

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO 2265

AN ORDINANCE relating to procedures for applications and hearings on Conditional Uses, Contingent Uses and Zoning Reclassifications, and amending Ordinances 1282, 1338, 1700, 1793, 1937, 2114 and 2173 and Bellevue Zoning Code Sections 18.47.520, 18.57.020 and 18.57.060; repealing Bellevue Zoning Code Chapters 18.53 and 18.56 and Sections 18.47.560, 18.47.561, 18.47.562, 18.57.015, 18.57.030, 18.57.050, 18.62.041, 18.62.042, 18.62.043, 18.62.044, 18.62.045 and 18.62.046, and adding a new Chapter 18.64 and new Sections 18.03.130, 18.03.140, 18.47.540 and 18.62.041 thereto.

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

Section 1. Bellevue Zoning Code Sections 18.47.560, 18.47.561, 18.47.562, 18.57.015, 18.57.030, 18.57.050, 18.62.041, 18.62.042, 18.62.043, 18.62.044, 18.62.045, and 18.62.046, and Ordinance 1700 Section 3, Ordinance 1793 Section 2, Ordinance 1937 Section 1, Ordinance 2114 Sections 3 and 4 and Ordinance 2173 Section 25, are each hereby repealed, and Bellevue Zoning Code Chapters 18.53 and 18.56 are each hereby repealed in their entirety.

Section 2. A new Section 18.03.130 is hereby added to the Bellevue Zoning Code to read as follows:

18.03.130 STANDARDS HEREIN ARE MINIMUM STANDARDS: The provisions and standards contained in this ordinance shall be deemed to be minimum standards with which compliance is essential to the permitted uses, and shall not be construed as limiting the legislative discretion of the City Council to further restrict the permissive uses or to withhold or revoke permits for uses where, notwithstanding the existence of the minimum standards herein set forth, the promotion or protection of the public health, morals, safety and welfare bears a substantial relation to such withholding, denial or revocation of permits or uses.

Section 3. A new Section 18.03.140 is hereby added to the Bellevue Zoning Code to read as follows:

18.03.140 PRIOR COVENANTS: It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties,

except that where this ordinance imposes a greater restriction upon the use of buildings or land or upon height of buildings, or requires larger space than is imposed or required by other resolutions, rules or regulations or by easements, covenants, or other agreements, the provisions of this ordinance shall govern.

Section 4. Ordinance 1338 Section 1, and Bellevue Zoning Code Section 18.47.520 are each hereby amended to read as follows:

18.47.520 CONTINGENT USES DEFINED:

1. Interim uses for land in areas undergoing evolution in development; or
2. Uses for land which are uniquely related to and affected by railroads, airports, highways or arterials; or
3. Uses for land which are sufficiently unusual to warrant special consideration.

Contingent Use proposals shall be limited to use districts not zoned R-7.2, R-8.5, R-10, R-13.5, R-20 or R-1A. The kinds of uses requiring review and permit are uses such as the following:

Section 5. A new Section 18.47.540 is hereby added to the Bellevue Zoning Code to read as follows:

18.47.540 CONTINGENT USES - PROCEDURE: The procedures for application, public notice and hearings on Contingent Uses shall be as provided in Bellevue Zoning Code Chapter 18.64.

Section 6. Ordinance 2173, Section 26 (in part) and Bellevue Zoning Code Section 18.57.020 are each hereby amended to read as follows:

18.57.020 APPLICATION FOR CONDITIONAL USE PERMIT.

1. Application requirements for Conditional Use Permits or for additions, modifications or changes thereto shall be those required by Bellevue Zoning Code Chapter 18.64.
2. Upon receipt of the completed application, the Planning Director shall determine the necessity for Hearing Body review, following the criteria of 18.57.040. This decision by the Planning Director is not subject to review by the Hearing Body.

3. If a hearing is unnecessary, the application shall be reviewed by the appropriate City departments and the Planning Director. The Planning Director shall approve the application as submitted, approve the application with conditions, or disapprove the application based upon the criteria of 18.64.070, 18.64.080 and 18.57.040. The applicant and adjacent property owners shall be notified and public notice given of an action to be taken at least 10 days prior to the Planning Director reviewing and acting upon application. Written and oral public input will be received during this period but no public hearing is required. Following the decision of the Planning Director, the applicant and parties of record will be notified of the action taken, written findings, and the appeal procedure.
4. If the Planning Director determines that a public hearing is required, the Planning Director and the appropriate City Departments shall review the application and forward a recommendation to the Hearing Body prior to the hearing.
5. Procedures for public notice, hearing, and expiration, extension and revocation of the permit shall then be as specified in Bellevue Zoning Code Chapter 18.64.

Section 7. Ordinance 2173, Section 26 (in part) and Bellevue Zoning Code Section 18.57.060 are each hereby amended to read as follows:

18.57.060 APPEALS. Except as provided in 18.57.020 (2) decisions by the Planning Director are final unless appealed to the Hearing Body within twenty (20) days of the date of mailing of the decision as provided in section 18.57.020(3). The Hearing Body shall either concur with the previous decision of the Planning Director, direct that approval be granted subject to named conditions, or require reconsideration by the Planning Director. Decisions of the Hearing Body are final unless appealed to the Superior Court within twenty (20) days of the date of decision by the Hearing Body.

Section 8. A new Section 18.62.041 is hereby added to the Bellevue Zoning Code to read as follows:

18.62.041. RECLASSIFICATION - PROCEDURES. The Bellevue City Council or the Planning Commission, or any owner of land who feels that the Comprehensive Plan of the City of Bellevue would justify the placing of a Use District classification on that property different from that classification presently on the property, may apply for a reclassification on those grounds. Procedures for application, public notice and hearing are those specified in

Bellevue Zoning Code Chapter 18.64.

Section 9. There is hereby added to the Bellevue Zoning Code a new Chapter 18.64., entitled as follows:

Chapter 18.64. PROCEDURES - RECLASSIFICATIONS, CONTINGENT USES AND CONDITIONAL USES.

Section 10. There is hereby added to the Bellevue Zoning Code a new Section 18.64.010, to read as follows:

18.64.010 APPLICABILITY. Except where specific exceptions are made herein, the provisions of this Chapter apply to Conditional Uses, Contingent Uses and zoning Reclassifications processed by a Hearing Body.

Section 11. There is hereby added to the Bellevue Zoning Code a new Section 18.64.020, to read as follows:

18.64.020 PETITIONS; FEES. The owner of any land seeking a Conditional Use or Contingent Use Permit or a Reclassification of property shall present to the Planning Department a petition, on forms provided by the City, signed by said owner or by his or her authorized agent, stating the proposal. Fees required by the Fee Schedule in force at the date of submittal must be paid before the petition will be accepted.

Section 12. There is hereby added to the Bellevue Zoning Code a new Section 18.64.030 to read as follows:

18.64.030 PETITION CONTENT; REQUIRED ATTACHMENTS. In addition to the fees and petition form, a legal description of the property involved, a site location map and an environmental assessment must be provided by the Petitioner. Where specific buildings, modifications or development are a part of the approval sought the following shall also be submitted by the Petitioner:

1. Site Plan of all structures on the subject property and on adjoining properties to show relationship of proposed use to existing development.
2. Landscape Plan to indicate all areas to be landscaped and fenced and materials to be used.
3. Design of ingress and egress.

4. Off-street parking and loading facilities.
5. Drawings or sketches of the exterior elevations, and/or perspective drawings of the building or structures under consideration.
6. The Planning Director may require that sufficient additional materials be submitted to fully delineate the physical and environmental aspects of the proposal.

Section 13. There is hereby added to the Bellevue Zoning Code a new Section 18.64.040, to read as follows:

18.64.040 ROUTING OF PETITION; STAFF RECOMMENDATIONS.

Upon acceptance by the Planning Department of a sufficient petition, the Planning Department shall route the same to all appropriate City departments. Each such department may submit to the Planning Department recommendations and comments regarding the same. In addition, the Planning Department shall notify any Community Council which has the power of review over the particular project, of the receipt of the petition.

The Planning Department shall coordinate and assemble the reviews of other departments having an interest in the subject of the petition and shall prepare a report which shall include:

1. Identification of the relevant comprehensive plan policies;
2. The environmental assessment and declaration of no significant impact or the environmental impact statement.
3. Staff analysis and/or other relevant information;
4. Staff recommendation.

Prior to a scheduled hearing the report shall be filed with any Community Council having jurisdiction and the Hearing Body. Copies of the report shall be mailed to the petitioner and shall be made available for inspection and copying by any interested party.

Section 14. There is hereby added to the Bellevue Zoning Code a new Section 18.64.050, to read as follows:

18.64.050 PUBLIC NOTICE. When the Planning Department determines that a petition meets the filing requirements, it shall be scheduled for a preliminary hearing before any Community Council having jurisdiction and a public hearing before the Hearing Body. If a Community Council does not take action within 15 days of filing of the petition and Planning Department report, with the Clerk for the Community Council, such Preliminary Hearing shall be deemed waived. Notices of a pending public hearing shall be given by posting of written notices in the immediate vicinity of the land or structure in question, by posting of additional notices in official posting places within the City, and by publication of at least one notice in a newspaper of general circulation within the City at least 10 days prior to the date of the hearing.

Section 15. There is hereby added to the Bellevue Zoning Code a new Section 18.64.060, to read as follows:

18.64.060. CONDUCT OF HEARINGS - RULES AND REGULATIONS. The Hearing Body shall have the power to prescribe rules and regulations for the conduct of hearings before them subject to confirmation by the Council. Testimony may be received from the staff, the petitioner and members of the public. If any recommendation has been made by any Community Council having jurisdiction, such shall be considered by the Hearing Body.

Section 16. There is hereby added to the Bellevue Zoning Code a new Section 18.64.070, to read as follows:

18.64.070 RECOMMENDATION OR DECISION OF HEARING BODY. After a public hearing on a proposed Contingent Use or Reclassification of property, the Hearing Body may deny the petition or recommend to the City Council that the proposal be approved or approved with modifications and/or conditions.

If the Hearing Body denies the Contingent Use or Reclassification petition, that decision shall be final unless a notice of appeal to the Council is filed with the City Clerk within twenty (20) days of the Hearing Body's action. Procedures for the appeal shall be followed as determined by rules of procedure adopted by the City Council for hearing on appeals.

After a public Hearing by the Hearing Body on a proposed Conditional Use, the Hearing Body shall approve, approve with modifications and/or conditions, or deny the conditional use permit. Decisions by the Hearing Body on

Conditional Use permits are final unless appealed to the Superior Court within twenty (20) days of the date of decision by the Hearing Body.

Section 17. There is hereby added to the Bellevue Zoning Code a new Section 18.64.080, to read as follows:

18.64.080 FINDINGS OF FACT BY HEARING BODY. When the Hearing Body renders a recommendation or decision on a proposal, it shall make and enter findings from the record and conclusions thereof which support its recommendation or decision and find whether or not:

1. The proposal is in accord with the goals and policies of the Comprehensive Plan.
2. The effect of the proposal on the immediate vicinity will be materially detrimental.
3. There is merit and value in the proposal for the community as a whole.
4. Conditions should be imposed in order to mitigate any significant adverse impacts from the proposal.

Section 18. There is hereby added to the Bellevue Zoning Code a new Section 18.64.090, to read as follows:

18.64.090 ADDITIONAL FINDINGS OF FACT - CONDITIONAL USES. In the consideration of a Conditional Use the Hearing Body, in addition to the findings of fact required by Section 18.64.080, shall also find whether or not:

1. The Conditional Use complies with requirements of the underlying use district.
2. The Conditional Use can be constructed, and maintained so as to be harmonious and appropriate in design, character, and appearance with the existing or intended character of the general vicinity.
3. The Conditional Use will be served by existing public facilities such as streets, fire protection, water, storm water control and sanitary sewers, and other essential utilities.

Section 19. There is hereby added to the Bellevue Zoning Code a new Section 18.64.100, to read as follows:

18.64.100. WRITTEN RECORD OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS. Copies of the following, in writing, shall be entered into the record of all actions:

1. Findings of Fact by the Hearing Body which shall include the findings required by Bellevue Zoning Code Section 18.64.080 and, if applicable, Section 18.64.090.
2. The conclusions and recommendation or decision of the Hearing Body which shall include any proposed conditions intended to mitigate any significant impacts from the proposal.

Section 20. There is hereby added to the Bellevue Zoning Code a new Section 18.64.110, to read as follows:

18.64.110 FORWARDING OF AFFIRMATIVE RECOMMENDATIONS TO COUNCIL. When the Hearing Body recommends approval or approval with modifications and/or conditions of a Contingent Use or Reclassification, that recommendation with the findings and conclusions of the Hearing Body shall be forwarded to the City Council along with the staff report and staff recommendations and any preliminary recommendation made by a Community Council having jurisdiction.

Section 21. There is hereby added to the Bellevue Zoning Code a new Section 18.64.120, to read as follows:

18.64.120 APPEAL ON THE RECORD. A written appeal to the City Council alleging specific errors of fact or specific grounds for appeal may be filed with the City Clerk by any person within twenty (20) days of the Hearing Body's action on a Contingent Use or Reclassification petition. Upon such appeal being filed within the time period allotted and upon payment of fees as required, a limited public hearing may be held by the City Council pursuant to appeal procedures established by Council resolution. If the Hearing Body has recommended approval of the proposal, such recommendation shall be considered by the Council at the same time as the consideration of the appeal.

Section 22. There is hereby added to the Bellevue Zoning Code a new Section 18.64.130, to read as follows:

18.64.130. CITY COUNCIL CONSIDERATION. Upon the basis of the above, the City Council may at a public meeting or a limited public hearing take one of the following actions:



1. Grant the application with or without modifications and/or conditions;
2. Remand for a further hearing before the Hearing Body;
3. Deny the application.

Section 23. There is hereby added to the Bellevue Zoning Code a new Section 18.64.140, to read as follows:

18.64.140 DISAPPROVAL; RESUBMITTAL A petition which has been disapproved by the Council cannot be resubmitted to the Hearing Body within six months of the date of disapproval.

Section 24. There is hereby added to the Bellevue Zoning Code a new Section 18.64.150, to read as follows:

18.64.150. PERFORMANCE BOND. As a condition for granting a Contingent Use permit or Conditional Use permit or for additions, modifications and changes thereto the applicant may be required to post a performance bond in an amount sufficient to ensure compliance with the permit.

Section 25. There is hereby added to the Bellevue Zoning Code a new Section 18.64.160, to read as follows:

18.64.160 EXPIRATION AND RENEWAL OF CONDITIONAL USE OR CONTINGENT USE PERMITS. Whenever a building permit is required for a Contingent Use permit or Conditional Use permit or a permit for additions, modifications and changes thereto has been granted, it shall become void unless a building permit application conforming to the approved Contingent Use or Conditional Use permit is filed with the City within six (6) months and substantial construction is completed within one (1) year from the date the building permit is issued unless an extension is granted or unless the approved application specifically provides for a greater period.

An approved application for a Contingent Use permit or a Conditional Use permit may be extended for one (1) year by the Planning Director upon showing of hardship by the applicant. No more than one extension may be issued for any Conditional Use permit or Contingent Use permit.

Section 26. There is hereby added to the Bellevue Zoning Code a new Section 18.64.170 to read as follows:

18.64.170 REVOCATION OF CONDITIONAL USE OR CONTINGENT USE PERMITS. The Hearing Body, may, upon its own motion, or upon the recommendation of the Planning Director, revoke any Conditional Use permit or recommend to the Council revocation of any Contingent Use permit. Such revocation or recommendation for revocation shall be made at a public hearing and upon findings of any one or more of the following:

1. That approval was obtained by fraud; or
2. That the use for which such approval was granted has ceased, has been abandoned, or there has been an addition, modification or change without approval; or
3. That the permit granted is being exercised contrary to the terms or conditions of such approval; or
4. That the use for which the approval was granted was so exercised as to constitute a nuisance.

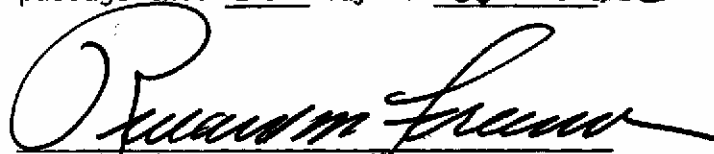
Section 27. There is hereby added to the Bellevue Zoning Code a new Section 18.64.180, to read as follows:

18.64.180 COMMUNITY COUNCIL ACTION. The approval of a Reclassification, Contingent Use or Conditional Use which applies to any land, buildings or structures within the jurisdiction of any community council shall become effective either on approval by the community council, or by failure of the community council to disapprove within sixty days of the date of approval by the Body having jurisdiction to take the final action.


Section 28. This ordinance shall take effect and be in force thirty days after enactment by the City Council.

PASSED by the City Council this 22 day of December 1975 and signed in authentication of its passage this 22 day of December 1975.


(SEAL)

  
Richard M. Foreman, Mayor

Approved as to form:

  
Lee Kraft, City Attorney

Attest:

  
Patricia K. Weber, City Clerk

Published January 10, 1976