

## **Part 20.30R Shoreline Substantial Development Permit**

### **20.30R.110 Scope.**

This Part 20.30R establishes the procedure and criteria that the City will use in making a decision upon an application for a Shoreline Substantial Development Permit. (Ord. 4055, 3914, 9-25-89, § 19)

### **20.30R.115 Applicability.**

This Part 20.30R applies to each application for a Shoreline Substantial Development Permit. (Ord. 4055, 3914, 9-25-89, § 19)

### **20.30R.120 Purpose.**

A Shoreline Substantial Development Permit is the primary mechanism by which the City administers the Shoreline Master Program in a manner consistent with the policies of the Shoreline Management Act. (Ord. 4055, 3914, 9-25-89, § 19)

### **20.30R.155 Director's decision.**

#### **A. General.**

On or after the date specified in LUC 20.30R.140.B.1, and subject to all other restrictions on the time of decisionmaking, the Director of the Development Services Department shall either approve, approve with modifications or deny the application.

#### **B. Criteria.**

The Director of the Development Services Department may approve or approve 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; and
3. The applicant has demonstrated that the proposal is consistent with the policies and procedures of the Shoreline Management Act and the provisions of Chapter 173-14 WAC and the Master Program.

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

#### **C. Limitation on Modification.**

If the Director of the Development Services Department makes a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LUC 20.30R.140.A, the Director of the Development Services Department shall provide a new notice of an upcoming decision and obtain public comment prior to making a decision.

#### **D. Conditions.**

The Director of the Development Services Department may include conditions as part of the approval or approval with modifications to ensure conformance with subsection B of this section.

#### **E. Written Decision of the Director.**

1. Content. The Director of the Development Services Department shall issue a written decision which contains the following:

- a. A statement indicating that the application is approved, approved with modifications or denied; and
- b. A statement of any conditions included as part of an approval or approval with modifications; and
- c. A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts.

2. Distribution. The applicable Department Director shall mail the written decision of the Director, bearing the date it is mailed, to each person who participated in the decision as provided for in subsection B of this section.

F. Effect of Decision.

Subject to LUC 20.30R.165, the decision of the Director of the Development Services Department on the application is the final decision of the City. (Ord. 4055, 3914, 9-25-89, § 19)

**20.30R.160 Transmittal to Department of Ecology/Attorney General.**

Pursuant to WAC 173-14-090, the Director of the Development Services Department shall file the following with the Department of Ecology and the Attorney General's Office within eight days of the Director's action on a Shoreline Substantial Development Permit:

- A. The original application; and
- B. An affidavit of public notice; and
- C. A copy of the approved site plan; and
- D. A vicinity map; and
- E. A copy of the approved Shoreline Substantial Development Permit; and
- F. A copy of the approved Shoreline Conditional Use Permit or Shoreline Variance, if applicable; and
- G. A copy of the environmental checklist and SEPA determination, if applicable; and
- H. The final action on the application. (Ord. 4055, 3914, 9-25-89, § 19)

**20.30R.170 Commencement of activity.**

Subject to LUC 20.30R.165, the applicant may commence activity or obtain other required approvals authorized by the approval or approval with modifications 30 calendar days following the date of the City's filing with the Department of Ecology. If the decision of the Director of the Development Services Department is appealed pursuant to LUC 20.30R.165, no activity may begin and no other City approvals may be granted until resolution of the appeal. (Ord. 4055, 3914, 9-25-89, § 19)

**20.30R.175 Time limitation.**

A. A Shoreline Substantial Development Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension for the Shoreline Substantial Development Permit

pursuant to LUC 20.30R.180. “Substantial progress” includes the following, where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or if no construction is involved, commencement of the activity.

B. Permit authorization expires finally, despite substantial progress, five years after the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension pursuant to LUC 20.30R.180. (Ord. 4055, 3914, 9-25-89, § 19)

### **20.30R.180 Extension.**

A. The Director of the Development Services Department may extend a Shoreline Substantial Development Permit, not to exceed one year, with prior notice to the Department of Ecology and those who requested copies of the Director’s decision only if:

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

B. The Director of the Development Services Department may grant no more than two extensions – one only of the two-year “substantial progress” deadline described in LUC 20.30R.175.A and one only of the five-year final deadline described in LUC 20.30R.175.B. (Ord. 4055, 3914, 9-25-89, § 19)

### **20.30R.190 Revision of an approved Shoreline Substantial Development Permit.**

A. General.

Except as otherwise provided in subsection B of this section, a revision of a previously approved project or decision is treated as a new application for a Shoreline Substantial Development Permit.

B. Minor Revisions.

1. Authority. A revision may be reviewed as a Minor Revision if determined to be within the scope and intent of the original permit by meeting all of the following criteria:

- a. No additional over-water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less;
- b. Ground area coverage and height of each structure may be increased a maximum of 10 percent from the provisions of the original permit;
- c. Additional separate structures may not exceed a total of 250 square feet;
- d. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under the original permit;
- e. Additional landscaping is consistent with conditions (if any) attached to the original permit and with the applicable master program;

- f. The use authorized pursuant to the original permit is not changed; and
- g. No substantial adverse environmental impact will be caused by the project revision.

If the sum of the revision and any previously approved revisions violate the provisions of this section, a new permit shall be required.

2. Decision Criteria. The Director of the Development Services Department may approve or approve with modifications a Minor Revision if:

- a. 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

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

In all other cases, the Director of the Development Services Department shall deny the application.

3. Conditions. The Director of the Development Services Department may include conditions as part of the proposed approval or approval with modifications to ensure conformance with paragraph B.2 of this section.

4. Content. The Director of the Development Services Department shall issue a written decision on the revision which contains the following:

- a. A statement indicating that the application is approved, approved with modifications or denied; and

- b. A statement of any conditions included as part of an approval or approval with modifications; and

- c. A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts.

5. Transmittal to Department of Ecology/Attorney General. The Director of the Development Services Department shall send within eight days a copy of the final City action on the revision on to the Department of Ecology and the Attorney General's Office in conformance with LUC 20.30R.160 and WAC 173-14-064.

6. If the revision to the original permit involves a conditional use or variance which was conditioned by the Department of Ecology, the revision shall be submitted to the Department of Ecology for the department's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-14-064(5). Persons having requested notice of the Director's decision shall be notified. The Department of Ecology shall transmit to the City its decision within 15 days of receipt of the Director's submittal.

7. The revised permit is effective immediately upon the Director's decision or, when appropriate under paragraph B.6 of this section, upon the Department of Ecology's action.

8. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 30 days from the date of receipt of the Director's decision by the Department of Ecology or, when appropriate under paragraph B.6 of this section, the date the Department of Ecology's final decision is transmitted to the City and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of paragraph B.1 of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until

the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not in compliance with paragraph B.1 of this section, the decision shall have no bearing on the original permit. (Ord. 4055, 3914, 9-25-89, § 19)