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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4102

AN ORDINANCE relating to environmental procedures; amending Bellevue City Code (Environmental Procedures Code) Sections 22.02.025.C, 22.02.031.E, 22.02.032, 22.02.034, 22.02.065, 22.02.080, and 22.02.140.B; repealing Sections 22.02.070, 22.02.080 and 22.02.150; and adding new Sections 22.02.080 and 22.02.150.

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

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

Section 1. Bellevue City Code (Environmental Procedures Code) 22.02.025.C is amended to read as follows:

22.02.025 Additional Definitions.

- C. "Environmental Coordinator" is the person appointed by the City Manager to act as the responsible official under SEPA and the SEPA rules, and to administer City compliance with NEPA when required. As used in this Code, the term also includes the authorized representative of the Environmental Coordinator.

Section 2. Bellevue City Code (Environmental Procedures Code) 22.02.031.E is amended to read as follows:

22.02.031 Timing of the Environmental Review Process

- E. No threshold determination is final until expiration of the administrative appeal period following publication of the threshold determination, if not appealed, or, if appealed, until the decision on the administrative appeal becomes final. However, if there is a comment period required by WAC 197-11-340 and no request for withdrawal of the determination is submitted within the fifteen-day period, the threshold

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determination is final at the end of the fifteen-day comment period and there is no administrative appeal period.

Section 3. Bellevue City Code (Environmental Procedures Code)
22.02.032 is amended as follows:

22.02.032 Determination of categorical exemption.

- A. Upon the receipt of an application for a proposal, the receiving department shall, and for city proposals, the initiating department shall, determine whether the proposal is an action potentially subject to SEPA and, if so, whether it is categorically exempt. This determination shall be made based on the definition of action (WAC 197-11-704), the process for determining categorical exemption (WAC 197-11-305) and the designation of environmentally sensitive areas under Section 22.02.045 of this code. Departments shall ensure that the proposal is properly defined per WAC 197-11-060(3). If there is any question whether or not a proposal is exempt, the environmental coordinator shall be consulted and shall make the determination. If the proposal is not categorically exempt, the department making this determination (if different from the proponent) shall notify the proponent of the proposal that he/she must submit an environmental checklist per Section 22.02.033.
- B. Pursuant to the authority provided by WAC 197-11-800(1)(c), the following categorical exemption thresholds apply to exemptions determined under WAC 197-11-800(1) for minor new construction in Bellevue, replacing those provided under WAC 197-11-800(1)(b)(i), (ii) and (v):
1. The construction or location of residential structure(s) containing five (5) or less dwelling units.
 2. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 30,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.
 3. Any landfill or excavation of 500 cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder.

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Section 4. Bellevue City Code (Environmental Procedures Code)
22.02.034 is amended to read as follows:

22.02.034 Threshold determination.

- A. The environmental coordinator shall make the threshold determination and issue a determination of nonsignificance (DNS) or significance (DS). The environmental coordinator shall make such threshold determination in accordance with applicable sections of the SEPA rules, as adopted by this code. In addition to giving any notice required under the SEPA rules, or this code, the environmental coordinator shall notify the proponent, the lead department, and (where a permit is involved) the permit coordinator of the threshold determination.
- B. Each threshold determination shall be published in a newspaper of general circulation within the City. Threshold determinations are appealable as set forth in Section 22.02.080. Section 22.02.031(E) indicates when threshold determinations become final.
- C. Time Limitation:
 1. A threshold determination automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the threshold determination unless--
 - a. The applicant has received an extension of the threshold determination pursuant to Paragraph .034.C.2, or
 - b. The threshold determination provides for a greater time period.
 2. Extension: The Environmental Coordinator may extend a threshold determination, not to exceed one year, if--
 - a. Unforeseen circumstances or conditions necessitate the extension of the determination, and
 - b. Conditions which were considered in making the threshold determination have not changed substantially since its issuance.

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Not more than two one-year extensions may be granted.

3. The limitations established by subsection 1 above shall apply to any threshold determination issued prior to the effective date of this ordinance, provided, the proponent of any project for which the threshold determination was void thereunder may apply for an extension thereof for not to exceed one year under subsection 2 above.

For purposes of this subparagraph, the time limitation established by Subparagraph C.1., above, shall commence upon the date of publication of notice as hereafter provided. The City shall publish notice in a newspaper of general circulation within the city, directed to the owners of an/or proponents of projects on property for which threshold determinations were issued prior to the effective date of this ordinance.

Section 5. Bellevue City Code (Environmental Procedures Code)
22.02.065 is amended to read as follows:

22.02.065 Public notice of environmental determinations and availability of environmental documents.

- A. Whenever the environmental coordinator is required to give notice under WAC 197-11-510 or to give notice of the right to appeal a threshold determination or to comment on the adoption of a previously prepared EIS, the following notice provisions shall be met:
 1. Publishing notice in a newspaper of general circulation within the City;
 2. Sending notice (for an annual fee) to an interested parties list, developed and updated every year by contacting community clubs, organizations and environmental groups and by advertising the formation of this interested parties list;
 3. And when an EIS or EIS hearing is required, posting the site for site-specific proposals.
- B. The environmental coordinator may also elect to give notice by one or more of the other methods specified in WAC 197-11-510.

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Section 6. Bellevue City Code (Environmental Procedures Code)
Section 22.02.070 is hereby repealed.

Section 7. Bellevue City Code (Environmental Procedures Code)
Section 22.02.080 is hereby repealed.

Section 8. Bellevue City Code (Environmental Procedures Code) is
amended by the addition of a new Section 22.02.080.

22.02.080 Appeal of Threshold Determination

- A. General: Except as provided in this section, the decision of the Environmental Coordinator in making a threshold determination may be appealed to the Hearing Examiner using Process VI, Bellevue Land Use Code (20.35.600 et. seq.) provided, however, when the threshold determination is a determination of significance which has been agreed to by the proponent, it shall not be appealable. Any provisions of this section which conflict with Section 20.35.600 et. seq., control over that section.
- B. Who May Appeal: Any person aggrieved by a threshold determination may appeal the decision, provided, however, if there is a comment period required by WAC 197-11-340, only those persons who submit comments requesting withdrawal of the determination during the fifteen-day comment period may appeal the threshold determination.
- C. Time to Appeal: A written statement appealing the threshold determination of the Environmental Coordinator must be filed with the Office of Permit Administration within 10 calendar days of the date of publication of the threshold determination or, if there is a comment period under WAC 197-11-340, within 10 calendar days of the last day of the comment period.
- D. Court Review: The decision of the hearing examiner on a threshold determination may only be appealed to Superior Court in conjunction with an appeal of the underlying action in accordance with RCW 43.21C.075, the State Environmental Policy Act. Any such appeal must be brought within the time limits specified therein.

Section 9. Bellevue City Code (Environmental Procedures Code)
22.02.140.B is amended to read as follows:

22.02.140 Authority to Condition or Deny Proposals.

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- B. Pursuant to RCW 43.21C.060, the following policies, plans, codes and regulations as they now read or are hereafter amended are identified and designated by the city council as possible bases for the exercise of authority under SEPA:
1. The Comprehensive Plan of the city, Bellevue City Code, Title 21;
 2. The Land Use Code of the city, Bellevue City Code, Title 20;
 3. Ordinance No. 3942, Comprehensive Drainage Plan.
 4. Resolution No. 5084, City of Bellevue Public Works Development Standards.
 5. Adopted Capital Improvement Program Plan;
 6. Six-Year Transportation Improvement Program;
 7. Right-of-Way Code, Bellevue City Code Chapter 14.30;
 8. Resolution No. 4972, Bellevue Comprehensive Sewer Plan;
 9. Ordinance No. 3337, Water and Sewer Utility Regulations and Sewer Utility Regulations.
 10. Resolution No. 4554, Water System Comprehensive Plan;
 11. Resolution No. 4153, adopting water and sewer developer extension agreements;
 12. Exhibit A of Resolution 3946, Bellevue pedestrian corridor guidelines; and
 13. Section 1 of Ordinance 3309, design guidelines: building/sidewalk relationships, as those documents now read or hereafter are amended.
 14. The Development Code of the City, Bellevue City Code, Title 22;
 15. The Construction Codes of the City, Bellevue City Code, Title 23;
 16. The Utilities Codes of the City, Bellevue City Code, Title 24;

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17. Resolution No. 4865, Sensitive Areas Notebook;
18. Resolution No. 4939, the Parks, Open Space and Recreation Plan;
19. City Parks Master Plans as adopted by the City Council and as referenced by a list maintained by the Director of Design and Development;
20. Bellevue City Code Chapter 9.18, Noise Control;
21. Traffic Standards Code, Bellevue City Code Chapter 14.10.

Section 10. Bellevue City Code (Environmental Procedures Code) 22.02.150 is hereby repealed.

Section 11. Bellevue City Code (Environmental Procedures Code) Chapter 22.02 is amended by the addition of a new Section 22.02.150 which reads as follows:

22.02.150 Appeal of Decision Attaching Conditions to the Approval of a Proposal or Denying a Proposal.

- A. General: The decision of the applicable Department Director approving a proposal subject to conditions or denying a proposal under the authority of Section 22.02.140 may be appealed to City Council. The appeal will be processed using Process V, Bellevue City Code (Land Use Code) 20.35.500 et. seq. Issues relating to the adequacy of the EIS and other procedural issues may not be appealed under this section. Any provisions of this section which conflict with Sections 20.35.500 et. seq., control over that section.
- B. Who May Appeal: Any person adversely affected by the decision of the applicable Department Director may appeal that decision.
- C. Time to Appeal Administrative Decision: A written statement appealing the decision of the applicable Department Director must be filed with Permit Administration within 20 calendar days of the date the decision of the Director was mailed or otherwise become effective.
- D. Time to Appeal City Council Decision to Superior Court: The decision of the City Council on the administrative appeal must be appealed to Superior Court in conjunction with an appeal of

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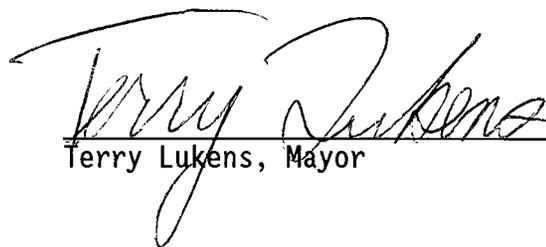
the underlying action in accordance with RCW 43.21C.075 and within the time limits specified therein.

E. Exemption: This Section does not apply to decisions made pursuant to RCW 90.58, the Shoreline Management Act.

Section 12. This ordinance shall take effect and be in force thirty days after final passage by the City Council.

PASSED by the City Council this 2nd day of January 1990, and signed in authentication of its passage this 27th day of January, 1990.

(SEAL)


Terry Lukens, Mayor

Approved as to form:

Richard L. Andrews, City Attorney


Richard L. Andrews, City Attorney

Richard Gidley, Assistant City Attorney

Attest:


Marie K. O'Connell, City Clerk

Published January 10, 1989