IV. PROCEDURES

20.25E.100 Review and Appeal Procedures.

A. Purpose and Scope.

Comment [ch1]: RCW 36.70B.060

The purpose of this section is to establish standard procedures for all shoreline decisions made by the City of Bellevue. The procedures are designed to promote timely and informed public participation, eliminate redundancy in the application, permit review, and appeal processes, minimize delay and expense, and result in shoreline approvals that further City and state goals for the shoreline, as set forth in the Shoreline Management Act and the Bellevue Comprehensive Plan. As required by RCW 36.70B.060, these procedures provide for an integrated and consolidated permit process. The procedures integrate the environmental review process with the procedures for review of shoreline decisions. The procedures also provide for merger of the appeal process for environmental threshold determinations and shoreline decisions. Chapter 20.35 LUC does not apply to the processing of shoreline permits and approvals, unless specifically referenced in LUC 20.25E.140, and 20.25E150 through 20.25E.200, and 20.25E.270.

B. Framework for Decisions.

Comment [ch2]: RCW 36.70B.060; RCW 36.70B.120

1. Shoreline Project Decisions on Permits, Approvals, and Exemptions. Shoreline decisions are divided into three processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of potential impact associated with the decision, the amount and type of public input sought, and the type of appeal available. Shoreline Project Decisions do not include legislative non-project actions taken by the City Council and described in paragraph B.2 of this section.

a. Shoreline Process I decisions are quasi-judicial decisions made by the Hearing Examiner with a city appeal opportunity to the City Council. A petition for review (appeal opportunity) is also provided to the State Shoreline Hearings Board. Shoreline Conditional Use permits are a Shoreline Process I decision.

b. Shoreline Process II decisions are administrative decisions made by the Director for which no city appeal opportunity is available. A petition for review (appeal opportunity) is provided to the State Shoreline Hearings Board. Shoreline Substantial Development Permits, Shoreline Variance approvals, Permit Revisions, and threshold determinations associated with a Shoreline Process II decision and made by the Environmental Coordinator under the State Environmental Policy Act (SEPA), are all Shoreline Process II decisions.

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c. Shoreline Process III decisions are ministerial shoreline decisions made by the Director, for which no administrative appeal opportunity is available to the Hearing Examiner or the Shoreline Hearings Board. Letters of Exemption are Shoreline Process III decisions.

2. Legislative Non-Project Actions. Legislative actions are taken by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. Amendments to the SMP are Land Use Process IV decisions governed by the procedures contained in LUC 20.35.400 through 20.35.450, RCW 98.58, and WAC 173-26. Process IV land use decisions that amend the SMP require approval by the Department of Ecology pursuant to the procedures contained in RCW 90.58.090.

Comment [j3]: RCW 90.58.090; WAC 173-26

C. General Procedures Applicable to All Shoreline Project Decisions.

Comment [ch4]: RCW 36.70B.060

1. Pre-Application Conferences. A pre-application conference is required before submitting any application for a Shoreline Conditional Use Permit (Shoreline Process I decision), unless waived by the Director. Shoreline Process II and Shoreline Process III decisions are exempt from the pre-application conference requirement.

2. Applications – Who May Apply. The property owner or authorized agent of the owner may apply for shoreline project permits, approvals, and exemptions.

3. Submittal Requirements. The Director shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. The Director may waive specific submittal requirements determined to be unnecessary for review of a specific project application. The Director may require additional material such as maps, or studies when the Director determines such material is needed to adequately assess the proposed project, but these additional materials will not be necessary for the determination of completeness.

4. Notice of Complete Application.

Comment [ch5]: RCW 36.70B.070; WAC 173-27-110

a. Within 28 days after receiving a shoreline permit or approval application, the Director shall mail, fax, or otherwise provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.

b. If the Director does not provide a written determination within the 28 days, the application shall be deemed complete as of the date of submittal.

c. If additional information is needed to make the application complete, within 14 days after an applicant has submitted the information identified

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by the Director as being needed, the Director shall notify the applicant whether the application is complete or what additional information is necessary.

d. An application is complete for purposes of this section when it meets the submittal requirements established by the Director and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Director from requesting additional information or studies either at the time of the notice of completeness or subsequently, if new information is required to complete review of the application or substantial changes to the permit application are proposed.

5. Shoreline Project Review Timelines. The Director shall establish and mechanism to ensure reasonable and predictable timelines for review of shoreline applications and shall provide target dates for decisions on such applications.

6. Integration and Consolidation of Shoreline Permit Review.

Comment [ch6]: RCW 36.70B.120(2)

a. Shoreline Process I and II Decisions. When a single shoreline project includes a combination of Shoreline Process I and Shoreline Process II permits, consolidated review of the project shall include the Process I and II components. A consolidated report setting forth the Shoreline Process I recommendation of the Director, and the Shoreline Process II decision(s), including SEPA threshold determination associated with a Shoreline Process I decision, shall be issued.

b. Shoreline Process I Decisions with Process I, II or III Land Use Decisions. When a single shoreline project includes a Shoreline Process I decision governed pursuant to LUC 20.25E.110 combined with Land Use Process I, II, or III permits governed pursuant to Chapter 20.35 LUC, consolidated review of the project shall include the Shoreline Process I and the applicable land use process components. A consolidated report setting forth any required recommendations of the Director and the decisions, including SEPA threshold determination associated with a Shoreline Process I decision, shall be issued.

c. SEPA Threshold Determination with Shoreline Process II or III Decisions. Any SEPA threshold determination associated with a Shoreline Process II or III permit that is not consolidated with a Shoreline Process I decision as described in LUC 20.25E.100.C.6.a and b above shall be merged with the

Comment [j7]: RCW 36.70B.110 (6)

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Shoreline Process II or III action, and processed according to the notice, decision, appeal, and other procedures set forth in LUC 20.25E.100, LUC 20.25E.120 (Shoreline Process II), and LUC 25.25E.130 (Shoreline Process III).

7. Recommendations and Decisions of the City – Written Record Required. Any recommendation or decision of the Director, Hearing Examiner or City Council on a shoreline project application shall be provided in writing. The record may be in the form of a staff report, letter, the permit itself, ordinance, or other written document, and shall indicate whether the application has been approved, approved with conditions, or denied. Any recommendation or decision of the City shall be based on the decision criteria for the applicable shoreline project permit, shall include any conditions necessary to ensure consistency with the SMA, the SMP, and City development regulations, and may include any mitigation measures proposed under the provisions of SEPA.

Comment [j8]: RCW 36.70B.130

8. Consolidation of Certain Administrative Appeals of Shoreline Permits and Non-Shoreline Matters. Certain appealable administrative decisions are not made by the Director, 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. The City Hearing Examiner hears and decides appeals on these types of non-shoreline decisions and determinations. Information on non-shoreline appeals is available from the department administering the relevant code and from the City Hearing Examiner.

Comment [ch9]: RCW 36.70B.110 and 120; WAC 173-27-110

a. Shoreline Process I Permits with Non-Shoreline Matters. When a non-shoreline matter is associated with a consolidated shoreline permit review as described in LUC 20.25E.100.C.6.a and b above, the appeal on the non-shoreline matter will be heard together with any Hearing Examiner public hearing on the Shoreline Process I recommendation of the Director.

b. Shoreline Process II and III Permits with Non-Shoreline Matters. No City administrative appeal is available on a merged SEPA and shoreline permit review as described in LUC 20.25E.100.C.6.c above. Non-shoreline matter appeals will not be consolidated with Shoreline Process II and III decisions.

9. Tolling of Non-Shoreline Matters during Pendency of Shoreline Administrative Appeals. An appeal of a Shoreline Substantial Development

Comment [j10]: RCW 90.58.180 and WAC 173-27-220

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Permit, Shoreline Conditional Use Permit, or a Shoreline Variance is to the State Shoreline Hearings Board as set forth in RCW 98.58.180. The time for filing an appeal to Superior Court of a final land use decision described in LUC 20.35.070 that has been consolidated with a shoreline decision as described in LUC 20.25E.100.C.6.a and b, will be tolled until all administrative appeals (including petitions for review to the Shoreline Hearings Board) have been resolved.

D. Notice Procedures Applicable to Shoreline Project Decisions.

Comment [j11]: RCW 36.70B.110; WAC 173-27-110

1. Notice of Application. Notice of application for shoreline decisions shall be provided within 14 days of issuance of a notice of completeness as required by Table 20.25E.100.D.1:

Table 20.25E.100.D.1

Shoreline Project Applications	**Publication (b)**	**Mail (c)**	**Sign (d)**
Shoreline Conditional Use Permit	x **(e)**	x	x
Shoreline Substantial Development Permit	x	x	
Shoreline Variance Approval	x	x	
Shoreline Letter of Exemption **(a)**			

Notes: Table 20.25E.100.D.1

a. Notice of application is not required for shoreline letters of exemption unless SEPA review is required. If SEPA review is required on a shoreline letter of exemption, notice of application shall be provided pursuant to LUC 20.35.210.

Comment [j12]: WAC 197-11-800(1)(b), (2), (3), (6), (23)

b. Publication.

Comment [j13]: RCW 36.70B.110(4)(b)

i. Publication information shall include the project description, location, types of City permits or approvals applied for, date of application, minimum public comment period, and location where the complete application file may be reviewed.

ii. For purposes of this paragraph, 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.

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c. Mailing.

Comment [j14]: RCW 36.70B.110(4)(g)

i. Mailed notice shall be provided to owners of real property within 500 feet of the project site including the following information:

(1) The date of application;

(2) Minimum public comment period;

(3) The project description and location;

(4) The types of City permit(s) or approval(s) applied for;

(5) The Director may include other information to the extent known at the time of notice of application, such as: the identification of other required City permits, related permits from other agencies or jurisdictions not included in the City permit process, the dates for any public meetings or public hearings, identification of any studies requested for application review, any existing environmental documents that apply to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation;

(6) Mailings shall also include mailing notice of the application to each person who has requested such notice for the calendar year and paid any fee as established by the Director. This mailing shall also include all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested notice of land use activity. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

ii. For purposes of this paragraph, reference to "mailing" shall include either U.S. mail or electronic mail. The City shall, however, provide notification by electronic mail only when requested by the recipient.

Comment [j15]: WAC 173-27-110(4)

d. Sign. If signs are required, the applicant shall post two signs or placards on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.

Comment [j16]: RCW 36.70B.110(4)(a)

e. Notice of Application shall be provided at least 15 days before the Hearing Examiner public hearing required for Process I decisions.

Comment [j17]: WAC 173-27-110(3)

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2. Minimum Comment Period.

Comment [j18]: WAC 173-27-110

a. Comments should be submitted to the Director as early in the review of an application as possible and should be as specific as possible.

b. The Director may accept and respond to public comments at any time prior to issuance of a recommendation or decision.

c. For projects requiring review under the State Environmental Policy Act (SEPA), a single comment letter may be submitted to the Director or the Environmental Coordinator addressing environmental impacts as well as other issues subject to review under the shoreline project decision criteria.

d. Notice of application for shoreline project decisions shall provide a minimum comment period as required by Table 20.25E.100.D.2.d:

Table 20.25E.100.D.2.d

Shoreline Project Applications	**Minimum Comment Period**
Shoreline Conditional Use Permit	30 days
Shoreline Substantial Development Permit	30 days (i)
Shoreline Variance Approval	30 days
Shoreline Letter of Exemption	(ii)

Notes: Table 20.25E.100.D.2.d

i. The minimum comment period shall be 20 days for shoreline substantial development permit applications for:

Comment [j19]: WAC 173-27-120

(1) A limited utility extension; or,

(2) Construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structure from shoreline erosion. The Director's decision on a shoreline application will not be issued before expiration of the minimum comment period.

ii. A minimum comment period is not required for shoreline letters of exemption unless SEPA review is required. If SEPA review is

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required on a shoreline letter of exemption, a minimum comment period shall be provided pursuant to LUC 20.35.225.

3. Construction Notices. The Director may require construction posting and neighborhood notification for any development on real property. Removal of or failure to post a construction notice required by the Director shall constitute a violation of this section and otherwise is enforceable under Chapter 1.18 BCC.

Comment [j20]: LUC 20.35.040

20.25E.110 Shoreline Process I – Hearing Examiner Quasi-Judicial Decisions.

A. Process Described.

Comment [j21]: RCW 36.70B.120

1. Applicable Code Section. Section LUC 20.25E.110 contains procedures the City will use in processing a Shoreline Process I decision. The specific Shoreline Process I procedures are in addition to the general procedures applicable to all shoreline project decisions contained in LUC 20.25E.100.

2. Type of Decision. Decisions on a Shoreline Process I application are quasi-judicial decisions made by the City Hearing Examiner based on a recommendation from the Director. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time a public meeting will be held. The Director then makes a recommendation based upon the decision criteria set forth in the Code for the applicable shoreline permit.

3. Incorporation of SEPA Threshold Determination. If required by the State Environmental Policy Act (SEPA) a threshold determination associated with a Shoreline Process I decision shall be issued by the Environmental Coordinator as a Land Use Process II decision pursuant to LUC 20.35.230 with an opportunity for appeal to the Hearing Examiner pursuant to LUC 20.35.250. The threshold determination should be issued in conjunction with issuance of the Director's recommendation on the application. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed before issuance of the Director's recommendation. If the requirement to prepare an EIS or a supplemental EIS is appealed by the applicant, that appeal will be resolved prior to issuance of the Director's recommendation.

4. Hearing Examiner Public Hearing. Following issuance of the Director's recommendation, a public hearing will be held before the City Hearing Examiner.

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If a SEPA Determination of Nonsignificance (DNS) was issued (no EIS required) pursuant to LUC 20.35.230 and an appeal of the DNS filed pursuant to LUC 20.35.250, the appeal hearing on the DNS will be combined with the public hearing on the Director's recommendation. Following the public hearing, the Hearing Examiner will issue a written report which will set forth a decision to approve, approve with modifications, or deny the Shoreline Process I application. The Examiner's report will also include a final City decision on any DNS or other non-shoreline appeal consolidated with the Shoreline Process I permit as described in LUC 20.25E.100.C.8.

5. City Appeal Opportunity. The decision of the Hearing Examiner on a Shoreline Process I permit is appealable to the City Council.

6. Shoreline Process I Decision – When the City Decision is Final. When a decision is made to approve, conditionally approve, or deny an application, the applicant shall be notified. Shoreline Process I decisions are final upon expiration of any applicable City administrative appeal period, or if appealed, on the date of the City Council's final decision on the application.

B. Public meetings.

Comment [ch22]: LUC 20.35.127

A public meeting is required for all Shoreline Process I applications. The applicant shall participate in the meeting to inform citizens about the proposal. Public meetings shall be held as early in the review process as possible for Shoreline Process I applications. Notice of the public meeting shall be provided in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. The public meeting notice will be combined with the notice of application whenever possible.

C. Director's Recommendation on a Process I Application.

Comment [j23]: RCW 36.70B.060(5)

A written report of the Director making a recommendation to the Hearing Examiner for approval, approval with conditions or with modifications, or for denial shall be prepared.

D. Notice of Recommendation, SEPA Determination, and Hearing Examiner Hearing.

Comment [j24]: RCW 36.70B.130

1. Notice Distribution. Public Notice of the availability of the Director's recommendation shall be published and mailed in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. Public Notice of the availability of the Director's recommendation shall also be mailed to the applicant and each person who submitted comments during the comment period or at any time prior to the publication of the notice of recommendation.

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2. Notice Content. The following content shall be provided in addition to the content required pursuant to LUC 20.25E.100.D.1.

a. SEPA Threshold Determination. If a Determination of Significance (DS) was issued by the Environmental Coordinator, the notice shall state whether an EIS or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) was issued, the notice shall state the deadline for appeal of the DNS to the Hearing Examiner pursuant to LUC 20.35.250. The DNS should be issued and published in conjunction with the Director's recommendation except as provided in the Environmental Procedures Code, BCC 22.02.160.

b. Hearing Examiner Public Hearing. The notice shall also include the date of the Hearing Examiner public hearing for the application, which shall be scheduled no sooner than 15 days following the date of publication of the notice.

Comment [j25]: WAC 173-27-110(3)

E. Hearing Examiner Public Hearing.

1. Participation in Hearing. Any person may participate in the Hearing Examiner public hearing on the Director's recommendation by submitting written comments to the Director before the hearing or by submitting written comments or making oral comments at the hearing.

2. Transmittal of File. The Director shall transmit to the Hearing Examiner a copy of the Department file on the application including all written comments received prior to the hearing, and information reviewed by or relied upon by the Director or the Environmental Coordinator. The file shall also include information to verify that the requirements for notice to the public (notice of application, notice of SEPA determination, and notice of Director's recommendation) have been met.

3. Hearing Record. The Hearing Examiner shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

F. Hearing Examiner Decision on Shoreline Process I Applications.

1. Decision. The Hearing Examiner shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the decision criteria for the applicable shoreline permit. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence

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supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall deny the application.

2. Limitation on Modification. If the Hearing Examiner requires 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 20.25E.100.D, the Hearing Examiner shall conduct a new hearing on the proposal as modified.

Comment [j26]: LUC 20.35.140

3. Conditions. The Hearing Examiner may include conditions to ensure a proposal conforms to the relevant decision criteria.

4. Written Decision of the Hearing Examiner. The Hearing Examiner shall within 10 working days following the close of the record distribute a written report supporting the decision. The report shall contain the following:

a. The decision of the Hearing Examiner on the Shoreline Process I permit and any non-shoreline appeals consolidated with the permit; and

b. Any conditions included as part of the decision; and

c. Findings of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts; and

d. A statement explaining the process to appeal the decision of the Hearing Examiner on the Shoreline Process I permit to the City Council.

5. Distribution. The Office of the Hearing Examiner shall mail the written decision, bearing the date it is mailed, to each person who participated in the public hearing.

6. Effect of Hearing Examiner Decision. The decision of the Hearing Examiner on the application is the final decision of the City if no written appeal to the City Council is filed pursuant to paragraph G.1 of this section, and shall be filed with the state pursuant to LUC 20.25E.150.D.

G. Appeal of Hearing Examiner Shoreline Process I Decision to City Council.

1. The Hearing Examiner's decision on a Shoreline Process I application may be appealed to the City Council as follows:

a. 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 20.25E.110.E.1, or by the applicant or the City.

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b. 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.

c. 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.

d. 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.

Comment [j27]: RCW 36.70B.120(2)

e. Public Notice of Appeal Hearing.

i. Content of Notice. The City Clerk shall prepare a notice of an appeal hearing containing the following:

(1) The name of the appellant, and if applicable the project name;

(2) The street address of the subject property, and a description in non-legal terms sufficient to identify its location;

(3) A brief description of the decision of the Hearing Examiner which is being appealed; and

(4) The date, time and place of the appeal hearing before the City Council.

ii. 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 20.25E.110.G.1.f.

f. Closed Record Hearing on Appeal to City Council.

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

ii. How to Participate. A person entitled to participate may participate in the appeal hearing by:

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(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.

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

g. City Council Decision on Shoreline Process I Appeals.

i. Decision. 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 material and substantial evidence. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner.

ii. 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.

iii. Ordinance Resolving Appeal. The City Council shall adopt an ordinance supporting the decision. The ordinance shall contain the following.

(1) The decision of the City Council;

(2) Any conditions included as part of the decision;

(3) Findings of fact and conclusions of law which support its decision on the appeal; and

(4) A statement explaining the process to file a Petition for Review of the City Council decision to the Shoreline Hearings Board.

iv. 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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2. Effect of City Council Decision. The decision of the City Council on a Shoreline Process I application is the final decision of the City, and shall be filed with the state pursuant to LUC 20.25E.150.D.

20.25E.120 SHORELINE PROCESS II.

A. Process Described.

Comment [j28]: RCW 36.70B.120

1. Applicable Code Section. Section LUC 20.25E.120 contains procedures the City will use in processing a Shoreline Process II decision. The specific Shoreline Process II procedures are in addition to the general procedures applicable to all shoreline project decisions contained in LUC 20.25E.100.

2. Type of Decision. Decisions on a Shoreline Process II application are administrative decisions made by the Director. This process begins with a complete application, followed by notice to the public of the application and a public comment period. A public meeting may be held for projects of significant impact or for projects involving major changes to the expected pattern of development in an area. The Director then makes a decision based upon the decision criteria set forth in the code for the applicable shoreline permit. Public notice of the decision is provided, along with an opportunity to petition for review of the decision to the Shoreline Hearings Board.

3. Merger of SEPA Threshold Determination. If required by the State Environmental Policy Act (SEPA), a threshold determination shall be issued. The threshold determination shall be issued in conjunction with issuance of the Director's decision on the application. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed before the accompanying shoreline decision is issued. If the applicant appeals the requirement to prepare an EIS or a supplemental EIS, that appeal will be resolved before the Director issues the shoreline decision. No City administrative appeal is available on a merged SEPA and shoreline permit review as described in LUC 20.25E.100.C.6.c.

4. Shoreline Process II Decision – When the City Decision is Final. The City decision is final when notice to approve, conditionally approve, or deny an application is issued by the Director.

B. Public Meetings.

Comment [j29]: LUC 20.35.227

The Director may require the applicant to participate in a public meeting to inform citizens about a proposal. When public meetings are required, the meeting shall be held

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as early in the review process as possible for shoreline applications. For projects located within the boundaries of a Community Council, the public meeting may be held as part of the Community Council's regular meeting or otherwise coordinated with the Council's meeting schedule. Notice of the public meeting shall be provided in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. The public meeting notice will be combined with the notice of application whenever possible.

C. Special Timing Requirement for Issuance of Certain SSDPs.

Comment [j30]: WAC 173-27-120

1. The Director must issue a written decision within 21 days of the last day of the comment period described in LUC 20.25E.100.D.2.d on applications for shoreline substantial development permits for:

Comment [ch31]: RCW 90.58.140; WAC 173-27-120(1)(b)

a. A limited utility extension; or,

b. The construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structure from shoreline erosion.

2. For the purposes of this section, a limited utility extension means the extension for a utility service that:

a. Is categorically exempt from under chapter 43.21C RCW for one or more of the following: natural gas, electricity, telephone, water, or sewer;

b. Will serve an existing use in compliance with the City's Shoreline Master Program and the Shoreline Management Act; and

c. Will not extend more than 2,500 linear feet within the shorelines of the state.

D. Director's Shoreline Process II Decision.

1. Decision. The Director shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the decision criteria for the applicable shoreline permit. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Director shall deny the application.

2. Limitation on Modification. If the Director requires 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 20.25E.100.D, the Director shall provide a new notice of application and obtain public comment prior to making a decision.

Comment [j32]: LUC 20.30R.155

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3. Conditions. The Director may include conditions to ensure a proposal conforms to the relevant decision criteria.

4. Written Decision of the Director.

Comment [j33]: RCW 36.70B.060(5)

a. Content. The Director shall distribute a written report supporting the decision. The report shall contain the following:

i. The decision of the Director;

ii. Any conditions included as part of the decision;

iii. Findings of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts; and

iv. A statement explaining the process to petition for review of the Directors decision to the Shoreline Hearings Board together with any merged SEPA threshold determination on the Shoreline Process II decision.

b. Effect of Decision. The decision of the Director on a Shoreline Process II application is the final decision of the City, and shall be filed with the state pursuant to LUC 20.25E.150.D.

E. Notice of Shoreline Process II Decision.

1. Notice Distribution. Public Notice of the availability of the Director's decision shall be published and mailed in the same manner as required for notice of the application pursuant to LUC 20.25E.100.D. Public Notice of the availability of the Director's decision shall also be mailed to each person who submitted comments during the comment period or at any time prior to the publication of the notice of decision.

Comment [j34]: RCW 36.70B.130

2. Notice Content. The following content shall be provided in addition to the content required pursuant to LUC 20.25E.100.D.1.

a. SEPA Threshold Determination. If a Determination of Significance (DS) was issued by the Environmental Coordinator, the notice of the Director's decision shall state whether an EIS or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) was issued, the DNS should be issued and published in conjunction with the Director's decision except as provided in the Environmental Procedures Code, BCC 22.02.160.

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b. Appeal Opportunity. The notice of decision shall also include information regarding how to appeal the shoreline decision together with any merged SEPA Threshold Determination, to the Shoreline Hearings Board.

F. Appeal of Director's Shoreline Process II Decision. The decision of the Director on a Shoreline Process II application is the final decision of the City and may be appealed within 21 days to the Shoreline Hearings Board as set forth in RCW 90.58.180.

Comment [j35]: RCW 90.58.180

20.25E.130 Shoreline Process III – Ministerial Decisions.

Comment [j36]: RCW 36.70B.060(6); RCW 36.70B.110(6)(d)

A. Process Described.

1. Applicable Code Section. Section LUC 20.25E.130 contains procedures the City will use in processing a Shoreline Process III decision. These specific Shoreline Process III procedures are in addition to the general procedures applicable to all shoreline project decisions contained in LUC 20.25E.100.

2. Type of Decision. Decisions on a Shoreline Process III application are ministerial decisions made by the Director, for which no administrative appeal is available. This process begins with a complete application, and culminates with Director issuance of a Letter of Exemption.

3. Incorporation of SEPA Threshold Decisions. If required by the State Environmental Policy Act (SEPA), a threshold determination shall be issued. The threshold determination should be issued in conjunction with issuance of the Letter of Exemption.

4. Shoreline Process III Decisions – When the City Decision is Final. When a decision is made to issue a Letter of Exemption, with or without conditions, the applicant shall be notified. This decision shall constitute the final decision of the city.

Comment [ch37]: WAC 173-27-040(1)(e)

B. Appeal of Director's Shoreline Process III Decision. The decision of the Director on a Shoreline Process III application is the final decision of the City and no administrative appeal is available. The decision on a Shoreline Process III application may be appealed together with any merged SEPA Threshold Determination to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW.

Comment [j38]: LUC 20.35.070

20.25E.140 LEGISLATIVE NON-PROJECT ACTIONS.

Comment [j39]: LUC 20.35.400 - 450

A. Process.

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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 before the City Council action.

B. Appeal of the City Council Decision.

Comment [j40]: RCW 36.70A.280

A final City action on a legislative non-project land use proposal to amendment the SMP may be appealed together with the SEPA Threshold Determination to the Growth Management Hearings Boards as set forth in RCW 36.70A.280.

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