

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 (Part 20.25E LUC) the critical areas overlay district (Part 20.25H LUC) and the storm and surface water utility code (Chapter 24.06 BCC) , now or as hereafter amended.

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 Ecology Manual.

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, 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 apply, 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 are severable.

23.76.025 Director's authority.

A. The Director is charged with the enforcement of this chapter and whenever the Director has reason to believe a violation has occurred, the Director may initiate enforcement actions pursuant to Chapter 1.18 BCC, now or as hereafter amended.

B. 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 clearing and grading development standards shall be consistent with this chapter and adopted city policies.

23.76.030 Definitions.

The following definitions are specific to this chapter and shall have the following meanings:

A. A Definitions.

“Abandoned construction site” means a lot or group of lots, including subdivisions, building or buildings, or other development where work has ceased for any reason for a period of 90 days. Circumstances indicating abandonment of a construction site include, but are not limited to, failure to call for inspections, absence of workers, or removal of equipment and supplies. A valid permit or approval issued by the city does not alter the status of a construction site deemed abandoned.

“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.

“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 Ecology (see BMP C160 in the Ecology Manual). A CESCL is knowledgeable in the principles and practices of erosion and sediment control. The CESCL must have the skills to assess site conditions and construction activities that could impact the quality of stormwater and the effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges. Certification is obtained through Ecology’s approved erosion and sediment control course. Course listings are provided online at Ecology’s website.

“Clearing” means the act of destroying or removing the existing soil cover (both vegetative and non-vegetative).

“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 Ecology Manual.

“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.

“Construction stormwater pollution prevention plan” (CSWPPP) means a written plan to implement measures to identify, prevent, and control the contamination of point source discharge of stormwater.

The CSWPPP explains and illustrates the measures, usually in the form of best management practices (BMPs), to take on a construction site to control potential pollution problems.

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

“CSWPPP” means Construction Stormwater Pollution Prevention Plan.

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.

E. E Definitions.

“Ecology” means the Washington State Department of Ecology.

“Ecology Manual” means the 2012 Stormwater Management Manual for Western Washington, as amended in December 2014.

“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, soil, sand, peat, gravel, rock, asphalt, or concrete.

F. F Definitions.

“Fill” means earth, soil, 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.

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.

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

“Heavy rain” means rainfall at a rate greater than or equal to 0.03 inches per six minutes or 0.30 inches per hour.

I. I Definitions.

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

J. J Definitions (Reserved).

K. K Definitions (Reserved).

L. L Definitions.

“Land disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) 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. Maintenance of existing landscape, as described in LUC 20.25H.055(C) is not considered a 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.

“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.

“LID” means Low Impact Development

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

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

M. M Definitions.

“Minimum requirements (MRs) refer to the regulations contained in BCC 23.76.090 and BCC 24.06.065, now or as hereafter amended, and applicable development and engineering standards, which describe requirements for stormwater management for development and redevelopment as required by the NPDES permit.

“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.

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 hard surfaces; and subdivision, short subdivision and binding site plans, as defined and applied in Chapter 58.17 RCW, now or as hereafter amended. Projects meeting the definition of redevelopment shall not be considered new development.

“NPDES” means National Pollutant Discharge Elimination System.

“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.

“Peak volumetric stream flow” means the maximum instantaneous rate of flow, expressed in terms of volume per unit of time, during a storm.

“Permanent erosion control” means permanent improvements, such as landscaping or drainage control structures, that cover the soil such that erosion is minimized or eliminated.

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

“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. Both the property owner and its agent are considered the permittee and are responsible for ensuring compliance with this chapter.

“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.

Q. Q Definitions (Reserved).

R. R Definitions.

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

“Rainy season” means that period from October 1st through April 30th unless the Director modifies these dates based on weather patterns and forecasts.

“Receiving waters” means naturally and/or reconstructed naturally occurring surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters or ground water to which a municipal separate storm sewer system (MS4) discharges.

“Redevelopment” means on a site that is already substantially developed (i.e., have 35% or more of existing hard surface coverage), the creation or addition of hard surfaces; the expansion of a building footprint or addition or replacement of a structure; structural development including construction, installation or expansion of a building or other structure; replacement of hard surface that is not part of a routine maintenance activity; or land disturbing practices.

“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.

“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 rocks stacked 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.

“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.”

“Structure” means a combination of materials constructed and erected permanently on or under the ground or attached to something having permanent location on or under the ground. Not included are residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height and similar improvements of a minor character.

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.

“Vegetated roof” means thin layers of engineered soil and vegetation constructed on top of a conventional flat or sloped roof. All vegetated roofs consist of four basic components: a waterproof membrane, a drainage layer, a light-weight growth medium, and vegetation.

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.

“Water quality standards” means the Surface Water Quality Standards, Chapter 173-201A WAC, Ground Water Quality Standards, Chapter 173-200, WAC, and Sediment Management Standards, Chapter 173-204 WAC, now or as hereafter amended.

“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 “waters of the state” as

defined in Chapter 90.48 RCW, now or as hereafter amended, 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.

X. X Definitions (Reserved).

Y. Y Definitions (Reserved).

Z. Z Definitions (Reserved).

23.76.035 Permit requirements.

A. A clearing and grading permit is required for a project that involves any of the following described in subsections A.1 through 9 of this section, except as provided for in subsection B of this section. In applying this section, the total proposal shall be considered. Any project that requires a permit shall also comply with applicable provisions of Chapter 24.06 BCC, BCC Title 20, and all other applicable city codes.

1. Any clearing, filling, or excavation in a 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 plus replaced hard surface area within a 1-year period;
4. Over 1,000 square feet of clearing, as measured at the ground level within a 1-year period;
5. Construction or reconstruction of rockeries and modular block walls over four feet in height as measured from the bottom of the base rock or block;
6. Removal of more than 5 significant trees, as defined in LUC 20.50.046, now or as hereafter amended, within any 3-year period;
7. Removal of more than 25 percent of the live crown of any significant tree, as defined in LUC 20.50.046, now or as hereafter amended, 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. Pruning allowed by this subsection must be performed in accordance with applicable provisions of the Land Use Code;
8. Any regrading or repaving of a parking lot used for stormwater detention; and
9. 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:

1. Agricultural crop management of existing farmed areas;

2. Routine landscape maintenance, as described in LUC 20.25H.055.C.3.h, now or as hereafter amended;
 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 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 stormwater 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; or
 6. Roadway repairs and overlays within public street rights-of-way for the purpose of maintaining the pavement on existing paved roadways, such that asphalt removal or milling does not expose more than 1,000 square feet of gravel base or subgrade. 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 or property owner 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 administratively establish different submittal requirements for different types of clearing and grading permits. The Director may, as well, administratively waive specific submittal requirements if he/she determines them to be unnecessary, or the Director may require additional information if needed for review of an application.
- F. A construction stormwater pollution prevention plan, if required, must be submitted with the permit submittal and application materials described in subsection E of this section.
- G. 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.

23.76.040 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 and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended;
2. A utility developer 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 23.76.042, now or as hereafter amended;
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, now or as hereafter amended, 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, now or as hereafter amended, or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended; or
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, now or as hereafter amended, is required, the clearing and grading permit shall not be issued until the land use approval and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended.

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 chapter 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, the storm and surface water system, or receiving waters;
 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 critical area or critical area buffer, or, if in a critical area or critical area buffer, complies with Part 20.25H LUC, now or as hereafter amended; and
 5. If a discretionary land use approval pursuant to the provisions of Chapter 20.30 LUC, now or as hereafter amended, or environmental (SEPA) review is required, the clearing and grading permit shall not be issued until the land use approval and the SEPA determination are final pursuant to LUC 20.35.045, now or as hereafter amended.
- 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.

23.76.042 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 within 200 feet of a critical area or critical area buffer, as defined in Chapter 20.50 LUC, now or as hereafter amended;
 - b. Is within the shoreline overlay district, as defined in Part 20.25E LUC, now or as hereafter amended; or
 - c. Drains by pipe, open ditch, sheetflow, or a combination of these directly to receiving waters. A building site is considered to drain directly to receiving waters when it has a flow path of one-quarter mile or less where there is no intermediary permanent sediment trap or stormwater detention system between the site and receiving waters;

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 CSWPPP required by BCC 23.76.090 to prevent pollutants and silt-laden runoff from leaving the site and prevent impacts to receiving waters, or 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);

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;

3. 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, now or as hereafter amended;

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, now or as hereafter amended; and

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;

4. For work approved under this section, an abatement security device is required per BCC 23.76.140, now or as hereafter amended. 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 final approval is granted pursuant to BCC 23.76.180, now or as hereafter amended. The city 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;

5. 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 or suspended for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090(E) and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation pursuant to BCC 23.76.090(F).

23.76.045 Vesting and expiration of permits and applications.

A. Projects Requiring Only Clearing and Grading Permits.¹

1. Vesting Date. An application for an independent clearing and grading permit, pursuant to BCC 23.76.040, shall vest to this chapter, Chapter 24.06 BCC, now or as hereafter amended, and the corresponding development and engineering standards, on the date that a complete clearing and grading permit application is submitted consistent with the requirements of BCC 23.76.035(E), now or as hereafter amended.

2. Expiration of Vested Status.

a. Before Issuance. An application for clearing and grading permit shall expire as follows:

i. 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.

ii. 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.

iii. In addition to the extension allowed in subsections A.2.a.i and ii of this section, the Director may extend the life of an application if any of the following conditions exist:

(a) Compliance with the State Environmental Policy Act is in progress; or

(b) 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

(c) 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.

iv. 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.

b. After Permit Issuance. The clearing and grading permit shall expire as follows:

i. 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.

ii. 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.

iii. If the clearing and grading permit is revoked pursuant to BCC 23.76.175, now or as hereafter amended or otherwise cancelled, the vested status of the clearing and grading permit shall expire on the date of revocation or cancellation.

B. Projects Requiring Prior Discretionary Land Use Permit or Approval.

1. Vesting Date. The vesting date for a clearing and grading permit requiring a prior discretionary land use permit or approval is contingent on the level of engineering detail provided by the applicant as described below:

a. Engineering Details Provided. For applicants that satisfy the submittal requirements of the Director specified in BCC 23.76.035.E, and also satisfy the storm and surface code submittal requirements for site development engineering, the vesting date to this chapter, Chapter 24.06 BCC, and the corresponding development and engineering standards is the date of issuance of the discretionary land use decision.

b. Conceptual Details Provided. For applicants that choose not to provide submittal requirements for site development engineering, the vesting date to this chapter, Chapter 24.06 BCC, and the corresponding development and engineering standards is the date that a complete building permit application is submitted consistent with the requirements of BCC 23.05.090.E, now or as hereafter amended.

2. Expiration of Vested Status.

a. Clearing and Grading Permit Vested with a Discretionary Permit or Approval. The vested status of a clearing and grading permit with a vesting date established pursuant to subsection

(B)(1)(a) of this section shall run with the vested status of the underlying land use permit or approval and expire pursuant to the terms of LUC 20.40.500, now or as hereafter amended.

b. Clearing and Grading Permit Vested with a Complete Building Permit Application. The vested status of a clearing and grading permit with a vesting date established pursuant to subsection (B)(1)(b) of this section shall expire as follows:

i. Before Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the building permit application and expire pursuant to the terms of BCC 23.05.090.H, now or as hereafter amended.

ii. After Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the issued building permit and expire pursuant to the terms of BCC 23.05.100.E, now or as hereafter amended. The vested status of the clearing and grading permit shall be automatically extended for the life of the building permit. If the building permit expires, or is revoked or cancelled pursuant to BCC 23.05.100, now or as hereafter amended, or otherwise, then the vested status of a clearing and grading permit shall also expire, or be revoked or cancelled.

C. Projects Requiring Building Permits and No Prior Discretionary Land Use Permit or Approval.

1. Vesting Date. A clearing and grading permit for a project that requires building permits and no prior discretionary land use permit or approval shall vest to this chapter, Chapter 24.06 BCC, and the corresponding development and engineering standards on the date that a complete building permit application is submitted consistent with the requirements of BCC 23.05.090.E, now or as hereafter amended.

2. Expiration of Vested Status.

a. Before Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the building permit application and expire pursuant to the terms of BCC 23.05.090.H, now or as hereafter amended.

b. Post Building Permit Issuance. The vested status of the clearing and grading permit shall run with the vested status of the issued building permit and expire pursuant to the terms of BCC 23.05.100.E, now or as hereafter amended. The vested status of the clearing and grading permit shall be automatically extended for the life of the building permit. If the building permit expires, or is revoked or cancelled pursuant to BCC 23.05.100, now or as hereafter amended, or otherwise, then the vested status of a clearing and grading permit shall also expire, or be revoked or cancelled.

23.76.050 Conditions of approval – Project denial.

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

23.76.060 Clearing – Vegetation preservation and replacement.

The applicant/permittee shall:

- A. Meet applicable Land Use Code requirements for tree retention and vegetation preservation, disturbance limitation, and new landscaping (including but not limited to LUC 20.20.520, Landscape development; LUC 20.20.900, Tree retention; Part 20.25H LUC, Critical Areas Overlay District; and Part 20.25E LUC, Shoreline Overlay District, now or as hereafter amended).
- B. Preserve 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.
- E. Incorporate a tree protection plan into the clearing and grading drawings. The tree protection plan shall define spatial limits for tree protection and include detailed drawings of tree protection and mitigation. The plan must be prepared by a certified arborist or a registered landscape architect, and shall become part of all construction documentation. (Note: in most instances, the tree survey can serve as the basis for the tree preservation information.)
- F. When clearing activity is interrupted or suspended for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090 and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F, now or as hereafter amended.

23.76.070 Grading.

The applicant/permittee shall:

- A. Meet applicable Land Use Code requirements related to grading, filling and excavation; including, but not limited to, Part 20.25H LUC, the critical areas overlay district, and Part 20.25E LUC, the shoreline overlay district, now or as hereafter amended.
- B. Follow the methodology in the clearing and grading development standards for any proposed filling or excavation.
- C. Meet applicable minimum requirements set forth in BCC 23.76.090 and 24.06.065, now or as hereafter amended.
- D. When grading activity is interrupted or suspended for any reason, stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090 and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F, 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 geologic hazard areas performance standards set forth in LUC 20.25H.125, now or as hereafter amended. When clearing or grading of building sites is interrupted or suspended for any reason, the permittee shall stabilize the site(s) and maintain the erosion control BMPs consistent with BCC 23.76.090.E and the clearing and grading development standards, now or as hereafter amended. If the city deems a construction site abandoned, the applicant or permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F, now or as hereafter amended;

C. Comply with the Land Use Code restrictions applicable to geologic hazard areas (see LUC 20.25H.125, now or as hereafter amended);

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. Perform 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. Perform 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; and

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

23.76.085 Rockeries.

A. Rockeries may be used for erosion protection of cut or fill slopes. The primary function of a rockery is to protect the slope face from soil erosion and sloughing.

B. Rockeries used to protect uncontrolled fill slopes may be no higher than four feet, as measured from the bottom of the base rock.

C. Rockeries used to protect cut slopes or reinforced or engineered fill slopes may be up to a maximum height of 12 feet, as measured from the bottom of the base rock, with the approval of the Director. Any

rockery that is over four feet high, as measured from the bottom of the base rock (cut slopes and reinforced or engineered fill slopes only) shall be designed by a geotechnical engineer.

D. A wall drain must be provided for all rockeries greater than four feet in height as measured from the bottom of the base rock. The drains shall be installed in accordance with the clearing and grading development standards.

E. The procedures and requirements in the clearing and grading development standards related to rockery design and construction must be followed. If the rockery is within a property line setback, see also the height restrictions in LUC 20.20.025, now or as hereafter amended.

F. The geotechnical engineer must provide construction monitoring and/or testing as required by the permit conditions, and submit construction inspection reports to the department for all rockeries that require design by a geotechnical engineer. For each project, or phase of a project, the geotechnical engineer must provide a final letter or report summarizing the results of the construction monitoring and/or testing for each rockery, verifying that the rockery construction meets the geotechnical recommendations and design guidelines. The final letter or report must be submitted to the department prior to the final clearing and grading inspection.

23.76.086 Modular block walls.

A. Modular block walls over four feet in height as measured from the bottom of the base block must be designed by a professional civil or geotechnical engineer.

B. A wall drain must be provided for all modular block walls greater than four feet in height as measured from the bottom of the base block. The drains must be installed per the clearing and grading development standards.

C. The procedures and requirements in the clearing and grading development standards and guidelines related to the wall design and construction must be followed. If the wall is within a structure setback, see also the height restrictions in LUC 20.20.025, now or as hereafter amended.

D. The geotechnical engineer must provide construction monitoring and/or testing as required by the permit conditions, and submit construction inspection reports to the department for all modular block walls that require design by a geotechnical engineer. For each project, or phase of a project, the geotechnical engineer must provide a final letter or report summarizing the results of the construction monitoring for each modular block wall, verifying that the wall construction meets the geotechnical recommendations and design guidelines. The final letter or report must be submitted to the department prior to the final clearing and grading inspection.

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, the provisions of Part 20.25H LUC, Chapter 24.06 BCC, for connections to the storm and surface water system, and all other applicable city of Bellevue regulations, now or as hereafter amended.

23.76.090 Erosion and sedimentation control – Minimum requirement #2.

A. Purpose. The purpose of minimum requirement #2 is to prevent erosion and the discharge of sediment and other pollutants into the storm and surface water system and receiving waters using appropriate BMPs and site management techniques.

B. Applicability.

1. Minimum Requirement #2. This section describes requirements for applicants to prepare a CSWPPP for new development, redevelopment, and land disturbing activities that meet the thresholds set forth in this chapter. Applicants and permittees are responsible for preventing erosion and discharge of sediment and other pollutants into the storm and surface water system and receiving waters. The city does not offer erosivity waivers.
2. Applicants and permittees shall comply with all applicable provisions of the Bellevue City Code, rules, standards, and manuals adopted for this chapter and Chapter 24.06 BCC including, but not limited to, Chapter 24.06 (Storm and Surface Water Code) and corresponding engineering standards, BCC Title 20 (Land Use Code), the clearing and grading development standards, all other applicable codes and standards, and the Ecology Manual, now or as hereafter amended.
3. Exemption. The Director may exempt the following projects from the requirements of preparing a CSWPPP:
 - a. Projects that are covered under the Washington State Department of Ecology's construction stormwater general permit and the permittee is fully implementing and in compliance with the requirements of that permit. To apply for this exemption, the applicant must provide with its permit application materials a copy of the permit coverage letter from the Washington State Department of Ecology, and a copy of the corresponding stormwater pollution prevention plan (SWPPP).
 - b. Projects that involve clearing of 1,000 square feet or less, and grading of 50 cubic yards or less, but require a clearing and grading permit in accordance with BCC 23.76.035.A, now or as hereafter amended.

C. General Requirements.

1. The CSWPPP shall include a 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. All elements listed below must be considered and included in the CSWPPP unless site conditions render the element unnecessary and the Director determines that the exemption from that element is clearly justified based on the narrative of the CSWPPP.
2. 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 BCC Title 20, including, but not limited to, LUC 20.20.520 and 20.20.900, now or as hereafter amended. Consideration should be given to minimizing removal of other trees and minimizing disturbance and/or compaction of native soils except as needed for building purposes.

3. Applicants must prepare and submit a CSWPPP for all projects that meet the permitting thresholds in BCC 23.76.035, except as exempted in BCC 23.76.090.B.3, now or as hereafter amended. The CSWPPP shall be implemented beginning with initial soil disturbance and until final stabilization. The 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.

4. For projects with clearing totaling less than 7,000 square feet and grading less than 500 cubic yards, the CSWPPP may consist of a CSWPPP short form 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 now or hereafter amended.

6. Seasonal Work Limitations. From October 1st through April 30th, clearing and grading activities shall only be authorized by the city if silt-laden runoff will be prevented from leaving the site through compliance with applicable provisions of BCC 23.76.093, now or as hereafter amended. Based on the information provided and/or local weather conditions, the Director may expand or restrict the seasonal limitation on site disturbance.

a. The following activities are exempt from the seasonal clearing and grading limitations:

- i. Routine maintenance and necessary repair of erosion and sediment control BMPs;
- ii. 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
- iii. Activities where there is 100 percent infiltration of surface water runoff within the site in approved and installed erosion and sediment control facilities.

b. Clearing, grading, and hauling are not allowed during periods of heavy rain.

D. CSWPPP Elements. The applicant shall include all elements below in the CSWPPP and ensure that they are implemented, unless site conditions render the element unnecessary and the Director determines that the exemption from that element is clearly justified based on the CSWPPP.

1. Preserve Vegetation/Mark Clearing Limits.

a. Before 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.

b. Retain the duff layer, native topsoil, and natural vegetation in an undisturbed state to the maximum degree practicable, and, where applicable, meet the requirements of LUC 20.20.520, now or as hereafter amended.

2. Establish Construction Access.

- a. Limit construction vehicle access and exit to one route, if possible.
- b. Stabilize access points with a pad of quarry spalls, crushed rock, or other equivalent BMPs to minimize the tracking of sediment onto public roads.
- c. Locate wheel wash or tire baths on-site, if the stabilized construction entrance is not effective in preventing tracking sediment onto roads.
- d. If sediment is tracked off site, clean the affected roadways thoroughly as directed by the city or at a minimum at the end of each day, or more frequently as necessary (for example during wet weather). Remove sediment from roads by shoveling, sweeping, or pickup and transport the sediment to a controlled sediment disposal area.
- e. Conduct street washing only after sediment is removed in accordance with subsection D.2.d of this section. 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.
- f. Control street wash wastewater by pumping back on-site, or otherwise prevent it from discharging into systems tributary to waters of the State.

3. Control Flow Rates.

- a. Protect properties and waterways downstream of development sites from erosion and the associated discharge of turbid waters due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site.
- b. Where necessary to comply with subsection D.3.a of this section, construct stormwater retention or detention facilities as one of the first steps in grading. Assure that detention facilities function properly before constructing site improvements (e.g., impervious surfaces).
- c. If permanent infiltration ponds are used for flow control during construction, protect these facilities from siltation during the construction phase.

4. Install Sediment Controls.

- a. Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants.
- b. Construct sediment control BMPs (sediment ponds, traps, filters, etc.) as one of the first steps in grading. These BMPs shall be functional before other land-disturbing activities take place.
- c. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity

and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site.

d. Direct stormwater runoff from disturbed areas through a sediment pond or other appropriate sediment removal BMP, before the runoff leaves a construction site or before discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but must meet the flow control performance standard in D.3.a, above.

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

f. Where feasible, design outlet structures that withdraw impounded stormwater from the surface to avoid discharging sediment that is still suspended in the water column.

5. Stabilize Soils.

a. Stabilize exposed and unworked soils by application of effective BMPs described in the clearing and grading development standards that prevent erosion. Applicable BMPs include, but are not limited to: temporary and permanent seeding, sodding, mulching, plastic covering, erosion control fabrics and matting, soil application of polyacrylamide (PAM), the early application of gravel base early on areas to be paved, and dust control.

b. Control stormwater volume and velocity within the site to minimize soil erosion.

c. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion.

d. Soils must not remain exposed and unworked for more than the time periods set forth below:

i. During the dry season (May 1st – September 30th): 7 days.

ii. During the wet season (October 1st – April 30th): 2 days.

e. Stabilize soils at the end of the shift before a holiday or weekend, if needed, based on the weather forecast.

f. Stabilize soil stockpiles from erosion, protect with sediment trapping measures, and, where possible, locate away from the storm and surface water system and receiving waters.

g. Minimize the amount of soil exposed during construction activity.

h. Minimize the disturbance of steep slopes.

i. Minimize soil compaction and, unless infeasible, preserve topsoil.

6. Protect Slopes.

- a. Comply with applicable provisions of BCC 23.76.080, now or as hereafter amended.
- b. Design and construct cut and fill slopes in a manner to minimize erosion. Applicable practices include, but are not limited to, reducing continuous length of slope with terracing and diversion, reducing slope steepness, and roughening slope surfaces (for example, track walking).
- c. Divert off-site stormwater (run-on) or groundwater away from slopes and disturbed areas with interceptor dikes, pipes, and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.
- d. At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion.
- e. Temporary pipe slope drains must handle the peak 10-minute velocity of flow from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, one-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis must 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 must 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 shall be modeled as "landscaped area."
- f. Place excavated material on the uphill side of trenches, consistent with safety and space considerations.
- g. Place check dams at regular intervals within constructed channels that are cut down a slope.

7. Protect Drain Inlets.

- a. Protect storm drain inlets made operable during construction so that stormwater runoff does not enter the conveyance system without first being filtered or treated to remove sediment.
- b. Clean or remove and replace inlet protection devices 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. Design, construct, and stabilize all on-site conveyance channels to prevent erosion from the following expected peak flows. Channels must handle the indicated peak 10-minute flow velocity from a Type 1A, 10-year, 24-hour frequency storm for the developed condition. Alternatively, the 10-year, one-hour flow rate predicted by an approved continuous runoff model, increased by a factor of 1.6, may be used. The hydrologic analysis must 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. Provide stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes, and downstream reaches at the outlets of all conveyance systems.

9. Control Pollutants.

a. Design, install, implement and maintain effective pollution prevention measures to minimize the discharge of pollutants.

b. Handle and dispose all pollutants, including waste materials and demolition debris, that occur on-site in a manner that does not cause contamination of stormwater.

c. Provide cover, containment, and protection from vandalism 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 must include secondary containment. Secondary containment means placing tanks or containers within an impervious structure capable of containing 110% of the volume contained in the largest tank within the containment structure. Double walled tanks do not require additional secondary containment.

d. Conduct maintenance, fueling, and repair of heavy equipment and vehicles using spill prevention and control measures. Clean contaminated surfaces immediately following any spill incident.

e. Discharge wheel wash or tire bath wastewater to a separate on-site treatment system that prevents discharge to surface water, such as closed loop recirculation or upland application, or to the sanitary sewer upon approval by the King County Wastewater Treatment Division and the city’s utilities department.

f. Apply fertilizers and pesticides in a manner and at application rates that will not result in loss of chemicals to stormwater runoff. Follow manufacturers’ label requirements for application rates and procedures.

g. Use BMPs to prevent contamination of stormwater runoff by pH modifying sources. The sources for this contamination 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.

h. Adjust the pH of stormwater if necessary to prevent violations of water quality standards.

i. Assure that washout of concrete trucks is performed off-site or in designated concrete washout areas only. Do not wash out concrete trucks onto the ground, or into storm drains, open ditches, streets or streams. Do not dump excess concrete on-site, except in designated

concrete washout areas. Concrete spillage or concrete discharge to surface waters of the state is prohibited.

j. Obtain written approval from Ecology before using chemical treatment other than CO₂ or dry ice to adjust pH. Permittees shall provide the city with a copy of Ecology's written approval before commencing treatment.

10. Control Dewatering.

a. Discharge foundation, vault, and trench de-watering water, which have similar characteristics to stormwater runoff at the site, into a controlled conveyance system before discharge to a sediment trap or sediment pond.

b. Discharge clean, nonturbid water from dewatering activities, such as well-point ground water, to the storm and surface water system or directly into receiving waters; provided the dewatering flow does not cause erosion or flooding of receiving waters. Do not route clean dewatering water through stormwater sediment ponds. Note that "surface waters of the State" may exist on a construction site; for example, a creek running through the site.

c. Handle highly turbid or otherwise contaminated dewatering water separately from stormwater.

d. Other treatment or 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) Ecology-approved on-site chemical treatment or other suitable treatment technologies;

(iv) Sanitary sewer discharge upon approval from the King County Wastewater Treatment Division and the city's utilities department, 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 dewatering.

11. Maintain BMPs.

a. Maintain and repair all temporary and permanent erosion and sediment control BMPs as needed to assure continued performance of their intended function in accordance with BMP specifications.

b. Remove all temporary erosion and sediment control BMPs within 30 days after achieving final site stabilization or after the temporary BMPs are no longer needed.

12. Manage the Project.

- a. Phase development projects to the maximum degree practicable and take into account seasonal work limitations.
- b. Inspection and monitoring – Inspect, maintain, and repair all BMPs as needed to assure continued performance of their intended function.
- c. Maintaining an updated CSWPPP – Maintain, update, and implement the CSWPPP.
- d. Projects that disturb one or more acres must have site inspections conducted by a Certified Erosion and Sediment Control Lead (CESCL). By the initiation of construction, the CSWPPP must identify the CESCL or inspector who must be present on site or on call at all times.

13. Protect Low Impact Development BMPs

- a. Protect all Bioretention and Rain Garden BMPs from sedimentation through installation and maintenance of erosion and sediment control BMPs on the portions of the site that drain into Bioretention and/or Rain Garden BMPs. Restore the BMPs to their fully functioning condition if they accumulate sediment during construction. Restoring the BMP must include removal of sediment and any sediment-laden Bioretention/rain garden soils, and replacing the removed soils with soils meeting the design specification.
- b. Prevent compacting Bioretention and Rain Garden BMPs by excluding construction equipment and foot traffic. Protect completed lawn and landscaped areas from compaction due to construction equipment.
- c. Control erosion and avoid introducing sediment from surrounding land used onto permeable pavements. Do not allow muddy construction equipment on the base material or pavement. Do not allow sediment laden runoff onto permeable pavements or base materials.
- d. Pavements fouled with sediments or no longer passing an initial infiltration test must be cleaned using procedures from the City of Bellevue stormwater manual (now or hereafter amended), or the manufacturer's procedures.
- e. Keep all heavy equipment off existing soils under LID BMPs that have been excavated to final grade to retain the infiltration rate of the soils.

E. Additional Erosion and Sedimentation Control Requirements.

- 1. In addition to the CSWPPP elements listed in subsection D of this section, the Director may impose the following extraordinary BMPs 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; or

c. Constructing additional erosion and sedimentation BMPs.

2. If the initially implemented BMPs do not adequately control pollutants, erosion, and sedimentation, additional BMPs shall be installed, including but not limited to the extraordinary BMPs described in subsection E.1 of this section. It is the 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, now or as hereafter amended.

F. 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 mulched or vegetated.

2. 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 six months without written authorization from the Director.

23.76.093 Temporary restrictions on clearing and grading.

A. Clearing 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.

B. If clearing and grading is prohibited during the rainy season, building construction may nonetheless proceed as long as necessary clearing and grading is complete and effective erosion control is in place and effectively maintained, as described in BCC 23.76.090, now or as hereafter amended.

C. The Director may grant approval to initiate or continue clearing or grading activity 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 which 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 permittee's historical 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 and 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 permittee may be required to implement extraordinary BMPs as described in BCC 23.76.090.E, now or as hereafter amended, 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. At any time, 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. If the city deems a construction site abandoned, the permittee shall install permanent erosion and sedimentation measures pursuant to BCC 23.76.090.F, now or as hereafter amended.

23.76.095 Dust suppression.

Dust from clearing, grading, and other construction activities shall be minimized at all times. Impervious surfaces on or near the construction area shall be swept, vacuumed, or otherwise maintained to suppress dust entrainment. Any dust suppressants used shall be approved by the Director. Petrochemical dust suppressants are prohibited. Watering the site to suppress dust is also prohibited unless it is done in a way that keeps sediment out of the storm and surface water system and receiving waters.

23.76.100 Control of other pollutants.

The permittee shall properly handle and dispose of other pollutants that are on site during construction so as to avoid possible health risks or environmental contamination. Direct and indirect discharge of pollutants to the storm and surface water system and receiving waters is prohibited per Chapter 24.06 BCC, now or as hereafter amended.

23.76.110 Construction phasing and work progress.

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

23.76.120 Maintenance.

Repealed by Ord. 5906.

23.76.140 Abatement security.

- A. An abatement security device is required for all projects that are not individual single-family homes and that involve more than 5,000 square feet of clearing and/or more than 250 cubic yards of excavation and/or fill. In addition, the Director may require an abatement security device for other projects, including individual single-family homes, that can cause problems related to earth and water resources such as erosion and sedimentation or slope instability.
- B. The Director shall determine the amount of the abatement security device; it must be sufficient to correct or eliminate problems related to earth or water resources, either on or off site, caused by project clearing and grading.
- C. The Director shall determine acceptable forms (such as assigned savings accounts or letters of credit) for abatement security devices. Interest from any interest-bearing form of the abatement security device shall accrue to the depositor.

D. Should the city, at any time during the life of the permit, find it necessary to expend any portion of the abatement security device to correct any work not in accordance with the approved plans, or abate conditions, per Chapter 1.18 BCC, now or as hereafter amended, a stop work order shall be issued to the permittee prohibiting any additional work until the permittee re-establishes the original amount of the security and implements more rigorous erosion control BMPs to prevent reoccurrences of the problem. If the city uses any of the abatement security, it shall give the permittee an itemized statement of all funds used. If city costs exceed the amount of the abatement security, the permittee shall reimburse the city for the excess costs.

E. The city shall release the abatement security device once final clearing and grading approval has been given per BCC 23.76.180, now or as hereafter amended.

G. If at any time the city manager determines that clearing and/or 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; 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.

23.76.150 Responsibility to have permit.

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

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

B. Be familiar with and comply with the terms and conditions of the permit.

23.76.160 Project inspections – City access.

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

B. 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 other stages of work when city inspection is required. The Director 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 chapter.

23.76.170 Responsibility for damage arising from clearing and grading activities.

The permittee or property owner shall bear the costs of measures needed to correct damage caused by clearing and grading activities, including impacts to the storm and surface water system. The permittee is required to correct on-site or off-site damages that are caused by the project per the direction of the Director and within the time specified in the Director's written correction notice. Otherwise, the city, or a contractor working under the direction of the city, shall do so using the abatement security device, or other remedies available under Chapter 1.18 BCC, now or as hereafter amended. If no abatement security device was provided, the city will provide an invoice to the permittee or property owner that must be paid in 30 days, or otherwise undertake enforcement action under Chapter 1.18 BCC, now or as hereafter amended.

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, critical areas or critical area buffers, receiving waters, the storm and surface water system, or other utilities, or the work endangers or will endanger the public, the adjoining property, the street, critical areas or critical area buffers, receiving waters, the storm and surface water system or other utilities; or
- F. The permit has not been acted upon or extended within the time allowed pursuant to BCC 23.76.045.B, now or as hereafter amended.

23.76.180 Final approval.

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

23.76.185 As-built plans.

For clearing and grading undertaken to develop plat or short plat infrastructure, the permittee shall submit a copy of the as-built plans submitted to the utility and transportation departments. Such plan(s) shall be submitted prior to final approval per BCC 23.76.180, now or as hereafter amended.

23.76.190 Violations – Penalties.

- A. Violations of this chapter are detrimental to the public health, safety, and welfare.
- B. Civil Violation. Any violation of any of the provisions of this chapter constitutes a civil violation as provided for in BCC 1.18.075, now or as hereafter amended, for which a monetary penalty may be assessed and abatement may be required as provided therein.
- 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.