



# MEMORANDUM

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DATE: November 14, 2007

TO: Chair Robertson  
Members of the Planning Commission

FROM: Lacey Madche, Legal Planner  
Department of Planning and Community Development

SUBJECT: Staff Report - Process Based Land Use Code Amendments, File No. 07-130299AD

## INTRODUCTION

This memorandum presents the report and recommendation of the Department of Planning and Community Development (PCD) on proposed Land Use Code (LUC) amendments and amendments to the Bellevue City Code (BCC), which are process based rather than substantive. A copy of the proposed ordinance is included with this memorandum as Attachment A.

Following the public hearing scheduled for November 14, 2007, and consideration of public comment and analysis, staff requests that the Planning Commission make a recommendation to the City Council regarding adoption of the attached ordinance.

## BACKGROUND

Throughout the process of administering the LUC, staff has identified process based modifications that fall into one of three categories: (1) unnecessary language, (2) inconsistencies with state law, and (3) efficiency improvements.

## PROPOSAL

The following describes specific code amendments as they relate to the three categories set forth above.

### **Unnecessary Language.**

- *Proposal:* Deletion of unnecessary language relating to administrative amendments for conditional use permits, planned unit development, and subdivision of land.

Staff proposes to delete the following decision criteria from the above referenced land use processes: "The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively." The City's adoption of an administrative amendment process for a conditional use permit, planned unit development, or for subdivision of land, inherently means amendment to the original approval is permitted provided all decision criteria are met. Accordingly, inclusion of the above quoted decision criteria is unnecessary, redundant, and should be deleted.

- *Proposal:* Amend LUC to treat hotel, motel, and religious institutional uses as unspecified uses for purposes of determining required parking under LUC 20.20.590.

Currently all uses specified in LUC 20.20.590 are subject to minimum and maximum parking requirements. Under LUC 20.20.590, hotel, motel, and religious institutional uses, however, are not subject to a maximum parking requirement. Because hotel, motel, and religious institutional uses have unique parking demands based on the nature of such uses and because institutional uses do not typically fall below the set minimum number of parking spaces set forth in LUC 20.20.590, the City customarily uses a parking demand analysis to impose parking requirements for these uses rather than relying on LUC 20.20.590. Accordingly, treating hotel, motel, and religious institutional uses as specified uses under LUC 20.20.590 is inaccurate and should be deleted.

### **Consistency with State Law.**

- *Proposal:* Inclusion of LUC text relating to Amendment and Revocation of Final Plats.

State law, codified at Chapter 58.17 RCW, governs the process by which land is divided and sets forth the basic guidelines by which cities adopt procedures relating to subdivision. Currently the City has relied on provisions of Chapter 58.17 RCW because the LUC does not provide a process by which final plats may be amended or revoked. The proposed amendment adopts a local amendment and revocation process in the LUC based on the parameters set forth in Chapter 58.17 RCW.

- *Proposal:* Amend LUC to ensure project timelines comport with the Growth Management Act.

Recent legislation relating to the Growth Management Act (GMA) requires cities establish time periods for local government actions on specific project permit applications; a term defined by statute to include any land use or environmental permit required from a local government for a project action. Staff proposes an amendment to LUC 20.35.030(D) which would authorize the PCD Director to establish reasonable and predictable timelines for review of land use applications.

- *Proposal:* Amend LUC authorizing the City Council to take action on land use amendments without prior review or recommendation from the Planning Commission if and when necessary but not as a matter of practice.

Currently the LUC contemplates that the Planning Commission will review, recommend, and hold a public hearing relating to adoption of land use code amendments. Similarly, although not before the Planning Commission, Chapter 3.64 of the Bellevue City Code (BCC) requires the Planning Commission to review and make recommendations to the City Council relating to all land use code amendments.

Provided a public hearing is held, state law permits the City Council to take action on land use code amendments without prior review and recommendation from the Planning Commission. Accordingly, the proposed amendment modifies the language in the BCC that requires the Planning Commission review and make recommendations on all land use code amendments prior to final action by the City Council and otherwise clarifies the associated LUC language.

This proposed amendment is intended to track the City's land use amendment process with the available authority under state law *not* to promote or modify the City's long standing practice that the Planning Commission reviews and provides recommendations to the City Council on land use code amendments. In the event the City should need to take immediate or emergency action relating to amendment of the LUC, this proposal would ensure the City Council maintains the authority under the BCC and LUC to do so.

### **Efficiency Improvements**

- *Proposal:* Repeal Part 20.30N requiring Home Occupation permits and rather adopt new LUC performance standards relating to Home Occupations.

Currently the City requires, in addition to a business license, that a permit be obtained before operation of a home occupation. Staff's proposal would replace the permit process with performance standards. Staff recommends this proposal for the reasons set forth below.

The decision criteria set forth in Part 20.30N LUC do not assist the City in regulating home occupations. Generally, the City addresses code compliance matters on a complaint basis, which otherwise provides the City with notice as to which home occupations are violating conditions of approval (i.e., compliance with decision criteria). At the time of issuance, the City has no ability to determine whether the home occupation will, in fact, operate consistent with such criteria. The City's current use of the permit process requires staff to provide notification of the application and decision, which includes preparation of a staff report that addresses all decision criteria. This process is not only costly but is consuming on staffs' time.

Regardless of whether the City has in place performance standards or requires a permit prior to operation of a home occupation, the enforcement route is the same – complaint based and handled by code compliance. Accordingly, this proposal will not impact the City's regulation of home occupations. This proposal will, however, reduce permit costs incurred by applicants for Home Occupation approvals.

- *Proposal:* Amend LUC to allow the City to issue land use approvals during Process II appeal periods if no parties submitted written comments prior to the date the final decision was issued and the applicant submits a waiver of appeal statement to the City.

Currently LUC 20.35.200 (relating to Process II Administrative Decisions and Appeals) prohibits the City from issuing permits for projects during Process II appeal periods. PCD proposes to amend this prohibition to allow the City to issue project permits during Process II appeal periods provided the City has not received written comments from third parties and receives a waiver of appeal from the applicant. The basis for PCD's recommendation is that if the City has not received written comment from third parties prior to the date the final decision was issued and the applicant waives his/her right to appeal, no person or entity (except the City) would have a cognizable appeal (otherwise referred to as "standing"). Accordingly, it is more efficient for the City to issue project permits when capable rather than waiting for appeal periods to run where there is not a cognizable risk of appeal.

- *Proposal:* Amend LUC to allow the City to provide notification by electronic mail and publish the availability of documents electronically in addition to providing notification by U.S. Postal mail or by publishing documents in the City's official newspaper.

Staff proposes the above referenced alternative notification and publication processes to reduce publication costs and to more efficiently notify citizens of land use applications and decisions. Currently the City provides notification of land use matters by U.S. Postal Mail, publication in the City's permit bulletin, and by publication in the City's official newspaper. This proposal would allow the City to provide electronic notification to citizens that otherwise request that form of notification. This proposal would also allow the City to publish documents by way of the City's permit bulletin, which is accessible by the City's official website. This proposal would not, however, negate the City's responsibility to publish certain land use matters in the City's official newspaper as required by state law (such as for comprehensive plan amendments). This proposal would not negate the applicant's responsibility to post notification signs of proposed land use actions on the subject site.

### **STATE ENVIRONMENTAL POLICY ACT**

The Environmental Coordinator for the City of Bellevue has determined that this proposal is exempt from the State Environmental Policy Act under Washington Administrative Code (WAC) 197-11-800 as it relates to process based rather than substantive amendments.

### **PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE**

The herein referenced process based amendments were introduced at a study session with the Planning Commission on September 26, 2007. During that study session, the Planning Commission gave staff direction to proceed to a public hearing on the proposed amendment. Notice of the Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin on October 25, 2007. The Public Hearing is scheduled to be held on November 14, 2007.

The proposed amendments to the LUC are within the jurisdiction of the East Bellevue Community Council (EBCC). A courtesy hearing with the EBCC was held at their regular meeting on October 2, 2007. Notice of the courtesy hearing was published on September 21, 2007. At the Courtesy Hearing, the EBCC expressed concerns relating to tracking of home occupation absent a permitting process which staff will address at the public hearing.

Pursuant to the requirements of the Growth Management Act, state agencies must be given an opportunity to review and comment on proposed amendments to the LUC. Copies of the draft LUC amendment were provided to the state agencies for review on October 3, 2007. No comment letters from state agencies were received by PCD prior to release of this staff report. Any comments received after release of the staff report will be forwarded to the Planning Commission prior to the public hearing.

### **APPLICABLE DECISION CRITERIA –PART 20.30J LAND USE CODE**

The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the text of the Land Use Code if:

- A. The amendment is in accord with the Comprehensive Plan.**

The proposed amendments are intended to improve the quality of the LUC by deleting unnecessary language, bringing certain provisions into consistency with state law, and otherwise improving the efficiency of administering the code. The proposed amendments are supported by the public participation goals of the Comprehensive Plan and Growth Management Act, as it serves to clarify the LUC for all citizens subject to it – specifically including Policy CP-1 which reads:

Policy CP-4. Balance the interests of the commercial and residential communities when considering modifications to zoning or development regulations.

Policy CP-5. Develop and maintain Land use Code provisions that define the process and standards relevant to each stage of land use decision making, and educate the public about these processes and standards to promote meaningful citizen participation.

**B. The amendment bears a substantial relationship to the public health, safety or welfare.**

The City's development regulations, contained in the LUC, are designed to further public health, safety and welfare, as identified by the City Council through its legislative process. The proposed amendments clarify and correct previous legislative actions to better serve the original intent of these previous actions. The public health, safety and welfare is served by the proposal.

**C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.**

The public interest is generally identified in the Comprehensive Plan and the development regulations that implement it. As described above, the proposed amendments serve to correct the LUC, and better serve the original intent of previously-adopted legislation. The impact of the amendments will be to improve the clarity and usefulness of the LUC, especially for those less familiar with its provisions and how it may apply to a particular project. The public interest is advanced through this proposal.

**RECOMMENDATION**

Staff recommends that the Planning Commission requests that the Planning Commission develop a recommendation to the City Council regarding adoption of the process based amendments to the Land Use Code referenced herein (Attachment A) and transmit the ordinance on to the City Council for final approval.

**ATTACHMENTS**

Attachment A - Draft Ordinance

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE amending the Land Use Code and Bellevue City Code relating to process based proposals to delete unnecessary language, bring current code provisions into compliance with state law, and make efficiency improvements, which includes (1) amendments to the following sections of the Land Use Code and Bellevue City Code: 20.30B.175(D), 20.30.D.285(D), 20.45A.250(D), 20.20.590(F), 20.45A.190, 20.35.030(D), 3.64.160, 20.30J.125, 20.30J.130, 20.35.400, 20.35.410, 20.20.120(D), 20.20.140, 20.20.192, 20.20.800(A), 20.35.015(C), 20.35.030, 20.35.210(A), 20.35.200(C), (2) adoption of the following new sections: 20.45A.270, 20.45A.280, 20.20.455, 20.35.200(D), 20.35.035, and (3) repeal of Part 20.30N of the Land Use Code; providing for severability; and establishing an effective date.

WHEREAS, throughout the process of administering the Land Use Code and related sections of the Bellevue City Code, the City has identified necessary process based amendments, which fall into one of three categories (1) unnecessary language; (2) inconsistencies with state law; and (3) efficiency improvements; and

WHEREAS, the City seeks to modify the Land Use Code and related sections of the Bellevue City Code to improve the administration of these codes; and

WHEREAS, the proposed amendments to the Land Use Code and Bellevue City Code are exempt from environmental review under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; and

WHEREAS, the Planning Commission held a public hearing on November 14, 2007 with regard to such proposed Land Use Code amendments; and

WHEREAS, the Planning Commission [**recommends / does not recommend**] 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 20.30B.175(D) of the Bellevue Land Use Code is hereby amended to read as follows:

**20.30B.175(D) Administrative Amendment.**

1. 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.

2. Decision Criteria. The Director shall approve a proposed amendment to an approved project or decision if:

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

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

c. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property; and

3. The applicant carries the burden of proof and must demonstrate that the application merits approval or approval with modifications.

**Deleted:** d. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively.¶

4. 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.

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

a. A description of the original project or decision and the proposed administrative amendment; and

b. 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

c. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section.

Section 2. Section 20.30.D.285(D) of the Bellevue Land Use Code is hereby amended to read as follows:

**20.30D.285(D) Administrative Amendment of Planned Unit Development.**

The Director may approve modifications to an approved Planned Unit Development as an administrative amendment subject to the procedures set forth in LUC 20.35.200 et seq., if the following criteria are met:

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

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

3. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property; and

Section 3. Section 20.45A.250(D) of the Bellevue Land Use Code is hereby amended to read as follows:

Deleted: 4. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively.¶

**20.45A.250(D) Modification of an approved preliminary plat.**

D. Administrative Amendment.

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

2. Decision Criteria. The Director shall approve or approve with modifications a proposed amendment to an approved preliminary plat if:

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

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

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

e. Circumstances render it impractical, unfeasible or detrimental to the public interest to accomplish the subject condition or requirement of preliminary plat approval.

Deleted: d. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively; and ¶

3. Conditions. The Director may include conditions as part of an approval or approval with modifications to ensure conformance with the decision criteria above.

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

a. A description of the original preliminary plat approval and the proposed amendment; and

b. 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

c. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section.

Section 4. Section 20.20.590(F) of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.590(F) Parking, circulation, and walkway requirements.**

**F. Minimum/Maximum Parking Requirement by Use.**

1. Specified Uses. Subject to LUC 20.20.590.G and 20.20.590.H, the property owner shall provide at least the minimum and may provide no more than the maximum number of parking stalls as indicated below:

	Use	Minimum Number of Parking Spaces Required	Maximum Number of Parking Spaces Allowed
a.	Auditorium/assembly room/exhibition hall/theater/commercial recreation (4)	1:4 fixed seats or 10:1,000 nsf (if there are no fixed seats)	No max.
b.	Boat moorage, public or semi-public	1:2 docking slips	No max.
c.	Financial institution	4:1,000 nsf	5:1,000 nsf
d.	Funeral home/mortuary/ <del>religious institution</del>	1:5 seats	No max.
e.	High technology/industry (1)	4:1,000 nsf	5:1,000 nsf
f.	Home furnishing-retail and major appliances-retail	1.5:1,000 nsf	3:1,000 nsf
g.	Hospital/in-patient treatment facility/outpatient	1:patient bed	No max.

**Deleted:** religious institution

	surgical facility		
	Retail:		
	Less than 15,000 nsf	1:1,000 nsf	No max.
	More than 15,000 nsf	1.5:1,000 nsf	No max.
i.	Manufacturing/assembly (other than high technology/light industry)	1.5:1,000 nsf	No max.
j.	Office (1) business services/professional services/general office	4:1,000 nsf	5:1,000 nsf
k.	Office (2) Medical/dental/health related services	4.5:1,000 nsf	5:1,000 nsf

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- Deleted: Hotel/motel and associated uses:
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- Deleted:
- Deleted:
- Deleted: Basic guest and employee
- Deleted: 0.9:guest room
- Deleted: No max.
- Deleted:
- Deleted: Restaurant/lounge/bar
- Deleted: 10:1,000 nsf of seating area
- Deleted: No max.
- Deleted:
- Deleted: Banquet/meeting rooms
- Deleted: 6:1,000 nsf of seating area
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l.	Personal services:		
	Without fixed stations	3:1,000 nsf	No max.
	With fixed stations	1.5:station	No max.
m.	Residential:		
	Single-family detached	2:unit	No max.
	Multiple unit structure:		
	One-bedroom or studio unit	1.2:unit	No max.
	Two-bedroom unit	1.6:unit	No max.
	Three or more bedroom unit	1.8:unit	No max.
n.	Restaurant:		
	Sitdown only	14:1,000 nsf	No max.
	With takeout service	16:1,000 nsf	No max.
o.	Retail/mixed retail/shopping center uses (3):		
	Less than 15,000 nsf	5:1,000 nsf	5.5:1,000 nsf
	15,000-400,000 nsf	4:1,000 nsf	4.5:1,000 nsf
	400,000-600,000 nsf	4:1,000 nsf	5:1,000 nsf
	More than 600,000 nsf	5:1,000 nsf	5:1,000 nsf
p.	Senior housing:		
	nursing home	0.33:bed	1:bed
	congregate care senior housing	0.5:unit	1.5:unit

	senior citizen dwelling	0.8:unit	1.5:unit
q.	Rooming/boardng	1:rented room	No max.
r.	Wholesale, warehouse	1.5:1,000 nsf	No max.
s.	Vendor cart	1:cart	No max.

Section 5. Section 20.45A.190 of the Bellevue Land Use Code is hereby amended and Sections 20.45A.270 and 20.45A.280 are hereby adopted to read as follows:

**20.45A.190 Final plat – Applicable procedure.**

The City shall process an application for a final plat and any amendment or vacation thereof as provided in LUC 20.45A.180 through 20.45A.280. The Director of Planning and Community Development is the applicable Department Director.

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**20.45A.270 Final Plat –Modification.**

A. Scope. Any person seeking to modify or amend a subdivision or any portion thereof shall comply with the requirements set forth in Chapter 58.17 RCW and submit an application to request the amendment to the City.

B. Application.

1. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be modified.

2. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for modification would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or modify the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

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C. Notice. Upon receipt of an application for modification, the City shall provide notice of the application to all owners of property within the subdivision pursuant to the requirements of LUC 20.45A.110, LUC 20.35.120, and LUC 20.35.135. The notice shall either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

D. Decision Criteria. The Director may administratively approve or approve with modifications an application for amendment to a final plat provided:

1. The proposed amendment to final plat makes appropriate provisions for, but not limited to, the public health, safety and general welfare; for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste, parks, playgrounds, sites for schools and school;

2. The public use and interest is served by the amendment;

3. The proposed amendment to final plat appropriately considers the physical characteristics of the subdivision site;

4. The proposed amendment complies with all applicable provisions of the Land Use Code, BCC Title 20, the Utility Codes, BCC Title 24, the City of Bellevue Development Standards and Chapter 58.17 RCW;

5. The proposed amendment is consistent with the Comprehensive Plan, BCC Title 21; and

6. Each lot in the proposal can reasonably be developed in conformance with current Land Use Code requirements without requiring a variance; however, requests for modifications to the requirements of Part 20.25H LUC, where allowed under the provisions of that part, may be considered together with an application for amendment to a final plat provided the resulting lots may each be developed without individually requiring a variance.

#### D. Limitations.

1. If any land within the proposed amendment is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration.

2. If any land within the proposed modification contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

3. This section shall not be construed as applying to the modification or replatting of any plat of state-granted shorelands.

E. Recording Required. After approval of the amendment, the applicant shall produce a revised drawing of the approved modification to the final plat, which after signature by the City, shall be filed with the County Auditor to become the lawful plat of the property.

#### 20.45A.280 Final Plat – Vacation.

Any person or entity seeking to vacate a final plat shall follow the procedures set forth in RCW 58.17.212.

Section 6. Section 20.35.030(D) of the Bellevue Land Use Code is hereby

amended to read as follows:

**20.35.030(D) Applications.**

**D. Project Timelines.**

Subject to Chapter 36.70B RCW, the Director shall establish reasonable and predictable timelines for review of land use applications and shall provide target dates for decisions on such applications. The project timelines established by the Director may be modified for a proposal including a critical areas report as set forth in LUC 20.25H.270.

Section 7. Section 3.64.160 of the Bellevue City Code is hereby amended to read as follows:

**3.64.160 Duties and responsibilities.**

A. The planning commission shall review the comprehensive plan of the city and shall make recommendations concerning this to the city council.

B. The planning commission may review land use ordinances and regulations of the city and make recommendations regarding such to the city council, including holding a public hearing. The City Council may take action on land use amendments without prior review or recommendation by the planning commission pursuant to the provisions set forth in LUC 20.35.400 through 20.35.450, provided a public hearing is held by either the Planning Commission or by the City Council.

C. The planning commission shall recommend, establish priorities for, and review studies of geographic sub-areas in the city.

D. The planning commission shall be encouraged to maintain liaison with the planning agencies of other Eastside municipalities and regional planning agencies.

E. All other city boards, committees, and commissions shall coordinate their planning activities, as they relate to land use or the city comprehensive plan, with the planning commission.

F. The planning commission may hold public hearings in the exercise of its duties and responsibilities as it deems necessary.

G. The planning commission shall have such other duties and powers as heretofore have been or hereafter may be conferred upon the commission by city ordinances or as directed by council resolution, the performance of such duties and exercise of such authority to be subject to the limitations expressed in such enactments.

H. The planning commission should provide at least monthly communications to the city council highlighting major activities, future work plans, any changes in work plans and any policy direction requested.

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Deleted: . All land use decisions on applications filed on or after April 1, 1996, shall be made within the time period specified under RCW 36.70B.090. For purposes of calculating timelines and counting days of permit processing, the applicable time period shall begin on the first working day following the date the application is determined to be complete and shall only include the time during which the City can proceed with review of the application as specified in RCW 36.70B.090.

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Section 8. Section 20.30J.125 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.30J.125 Who may initiate.**

A. The City Council, the Planning Commission or the Director of Planning and Community Development, with the concurrence of either body, may initiate an amendment to the text of the Land Use Code.

B. Although the Planning Commission is generally the Advisory Body for land use amendments as set forth in LUC 20.30J.130, the City Council may, if necessary, amend the text of the land use code without prior review or recommendation from the Planning Commission.

Section 9. Section 20.30J.130 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.30J.130 Applicable procedure.**

The City will process an amendment to the text of the Land Use Code using Process IV, LUC 20.35.400 et seq. The Planning Commission is generally the Advisory Body and the Director of Planning and Community Development is the applicable Department Director.

Section 10. Section 20.35.400 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.400 Process IV: City Council legislative actions.**

LUC 20.35.400 through 20.35.450 contain the procedures the City shall use to make legislative land use decisions (Process IV actions). The process shall include a public hearing, held by either the Planning Commission or City Council, and action by the City Council. Review under the State Environmental Policy Act (SEPA) and the Bellevue Environmental Procedures Code may be required. An action by a Community Council may also be required, in which case, the Community Council may hold a courtesy public hearing at any time prior to the City Council action.

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Section 11. Section 20.35.410(A) of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.410 Planning Commission procedure.**

A. General.

Process IV proposals may be introduced to the Planning Commission, which may schedule study sessions as needed to consider the proposal. Prior to making a recommendation, the Planning Commission shall schedule a public hearing. After the public hearing, and after any further study sessions as may be needed, the Planning

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Commission shall transmit its recommendation to the City Council through the applicable Department Director and the City Clerk. Alternatively, the City Council may conduct its own process and hold its own hearing when the proposal is for a change to the text of the Land Use Code.

Section 12. Part 20.30N of the Bellevue Land Use Code relating to Home Occupation Permits is hereby repealed in its entirety.

Section 13. Section 20.20.455 of the Bellevue Land Use Code is hereby adopted to read as follows:

**20.20.455 Home Occupations.**

**A. General Requirements – Performance Standards.**

1. The home occupation shall not involve automobile related services, warehousing of more than 1,000 cubic feet of materials, or external storage of goods;

2. The home occupation shall be conducted wholly within a structure and shall not utilize more than 25 percent of the gross floor area of the structure in which it is located;

3. No more than one nonresident of the dwelling may participate in the home occupation;

4. The home occupation shall not have exterior displays or any exterior alteration of the property, including expansion of parking;

5. The home occupation shall have no exterior signs other than business signage on the occupant's vehicle;

6. The home occupation shall have no exterior storage of materials or other exterior indication of the home occupation;

7. The home occupation shall, in the opinion of the Land Use Director, cause no variation from the residential character of the premises;

8. The home occupation shall, in the opinion of the Land Use Director, cause no structural alteration to the interior or exterior of the structure which changes its residential character;

9. The home occupation shall not use electrical or mechanical equipment which would change the fire rating of the structure, create visible or audible interference in radio or television receivers, or which would cause fluctuations in line voltage outside the dwelling;

10. The home occupation shall not produce noise, vibration, smoke, dust, odor, heat, or glare which would exceed that normally associated with a dwelling;

11. In addition to residential parking requirements for the residents, the home occupation shall not result in more than two vehicles parked on or in the vicinity of the property as a result of the business at any one time;

12. The home occupation shall not have more than six client visits per day and not more than one client is permitted on the premises at any one time. A family arriving in a single vehicle constitutes "one client" for purposes of this subsection;

13. The home occupation shall not have more than two deliveries per week either to or from the residence by a private delivery service; and

14. The home occupation shall not use commercial vehicles in the operation of the business.

**B. Violation of Performance Standards.**

Violation of the performance standards set forth above may result in enforcement action pursuant to Chapter 1.18 BCC and revocation of the business license issued for the home occupation.

Section 14. Section 20.20.120(D) of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.120(D) Accessory dwelling units.**

**D. Limitations.**

A site may not contain both an accessory dwelling unit and a business subject to the regulations in LUC 20.20.920 relating to home occupations.

Section 15. Section 20.20.140 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.140 Boarding houses and bed and breakfasts.**

Boarding houses and bed and breakfasts are subject to the provisions set forth in LUC 20.20.920 relating to home occupation. In addition, not more than two rooms may be rented to not more than two persons other than those occupying a single-family dwelling, provided there is compliance with health and building code requirements. The owner of the rooms to be rented shall provide off-street parking for such rooms at the rate of at least one parking stall for each room.

Section 16. Section 20.20.192 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.192 Commercial vehicles in residential land use districts.**

- Deleted: Part 20.30N LUC for a
- Deleted: H
- Deleted: O
- Deleted: Permit.

Deleted: require a Home Occupation Permit, Part 20.30N LUC, approval.

Commercial vehicles are not permitted to be parked overnight on residential properties  
“Commercial vehicles” include: 1) vehicles used in a commercial enterprise which  
exceed 19 feet in length; and 2) truck tractors used in the drayage of semi-truck trailers.

Deleted: unless approved through a Home Occupation Permit.

Section 17. Section 20.20.800(A) of the Bellevue City Code is hereby amended to read as follows:

**20.20.800(A) Short term stay uses – Limitations and general requirements.**

A. Definition.

Short Term Stay Use. Transient lodging provided in a Planned Unit Development or multifamily dwelling unit located in a Residential (R-1 through R-30) land use district. Boarding houses and bed and breakfasts permitted to operate in Residential districts subject to the provisions of LUC 20.20.920, group homes for children sited pursuant to the Group Home for Children Community Involvement Process, Chapter 9.19 BCC, and institutions housing persons under legal restraint or requiring medical attention or care are not included within the scope of this definition.

Deleted: pursuant to a valid Home Occupation Permit, Part 20.30N LUC

Section 18. Section 20.35.015(C) of the Bellevue City Code is hereby amended to read as follows:

**20.35.015(C) Framework for decisions.**

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:

1. Administrative amendments;
2. Administrative Conditional Use;
3. Design Review;
4. Interpretation of the Land Use Code;
5. Preliminary Short Plat;
6. Shoreline Substantial Development Permit;
7. Variance and Shoreline Variance;
8. Critical Area Land Use Permits; and

Deleted: 4. Home Occupation Permit;

Deleted: 5

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9. Review under State Environment Policy Act (SEPA) when not consolidated with another permit.

Deleted: 10

Section 19. Section 20.35.030 of the Bellevue City Code is hereby amended to read as follows:

**20.35.030 Applications.**

A. Who May Apply.

Applications for the various types of land use decisions may be made by the following parties:

1. The property owner or authorized agent of the owner may apply for any type of Process I, Process II, or Process III land use decision.

2. The City Council, the Director of Planning and Community Development or the Planning Director may apply for a project-specific or site-specific rezone or for an areawide (Process IV) rezone.

Deleted: 2. A resident of the dwelling may apply for a Home Occupation Permit.¶

Deleted: 3

3. The Planning Commission may propose site-specific and non-site-specific amendments to the Comprehensive Plan Map or to the text of the Comprehensive Plan for consideration pursuant to the procedure for consideration of Comprehensive Plan Amendments set forth in LUC 20.30I.130.B.2.

Deleted: 4

4. City Council, the Planning Commission, or the Director with the concurrence of either body, may initiate an amendment to the text of the Land Use Code.

Deleted: 5

5. A property owner or authorized agent of a property owner may apply to propose a site-specific amendment to the Comprehensive Plan pursuant to the annual procedure for consideration of Comprehensive Plan Amendments set forth in LUC 20.30I.130.A.

Deleted: 6

6. Any person may apply to propose a non-site-specific amendment to the Comprehensive Plan pursuant to the annual procedure for consideration of Comprehensive Plan Amendments set forth in LUC 20.30I.130.A.

Deleted: 7

7. Any person may request an interpretation of the Land Use Code. In addition, the Director may issue interpretations of the Land Use Code as needed.

Deleted: 8

Section 20. Table 20.35.210(A) of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.210 Notice of application.**

A. Notice of application for Process II land use decisions shall be provided within 14 days of issuance of a notice of completeness as follows:

Table 20.35.210.A

Application Type	Publish	Mail	Sign
Administrative Amendment	X	X	X
Administrative Conditional Use	X	X	X
Design Review	X	X	X
Interpretation of Land Use Code	X		
Preliminary Short Plat	X	X	X
Shoreline Substantial Development Permit	X	X	
Variance, Shoreline Variance	X	X	
Critical Areas Land Use Permit	X	X	
SEPA Review (when not consolidated with another permit)	X		

- Deleted: Home Occupation Permit
- Deleted: X
- Deleted: X
- Deleted:

Section 21. Section 20.35.200(C) of the Bellevue Land Use Code is hereby amended and a new subsection (D) adopted as follows:

**20.35.200(C) and (D) Process II: Administrative decisions.**

C. Process II decisions of the Director and SEPA threshold determinations are final decisions, effective on the day following the expiration of any associated administrative appeal period, except that for projects where no person or entity submitted written comments prior to the date the final decision was issued as set forth in LUC 20.35.250(A)(1), the process II decision is a final decision effective on the date of issuance. If an administrative appeal is filed by a person or entity that submitted written comments prior to the date the final decision was issued as set forth in LUC 20.35.250(A)(1), the decision is not final until the appeal is heard and decided by the City Hearing Examiner, the Shoreline Hearings Board pursuant to LUC 20.35.250.B and RCW 90.58.180, or the Growth Management Hearings Board pursuant to LUC 20.35.250.C and RCW 36.70A.290.

D. Where no person or entity has submitted written comments prior to the date the final decision was issued, as set forth in LUC 20.35.250(A)(1), the City may issue project permits during the appeal period, provided the applicant submits a waiver of appeal statement to the City.

Section 22. Section 20.35.035 of the Bellevue Land Use Code is hereby adopted to read as follows:

20.35.035 Method of Mailing, Publication, and Postcard Notification.

A. Mailing. For purposes of this Chapter, reference to "mailing" shall include either US postal mail or electronic mail. The City shall, however, provide notification by electronic mail only when requested by the recipient, provided nothing in this subsection negates the City's responsibility to provide notice by U.S. postal mail where state law requires such type of notification.

B. Publication. For purposes of this Chapter, reference to "publication" shall include either publication in the City's official newspaper of record, electronic notification through use of the City's official website, or by inclusion in the City's weekly permit bulletin, provided nothing in this subsection negates the City's responsibility to provide notice by publication in an official newspaper where state law requires such type of publication.

Deleted:

Section 23. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 24. This ordinance shall take effect and be in force five (5) days after legal publication.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007, and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

(SEAL)

\_\_\_\_\_  
Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

\_\_\_\_\_  
Mary Kate Berens, Deputy City Attorney

Attest:

\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published \_\_\_\_\_