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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3683

AN ORDINANCE relating to Sign Code procedures and enforcement; and amending Bellevue City Code (Sign Code) 22B.10.030G, 22B.10.140A, 22B.10.140.B, 22B.10.140.F, 22B.10.150N, 22B.10.160.A, 22B.10.170, 22B.10.180; adopting new Sections 22B.10.180 and 22B.10.190; repealing 22B.10.160.F and 22B.10.190; and renumbering 22B.10.200.

WHEREAS, it is desirable to utilize uniform permit review and enforcement procedures; and

WHEREAS, it is desirable to provide relief from the effect of the sign amortization program when its enforcement would fail to significantly improve the appearance of the neighborhood and the City; 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 (Sign Code) 22B.10.030.G is amended to read as follows:

- G. Directional Signs. Directional signs shall not exceed six square feet in sign surface area and may be located only on the premises to which the sign is intended to guide or direct pedestrian or vehicular traffic, except that off-premises directional signs may be approved by the sign administrator subject to the same standards required for granting of a variance as set forth in Section 22B.10.180 of the Bellevue City Code, where the applicant has demonstrated that his premises are so located that on-premises directional signs are inadequate to reasonably apprise the public of the location of the premises.

Section 2. Bellevue City Code (Sign Code) 22B.10.140.A is amended to read as follows:

- A. Structural Requirements. The structure and erection of signs within the city shall be governed by Chapters 2 and 4 of the Uniform Sign Code, 1985 Edition (or by superseding edition

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adopted by the city), and the Uniform Building Code, 1985 Edition (or any superseding edition adopted by the city), Volume I (including appendices), as promulgated by the International Conference of Building Officials, which are adopted and made a part hereof by this reference. Not less than one copy of said codes are on file in the office of the city clerk. Compliance with the Uniform Sign Code and Uniform Building Code shall be a prerequisite to issuance of a sign permit under Section 22B.10.160 of this code:

Section 3. Bellevue City Code (Sign Code) 22B.10.140.B is amended to read as follows:

- B. Electrical Requirements. Electrical requirements for signs within the city shall be governed by the National Electrical Code, 1984 Edition (or any superseding edition adopted by the city), promulgated by the National Fire Protection Association, which is adopted and made a part hereof by this reference. Compliance with the National Electrical Code shall be required by every sign utilizing electrical energy as a prerequisite to issuance of a sign permit under Section 22B.10.160 of this code.

Section 4. Bellevue City Code (Sign Code) 22B.10.140.F is amended to read as follows:

- F. Landscaping for Freestanding Signs. All primary freestanding signs shall include as part of their design, landscaping about their base to prevent automobiles from hitting the sign-supporting structure and to improve the overall appearance of the installation. The planting area about the base of the sign shall be a minimum of one square foot for each square foot of sign surface area and shall include both trees and shrubs so that at the time of installation a minimum of twenty-five percent of the required planting area is covered by plant material.

If the landscaping is not installed concurrently with the sign, the applicant for a sign permit shall provide a performance assurance device in accordance with Bellevue City Code (Land Use Code) 20.40.490. All required landscaping must be installed within sixty days of completion of the sign installation unless the code administrator grants an extension in writing for reasons of weather, good planting practices or unforeseeable construction delay.

Section 5. Bellevue City Code (Sign Code) 22B.10.150.N is amended to read as follows:

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- N. Signs for which a permit has been granted and subsequently revoked for cause by the Code Administrator;

Section 6. Bellevue City Code (Sign Code) 22B.10.160.A is amended to read as follows:

- A. Permit Requirements. No sign governed by the provisions of this code more than four square feet in surface area shall be erected, altered or relocated by any person, firm or corporation from and after the date of adoption of this code without a permit issued by the city. With the exception of subdivision directional signs (Section 22B.10.120C6), no permit is required for a sign of four square feet or less surface area, but such signs must otherwise comply with this code. No new permit is required for signs which have permits and which conform with the requirements of this code on the day of its adoption unless and until the sign is altered or relocated. Signs which, on the date of adoption of this code, have permits but do not conform with this code's requirements may be eligible for characterization as nonconforming signs and for nonconforming sign permits under Section 22B.10.200 herein.

Section 7. Bellevue City Code (Sign Code) 22B.10.160.F is hereby repealed.

Section 8. Bellevue City Code (Sign Code) 22B.10.170 is amended to read as follows:

22B.10.170 Administration, enforcement and sign removal.

- A. Code Administrator. The administrator of this code is the director of design and development or his/her designee. The administrator is authorized and directed to enforce and carry out all provisions of this code, both in letter and spirit, with vigilance and with all due speed. To that end, the administrator is authorized to formulate procedures consistent with the purposes of this code. The administrator is further empowered to delegate the duties and powers granted to and imposed upon him/her under this code. As used in this code, "administrator of this code" or "administrator" includes his/her authorized representative.
- B. Inspection of Administrator. The administrator is empowered to enter or inspect any building, structure or premises in the city, upon which, or in connection with which a sign, as defined by this code, is located, for the purpose of inspection of the sign, its structural and electrical connections, and to insure compliance with the provisions of

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this code. Such inspections shall be carried out during business hours, unless an emergency exists.

- C. Code Violations and Enforcement. The remedies provided in this section for violations of or failure to comply with provisions of this code shall be cumulative and shall be in addition to any other remedy provided by law.
1. Civil Remedies. The violation of or failure to comply with any of the provisions of this code,, or the erection, use or display of any sign not in compliance with all of the provisions of this code is declared to be unlawful.
 - a. Injunction and Abatement. The city, through its authorized agents, may initiate injunction or abatement proceedings or other appropriate action in the courts against any person who violates or fails to comply with any provision of this code, or against the erector, owner or user of an unlawful sign or the owner of the property on which an unlawful sign is located, to prevent, enjoin, abate or terminate violations of this code and/or the erection, use or display of an unlawful sign. The city may abate an unlawful sign using the procedure of Bellevue City Code 9.10.050-.080.
 - b. Civil Infraction. Any violation of any provision of this code is a civil infraction as provided in Bellevue City Code Chapter 1.18 for which civil penalties may be imposed as provided therein.
 2. Removal of Unlawful Sign. Signs which the administrator finds upon public streets, sidewalks, rights-of-way or other public property, or which wheresoever located present an immediate and serious danger to the public because of their unsafe condition may be immediately removed by the administrator without prior notice.

Section 9. Bellevue City Code (Sign Code) 22B.10.180 is amended and renumbered to read as follows:

22B.10.200 Nonconforming Signs.

- A. General. To ease the economic impact of this code on businessmen with substantial investment in signs in existence on the date of adoption of this code, this section provides for up to nine years of continued use of a nonconforming sign

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in its existing state. During this period, it is expected that the sign may be amortized on federal income taxes; however, whether it may be so amortized shall not affect the application of this section. Similar treatment is accorded signs in areas annexed to the city after the code's enactment.

B. Nonconforming Signs.

1. Notification of Nonconformity or Illegality. The sign code administrator shall, as soon as practicable, survey the city for signs which do not conform to the requirements of this code. Upon determination that a sign is nonconforming or illegal, the administrator shall use reasonable efforts to so notify, either personally or in writing, the sign user or owner of the sign and where practicable the owner of the property on which the sign is located of the following; provided, that the business licensee of the business with which the sign is associated shall be presumed to be the sign user under this code:

- a. The sign's nonconformity or illegality;
- b. Whether the sign may be eligible for a nonconforming sign permit

If the identity of the sign user, owner of the sign, or owner of the property on which the sign is located cannot be determined after reasonable inquiry, the notice may be affixed in a conspicuous place on the sign or on the business premises with which the sign is associated.

2. Signs Eligible for Nonconforming Sign Permit. With the exceptions herein provided, any on-premises primary sign located within the city limits on the date of adoption of this code, or located in areas annexed to the city thereafter, which does not conform with the provisions of this code, is eligible for characterization as a nonconforming sign provided it meets the following requirements:

- a. The sign was covered by a sign permit on the date of adoption of this code, if one was required under applicable law; or
- b. If no sign permit was required under applicable law for the sign in question; the sign was in all respects in compliance with applicable law on the

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date of adoption of this code.

Exceptions: No temporary or special signs, as defined by Section 22B.10.120 of this code, prohibited signs, as defined by Section 22B.10.150, or incidental signs, as defined by Section 22B.10.030F, shall be eligible for characterization as nonconforming signs.

3. Number of Nonconforming Signs Permitted. Each sign user within the city having existing nonconforming signs meeting the requirements of Section 22B.10.200.B.2 shall be permitted to designate one (only) of such signs for characterization as nonconforming for each street upon which the business premises fronts. Such designation shall be made in the application for a nonconforming sign permit.
4. Permit for Nonconforming Signs. A nonconforming sign permit is required for each nonconforming sign designated under Section 22B.10.200B3. The permit shall be obtained by the sign user or the sign owner, or the owner of the property upon which the sign is located within sixty days of notification by the city (under Section 22B.10.200B1) that the sign is nonconforming. The permit shall be issued for a fee and shall expire at the end of the applicable amortization period prescribed in Section 22B.10.200D2.

Applications for a nonconforming sign permit shall contain the name and address of the sign user, the sign owner, and the owner of the property upon which the sign is located and such other pertinent information as the administrator may require to insure compliance with the code, including proof of the date of installation of the sign.

A nonconforming sign for which no permit has been issued within the sixty-day period shall within six months be brought into compliance with the code or be removed. Failure to comply shall subject the sign user, owner or owner of the property on which the sign is located to the remedies and penalties of Paragraph 22B.10.200C herein.

5. Loss of Nonconforming Status. A nonconforming sign shall immediately lose its nonconforming designation if:
 - a. The sign is altered in any way in structure or copy (except for changeable copy and normal

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maintenance described in Paragraph 22B.10.200E), which tends to or makes the sign less in compliance with the requirements of this code than it was before the alteration; or

- b. The sign is relocated to a position making it less in compliance with the requirements of this code; or
- c. The sign is replaced; or
- d. Any new primary sign is erected or placed in connection with the enterprise using the nonconforming sign; or
- e. No application for a nonconforming sign permit is filed by the sign user, sign owner, or owner of the property upon which the sign is located within sixty days following notification by the city (under Paragraph 22B.10.200A1) that the sign is nonconforming and that a permit must be obtained.

On the happening of any one of a, b, c, d, or e any permit or designation for what had been designated as a nonconforming sign shall become void, the administrator shall notify the sign user, sign owner or owner of the property upon which the sign is located of cancellation of the permit or designation and the sign shall immediately be brought into compliance with this code and a new permit secured therefor, or shall be removed.

- C. **Illegal Signs.** An illegal sign is any sign which does not comply with the requirements of this code within the city limits as they now or hereafter exist and which is not eligible for characterization as nonconforming under Section 22B.10.200. The city may immediately remove an illegal sign located on city property or right-of-way. The city may remove an illegal sign located on private property no less than ten days following the mailing of notice to the property owner or person in charge of the premises that the sign is illegal and must be removed.
- D. **Amortization Period for Nonconforming Signs.** Nonconforming signs, as defined in Paragraph 22B.10.200B above, for which a nonconforming sign permit has been issued, may remain in a nonconforming state for nine years after the date of installation of the sign, or six years after notification by the city of the sign's nonconformity, whichever is longer.

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Thereafter, subject to Paragraph 22B.10.200.F, the sign shall be brought into conformity with this code with a permit obtained therefor or be removed; provided, however, that the amortization period established by this section may be used only so long as the sign retains its nonconforming status (see Section 22B.10.200); and, provided further that upon any change in land use or occupancy, or change in business name, such nonconforming signs shall, within six months, be brought into conformity with this code with a permit obtained therefor or be removed. The amortization provisions of this code shall not apply to signs the advertising or informative contents of which are oriented toward and visible from the main traveled portion of the interstate system or other state highway.

- E. Nonconforming Sign Maintenance and Repair. Nothing in this section shall relieve the owner or user of a nonconforming sign or owner of the property on which the nonconforming sign is located from the provisions of this code regarding safety, maintenance and repair of signs, contained in Section 22B.10.140 of this code, and from the provisions on prohibited signs, contained in Section 22B.10.150; provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it less in compliance with the requirements of this code or the sign will lose its nonconforming status. (See Section 22B.10.200B5.)
- F. Sign Amortization Exemption Process
1. Applicability: This Paragraph (22B.10.200.F) applies to each sign which is required to be removed pursuant to Paragraph 22B.10.200.D following the amortization period.
 2. Purpose: A sign amortization exemption is a mechanism by which the city may provide relief from the effect of the sign amortization program when its enforcement would fail to noticeably improve the appearance of the neighborhood and the city.
 3. Who May Apply: The property owner or the person displaying the sign which is required to be removed pursuant to Paragraph 22B.10.200.D may apply for a sign amortization exemption.
 4. Special Filing Requirement: The applicant must apply for a sign amortization exemption within 90 calendar

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days of the date that notification of such opportunity is mailed by the City or is thereafter barred from making such application. If an application is not filed, the sign is illegal and in violation of this Code.

5. Applicable Procedure: The city will process an application for a sign amortization exemption through Process III, Bellevue City Code (Land Use Code) 20.35.300 et. seq.; however, a decision by the Board of Adjustment is required. Bellevue City Code (Land Use Code) Section 20.35.330 relating to the Director's decision does not apply.
6. Submittal Requirements:
 - a. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a sign amortization exemption application to be deemed complete and accepted for filing.
 - b. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.
7. Decision Criteria: The Board of Adjustment may approve or approve with modifications an application for a sign amortization exemption if --
 - a. The sign is compatible with the architectural design of structures on the subject property, and
 - b. The sign substantially complies with the requirements of the Sign Code for the Land Use District in which it is located, and
 - c. The sign complies with Bellevue City Code (Land Use Code) Section 20.20.830 (Street Intersection Sign Obstruction), and
 - d. If illuminated, the sign is oriented away from residentially developed or zoned property or is adequately screened so that the source of light is not directly visible.
8. Effect of Exemption: If the Board of Adjustment approves or approves with modifications a sign amortization exemption, that sign may remain until

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removal is required pursuant to Paragraph 22B.10.200.B.5 or C.

9. Assurance Device: In appropriate circumstances, the city may require a reasonable performance or maintenance assurance device in conformance with Bellevue City Code (Land Use Code) Section 20.40.490 to assure compliance with the provisions of the Sign Code and exemption as approved.
10. Fee: The applicant shall pay a fee upon application which is equal to that land use review and processing fee required for a variance to the Sign Code.

Section 10. Bellevue City Code (Sign Code) 22B.10 is amended by the addition of a new Section 22B.10.180 which reads as follows:

22B.10.180 Variance from Sign Code

- A. Scope: This section (22B.10.180) establishes the procedure and criteria that the city will use in making a decision upon an application for a variance from the provisions of the Sign Code.
- B. Applicability: This section applies to each application for a variance from the provisions of the Sign Code except as otherwise provided in Section 22B.10.200 relating to exemptions from the sign amortization program.
- C. Purpose: A variance is a mechanism by which the city may grant relief from the provisions of the Sign Code where practical difficulty renders compliance with the provisions of that Code an unnecessary hardship, where the hardship is a result of the physical characteristics of the subject property and where the purpose of that Code can be fulfilled.
- D. Who May Apply: The property owner may apply for a variance from the provisions of the Sign Code.
- E. Applicable Procedure: The city will process an application for a variance from the provisions of the Sign Code through Process III, Bellevue City Code (Land Use Code) 20.35.300 et. seq.; however, a decision by the Board of Adjustment is required. Bellevue City Code (Land Use Code) Section 20.35.330 relating to the Director's Decision does not apply.
- F. Submittal Requirements:
 1. The Director of Design and Development shall specify

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- the submittal requirements, including type, detail and number of copies, for a variance application to be deemed complete and accepted for filing.
2. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.
- G. Decision Criteria: The Board of Adjustment may approve or approve with modifications an application for a variance from the provisions of the Sign Code if --
1. The variance will not constitute a grant of special privilege inconsistent with the limitation upon signage and uses of other properties in the vicinity and zone in which the property, on behalf of which the application was filed, is located; and
 2. That such variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property, to provide it with signage use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
 3. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated; and
 4. Owing to the special circumstances found under Paragraph G.2, a strict enforcement of the rules, regulations or provisions of this code will result in unnecessary hardship to the sign user or owner or property owner applying for the variance, and such special circumstances are not the result of the voluntary action of the applicant or its agents; and
 5. The variance is in harmony with the general purpose and intent of the Sign Code and preserves the spirit and benefits of that Code; and
 6. The variance is the minimum necessary to fulfill the purpose of a variance and the need of the applicant; and
 7. The special circumstances of the subject property are not the result of the actions of the applicant.

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H. Board of Adjustment--Vote on the Criteria:

1. Prior to a vote on a motion to approve, approve with modifications or deny the variance application, the Board of Adjustment shall vote on each criterion listed in Paragraph G separately and by roll call. The vote of each member on each criterion will be recorded in the written minutes of the public hearing.
2. A motion to approve or approve with modifications may only be made if an affirmative vote of a majority of the membership of the Board of Adjustment present and voting has occurred for each of the criterion listed in Paragraph G.

I. Limitation on Authority: The Board of Adjustment may not grant a variance to --

1. Any dimensional requirement of the Sign Code to the extent of greater than 15% of that dimension, or
2. The number of signs permitted, or
3. The provisions of Bellevue City Code (Land Use Code) 20.35 or any other procedural or administrative provision of the Bellevue City Code, or
4. Any provision of the Sign Code which, by the terms of that Code, is not subject to a variance.

J. Time Limitation:

A variance automatically expires and is void if the applicant fails to file for a sign permit or other necessary development permit within three years of the effective date of the variance unless --

1. The applicant has received an extension for the variance pursuant to Paragraph K, or
2. The variance approval provides for a greater time period.

K. Extension:

1. The Director of Design and Development may extend a variance, not to exceed one year, if --
 - a. Unforeseen circumstances or conditions

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- necessitate the extension of the variance, and
- b. Termination of the variance would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay, and
 - c. The extension of the variance will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
2. The Director of Design and Development may grant no more than two extensions. A second extension may be granted if --
 - a. The criteria listed in Paragraph K.1 are met, and
 - b. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
 - c. Conditions in the immediate vicinity of the subject property have not changed substantially since the variance was first granted.
 - L. Assurance Device: In appropriate circumstances, the city may require a reasonable performance or maintenance assurance device in conformance with Bellevue City Code (Land Use Code) 20.40.490 to assure compliance with the provisions of the Sign Code and the variance as approved.

Section 11. Bellevue City Code (Sign Code) 22B.10.190 is hereby repealed.

Section 12. Bellevue City Code (Sign Code) 22B.10 is amended by the addition of a new Section 22B.10.190 which reads as follows:

22B.10.190 Appeals: The decision of the Director of Design and Development approving, approving with modifications or denying a sign permit or interpreting the provisions of the Sign Code may be appealed using Process VI, Bellevue City Code 20.35.600 et. seq. The Board of Adjustment shall serve as the Hearing Body.

Section 13. Bellevue City Code (Sign Code) 22B.10.200 is hereby renumbered to Bellevue City Code (Sign Code) 22B.10.210.

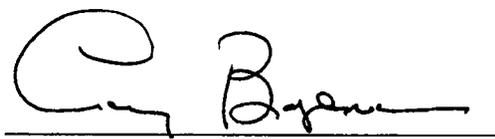
Section 14. This ordinance shall take effect and be in force thirty

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days after passage by the City Council.

PASSED by the City Council this 21st day of July,
1986, and signed in authentication of its passage this 21st day
of July, 1986.

(SEAL)

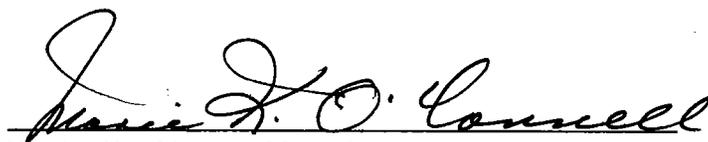

Cary E. Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney


Richard L. Andrews, City Attorney

Attest:


Marie K. O'Connell, City Clerk

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