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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4978

AN ORDINANCE relating to corrections in the procedures sections of the Bellevue City Code and centralization of appeals from City administrative decisions; amending Sections 20.20.200, 20.25J.050, 20.30N.160, 20.30P.110, 20.30P.130, 20.30P.155, 20.35.015, 20.35.085, 20.35.150, 20.35.350, 20.45A.070, 20.45A.190, 20.45B.140, 20.45B.260, 3.40.060, 3.40.065, 3.40.070, 3.50.060, 3.50.070, 3.50.100, 3.68.260, 5.08.090, 5.12.120, 9.16.060, 9.18.046, 9.21.070, 9.21.100, 14.10.040, 14.40.130, 22.02.150, 22.16.095, 22.18.070, 23.05.040, 24.04.100, and 24.06.135 of the Bellevue City Code; and repealing Sections 20.30P.135, 20.45B.110, and 20.45B.200.F.

WHEREAS, the City of Bellevue has conducted a regulatory reform program to amend its Land Use Codes to improve the regulatory standards, omit unnecessary regulation and provide consistency with other codes; and

WHEREAS, changes made to the Land Use Code have resulted in a need to change other city codes; and

WHEREAS, it is the intent of the Bellevue City Council that any administrative appeals provided under city codes be filed with the City Clerk in order to provide consistency, clarity and ease of administration of the appeals process; now, therefore,

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

Section 1. Section 20.20.200.A of the Bellevue Land Use Code is hereby amended as follows:

20.20.200 Commuter parking facility.

A. The applicant may propose a commuter parking facility providing no more than 50 parking spaces and utilizing the parking area of an existing use through the administrative conditional use process (Part 20.30E LUC). Appeals of decisions made pursuant to this subsection will be decided using the Process II appeal procedures (LUC 20.35.250).

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Section 2. Section 20.25J.050 of the Bellevue Land Use Code is hereby amended as follows:

20.25J.050 Master Development Plan Permit.

A. Applicable Procedure.

The City will process an application for a Master Development Plan through Process III (LUC 20.35.300 et seq.) together with the property reclassification approval required pursuant to LUC 20.25J.010.

1. Phasing Plan. The applicant may request that a phasing plan for installation of site improvements and amenities be approved as part of the Master Development Plan review.
2. Binding Site Plan. The applicant may request that the site plan approved with the Master Development Plan constitute a Binding Site Plan pursuant to Chapter 58.17 RCW.

B. Decision Criteria.

The City may approve or approve with modifications an application for a Master Development Plan Permit if:

1. The proposed development is consistent with the goals and policies of the Comprehensive Plan and with the definition of the Institutional Land Use District; and
2. The requirements of this part and all other applicable provisions of the Land Use Code are met; and
3. The proposed development is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; and
4. The location, configuration, design, and detailing of major structures and landscaping convey an image of its public use and serve as prominent landmarks in the community; and
5. The structures and site development, including landscaping, internal circulation patterns, pedestrian connections, public plazas and sitting areas functionally relate within the site and connect to adjacent site development; and
6. The proposed development provides efficient vehicular access to parking and service areas which minimize the interaction of vehicles with pedestrians; and provides for safe pedestrian movement throughout the site, to adjacent sidewalks, to parking areas, to transit facilities, and to other publicly accessible spaces; and

7. The primary vehicular and pedestrian entrances to the complex are located and designed to delineate the complex as a major institution; and

8. The proposed development includes at least one major public outdoor open space which is oriented toward the front entrance of the complex, or which serves to denote the entrance to the major public institution.

C. Conditions.

The City Council may impose conditions on the Master Development Plan to insure that the standards and intent of the Land Use Code, Development Standards, and Comprehensive Plan are met, and to mitigate potential adverse environmental impacts.

D. Recording.

Following approval of the Master Development Plan, the applicant shall record the plans and conditions which constitute the approved Master Development Plan with King County Division of Records and Elections and with the Bellevue City Clerk.

E. Modification or addition to an approved Master Development Plan.

There are three ways in which to modify or add to an approved Master Development Plan: process as a new Master Development Plan, process as a Land Use Exemption, or process as an Administrative Amendment.

1. General.

Except as provided in subsections 2 and 3 of this section, an amendment of a previously approved Master Development Plan is treated as a new application.

2. Land Use Exemption for a Master Development Plan.

The Director may determine that an addition or modification to a previously approved Master Development Plan is exempt from further review under the administrative amendment process or as a new application, provided the following criteria are met:

a. The addition or modification does not result in any significant adverse impact beyond the site; and

b. The addition or modification is within the general scope of the purpose and intent of the original approval; and

c. The addition or modification complies with all applicable Land Use Code requirements; and

d. The addition or modification does not add square footage that is more than 20 percent of existing gross square footage; and

e. If an addition or expansion has been approved within the preceding 24-month period, the combined additions or expansions will not exceed 20 percent gross square footage.

3. Administrative Amendment of a Master Development Plan.

a. Scope. A proposed amendment which the Director determines meets the criteria of this section will be decided as an Administrative Amendment unless the applicant has chosen to have the amendment reviewed as a new application.

b. Decision Criteria. The Director shall approve a proposed amendment to an approved Master Development Plan if:

i. The amendment maintains the design intent or purpose of the original approval; and

ii. The amendment maintains the quality of design or product established by the original approval; and

iii. The amendment does not cause a significant adverse environmental or land use impact on or beyond the site; and

iv. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively.

v. The applicant carries the burden of proof and demonstrates that the application merits approval or approval with modifications.

c. Conditions. The Director may include conditions as part of the approval or approval with modifications to ensure conformance with the decision criteria for an administrative amendment and for the original approval.

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

i. A description of the original Master Development Plan and the proposed administrative amendment; and

ii. An analysis of the proposed administrative amendment using the applicable decision criteria, including the facts upon which the decision and any conditions for the project are based; and

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iii. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section. (Ord. 4288, 10-7-91, § 2)

Section 3. Section 20.30N.160 of the Bellevue Land Use Code is hereby amended as follows:

20.30N.160 Revocation of Home Occupation Permit.

Upon determination that there has been a violation of any decision criteria or condition of approval, the Director of Community Development may give written notice to the permit holder describing the alleged violation. Within 14 days of the mailing of notice of violation, the permit holder shall show cause why the permit should not be revoked. At the end of the 14-day period, the Director shall sustain or revoke the permit. When a Home Occupation Permit is revoked, the Director shall notify the permit holder by certified mail of the revocation and the findings upon which revocation is based. Appeals of decisions to revoke a Home Occupation Permit will be processed using the Process II appeal procedures (LUC 20.35.250). (Ord. 4654, 6-6-94, § 66)

Section 4. Section 20.30P.110 of the Bellevue Land Use Code is hereby amended as follows:

20.30P.110 Scope.

This Part 20.30P establishes the procedures and criteria that the City will use in making a decision upon an application for a Protected Area Development Exception or Small Lot Protected Area Development Exception. (Ord. 3775, 5-26-87, § 22)

Section 5. Section 20.30P.130 of the Bellevue Land Use Code is hereby amended as follows:

20.30P.130 Applicable procedure.

A. Protected Area Development Exception. The City will process a Protected Area Development Exception through Process I (LUC 20.35.100 et seq.).

B. Small Lot Protected Area Development Exception. A Small Lot Protected Area Development Exception applies to a lot of less than 30,000 gross square feet or a lot for single-family development and will be processed through Process II (LUC 20.35.200 et seq.).

Section 6. Section 20.30P.135 of the Bellevue Land Use Code is hereby repealed:

Section 7. Section 20.30P.155 of the Bellevue Land Use Code is hereby amended as follows:

20.30P.155 Extension.

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A. The Director of Community Development may extend a Protected Area Development Exception, not to exceed one year, if:

1. Unforeseen circumstances or conditions necessitate the extension of the Exception; and
2. Termination of the Exception would result in unreasonable hardship to the applicant; and the applicant is not responsible for the delay; and
3. The extension of the Exception will not cause substantial detriment to existing uses or sensitive areas in the immediate vicinity of the subject property.

B. The Director of Community Development may grant no more than one extension. (Ord. 3775, 5-26-87, § 22)

Section 8. Section 20.35.015 of the Bellevue Land Use Code is hereby amended as follows:

20.35.015 Framework for Decisions.

A. Land use decisions are classified into four processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity.

B. Process I decisions are quasi-judicial decisions made by the Hearing Examiner on project applications. The following types of applications require a Process I decision:

1. Conditional Use Permits (CUP) and Shoreline Conditional Use Permits;
 2. Preliminary Subdivision Approval (Plat);
 3. Planned Unit Development Approval (PUD); and
 4. Protected Area Development Exception (PADE);
- provided that applications for CUPs, shoreline CUPs, preliminary plats, PUDs, and PADEs within the jurisdiction of a Community Council pursuant to RCW 35.14.040 shall require a Process III decision.

C. Process II decisions are administrative land use decisions made by the Director. Threshold determinations under the State Environmental Policy Act (SEPA) made by the Environmental Coordinator and Sign Code variances are also Process II decisions. (See the Environmental Procedures Code, BCC 22.02.034 and Sign Code, BCC 22B.10.180.) The following types of applications require a Process II decision:

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1. Administrative Amendments;
2. Administrative Conditional Use;
3. Binding Site Plan;
4. Design Review;
5. Home Occupation Permit;
6. Interpretation of the Land Use Code;
7. Preliminary Short Plat;
8. Shoreline Substantial Development Permit;
9. Variance and Shoreline Variance; and
10. Small Lot Protected Area Development Exception.

D. Process III decisions are quasi-judicial decisions made by the City Council. The following types of applications require a Process III decision:

1. Site-specific or project-specific rezone;
2. Conditional Use, Shoreline Conditional Use, Preliminary Plat, and Planned Unit Development projects subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040; and
3. Master Development Plans for Institutional Uses.

E. Process IV decisions are legislative non-project decisions made by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. The following are Process IV decisions:

1. Amendments to the text of the Land Use Code or Comprehensive Plan;
2. Amendments to the Comprehensive Plan Map;
3. Amendments to the Zoning Map (rezones) on a City-wide or area-wide basis.

F. Other types of land use applications and decisions made by the Director, including those set forth below, are minor or ministerial administrative decisions, exempt from the above land use processes. Notice and an administrative appeal

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opportunity are not provided. LUC 20.35.020 through 20.35.070, however, apply to all land use applications.

1. Boundary Line Adjustment;
 2. Final Plat (also requires Hearing Examiner approval prior to recording);
 3. Final Short Plat;
 4. Land Use Exemption;
 5. Temporary Use Permit;
 6. Vendor Cart Permit.
- (Ord. 4816, 12-4-95, § 102)

Section 9. Section 20.35.085 of the Bellevue Land Use Code is hereby amended as follows:

20.35.085 Appeals of Non-Land Use Matters.

Certain other appealable administrative decisions are made by City departments, including but not limited to decisions pursuant to the City's Traffic Standards Code (Chapter 14.10 BCC), Transportation Improvement Program (Chapter 22.16 BCC), the School Impact Fees for Issaquah School District No. 411 (Chapter 22.18 BCC), the Sewer Code (Chapter 24.04 BCC), the Storm and Surface Water Utility Code (Chapter 24.06 BCC), the Sign Code (Chapter 22B.10 BCC), and the Environmental Procedures Code (Chapter 22.02 BCC). These types of non-Land Use Code appeals are heard and decided by the City Hearing Examiner. When associated with a consolidated Land Use permit application, the appeal will be heard in conjunction with any appeal on the Land Use application. In some cases, the relevant code modifies the appeal process slightly compared to Land Use Code appeals. (See e.g., Transportation Improvement Program: only applicant may appeal.) In such cases, and as to those codes only, the procedures governing other appeals shall control. In all cases, however, the final City decision on the administrative appeal is made by the Hearing Examiner. Information on non-Land Use Code appeals is available from the department administering the relevant code and from the City Hearing Examiner. (Ord. 4816, 12-4-95, § 102)

Section 10. Section 20.35.150.A of the Bellevue Land Use Code is hereby amended as follows:

20.35.150 Appeal of Hearing Examiner Decision.

A. A Process I decision of the Hearing Examiner may be appealed to the City Council as follows:

1. Who May Appeal. The decision of the Hearing Examiner may be appealed by any person who participated in the public hearing as provided for in LUC 20.35.137, or by the applicant or the City.

2. Form of Appeal. A person appealing the decision of the Hearing Examiner must file with the City Clerk a written statement of the findings of fact or conclusions which are being appealed and must pay a fee, if any, as established by ordinance or resolution. The written statement must be filed together with an appeal notification form available from the Office of the City Clerk.

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 14 days following the date the decision of the Hearing Examiner was mailed.

4. Hearing Required. The City Council shall conduct a closed record appeal hearing in order to decide upon an appeal of the decision of the Hearing Examiner. The decision on any such appeal shall be made within such time as is required by applicable state law.

5. Public Notice of Appeal Hearing.

a. Content of Notice. The City Clerk shall prepare a notice of an appeal hearing 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 brief description of the decision of the Hearing Examiner which is being appealed, and
- iv. The date, time and place of the appeal hearing before the City Council.

b. Time and Provision of Notice. The City Clerk shall mail notice of the appeal hearing on an appeal of the decision of the Hearing Examiner no less than 14 days prior to the appeal hearing to each person entitled to participate in the appeal pursuant to LUC 20.35.150.A.6.a.

6. Closed Record Hearing on Appeal to City Council.

a. Who May Participate. The applicant, the appellant, the applicable Department Director, or representative of these parties may participate in the appeal hearing.

b. How to Participate. A person entitled to participate may participate in the appeal hearing by: 1) Submitting written argument on the appeal to the City Clerk no later than the date specified in the City Council's Rules of Procedure; or 2) making oral argument on the appeal to the City Council at the appeal hearing. Argument on the appeal is limited to information contained in the record developed before the Hearing Examiner and must specify the findings or conclusions which are the subject of the appeal, as well as the relief requested from the Council.

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

7. City Council Decision on Appeal.

a. Criteria. The City Council may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and the City Council finds that the decision of the Hearing Examiner is not supported by a preponderance of the evidence. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner.

b. Conditions. The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modifications to ensure conformance with the criteria under which the application was made.

c. Findings. The City Council shall adopt findings and conclusions which support its decision on the appeal.

d. 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.

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Section 11. Section 20.35.350 of the Bellevue Land Use Code is hereby amended as follows:

20.35.350 Appeal of Hearing Examiner Recommendation.

A. A Process III recommendation of the Hearing Examiner may be appealed to the City Council as follows:

1. 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 LUC 20.35.337, or by the applicant or the City.

2. Form of Appeal. A person appealing the recommendation of the Hearing Examiner must file with the City Clerk a written statement of the findings of fact or conclusions which are being appealed and must pay a fee, if any, as established by

ordinance or resolution. The written statement must be filed together with an appeal notification form available from the Office of the City Clerk.

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 14 days following the date the recommendation of the Hearing Examiner was mailed.

4. Hearing Required. The City Council shall conduct a closed record appeal hearing 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 LUC 20.35.355. The decision on any appeal of the Hearing Examiner's recommendation and final action on the application shall be made within such time as is required by applicable state law.

5. Public Notice of Appeal Hearing.

a. Content of Notice. The City Clerk shall prepare a notice of an appeal hearing 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 brief description of the recommendation of the Hearing Examiner which is being appealed, and
- iv. The date, time and place of the appeal hearing before the City Council.

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 no less than 14 days prior to the appeal hearing to each person entitled to participate in the appeal pursuant to LUC 20.35.350.A.6.a.

6 Closed Record Hearing on Appeal to City Council.

a. Who May Participate. The applicant, the appellant, the applicable Department Director, or representatives of these parties may participate in the appeal hearing.

b. How to Participate. A person entitled to participate may participate in the appeal hearing by: 1) Submitting written argument on the appeal to the City Clerk no later than the date specified in the City Council's Rules of Procedure; or 2) making oral argument on the appeal to the City Council at the appeal hearing. Argument on the appeal is limited to information contained in the record developed before the Hearing Examiner

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and must specify the findings or conclusions which are the subject of the appeal, as well as the relief requested from the Council.

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

7. City Council Decision on Appeal.

a. Criteria. The City Council may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and the City Council finds that the recommendation of the Hearing Examiner is not supported by a preponderance of the evidence. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the recommendation of the Hearing Examiner.

b. Conditions. The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modifications to ensure conformance with the criteria under which the application was made.

c. Findings. The City Council shall adopt findings and conclusions which support its decision on the appeal.

d. 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. (Ord. 4816, 12-4-95, § 102)

Section 12. Section 20.45A.070 of the Bellevue Land Use Code is hereby amended as follows:

20.45A.070 Review Stages

Subject to LUC 20.45A.080, the review and decision of the City on an application for a subdivision shall consist of the following stages:

A. Review and decision upon the preliminary plat (LUC 20.45A.100 through 20.45A.170); and

B. Review and decision upon the engineering plans for plat improvements; and

C. Review and decision upon the final plat (LUC 20.45A.180 through 20.45A.260). (Ord. 3937, 7-18-88)

Section 13. Section 20.45A.190 of the Bellevue Land Use Code is hereby amended as follows:

20.45A.190 Final Plat - Applicable procedure.

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The City will process an application for a final plat as provided in LUC 20.45A.180 through 20.45A.260. The Director of Community Development is the applicable Department Director. (Ord. 4816, 12-4-95, § 132; Ord. 3937, 7-18-88)

Section 14. Section 20.45B.110 of the Bellevue Land Use Code is repealed.

Section 15. Section 20.45B.140 of the Bellevue Land Use Code is hereby amended as follows:

20.45B.140 Preliminary short plat - Appeal.

The decision of the applicable Department Director may be appealed by parties of record in accordance with the Process II appeal procedures (LUC 20.35.250. (Process II)). (Ord. 3938, 7-18-88)

Section 16. Section 20.45B.260.F of the Bellevue Land Use Code is hereby repealed:

20.45B.260 Boundary line adjustment.

Pursuant to RCW 58.17.040, boundary line adjustments are exempt from requirements of this chapter except as provided for in this section.

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(Ord. 3938, 7-18-88)

Section 17. Section 3.40.060 of the Bellevue City Code is hereby amended as follows:

3.40.060 Intensity of development classification -- Appeal.

Any person disagreeing with the intensity of development classification as determined by the Utilities Department under Ordinance 2429, section 2 or 3, as now or hereafter amended for property owned by them may appeal such determination to the board of appeals. Any appeal of an intensity of development classification in effect as to any property as of the effective date of the ordinance codified in this chapter must be filed by December 31, 1983. Any appeal of any intensity of development classification determined for any property after the effective date of the ordinance codified in this chapter must be filed in writing with the City Clerk not later than 60 days after the date on which the Utilities Department makes the determination of intensity of development classification for such property. The written statement of appeal must be filed together with an appeal notification form available from the Office of the City Clerk. (Ord. 3262 § 1, 1983.)

Section 18. Section 3.40.065 of the Bellevue City Code is hereby amended as follows:

3.40.065 Civil penalties and change in billing rate - Appeal.

Any person aggrieved by any notice and order of the Director of the Utilities Department issued pursuant to BCC 24.08.100, 24.08.110 or 24.08.120 may appeal such determination to the board of appeals by filing a written statement of appeal with the City Clerk within 14 days of issuance of the notice and order. The written statement must be filed together with an appeal notification form available from the Office of the City Clerk. (Ord. 4569 § 5, 1993; Ord. 3339 § 2, 1983.)

Section 19. Section 3.40.070 of the Bellevue City Code is hereby amended as follows:

3.40.070 Procedure before board of appeals.

Upon receiving an appeal, the City Clerk shall forward such appeal to the board of appeals. The board of appeals shall then set a date of the hearing of the appeal. The parties to the appeal are the appellant and the Utilities Department. The board of appeals is authorized to establish procedures for the processing of such appeals and the conduct of its hearings. (Ord. 3262 § 1, 1983.)

Section 20. Section 3.50.060 of the Bellevue City Code is hereby amended as follows:

3.50.060 Appeal procedure required of appellant.

A. Who May Appeal. Any person aggrieved by any notice and order issued by, or any ruling made by the building official of the city under the codes and ordinances designated in BCC 3.50.020 hereof, shall have the right to appeal to the board.

B. Time to Appeal. An appeal shall be initiated by filing with the City Clerk a written appeal, within 14 days of the date of the notice and order or other action appealed.

C. Form of Appeal. A person appealing any notice and order issued by, or any ruling made by the building official must file a written statement setting forth:

1. A heading in the words: "Before the building code board of appeals of the City of Bellevue."

2. A caption reading: "Appeal of.," giving the names of all appellants participating in the appeal.

3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the action of the building official.

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4. A brief statement in ordinary and concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested action should be reversed, modified, or otherwise set aside.

6. The signatures of all parties named as appellants and their official mailing addresses.

7. A verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

D. Upon the filing of a written appeal, the City Clerk shall promptly notify the building official and the chair of the board of such filing and transmit to them a true copy of the written appeal. (Ord. 3642 § 7, 1986; Ord. 2035 § 6, 1974; 1961 code § 3.50.060.)

Section 21. Section 3.50.070 of the Bellevue City Code is hereby amended as follows:

3.50.070 Procedure required of the board.

A. Within a reasonable time after receiving the written appeal, the board shall fix a date, time and place for the hearing of the appeal by the board. Said date shall be not less than 10 days, except with the written consent of the appellant, nor more than 60 days from the date the appeal was filed with the City Clerk.

B. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant, except where the appellant has waived said 10-day requirement, either by causing a copy of said notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address as shown on the written appeal. (Ord. 2035 § 6, 1974; 1961 code § 3.50.070.)

Section 22. Section 3.50.100.A of the Bellevue City Code is hereby amended as follows:

3.50.100 General provisions and rules.

A. Procedures before the board shall be as provided in Uniform Housing Code, 1994 Edition, First Printing, Section 1304 - Conduct of Hearing, as now or hereafter amended or readopted, except where inconsistent with any provision of this code.

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Section 23. Section 3.68.260 of the Bellevue City Code is hereby amended as follows:

3.68.260 Procedures.

The procedures of BCC 20.35.100 et seq., BCC 20.35.200 et seq., or BCC 20.35.300 et seq., as applicable, will apply to the land use matters heard by the examiner. (Ord. 3728 § 5, 1986.)

Section 24. Section 5.08.090 of the Bellevue City Code is hereby amended as follows:

5.08.090 License suspension and revocation - Hearing.

A. The clerk may, upon the recommendation of the chief of police or his designee and as provided in subsection B below, suspend or revoke any license issued under the provisions of this chapter at any time where the same was procured by fraud or false representation of fact; or for the violation of, or failure to comply with the provisions of this chapter or any of the provisions of Chapter 10A.88 BCC or any other similar local or state law by the licensee or by any of his servants, agents or employees when the licensee knew or should have known of the violations committed by his servants, agents or employees; or for the conviction of the licensee of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises, or the conviction of any of his servants, agents or employees of any crime or offense involving prostitution, promoting prostitution, or transactions involving controlled substances (as that term is defined in Chapter 69.50 RCW) committed on the premises in which his cabaret is conducted when the licensee knew or should have known of the violations committed by his servants, agents or employees.

B. A license procured by fraud or misrepresentation shall be revoked. Where other violations of this chapter or other applicable ordinances, statutes or regulations are found, the license shall be suspended for a period of 30 days upon the first such violation, 90 days upon the second violation within a 24-month period, and revoked for third and subsequent violations within a 24-month period, not including periods of suspension.

C. The clerk shall provide at least 10 days' prior written notice to the licensee of the decision to suspend or revoke the license. Such notice shall inform the licensee of the right to appeal the decision to the hearing examiner or other designated hearing body and shall state the effective date of such revocation or suspension and the grounds for revocation or suspension. Such appeals shall be processed under Process II (LUC 20.35.250). The hearing examiner or other hearing body shall render its decision within 15 days following the close of the appeal hearing. Any person aggrieved by the decision of the hearing examiner or other

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designated hearing body shall have the right to appeal the decision to the superior court by writ of certiorari or mandamus as provided in LUC 20.35.250.F. The decision of the clerk shall be stayed during the pendency of any appeal except as provided in subsection D below.

D. Where the Bellevue building official or fire marshal or their designees or the King County health department find that any condition exists upon the premises of a cabaret or adult cabaret which constitutes a threat of immediate serious injury or damage to persons or property, said official may immediately suspend any license issued under this chapter pending a hearing in accordance with subsection C above. The official shall issue notice setting forth the basis for the action and the facts that constitute a threat of immediate serious injury or damage to persons or property, and informing the licensee of the right to appeal the suspension to the hearing examiner or other designated hearing body under the same appeal provisions set forth in subsection C above, provided, however, that a suspension based on threat of immediate serious injury or damage shall not be stayed during the pendency of the appeal. (Ord. 4735 § 6, 1995; Ord. 4692 § 8, 1994; Ord. 4602 § 7, 1993; Ord. 2070 § 4, 1974; 1961 code § 5.32.080.)

Section 25. Section 5.12.120 of the Bellevue City Code is hereby amended as follows:

5.12.120 Appeals.

Any promoter aggrieved by the amount of the temporary special event license fee required pursuant to this chapter or by any penalty or interest imposed pursuant to this chapter may appeal such fee, penalty or interest to the city hearing examiner pursuant to the procedure set forth in the Process II appeal procedures (LUC 20.35.250). (Ord. 4486 § 1, 1993.)

Section 26. Section 9.16.060 of the Bellevue City Code is hereby amended as follows:

9.16.060 Appeal from administrative decision, finality.

Any person subject to the imposition of a fee, order of disconnection or other administrative sanction under the terms of this chapter shall have a right of appeal therefrom to the city hearing examiner. Unless notice of appeal is filed with the City Clerk within 10 days of receipt of notice of imposition of an administrative sanction, said sanction is deemed to be final. (Ord. 4819 § 6, 1995; Ord. 2474 § 8, 1977.)

Section 27. Section 9.18.046 of the Bellevue City Code is hereby amended as follows:

9.18.046 Variance.

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A property owner, or authorized agent of the property owner, may request a variance from the provisions of this chapter using Process II, LUC 20.35.200 et seq. (Ord. 4241 § 8, 1991.)

Section 28. Section 9.21.070.D of the Bellevue City Code is hereby amended as follows:

9.21.070 Tenant eligibility for relocation assistance.

....

D. Both the tenant and the owner may file an appeal with the hearing examiner, pursuant to the Process II appeal procedures (LUC 20.35.250), of the director's determination of the tenant's eligibility for relocation assistance. The hearing examiner must issue a decision within 30 days from the date the appeal was filed. (Ord. 4354 § 1, 1992.)

Section 29. Section 9.21.100 of the Bellevue City Code is hereby amended as follows:

9.21.100 Public hearing - Unlawful detainer.

The owner or tenant may request a public hearing before the hearing examiner to resolve disputes between displaced tenants and the owner relating to unlawful detainer actions during relocation. The public hearing shall be governed by the provisions for appeal of a Process II decision, LUC 20.35.250. (Ord. 4354 § 1, 1992.)

Section 30. Section 14.10.040.D of the Bellevue City Code is hereby amended as follows:

14.10.040 Review of development proposals.

...

D. Director's Decision and Appeal Process.

1. The director will determine if mitigation is required under this chapter.

2. If mitigation is required, the director shall determine if the mitigation proposed by the developer meets the requirements of BCC 14.10.050. Notice of the director's decision and the transportation improvements required shall be published once in a newspaper of general circulation in the city or consolidated with any other notice required by the Bellevue Land Use Code or Environmental Procedures Code.

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3. Any party who has standing to appeal may appeal the director's decision to the hearing examiner pursuant to the Process II appeal procedures, Bellevue City Code (Land Use Code) 20.35.250.

4. Any appeal of the director's decision must be filed with the City Clerk within the time period required in Process II, LUC 20.35.200 et seq.

.....

Section 31. Section 14.40.130 of the Bellevue City Code is hereby amended as follows:

14.40.130 Appeal of administrative decisions.

A. Filing Notice of Appeal. An affected employer may appeal an administrative decision which is subject to peer committee review pursuant to BCC 14.40.120, whether or not peer review is requested by such affected employer, as follows:

1. When Peer Committee Review Requested. An affected employer may appeal any final administrative decision issued following peer review pursuant to BCC 14.40.120 by filing a notice of appeal with the city clerk within 30 calendar days of receipt of such final administrative decision.

2. When Peer Committee Review Not Requested. An affected employer may appeal any preliminary administrative decision that is subject to peer review, but for which peer review is not requested by the employer pursuant to BCC 14.40.120, by filing a notice of appeal with the city clerk within 30 calendar days of receipt of the preliminary administrative decision.

B. Content of Notice of Appeal. Any notice of appeal filed with city clerk pursuant to subsection A of this section shall reference the administrative decision which is being appealed and shall contain a brief statement identifying exceptions or objections to the administrative decision and describing the requested relief, modification or alternative sought by the appealing employer. The written appeal must be filed together with an appeal notification form available from the Office of the City Clerk.

C. Appeal Process. Any appeal of an administrative decision filed pursuant to this section shall be processed pursuant to the Process II appeal procedures, LUC 20.35.250.

D. Hearing Body. The hearing examiner shall serve as the hearing body on all appeals filed pursuant to this section.

E. Review Guidelines. The hearing examiner shall be guided in his/her decision on the appeal by this chapter, the legislative rules adopted hereunder, the state CTR law, and the peer review committee recommendations, if any. (Ord. 4506 § 1, 1993.)

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Section 32. Section 22.02.150.E of the Bellevue City Code is hereby amended as follows:

22.02.150 Administrative appeal of decision approving a proposal, with or without conditions, or denying a proposal.

.....

E. Time to Appeal Administrative Decision. A written statement appealing the substantive decision of the applicable department director must be filed with the City Clerk within 14 days of the date the decision was mailed or otherwise became effective, or, if the decision is issued concurrently with a determination of nonsignificance for which a comment period is required by state or local rules, within 21 days of the decision. An appeal of a Process I decision by the hearing examiner shall be filed with the city clerk within 14 days of the date of the decision.

.....

Section 33. Section 22.16.095 of the Bellevue City Code is hereby amended as follows:

22.16.095 Appeal of fees.

The developer may appeal the determination of the amount of the transportation impact fee, including whether or to what extent an exemption applies or a credit should be provided. The developer must file an appeal with the City Clerk within 14 days of the date that notice is given to the developer of the fee. The appeal shall be processed pursuant to the Process II appeal procedures of the Bellevue City Code (Land Use Code) 20.35.250. Pending determination on any appeal, a building permit may only be issued if the developer first pays under protest the full amount of the fee, as determined by the department. (Ord. 4824 § 8, 1995.)

Section 34. Section 22.18.070.B of the Bellevue City Code is hereby amended as follows:

22.18.070 Appeals and independent calculations.

.....

B. Requests for fee adjustments, and the administrative appeals process for the appeal of an impact fee, shall follow the process for the appeal of the underlying development application. In cases where no administrative appeal is provided for the underlying action, the appeal shall be processed pursuant to the Process II appeal procedures (LUC 20.35.250), except that the appeal must be received by the City Clerk no later than 5:00 p.m. on the 14th day following the date of issuance of the underlying development application, if publication of the decision is not required.

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Section 35. Section 23.05.040.CC of the Bellevue City Code is hereby amended as follows:

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CC. "Technical codes" means and refers to the following: Uniform Building Code, Chapter 23.10 BCC, Uniform Mechanical Code, Chapter 23.50 BCC; Uniform Plumbing Code, Chapter 23.60 BCC; Uniform Swimming Pool, Spa and Hot Tub Code, Chapter 23.14 BCC; National Electric Code, Chapter 23.30 BCC; Uniform Fire Code, Chapter 23.11 BCC; Uniform Housing Code, Chapter 23.10 BCC; Protective Parking Devices, Chapter 23.18 BCC; Uniform Building Security Code, Chapter 23.10 BCC; Washington State Energy Code, Chapter 23.10 BCC; Washington State Ventilation and Indoor Air Quality Code, Chapter 23.10 BCC; Uniform Code for the Abatement of Dangerous Buildings, Chapter 23.10 BCC.

.....

Section 36. Section 24.04.100.B of the Bellevue City Code is hereby amended as follows:

24.04.100 Connections or modifications to the sewer system.

.....

B. Variance from the Sewer Connection Requirement.

1. Any property owner may apply for a variance from the sewer connection requirement to allow for an on-site septic disposal system.

2. The director shall approve a variance only if all of the following decision criteria are met:

a. The property is more than 330 feet via dedicated easements and/or right-of-way from the existing public sewer system or, in the case of subdivisions, the exterior boundary of the subdivision is more than 660 feet, measured in the same manner, from the existing public sewer system; and

b. The proposed septic system will not have an adverse environmental effect on potable water wells, ground water, streams or other surface bodies of water; and

c. The proposed septic system is in compliance with all applicable federal, state and local health and environmental regulations; and

d. The cost of providing sewer service to the structure will result in an economic hardship. Economic hardship is defined as an unrecoverable cost equal to or exceeding 20 percent of the fair market value of a building site with utilities in place on which the structure is to be located.

3. Any variance issued by the director shall be subject to the following conditions:

a. The applicant must obtain King County health department approval of the septic tank system and must obtain any other permits which may be required by law for such system; and

b. The applicant shall record an agreement, in a form approved by the city and referred to herein as "agreement to connect," with the King County department of records and elections. Such agreement shall require payment of all connection charges at the time of actual connection to the system. The agreement shall be a covenant which runs with the land and is binding on the owners and successors in interest of the property. The agreement shall provide that the structure shall be connected to the public sewer system at such time as the system is available and that the property owner will not protest the formation of any future LID or ULID for extension of a sewer system that would serve the property. The sewer system shall be deemed available for purposes of this requirement whenever the structure can be connected to the system by an extension of 330 feet or less or, in the case of a subdivision, the boundary of the subdivision can be reached by an extension of 660 feet or less from the system.

4. The applicant may appeal a decision of the director denying a variance application pursuant to the Process II appeal procedures of the Land Use Code Section 20.35.250. (Ord. 4752 § 5, 1995.)

Section 37. Section 24.06.135.A of the Bellevue City Code is hereby amended as follows:

24.06.135 Exceptions.

A. Exception Process. Exceptions to the requirements of BCC 24.06.130 may be granted following a public hearing, provided that written findings of fact are prepared that address the criteria set forth in BCC 24.06.135(B). If the city requires a public hearing to approve a development proposal for which an exception is requested, the project hearing and the exception hearing may be combined; otherwise, the exception hearing shall be held before the hearing examiner pursuant to BCC 3.68 and the criteria contained in this section.

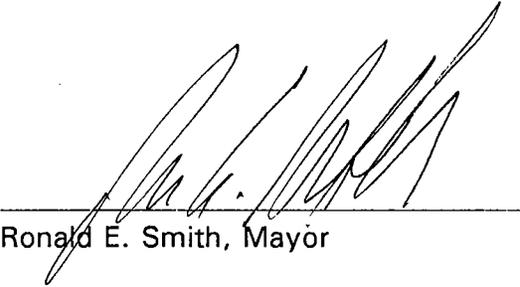
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Section 38. This ordinance shall take effect and be in force thirty (30) days after passage by the City Council.

PASSED by the City Council this 17th day of March, 1997, and signed in authentication of its passage this 17th day of March, 1997.

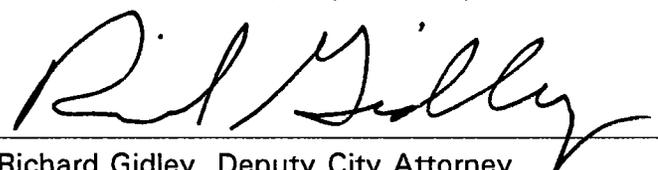
(SEAL)



Ronald E. Smith, Mayor

Approved as to form:

Richard L. Andrews, City Attorney



Richard L. Andrews, City Attorney

Richard L. Andrews, City Attorney

Attest:



Myrna L. Basich, City Clerk

Myrna L. Basich, City Clerk

Published March 21, 1997