

ORIGINAL

WP0309C-ORD  
03/31/94

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4638

AN ORDINANCE regarding non-conforming structures, uses and sites; temporary use permits; and preliminary plats; and amending sections 20.20.560, 20.30M.145 and 20.45A.150 of the Land Use Code.

WHEREAS, the Growth Management Act requires that the City's development regulations be consistent with and implement the City's Comprehensive Plan; and

WHEREAS, the Bellevue City Council desires to foster economic development within the community by eliminating unnecessary or confusing land development regulations; and

WHEREAS, the City Council desires to simplify and improve the opportunities for public participation in and understanding of the land use regulatory process; and

WHEREAS, the City desires to accomplish its regulatory functions efficiently; and

WHEREAS, to the extent that the Bellevue Land Use Code contains inconsistent, unnecessary, redundant, or confusing provisions, it is the City's desire to clarify or eliminate such provisions; and

WHEREAS, the City has complied with the City's Environmental Procedures Code; now, therefore,

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

Section 1. Section 20.20.560 of the Land Use Code is hereby amended to read as follows:

20.20.560 Non-Conforming Structures, Uses and Sites

A. Non-Conforming Structures

1. Ordinary maintenance and repair of a non-conforming structure and its equipment or fixtures is permitted provided the fair market value of the repair does not exceed 25% of the replacement value of the structure as determined by the Director of Community Development for the year in which the

work is done. For purposes of this section 20.20.560, replacement value shall be calculated according to rules and procedures to be promulgated by the Director.

2. A non-conforming structure may not be enlarged or reconstructed unless the enlargement or reconstruction conforms to the regulations of this code. However, in single-family districts an enlargement or reconstruction may extend along existing building setbacks provided the area affected by the expansion is not a Protected Area designated by Section 20.25H.070 or a Protected Area Setback required by Section 20.25H.090 or within the Shoreline Overlay District Setback required by Section 20.25E.080.
3. If a non-conforming structure is destroyed by fire, explosion, or other unforeseen circumstances to the extent of 75% or less of its replacement value as determined by the Director for the year of its destruction, it may be reconstructed consistent with its previous nonconformity. If such a structure is destroyed to the extent of greater than 75% of its replacement value, then any structure erected and any related site development shall conform to the regulations of this code.

**B. Non-Conforming Uses**

1. A non-conforming use may be continued by successive owners or tenants, except where the use has been abandoned. No change to a different use classification shall be made unless that change conforms to the regulations of this code.
2. If a non-conforming use of a structure or land is discontinued for a period of twelve months with the intention of abandoning that use, any subsequent use shall thereafter conform to the regulations of the district in which it is located. Discontinuance of a non-conforming use for a period of twelve months or greater constitutes prima facie evidence of an intention to abandon.
3. A non-conforming use may be expanded only pursuant to an administrative conditional use permit if the expansion is not more than 20% or 20,000 square feet, whichever is less, or by a conditional use permit if the expansion is over 20% or 20,000 square feet.

C. Non-Conforming Sites

1. A non-conforming site may not be changed unless the change conforms to the regulations of this code.
2. Upon the restoration of a structure demolished by fire, explosion or other unforeseen circumstances to greater than 75% of its replacement value on a non-conforming site, the site shall be brought into conformance with the regulations of this code.
3. For remodels or repairs of an existing structure made within any twelve-month period which together exceed 50% of the replacement value of the previously existing structure as defined by the Director for the year in which the work was commenced, the site shall be brought into compliance with existing Land Use Code requirements. Remodels or repairs which do not exceed 50% shall not be required to comply with the requirements of this paragraph.
4. Upon expansion of any structure or complex of structures within a single site, the site shall be brought into compliance in accordance with this paragraph.

For the purpose of this section, expansion means construction which increases the floor area within an existing complex or an existing structure. If the expansion is over 50% of the existing floor area, all of the nonconformities on the site must be brought up to the then current Land Use Code requirements.

If the expansion is 50% or less, the following is required:

- a. A Conformance Plan may be required to identify the nonconformities as well as the cost of individual improvements.
- b. Required improvements for a nonconforming site:

The percentage of required physical site improvements to be installed to reduce or eliminate the nonconformity of the site shall be established by the following formula:

i. Divide the dollar value of the proposed improvements by the replacement value of the existing structure(s) as determined by the Director for the year in which the work commenced, up to 100 percent.

ii. That percentage is then multiplied by the dollar amount identified by the Conformance Plan as necessary to bring the site into compliance.

iii. The dollar value of this equation is then applied toward reducing the nonconformities. Example:

Value of existing structure(s) = \$20,000  
Value of proposed improvements = \$ 5,000  
\$20,000 divided into \$5,000 equals 25%  
Cost identified in Conformance Plan equals \$4,000  
25% times \$4,000 equals \$1,000  
\$1,000 would be applied toward reducing the nonconformities

iv. The Director of Community Development shall determine the type, location and phasing sequence of the proposed improvements. No portion of this amount shall be applied toward the requirements of any other City Code.

5. This section is not intended to apply to street frontage improvements and other requirements outlined in Section 20.20.950.D.

Section 2. Section 20.30M.145 of the Land Use Code is hereby amended to read as follows:

**20.30.M.145 Time Limitation:**

A. General. A Temporary Use Permit is valid for up to 90 calendar days from the effective date of the permit, except as specifically provided in the Land Use Code. The Director of Community Development may establish a shorter time frame.

**B. Extended Temporary Uses:**

1. The Director of Community Development may approve a Temporary Use Permit for up to one year for temporary sales or rental offices in subdivisions, multifamily or non-residential projects or other longer term uses as specified in the Land Use Code. Temporary sales or rental office permits may be extended by the Director of Community Development as necessary to substantially complete initial sales or rental of a project.

Section 3. Section 20.45A.150 of the Land Use Code is hereby amended to read as follows:

**20.45A.150 Preliminary Plat - Extension**

- A. The Director of Community Development may extend a Preliminary Plat for up to two years, if:
  1. A written request for extension is filed at least thirty days before the expiration of the three-year period, and
  2. Unforeseen circumstances or conditions necessitate the extension of the Preliminary Plat, and
  3. Conditions in the immediate vicinity of the subject property have not changed substantially since the Preliminary Plat was first approved, and
  4. Termination of the Preliminary Plat would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay, and
  5. An extension of the Preliminary Plat will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole.
- B. The Director of Community Development may extend a preliminary plat for a phased development, but not including the initial phase or division one improvements, for up to three additional years beyond the period provided in subsection A, above, if:
  1. A written request for extension is filed at least thirty days before the expiration of the preliminary plat, and

ORIGINAL

WP0309C-ORD  
03/31/94

2. Unforeseen circumstances or conditions necessitate the extension of the preliminary plat, and
3. Conditions in the immediate vicinity of the subject property have not changed substantially since the preliminary plat was first approved, and
4. Termination of the preliminary plat would result in unreasonable hardship to the applicant, and the applicant was not responsible for the delay, and
5. An extension of the preliminary plat will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole, and
6. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
7. The preliminary plat substantially complies with the Land Use Code provisions applicable on the date that the application for extension was made.

ORIGINAL

WP0309C-ORD  
03/31/94

Section 4. This ordinance shall take effect and be in force five (5) days after its passage and legal publication.

PASSED by the City Council this 4th day of April, 1994, and signed in authentication of its passage this 4th day of April, 1994.

(SEAL)

  
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Donald S. Davidson, DDS, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

  
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Richard Gidley, Deputy City Attorney

Attest:

  
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Myrna L. Basich, City Clerk

Published April 8, 1994