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## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4255

AN ORDINANCE relating to Land Use Code provisions regarding uses in land use districts, fences, alternative landscaping, bulkheads, boathouses, private moorage extension, notice, process, decision criteria and appeal procedures; amending Bellevue City Code (Land Use Code) Sections 20.10.440, 20.20.400, 20.20.520.J, 20.25A.010, 20.25E.080.E, 20.25E.080.N.6, 20.25E.080.N.9, 20.30C.140, 20.30D.220.E, 20.30F.140, 20.30H.140, 20.30K.130, 20.30N, 20.30R.150, 20.35.110, 20.35.125, 20.35.130, 20.35.140, 20.35.150, 20.35.155.B., 20.35.175, 20.35.230, 20.35.235, 20.35.255.E, 20.35.310, 20.35.325, 20.35.330, 20.35.340, 20.35.430, 20.45B.120 and adding a new Section 20.30F.170.

WHEREAS, the City Council has established as a priority the review of the permit process system to determine if the process can be made more efficient; and

WHEREAS, the City Council has identified specific code amendment proposals which will streamline the review process but still provide for adequate public comment and review; and

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

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAI!! AS FOLLOWS:

Section 1. Bellevue City Code (Land Use Code) Section 20.10.440 is amended as follows:



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NOTES: USES IN LAND USE USE DISTRICTS - RESIDENTIAL

1. No more than 50% of the gross floor area of the structure shall be devoted to residential uses in O districts, unless Conditional Use permit approval is obtained and the applicable Comprehensive Plan policies do not discourage multifamily uses.
2. A Group home, except for Class 1-A, or detoxification Center may not be located within 1,000 feet in any direction of any other Group Home or Detoxification Center.
3. A boardinghouse or bed and breakfast is permitted in a single family dwelling provided the requirements of 20.20.140 are met.
4. An agreement must be recorded with the King County Department of Records and Elections restricting senior citizen dwellings, congregate care senior housing, or assisted living to remain in perpetuity as senior housing.
5. Through the planned unit development process, senior citizen dwellings may include common dining and recreation facilities.
6. Senior citizen dwellings are appropriate only on single family parcels which directly abut higher intensity zoning or on parcels that are not surrounded by established neighborhoods or single family housing.
7. In areas where the comprehensive Plan policies specifically state that multifamily development is not appropriate, senior housing shall be permitted only through the conditional use permit process.

CHART 20.10.440  
USES IN LAND USE DISTRICTS

SERVICES

ORIGINAL

STD  
LAND  
USE  
CODE  
REF

LAND USE CLASSIFICATION

G	A	OU	R-1	R-1.5	R-2.5	R-3.5	R-4	R-5	R-7.5	R-10	R-15	R-20	R-30	PO	O	CLB	LI	GC	NB	CB	CBD		CBD		CBD		CBD	
																					9-1	9-2	MJ	R	O6	CLB		
6	SERVICES																											
61	FINANCE, INSURANCE, REAL ESTATE SERVICES																											
62	PERSONAL SERVICES; LAUNDRY, DRY CLEANING, BARBER & BEAUTY PHOTOGRAPHY STUDIO AND SHOE REPAIR																											
62A1	FUNERAL & CREMATORY SERVICES																											
62B2	CEMETERIES																											
62B	CHILD CARE SERVICES 3,4																											
	Family Day Care Home																											
	Mini Center in Residence																											
	Day Care Center																											
63	BUSINESS SERVICES, DUPLICATING & BLUE PRINTING, STENO, ADVERTISING (EXCEPT OUT-DOOR), TRAVEL AGENCIES & EMPLOYMENT																											
63A	BUILDING MAINTENANCE & PEST CONTROL SERVICES																											
637	WAREHOUSING & STORAGE SERVICES, EXCLUDING STOCKYARDS																											
63B	RENTAL & LEASING SERVICES CARS, TRUCKS, TRAILERS, FURNITURE & TOOLS																											
641	AUTO REPAIR & WASHING SERVICES																											
64	REPAIR SERVICES: WATCH, T.V., ELECTRICAL, UPHOLSTERY																											
	PROFESSIONAL SERVICES: MEDICAL CLINICS AND OTHER HEALTH CARE RELATED SERVICES																											
	PROFESSIONAL SERVICES: OTHER																											
6513	HOSPITALS																											
66	CONTRACT CONSTRUCTION SERVICES: BUILDING CONSTRUCTION, PLUMBING, PAVING & LANDSCAPE																											
671	GOVERNMENTAL SERVICES: EXECUTIVE, LEGISLATIVE, ADMINISTRATIVE & JUDICIAL FUNCTIONS																											
672	GOVERNMENTAL SERVICES: PROTECTIVE FUNCTIONS & RELATED ACTIVITIES EXCLUDING MAINTENANCE SHOPS																											
674	MILITARY & CORRECTIONAL INSTITUTIONS																											
675	EDUCATION: PRIMARY AND SECONDARY																											
682	UNIVERSITIES & COLLEGES																											
683	SPECIAL SCHOOLS: VOCATIONAL, TRADE, ART, MUSIC, DRIVING, BARBER AND BEAUTY SCHOOLS																											
681	RELIGIOUS ACTIVITIES																											
682 (A)	PROFESSIONAL & LABOR ORGANIZATIONS FRATERNAL LODGE																											
682 (B)	SOCIAL SERVICE PROVIDERS																											
	ADMINISTRATIVE OFFICE - GENERAL																											
	COMPUTER PROGRAM, DATA PROCESSING & OTHER COMPUTER RELATED SERVICES																											
	RESEARCH, DEVELOPMENT & TESTING SERVICES																											

Permitted uses in the Evergreen Highlands Design District (EH-A, EH-B, EH-C AND EH-D) are listed in Section 20.25F.010.  
(Ordinance 3530, 8-12-85, Section 7)

**KEY**

P - PERMITTED USE

C - CONDITIONAL USE (see Part 20.30B. or Part 20.30C.)

A - ADMINISTRATIVE CONDITIONAL USE (see Part 20.30E.)

S - PERMITTED subject to planned unit development only. (see Part 20.30D.)

S - Permitted only as a subordinate use to a permitted or special use.

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NOTES: USES IN LAND USE DISTRICTS - SERVICES

1. Finance, insurance, real estate services are permitted only if commercially or industrially related in LI districts.
2. Personnel Services are permitted in LI districts only if located in a multiple function building or complex.
3. For day care in private residences, see Home Occupation Section 20.30N. For definitions of family daycare home, mini day care center and day care center, see child care service definition in Section 20.50.015. (Ord. 4026, 11-27-89, Section 1)
4. A child care service may be located in community facility in any Land Use District pursuant to Paragraph 20.20.170.E.
5. These uses are permitted in LI only if located in a multiple function building or complex.
6. Automobile rental and leasing services require administrative conditional use approval and are subject to the decision criteria in Section 20.20.131.5.
7. Rental services are limited to only autos and furniture in CB districts.
8. Auto repair and washing services are permitted only if washing services are a subordinate use to a permitted or special use in CBD-MU districts.
9. Professional services are permitted in LI Districts only if located in a multiple function building or complex.
10. Governmental services include maintenance shops in LI and GC districts.
11. Limited to maximum of 1,500 gross square feet per establishment.
12. Nonresidential uses are permitted in CBD-R only if developed in a building which contains residential uses.
13. Drive-in facilities may be permitted through Design Review Part 20.30F at any location in the CBD-0-2 District, or within 200 feet of N.E. 4th Street or N.E. 8th Street in the CBD-0-1 District; but only if all the following criteria are met:
  - a. On site capacity for vehicle stacking of 10 spaces for one drive-up station and 20 spaces for two or more drive-up stations must be provided.
  - b. The design of the vehicular access is compatible with high volume pedestrian walkways and parking access. The

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- vehicular access will not disrupt established retail or service frontages designed to serve pedestrians, nor can the vehicular access lanes be located between the street and the main pedestrian access to the buildings.
- c. The vehicle stacking lanes must be contained within a structured parking area, or be otherwise screened.
  - d. Landscaping or screening must be provided to mitigate any adverse effects on nearby property. Perimeter walkways and sidewalks must conform to the requirements of Section 20.25A.060.
  - e. Walk up banking service, whether manned or electronically activated customer service stations, must be provided on site during regular daytime business hours for pedestrian business when there is no interior banking service.
14. These uses are permitted only in Bellevue School District schools, whether under control of the School District or the City.
- a. In the review of the proposed use or uses under the administrative conditional use permit application (Part 20.30E), the following criteria shall be considered:
    - i. Consistency of the proposal with the goals and policies of the Comprehensive Plan.
    - ii. Extent to which the physical environment will be modified by the proposal.
    - iii. Ability to provide on-site parking facilities to accommodate intended uses under the proposal.
    - iv. Extent of additional demand on public utilities and public services resulting from the proposal.
    - v. Noise impacts of the proposal.
    - vi. Traffic volumes and street classifications in the area of the proposal.
    - vii. Compatibility of the proposal with surrounding land uses.
    - viii. Impact of the proposal on the visual and aesthetic character of the neighborhood.

In addition, the proposed use or uses shall not be more intensive than if the school were being used as a school.
  - b. A master conditional use permit listing a range of permissible uses from those permitted in the land use district as listed in Section 20.10.440 can be obtained for the entire school by using the conditional use process (Part 20.30B or Part 20.30C). Uses listed in the permit shall be permitted outright and uses not listed but permitted as conditional uses shall obtain a conditional use permit.
15. Permitted in inactive elementary school facilities. The following criteria shall be considered:
- a. Criteria b.i-viii, Note 19 - Uses in Land Use Districts-Services.
  - b. Hours of operation.

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c. Proposed signing.

Section 2. Bellevue City Code (Land Use Code) Section 20.20.400 is amended as follows:

20.20.400 Fences

A. General:

1. No fence may violate the sight obstruction restrictions at street intersections. (See Section 20.20.830).
2. No fence may exceed 4'6" in height within a required front setback except as follows:
  - a. If the fence is perpendicular to the right-of-way and necessary for screening or is located on an arterial or on one side of a corner lot and does not exceed the minimum height necessary to afford privacy, security, screening or noise attenuation.
  - b. Any fence with increased height must meet the following criteria:
    - i. The proposed fence will not cause or contribute to a hazardous traffic situation, and
    - ii. The proposed fence is necessary to afford reasonable privacy, security or noise attenuation to the subject property, and
    - iii. The proposed fence is not out of character with development in the immediate vicinity of the subject property and the finished side of the proposed fence faces the right of way or the adjacent property.
3. Any fence which exceeds 6' in height shall conform to the Uniform Building Code.
4. Height shall be measured from finished grade at the exterior side of the fence. No person may construct a berm upon which to build a fence unless the total height of the berm plus the fence does not exceed the maximum height allowable for the fence if the berm was not present.

- B. Barbed Wire: No barbed wire may be used in fencing along a property boundary except at the top of a 6' high solid or chain link fence.

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- C. Electric Fences: Electric fences are not permitted in an "R" district, except where additional fencing or other barriers prevent access to the fence by small children on the adjacent property. Otherwise, electric fences are permitted provided they comply with the following requirements: (1) An electric fence using an interrupted flow of current at intervals of about 1 second on and 2 seconds off shall be limited to 2,000 volts at 17 milliamp, current; (2) An electric fence using continuous current shall be limited to 2,000 volts at 17 milliamp, current; (2) An electric fence using continuous current shall be limited to 1,500 volts at 7 milliamp, current. All electric fences shall be posted with permanent signs a minimum of 36 square inches in area at intervals of 15' stating that the fence is electrified. Electric fences sold as a complete and assembled unit can be installed by an owner if the controlling elements of the installation are certified by an A.N.S.I. approved testing agency.
- D. Chain Link Security Fences: May be permitted within the front setback in CB, GC, or LI districts, or in commercial parking lots and storage areas, providing plans are approved by the Department of Design and Development upon finding that the fence will not violate sight obstruction standards (20.20.830), nor stand in, or in front of, any required landscaping.

Section 3. Bellevue City Code (Land Use Code) Section 20.20.520.J is amended as follows:

- J. Alternative Landscaping Option:
1. The applicant may request a modification of the landscaping requirements set forth in Paragraphs E through I of this Section; provided, however, that -
    - a. Modification of the provisions of Paragraph F.6 may not allow disturbance of a Protected Area, and
    - b. Street frontage landscaping is maintained.
  2. The Director of Design and Development may administratively approve a modification of the landscaping requirements of this Chapter if -
    - a. The proposed landscaping represents a superior result than that which could be achieved by strictly following the requirements of this Section, and
    - b. The proposed landscaping complies with the stated Purpose of this Section (20.20.520.A), and with the Purpose and intent of Paragraphs F.1 and G. of this Section, and

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- c. If a modification of any Paragraph excluding Paragraph E is requested, the proposed landscaping either –
    - i. Incorporates the increased retention of significant trees and naturally occurring undergrowth, or
    - ii. Better accommodates or improves the existing physical conditions of the subject property, or
    - iii. Incorporates elements to provide for wind protection or to maintain solar access;
  - d. If a modification of Paragraph E is requested, the proposal either –
    - i. Incorporates the retention of significant trees equal in number to what would otherwise be required, or
    - ii. Incorporates the retention of other natural vegetation in consolidated locations which promotes the natural vegetated character of the site.
3. Effect of Approval: Following approval of alternative landscaping by the Director of Design and Development, the applicant may meet the landscaping requirements of this Code by complying with the approved landscape development proposal. A copy of the approved landscape development proposal will be placed in the official file.

Section 4. Bellevue City Code (Land Use Code) Section 20.25A.010 is amended as follows:

20.25A.010 General:

- A. Part 20.25A, Central Business District, contains information which applies to development and activity within a CBD Land Use District. Specific Sections apply to limited areas within the CBD Land Use Districts as follows:
  - 1. Old Bellevue, Section 20.25A.070,
  - 2. CBD Office Limited Business, Section 20.25A.080,
  - 3. Perimeter Design District, Section 20.25A.090,
  - 4. Core Design District, Section 20.25A.100.
- B. Procedural Merger:

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Within the CBD Land Use District, any administrative decision required by this Part (20.25A) or by the Land Use Code, including but not limited to the following, may be applied for and processed through a single Design Review (Part 20.30F):

1. Administrative Conditional Use Permit (Part 20.30E).
2. Design Review (Part 20.30F)

C. Design Review Required:

All development within a CBD Land Use District must be reviewed by the Director of Design and Development through Design Review (Part 20.30F).

Section 5. Bellevue City Code (Land Use Code) Section 20.25E.080.E is amended as follows:

E. Bulkhead Regulations.

1. The use of bulkheads shall be limited to protection of existing areas or facilities landward of the ordinary high water mark, and not for the purpose of creating land by filling behind such bulkheads.
2. Construction of or improvements to bulkheads shall not extend into the lakes or riparian corridors beyond the ordinary high water mark, except in case of an approved landfill in compliance with Section 20.25E.080.K.5, and shall be completed within a timely manner.
3. Bulkheads shall be limited in height to 30 inches from average grade of actual or existing topography or, if at the ordinary high water mark, the ordinary high water mark; EXCEPT that bulkhead heights may be increased if approved by the Director of Design & Development and Director of Storm and Surface Water Utility if they determine that the following criteria are satisfied:
  - a. Increased height does not negatively impact abutting properties; and
  - b. Increased height is necessary to protect the existing upland property because of:
    - i. The extraordinary height and/or slope of the natural or existing topography at and immediately landward of the ordinary high water mark. In such instances, increased bulkhead height shall be limited to the minimum height necessary to protect the

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existing property landward of the ordinary high water mark; or

- ii. Extraordinary wave action. In such instances, increased bulkhead height shall be limited to the minimum height necessary to protect the existing property landward of the ordinary high water mark or 45 inches, whichever is less.

4. Bulkheads shall be designed to minimize the transmission of wave energy to other properties.

Section 6. Bellevue City Code (Land Use Code) Section 20.25E.080.N.6 is amended as follows:

6. Boathouses must be approved by the Director of Design and Development. The Director may approve a boathouse only if the structure does not constitute a substantial obstruction of the range of view for neighboring properties, and the structure complies with the covered moorage restrictions in Paragraph N.2.

Section 7. Bellevue City Code (Land Use Code) Section 20.25E.080.N.9 is amended as follows:

9. Private Moorage Extension:
  - a. Except as provided in Paragraph 9.b, private moorage may not extend more than 80 feet beyond the ordinary high water mark.
  - b. Private moorage may extend more than 80 feet beyond the ordinary high water mark to the point at which ten feet of water depth exists at ordinary high water, if approved by the Director of Design and Development. In making his determination the director shall approve the proposal only if the following criteria are satisfied:
    - i. The moorage will not extend beyond the point necessary to obtain a reasonable and safe moorage;
    - ii. The increased length will not interfere with the public use and enjoyment of the water, or create a hazard to navigation; and
    - iii. The increased length will not unreasonably interfere with the use of adjacent piers.

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- c. In no case may private moorage extend more than one hundred fifty (150) feet beyond the ordinary high water mark.

Section 8. Bellevue City Code (Land Use Code) Section 20.30C.140 is amended as follows:

20.30C.140 Special Notice Requirement:

- A. General: The notice requirement of this Section takes the place of the notice requirement of Section 20.35.130 of Process I.
- B. Content: The Director of Design and Development shall prepare a notice of a public hearing on the Shoreline Conditional Use Permit containing the following:
  1. The name of the applicant, and if applicable, the project name, and
  2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
  3. A vicinity map indicating the location of the subject property, and
  4. A citation of the Bellevue City code provision requiring a decision using Process I, and
  5. A brief description of the action, permit or approval requested in the application and of the Substantial Development Permit, and
  6. The date, time and place of the public hearing before the Hearing Examiner, and
  7. A statement of the right of any person to participate in the public hearing as provided for in Paragraph 20.35.135.B, and
  8. A statement that only those persons who participate in the public hearing as provided in Paragraph 20.35.135.B may appeal the recommendation of the Hearing Examiner, and
  9. Both publication dates of the required notice.
- C. Provision of Notice:

In addition, this notice shall include any information required by WAC 173-14-070 and shall be in the form prescribed therein.

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1. Time of Notice: The Director of Design and Development shall provide notice of the public hearing at least thirty-seven calendar days prior to the date of the public hearing.
2. Means of Notice: The Director of Design and Development shall provide notice of the public hearing by –
  - a. Publishing notice of the public hearing in a newspaper printed and published within the City for two consecutive weeks, on the same day of the week. The final publication shall be at least 30 calendar days prior to the date of the public hearing, and
  - b. Posting notice of the public hearing at each official posting place of the City (See Bellevue City Code 1.08), and
  - c. Requiring the applicant to erect public information signs in conformance with Bellevue City Code 2.14, and
  - d. Mailing notice of the public hearing to each owner of real property within 200 feet of any boundary of the subject property, and
  - e. Mailing notice of the public hearing to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable department Director, and
  - f. Mailing notice of the public hearing to each member of a Community Council if the proposal is located within the boundaries of either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

Section 9. Bellevue City Code (Land Use Code) Section 20.30D.220.

- A. General: This Section contains the procedure that the City will use in deciding on a Final Development Plan unless the applicant has chosen to have the application reviewed by the City Council pursuant to Section .225.
- B. Criteria: The applicable Department Director may approved or approve with modifications the application if–
  1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval; and

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2. The applicant has demonstrated that the application complies with the applicable decision criteria of the Bellevue City Code. See Section 20.30D.235.

In all other cases the applicable Department Director shall deny the application.

- C. Conditions: The applicable Department Director may include conditions as part of the approval or approval with modifications to ensure conformance with Paragraph .220.B.
- D. Written Decision: The applicable Department Director shall issue a written decision on the Final Development Plan which contains the following:
  1. A description of the project or decision under review, and
  2. A statement indicating that the application is approved, approved with modifications or denied, and
  3. A statement of facts upon which the decision, including any conditions, was based, and conclusions derived from those facts.
- E. Public Notice of Decision:
  1. Content: The applicable Department Director shall prepare a notice of the decision containing the following:
    - a. The name of the applicant, and if applicable, the project name, and
    - b. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
    - c. A vicinity map indicating the location of the subject property, and
    - d. A brief description of the proposal, and
    - e. A statement that the proposal was approved, approved with modifications, or denied, and
    - f. A statement that the decision of the Director may be appealed pursuant to Paragraph .220.G.
  2. Provision of Notice: The applicable Department Director shall mail notice of the decision to \_

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- a. The applicant, and
- b. Each owner of real property within 200 feet of any boundary of the subject property, and
- c. Each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
- d. Each person who participated in the Preliminary Development Plan Public Hearing, pursuant to Section 20.35.135, and
- e. Each member of a Community Council if the proposal is located within the boundaries of either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

**F. Community Council Review:**

1. Review in Vicinity of Geographic Boundary: The applicable Department Director shall review each decision within the boundary of an affected Community Council at a public meeting of that Council.
2. Time Limit: The decision of the applicable Department Director regarding an action within the geographic boundary of an affected Community Council is not effective for seven calendar days following the public meeting of the Community Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.

**G. Appeal of Director's Decision:**

1. Who May Appeal: The decision of the Director of Design and Development may be appealed by –
  - a. The applicant, or
  - b. Any person to whom notice of the proposed decision was mailed pursuant to Paragraph .220.E.2.
2. Form of Appeal: The decision may be appealed pursuant to Process V (Section 20.35.500 et. seq.)
3. Time to Appeal: The decision of the Director of Design and Development must be appealed no more than 20 calendar days following the date on which the final decision was made.

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Section 10. Bellevue City Code (Land Use Code) Section 20.30F.140 is repealed.

Section 11. Bellevue City Code (Land Use Code) Part 20.30F is amended by the addition of a new Section 20.30F.170.

20.30F.170 Planning Commission Design Review

The authority designated in a land use approval or concomitant agreement for the Bellevue Planning Commission to review a design review proposal is transferred to the Director of Design and Development to review said design review proposal under Part 20.30F.

Section 12. Bellevue City Code (Land Use Code) Section 20.30H.140 is amended as follows:

20.30H.140 Special Notice Requirement:

- A. General: The notice requirement of this Section takes the place of the notice requirement of Process III (Section 20.35.300 et. seq.).
- B. Content: The Director of Design and Development shall prepare a notice of a public hearing on the Variance to the Shoreline Master Program containing the following:
  - 1. The name of the applicant, and if applicable, the project name, and
  - 2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
  - 3. A vicinity map indicating the location of the subject property, and
  - 4. A citation of the Bellevue City Code provision requiring a decision under Process III, and
  - 5. A brief description of the approval requested in the application and of the Substantial Development Permit, and
  - 6. The date, time and place of the public hearing before the Board of Adjustment or the date by which an appeal to the decision must be filed, and
  - 7. If the Board of Adjustment will hear and decide the variance -

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- a. A statement of the right of any person to participate in the public hearing as provided for in Paragraph 20.35.340.B.
  - b. A statement that only those persons who participate in the public hearing as provided in Paragraph 20.35.340.B may appeal the decision of the Board of Adjustment, and
8. If the Director of Design and Development will decide the variance, a statement that the decision of the Director may be appealed to the Board of Adjustment, and
  9. Both publication dates of the required notice.

In addition, this notice shall include any information required by WAC 173-14-070 and shall be in the form prescribed therein.

C. Provision of Notice:

1. Time of Notice: The Director of Design and Development shall provide notice of the public hearing at least thirty-seven calendar days prior to the date of the public hearing or the date by which an appeal may be filed.
2. Means of Notice: The Director of Design and Development shall provide notice of the public hearing or decision by
  - a. Publishing notice of the public hearing or decision in a newspaper printed and published within the City for two consecutive weeks, on the same day of the week. The final publication shall be at least 30 calendar days prior to the date of the public hearing or the date by which an appeal may be filed (See BCC 1.08), and
  - b. Posting notice of the public hearing or decision at each official place location of the City (See BCC 1.08), and
  - c. Requiring the applicant to erect public information signs in conformance with B.C.C. 2.14, and
  - d. Mailing notice of the public hearing or decision to each owner of real property within 200 feet of any boundary of the subject property, and
  - e. Mailing notice of the public hearing or decision to each person who has requested such notice in writing for the calendar year and who has paid the

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fee established by the applicable Department Director, and

- f. Mailing notice to each member of a Community Council if the proposal is located within the boundaries of either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

Section 13. Bellevue City Code (Land Use Code) Section 20.30K.130 is amended as follows:

20.30K.130 Applicable Procedure:

- A. The Director of Design and Development shall interpret the provisions of the Land Use Code in conformance with this Part 20.30K.
- B. A site specific code interpretation requested by a person other than the project proponent or property owner will be processed pursuant to Process II (Section 20.35.200 et seq.) and shall include notice to the project proponent or property owner.
- C. When an interpretation is made in response to a written request pursuant to this Part, the person filing the written request and parties to whom notice was sent may appeal the decision of the Director through Process VI (Section 20.35.600, et. seq.).
- D. The Hearing Examiner may delay hearing a project specific code interpretation appeal until after the applicable land use decisions have been made or development permits have been approved or denied if separate appeals would constitute a duplication of effort unless the delay would nullify the issue(s) on appeal. The Hearing Examiner may also consolidate code interpretation appeals with other appeals related to the project.

Section 14. Bellevue City Code (Land Use Code) Section 20.30N is amended as follows:

20.30N HOME OCCUPATION PERMIT

20.30N.110 Scope: This Part (20.30N) establishes the procedure and criteria that the City will use in making a decision upon an application for a Home Occupation Permit.

20.30N.115 Applicability: This Part applies to each application for a Home Occupation Permit.

20.30N.120 Purpose:

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- A. General: A Home Occupation Permit is a mechanism by which the City may permit a business to be conducted in a dwelling by a resident of that dwelling. The business must be largely incidental to use of the premises as a dwelling. In a non-residential Land Use District either a Home Occupation permit must be obtained or all commercial development standards must be met.
- B. Classes of Permit: Class A Home Occupation Permits are used for all non-child care service businesses. Class B Home Occupation Permits are used for child care services.

20.30N.125 Who May Apply: A resident of the dwelling may apply for a Home Occupation Permit.

20.30N.130 Applicable Procedure:

- A. Exemption: A business which has no external indication of commercial activity, including no non-resident employees, no client visits, no business-related deliveries, and no vehicle signage is exempt from the requirements of this Section.
- B. Class A and B Home Occupation Permit:
  - 1. The City will process an application for Class A and B Home Occupation Permit through Process II (Section 20.35.200 et. seq.). The Director of Design and Development is the applicable Department Director. A public information sign is required for these applications.
  - 2. The decision of the Director of Design and Development on a Class A or B Home Occupation Permit may be appealed using Process VI, Section 20.35.600 et. seq. The Board of Adjustment shall serve as the Hearing Body.

20.30N.135 Submittal Requirements:

- A. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a Home Occupation Permit 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.

20.30N.140 Requirements/Decision Criteria:

- A. Class A Home Occupation Permit: The Director of Design and Development may approve or modify and approve a Class A Home Occupation Permit if the following decision criteria are met:

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1. The business does not involve automobile related services, warehousing of more than 1000 cubic feet of materials, or external storage of goods; and
2. The business is conducted wholly within a structure and utilizes no more than 25% of the gross floor area of the structure in which it is located, and
3. No more than one person who is not a resident of the dwelling is participating in the business at the dwelling, and
4. There is no exterior display, exterior alteration of the property, including expansion of parking, no exterior sign other than business signage on the applicant's vehicle, no exterior storage of materials or other exterior indication of the business, and
5. There is no variation from the residential character of the premises, and
6. There is no structural alteration to the interior or exterior of the structure which changes its residential character, and
7. There is no use of electrical or mechanical equipment which would change the fire rating of the structure or which would create visible or audible interference in radio or television receivers or which would cause fluctuations in line voltage outside the dwelling, and
8. There is no noise, vibration, smoke, dust, odor, heat or glare produced by the business which would exceed that normally associated with a dwelling, and
9. In addition to parking required for the residents, there are no more than two vehicles parked on or in the vicinity of the property as a result of the business at any one time, and
10. There are no more than six client visits per day and there is not more than one client on the premises at any one time. One client does include a family arriving in a single vehicle, and
11. There are no more than two deliveries per week either to or from the residence by a private delivery service and no other use of a commercial vehicle other than that normally used by the applicant or an employee, and
12. If deemed necessary, the business has been inspected by the Bellevue Fire Department and the applicant commits to

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implement all required corrective measures within the stated time period.

B. Class B Home Occupation Permit:

1. The Director of Design and Development may approve or modify and approve a Class B Home Occupation Permit for child care service if the following decision criteria are met:
  - a. No more than two persons who are not residents of the dwelling are participating in the business at the dwelling; and
  - b. There is no exterior display, exterior alteration of the property, including expansion of parking, no exterior sign and no exterior storage of materials, except for play area and equipment; and
  - c. There is no variation from the residential character of the premises; and
  - d. There is no structural or decorative alteration to the interior or exterior of the primary structure which changes its residential character; and
  - e. The subject property is landscaped in a manner compatible with surrounding residences; and
  - f. There is a solid board fence or sight-obscuring vegetation, at least 6' in height and compatible with surrounding neighborhood character, surrounding any outdoor play areas; and
  - g. The outdoor play area is located where it has the least noise impact on surrounding properties; and
  - h. In addition to parking needed by the residents and, except for vehicles parking temporarily to drop-off or pick-up children, there are no more than two vehicles parked on or in the vicinity of the property as a result of the business at any one time, and
  - i. There is a safe passenger loading area; and
  - j. The child care service use has received all necessary permits or approvals from the State of Washington Department of Social and Health Services; and

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- k. The child care service use has been inspected by the Bellevue Fire Department, and the operator commits to implement all required corrective measures within the stated time period; and
  - l. The operator has granted the City of Bellevue permission to enter the property, and to inspect the child care service use for compliance with the requirements of the Land Use Code, and other applicable City ordinances; and
  - m. The operator has obtained a Registration Certificate as required by BCC 4.08 (Business and Occupation Tax).
2. In addition to criteria in paragraph B.1, the Director of Design and Development may impose conditions to mitigate any potential adverse impacts on surrounding uses and shall specifically consider the need to limit the hours of operation or the permissible hours for outdoor play.
  3. The definitions set forth in Bellevue City Code (Land Use Code) Section 20.50.014 for a family day care home and a mini day care center will determine the maximum permissible number of children on the premises at any one time.
- C. In approving, conditioning or denying an application for a Class A or B Home Occupation Permit, the City may consider, in addition to the criteria in Paragraphs A and B, the following:
1. The location of the proposed home occupation in relation to traffic impacts and safety concerns to the adjacent neighborhood; and
  2. The impacts the proposed home occupation may have on the residential character of the neighborhood; and
  3. The cumulative impacts of the proposed home occupation in relation to other City-approved home occupations in the immediate vicinity; and
  4. The imposition of a condition under which the City reserves the right to impose additional conditions or to reconsider the home occupation within a certain timeframe from approval date, based on complaints filed with the City.

Section 15. Bellevue City Code (Land Use Code) Section 20.30R.150 is amended as follows:

20.30R.150 Public Comment Process Before Director's Decision:

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- A. Who May Participate: Any person may participate in the decision.
- B. How to Participate: A person may participate in the decision by submitting written comments on the application to the Director of Design & Development no later than the final date of the comment period.

Section 16. Bellevue City Code (Land Use Code) Section 20.35.110 is amended as follows:

20.35.110 Scope: Section 20.35.100 et.seq. contains the procedures that the City will use in implementing Process I. This Process includes a hearing and recommendation by the Hearing Examiner. City Council action is required following that of the Hearing Examiner and Community Council action may also be required. Means to modify approved decisions are also included.

Section 17. Bellevue City Code (Land Use Code) Section 20.35.125 is amended as follows:

20.35.125 Authority: In accordance with the provisions of this Chapter -

- A. The Hearing Examiner shall conduct a public hearing and either recommend approval or approval with modifications or denial to the City Council.
- B. The City Council shall approve, approve with modifications or deny each application which comes before it under Process I.
- C. When applicable, the Community Council with jurisdiction shall approve, disapprove or take no action on each application which comes before it under Process I.
- D. The applicable Department Director shall approve, approve with modifications or deny an administrative amendment to a previously approved project or decision.

Section 18. Bellevue City Code (Land Use Code) Section 20.35.130 is amended as follows:

20.35.130 Public Notice of Hearing Examiner Hearing:

- A. Content: The applicable Department Director shall prepare a notice of a public hearing on the application containing the following:
  - 1. The name of the applicant and, if applicable, the project name, and

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2. The street address of the subject property and a description in non-legal terms sufficient to identify its location, and
3. A vicinity map indicating the location of the subject property, and
4. The citation of the Bellevue City Code provision requiring a decision using Process I, and
5. A brief description of the action, permit or approval requested in the application, and
6. The date, time and place of the public hearing before the Hearing Examiner, and
7. A statement of the right of any person to participate in the public hearing as provided for in Paragraph .135.B, and
8. A statement that only those persons who participate in the public hearing as provided in Paragraph .135.B may appeal the recommendation of the Hearing Examiner.

B. Provision of Notice:

1. Time of Notice: The applicable Department Director shall provide notice of the public hearing at least 17 calendar days prior to the date of the public hearing.
2. Means of Notice: The applicable Department Director shall provide notice of the public hearing by –
  - a. Publishing notice of the public hearing in a newspaper printed and published within the City (see Bellevue City Code 1.08), and
  - b. Posting notice of the public hearing at each official posting place of the City (see Bellevue City Code 1.08), and
  - c. Requiring the applicant to erect public information signs in conformance with Bellevue City Code 2.14, and
  - d. Mailing notice of the public hearing to each owner of real property within 200 feet of any boundary of the subject property, and
  - e. Mailing notice of the public hearing to each person who has requested such notice in writing for the

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calendar year and who has paid the fee established by the applicable Department Director, and

- f. Mailing notice to each member of a Community Council if the proposal is located within the boundaries of either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

Section 19. Bellevue City Code (Land Use Code) Section 20.35.140 is amended as follows:

20.35.140 Hearing Examiner Action:

- A. General: After the public hearing the Hearing Examiner shall either recommend approval or approval with modifications or denial of the application, or.
- B. Criteria: The Hearing Examiner may recommend approval or approval with modifications if –
  - 1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications, and
  - 2. The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code.

In all other cases, the Hearing Examiner shall recommend denial of the application.

- C. Limitation on Modification: If the Hearing Examiner recommends a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Paragraph .130.A, the Hearing Examiner shall conduct a new hearing on the proposal as modified.
- D. Conditions: The Hearing Examiner may include conditions as part of the recommendation of approval or approval with modifications to insure conformance with Paragraph 140.B.
- E. Written Recommendation of the Hearing Examiner:
  - 1. Content: The Hearing Examiner shall within 10 working days following the conclusion of all testimony and hearings distribute a written recommendation which contains –

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- a. A statement indicating that the application is recommended for approval or approval with modifications or denial, and
  - b. A statement of any conditions included as part of the recommendation of approval or approval with modifications, and
  - c. A statement of the facts upon which the recommendation, including any conditions, was based and the conclusions derived from those facts, and
  - d. A statement of the right of any person who participated in the public hearing as provided for in Paragraph .135.B to appeal the recommendation of the Hearing Examiner as provided for in Section .150.
2. Distribution: The Office of the Hearing Examiner shall mail the written recommendation of the Hearing Examiner, bearing the date it is mailed, to each person who participated in the public hearing as provided for in Paragraph .135.B.
  3. Limitation on Council Action: The City Council may not consider the application for at least 20 calendar days after the date the recommendation of the Hearing Examiner was mailed.
- F. Hearing Examiner's Power to Correct Errors or Clarify:
1. The Hearing Examiner may, at any time prior to a City Council decision on the application, amend the recommendation to correct ministerial errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in Section 20.35.100 et.seq.
  2. The Hearing Examiner may at any time clarify a statement in the written recommendation as long as the clarification does not alter the intent or effect of the recommendation.

Section 20. Bellevue City Code (Land Use Code) Section 20.35.150 is amended as follows:

20.35.150 Appeal of Hearing Examiner Recommendation:

- A. General: A recommendation of the Hearing Examiner may be appealed to the City Council.

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- B. Who May Appeal: The recommendation of the Hearing Examiner may be appealed by any person who participated in the public hearing as provided for in Paragraph .135.B.
- C. Form of Appeal: A person appealing the recommendation of the Hearing Examiner must file a written statement of the findings of fact or conclusions which are being appealed with the City Clerk and must pay a fee as established by ordinance or resolution.
- D. Time to Appeal: A written statement appealing the recommendation of the Hearing Examiner must be filed and the appeal fee paid no more than 20 calendar days following the date that the recommendation of the Hearing Examiner was mailed.
- E. Hearing Required:
  - 1. Authority: The City Council shall conduct an appeal hearing limited to the record developed before the Hearing Examiner, and shall decide upon an appeal of the recommendation of the Hearing Examiner prior to or in conjunction with taking final action on the application pursuant to Section .155.
  - 2. Public Notice of Appeal Hearing:
    - a. Content: The City Clerk shall prepare a notice of an appeal hearing on the appeal of the recommendation of the Hearing Examiner containing the following:
      - i. The name of the appellant, and if applicable the project name, and
      - ii. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
      - iii. A vicinity map indicating the location of the subject property, and
      - iv. A brief description of the recommendation of the Hearing Examiner which is being appealed, and
      - v. The date, time and place of the appeal hearing before the City Council, and
      - vi. A statement of the right of the project proponent, the appellant, the applicable Department Director, witnesses called by each

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and any non-party upon a determination that the testimony will be relevant and non-repetitive to participate in the appeal hearing as provided in Paragraph .150.E.3.b.

- b. Time and Provision of Notice: The City Clerk shall mail notice of the appeal hearing on an appeal of the recommendation of the Hearing Examiner, bearing the date it is mailed at least 17 calendar days prior to the appeal hearing to each person entitled to participate in the appeal pursuant to Paragraph .150.E.3.a.

3. Public Hearing on Appeal:

- a. Who May Participate: The applicant, the appellant, the applicable Department Director, witnesses called by each and a non-party upon a determination that their testimony will be relevant and non-repetitive, may participate in the appeal hearing.
- b. How to Participate: A person entitled to participate may participate in the appeal hearing by –
  - i. Submitting written comments on the appeal to the City Clerk at least five calendar days prior to the appeal hearing, or
  - ii. Submitting written comments or making oral comments on the appeal to the City Council at the appeal hearing.

The City Clerk shall transmit all written comments received prior to the appeal hearing to the City Council no later than the date of that hearing.

- c. Hearing Record: The City Council shall make an electronic sound recording of each appeal hearing.

4. City Council Decision on Appeal:

- a. General: After the appeal hearing the City Council shall either grant, grant with modifications or deny the appeal.
- b. Criteria: The City Council may grant the appeal or grant the appeal with modifications if –
  - i. The appellant has carried the burden of proof and produced evidence sufficient to support

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the conclusion that the appeal should be granted, and

- ii. The City Council finds that the recommendation of the Hearing Examiner is not supported by the preponderance of the evidence.

The City Council shall accord substantial weight to the recommendation of the Hearing Examiner.

- c. Conditions: The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modifications to insure conformance with the criteria under which the application was made.
- d. Findings: The City Council shall adopt findings and conclusions which support its decision on the appeal.
- e. Required Vote: A vote to grant the appeal or grant the appeal with modifications must be by a majority vote of the membership of the City Council. Any other vote constitutes denial of the appeal.

Section 21. Bellevue City Code (Land Use Code) Section 20.35.155.B is amended as follows:

- B. Elements to be Considered: The City Council shall consider the following in deciding upon an application:
  1. The application, and
  2. The minutes, a verbatim transcript or other written summary of any public hearing on the application, and any written material submitted in conformance with the provisions of this Chapter, and
  3. The recommendation of the Hearing Examiner, and
  4. The recommendation of the applicable City Department, and
  5. The comments of a Community Council with jurisdiction pursuant to RCW 35.14, and
  6. The City Council decision on an appeal of the recommendation of the Hearing Examiner pursuant to Section .150 and
  7. The criteria listed in each Section of the Bellevue City Code under which the application was made, and

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8. Any other relevant information which is part of the record on the application.

The City Council shall not accept new information, written or oral, on the application.

Section 22. Bellevue City Code (Land Use Code) Section 20.35.175 is amended as follows:

20.35.175 Amendment of an Approved Project or Decision:

- A. General: Except as otherwise provided in Paragraph .175.B through E, an amendment of a previously approved project or decision is treated as a new application for decision using Process I, Sections .110-.170.
- B. Exemption from Administrative Amendment for Conditional Use Permits, Shoreline Conditional Use Permits and Planned Unit Developments.

The Director of Design and Development may determine that an addition or modification to a previously approved project or decision is exempt from administrative amendment review, provided the following criteria can be met.

1. The proposal does not result significantly in any adverse impact beyond the site, and
  2. The proposal is outside the purpose of administrative amendment and the PUD/Conditional Use requirements, determined by review of the applicable decision criteria, and
  3. The proposal complies with all applicable Land Use Code requirements, and
  4. The proposal does not add more than 20% gross square footage, and
  5. If an addition or expansion has been approved within the preceding 24 month period, the combined additions will not exceed 20% gross square footage.
- C. Examples of modifications, other than additions of gross square footage, which may be exempted if the criteria in Paragraph B will be met are:
    1. The addition of minor structural elements and minor site elements such as fences, carports, satellite antenna, mechanical equipment, and screening for refuse areas, and

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2. Adjustments to parking area layout, restriping of parking, and site access, and
  3. Minor changes to exterior materials, color, trim, window or door location, and
  4. Adjustments to building height or location, which are consistent with the intent of approval, and
  5. Minor adjustments to the landscape plan, such as changes to plant materials.
- D. Appeal. The decision of the applicable Department Director defining an exemption pursuant to this Section may be appealed using Process VI, Section 20.35.600 et. seq.
- E. Administrative Amendment:
1. Scope: Paragraph .175.E contains the procedure that the City will use in deciding on an Administrative Amendment. A proposed amendment which the applicable Department Director determines is within the authority of Paragraph .175.E.2 will be decided as an Administrative Amendment unless the applicant has chosen to have the amendment reviewed as a new application using Process I, Sections .110-.170.
  2. Authority for Administrative Amendment: The applicable Department Director shall act on a proposed Amendment to an approved project or decision if –
    - a. The amendment maintains the design intent or purpose of the original approval, and
    - b. The amendment maintains the quality of design or product established by the original approval, and
    - c. The amendment does not cause a significant adverse environmental or land use impact on or beyond the site, and
    - d. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively.
  3. Decision Criteria: The applicable Department Director may approve or approve with modifications an administrative amendment if –
    - a. The applicant has carried the burden of proof and produced evidence sufficient to support the

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conclusion that the application merits approval or approval with modifications, and

- b. The applicant has demonstrated that the proposal complies with the applicable land use permit decision criteria of the Bellevue City Code.

In all other cases, the applicable Department Director shall deny the application.

4. Conditions:

The applicable Department Director may include conditions as part of the approval or approval with modifications to insure conformance with Paragraph .175.E.3.

5. Written Decision: The applicable Department Director shall issue a written decision on the administrative amendment which contains the following:

- a. A description of the project or decision and the proposed administrative amendment, and
- b. An analysis of the proposed administrative amendment using the applicable decision criteria and a determination that the administrative amendment is within the scope of an administrative amendment pursuant to Paragraph .175.E.1, and
- c. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this Section, and
- d. A statement of facts upon which the decision, including any conditions, was based and conclusions derived from those facts.

6. Public Notice of Decision:

- a. Content: The applicable Department Director shall prepare notice of the decision containing the following:
  - i. The name of the applicant, and if applicable, the project name, and
  - ii. The street address of the subject property and a description in non-legal terms sufficient to identify its location, and
  - iii. A vicinity map indicating the location of the subject property, and

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- iv. The file number of the previously approved project or decision, and
  - v. A brief description of the previously approved project or decision and of the administrative amendment, and
  - vi. A statement that the administrative amendment was approved, approved with modifications or denied, and
  - vii. A statement that the decision may be appealed filed pursuant to Section .175.E.8.
- b. Provision of Notice: The applicable Department Director shall mail notice of the decision to -
- i. The applicant, and
  - ii. Each owner of real property abutting or directly across a public right of way from the subject property, and
  - iii. Each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
  - iv. Each person who can be identified from existing City records as having participated in the original decision if that decision was made within three years from the date of application for the amendment, and
  - v. Each member of a Community Council if the proposal is located within the boundaries of either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.
7. Community Council Review:
- a. Review Within Geographic Boundary: The applicable Department Director shall review each decision within the jurisdiction of an affected Community Council at a public meeting of that Council.
  - b. Time Limit: The decision of the applicable Department Director regarding an action within the geographic boundary of an affected Community Council is not effective for seven calendar days following the public meeting of the Community

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Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.

8. Appeal of Director's Decision:
  - a. Who May Appeal: The decision of the applicable Department Director may be appealed by –
    - i. The applicant, or
    - ii. Any person to whom notice of the proposed decision was mailed pursuant to Paragraph .175.E.6 or .175.E.7.
  - b. Form of Appeal: The decision of the Director may be appealed in accordance with the provisions of Process V, Section 20.35.500 et. seq.
  - c. Time to Appeal: The decision of the applicable Department Director must be appealed no more than 20 calendar days following the date of decision.

Section 23. Bellevue City Code (Land Use Code) Section 20.35.230 is amended as follows:

20.35.230 Public Notice of Upcoming Decision:

- A. Content: The applicable Department Director shall prepare notice of an upcoming decision on the application containing the following:
  1. The name of the applicant, and if applicable, the project name, and
  2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
  3. A vicinity map indicating the location of the subject property, and
  4. The citation of the Bellevue City Code provision requiring a decision using Process II, and
  5. A brief description of the action, permit, or approval requested in the application, and
  6. The date on which the minimum public comment period ends and an explanation of this date in relation to other City processes and time limits, and

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7. A statement of the right of any person to participate in the decision as provided for in Paragraph .235.B, and
8. A statement that only those persons who participate in the decision as provided in Paragraph .235.B may appeal the decision of the applicable Department Director.

B. Provision of Notice

1. Time of Notice: The applicable Department Director shall provide notice of an upcoming decision on the application at least 17 calendar days prior to the decision.
2. Means of Notice: The applicable Department Director shall provide notice of an upcoming decision on the application by –
  - a. Posting notice of the upcoming decision at each official posting place of the City (see Bellevue City Code 1.08), and
  - b. Requiring the applicant to erect public information signs in compliance with Bellevue City Code 2.14 or, if public information signs are not required, then by posting at least three notices of the upcoming decision on or in the vicinity of the subject property, and
  - c. Mailing notice of the upcoming decision to each owner of real property within 200 feet of any boundary of the subject property, and
  - d. Mailing notice of the upcoming decision to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
  - e. Mailing notice of the upcoming decision to each member of a Community Council if the proposal is located within the boundaries of either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

Section 24. Bellevue City Code (Land Use Code) Section 20.35.235 is amended as follows:

20.35.235 Public Comment Process Before Director's Decision:

- A. Who May Participate: Any person may participate in the decision.

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- B. How to Participate: A person may participate in the decision by submitting written comments on the application to the applicable Department Director no later than the final date of the comment period.

Section 25. Bellevue City Code (Land Use Code) Section 20.35.255.E as follows:

20.35.255 Amendment of an Approved Project or Decision:

- A. General: Except as otherwise provided in Paragraph .255.B through E an amendment to a previously approved project or decision is treated as a new application for decision using Process II, Section .210-.250.
- B. Exemption from Simple Amendment for Design Review and Administrative Conditional Use Permits.

The Director of Design and Development may determine that an addition or modification to a previously approved project or decision is exempt from Design Review or from Administrative Conditional Use Permit, provided the following criteria can be met:

1. The proposal does not result in any significant adverse impact beyond the site, and
  2. The proposal is outside the purpose of the specific Design Review or Administrative Conditional Use permit requirements, determined by review of the applicable decision criteria and the Comprehensive Plan Policies establishing the intent of the Design Review requirement, and
  3. The proposal complies with all applicable Land Use Code requirements and all applicable development standards, and will be compatible with all applicable design criteria, and
  4. The proposal does not add more than 20% gross square footage, and
  5. If an addition or expansion has been approved within the preceding 24 month period, the combined additions will not exceed 20% gross square footage.
- C. Examples of modifications other than additions, of gross square footage, which may be exempted if the above criteria will be met are:

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1. The addition of minor structural elements and minor site elements such as fences, carports, satellite antenna, mechanical equipment, and screening for refuse areas, and
  2. Adjustments to parking area layout, restriping of parking, and site access, and
  3. Minor changes to exterior materials, color, trim, window or door location, and
  4. Adjustments to building height or location, which are consistent with the intent of the original approval, and
  5. Minor adjustments to the landscape plan, such as changes to plant materials.
- D. Appeal. The decision of the applicable Department Director defining an exemption pursuant to this Section may be appealed using Process VI, Section 20.35.600 et. seq.
- E. A proposed amendment which the applicable Department Director determines is not within the scope of an exemption, will be processed as a new application for a decision using Process II, Section .210-.250.

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Section 26. Bellevue City Code (Land Use Code) Section 20.35.310 is amended as follows:

20.35.310 Scope: Section 20.35.300 et. seq. contains the procedures that the City will use in implementing Process III. This Process includes an administrative decision which becomes final if no appeal is filed. Upon appeal, a hearing is required by the Board of Adjustment.

Section 27. Bellevue City Code (Land Use Code) Section 20.35.325 is amended as follows:

20.35.325 Authority: In accordance with the provisions of Section 20.35.300 et. seq. -

- A. The applicable Department Director shall approve, approve with modifications or deny a variance under Process III unless an appeal is filed pursuant to Section .330 or unless the applicant has chosen to have the application reviewed by the Board of Adjustment pursuant to Sections .335-.355.
- B. The Board of Adjustment shall approve, approve with modifications or deny a variance under Sections .335-.355 of Process III.

Section 28. Bellevue City Code (Land Use Code) Section 20.35.330 is amended as follows:

20.35.330 Director's Decision:

- A. General: This Section contains the procedure that the City will use in deciding on a variance unless the applicant has chosen to have the application reviewed by the Board of Adjustment pursuant to Sections .335-.355.
- B. Criteria: The applicable Department Director may approve or approve with modifications the application if -
  - 1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval; and
  - 2. The applicant has demonstrated that the application complies with the applicable decision criteria of the Bellevue City Code.

In all other cases the applicable Department Director shall deny the application.

- C. Conditions: The applicable Department Director may include conditions as part of the approval or approval with modifications to ensure conformance with Paragraph .330.B.

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- D. Written Decision: The applicable Department Director shall issue a written decision on the variance which contains the following:
1. A description of the project or decision under review and the proposed variance; and
  2. A statement indicating that the application is approved, approved with modifications or denied; and
  3. A statement of facts upon which the decision, including any conditions, was based and conclusions derived from those facts.
- E. Public Notice of Decision:
1. Content: The applicable Department Director shall prepare a notice of the decision containing the following:
    - a. The name of the applicant, and if applicable, the project name; and
    - b. The street address of the subject property, and a description in non-legal terms sufficient to identify its location; and
    - c. A vicinity map indicating the location of the subject property; and
    - d. A brief description of the proposal; and
    - e. A statement that the proposal was approved, approved with modifications, or denied; and
    - f. A statement that the decision may be appealed pursuant to Paragraph .330..
  2. Provision of Notice: The applicable Department Director shall mail notice of the decision to –
    - a. The applicant, and
    - b. Each owner of real property within 200 feet of any boundary of the subject property, and
    - c. Each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
    - d. Each member of a Community Council if the proposal is located within the boundaries of either

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Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

F. Community Council Review:

1. Review Within Geographic Boundary: The applicable Department Director shall review each decision within the jurisdiction of an affected Community Council at a public meeting of that Council.
2. Time Limit: The decision of the applicable Department Director regarding an action within the geographic boundary of an affected Community Council is not effective for seven calendar days following the public meeting of the Community Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.

G. Appeal of Director's Decision:

1. Who May Appeal: The decision of the applicable Department Director may be appealed by -
  - a. The applicant, or
  - b. Any person to whom notice of the proposed decision was mailed pursuant to Paragraph .330.E.
2. Form of Appeal: The decision may be appealed pursuant to Process VI. (Section 20.35.600 et. seq.) The Board of Adjustment is the hearing body.
3. Time of Appeal: The decision of the applicable Department Director must be appealed no more than 10 calendar days following the date on which the final decision was made.

Section 29. Bellevue City Code (Land Use Code) Section 20.35.340 is amended as follows:

20.35.340 Board of Adjustment—Public Notice:

- A. Content: The applicable Department Director shall prepare a notice of a public hearing on the application containing the following:
  1. The name of the applicant, and if applicable, the project name; and

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2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location; and
3. A vicinity map indicating the location of the subject property; and
4. The citation of the Bellevue City Code provision requiring a decision using Process III; and
5. A brief description of the action, permit, or approval requested in the application; and
6. The date, time and place of the public hearing before the Board of Adjustment; and
7. A statement of the right of any person to participate in the public hearing as provided for in Paragraph .345.B; and
8. A statement that only those persons who participate in the public hearing as provided for in Paragraph .345.B may appeal the decision of the Board of Adjustment.

B. Provision of Notice:

1. Time of Notice: The applicable Department Director shall provide notice of the public hearing on the application at least 17 calendar days prior to the date of the public hearing.
2. Means of Notice: The applicable Department Director shall provide notice of the public hearing by –
  - a. Publishing notice of the public hearing in a newspaper printed and published within the City (see Bellevue City Code 1.08), and
  - b. Posting notice of the public hearing at each official posting place of the City (see Bellevue city Code 1.08), and
  - c. Requiring the applicant to erect public information signs in conformance with Bellevue City Code 2.14, or if public information signs are not required, then by posting at least three notices of the public hearing on or in the vicinity of the subject property, and
  - d. Mailing notice of the public hearing to each owner of real property within 200 feet of any boundary of the subject property, and

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- e. Mailing notice of the public hearing to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
- f. Mailing notice to each member of a Community Council if the proposal is located within the boundaries in either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

Section 30. Bellevue City Code (Land Use Code) Section 20.35.430 is amended as follows:

20.35.430 Public Notice:

- A. Content: The applicable Department Director shall prepare a notice of a public hearing on the application containing the following:
  - 1. The name of the applicant, and if applicable, the project name, and
  - 2. If the application involves specific property, the street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
  - 3. If the application involves specific property, a vicinity map indicating the location of the subject property, and
  - 4. The citation of the Bellevue City Code provision requiring a decision using Process IV, and
  - 5. A brief description of the action, permit or approval requested in the application, and
  - 6. The date, time and place of the public hearing before the Advisory Body, and
  - 7. A statement of the right of any person to participate in the public hearing as provided for in Paragraph .435.B.
- B. Provision of Notice:
  - 1. Time of Notice: The applicable Department Director shall provide notice of the public hearing at least 17 calendar days prior to the date of the public hearing.
  - 2. Means of Notice: The applicable Department Director shall provide notice of the public hearing by –

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- a. Publishing notice of the public hearing in a newspaper printed and published within the City (See Bellevue City Code 1.08), and
- b. Posting notice of the public hearing at each official posting place of the City (See Bellevue City Code 1.08), and
- c. If the application involves specific property rather than an area or zone-wide change --
  - i. Requiring the applicant to erect public information signs in conformance with Bellevue City Code 2.14, and
  - ii. Mailing notice of the public hearing to each owner of real property within 200 feet of any boundary of the subject property, and
  - iii. Mailing notice of the public hearing to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
  - iv. Mailing notice of the public hearing to each member of a Community Council if the proposal is located within the boundaries of either Community Council; or to the Chairs and Vice Chairs of both Community Councils if neither has jurisdiction.

Section 31. Bellevue City Code (Land Use Code) Section 20.45B.120 is amended as follows:

20.45B.120 Preliminary Short Plat - Public Comment Process Before Director's Decision

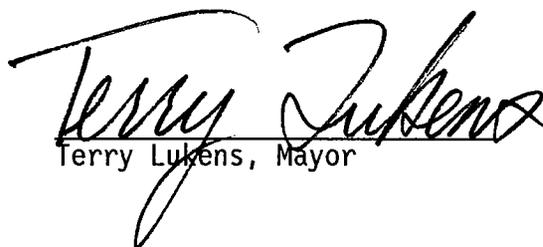
- A. Who may Participate: Any person may participate in the decision.
- B. How to Participate: A person may participate in the decision by submitting written comments on the application to the applicable Department Director no later than the final date of the comment period.

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Section 32. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 3<sup>rd</sup> day of June, 1991, and signed in authentication of its passage this 3<sup>rd</sup> day of June, 1991.

(SEAL)

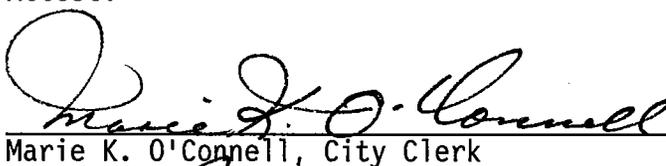
  
Terry Lukens, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

  
Richard Gidley, Deputy City Attorney

Attest:

  
Marie K. O'Connell, City Clerk

Published June 7, 1991