

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 2568

AN ORDINANCE readopting, with amendments, the City of Bellevue Sign Code as originally adopted in Ordinance No. 1875, as amended, and codified in Bellevue City Code Chapter 22B.10 and adding new section 22B.10.125 to the Bellevue City Code.

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

Section 1. The City of Bellevue Sign Code, a copy of which is appended hereto and designated as Appendix A, as adopted by Ordinance No. 1875 and codified in Bellevue City Code Chapter 22B.10, is hereby readopted by reference with amendments as set forth in the following sections.

Section 2. City of Bellevue Ordinance No. 1875 Section 17.01.150 as readopted and Bellevue City Code Section 22B.10.180 are each hereby amended to read as follows:

22B.10.180 Nonconforming and Illegal Signs.

A. General. To ease the economic impact of this Code on businessmen with substantial investment in signs in existence on the date of adoption of this Code, this section provides for up to 9 years of continued use of a nonconforming sign in its existing state. During this period, it is expected that the sign may be amortized on federal income taxes; however, whether it may be so amortized shall not affect the application of this section. Similar treatment is accorded signs in areas annexed to the City after the Code's enactment.

B. Nonconforming Signs.

1. Notification of nonconformity or illegality. The Sign Code Administrator shall, as soon as practicable, survey the City for signs which do not conform to the requirements of this Code. Upon determination that a sign is nonconforming or illegal, the Administrator shall use reasonable efforts to so notify, either personally or in writing, the sign user or owner of the sign and where practicable the owner of the property on which the sign is located of the following, Provided that the business licensee of the business with which the sign is associated shall be presumed to be the sign user under this Code:

- a. The sign's nonconformity or illegality.
- b. Whether the sign may be eligible for a nonconforming sign permit.

If the identity of the sign user, owner of the sign, or owner of the property on which the sign is located cannot be determined after reasonable inquiry, the notice may be affixed in a conspicuous place on the sign or on the business premises with which the sign is associated.

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2. Signs eligible for nonconforming sign permit. With the exceptions herein provided, any on-premises primary sign located within the City limits on the date of adoption of this Code, or located in areas annexed to the City thereafter, which does not conform with the provisions of this Code, is eligible for characterization as a nonconforming sign provided it meets the following requirements.

- a. The sign was covered by a sign permit on the date of adoption of this Code, if one was required under applicable law, or
- b. If no sign permit was required under applicable law for the sign in question; the sign was in all respects in compliance with applicable law on the date of adoption of this Code.

Exceptions: No temporary or special signs, as defined by §17.01.090 of this Code, prohibited signs, as defined by §17.01.120, or incidental signs, as defined by §17.01.030F, shall be eligible for characterization as nonconforming signs.

3. Number of nonconforming signs permitted. Each sign user within the City having existing nonconforming signs meeting the requirements of §17.01.150B2 shall be permitted to designate one (only) of such signs for characterization as nonconforming for each street upon which the business premises' fronts. Such designation shall be made in the application for a nonconforming sign permit.

4. Permit for nonconforming signs. A nonconforming sign permit is required for each nonconforming sign designated under §17.01.150B3. The permit shall be obtained by the sign user or the sign owner, or the owner of the property upon which the sign is located within 60 days of notification by the City (under §17.01.150B1) that the sign is nonconforming. The permit shall be issued for a fee established by the Administrator and shall expire at the end of the applicable amortization period prescribed in §17.01.150D2.

Applications for a nonconforming sign permit shall contain the name and address of the sign user, the sign owner, and the owner of the property upon which the sign is located and such other pertinent information as the Administrator may require to insure compliance with the Code, including proof of the date of installation of the sign.

A nonconforming sign for which no permit has been issued within the 60-day period shall within 6 months be brought into compliance with the Code or be removed. Failure to comply shall subject the sign user, owner or owner of the property on which the sign is located to the remedies and penalties of §17.01.150C herein.

5. Loss of nonconforming status. A nonconforming sign shall immediately lose its nonconforming designation if:
- a. The sign is altered in any way in structure or copy (except for changeable copy and normal maintenance described in §17.01.150E), which tends to or makes the sign less in compliance with the requirements of this Code than it was before the alteration; or
 - b. The sign is relocated to a position making it less in compliance with the requirements of this Code; or
 - c. The sign is replaced; or
 - d. Any new primary sign is erected or placed in connection with the enterprise using the nonconforming sign; or

- e. No application for a nonconforming sign permit is filed by the sign user, sign owner, or owner of the property upon which the sign is located within 60 days following notification by the City (under §17.01.150A1) that the sign is nonconforming and that a permit must be obtained.

On the happening of any one of a, b, c, d, or e any permit or designation for what had been designated as a nonconforming sign shall become void, the Administrator shall notify the sign user, sign owner or owner of the property upon which the sign is located of cancellation of the permit or designation and the sign shall immediately be brought into compliance with this Code and a new permit secured therefor, or shall be removed.

- C. Illegal signs. An illegal sign is any sign which does not comply with the requirements of this Code within the City limits as they now or hereafter exist and which is not eligible for characterization as nonconforming under §17.01.150B2. Illegal signs may remain in an illegal state for 6 months after the date of notification of illegality by the City (§17.01.150B1). Thereafter such signs shall be brought into conformity with this Code and a permit obtained therefor or be removed. Provided that any illegal sign which is so classified solely for failure to be covered by a sign permit where same was or is required by applicable law, is eligible for classification as a nonconforming sign upon obtaining a permit.

- D. Amortization period for nonconforming signs.

Nonconforming sign, as defined in §17.01.150B above, for which a nonconforming sign permit has been issued, may remain in a nonconforming state for nine years after the date of installation of the sign, or six years after notification by the city of the sign's nonconformity, whichever is longer. Thereafter, the sign shall be brought into conformity with this code with a permit obtained therefor or be removed; provided, however, that the amortization period established by this section may be used only so long as the sign retains its nonconforming status (see §17.01.150B5); and, provided further that upon any change in land use or occupancy, or change in business name, such nonconforming signs shall, within six months, be brought into conformity with this code with a permit obtained therefor or be removed. The amortization provisions of this Code shall not apply to signs the advertising

or informative contents of which are oriented toward and visible from the main traveled portion of the interstate system or other state highway.

- E. Nonconforming sign maintenance and repair. Nothing in this section shall relieve the owner or user of a nonconforming sign or owner of the property on which the nonconforming sign is located from the provisions of this Code regarding safety, maintenance and repair of signs, contained in §17.01.110 of this Code, and from the provisions on prohibited signs, contained in §17.01.120.

Provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it less in compliance with the requirements of this Code or the sign will lose its nonconforming status. (See §17.01.150B5).

Section 3. City of Bellevue Ordinance No. 1875 Section 17.01.160 as readopted and Bellevue City Code Section 22B.10.190 are each hereby amended to read as follows:

22B.10.190 Board of adjustment jurisdiction and power.

- A. The Board of Adjustment shall have the power and duty to:
1. Hear and decide appeals by a sign permit applicant from the decision of the Administrator of this Code denying, or failing to grant a sign permit within 30 days of application.
 2. Grant a variance from the requirements of this Code as part of the disposition of an appeal from action of the Code Administrator denying or failing to grant a sign permit (See §17.01.150B2).
 3. Hear and decide appeals by a sign owner, user, or owner of the property on which a sign is located from characterization of a sign as nonconforming or illegal under §17.01.150.
 4. Make recommendations to the City Council for changes in this Code.
 5. Give advice to the Sign Code Administrator when asked.

The Board shall not have jurisdiction to hear appeals from denial of a sign permit on grounds of noncompliance with requirements of the Uniform Sign Code, Uniform Building Code, or National Electrical Code, required under §17.01.110A and 17.01.110B of this Code. Such appeals shall be heard and determined by the Building Code Board of appeals created by Chapter 3.50, Bellevue City Code.

B. Criteria for Board decision.

1. Appeals without petition for variance. In appeals to the Board from decision of the Code Administrator denying a sign permit in connection with which no petition for variance has been filed, the Board's scope of review shall be limited to determining whether or not the Code Administrator's decision is in accordance with the requirements of this Code and accordingly affirm or reverse such decision. If the Code Administrator's decision is reversed, the Board shall direct the Administrator to issue the permit in accordance with its decision. If the Administrator fails to do so for 5 days from receipt of the direction of the Board, the Board may issue the permit.

In appeals from failure of the Administrator to grant a permit within 30 days of applications, the Board shall determine whether the sign and the application meet the requirements of this Code. If so, the Board shall grant the permit; if not, the Board shall deny the permit. In the absence of a petition therefor, no variance from the requirements of the Code shall be granted or allowed.

2. Appeals with petition for variance. In appeals from decision of the Code Administrator denying or refusing to grant a sign permit in connection with which the appealing party or any other interested party has filed a Petition for Variance, the Board shall have the power and duty described in §17.01.160 1 and, in addition, shall have the power to hear, decide and grant or deny the requested variance from the provisions or requirements of this Code.

The Board may grant a variance from the provisions or requirements of this Code only where:

- a. The literal interpretation and strict application of the provisions and requirements of this Code would cause undue and unnecessary hardship to the

sign user because of unique or unusual conditions pertaining to the specific building or parcel of property in question.

- b. The granting of the requested variance would not be materially detrimental to the property owners in the vicinity.
- c. The usual conditions applying to the specific property do not apply generally to other properties in the City.
- d. The granting of the variance will not be contrary to the general objective of this Code of moderating the size, number and obtrusive placement of signs and the reduction of clutter.

In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed sign as it may deem necessary to carry out the spirit and purpose of this Code in the public interest.

C. Perfection of appeal.

- 1. An appeal with or without petition for variance may be considered by the Board only if:
 - a. Written notice of appeal, with or without petition for variance, is filed with the City:
 - (1) Within 10 days of the decision of the Code Administrator denying a sign permit; or
 - (2) Within 40 days of the submission of a sign permit application which the Administrator has neither granted nor denied within 30 days; or
 - (3) Within 60 days of the Administrator's characterization of the sign as nonconforming or illegal, which period shall begin to run with the mailing of notice of such characterization to the sign user or sign owner, or owner of the property on which the sign is located; or the posting of such notice on the sign or the associated business premises.

- b. The notice of appeal is accompanied by a fee of \$25.
 - c. The appellant serves upon the Board of Adjustment a written statement of the reasons in support of his position 5 days before the hearing on the appeal.
2. The Board shall, on its own motion, or on the motion of any interested party, dismiss an appeal for failure of the appellant to meet any of the requirements of §17.01.160C1 or for failure of the appellant to otherwise diligently prosecute the appeal, or if the Board finds the appellant has made any knowingly false or misleading statement or representation in his sign application or appeal.
- D. Board procedure.
- 1. Notice of hearing. The Board shall hear and decide appeals within 41 days of the filing of the notice of appeal. Written notice of the hearing on an appeal shall be given by the Board not less than 10 days prior to the hearing to:
 - a. The appellant at the address given on the notice of appeal.
 - b. The Code Administrator.
 - c. To any person filing a written statement in opposition to the appellant's position taken in the appeal.
 - d. Any person filing a written request with the City for special notice of Board hearings in the 6 months following giving of the request.
 - e. To the public by posting a copy of the notice of hearing in a conspicuous place within the City Hall.
 - f. To the property owner and property owners in the vicinity of the property which is concerned in the appeal by posting 3 placards in conspicuous places on or within 50 feet of the property concerned. Such notice and placards shall be in a form prescribed by the Board and shall set forth the time, place and purpose of the hearing.

2. Hearing. All hearings of the Board shall be open to the public, and those in attendance shall be afforded an opportunity, the length and conditions of which shall be prescribed by the Board, to address the Board on the issues to be determined. The appellant and Code Administrator or their representatives shall be afforded an opportunity to address the Board on any matter at issue. Any party or interested person may be represented by another at the hearing.
3. Hearing minutes and decision. The Board shall keep minutes of its proceedings, shall cause to be kept a verbatim record or tape recording of the hearing of any appeal or petition for variance, and shall prepare a notice of its decision on any appeal together with its findings of fact in support of that decision, all of which shall be open to public inspection. Copies of the Board's decisions on appeals and petitions for variances shall be mailed or delivered to the applicant, to the Code Administrator, and to persons filing requests for special notice of hearings.

- E. Superior court review of Board decisions. Review or appeal of any Board decision relating to this Sign Code may be taken by any interested person to the Superior Court of King County, by application to said court, within 10 days from the date of Board decision for a writ of certiorari, a writ of prohibition, or a writ of mandamus, as provided by Revised Code of Washington, Section 35A.63.110.

Service of a copy of the request for superior court review shall be made upon the City, which shall be sufficient service on the Board.

The record transmitted by the City to the Clerk of the Superior Court shall include the verbatim record or tape recording of the hearing in its untranscribed form and the City shall not be required to pay for the transcription.

Section 4. Section 17.01.130A of City of Bellevue Ordinance No. 1875, as readopted, and Bellevue City Code Section 22B.10.160A are each hereby amended to read as follows:

22B.10.160 Permits and Fees.

- A. Permit requirements. No sign governed by the provisions of this code more than 4 square feet in surface area shall be erected, altered or relocated by any person, firm or

corporation from and after the date of adoption of this Code without a permit issued by the City. With the exception of subdivision directional signs (Section 22B.10.120C6), no permit is required for a sign of 4 square feet or less surface area, but such signs must otherwise comply with this Code. No new permit is required for signs which have permits and which conform with the requirements of this Code on the day of its adoption unless and until the sign is altered or relocated. Signs which, on the date of adoption of this Code, have permits, but do not conform with this Code's requirements may be eligible for characterization as nonconforming signs and for nonconforming sign permits under Section 22B.10.180 herein.

Section 5. A new Section 22B.10.125 is hereby added to Bellevue City Code Chapter 22B.10 to read as follows:

22B.10.125 Street right-of-way signs.

- A. General. Signs for the purpose of identification only, which contain no advertising, may be located upon the street right-of-way only where view obstructing acoustical protective devices such as acoustical walls, berms or solid fences have been legally installed with City approval at property line thereby making building mounted or conforming free standing signs ineffective.
- B. Design and materials. Street right-of-way signs shall be in keeping with the character of the zoning district in which they are located and shall be constructed of quality materials. The proposed design and materials to be utilized in the construction of any such sign shall be approved in advance of the issuance of any sign permit by the Administrator of this Code.
- C. Types of signs permitted. Only signs identifying the use being maintained or operated upon the immediately abutting property and incidental signs indicating the appropriate entrance to and exit therefrom are permitted upon the public right-of-way under this section PROVIDED that "vacancy" signs no larger than three square feet in surface area may be installed as an addition to the identification sign.
- D. Sign location. Signs permitted upon the street right-of-way shall not be installed or emplaced on the top of acoustical protective devices, nor shall such signs be installed upon or attached to acoustical protective devices constructed by the City.


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- E. Sign dimensions. Street right-of-way signs shall have a maximum height of five (5) feet measured from the street grade only, a maximum surface area of fifteen (15) square feet.
- F. Sign illumination. Street right-of-way sign illumination shall be from a source other than the sign itself.
- G. Permit requirements. Street right-of-way signs are subject to all general requirements of this code PROVIDED that no such sign may be erected without a permit regardless of the size of the sign, and PROVIDED further that any application for a street right-of-way sign permit is subject to the approval of the Director of Public Works.

Section 6. This ordinance shall take effect and be in force thirty (30) days after enactment by the City Council.


PASSED by the City Council this 12 day of June, 1978,
and signed in authentication of its passage this 12 day of
June, 1978.

(SEAL)



Gary A. Zimmerman, Mayor

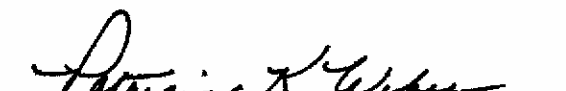
Approved as to form:



Lee Kraft, City Attorney

See Recy # 5076

Attest:



Patricia K. Weber, City Clerk

Published June 24, 1978