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## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3259

AN ORDINANCE establishing a development mechanism for each Major Public Open Space in the Central Business District; exempting certain interior and exterior remodelings from Major Pedestrian Corridor and Corridor Design Development Plan requirements; and making provisions for certain bonus floor area transfers and amending Bellevue City Code (Land Use Code) 20.25A.100.E.6; 20.25A.100.E.1.d.i; 20.25A.100.E.1.e.i; 20.25A.100.E.1.e.ii; 20.25A.100.E.1.e.iii; 20.25A.100.E.1.h; and 20.25A.030.E.

WHEREAS, the City Council of the City of Bellevue has adopted a development mechanism for the implementation of the Major Public Open Space at or near 106th Avenue N.E. as embodied in Resolution No. 3948; and

WHEREAS, the City Council has accepted in concept the location of a Major Public Open Space on the east side of 106th Avenue N.E. divided equally between Sterling Recreation Organization and Puget Sound Power and Light Company as embodied in Resolution No. 3948; and

WHEREAS, it is necessary to amend the Land Use Code in order to give effect to the development mechanism embodied in that resolution; and

WHEREAS, it is appropriate that the Major Public Open Spaces at or near Bellevue Way and at or near 110th Avenue N.E. be developed under the same concept; and

WHEREAS, it is necessary to amend provisions relating to the Major Pedestrian Corridor in order to allow reasonable use of existing structures and the expanded transfer of bonus floor area; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act and with the City's Environmental Procedures Ordinance; now, therefore,

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

Section 1. Bellevue City Code (Land Use Code) 20.25A.100.E.6 is amended to read as follows:

6. Major Public Open Spaces:

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- a. Purpose: Major Public Open Spaces serve as focal points for pedestrian activity within the CBD Core Design District, and are design elements fully integrated with the Major Pedestrian Corridor.
- b. Location: The Major Public Open Spaces are to be located at or near the junction of the Major Pedestrian Corridor and --
  - i. Bellevue Way,
  - ii. 106th Avenue N.E.
  - iii. 110th Avenue N.E.
- c. Design:
  - i. The Major Public Open Spaces must be designed with numerous pedestrian amenities such that these areas serve as focal points. Pedestrian amenities include elements such as seating, lighting, special paving, planting, food and flower vendors, artwork and special recreational features. Design must be coordinated with that of the Major Pedestrian Corridor.
  - ii. The Major Public Open Space at or near 106th Avenue N.E. shall be a minimum of 30,000 square feet in size. A maximum of 37,000 square feet is allowed for the purpose of obtaining bonus floor area. The Major Public Open Spaces at or near Bellevue Way and 110th Avenue N.E. shall be a minimum of 10,000 square feet in size. A maximum of 15,000 square feet is allowed for the purpose of obtaining bonus floor area.
  - iii. Area devoted to a Major Public Open Space must be in addition to any area devoted to the Major Pedestrian Corridor.
  - iv. Pedestrian Oriented Frontage is required on at least two sides of a Major Public Open Space.
- d. Specific Development Mechanism:
  - i. General: The provisions of Paragraph E.6.d of this Section establish alternative development mechanisms and specific requirements for each of

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the Major Public Open Spaces. Each affected property owner must comply with the Major Public Open Space design and construction requirements. Only those property owners who establish public access through a recorded legal agreement may utilize the FAR bonus for these Open Spaces.

- ii. Ownership: The owners of property to be devoted to a Major Public Open Space will retain fee ownership of that property.
- iii. Public Access - Legal Agreement.
  - (1) Each owner of property to be devoted to a Major Public Open Space who chooses to participate in the FAR bonus system for a Major Public Open Space shall execute a legal agreement providing that such property is subject to a nonexclusive right of pedestrian use and access by the public.
  - (2) The agreement shall further provide that the public right of pedestrian use established thereunder shall be enforceable by the City of Bellevue, and the City shall have full rights of pedestrian access to and use of the Major Public Open Space for purposes of enforcing the rights of the public under the agreement.
  - (3) The agreement shall be recorded with the King County Division of Records and Elections and Bellevue City Clerk.
  - (4) The obligations under the agreement shall run with the land devoted to a Major Public Open Space. The agreement shall be reviewed at the end of 50 years from the date the agreement is signed and shall continue or change in accordance with the then existing public need for pedestrian use and access of a Major Public Open Space for subsequent 50 year terms.
  - (5) The owner of property to be devoted to a Major Public Open Space will maintain that portion of the Major Public Open Space and keep the same in good repair.

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- (6) The owners of property to be devoted to a Major Public Open Space may adopt reasonable rules and regulations for the use of that space, provided that the rules and regulations are not in conflict with the right of pedestrian use and access and the intentions of Paragraph d.iii.
- iv. Arrangement of Space: The specific apportionment and general location of at least the minimum area of a Major Public Open Space shall be established as part of the Major Public Open Space Design Plan. Any alteration or modification to the designated Major Public Space must be reviewed and approved through an amendment to the Major Public Open Space Design Plan.
  - v. Development Rights: Space above and beneath the area to be devoted to a Major Public Open Space may be developed by the property owner so long as that development is not in conflict with any established pedestrian use of and access to the Major Public Open Space, the intentions of Paragraph d.iii, if applicable, and the Major Public Open Space Design Plan.
  - vi. Floor Area Ratio:
    - (1) Basic: Area to be devoted to a Major Public Open Space may at any time be used to calculate the basic floor area ratio of development for any project limit which incorporates that Major Public Open Space, or of development on property in the same ownership which abuts property which incorporates the Major Public Open Space. For purposes of this provision, abutting property includes all property in the same ownership separated from the Major Public Open Space by only a single public right-of-way. Any transfer of basic floor area to an abutting property must be recorded with the King County Division of Records and Elections and Bellevue City Clerk.
    - (2) Bonus:

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- (a) Bonus floor area at the ratio of 16 square feet of floor area to 1 square foot of Major Public Open Space will be awarded to owners of property to be devoted to the Major Public Open Space who provide a recorded legal agreement pursuant to Paragraph d.iii upon approval of an application to construct that Major Public Open Space.
- (b) Bonus floor area earned for construction of a Major Public Open Space may be --
  - (i) Transferred to any other property within the Core Design District, or to any property in the same ownership which abuts or is across an abutting right-of-way from property which includes the Major Public Open Space. Each transfer must be recorded with the King County Division of Records and Elections and Bellevue City Clerk; and
  - (ii) Utilized to exceed the maximum building height of structures on the project limit incorporating the Major Public Open Space, or of structures to which the bonus floor area is transferred.
- vii. Construction Required: Subject to Paragraph E.6.d.viii, construction by the property owner of all or part of a Major Public Open Space on property in that ownership at the location identified in the adopted Major Public Open Space Design Plan is required in conjunction with any development on property in that ownership within --
  - (1) 175' of the intersection of the eastern edge of the 106th Avenue N.E. right of way and the centerline of the Major Pedestrian Corridor, but including only that area east of the 106th Avenue N.E. right of way, or

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- (2) 175' of the intersection of the centerline of the 110th Avenue N.E. right of way and the centerline of the Major Pedestrian Corridor, or the extension thereof, or
- (3) 175' of the intersection of the centerline of Bellevue Way right of way and the centerline of the Major Pedestrian Corridor.

viii. Exempt Activity/Use: Notwithstanding the provisions of Paragraph E.6.d.vii, the following activities and uses may occur on property described therein without concurrent construction of the Major Public Open Space:

- (1) Surface parking, subject to the landscape development provisions of this Code, for a period of not more than 5 years;
- (2) Temporary Major Pedestrian Corridor improvements in conformance with the Interim Corridor Design Plan;
- (3) Landscape development;
- (4) Street improvements including the Transit Center as provided for in Paragraph E.2 of this Section.
- (5) Any interior remodel.
- (6) Any exterior remodel which enlarges exterior dimensions such that new floor area not exceeding a total of 20% of the gross floor area of the existing building is added, and all new floor area is devoted to pedestrian oriented uses.

ix. Major Public Open Space Design Plan:

- (1) Prior to issuance of a building permit for any structure which requires construction of all or part of a Major Public Open Space, or prior to actual construction of all or part of a Major Public Open Space, whichever comes first, a Major Public Open Space Design Plan for that entire Open Space must be submitted to and approved by

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the City Council. Each Major Public Open Space may have a separate Design Plan.

- (2) The City Council shall adopt a Major Public Open Space Design Plan, and may amend an adopted plan, after conducting a public hearing or hearings. The procedures of Sections 20.30.825, 20.30.845, 20.30.850 and 20.30.867 shall apply.
- (3) A Major Public Open Space Design Plan shall consist of general design guidelines consistent with the provisions of Paragraph E.6.d., and shall specifically apportion and generally locate the Major Public Open Space. The Design Plan shall also establish guidelines for development above all or part of the Major Public Open Space.
- (4) The property owners shall record the approved Design Plan with the King County Division of Records and Elections and Bellevue City Clerk.

x. Design Development Plan:

- (1) Prior to issuance of a building permit for any structure which requires construction of all or part of a Major Public Open Space, or prior to actual construction of all or part of a Major Public Open Space, whichever comes first, a Design Development Plan for that portion to be constructed must be submitted to and approved by the Planning Director.
- (2) The Planning Director may approve, modify and approve, or deny the plan, or amend any approved plan through the Administrative Design Review Process (20.30.475).
- (3) The proposed plan must specify the following elements:
  - (a) Landscaping
  - (b) Lighting

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- (c) Street Furniture
- (d) Color and Materials
- (e) Relationship to Building Frontage
- (f) Specific location of the Major Public Open Space
- (g) All design features required pursuant to Paragraph E.6.c of this Section
- (h) Relationship to and coordination with other portions of the Major Public Open Space, and with the Major Pedestrian Corridor.
- (i) Any other physical element which the Planning Director determines is necessary for and consistent with the Major Public Open Space Design Plan.

Section 2. Bellevue City Code (Land Use Code) 20.25A.100.E.1.d.i is amended to read as follows:

- (i) Prior to the issuance of a building permit for any structure other than surface parking; and other than any interior remodel or exterior remodel which enlarges exterior dimensions such that new floor area not exceeding a total of 20% of the gross floor area of the existing building is added, and provided that all new floor area is devoted to pedestrian oriented uses; located within the Major Pedestrian corridor as defined in Paragraph E.1.b. the following conditions must be met:
  - (1) The alignment of the Major Pedestrian Corridor related to the proposed structure or permanent parking or circulation area must be established by the execution and recording of a legal agreement in accordance with Paragraph E.1.e.i or E.1.e.ii of this Section.
  - (2) A design development plan for the section of the Corridor required to be constructed under E.1.c.iii. Corridor must be approved by the Planning Director as required by Paragraph E.1.e.ii. of this Section. Construction must begin prior to the issuance of certificate of occupancy or a temporary certificate of occupancy for the structure other than surface parking as required by Paragraph E.1.e.iii.(2) of this Section.

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Section 3. Bellevue City Code (Land Use Code) 20.25A.100.E.1.e.i is amended to read as follows:

e. Provision of the Corridor:

i. If the property owner wishes to at any time obtain bonus FAR for construction of the Major Pedestrian Corridor, the City may approve the subdivision or short subdivision of property resulting in any interior lot line which is within 300 feet of the centerline of the Major Pedestrian Corridor only if:

(1) The owner of the property to be subdivided or short subdivided executes a legal agreement providing that all property that he/she owns within the superblock in which any of property to be subdivided or short subdivided is located and which is within the alignment of the Major Pedestrian Corridor established under Paragraph e.1.b., E.1.c. or E.1.e.iii. (hereafter the "Corridor Property") shall be subject to a nonexclusive right of pedestrian use and access by the public. The agreement shall legally describe and shall apply to only that property of the owner located within 330 feet of the centerline of the Corridor.

Such an agreement shall further provide that:

(a) The public right of pedestrian use established thereunder shall be enforceable by the City of Bellevue, and the City shall have full rights of pedestrian access to and use of the Corridor Property for purposes of enforcing the rights of the public under this agreement.

(b) The obligations under the agreement shall run with the Corridor Property. The agreement shall be reviewed at the end of 50 years from the date the agreement is signed and shall continue or change in accordance with the then existing public need for pedestrian use and access of the Corridor for subsequent 50 year terms.

(c) The owner will design and construct the Corridor within such Corridor Property in

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accordance with the requirements of section E.1.

- (d) The agreement shall be recorded with the King County Department of Records and Elections.
- (e) The owner will maintain the portion of the corridor located on the Corridor Property and keep the same in good repair.
- (f) The City will provide adequate police protection.
- (g) No modifications may be made to the Corridor without approval of the City in accordance with Section E.1.e.ii.
- (h) The alignment of any such portion of the pedestrian Corridor established by a legal agreement may be modified or terminated by the property owner and the City if the alignment of any section of the Major Pedestrian corridor changes pursuant to Paragraph E.1.e.ii of this Section.
- (i) The owner may adopt reasonable rules and regulations for use of his/her portion of the Corridor provided that the same may not be inconsistent with the requirements or intentions of this Section.
- (j) Any other terms and conditions that the owner(s) and the city agree to.

Section 4. Bellevue City Code (Land Use Code) 20.25A.100.E.1.e.ii is amended to read as follows:

- ii. Corridor Design Development Plan: Prior to the issuance of a building permit for the construction of any structure other than surface parking; and other than any interior remodel or exterior remodel which enlarges exterior dimensions such that new floor area not exceeding a total of 20% of the gross floor area of the existing building is added, and provided that all new floor area is devoted to pedestrian oriented uses; on the property, any portion of which abuts and is within 330 feet at the time of the adoption of Ordinance No. 2945 of the centerline of the Major Pedestrian Corridor as

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described in Paragraph E.1.b or E.1.c of this Section, a Design Development Plan for the section of the Corridor required to be constructed under E.1.e.iii must be submitted to and approved by the Planning Director.

The Planning Director may approve, modify and approve, or deny the plan, or amend any approved plan through the Administrative Design Review Process, Section 20.30.475.A, B, C. Prior to taking action on any application hereunder, notice shall be given as provided in 20.30.610.D. Appeals from an Administrative Design Review decision involving property within a CBD land use district will be heard and decided upon the City Council following procedures of Section 20.30.825, 20.30.845, 20.30.850 and 20.30.867.

If the owner constructs a Temporary Pedestrian linkage under paragraph E.1.e.iii., preparation of the Corridor Design Development Plan will not be required until the property to be developed is located within 130 feet of the centerline of the Corridor.

The proposed plan must specify the following elements:

- (1) Landscaping,
- (2) Lighting,
- (3) Street Furniture,
- (4) Color and materials,
- (5) Relationship to building frontage,
- (6) Specific alignment for property on which the Corridor will have to be constructed by the applicant proposing development,
- (7) Any other physical elements which the Planning Director and the City Council in their review, determines is necessary for and consistent with the Design Development Plan for a specific section of the Major Pedestrian Corridor, not including specific requirements to construct structures containing retail uses abutting the Corridor.

Section 5. Bellevue City Code (Land Use Code) 20.25A.100.E.1.e.iii is amended to read as follows:

The City may issue a permit for the construction of a structure other than surface parking and other than any interior remodel or exterior remodel which enlarges exterior dimensions such that new floor area not exceeding a total of 20% of the gross floor area of the existing building is added, and provided that all new floor area is devoted to pedestrian oriented uses; on property any part

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of which abuts and is within 330 feet of the centerline of the Major Pedestrian Corridor at the time of the adoption of Ordinance No. 2945 only if:

- (1) The owner complies with Section E.1.e.i(a)-(j) above if that owner wishes to earn bonus FAR for construction of the Major Pedestrian Corridor; and
- (2) The owner files a building permit application to construct his/her section of the Corridor on (a) land he/she owns within the Corridor and within the superblock of the subject construction permit for a structure, and (b) on one half the width of any abutting city-owned land in the Corridor (except for intersections listed below). The City shall initiate or abutting property owners may initiate a street vacation for right-of-way the City owns between 104th Avenue N.E. and 106th Avenue N.E. at N.E. 6th Street in conjunction with or prior to an owner application to construct the Major Pedestrian Corridor. Actual construction of the Corridor must begin prior to the issuance of a certificate of occupancy or temporary certificate of occupancy for the structure other than surface parking. The City shall construct the Corridor at the street intersections of the Corridor and 104th Avenue N.E., 106th Avenue N.E., and 108th Avenue N.E.

The width of the Corridor that would have to be constructed under the requirements of this paragraph may be modified when the final alignment of the Corridor is established as part of Corridor Design Development Plan (E.1.e.ii.). Notwithstanding this potential change in the width of the Corridor that would have to be constructed under paragraph E.1.e.iii., property owners shall at a minimum be required to construct the section of the Corridor as specified in E.1.e.iii(2)(a).

Building permits for surface parking areas to be located on property any part of which abuts and is within 330 feet of the centerline of the Major Pedestrian Corridor at the time of the adoption of this ordinance may be issued subject to the conditions specified in paragraph E.1.d.ii. of this section.

Notwithstanding any other requirement of this section, if a Temporary Pedestrian Linkage is constructed as specified in paragraph E.1.f., construction of the Corridor will not be required unless the property to be developed is located within 130 feet of the centerline of the Major Pedestrian Corridor.

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Section 6. Bellevue City Code (Land Use Code) 20.25A.100.E.1.h is amended to read as follows:

- h. Bonus Floor Area for Major Pedestrian Corridor Construction: Bonus floor area associated with the Major Pedestrian Corridor (Section 20.25A.030) shall be awarded to owners of property within 330 feet of the centerline of the corridor through the Administrative Design Review procedures under Paragraph E.1.e.iii.(2), in conjunction with an application for a permit to construct a structure, permanent parking or circulation area and the Major Pedestrian Corridor and the provision of a legal agreement establishing the public right of pedestrian use pursuant to Paragraph 20.25A.100.E.1.e(1)(a-j).

Section 7. Bellevue City Code (Land Use Code) 20.25A.030.E is amended to read as follows:

- E. Transfer of Bonus Floor Area:
  1. Bonus floor area earned through the amenity incentive system for a specific parcel of land may be transferred to an abutting parcel of land in the same ownership. Each transfer must be recorded with the King County Division of Records and Elections and Bellevue City Clerk.
  2. Bonus floor area earned for actual construction of the Major Pedestrian Corridor may be transferred to any other property within the Core Design District, or to any property in the same ownership which abuts or is across an abutting public right of way from property which includes the Major Pedestrian Corridor. Each transfer must be recorded with the King County Division of Records and Elections and Bellevue City Clerk.

Section 8. This ordinance shall be published by posting it in the three official posting places of the City, and shall take effect and be

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in force five days after the date of posting.

PASSED by the City Council this 16<sup>th</sup> day of June, 1983,  
and signed in authentication of its passage this 16<sup>th</sup> day  
of June, 1983.

(SEAL)

Roy A. Ferguson  
Roy A. Ferguson, Mayor

Approved as to form:

Linda M. Youngs, City Attorney

Richard G. Sidley  
Richard G. Sidley, Assistant City Attorney

Attest:

Marie K. O'Connell  
Marie K. O'Connell, City Clerk

Published June 21, 1983