall be located or relocated underground. This requirement may be waived at the discretion of the review engineer where adjacent utilities will remain above ground.

C. For new subdivisions, the City will accept maintenance and power cost responsibility for the public street light system when a subdivision is 50% or more occupied. When that occurs, the developer shall notify the City reviewer, after which the City will all accept these responsibilities. Until then, the developer shall remain responsible for the maintenance of and energy charges for the street lighting system.

D. Street illumination is required at the intersection of a private road and a public street, subject to the determination of the review engineer. No public street lighting system is required along a private road.

E. All illumination plans and specifications shall be prepared by a licensed engineer experienced in street illumination design.

**14.60.220 Traffic control.**

A. Temporary traffic control to ensure traffic and pedestrian safety during construction activities must be provided. A traffic control plan meeting the approval of the Transportation Department must be developed prior to starting construction activities.

B. The developer must supply and install all necessary permanent traffic control devices such as street name signs, stop signs, speed limit signs, and channelization.

C. Neighborhood traffic control devices such as speed humps, traffic circles, and curb extensions are devices used to control vehicle speeds and cut-through traffic. Installation of these devices will be permitted only when the installation has met criteria established by the review engineer. (Ord. 4822 § 1, 1995.)

**14.60.230 Public and franchise utility relocations – developer initiated.**

A. When relocation of franchise utilities located in the right-of-way or City easement is necessary to accommodate public street improvements associated with a new development as per BCC 14.60.110, such relocation is subject to the terms of any applicable franchise agreement, right of way use agreement, or state code.

B. When the street improvements are part of or consistent with the City's Capital Investment Program Plan, Transportation Improvement Program, or Transportation Facilities Plan, then some portion of the cost or expense in relocating franchise utility facilities may be the responsibility of the franchise utility, if such is provided for in a franchise or right-of-way use agreement.

C. All franchise utility distribution systems in new subdivisions and short subdivisions, including power, telephone, and TV cable, shall be installed underground unless otherwise provided in a franchise agreement or right-of-way agreement.

D. All existing and new franchise utility distribution systems, including power, telephone, and TV cable, fronting or serving a commercial development site shall be undergrounded. The extent of the undergrounding required by this section shall be limited to the nearest support or connection point(s) as determined by the review engineer.

E. To minimize repetitive impacts to public streets due to multiple utility installations, developers will coordinate public and franchise utility service installations and associated pavement restoration with the goal of consolidating disruption to a short time period and minimal area.

**14.60.240 Street intersection sight obstruction.**

Sight distance for motor vehicle operators shall be provided per the provisions of the Transportation Department Design Manual Section 21, Sight Distance – Vehicles.

**14.60.241 Sight distance requirements for pedestrian safety.**

Sight distance for motor vehicle operators for pedestrian safety shall be provided per the provisions of the Transportation Department Design Manual Section 22, Sight Distance - Pedestrians.

**14.60.250 Pavement restoration for trenching in right-of-way.**

A. To ensure that public street pavement is not degraded by trenching, excavation, or pavement restoration activities, the trench backfill and restoration section of the Transportation Department Design Manual shall be adhered to when trenching within the paved portion of the City right-of-way.

B. Modifications or exceptions to BCC 14.60.250(A) may be approved by the director upon written request by the developer and demonstration of a satisfactory alternative.

C. A five-year moratorium on pavement trenching is effective upon completion of new street construction and upon pavement overlay of an existing street.

D. Modifications or exceptions to BCC 14.60.250(C) may be approved by the director under compelling circumstances and emergencies, such as utility failures, main breaks, etc.

E. The nature and extent of pavement restoration shall be based on the City's current Trench Restoration Map and site specific requirements as determined by the Right of Way Manager.

**14.60.260 Assurance device.**

As provided in this section, the director may require a developer to provide a performance assurance device to ensure transportation-related improvements will be completed in a timely manner and in accordance with approved permits, agreements, plans, specifications, requirements, conditions, regulations, and policies and may require a maintenance assurance device to ensure transportation-related improvements are maintained and repaired accordingly.

A. If a certificate of occupancy is requested prior to the satisfactory completion of all work or actions required by a permit or approval, and if the director determines that no feasible alternative exists to approving the certificate of occupancy prior to the completion of such work or actions, the director may require a performance assurance device.

B. The use of a performance assurance device to ensure the completion of improvements may be allowed if:

1. The covered work or improvements are related to residential development, including residential subdivisions; and

2. The developer is unable to complete the work or improvements to be covered by the assurance device because of unavoidable circumstances that in no way resulted from the actions or inaction of the developer; and

3. It is reasonably certain that the developer will be able to complete the work or improvements to be covered by the assurance device within a reasonable amount of time; and

4. Granting a certificate of occupancy prior to completion of the work or improvements will not be materially detrimental to the City or to the properties in the vicinity of the subject property.

C. The director may allow a performance assurance device for work or improvements related to commercial development when the criteria in subsections B.2 through B.4 are clearly met.

D. A maintenance assurance device may be required when transportation-related improvements are constructed as part of a subdivision or short subdivision to ensure that the improvements remain in continued compliance with City standards during the duration of the maintenance assurance device.

E. Form of assurance device.

1. The performance or maintenance assurance device must be in a form acceptable to the City and may be in the form of an assignment of funds, a non-revocable letter of credit, set-aside letter, certificate of deposit, deposit account, bonds, or other readily accessible source of funds.

2. Any interest from the assurance device will accrue to the benefit of the developer.

F. Amount of assurance device.

1. The amount of the performance assurance device will be 150%, and the amount of the maintenance assurance device will be 20%, of the cost of the work or improvements covered by the assurance device based on estimated costs immediately following the expiration of the device. The amount of the assurance device is to be based on reasonable estimates of costs, as approved by the director in consultation with the director of the Utilities Department.

2. The director may consult with one or more persons with applicable special knowledge or expertise in determining the cost of work or improvements covered by an assurance device. The developer shall pay the actual costs of this consultation prior to the director accepting the device.

G. Duration of assurance device

1. A performance assurance device shall ensure that the work or improvements to be performed will be completed in a reasonable amount of time, as determined by the review engineer, but in no case longer than two years from the date of the City's acceptance of the assurance device, except as approved by the review engineer.

2. A maintenance assurance device shall ensure that the covered work or improvements remain in continued compliance with City standards. The duration of the maintenance assurance device shall be for one year, following the date of the City's acceptance of the covered improvements.

H. Release of assurance device.

After the work or improvements covered by an assurance device have been completed or the maintenance period has expired, the developer shall request an

inspection of the work or improvements. Upon acceptance of the work or improvements by the director, the developer shall submit a written request to the director for the release of the assurance device. The director shall release, or cause to be released, such device within a reasonable time after completion of the work and receipt of the request for release. No portion of a maintenance assurance device shall be released until the end of the maintenance period.

I. Use of the proceeds – notice to developer.

If, after the date by which the required work or improvements are to be completed under an assurance device, the director determines that the work or improvements have not been completed, he/she shall notify the developer. The notice must state:

1. The work that must be done or the improvement that must be made to comply with the requirements of the assurance device; and
2. The amount of time that the developer has to commence and complete the required work or improvements; and
3. That, if the work or improvements are not commenced and completed within the time specified, the City will use the proceeds of the assurance device to have the required work or improvements completed.

J. Use of proceeds – work by the City.

If the work or improvements covered by the assurance device are not completed within the time specified in the notice given under paragraph 1 of this section, the City may obtain the proceeds of the device and do the work or make the improvements covered in the device. The City may use any lawful means to complete the work or make the improvements.

K. Use of proceeds – emergency work by the City.

Notwithstanding any other provision of this chapter, if at any time the director determines that actions or inaction associated with any work or improvements covered by any assurance device endanger the public health, safety, or welfare, create a potential liability for the City, or endanger City property, the City may use the assurance device to correct the situation without notice to the developer. The City may use any lawful means to complete the work or improvements. If the City uses the assurance device as provided by this section, the developer shall be notified in writing within four working days of the commencement of work.

L. Use of proceeds – refund of excess, charge for all costs.

The developer is responsible for all costs incurred by the City in doing the work and making or maintaining the improvements covered by the assurance device and in obtaining the benefit of the assurance device, including reasonable attorney's fees, if any. The City shall release or refund any proceeds of an assurance device remaining after subtracting all costs for doing the work covered by the device. The developer shall reimburse the City for any amount expended against the subject property for the amount of any excess.

M. Itemized statement.

In each case where the City uses any of the proceeds of the device, it shall give the developer of the subject property an itemized statement of all proceeds and funds used.

**ORIGINAL**

**14.60.265 Severability.**

If any provision of this code, or its application to any person or circumstance is held invalid, the remainder of the code, or the application of the provision to other persons or circumstances is not affected, and to this end the provisions of this code are declared to be severable.

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

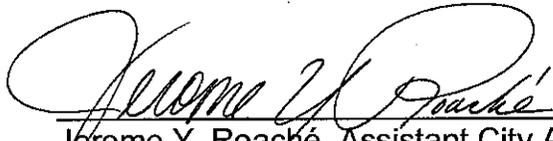
Passed by the City Council this 20 day of OCTOBER, 2014  
and signed in authentication of its passage this 20 day of OCTOBER,  
2014.

(SEAL)

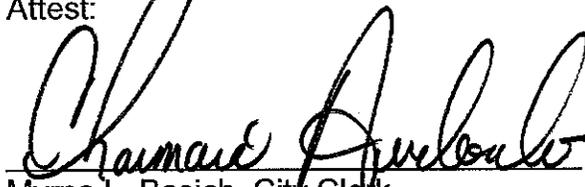
  
\_\_\_\_\_  
Claudia Balducci, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

  
\_\_\_\_\_  
Jerome Y. Roaché, Assistant City Attorney

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk FOR

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