

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4800

AN ORDINANCE relating to the Comprehensive Plan of the City of Bellevue, adopted by Section 1 of Resolution No. 5726, as required by the Growth Management Act of 1990, as amended, (chapter 36.70A RCW), and as amended by Resolution Nos. 5778, 5823 and 5897 (as separately set forth in Resolution Nos. 5898, 5899, 5900, 5901, 5902 and 5903); readopting the Comprehensive Plan as so adopted and amended, by ordinance; providing for certain other matters in connection therewith; and declaring that a public emergency exists in the City of Bellevue.

WHEREAS, the City Council adopted the Comprehensive Plan of the City of Bellevue on December 6, 1993 by Section 1 of Resolution No. 5726, as required by the Growth Management Act of 1990, as amended, (chapter 36.70A RCW); and

WHEREAS, the City Council subsequently adopted Resolution Nos. 5778, 5823 and 5897 (as separately set forth in Resolution Nos. 5898, 5899, 5900, 5901, 5902 and 5903) amending the Comprehensive Plan; and

WHEREAS, the Central Puget Sound Growth Management Hearings Board of the State of Washington in its Order of Dismissal in South Bellevue Partners Limited Partnership and South Bellevue Development, Inc. v. City of Bellevue and Issaquah School District No. 411 (Case No. 95-3-0055) concluded that the City did not properly adopt the amendment to the capital facilities element of the Comprehensive Plan because the City adopted such amendment by resolution (Resolution No. 5903) instead of by ordinance and that therefore such amendment has "no legal effect"; and

WHEREAS, the City will appeal the decision of the Central Puget Sound Growth Management Hearings Board; and

WHEREAS, although the City Council believes that it properly adopted its Comprehensive Plan and all subsequent amendments and that the City will prevail on its appeal of the Central Puget Sound Growth Management Hearings Board's decision, the City desires to eliminate any procedural basis for appeal of the Comprehensive Plan; and

WHEREAS, the City Council does not by readopting the Comprehensive Plan by ordinance, intend to supersede or repeal its Comprehensive Plan as so adopted and amended, nor does it admit that its adoption of the Comprehensive Plan by Resolution No. 5726 or any subsequent amendments were not validly

adopted and does not waive or otherwise relinquish its right to continue to contend that such actions adopting and amending the Comprehensive Plan were valid; and

WHEREAS, re adoption of the Comprehensive Plan by ordinance shall not have any effect on any actions taken by the City pursuant to, or in reliance on, the Comprehensive Plan from its date of adoption by Resolution No. 5726 on December 6, 1993; and

WHEREAS, it is the intent of the City Council that in the event of a final judicial determination upholding the validity of the City's actions in adopting the Comprehensive Plan pursuant to Resolution No. 5726 and as subsequently amended, this ordinance shall have no force and effect; and

WHEREAS, the decision of the Central Puget Sound Growth Management Hearings Board not only declares to be of no legal effect the City's recent amendment of the Capital Facilities Element of the Comprehensive Plan (Resolution No. 5903) but also clouds the legal effect of the City's prior adoption and amendment of the Comprehensive Plan by resolution; and

WHEREAS, RCW 35A.13.190 provides that an ordinance passed by a majority plus one of the whole membership of the City Council, designated therein as a public emergency ordinance necessary for the protection of the public health, public safety, public property or the public peace, may be effective upon adoption; and

WHEREAS, the City Council finds that the possible legal ineffectiveness of the City's Comprehensive Plan, which serves as the legal basis for the City's zoning and land use codes as well as other City actions, creates a public emergency and declares that a public emergency ordinance is therefore necessary for the protection of the public health, public safety, public property or the public peace; now therefore,

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

Section 1. Section 1. of Resolution No. 5726 adopting that certain Comprehensive Plan required pursuant to the Growth Management Act of 1990 (chapter 36.70A RCW), as amended, and as amended by Resolutions Nos. 5778, 5823 and 5897 (as separately set forth in Resolution Nos. 5898, 5899, 5900, 5901, 5902 and 5903) is hereby readopted by this ordinance and shall be codified as Title 21 of the Bellevue City Code. Such Comprehensive Plan, as so amended, has been given Clerk's Receiving No. 22354.

Section 2. Readoption of the Comprehensive Plan by Section 1 of this ordinance shall not repeal or supersede said Plan as so adopted and amended as set forth in Section 1 of this ordinance, and shall have no effect on, nor shall it invalidate, any action or pending action taken with regard to said Comprehensive Plan prior to the effective date of this ordinance.

Section 3. In the event of a final judicial determination upholding the validity of the City's actions in adopting the Comprehensive Plan by Resolution No. 5726 and subsequently amending the Plan, this ordinance shall have no force and effect.

Section 4. This ordinance is a public emergency ordinance necessary for the protection of the public health, public safety, public property or the public peace and shall be effective immediately upon its adoption. This ordinance and the Comprehensive Plan given Clerk's Receiving No. 22354 shall be available for public inspection in the office of the City Clerk.

PASSED by a majority plus one of the whole membership of the City Council this 16th day of October, 1995, and signed in authentication of its passage this 16th day of October, 1995.

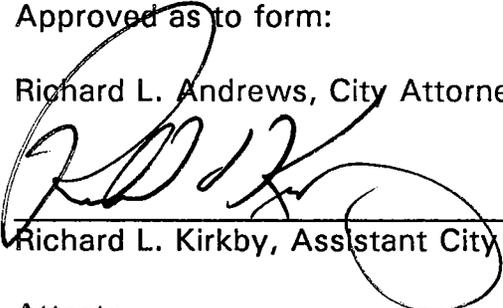
(SEAL)



Donald S. Davidson, DDS, Mayor

Approved as to form:

Richard L. Andrews, City Attorney



Richard L. Kirkby, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published October 20, 1995