

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5805

AN ORDINANCE amending the Bellevue Land Use Code Relating to Electrical Utility Facilities; specifically amending Sections 20.50.018 E, 20.50.032 L, 20.50.044 R, 20.50.050 U, 20.20.650, 20.20.520.F.2.a, and 20.10.440 of the Land Use Code, and adoption of a new section LUC 20.20.255; providing for severability; and establishing an effective date.

WHEREAS, the adoption of Resolution No. 7107 directed a work program of policy and map amendments to the Utilities Element of the Comprehensive Plan for the siting or expansion of Electrical Utility Facilities; and

WHEREAS, with the direction established in Resolution No. 7107, the City Council seeks to balance two equally important objectives: (1) protection of residential neighborhoods from incompatible electrical facilities, and (2) the needs of Puget Sound Energy to provide sufficient electrical energy to service the growing demand of Downtown Bellevue and other commercial areas; and

WHEREAS, the following amendments to the Land Use Code provide a framework to regulate the siting and expansion of sensitive and non-sensitive Electrical Utility Facilities, which is consistent with the 2007 policy amendments to the Utilities Element of the Comprehensive Plan; and

WHEREAS, the Utilities Element of the Comprehensive Plan identifies both sensitive and non-sensitive sites for Electrical Utility Facilities located in the City of Bellevue; and

WHEREAS, the City of Bellevue has complied with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW) and the city Environmental Procedures Code (Chapter 22.02 BMC); and

WHEREAS, the Planning Commission held a public hearing on December 12, 2007, to considered the proposed Land Use Code amendments; and

WHEREAS, the Planning Commission recommends that the City Council approve such proposed amendments, now, therefore,

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

Section 1. Section 20.50.018 E Definitions of the Bellevue Land Use Code is hereby amended to read as follows:

20.50.018 E Definitions.

Electrical Utility Facility. Distribution substations, transmission stations, transmission switching stations, or transmission lines that are built, installed, or established including: (a) Distribution Substation – A facility at which electric power is taken from a transmission line, reduced in voltage and sent out through distribution circuits and lines to serve customers in a local area; (b) Transmission Station – A facility for which transmission system voltage is decreased or increased. Transmission stations generally reduce transmission system voltage and connect to lower voltage transmission lines used to move electric power to distribution substations; (c) Transmission Switching Station – A facility at which multiple transmission lines interconnect. Switching stations provide the ability to change the configuration of the transmission system as operational needs may require; and (d) Transmission Line – An electrical line of at least 115kV that distributes electrical power to and from transmission switching and transmission stations to and from distribution substations, and which link generators to such stations.

Section 2. Section 20.50.032 L Definitions of the Bellevue Land Use Code is hereby amended to read as follows:

20.50.032 L Definitions

Local Utility System. A utility system other than a Regional Utility System, LUC 20.50.044 or Electrical Utility Facility, LUC 20.50.018.

Section 3. Section 20.50.044 R Definitions of the Bellevue Land Use Code is hereby amended to read as follows:

20.50.044 R Definitions

Regional Utility System. An element of a utility system, other than an Electrical Utility Facility (LUC 20.50.018), which serves a geographic area greater than the City of Bellevue and its service areas as identified by a Master Plan adopted by the City of Bellevue. Examples of a regional utility system include a Metro interceptor line and BPA transmission line. Any system which does not meet this definition is a Local Utility System, LUC 20.50.032.

Section 4. Section 20.50.050 U Definitions of the Bellevue Land Use Code is hereby amended to read as follows:

20.50.050 U Definitions

Utility Facility. Public utility buildings, telephone exchanges, sewage pumping stations, gas and water substations, regional storm drainage detention facilities and similar facilities located on a specific site and necessary for the operation of a public utility. Administrative offices and physically dispersed utility systems are not included.

Section 5. Section 20.20.650.C of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.650 Public Utilities – Design and Performance Standards.

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C. Exempt Activity.

The following are exempt from the requirements of subsections A and B of this section:

1. Minor modifications, maintenance, repair, or replacement of elements of an existing utility facility or regional utility system which is otherwise subject to the requirements of subsection A or B of this section;

2. Emergency installation or operation, but not exceeding 30 calendar days, of a utility facility or regional utility system, which is otherwise subject to the requirements of subsection A or B of this section. Any required permit or standard must be obtained or met as soon as possible thereafter; and

3. Electrical Utility Facilities, which are subject to LUC 20.20.255.

Section 6. Section 20.20.520.F.2.a of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.520.F.2.a Landscape development.

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2. Planting Requirements for Specific Uses. Notwithstanding the provisions of paragraph F.1 of this section, the uses listed in this paragraph require specific landscaping as follows:

a. Subject to paragraph F.6 of this section, the following uses require 15 feet of Type I landscaping on all sides when located above ground and not housed within a building or accessory to another use; and if located outside of a public right-of-way:

i. Electrical utility facility, provided transmission lines are excluded from the requirements of this section;

ii. Sewage pumping station;

iii. Water distribution facility.

Alternative landscaping may be approved by the Director of Planning and Community Development if the requirements of subsection J of this section are met, and if visibility is essential to safety, security, or maintenance access.

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Section 7. Land Use Charts Relating to Transportation and Utilities located at Section 20.10.440 of the Bellevue Land Use Code are hereby amended to read as follows and a new Note 22 to said charts is hereby adopted:

20.10.440 Land Use Charts
Chart 20.10.440

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Transportation and Utilities – Residential Districts										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
4	Transportation, Communications and Utilities											
41	Rail Transportation: Right-of- Way, Yards, Terminals, Maintenance Shops	C	C	C	C	C	C	C	C	C	C	C
42 4291	Motor Vehicle Transportation: Bus Terminals, Taxi Headquarters											
4214 422	Motor Vehicle Transportation: Maintenance Garages and Motor Freight Services											
43	Aircraft Transportation: Airports, Fields, Terminals, Heliports, Storage and Maintenance	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11	C 11
	Accessory Parking (6)	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3	P 3
46	Auto Parking: Commercial Lots and Garages											
	Park and Ride (5)	C	C	C	C	C	C	C	C	C	C	C
475	Radio and Television Broadcasting Studios											
485	Solid Waste Disposal (19)											
	Highway and Street Right-of- Way	P	P	P	P	P	P	P	P	P	P	P
	Utility Facility	C	C	C	C	C	C	C	C	C	C	C
	Local Utility System	P	P	P	P	P	P	P	P	P	P	P
	Regional Utility System	C	C	C	C	C	C	C	C	C	C	C
	On-Site Hazardous Waste Treatment and Storage Facility (7)											

	Off-Site Hazardous Waste Treatment and Storage Facility (8)											
	Essential Public Facility (20)	C	C	C	C	C	C	C	C	C	C	C
	Wireless Communication Facility (WCF): (without WCF Support Structures)	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21
	Communication, Broadcast and Relay Towers Including WCF Support Structures (Freestanding)	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16
	Satellite Dishes (18)	P	P	P	P	P	P	P	P	P	P	P
	Electrical Utility Facility (22)	A/C 22										

Chart 20.10.440

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Transportation and Utilities – Nonresidential Districts										
		Professional Office	Office	Office/Limited Business	Light Industry	General Commercial	Neighborhood Business	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3	
		PO	O	OLB	LI	GC	NB	CB	F1	F2	F3	
4	Transportation, Communications and Utilities											
41	Rail Transportation: Right-of-Way, Yards, Terminals, Maintenance Shops	C	C	C	C	C	C	C	C	C	C	C
42 4291	Motor Vehicle Transportation: Bus Terminals, Taxi Headquarters				P	P			P	P		
4214 422	Motor Vehicle Transportation: Maintenance Garages and Motor Freight Services				P	C						
43	Aircraft Transportation: Airports, Fields, Terminals, Heliports, Storage and Maintenance	C 11	C	C	C	C		C 11	C	C	C	C

	Accessory Parking (6)	P	P	P	P	P	P	P	P	P	P
46	Auto Parking Commercial Lots and Garages			C	C	C		C	C	C	C
	Park and Ride (5)	C	C	C	C	C	C	C	C	C	C
475	Radio and Television Broadcasting Studios	P	P	P	P 10	P 10		P	P	P	P
485	Solid Waste Disposal (19)				C						
	Highway and Street Right-of-Way	P	P	P	P	P	P	P	P	P	P
	Utility Facility	C	C	C	C	C	C	C	C	C	C
	Local Utility System	P	P	P	P	P	P	P	P	P	P
	Regional Utility System	C	C	C	C	C	C	C	C	C	C
	On-Site Hazardous Waste Treatment and Storage Facility (7)			A	A	A	A	A	A	A	A
	Off-Site Hazardous Waste Treatment and Storage Facility (8)				C						
	Essential Public Facility (20)	C	C	C	C	C	C	C	C	C	C
	Wireless Communication Facility (WCF): (without WCF Support Structures)	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21
	Communication, Broadcast and Relay Towers Including WCF Support Structures (Freestanding)	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16
	Satellite Dishes (18)	P	P	P	P	P	P	P	P	P	P

Electrical Utility Facility (22)	A/C 22									
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Chart 20.10.440

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Transportation and Utilities – Downtown Districts					
		Downtown Office District 1	Downtown Office District 2	Downtown Mixed Use District	Downtown Residential District	Downtown Old Bellevue District	Downtown Office and Limited Business District
		DNTN O-1	DNTN O-2	DNTN MU	DNTN R	DNTN OB	DNTN OLB
4	Transportation, Communications and Utilities						
41	Rail Transportation: Right-of-Way, Yards, Terminals, Maintenance Shops						
42 4291	Motor Vehicle Transportation: Bus Terminals, Taxi Headquarters	A	A	A			A
4214 422	Motor Vehicle Transportation: Maintenance Garages and Motor Freight Services	S	S	S			S
43	Aircraft Transportation: Airports, Fields, Terminals, Heliports, Storage and Maintenance	A/C 2,12	A/C 2,12	A/C 12			A/C 2,12
	Accessory Parking (6)	P 4	P 4	P 4	P 4	P 4	P 4
46	Auto Parking Commercial Lots and Garages	P 13	P 13	P 13	A	P 13	P 13
	Park and Ride (5)			A			A
475	Radio and Television Broadcasting Studios	P	P	P		P	P
485	Solid Waste Disposal (19)						
	Highway and Street Right-of-Way	P	P	P	P	P	P
	Utility Facility	C	C	C	C	C	C
	Local Utility System	P	P	P	P	P	P
	Regional Utility System	C	C	C	C	C	C
	On-Site Hazardous Waste Treatment and Storage Facility (7)	A	A	A	A	A	A
	Off-Site Hazardous Waste Treatment and Storage Facility (8)						
	Essential Public Facility (20)	C	C	C	C	C	C

Wireless Communication Facility (WCF): (without WCF Support Structures)	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21	14, 16, 21
Communication, Broadcast and Relay Towers Including WCF Support Structures (Freestanding)	14, 16	14, 16	14, 16	14, 16	14, 16	14, 16
Satellite Dishes (18)	P	P	P	P	P	P
Electrical Utility Facility (22)	A/C 22					

Notes: Uses in land use districts – Transportation and Utilities

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Note (22) For the definition of Electrical Utility Facility, see LUC 20.50.018 and for reference to applicable development regulations relating to Electrical Utility Facilities see LUC 20.20.255. For new or expanding Electrical Utility Facilities proposed on sensitive sites as described by Figure UT.5a of the Utilities Element of the Comprehensive Plan, the applicant shall obtain conditional use permit approval under Part 20.30B LUC, complete an alternative siting analysis as described in LUC 20.20.255.D and comply with decision criteria and design standards set forth in LUC 20.20.255. For expansions of Electrical Utility Facilities not proposed on sensitive sites as described by Figure UT.5a, the applicant shall obtain administrative conditional use permit approval under Part 20.30E LUC and comply with decision criteria and design standards set forth in LUC 20.20.255.

Section 8. A new Section 20.20.255 of the Bellevue Land Use Code is hereby adopted to read as follows:

20.20.255 Electrical Utility Facilities

A. Purpose. The purpose of this section is to regulate proposals for new or expanding Electrical Utility Facilities and to minimize impacts associated with such facilities on surrounding areas through siting, design, screening, and fencing requirements.

B. Applicability. This section applies to all proposals for new or expanding Electrical Utility Facilities as defined in LUC 20.50.018E.

C. Required Review. For new or expanding Electrical Utility Facilities proposed on sensitive sites as described by Figure UT.5a of the Utilities Element of the Comprehensive Plan, the applicant shall obtain conditional use permit approval under Part 20.30B LUC. For expansions of Electrical Utility Facilities not proposed on sensitive sites as described by Figure UT.5a, the applicant shall obtain administrative conditional use permit approval under Part 20.30E LUC.

1. Conditional Use Permit. In addition to the requirements set forth in Part 20.30B LUC and Part 20.25B LUC (if applicable), the applicant shall:

a. Complete the Alternative Siting Analysis as set forth in LUC 20.20.255.D;

b. Hold an informational public meeting prior to the public hearing required by LUC 20.35.137 and in addition to the informational public meeting required in LUC 20.35.127; and

c. Comply with all applicable decision criteria and design standards set forth in this section.

2. Administrative Conditional Use. In addition to the requirements set forth in Part 20.30E LUC and Part 20.25B LUC (if applicable), the applicant shall comply with all decision criteria and design standards set forth in this section, provided the applicant is not required to complete the Alternative Siting Analysis set forth LUC 20.20.255.D.

D. Alternative Siting Analysis. In addition to the requirements set forth in Part 20.30B LUC, Part 20.25B LUC (if applicable), and the decision criteria and design standards set forth in this section, the applicant shall identify alternative sites, provide required content showing analysis relating to identified sites, describe technologies considered, and describe community outreach conducted for proposals relating to new or expanding Electrical Utility Facilities on sensitive sites as described in this section.

1. Alternative Sites Analyzed. Prior to submittal of the application for conditional use permit required pursuant to LUC 20.20.255.C, the applicant shall identify not less than three alternative site options to meet the system needs for the proposed new or expanding Electrical Utility Facility. At least one of the alternative sites identified by the applicant shall be located in the land use district to be primarily served by the proposed Electrical Utility Facility.

2. Content of Alternative Siting Analysis. Upon submittal of the conditional use permit required pursuant to LUC 20.20.255.C, the applicant shall submit results of the siting analysis which:

a. Describe the sites identified in LUC 20.20.255.D.1 and the land use districts within which the sites are located.

b. Map the location of the sites identified in LUC 20.20.255.D.1 and depict the proximity of the sites to Neighborhood Business Land Use Districts, Residential Land Use Districts, and Transition Areas.

c. Describe which of the sites analyzed are considered practical or feasible alternatives by the applicant, and which of the sites analyzed are not

considered practical or feasible, together with supporting information that justifies the conclusions reached. For sites located within a Neighborhood Business Land Use District, Residential Land Use District, and/or Transition Area, the applicant shall:

i. Describe whether the Electrical Utility Facility location is a consequence of needs or demands from customers located within the district or area; and

ii. Describe whether the operational needs of the applicant require location of the Electrical Utility Facility in the district or area.

d. Identify a preferred site from the alternative locations considered for the proposed new or expanding Electrical Utility Facility. The following location selection hierarchy shall be considered during identification of the preferred site alternative: 1) nonresidential land use districts not providing transition, 2) nonresidential transition areas, and 3) residential areas. The applicant may identify a preferred site alternative in a residential land use district or transition area upon demonstration that the location has fewer site compatibility impacts than a nonresidential land use district location.

3. Technology Considered for the Preferred Site Alternative. Upon submittal of the conditional use permit required pursuant to LUC 20.20.255.C, the applicant shall:

a. Describe the range of technologies considered for the proposed Electrical Utility Facility;

b. Describe how the proposed Electrical Utility Facility provides reliability to customers served;

c. Describe components of the proposed Electrical Utility Facility that relate to system reliability; and

d. Describe how the proposed facility includes technology best suited to mitigate impacts on surrounding properties.

4. Community Outreach Conducted. Upon submittal of the conditional use permit application required pursuant to LUC 20.20.255.C, the applicant shall provide a description of all methods of community outreach or involvement conducted by the applicant prior to selecting a preferred site for the proposed Electrical Utility Facility.

E. Decision Criteria. In addition to the requirements set forth in Part 20.30B LUC, Part 20.30E LUC, Part 20.25B LUC (if applicable), and other applicable provisions of this section, all proposals to locate or expand Electrical Utility Facilities shall comply with the following:

1. The proposal is consistent with Puget Sound Energy's System Plan;

2. The design, use, and operation of the Electrical Utility Facility complies with applicable guidelines, rules, regulations or statutes adopted by state law, or any agency or jurisdiction with authority;

3. The applicant shall demonstrate that an operational need exists that requires the location or expansion at the proposed site;

4. The applicant shall demonstrate that the proposed Electrical Utility Facility improves reliability to the customers served and reliability of the system as a whole, as certified by the applicant's licensed engineer.

5. For proposals located on sensitive sites as referenced in Figure UT.5a of the Utility Element of the Comprehensive Plan, the applicant shall demonstrate:

a. Compliance with the alternative siting analysis requirements of LUC 20.20.255.D;

b. Where feasible, the preferred site alternative identified in LUC 20.20.255.D.2.d is located within the land use district requiring additional service and residential land use districts are avoided when the proposed new or expanded Electrical Utility Facility serves a nonresidential land use district.

6. The proposal shall provide mitigation sufficient to eliminate or minimize long-term impacts to properties located near an Electrical Utility Facility.

F. Design Standards. In addition to the requirements set forth in Part 20.30B LUC, Part 20.30E LUC, Part 20.25B LUC (if applicable), and other applicable provisions of this section, all proposals to locate or expand an Electrical Utility Facility shall comply with the following:

1. Site Landscaping. Electrical Utility Facilities shall be sight-screened as specified in LUC 20.20.520.F.2 or as required for the applicable land use district. Alternatively, the provisions of LUC 20.20.520.J may be used, provided this subsection does not apply to transmission lines as defined in LUC 20.50.018.

2. Fencing. Electrical Utility Facilities shall be screened by a site-obscuring fence not less than eight (8) feet in height, provided this subsection does not apply to transmission lines as defined in LUC 20.50.018. This requirement may be modified by the City if the site is not considered sensitive as referenced in Figure UT.5a of the Utility Element of the Comprehensive Plan, is adequately screened by topography and/or existing or added vegetation, or if the facility is fully enclosed within a structure. To the maximum extent possible, all Electrical Utility Facility components, excluding transmission lines, shall be screened by either a site-obscuring fence or alternative screening.

3. Required Setback. The proposal (including required fencing) shall conform to the setback requirement for structures in the land use district; and

4. Height Limitations. For all Electrical Utility Facility components, including transmission lines, the City may approve a request to exceed the height limit for the underlying land use district if the applicant demonstrates that:

a. The requested increase is the minimum necessary for the effective functioning of the Electrical Utility Facility; and

b. Impacts associated with the Electrical Utility Facility have been mitigated to the greatest extent technically feasible.

G. Mitigation Measures. The City may impose conditions relating to the location, development, design, use, or operation of an Electrical Utility Facility to mitigate environmental, public safety, or other identifiable impacts. Mitigation measures may include, but are not limited to, natural features that may serve as buffers, or other site design elements such as fencing and site landscaping as provided for in subsection F.

H. Independent Technical Review. The City may require the applicant pay for independent technical review by a consultant retained by the City for review of materials submitted by the applicant to demonstrate compliance with the requirements of the alternative siting analysis contained in LUC 20.20.255.D, the decision criteria contained in LUC 20.20.255.E and the design standards contained in LUC 20.20. 255.F.

Section 9. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 10. Effective Date. This ordinance shall take effect five (5) days after passage and legal publication.

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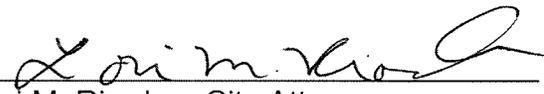
Passed by the City Council this 3rd day of March, 2008
and signed in authentication of its passage this 3rd day of March,
2008.

(SEAL)



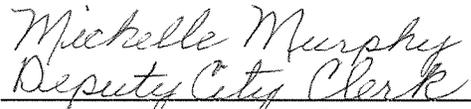
Grant S. Degginger, Mayor

Approved as to form:



Lori M. Riordan, City Attorney

Attest:



Myrna L. Basich, City Clerk

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