

8-05-85  
0898c

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 3530

AN ORDINANCE establishing procedures for the processing of development project applications; establishing requirements for decisions required by the Bellevue City Code (Land Use Code); revising the Bellevue City Code (Land Use Code) to consistently reference revised processes and decisions; adopting a section regarding assurance devices; amending Bellevue City Code (Land Use Code) 20.10.080, 20.10.400.A, 20.10.400.C, 20.10.400.D, 20.10.400.E, 20.10.420, 20.10.440, 20.20.010, 20.20.018, 20.20.160, 20.20.170.D.2.a, 20.20.170.E.2.a, 20.20.170.F.2.b, 20.20.200.A, 20.20.255.E, 20.20.280, 20.20.400.A, 20.20.430, 20.20.520.J, 20.20.520.K, 20.20.520.L, 20.20.560.D, 20.20.560.E, 20.20.650.A, 20.20.740, 20.20.890.B, 20.20.900.C, 20.20.900.D, 20.20.950.G, 20.25A.010.B, 20.25A.020.A.2, 20.25A.020.C.2, 20.25A.030.B, 20.25A.050.H.2.a, 20.25A.050.J, 20.25A.070.A, 20.25A.080.B, 20.25A.090.B.2.d, 20.25A.100.C, 20.25A.100.E.1.c, 20.25A.100.E.1.e.ii, 20.25A.100.E.1.f.ii, 20.25A.100.E.1.h, 20.25A.100.E.1.j.ii, 20.25A.100.E.6.d.ix.2, 20.25A.100.E.6.d.x.2, 20.25A.110, 20.25B.040.A, 20.25C.010, 20.25D.010, 20.25E.070, 20.25E.080.V, 20.25E.080.W, 20.25F.010.A, 20.25F.020.B, 20.25F.020.G.2, 20.25F.030.A, 20.25F.040.B, 20.25F.040.C.1.d, 20.25F.040.C.1g, 20.40.250.A, 20.40.260, 20.40.530.A.4; repealing Bellevue City Code (Land Use Code) 20.20.515, 20.20.775, 20.20.880, 20.25B.040.C, 20.25C.050, 20.25C.060, 20.25C.070, 20.25D.020, 20.30, 20.40.270, 20.40.420, 20.40.530.B, 20.40.530.C, 20.40.530.D, 20.40.532, 20.40.535, 20.40.550, 20.40.555, 20.40.557, 20.40.560, 20.40.565; adding a new Section 20.40.490 to the Bellevue City Code (Land Use Code); and adding new chapters to the Bellevue City Code (Land Use Code) to be designated Chapters 20.30 and 20.35.

WHEREAS, the Bellevue City Council did, on December 17, 1984, adopt Ordinance No. 3447 creating a Department of Design and Development and providing for the responsibilities of that Department; and

8-05-85  
0898c

WHEREAS, one reason for the creation of the Department of Design and Development is to provide design review, development review, permitting, inspection and code enforcement services to the public faster and more efficiently, while at the same time providing a high quality of service; and

WHEREAS, the Director of the Department of Design and Development is authorized and charged with formulating written development standards applicable to the administration, supervision, implementation and enforcement of the codes and ordinances that are administered by the Department of Design and Development and that regulate public and private development and work; and

WHEREAS, the development standards which the Director of the Department of Design and Development is authorized to formulate are designed to promote high quality service to the citizens of Bellevue faster and more efficiently; and

WHEREAS, the procedures adopted hereunder are designed to provide for the efficient processing of development applications while providing opportunity for full public participation in the review process; and

WHEREAS, The City of Bellevue has complied with the State Environmental Policy Act and with the City's Environmental Procedures Ordinance, now, therefore;

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

Section 1. Bellevue City Code (Land Use Code) 20.10.080 is amended to read as follows:

20.10.080 NEWLY ANNEXED TERRITORY: PROCEDURES FOR CLASSIFICATION

All territory annexed to the City shall receive a land use designation by the City in a timely manner upon fulfillment of the procedures and requirements for reclassification, contained in Part 20.30A.

Section 2. Bellevue City Code (Land Use Code) 20.10.400.A. is amended to read as follows:

- A. If no symbol appears in the box at the intersection of the column and the row, the use is not allowed in that district, except for certain short-term uses (see Temporary Use Permits, Part 20.30M).

Section 3. Bellevue City Code (Land Use Code) 20.10.400.C is amended to read as follows:

8-05-85  
0898c

20.10.400.C.

If the symbol "C" appears in the box, at the intersection of the column and the row the use is permitted subject to the Conditional Use provisions specified in Part 20.30B or Part 20.30C and to general requirements for the use and the use district;

Section 4. Bellevue City Code (Land Use Code) 20.10.400.D is amended to read as follows:

20.10.400.D

If the symbol "A" appears in the box at the intersection of the column and the row, the use is permitted subject to the Administrative Conditional Use provisions specified in Part 20.30E and to general requirements for the use and the use districts;

Section 5. Bellevue City Code (Land Use Code) 20.10.400.E is amended to read as follows:

20.10.400.E

If the symbol "PD" appears in the box at the intersection of the column and the row the use is permitted subject to the Planned Unit Development provisions as specified in Part 20.30D and to general requirements for the use and the use district;

Section 6. Bellevue City Code (Land Use Code) 20.10.420 is amended to read as follows:

20.10.420 INTERPRETATION OF CHART BY DIRECTOR OF DESIGN AND DEVELOPMENT;  
APPEAL

- A. In the case of a question as to the inclusion or exclusion of a particular proposed use in a particular use category, the Director of Design and Development shall have the authority to make the final determination. The Director of Design and Development shall make the determination according to the characteristics of the operation of the proposed use and based upon the Director's interpretation of the Standard Land Use Coding Manual and the Standard Industrial Classification Manual.

Examples: A large sales office, where business is conducted by telephone or not on the premises, where no goods other than samples pass into or out of the site, is an office rather than a retail or wholesale use; a shop selling handcrafted items made on the premises where the manufacturing processes are undetectable outside the premises

8-05-85  
0898c

and require no heavy trucking, is a retail use, not a manufacturing use.

- B. In the case of a conflict between the general description and the Use Chart, the chart shall prevail.
- C. An interpretation of Section 20.10.440 relating to the inclusion or exclusion of a proposed use will be processed using Part 20.30K, Interpretation of the Land Use Code.

Section 7. Bellevue City Code (Land Use Code) 20.10.440, Uses in Land Use Districts - Key is amended to read as follows:

- P - PERMITTED USE
- C - CONDITIONAL USE (see Part 20.30B or Part 20.30C.)
- PD - PERMITTED subject to planned unit development only. (see Part 20.30D.)
- A - ADMINISTRATIVE CONDITIONAL USE (see Part 20.30E.)

Section 8. Bellevue City Code (Land Use Code) 20.10.440, Uses in Land Use Districts - Services - Note 18 is amended to read as follows:

- 18. Drive-in facilities may be permitted through Design Review Part 20.30F, at any location in the CBD-0-2 District, or within 200 feet of N.E. 4th Street or N.E. 8th Street in the CBD-0-1 District, but only if all the following criteria are met:
  - a. On site capacity for vehicle stacking of 10 spaces for one drive-up station and 20 spaces for two or more drive-up stations must be provided.
  - b. The design of the vehicular access is compatible with high volume pedestrian walkways and parking access. The vehicular access will not disrupt established retail or service frontages designed to serve pedestrians, nor can the vehicular access lanes be located between the street and the main pedestrian access to the buildings.
  - c. The vehicle stacking lanes must be contained within a structured parking area, or be otherwise screened.
  - d. Landscaping or screening must be provided to mitigate any adverse effects on nearby property. Perimeter walkways and sidewalks must conform to the requirements of Section 20.25A.060.

8-05-85  
0898c

- e. Walk-up banking service, whether manned or electronically activated customer service stations, must be provided on site during regular daytime business hours for pedestrian business when there is no interior banking service.

Section 9. Bellevue City Code (Land Use Code) 20.10.440, Uses in Land Use Districts - Services - Note 19 is amended to read as follows:

- 19. a. These uses are permitted only in Bellevue School District schools, whether under control of the School District or the City.
- b. In the review of the proposed use or uses under the conditional use permit application, (Part 20.303), the following criteria shall be considered:
  - i. Consistency of the proposal with the goals and policies of the Comprehensive Plan.
  - ii. Extent to which the physical environment will be modified by the proposal.
  - iii. Ability to provide on-site parking facilities to accommodate intended uses under the proposal.
  - iv. Extent of additional demand on public utilities and public services resulting from the proposal.
  - v. Noise impacts of the proposal.
  - vi. Traffic volumes and street classifications in the area of the proposal.
  - vii. Compatibility of the proposal with surrounding land uses.
  - viii. Impact of the proposal on the visual and aesthetic character of the neighborhood.

In addition, the proposed use or uses shall not be more intensive than if the school were being used as a school.

- c. A master conditional use permit listing a range of permissible uses from those permitted in the land use district as listed in Section 20.10.440 can be obtained for the entire school by using the

8-05-85  
0898c

conditional use process (Part 20.30B or Part 20.30C) Uses listed in the permit shall be permitted outright and uses not listed but permitted as conditional uses shall obtain a conditional use permit.

Section 10. Bellevue City Code (Land Use Code) 20.20.010 Uses in Land Use Districts - Dimensional Requirements - Note 7 is amended to read as follows:

- (7) The maximum allowable building height is 75 feet on any property designated OLB which lies within 475 feet of the right-of-way of I-405, between I-90 and SR-520, subject to obtaining a conditional use permit, (Part 20.30B. or Part 20.30C).

Section 11. Bellevue City Code (Land Use Code) 20.20.010 Uses in Land Use Districts - Dimensional Requirements - Note 10 is amended to read as follows:

- (10) The maximum building height may be exceeded upon approval of the Director of Design and Development. Requests for such approval shall be processed in accordance with the administrative conditional use procedure of Part 20.30E. Before granting any such approval, the Director of Design and Development must find that:
- a) The height increase is only to accommodate equipment, structures or buildings that contain special equipment primarily related to light manufacturing, wholesale, trade and distribution use, and is not for office or bulk retail use; and
  - b) There is functional need for a height increase; and
  - c) The overall site development will minimize adverse impacts caused by the height increase.

Notwithstanding the provisions of this Note, no height increase is permitted within a Transition Area as defined in Part 20.25B.

Section 12. Bellevue City Code (Land Use Code) 20.20.018, is amended to read as follows:

20.20.018 Variation in Minimum Requirements; Area, Width and Depth

In no case may the Director of Design and Development or the Board of Adjustment or any other hearing body vary the minimum requirements for

8-05-85  
0898c

minimum lot area, width of street frontage, width required in lot or depth required in lot, as stated in Chart 20.20.010, by more than 10%; except that this section shall not apply to Planned Unit Developments (Part 20.30D). See Part 20.30G relating to Variances from the Land Use Code and Part 20.30H relating to Variances from the Shoreline Master Program.

Section 13. Bellevue City Code (Land Use Code) 20.20.160 is amended to read as follows:

20.20.160 Carnivals and Fairs

Carnivals, fairs, revivals, and other temporary amusements, exhibitions, or meeting places may be granted a Temporary Use Permit, following the procedures required by Part 20.30M of this Code.

Section 14. Bellevue City Code (Land Use Code) 20.20.170.D.2.a., is amended to read as follows:

2. Review or Registration Required:

- a. If located in an OU, R-1, R-1.8, R-2.5, R-3.5, R-4, R-5, R-10, or R-15 Land Use District, each child care service use for 7 to 12 children requires an Administrative Conditional Use Permit pursuant to Part 20.30E prior to the initiation of the use. Appeals of decisions made pursuant to this paragraph will be decided using Process VI (Section 20.35.600 et. seq.).

Section 15. Bellevue City Code (Land Use Code) 20.20.170.E.2.a., is amended to read as follows:

2. Review or Registration Required:

- a. If located in an R-10, or R-15 Land Use District, each child care service use for 13 or more children requires a Conditional Use Permit pursuant to Part 20.30B or part 20.30C prior to the initiation of the use.

Section 16. Bellevue City Code (Land Use Code) 20.20.170.F.2.b., is amended to read as follows:

- b. If the child care service use is located in an inactive school facility, and combined with other uses, a Conditional Use Permit is required pursuant to Part 20.30B or Part 20.30C prior to the initiation of the use. This permit shall be obtained as part of a Master Conditional Use Permit pursuant to Section 20.10.440, Note 19: Uses in Land Use Districts - Services.

8-05-85  
0898c

Section 17. Bellevue City Code (Land Use Code) 20.20.200.A, is amended to read as follows:

- A. The applicant may propose a Commuter Parking Facility providing no more than 50 parking spaces and utilizing the parking area of an existing use through the administrative conditional use process. (Part 20.30E). Appeals to decisions made pursuant to this paragraph will be decided using Process VI (Section 20.35.600 et. seq.).

Section 18. Bellevue City Code (Land Use Code) 20.20.255.E is amended to read as follows:

- E. The requirements of this Section may be modified by the Planning Director and the Public Works Director if --
1. The modification is reasonable and necessary for development of the subject property; and
  2. The modification will result in more efficient access to and circulation within the subject property; and
  3. The modification will not create a hazardous condition for motorists or pedestrians.

Decisions made pursuant to this Paragraph may be reviewed using Process VII, Section 20.35.700 et. seq.

Section 19. Bellevue City Code (Land Use Code) 20.20.280, is amended to read as follows:

20.20.280 Day Care

Day care facilities are required to be licensed by the State of Washington Department of Social and Health Services. Holders of valid permits may apply for Home Occupation Permits in any G, A, OU or R districts. (See requirements listed under "Home Occupations", Section 20.20.430 in this chapter.) In addition, day care facilities are permitted as Conditional or Permitted Uses in most districts when not in a home. (See Chart 20.10.440)

Section 20. Bellevue City Code (Land Use Code) 20.20.400.A is amended to read as follows:

- A. General:
1. No fence may violate the sight obstruction restrictions at street intersections. (See Section 20.20.830.)



8-05-85  
0898c

2. No fence may exceed 4'6" in height within a required front setback except as required by other sections of this Code, or as permitted by the Director of Design and Development through Design Review Part 20.30F, and then only if --
  - a. The proposed fence will not cause or contribute to a hazardous traffic situation, and
  - b. The proposed fence is necessary to afford reasonable privacy or security to the subject property, and
  - c. The proposed fence is not out of character with development in the immediate vicinity of the subject property.
3. Any fence which exceeds 6' in height shall conform to the Uniform Building Code.
4. Height shall be measured from finished grade at the exterior side of the fence. No person may construct a berm upon which to build a fence unless the total height of the berm plus the fence does not exceed the maximum height allowable for the fence if the berm was not present.
5. Appeals from a decision pursuant to this Paragraph will be decided using Process VI, (Section 20.35.600 et. seq.).

Section 21. Bellevue City Code (Land Use Code) 20.20.430, is amended to read as follows:

20.20.430 Home Occupations

The establishment of a Home Occupation requires a permit granted by the Director of Design and Development following the procedures in Process II (Section 20.35.200 et. seq.). The applicant shall prepare an application which states that the applicant will comply with the following conditions:

A. Administrative Permit Required

1. The occupation or profession shall be carried on wholly within the principal building or other structure accessory thereto, and it shall utilize no more than 25% of the gross floor area of the building.
2. Not more than one person who is not a member of the applicant's immediate family and who is not a resident in the applicant's home may be employed.

8-05-85  
0898c

3. There shall be no exterior display, no exterior alteration of the property including expansion of parking, no exterior sign, no exterior storage of materials and no other exterior indication of a home occupation or variation from the residential character of the premises.
4. No use shall require structural alterations to the interior or exterior of the building which changes the residential character thereof.
5. The use of electrical or mechanical equipment that would change the fire rating of the structure or create visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited.
6. There shall be no noise, vibration, smoke, dust, odors, heat or glare produced as a result of the home occupation which would exceed that normally produced by a single residence.
7. There shall be no demand for parking beyond that which is normal to the neighborhood and no visual or excessive traffic to and from the premises. In no case shall the home occupation cause more than two additional vehicles to be parked on or near the premises.
8. The home occupation shall not involve the use of commercial vehicles, other than those owned by the applicant for delivery of products or materials to and from the premises.

The Director of Design and Development may grant a home occupation permit if he finds that the applicant will comply with the above-stated conditions. The applicant shall provide all relevant information concerning the above-stated conditions to the Design and Development Department.

#### B. Permits for State-Licensed Day Care Centers

A permit for the performance of services in the applicant's private home in connection with day care of children or infants may be granted upon a showing that the home and the applicant are duly licensed by the State Department of Social and Health Services, or its successor, for operation as a licensed family day-care home in accordance with standards promulgated by said department.

#### B. Appeal of Administrative Decision

Appeals of decisions made pursuant to this Section 20.20.430 will be processed using Process VI (Section 20.35.600 et. seq.).

8-05-85  
0898c

C. Permit Revocable by Director of Design and Development Following Notice

Upon a determination that there has been a violation of any condition imposed by Subsection A or B above, the Director of Design and Development shall give written notice to the permit holder describing the alleged violation. Within 17 calendar days of the mailing of notice of violation, the permit holder shall show cause why the permit should not be revoked. At the end of the 17 day period, the Director of Design and Development shall sustain or revoke the permit. When a home occupation permit is revoked, the Director of Design and Development shall notify the permit holder by certified mail of the revocation and the findings upon which revocation is based. Appeals of decisions to revoke a home occupation permit will be processed using Process VI (Section 20.35.600 et. seq.).

Section 22. Bellevue City Code (Land Use Code) 20.20.515, is hereby repealed.

Section 23. Bellevue City Code (Land Use Code) 20.20.520.J, is amended to read as follows:

J. Alternative Landscaping Option:

1. The applicant may request a modification of the landscaping requirements set forth in paragraphs E through I of this Section.
2. The Director of Design and Development may approve a modification of the landscaping requirements of this Chapter through Design Review, 20.30F and only if -
  - a. The proposed landscaping represents a superior result than that which could be achieved by strictly following the requirements of this Section, and
  - b. The proposed landscaping complies with the stated Purpose of this Section (20.20.520.A), and with the Purpose and intent of Paragraphs F.1 and G. of this Section, and
  - c. If a modification of any Paragraph excluding Paragraph E is requested, the proposed landscaping either --
    - i. Incorporates the increased retention of significant trees and naturally occurring undergrowth, or
    - ii. Better accommodates or improves the existing physical conditions of the subject property, or

8-05-85  
0898c

- iii. Incorporates elements to provide for wind protection or to maintain solar access;
- d. If a modification of Paragraph E is requested, the proposal either --
  - i. Incorporates the retention of significant trees equal in number to what would otherwise be required, or
  - ii. Incorporates the retention of other natural vegetation in consolidated locations which promotes the natural vegetated character of the site.
- 3. Landscape Professional Required: Notwithstanding the provisions of Paragraph D of this Section, any landscape development proposal submitted under Paragraph J of this Section must be approved by a privately retained registered Landscape Architect, Washington Certified Nurseryman, or Washington Certified Landscaper prior to submittal of the proposal to the Department of Design and Development.
- 4. Effect of Approval: Following approval of alternative landscaping by the Director of Design and Development, the applicant may meet the landscaping requirements of this Code by complying with the approved alternative landscape development proposal. A copy of the approved landscape development proposal will be placed in the official file.

Section 24. Bellevue City Code (Land Use Code) 20.20.520.K is amended to read as follows:

K. Maintenance of Plant Materials:

- 1. The property owner shall replace any unhealthy or dead plant materials in conformance with the approved landscape development proposal and shall maintain all landscape material.
- 2. The Director of Design and Development shall require a maintenance assurance device for a period of one year from the completion of planting in order to insure compliance with the requirements of this Section in conformance with Section 20.40.490.

Section 25. Bellevue City Code (Land Use Code) 20.20.520.L is amended to read as follows:

L. Performance Assurance:

- 1. The required landscaping must be installed prior to issuance of the Temporary Certificate of Occupancy unless the Director of

8-05-85  
0898c

Design and Development determines that a performance assurance device, for a period of not more than one year, will adequately protect the interests of the City. In no case may the property owner delay performance for more than one year.

2. If a performance assurance device is permitted under paragraph L.1 of this Section, the Director of Design and Development shall require an assurance device in conformance with Section 20.40.490.

Section 26. Bellevue City Code (Land Use Code) 20.20.560.D, is amended to read as follows:

D. Expansion of a Non-Conforming Building.

The Director of Design and Development may approve an enlargement or reconstruction of an existing non-conforming building if that enlargement or reconstruction conforms to the Land Use Code and the Uniform Building Code; except that the Director of Design and Development may approve any enlargement or reconstruction of any building in any district provided that the setbacks conform to the existing building setbacks. In all other cases the applicant may seek approval for the expansion of a non-conforming building through a variance (See Part 20.30G, Variance to the Land Use Code or Part 20.30H, Variance to the Shoreline Master Program).

Section 27. Bellevue City Code (Land Use Code) 20.20.560.E, is amended to read as follows:

E. Expansion of a Non-Conforming Use.

Non-conforming uses may be enlarged following the standards and procedures of a Conditional Use Permit. (Part 20.30B or Part 20.30C.)

Section 28. Bellevue City Code (Land Use Code) 20.20.650.A is amended to read as follows:

1. If the installation is housed in a building, the building shall be compatible with the surrounding buildings. For districts in which such utilities are listed as a Conditional Use, the determination of compatibility shall be made by the Hearing Body according to Part 20.30B or Part 20.30C.

Section 29. Bellevue City Code (Land Use Code) 20.20.740 is amended to read as follows:

Public and private pre-schools, elementary and secondary schools are permitted as indicated by the Chart in Section 20.10.440, provided the following standards are met:

8-05-85  
0898c

School buildings in residential districts shall cover not more than 35% of their site area. Side and rear yards of elementary and higher-grade schools shall be a minimum of 50' each. Wherever practical schools should be located convenient to public parks.

Elementary: 1 acre per 100 students  
Junior High: 1-1/2 acres per 100 students  
Senior High: 2 acres per 100 students

Schools for pre-elementary school age students:  
as required by the Hearing Body, where a Conditional Use Permit is sought.

Playfields for junior and senior high schools may be on sites removed from the school site but must be reasonably near, and travel to and from the school site must not be hazardous.

Playfields developed to the limits of their property and which are adjacent to developed private property shall be fenced with an 8' high chain link or similar fence.

The Director of Design and Development may administratively consider, approve or disapprove the addition of temporary, portable classrooms to existing primary or secondary public schools subject to the criteria set forth in Part 20.30E for an Administrative Conditional Use.

Section 30. Bellevue City Code (Land Use Code) 20.20.775 is hereby repealed.

Section 31. Bellevue City Code (Land Use Code) 20.20.880 is hereby repealed.

Section 32. Bellevue City Code (Land Use Code) 20.20.890.B is amended to read as follows:

- B. A Temporary Use Permit may be issued for up to one year for one house trailer, not on a foundation but connected to water, power and sewer utilities or to a septic tank system according to the procedures and requirements of Part 20.30M.

Section 33. Bellevue City Code (Land Use Code) 20.20.900.C is amended to read as follows:

C. Project Review for Transition Areas.

An applicant shall submit development plans for any structures, parking areas, access drive and clearing or grading within a Transition Area to the Director of Design and Development for

8-05-85  
0898c

review. The Director of Design and Development may approve such development plans only if they meet specific standards for the particular Transition Area as set forth in Sections 20.20.905 and 20.20.910. The Director of Design and Development may require that the applicant submit sufficient technical data or reports to substantiate compliance with these standards.

Section 34. Bellevue City Code (Land Use Code) 20.20.900.D is amended to read as follows:

D. Optional Design Review for Transition Areas.

Should an applicant wish to propose a development not strictly following these Transition Area guidelines, as set forth in Sections 20.20.900 through .910, the applicant may apply for an Optional Design Review using Process I (Section 20.35.100 et. seq.).

Section 35. Bellevue City Code (Land Use Code) 20.20.950.G is amended to read as follows:

G. Modifications to Requirements

Except in a CBD Land Use District, modifications to the requirements of Paragraph 20.20.950.D will be decided using Process II, (Section 20.35.200 et. seq.). The Director of Design and Development may approve a proposed modification if physical conditions or topography or other matters beyond the control of the applicant cause the implementation of this Section to constitute an unreasonably severe economic hardship to the applicant.

Section 36. Bellevue City Code (Land Use Code) 20.25A.010.B is amended to read as follows:

B. Procedural Merger:

Within the CBD Land Use District, any administrative decision required by this Part (20.25A) or by the Land Use Code including, but not limited to the following, may be applied for and processed through a single Design Review (Part 20.30F):

1. Administrative Conditional Use Permit Part 20.30E.
2. Design Review (Part 20.30F).

Section 37. Bellevue City Code (Land Use Code) 20.25A.020.A.2 Notes - Dimensional Requirements in CBD Districts - Note 5 is amended to read as follows:

8-05-85  
0898c

- (5) Applicable only to building floors above 40' in height measured from the average finished grade around the building. Building floor area for floors above 40' may be averaged. The maximum building floor area may be increased by not more than 10% through Design Review (Part 20.30F) if the applicant demonstrates that the increase is necessary for reasonable development of the building, and will not have a significant adverse effect on other properties. Each square foot of floor area above the maximum requires a proportionate square footage of amenity in conformance with Section 20.25A.030.C, however, the amenity area provided under this requirement may not be used to exceed the basic floor area ratio. For the purposes of this Note, hotels and motels shall be considered as nonresidential structures.

Section 38. Bellevue City Code (Land Use Code) 20.25A.020.A.2 Notes - Dimensional Requirements in CBD Districts - Note 6 is amended to read as follows:

- (6) The maximum building height may only be achieved by participation in the FAR Amenity Incentive System (Section 20.25A.030). If residential and nonresidential uses occur in one structure, the higher height limit applies and there is no restriction on the location of uses within the structure. The maximum height identified in this chart may be increased by no more than 10% or 15 feet, whichever is greater, through Design Review (Part 20.30F) if the applicant demonstrates that the increase is necessary for reasonable development of the structure, and will not have a significant adverse effect on other properties.

Section 39. Bellevue City Code (Land Use Code) 20.25A.020.C.2 is amended to read as follows:

2. Required Review: The Director of Design and Development may approve the amenity proposed by the applicant through Design Review (Part 20.30F) and only if --
  - a. The design criteria established in Section 20.25A.030.C for the amenity have been met, and
  - b. The City finds that a public benefit will be derived from the development of the proposed amenity in the proposed location.

Section 40. Bellevue City Code (Land Use Code) 20.25A.030.B is amended to read as follows:

- B. Required Review: The Director of Design and Development



8-05-85  
0898c

may approve an amenity which complies with Paragraph C of this Section through Design Review (Part 20.30F) and only if --

1. The design criteria established for the amenity have been met, and
2. The Director of Design and Development finds that a public benefit will be derived from the development of the proposed amenity in the proposed location.

Section 41. Bellevue City Code (Land Use Code) 20.25A.050.H.2.a is amended to read as follows:

- a. Parking located in the CBD-OB or CBD-R Districts may only serve uses located in the same District as the parking unless otherwise permitted through Design Review (Part 20.30F) and then only if such parking is physically contiguous to and functionally connected to the use which it serves in an adjacent Land Use District.

Section 42. Bellevue City Code (Land Use Code) 20.25A.050.J is amended to read as follows:

- J. Performance Standards for Parking Structures: The Director of Design and Development will review and decide upon a proposal for a parking structure through Design Review (Part 20.30F). The Director of Design and Development may approve the parking structure only if --
1. Driveway openings are limited and the number of access lanes in each opening are minimized.
  2. The structure exhibits a horizontal, rather than sloping building line.
  3. The dimension of the parking structure abutting pedestrian areas is minimized, except where retail, service or commercial activities are provided.
  4. The parking structure complies with the requirements of Section 20.25A.115.
  5. A wall or other screening of sufficient height to screen parked vehicles and which exhibits a visually pleasing character is provided at all above ground levels of the structure, and

8-05-85  
0898c

6. Safe pedestrian connection between the parking structure and the principal use exists.

Section 43. Bellevue City Code (Land Use Code) 20.25A.070.A is amended to read as follows:

- A. Design Review Required: All development within the CBD - Old Bellevue Land Use District must be reviewed by the Director of Design and Development through Design Review (Part 20.30F).

Section 44. Bellevue City Code (Land Use Code) 20.25A.080.B is amended to read as follows:

- B. Required Review: All development within the CBD-OLB Land Use District must be reviewed by the Director of Design and Development through Design Review (Part 20.30F).

Section 45. Bellevue City Code (Land Use Code) 20.25A.090.B.2.d is amended to read as follows:

- d. Modification: The Second Tier Transition Area requirements may be modified subject to the criteria of Paragraph 20.25B.040 through Design Review (Part 20.30F).

Section 46. Bellevue City Code (Land Use Code) 20.25A.100.C is amended to read as follows:

- C. All Development Subject to Design Review: All development within the CBD - Core Design District must be reviewed by the Director of Design and Development through Design Review (Part 20.30F).

Section 47. Bellevue City Code (Land Use Code) 20.25A.100.E.1.c is amended to read as follows:

- c. Bellevue Pedestrian Corridor Guidelines: The City Council shall adopt Bellevue Pedestrian Corridor Guidelines, and may amend adopted guidelines. The procedures of Process IV, (Section 20.35.400 et. seq.) shall apply and the Planning Commission shall be the Advisory Body. The Bellevue Pedestrian Corridor Guidelines shall consist of general design guidelines consistent with provisions of this paragraph and determine appropriate alignment(s) and elevations(s) of the Major Pedestrian Corridor.

Section 48. Bellevue City Code (Land use Code) 20.25A.100.E.1.e.ii is amended to read as follows:

Corridor Design Development Plan: Prior to the issuance of a building permit for the construction of any structure other than

8-05-85  
0898c

surface parking; and other than any interior remodel or exterior remodel which enlarges exterior dimensions such that new floor area not exceeding a total of 20% of the gross floor area of the existing building is added, and provided that all new floor area is devoted to pedestrian oriented uses; on the property, any portion of which abuts the Major Pedestrian Corridor and is within the distances specified in Paragraph 20.25A.100.E.1.c.v, a Design Development Plan for the section of the Corridor required to be constructed under E.1.e.iii must be submitted to and approved by the Director of Design and Development, through Design Review (Part 20.30F).

If the owner constructs a Temporary Pedestrian Linkage under paragraph E.1.e.iii., preparation of the Corridor Design Development Plan will not be required until the property to be developed is located within --

- (1) 130 feet of the centerline of the Major Pedestrian Corridor, west of 108th Avenue N.E., or
- (2) The area between the exterior edge of the curblines of the Transit Center and the eastward extension of the trigger lines as defined in Paragraph e.ii(1) to 110th Avenue N.E.

The proposed plan must specify the following elements:

- (1) Landscaping,
- (2) Lighting,
- (3) Street Furniture,
- (4) Color and materials,
- (5) Relationship to building frontage,
- (6) Specific alignment for property on which the Corridor will have to be constructed by the applicant proposing development,
- (7) Any other physical element which the Planning Director and the City Council in their review, determines is necessary for and consistent with the Design Development Plan for a specific section of the Major Pedestrian Corridor, not including specific requirements to construct structures containing retail uses abutting the Corridor.

Section 49. Bellevue City Code (Land Use Code) 20.25A.100.E.1.f.ii is amended to read as follows:

- ii. The City Council must approve a plan for any Temporary Pedestrian Linkage to be prepared as part of a Corridor Design Planning process following the procedures of Process IV (Section 20.35.400 et. seq.). The Planning Commission shall be the Advisory Body.

8-05-85  
0898c

Section 50. Bellevue City Code (Land Use Code) 20.25A.100.E.1.h is amended to read as follows:

- h. **Bonus Floor Area for Major Pedestrian Corridor Construction:** Bonus floor area associated with the Major Pedestrian Corridor (Section 20.25A.030) shall be awarded to owners of property within the distances specified in Paragraph 20.25A.100.E.1.c.v through Design Review (Part 20.30F) and according to the provisions of Paragraph E.1.e.(ii.2), in conjunction with an application for a permit to construct a structure, permanent parking or circulation area and the Major Pedestrian Corridor and with the provision of a legal agreement establishing the public right of pedestrian use pursuant to Paragraph 20.25A.100.E.1.e(i)(a-j).

Section 51. Bellevue Code Code (Land Use Code) 20.25A.100.E.1.j.ii is amended to read as follows:

- ii. Design for any Intermediate Pedestrian Corridor must be approved through Design Review (Part 20.30F) in conjunction with the Design Development Plan for the Major Pedestrian Corridor required to be constructed.

Section 52. Bellevue City Code (Land Use Code) 20.25A.100.E.6.d.ix.(2) is amended to read as follows:

- (2) The City Council shall adopt a Major Public Open Space Design Plan, and may amend an adopted plan, using Process IV (Section 20.35.400 et. seq.). The Planning Commission shall be the Advisory Body.

Section 53. Bellevue City Code (Land Use Code) 20.25A.100.E.6.d.x(2) is amended to read as follows:

- (2) The Director of Design and Development shall review the plan, or amend any approved plan through Design Review Part 20.30F.

Section 54. Bellevue City Code (Land Use Code) 20.25A.110 is amended to read as follows:

20.25A.110 Design Review Criteria: The Director of Design and Development will consider the extent to which a proposal complies with the following criteria whenever a decision using Design Review (Part 20.30F) is required by this Part 20.25A.

8-05-85  
0898c

Section 55. Bellevue City Code (Land Use Code) 20.25B.040.A is amended to read as follows:

- A. General: The applicant may propose to modify any Transition Area requirement of this Code, excluding definitions, procedures and other requirements unrelated to design through Design Review Part 20.30F.

Section 56. Bellevue City Code (Land Use Code) 20.25B.040.C is hereby repealed.

Section 57. Bellevue City Code (Land Use Code) 20.25C.010 is amended to read as follows:

20.25C.010 All Uses and Structures Subject to Design Review: Building permits will not be issued for new construction in the OLB district, nor will occupancy permits for new businesses be issued, until the Director of Design and Development, has certified that complete plans of the structure and/or any changes in the exterior of the structure have been submitted and reviewed, and are in the Director's judgment in conformance with the following:

- A. All plans shall conform to 20.25C.040.  
B. All applicants shall follow the procedures set forth in 20.25C.050-.070.

Development in OLB Districts will be reviewed through Design Review (Part 20.30F).

Section 58. Bellevue City Code (Land Use Code) 20.25C.050 is hereby repealed.

Section 59. Bellevue City Code (Land Use Code) 20.25C.060 is hereby repealed.

Section 60. Bellevue City Code (Land Use Code) 20.25C.070 is hereby repealed.

Section 61. Bellevue City Code (Land Use Code) 20.25D.010 is amended to read as follows:

20.25D.010 All Structures Subject to Design Review: The City will not issue building permits for new construction in the PO District until the Director of Design and Development has reviewed the building plans and has certified that in his judgment the plans for the structure's exterior, including finish material, color and landscaping, are visually harmonious and compatible with the surrounding land uses, vegetation and topography to promote quality design, reduce the adverse impact of

8-05-85  
0898c

uncoordinated development and protect and enhance surrounding neighborhoods.

Development in PO Districts will be reviewed through Design Review (Part 20.30F).

Section 62. Bellevue City Code (Land Use Code) 20.25D.020 is hereby repealed.

Section 63. Bellevue City Code (Land Use Code) 20.25E.070 is amended to read as follows:

20.25E.070 Special Use Permits: Variances and Conditional Use Permits in an S-O district require special procedures, found in Parts 20.30C (Shoreline Conditional Uses) and 20.30H (Variances to the Shoreline Master Program).

Section 64. Bellevue City Code (Land Use Code) 20.25E.080.V is amended to read as follows:

V. Variances: Special Procedures.

Where there is a Shoreline Overlay District, variances from the requirements of the underlying use district regulations will follow the requirements and procedures specified in Part 20.35G. A variance from the Shoreline Master Program will not be required in addition to the variance from the requirements of the underlying use district unless the proposal would constitute a variance from the Shoreline Master Program. Where the variance sought is from the requirements of the Shoreline Master Program, the procedures and requirements specified in Part 20.30H will be followed.

Section 65. Bellevue City Code (Land Use Code) 20.25E.080.W is amended to read as follows:

W. Conditional Uses: Special Procedures.

Uses which are shown as Conditional Uses on Chart 20.10.440 for the underlying use district shall, where there is also a Shoreline Overlay classification on the property, follow the requirements and

8-05-85  
0898c

procedures of Part 20.30C.

Section 66. Bellevue City Code (Land Use Code) 20.25F.010.A, Footnotes to Evergreen Highland Use Chart, is amended to read as follows:

- P: The use is permitted subject to general requirement for the use and the use district.
- A: The use is permitted subject to the Administrative Conditional Use provisions as specified in Part 20.30E and to general requirements for the use and the use district.
- C: The use is permitted subject to the Conditional Use provisions as specified in Part 20.30B or Part 20.30C and those following, and to general requirements for the use and the use district.

Section 67. Bellevue City Code (Land Use Code) 20.25F.020.B is amended to read as follows:

B. Required Review: Each Master Development Plan must be approved by the Technical Committee through Design Review Part 20.30F).

1. Interjurisdictional Review and Appeal:

- a. Each Master Development Plan shall be submitted to the City of Redmond for review and comment prior to a decision on the proposal. Comments received from the City of Redmond shall be accommodated in the design to the maximum extent possible, and consistent with the adopted policies of the City of Bellevue.
- b. Notwithstanding any other provision of the Land Use Code, the City of Redmond may appeal the decision of the Technical Committee on the Master Development Plan.

Section 68. Bellevue City Code (Land Use Code) 20.25F.020.G.2.a is amended to read as follows

- a. The Technical Committee will decide upon a major amendment to an approved Master Development Plan through Design Review (Part 20.30F). An amendment may be processed separately, or in conjunction with the review of a specific development proposal pursuant to Section 20.25F.030.

Section 69. Bellevue City Code (Land Use Code) 20.25F.030.A is amended to read as follows:

8-05-85  
0898c

- A. General: Each structure within the Evergreen Highlands Design District must be approved by the Technical Committee through Design Review (Part 20.30F).

Section 70. Bellevue City Code (Land Use Code) 20.25F.040.B - Note (4) is amended to read as follows:

- (4) Minimum Setback, excluding the setback from N.E. 40th, 156th Avenue N.E. or Bellevue-Redmond Road, and Minimum Building Separation may be modified through Design Review Part 20.30F) if:
- (a) The modification achieves a site design superior to that which would otherwise have been possible, and
  - (b) The modification has no significant adverse impact on adjacent property, and
  - (c) The modification facilitates the coordinated development of the Design District.

Section 71. Bellevue City Code (Land Use Code) 20.25F.040.C.1.d is amended to read as follows:

- d. The applicant may request approval to install more than the minimum number of parking spaces through Design Review (Part 20.30F). The Technical Committee may approve the initial installation of parking above the minimum only if --
- i. The applicant can demonstrate specific employee parking requirements above the minimum, or
  - ii. The applicant can demonstrate financial hardship associated with limiting parking to the allowable minimum, or
  - iii. The applicant commits to additional Transportation Management Programs and a specific phasing schedule to reduce the need for parking over time and convert parking areas to landscaped open space.

Section 72. Bellevue City Code (Land Use Code) 20.25F.040.C.10 is amended to read as follows:

10. Planned Unit Development: The provisions of Part 20.35D do not apply in the Evergreen Highlands Design District.



8-05-85  
0898c

Section 73. Bellevue City Code (Land Use Code) Chapter 20.30 is hereby repealed.

Section 74. A new Chapter 20.30 is hereby added to the Bellevue City Code (Land Use Code) consisting of Parts (20.30A - 20.30M), which shall read as follows:

20.30A Reclassification

- .110 Scope: This Part (20.30A) establishes the procedure and criteria that the City will use in making a decision upon an application for a reclassification of property from one Land Use District to another Land Use District or for any change in the conditions imposed or in the terms of a concomitant agreement executed as part of a reclassification.
- .115 Applicability: This Part applies to each application for a reclassification of property.
- .120 Purpose: A reclassification of property is a mechanism by which the Land Use District classification, conditions or concomitant agreement applicable to property can be changed to reflect such things as changed circumstances, new land use needs or new land use policies.
- .125 Who May Apply: The property owner or the City may apply for a reclassification of property.
- .130 Applicable Procedure: The City will process an application for a reclassification of property through Process I (Section 20.35.100 et. seq.) The Planning Director is the applicable Department Director.
- .135 Submittal Requirements:
- A. The Planning Director shall specify the submittal requirements, including type, detail and number of copies for a reclassification application to be deemed complete and to be accepted for filing.
  - B. The Planning Director may waive specific submittal requirements determined to be unnecessary for review of an application.
- .140 Decision Criteria: The City may approve or approve with modifications an application for a reclassification of property if --
- A. The reclassification bears a substantial relation to the

8-05-85  
0898c

public health, safety, or welfare; and

- B. The reclassification is warranted because of changed circumstances or because of a need for additional property in the proposed Land Use District classification or because the proposed zoning classification is appropriate for reasonable development of the subject property; and
- C. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning classification, and
- D. The reclassification will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
- E. The reclassification has merit and value for the community as a whole, and
- F. The reclassification is in accord with the Comprehensive Plan, and
- G. The reclassification complies with all other applicable criteria and standards of the Bellevue City Code.

- .145 Limitation on Authority: The City may not approve a reclassification of property which is governed by a resolution or ordinance of the City Council which temporarily prohibits reclassification of the property.
- .150 Map Change: Following approval of a reclassification of property, the City shall amend the zoning map of the City to reflect the change in Land Use District. The City shall also indicate on the zoning map the number of the ordinance adopting the change and the receiving number of any concomitant agreement.
- .155 Concomitant Agreement: The City is specifically authorized to require that the applicant enter into a concomitant agreement with the City as a condition of the reclassification, and may through that agreement impose development conditions designed to mitigate potential impacts of the reclassification and development pursuant thereto.
- .160 Time Limitation: The City may, in the ordinance approving the reclassification, establish a reasonable time within which development of the subject property must begin. If the City has established such a time limitation, the reclassification

8-05-85  
0898c

may be revoked upon application of the City for a reclassification if the applicant has not applied for a building permit or other necessary development permit and completed substantial construction by the specified date.

- .165 Assurance Device: In appropriate circumstances, the City may require a reasonable performance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code, any development conditions or any concomitant agreement.

20.30B. Conditional Use Permit

- .110 Scope: This Part (20.30B) establishes the procedure and criteria that the City will use in making a decision upon an application for a Conditional Use Permit.
- .115 Applicability: This Part applies to each application for a Conditional Use Permit, except as otherwise provided in Part 20.30C. (Shoreline Conditional Use Permit).
- .120 Purpose: A Conditional Use Permit is a mechanism by which the City may require special conditions on development or on the use of land in order to insure that designated uses or activities are compatible with other uses in the same Land Use District and in the vicinity of the subject property.
- .125 Who May Apply: The property owner may apply for a Conditional Use Permit.
- .130 Applicable Procedure: The City will process an application for a conditional use through Process I (Section 20.35.100 et.seq.). The Director of Design and Development is the applicable Department Director.
- .135 Submittal Requirements:
- A. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a Conditional Use Permit application to be deemed complete and accepted for filing.
  - B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.
- .140 Decision Criteria: The City may approve or approve with modifications an application for a Conditional Use Permit if --

8-05-85  
0898c

- A. The conditional use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; and
- B. The conditional use will be served by adequate public facilities including streets, fire protection, water, storm water control and sanitary sewer; and
- C. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
- D. The conditional use has merit and value for the community as a whole; and
- E. The conditional use is in accord with the Comprehensive Plan; and
- F. The conditional use complies with the Land Use Code requirements of the underlying use district, and
- G. The conditional use complies with all other applicable criteria and standards of the Bellevue City Code.

.145 Time Limitation: A Conditional Use Permit automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the Conditional Use Permit unless --

- A. The applicant has received an extension for the Conditional Use Permit pursuant to Section .150, or
- B. The Conditional Use Permit approval provides for a greater time period.

.150 Extension:

- A. The Director of Design and Development may extend a Conditional Use Permit, not to exceed one year, if --
  - 1. Unforeseen circumstances or conditions necessitate the extension of the permit, and
  - 2. Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay, and

8-05-35  
0898c

3. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted only if --
1. The criteria listed in Paragraph A of this Section are met, and
  2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  3. Conditions in the immediate vicinity of the subject property have not changed substantially since the Conditional Use Permit was first approved.
- .155 Assurance Device: In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the Conditional Use Permit as approved.
- 20.30.C. Shoreline Conditional Use Permit
- .110 Scope: This Part (20.30C) establishes the procedure and criteria that the City will use in making a decision upon an application for a Shoreline Conditional Use Permit.
- .115 Applicability: This Part applies to each application for a Shoreline Conditional Use Permit.
- .120 Purpose: A Shoreline Conditional Use Permit is a mechanism by which the City may both provide more control and allow greater flexibility in administering the Shoreline Master Program in a manner consistent with the policies of the Shoreline Management Act. The City may permit certain uses to be established or may require special conditions on development or on the use of land in order to insure that designated uses or activities are compatible with other uses in the same Land Use District and in the vicinity of the subject property.
- .125 Who May Apply: The property owner may apply for a Shoreline Conditional Use Permit.
- .130 Limitation on Filing: An application for a Shoreline Conditional Use Permit will not be accepted for filing unless

8-05-85  
0898c

accompanied by a complete application for a Substantial Development Permit (See Section 20.25E.040).

.135 Applicable Procedure: The City will process an application for a shoreline conditional use through Process I (Section 20.35.100 et seq.). The Director of Design and Development is the applicable Department Director.

.140 Special Notice Requirement:

A. General: The notice requirement of this Section takes the place of the notice requirement of Section 20.35.130 of Process I.

B. Content: The Director of Design and Development shall prepare a notice of a public hearing on the Shoreline Conditional Use Permit containing the following:

1. The name of the applicant, and if applicable, the project name, and
2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
3. A vicinity map indicating the location of the subject property, and
4. A citation of the Bellevue City code provision requiring a decision using Process I, and
5. A brief description of the action, permit or approval requested in the application and of the Substantial Development Permit, and
6. The date, time and place of the public hearing before the Hearing Examiner, and
7. A statement of the right of any person to participate in the public hearing as provided for a Paragraph 20.35.135.B, and
8. A statement that only those persons who participate in the public hearing as provided in Paragraph 20.35.135.B may --
  1. Request reconsideration by the Hearing Examiner, or

8-05-85  
0898c

11. Appeal the decision or recommendation of the Hearing Examiner, and

9. Both publication dates of the required notice.

In addition, this notice shall include any information required by WAC 173-14-070 and shall be in the form prescribed therein.

C. Provision of Notice:

1. Time of Notice: The Director of Design and Development shall provide notice of the public hearing at least thirty-seven calendar days prior to the date of the public hearing.
2. Means of Notice: The Director of Design and Development shall provide notice of the public hearing by --
  - a. Publishing notice of the public hearing in a newspaper printed and published within the City for two consecutive weeks, on the same day of the week. The final publication shall be at least 30 calendar days prior to the date of the public hearing, and
  - b. Posting notice of the public hearing at each official posting place of the City (See Bellevue City Code 1.08), and
  - c. Requiring the applicant to erect public information signs to be erected in conformance with Bellevue City Code 2.14, and
  - d. Mailing notice of the public hearing to each owner of real property within 300 feet or within three separate property ownerships of the boundary of the subject property, whichever is greater, and
  - e. Mailing notice of the public hearing addressed to occupant/tenant to each address within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and in addition notice is mailed to each "occupant/tenant" of the applicant. "Occupant/tenant" need not be identified by name, and

8-05-85  
0898c

- f. Mailing notice of the public hearing to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
- g. Mailing notice of the public hearing to each member of a Community Council.

.145 Limitation on City Action: The City may not take final action on an application for a Shoreline Conditional Use Permit for at least thirty days following the second publication required by Section .140.

.150 Submittal Requirements:

- A. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a Shoreline Conditional Use Permit application to be deemed complete and accepted for filing.
- B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.

.155 Decision Criteria: The City may approve or approve with modifications an application for a Shoreline Conditional Use Permit if --

- A. The proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Bellevue Shoreline Master Program, and
- B. The proposed use will not interfere with the normal public use of public shorelines, and
- C. The proposed use of the site and design of the project will be compatible with other permitted uses within the area, and
- D. The proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located, and
- E. The public interest suffers no substantial detrimental effect, and
- F. The proposed use complies with all requirements of WAC 173-14-140, and



8-05-85  
0898c

- G. The proposed use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property, and
- H. The proposed use will be served by adequate public facilities including streets, fire protection, water, storm water control and sanitary sewer, and
- I. The proposed use will not be materially detrimental to uses or property in the immediate vicinity of the subject property, and
- J. The proposed use has merit and value for the community as a whole, and
- K. The proposed use is in accord with the Comprehensive Plan, and
- L. The proposed use complies with all other applicable criteria and standards of the Bellevue City Code.

.160. Transmittal to Department of Ecology/Attorney General:

Pursuant to WAC 173-14-090 and WAC 173-14-130, the Director of Design and Development shall send the following to the Department of Ecology and the Attorney General's Office within eight days of the City Council action on a Shoreline Conditional Use Permit:

- A. The original application, and
- B. An affidavit of public notice, and
- C. A copy of the approved site plan, and
- D. A vicinity map, and
- E. A copy of the approved Shoreline Conditional Use and Substantial Development Permits, and
- F. If applicable, the Council ordinance or resolution approving the application.

.165 Effective Date: Notwithstanding the provisions of Section 20.35.100 et. seq., a Shoreline Conditional Use Permit is not effective until it is approved by the Department of Ecology as required by WAC 173-14-130.

.170 Time Limitation: A Shoreline Conditional Use Permit automatically expires and is void if the applicant fails to file for a building permit or other necessary development

8-05-85  
0898c

permit within three years of the effective date of the Shoreline Conditional Use Permit unless --

- A. The applicant has received an extension for the Shoreline Conditional Use Permit pursuant to Section .175, or
- B. The Shoreline Conditional Use Permit approval provides for a greater time period.

.175 Extension:

- A. The Director of Design and Development may extend a Shoreline Conditional Use Permit, not to exceed one year, only if --
  - 1. Unforeseen circumstances or conditions necessitate the extension of the permit; and
  - 2. Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
  - 3. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted only if --
  - 1. The criteria listed in Paragraph A of this Section are met, and
  - 2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  - 3. Conditions in the immediate vicinity of the subject property have not changed substantially since the Shoreline Conditional Use Permit was first approved.

.180 Assurance Device: In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the Shoreline Conditional Use Permit as approved.

.185 Amendment to an Approved Shoreline Conditional Use Permit:

8-05-85  
0898c

- A. General: The provisions of this Section are in addition to those procedures governing amendments to an approved project or decision found in Section 20.35.175.
- B. Additional Criteria for Administrative Amendment: An amendment may be reviewed as an administrative amendment if it complies with the provisions of WAC 173-14-064.
- C. Transmittal to Department of Ecology/Attorney General: The Director of Design and Development shall send a copy of the final City action on to the Department of Ecology and the Attorney General's Office in conformance with Section .160 and WAC 173-14-064.

#### 20.30D Planned Unit Development

.110 Scope: This Part (20.30D) establishes the procedure and criteria that the City will use in making a decision upon an application for a Planned Unit Development.

.115 Applicability:

- A. This Part applies to each application for a Planned Unit Development.
- B. An applicant may submit an application for a Planned Unit Development if the subject property is in --
  1. An R Land Use District, or
  2. An OU Land Use District.

In no case may a Planned Unit Development include uses which are not permitted by the zoning of the subject property and only residential uses are permitted within a PUD authorized by Paragraph .115.B.1. For purposes of this Part, however, a single family dwelling as defined in Section 20.50.016 includes dwellings attached by common walls.

.120 Purpose. A Planned Unit Development is a mechanism by which the City may permit a variety in type, design, and arrangement of structures; and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety and welfare. A Planned Unit Development allows for innovations and special features in site development, including the location of structures, conservation of natural land features, conservation of energy and efficient utilization of open space.

- .125 Who May Apply: The property owner may apply for a Planned Unit Development.
- .130 Review Stages: Subject to Section .135, the review and decision of the City on an application for a Planned Unit Development has two stages:
- A. Review and decision upon the Preliminary Development Plan (Section 20.30D.140 - .200), and
  - B. Review and decision upon the Final Development Plan (Section 20.30D.205 - .265).
- .135 Merger of Review Stages: The applicant may request that review and decision on the Preliminary Development Plan and the Final Development Plan be merged in one decision. The merged decision will be made using Process I (Section 20.35.100 et. seq.) following the steps for the Preliminary Development Plan. The applicant will submit all plans and information in the detail required for a Final Development Plan and shall comply with all other requirements and standards for a Final Development Plan.
- .140 Preliminary Development Plan - Applicable Procedure: The City will process an application for a Preliminary Development Plan using Process I (Section 20.35.100 et. seq.). The Director of Design and Development is the applicable Department Director.
- .145 Preliminary Development Plan - Submittal Requirements:
- A. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a Planned Unit Development preliminary development plan to be deemed complete and accepted for filing.
  - B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.
- .150 Preliminary Development Plan - Decision Criteria: The City may approve or approve with modifications a Preliminary Development Plan if --
- A. The Planned Unit Development accomplishes, by the use of permitted flexibility and variation in design, a development that is better than that resulting from traditional development. Net benefit to the City may be demonstrated by one or more of the following:

1. Placement, type or reduced bulk of structures, or
  2. Interconnected usable open space, or
  3. Recreation facilities, or
  4. Other public facilities, or
  5. Conservation of natural features, or
  6. Aesthetic features and harmonious design, or
  7. Energy efficient site design or building features; and
- B. The Planned Unit Development results in no greater burden on present and projected public utilities and services than would result from traditional development and the Planned Unit Development will be served by adequate public facilities including streets, fire protection, water, storm water control and sanitary sewer; and
- C. The perimeter of the Planned Unit Development is compatible with the existing land use or property that abuts or is directly across the street from the subject property. Compatibility includes but is not limited to size, scale, mass and architectural design; and
- D. Landscaping within and along the perimeter of the Planned Unit Development is superior to that required by this Code (Section 20.20.520) and enhances the visual compatibility of the development with the surrounding neighborhood; and
- E. At least one major circulation point is functionally connected to a public right-of-way; and
- F. Open space within the Planned Unit Development is an integrated part of the project rather than an isolated element of the project; and
- G. Undeveloped land surrounding the Planned Unit Development can be developed in coordination with the Development, and the Development is compatible with existing adjacent development; and
- H. The Planned Unit Development is harmonious and appropriate in design, character and appearance with the existing or intended character of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; and

8-05-85  
0898c

- I. That part of a Planned Unit Development in a Transition Area meets the Transition Area requirements (Part 20.25B) or the criteria of Paragraph 20.25B.040.B, and
- J. Roads and streets, whether public or private, within and contiguous to the site comply with Department of Public Works and Utilities guidelines for construction of streets, and
- K. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project, and
- L. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, open space, recreation space, landscaping and utility area necessary for creating and sustaining a desirable and stable environment, and
- M. The Planned Unit Development is in accord with the Comprehensive Plan.

.155 Preliminary Development Plan - Additional Decision Criteria for OU Districts.

In addition to the criteria of Section .150, the City may approve or approve with modifications a Preliminary Development Plan for development in an OU Land Use District if --

- A. Buildings and other development are located on the site where the natural environment is least disturbed or so that the natural environment is enhanced, and
- B. Building design and site development enhances the site as a visual amenity to the community, and
- C. The use proposed is in full compliance with the OU-R or the OU-G designation of the Comprehensive Plan and with those policies governing the location of office, retail or wholesale trade uses, and
- D. Offices, retail trade, industrial and wholesale trade uses meet the requirements for Transition Areas if any such use, including associated parking or access, is within 300' of the property line for a residential use, and
- E. The density as determined by the Hearing Examiner and City

8-05-85  
0898c

Council through the review process takes into account the nature of the site and surrounding development, and the Comprehensive Plan. The average density of dwelling units in an OU District may not exceed five units per acre, and

- F. Proposed uses specifically conform to the provisions of paragraph 20.30D.150.A, G and M.

.160 Preliminary Development Plan - Open and Recreation Space Requirement

- A. General: Except in an OU Land Use District, within a Planned Unit Development including residential uses --
1. At least 40% of the gross land area of the subject property must be retained or developed as open space as defined by Section 20.50.038, and
  2. At least 20% of the gross land area of the subject property must be retained or developed as recreation space as defined by Section 20.50.044, provided, however, that recreation space in an OU Land Use District may be reduced to 10% of the gross land area, and
  3. Recreation Space as required by Paragraph .160.A.2 may be included in the Open Space required by Paragraph .160.A.1 if --
    - a. The Recreation Space meets the definition of Open Space (Section 20.50.038), and
    - b. At least 20% of the gross land area is non-recreation Open Space.
- B. Maintenance: In appropriate circumstances the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure the retention and continued maintenance of all open and recreation space in conformance with the Land Use Code and the Preliminary Development Plan as approved.

.165 Preliminary Development Plan - Modification of Zoning Requirements:

The applicant may request a modification of the requirements and standards of the Land Use Code as follows:

8-05-85  
0898c

A. Density:

1. General. Except in an OU Land Use District, the applicant may request a bonus in the number of dwelling units permitted by the underlying Land Use District maximum number of units per acre (see Section 20.10.010).
2. Bonus Decision Criteria: The City may approve a bonus in the number of dwelling units allowed by no more than 10%, based on the gross land area of the property excluding either that area utilized for traffic circulation roads or 20%, whichever is greater, if --
  - a. The design of the development offsets the impacts of the increase in density; and
  - b. The increase in density is compatible with existing uses in the immediate vicinity of the subject property.

B. Height: The applicant may request a modification of height from that allowed by the Land Use District provided topography and arrangement of structures does not unreasonably impair primary scenic views (e.g. mountains, lakes, unique skylines) of the surrounding area, as compared to lot-by-lot development.

C. Other:

1. The applicant may request a modification of any requirement or standard of the Land Use Code, except as provided in Section .170.
2. The City may approve a modification of any provision of the Land Use Code, except as provided in Section .170, if the resulting site development complies with the criteria of this Part and Section 20.35.100 et. seq.

.170 Preliminary Development Plan - Limitation on Authority to Modify Zoning:

The following provisions of the Land Use Code may not be modified pursuant to Section .165:

- A. Any provision of this Part, 20.300, Planned Unit Development, or



8-05-85  
0898c

- B. Any provision of Section 20.10.440 - Uses in Land Use Districts, or
- C. The maximum density and site coverage for development in an OU Land Use District. (Section 20.20.010), or
- D. Any provision of Part 20.25E, the Shoreline Overlay District, or
- E. Any provision of the Land Use Code which specifically states that it is not subject to modification, or
- F. The procedural, enforcement and administrative provisions of the Land Use Code or any other applicable City Code.

.175 Preliminary Development Plan - Authorized Activity:

Following approval of the Preliminary Development Plan, the applicant may, subject to all other applicable ordinances, begin any work that is specifically approved in the ordinance approving the Preliminary Development Plan of the Planned Unit Development. No other work may be done until the Final Development Plan is approved.

.180 Time Limitation:

A Preliminary Development Plan automatically expires and is void if the applicant fails to file for approval of the Final Development Plan within three years of the effective date of the Preliminary Development Plan unless --

- A. The applicant has received an extension for the Preliminary Development Plan pursuant to Section .185, or
- B. The Preliminary Development Plan approval provides for a greater time period.

.185 Preliminary Development Plan - Extension

- A. The Director of Design and Development may extend a Preliminary Development Plan, not to exceed one year, if --
  - 1. Unforeseen circumstances or conditions necessitate the extension of the Preliminary Development Plan, and
  - 2. Termination of the Preliminary Development Plan would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay, and

8-05-85  
0898c

3. An extension of the Preliminary Development Plan will not cause substantial detriment to existing uses in the immediate vicinity of the subject property or to the community as a whole.
- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted if —
1. The criteria listed in Paragraph A of this section are met, and
  2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  3. Conditions in the immediate vicinity of the subject property have not changed substantially since the Preliminary Development Plan was first granted.

.190 Preliminary Development Plan - Assurance Device:

In appropriate circumstances the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the approved Preliminary Development Plan.

.195 Preliminary Development Plan - Merger with Subdivision:

- A. General: The applicant may request that the City process a preliminary plat in conjunction with a Preliminary Development Plan. Platting is required for all projects which involve or contemplate the subdivision of land.
- B. Procedure: The City may review and decide upon a preliminary plat at the same hearing as the Preliminary Development Plan to the extent allowed by such procedures.
- C. Plat Requirements: The preliminary plat must comply with the procedures, standards and criteria of B.C.C. 22C.10. and must conform to the Preliminary Development Plan.

.200 Preliminary Development Plan - Effect of Approval:

The approval of the preliminary development plan constitutes the City's acceptance of the general project, including its density, intensity, arrangement and design.

.205 Final Development Plan - General: The applicant must submit

8-05-85  
0898c

the Final Development Plan within three years of the effective date or the extension date of the Preliminary Development Plan if an extension was granted pursuant to Section .185.

.210 Final Development Plan - Applicable Procedure: The City will process an application for a Final Development Plan as provided in Sections 20.30D.215 - 275. The Director of Design and Development is the applicable Department Director.

.215 Final Development Plan - Authority: In accordance with the provisions of Part 20.30D --

- A. The applicable Department Director shall approve, approve with modifications or deny a Final Development Plan unless an objection is filed pursuant to Section .220 or unless the applicant has chosen to have the application reviewed by the City Council pursuant to Section .225 - .275.
- B. The City Council shall approve, approve with modifications or deny a Final Development Plan under Section .225 of Part 20.30D.
- C. Sections .230 - .275 apply to each Final Development Plan review and action under Part 20.30D.

.220 Director's Decision:

- A. General: This Section contains the procedure that the City will use in deciding on a Final Development Plan unless the applicant has chosen to have the application reviewed by the City Council pursuant to Section .225.
- B. Criteria: The applicable Department Director may approve or approve with modifications the application if --
  1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval; and
  2. The applicant has demonstrated that the application complies with the applicable decision criteria of the Bellevue City Code. See Section 20.30D.235.

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

- C. Conditions: The applicable Department Director may include conditions as part of the approval or approval with

8-05-85  
0898c

modifications to ensure conformance with Paragraph .220.B.

D. Written Proposed Decision: The applicable Department Director shall issue a written proposed decision on the Final Development Plan which contains the following:

1. A description of the project or decision under review, and
2. A statement indicating that the application is proposed to be approved, approved with modifications or denied, and
3. A statement of facts upon which the proposed decision, including any conditions, was based, and conclusions derived from those facts.

E. Public Notice of Proposed Decision:

1. Content: The applicable Department Director shall prepare a notice of the proposed decision containing the following:
  - a. The name of the applicant, and if applicable, the project name, and
  - b. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
  - c. A vicinity map indicating the location of the subject property, and
  - d. A brief description of the proposal, and
  - e. A statement that the proposal was approved, approved with modifications, or denied subject to the filing of an objection pursuant to Paragraph .220.F, and
  - f. A statement that the proposed decision will become final unless an objection is filed pursuant to Paragraph .220.G, and
  - g. A statement of the right of any person to whom notice was mailed to file an objection to the proposed decision pursuant to Paragraph .220.G, and

8-05-85  
0898c

- h. A statement that filing an objection pursuant to Paragraph .220.G will cause the proposed decision to be void and will result in the proposal being treated as a Final Development Plan application under Section .230, and
    - i. A statement that if no objection is filed pursuant to Paragraph .220.G, the proposed decision of the Director becomes final and may be appealed as provided in Paragraph .220.I.
2. Provision of Notice: The applicable Department Director shall mail notice of the proposed decision to --
  - a. The applicant, and
  - b. Each owner of real property within 300' or within three separate property ownerships of any boundary of the subject property, whichever is greater, and
  - c. Each address, addressed to "occupant/tenant" within 300' or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant" need not be identified by name, and
  - d. Each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
  - e. Each member of a Community Council in whose jurisdiction the proposal takes place.
- F. Community Council Review:
  1. Review in Vicinity of Geographic Boundary: The applicable Department Director shall review each proposed decision within the boundary of an affected Community Council at a public meeting of that Council.
  2. Time Limit: In addition to the time limits of Paragraph .220.G the proposed decision of the applicable Department Director regarding an action within the geographic boundary of an affected

8-05-85  
0898c

Community Council is not effective for seven calendar days following the public meeting of the Community Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.

G. Objection:

1. Who May File: Any person to whom notice was mailed pursuant to Paragraph .220.E or the applicant may file an objection to the proposed decision.
2. How to File: An objection must be in writing and must be filed with the Office of Permit Coordination by 5:00 p.m. within 17 calendar days of the date notice of proposed decision was mailed. There is no fee for filing an objection.
3. Effect of Objection: If an objection is filed pursuant to Paragraph .220.G, the proposed decision of the Director is void and the application will be processed as a Final Development Plan application using Sections .225 -.275.
4. Effect of No Objection: If no objection is filed pursuant to Paragraph .220.G, the proposed decision of the Director becomes final and may be appealed pursuant to Paragraph .220.I.

H. Commencement of Activity: If no objection is filed pursuant to Paragraph .220.G, the applicant may commence activity or obtain other approvals authorized by the Director's decision seven calendar days following the final decision of the City. Activity commenced prior to the expiration of the full appeal period provided in Paragraph .220.I is at the sole risk of the applicant.

I. Appeal of Director's Decision:

1. Who May Appeal: The decision of the Director of Design and Development may be appealed by --
  - a. The applicant, or
  - b. Any person to whom notice of the proposed decision was mailed pursuant to Paragraph .220.E.2.
2. Form of Appeal: A person filing an appeal must make

8-05-85  
0898c

application to the Superior Court for a writ of certiorari, writ of prohibition or writ of mandamus.

3. Time to Appeal: The decision of the Director of Design and Development must be appealed to Superior Court no more than 20 calendar days following the date on which the time to object expired or is thereafter barred.

.225 City Council Review of Final Development Plan:

- A. Public Notice: The Director of Design and Development shall mail notice of the City Council consideration of the Final Development Plan to those to whom notice of the public hearing on the Preliminary Development Plan was mailed. This notice will solicit written public comment on the Final Development Plan.
- B. Report to Council: The Director of Design and Development shall submit a written report to the City Council evaluating compliance with any conditions imposed on the Preliminary Development Plan and summarizing public comment. This report will be mailed to each person who participated in the public hearing on the Preliminary Development Plan.
- C. City Council Action: The City Council shall consider the Report at a public meeting and approve, modify and approve or deny the Final Development Plan.
- D. Community Council Action: A Community Council with jurisdiction shall approve, disapprove or take no action on a Final Development Plan in accordance with the Rules of Procedure of the Community Council.

.230 Final Development Plan - Submittal Requirements:

- A. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a Planned Unit Development final development plan to be deemed complete and accepted for filing.
- B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.

.235 Final Development Plan - Decision Criteria: Except as provided in Section .240, the City shall approve or approve with

8-05-85  
0898c

modifications a Final Development Plan if it conforms to the Preliminary Development Plan and all conditions imposed by ordinance of the City Council approving the Preliminary Development Plan.

.240 Final Development Plan - Minor Deviation:

As part of the approval of a Final Development Plan, the City may require or approve a minor deviation from the Preliminary Development Plan if --

- A. The change is necessary because of natural features of the subject property not foreseen by the applicant or the City prior to the approval of the preliminary development plan; and
- B. The change will not have the effect of significantly reducing any area of landscaping, open space, natural area or parking; and
- C. The change will not have the effect of increasing the density or significantly increasing the total amount of floor area of the Planned Unit Development; and
- D. The change will not result in any structure, circulation or parking area being moved significantly in any direction; and
- E. The change will not reduce any setback approved as part of the Preliminary Development Plan by more than 10% and the required minimum setback is met; and
- F. The change will not result in a significant increase in the height of any structure as approved in the Preliminary Development Plan; and
- G. The change will not increase or create any adverse impacts or undesirable effects of the Planned Unit Development on the surrounding neighborhood.

.245 Final Development Plan - Major Deviation:

- A. A deviation which does not meet the requirements of Section .240 is a major deviation.
- B. An applicant may apply for a major deviation by following the requirements of Part 20.300 as if an application was submitted for a new Preliminary Development Plan for a Planned Unit Development.



8-05-85  
0898c

.250 Final Development Plan - Phased Development: If developed in phases, each phase of an approved Planned Unit Development must contain the required number of parking spaces, the required open space, recreation space, landscaping and utility areas necessary to create a desirable and stable environment pending completion of the total Planned Unit Development as approved.

.255 Final Development Plan - Map Designation:

- A. General: Upon approval of the Final Development Plan the City will place the file number of the Planned Unit Development on the location of the subject property on the City of Bellevue Zoning Map.
- B. Effect: Redevelopment of property for which a Planned Unit Development has been approved must --
  - 1. Be consistent with the Final Development Plan for the Planned Unit Development, or
  - 2. Be consistent with an amendment to the Final Development Plan.

.260 Final Development Plan - Time Limitation:

A Final Development Plan automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the Final Development Plan unless --

- A. The applicant has received an extension for the Final Development Plan pursuant to Section .265, or
- B. The Final Development Plan approval provides for a greater time period.

.265 Final Development Plan - Extension:

- A. The Director of Design and Development may extend a Final Development Plan, not to exceed one year, only if --
  - 1. Unforeseen circumstances or conditions have caused the delay in commencement of the approved use or activity.
  - 2. Termination of the approval would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay.

8-05-85  
0898c

3. An extension of the Final Development Plan will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted if --
1. The criteria listed in Paragraph A of this section are met, and
  2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  3. Conditions in the immediate vicinity of the subject property have not changed substantially since the Final Development Plan was first approved.

.270 Final Development Plan - Assurance Device:

In appropriate circumstances the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the approved Final Development Plan.

.275 Final Development Plan - Merger with Subdivision:

A. General:

If a preliminary plat was approved in conjunction with the Preliminary Development Plan, the applicant shall submit the final plat with the Final Development Plan.

B. Procedure:

The City shall review and decide upon a final plat through the same procedure used to review and approve the Final Development Plan to the extent allowed by such procedures.

C. Plat Requirements:

The final plat must comply with the procedures, standards and criteria of B.C.C. 22C.10.

20.35.E Administrative Conditional Use Permit

- .110 Scope: This Part (20.30E) establishes the procedure and criteria that the City will use in making a decision upon an application for an Administrative Conditional Use Permit.

8-05-85  
0898c

- .115 Applicability: This Part applies to each application for an Administrative Conditional Use Permit.
- .120 Purpose: An Administrative Conditional Use Permit is a mechanism by which the City may require special conditions on development or on the use of land in order to ensure that designated uses or activities are compatible with other uses in the same Land Use District and in the vicinity of the subject property.
- .125 Who May Apply: The property owner may apply for an Administrative Conditional Use Permit.
- .130 Applicable Procedure: The City will process an application for an Administrative Conditional Use Permit through Process II (Section 20.35.200 et. seq.). The Director of Design and Development is the applicable Department Director.
- .135 Submittal Requirements:
- A. The Director of Design and Development shall specify the submittal requirements, including type, detail, and number of copies, for a Conditional Use Permit application to be deemed complete and to be accepted for filing.
  - B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.
- .140 Decision Criteria: The Director of Design and Development may approve or approve with modifications an application for an Administrative Conditional Use Permit if --
- A. The administrative conditional use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property, and
  - B. The administrative conditional use will be served by adequate public facilities including streets, fire protection, water, storm water control and sanitary sewer, and
  - C. The administrative conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property, and

8-05-85  
0898c

- D. The administrative conditional use has merit and value for the community as a whole, and
- E. The administrative conditional use is in accord with the Comprehensive Plan, and
- F. The administrative conditional use complies with the Land Use Code requirements of the underlying land use district.
- G. The administrative conditional use complies with all other applicable criteria and standards of the Bellevue City Code.

.145 Time Limitation: An Administrative Conditional Use Permit automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the Administrative Conditional Use Permit unless --

- A. The applicant has received an extension for the Administrative Conditional Use Permit pursuant to Section .150, or,
- B. The Administrative Conditional Use Permit approval provides for a greater time period.

.150 Extension:

- A. The Director of Design and Development may extend an Administrative Conditional Use Permit, not to exceed one year, if --
  - 1. Unforeseen circumstances or conditions necessitate the extension of the permit, and
  - 2. Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay, and
  - 3. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted only if --
  - 1. The criteria listed in Paragraph A of this Section are met, and

8-05-85  
0898c

2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  3. Conditions in the immediate vicinity of the subject property have not changed substantially since the Administrative Conditional Use Permit was first approved.
- .155 Assurance Device: In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the Administrative Conditional Use Permit as approved.

#### 20.30F Design Review

- .110 Scope: This Part (20.30F) establishes the procedure and criteria that the City will use in making a decision upon an application for Design Review.
- .115 Applicability: This Part applies to each application for Design Review.
- .120 Purpose: Design Review is a mechanism by which the City can insure that site development and structures in specific zoning districts or in specific locations are of high design quality and conform to the requirements of the Land Use Code and the requirements of an applicable concomitant agreement.
- .125 Who May Apply: The property owner may apply for a Design Review.
- .130 Applicable Procedure: The City will process an application for Design Review through Process II (Section 20.35.200 et. seq). The Director of Design and Development is the applicable Department Director.
- .135 Submittal Requirements:
- A. The Director of Design and Development shall specify the submittal requirements, including type, detail, and number of copies, for a Design Review application to be deemed complete and to be accepted for filing.
  - B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.

8-05-85  
0898c

.140 Exemption from Design Review:

- A. The following uses, structures, site modifications and activities are exempt from Design Review otherwise required by the Bellevue City Code or by the terms of any concomitant agreement which requires Design Review if the Director of Design and Development determines that the proposal is consistent with the purpose and intent of the Design Review:
1. Repainting without a change in color, or
  2. Repair without a change in the dimensions or configuration of the structure, or
  3. The addition of minor structural elements, or
  4. Re-stripping of parking or circulation areas, provided that there is no loss in the number of parking stalls.
- B. In addition to those uses, structures, site modifications of activities listed in paragraph A., the Director of Design and Development may determine that a proposal is not subject to Design Review if --
1. The proposal does not result in any significant impact beyond the site, and
  2. The proposal is outside the purpose of the specific Design Review requirements, determined by review of the applicable decision criteria and the Comprehensive Plan establishing the intent of the Design Review requirement, and
  3. The proposal does not add more than 300 sq. ft. of new floorarea and only one such addition has occurred in the preceding 12 month period and no more than five such additions have been permitted.
- C. All development which is exempt from Design Review must comply with all applicable development standards and must be compatible with all applicable design criteria.
- D. The decision of the Director of Design and Development defining an exemption pursuant to this Section may be appealed using Process VI, Section 20.35.600 et. seq.

.145 Decision Criteria: The Director of Design and Development may

8-05-85  
0898c

approve or approve with modifications an application for Design Review if --

- A. The proposal complies with the building and site development requirements of this Code, and
- B. The proposal addresses all applicable design guidelines or criteria of this Code in a manner which fulfills their purpose and intent, and
- C. The proposal is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and the physical characteristics of the subject property, and
- D. The proposal will be served by adequate public facilities including streets, fire protection, water, storm water control and sanitary sewer, and
- E. The proposal is in accord with the Comprehensive Plan.

.150 Time Limitation: A Design Review approval automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the Design Review unless --

- A. The applicant has received an extension for the Design Review pursuant to Section .155, or
- B. The Design Review approval provides for a greater time period.

.155 Extension:

- A. The Director of Design and Development may extend a Design Review approval, not to exceed one year, if --
  - 1. Unforeseen circumstances or conditions necessitate the extension of the Design Review approval, and
  - 2. Termination of the Design Review approval would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay, and
  - 3. An extension of the Design Review approval will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.

8-05-85  
0898c

- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted if --
1. The criteria listed in Paragraph A of this Section are met, and
  2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  3. Conditions in the immediate vicinity of the subject property have not changed substantially since the Design Review was first approved.

.160 Assurance Device: In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the Design Review as approved.

.165 Merger with Binding Site Plan:

- A. General: The applicant may request that the site plan approved with the Design Review constitute a Binding Site Plan pursuant to RCW 58.17.
- B. Survey and Recording Required: If a site plan is approved as a Binding Site Plan, the applicant shall provide a recorded survey depicting all lot lines and shall record that site plan and survey with the King County Department of Records and Elections. No document may be recorded without the signature of each owner of the subject property.
- C. Effect of Binding Site Plan: Upon the approval and recording of a Binding Site Plan the applicant may develop the subject property in conformance with that Binding Site Plan and without regard to lot lines internal to the subject property. The applicant may sell or lease parcels subject to the Binding Site Plan.

20.30G Variance from the Land Use Code

.110 Scope: This Part (20.30G) establishes the procedures and criteria that the City will use in making a decision upon an application for a variance from the provisions of the Land Use Code.

.115 Applicability: This Part applies to each application for a



8-05-85  
0898c

variance from the provisions of the Land Use Code, except as otherwise provided in Part 20.30H (Variance to the Shoreline Master Program).

- .120 Purpose: A variance is a mechanism by which the City may grant relief from the provisions of the Land Use Code where practical difficulty renders compliance with the provisions of that Code an unnecessary hardship, where the hardship is a result of the physical characteristics of the subject property and where the purpose of that Code and of the Comprehensive Plan can be fulfilled.
- .125 Who May Apply: The property owner may apply for a variance from the provisions of the Land Use Code.
- .130 Applicable Procedure: The City will process an application for a variance from the provisions of the Land Use Code through Process III, (Section 20.35.300 et seq). The Director of Design and Development is the applicable Department Director.
- .135 Submittal Requirements:
- A. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a variance application to be deemed complete and accepted for filing.
  - B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.
- .140 Decision Criteria: The decision maker may approve or approve with modifications an application for a variance from the provisions of the Land Use Code if --
- A. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and Land Use District in which the property on behalf of which the application was filed is located, and
  - B. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use rights and privileges permitted to other properties in the vicinity and in the Land Use District in which the subject property is located, and

8-05-85  
0898c

- C. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and Land Use District in which the subject property is located, and
- D. The special circumstances of the subject property make the strict enforcement of the provisions of this Code an unnecessary hardship to the property owner, and
- E. The special circumstances of the subject property are not the result of the actions of the applicant, and
- F. The variance is the minimum necessary to fulfill the purpose of a variance and the need of the applicant, and
- G. The variance is consistent with the purpose and intent of the Land Use Code; and
- H. The variance is in accord with the Comprehensive Plan.

.145 Board of Adjustment - Vote on the Criteria:

- A. This Section applies to those variance applications heard and decided by the Board of Adjustment.
- B. Prior to a vote on a motion to approve, approve with modifications or deny the variance application, the Board of Adjustment shall vote on each criterion listed in Section .140 separately and by roll call. The vote of each member on each criterion will be recorded in the written minutes of the public hearing.
- C. A motion to approve or approve with modifications may only be made if an affirmative vote of a majority of the entire membership of the Board of Adjustment has occurred for each of the criteria listed in Section .140.

.150 Limitation on Authority: The decision maker may not grant a variance to --

- A. The provisions of Section 20.10.440 establishing the allowable uses in each Land Use District, or
- B. The provisions of Chapter 20.30, 20.35 or any other procedural or administrative provision of the Land Use Code, or
- C. Any provision of the Land Use Code within the primary

8-05-85  
0898c

approval jurisdiction of another decision maker as established by the Bellevue City Code, or

- D. Any provision of the Land Use Code which, by the terms of that Code, is not subject to a variance, or
- E. The provisions of Part 20.25E, the Shoreline Overlay District.

.155 Time Limitation:

A variance automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the variance unless --

- A. The applicant has received an extension for the Variance pursuant to Section .160, or
- B. The Variance approval provides for a greater time period.

.160 Extension:

- A. The Director of Design and Development may extend a variance, not to exceed one year, if --
  - 1. Unforeseen circumstances or conditions necessitate the extension of the variance, and
  - 2. Termination of the variance would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay, and
  - 3. The extension of the variance will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted if --
  - 1. The criteria listed in Paragraph A of this Section are met, and
  - 2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  - 3. Conditions in the immediate vicinity of the subject

8-05-85  
0898c

property have not changed substantially since the variance was first granted.

- .165 Assurance Device: In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the variance as approved.

20.30.H Variance to the Shoreline Master Program

- .110 Scope: This Part (20.30H) establishes the procedure and criteria that the City will use in making a decision upon an application for a variance to the provisions of the Shoreline Master Program.
- .115 Applicability: This Part applies to each application for a variance to the provisions of the Shoreline Master Program.
- .120 Purpose: The purpose of a Variance to the Shoreline Master Program is to grant relief to specific bulk, dimensional or performance standards set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the policies of the Shoreline Management Act.
- .125 Who May Apply: The property owner may apply for a variance to the provisions of the Shoreline Master Program.
- .130 Limitation on Filing: An application for a Variance to the Shoreline Master Program will not be accepted for filing unless accompanied by a complete application for a Substantial Development Permit (See Section 20.25E.040).
- .135 Applicable Procedure: Except as provided in Section .140, the City will process an application for a Variance to the Shoreline Master Program through Process III (Section 20.35.300 et. seq.). The Director of Design and Development is the applicable Department Director.
- .140 Special Notice Requirement:
- A. General: The notice requirement of this Section takes the place of the notice requirement of Process III (Section 20.35.300 et. seq.).
  - B. Content: The Director of Design and Development shall

8-05-85  
0898c

prepare a notice of a public hearing on the Variance to the Shoreline Master Program containing the following:

1. The name of the applicant, and if applicable, the project name, and
2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
3. A vicinity map indicating the location of the subject property, and
4. A citation of the Bellevue City Code provision requiring a decision under Process III, and
5. A brief description of the approval requested in the application and of the Substantial Development Permit, and
6. The date, time and place of the public hearing before the Board of Adjustment or the date by which an objection to the proposed decision must be filed, and
7. If the Board of Adjustment will hear and decide the variance --
  - a. A statement of the right of any person to participate in the public hearing as provided for a Paragraph 20.35.340.B.
  - b. A statement that only those persons who participate in the public hearing as provided in Paragraph 20.35.340.B may appeal the decision of the Board of Adjustment, and
8. If the Director of Design and Development will decide the variance, a statement that filing an objection will result in the variance being heard and decided by the Board of Adjustment, and
9. Both publication dates of the required notice.

In addition, this notice shall include any information required by WAC 173-14-070 and shall be in the form prescribed therein.

C. Provision of Notice:

8-05-85  
0898c

1. Time of Notice: The Director of Design and Development shall provide notice of the public hearing at least thirty-seven calendar days prior to the date of the public hearing or the date by which an objection may be filed.
2. Means of Notice: The Director of Design and Development shall provide notice of the public hearing or proposed decision by --
  - a. Publishing notice of the public hearing or proposed decision in a newspaper printed and published within the City for two consecutive weeks, on the same day of the week. The final publication shall be at least 30 calendar days prior to the date of the public hearing or the date by which an objection may be filed (See BCC 1.08), and
  - b. Posting notice of the public hearing or proposed decision at each official place location of the City (See BCC 1.08), and.
  - c. Requiring the applicant to erect public information signs to be erected in conformance with B.C.C. 2.14, and
  - d. Mailing notice of the public hearing or proposed decision to each owner of real property within 300 feet or within three separate property ownerships of the boundary of the subject property, whichever is greater, and
  - e. Mailing notice of the public hearing or proposed decision addressed to occupant/tenant to each address within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and in addition notice is mailed to each "occupant/tenant" of the applicant. "Occupant/tenant need not be identified by name, and
  - f. Mailing notice of the public hearing or proposed decision to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and

8-05-85  
0898c

g. Mailing notice to each member of a Community Council.

.145 Limitation on City Action: The City may not take final action on an application for a Variance to the Shoreline Master Program for at least thirty calendar days following the second publication required by Section .140.

.150 Submittal Requirements:

- A. The Director of Design and Development shall specify the submittal requirements, including type, detail and number of copies, for a variance to the Shoreline Master Program application to be deemed complete and accepted for filing.
- B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.

.155 Decision Criteria: The City may approve or approve with modifications an application for a Variance to the Shoreline Master Program if --

- A. Denial of the Variance would result in thwarting the policy of RCW 90.58.020, and
- B. The applicant has demonstrated extraordinary circumstances and the public interest will suffer no substantial detrimental effect, and
- C. The strict application of the bulk, dimensional or performance standards of the Master Program preclude or significantly interfere with a reasonable permitted use of the property, and
- D. The hardship described in Paragraph .155.C is specifically related to the property and is the result of unique conditions such as irregular lot shape or natural features and the application of the Master Program and not, for example, deed restrictions or the applicants' own actions, and
- E. The design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation, and
- F. The Variance authorized does not constitute a grant of

8-05-85  
0898c

special privilege not enjoyed by the other properties in the area and will be the minimum necessary to afford relief, and

- G. If the development will be located either waterward of the ordinary high water mark or in a marsh, bog or swamp designated pursuant to WAC 173-22--
1. In place of Paragraph .155.C, the strict application of the bulk, dimensional or performance standards of the Master Program preclude a reasonable permitted use of the property, and
  2. The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the Variance.

.160 Transmittal to Department of Ecology/Attorney General:  
Pursuant to WAC 173-14-090 and WAC 173-14-130, the Director of Design and Development shall send the following to the Department of Ecology and the Attorney General's Office within eight days of the Board of Adjustment or Director of Design and Development action on a Variance to the Shoreline Master Program:

- A. The original application, and
- B. An affidavit of public notice, and
- C. A copy of the approved site plan, and
- D. A vicinity map, and
- E. A copy of the approved variance to the Shoreline Master Program and Substantial Development Permits.

.165 Effective Date: Notwithstanding the provisions of Section 20.35.300 et. seq., a Variance to the Shoreline Master Program is not effective until it is approved by the Department of Ecology as required by WAC 173-14-130.

.170 Time Limitation: A Variance to the Shoreline Master Program automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the Variance unless --

- A. The applicant has received an extension for the Variance to the Shoreline Master Program pursuant to Section .175, or



8-05-85  
0898c

- B. The Variance to the Shoreline Master Program approval provides for a greater time period.

.175 Extension:

- A. The Director of Design and Development may extend a Variance to the Shoreline Master Program, not to exceed one year, if --
  - 1. Unforeseen circumstances or conditions necessitate the extension of the variance; and
  - 2. Termination of the approval would result in unreasonable hardship to the applicant and the applicant is not responsible for the variance; and
  - 3. An extension of the variance will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
- B. The Director of Design and Development may grant no more than two extensions. A second extension may be granted if --
  - 1. The criteria listed in Paragraph A of this Section are met, and
  - 2. The applicant has demonstrated reasonable diligence in attempting to meet the time limit imposed, and
  - 3. Conditions in the immediate vicinity of the subject property have not changed substantially since the variance to the Shoreline Master Program was first granted.

.180 Assurance Device: In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the Variance to the Shoreline Master Program as approved.

20.30I. Amendment and Review of the Comprehensive Plan

.110 Scope: This Part (20.30I) establishes the procedure and criteria that the City will use in amending or reviewing the Comprehensive Plan, and establishes the responsibility of the City to monitor the status of development in the City in relation to the Comprehensive Plan, and to review the Comprehensive Plan on a regular basis.

8-05-85  
0898c

- .115 Applicability: This Part applies to each application affecting the Comprehensive Plan.
- .120 Purpose: The Comprehensive Plan is a document which guides the nature and intensity of development in the City. An amendment to the Plan is a mechanism by which the City may modify its land use, development or growth policies in order to respond to changing circumstances or needs of the City.
- .125 Who May Initiate:
- A. The City Council or the Planning Commission may initiate consideration of an amendment to the Comprehensive Plan. An affirmative vote of not less than a majority of the total members of the Council or Commission is required to initiate consideration of an amendment.
  - B. A resident or a property owner may apply for an amendment to the Comprehensive Plan in conformance with Paragraph .130.8.
- .130 Time to Initiate:
- A. The City Council or the Planning Commission may initiate consideration of an amendment to the Comprehensive Plan any time it determines an amendment has possible merit. A new Element may be added to the Comprehensive Plan at any time.
  - B. A resident or property owner may apply for an amendment to the Comprehensive Plan from January 1 to March 1 of any year, however, at least three years must elapse between applications to amend the land use designation of a property. At any other time, a resident or property owner may request that the Planning Commission initiate consideration of an amendment to the Comprehensive Plan. The Commission must determine that a proposed Plan amendment has possible merit.
- .135 Applicable Procedure:
- A. General: Subject to Paragraph B of this Section the City will process an amendment to the Comprehensive Plan using Process IV (Section 20.35.400 et seq.). The Planning Commission is the Advisory Body and the Planning Director is the applicable Department Director.
  - B. Notice of Receipt of Application:

8-05-85  
0898c

1. Content: The Planning Director shall prepare notice of the receipt of an application for a Comprehensive Plan Amendment containing the following:
  - a. The name of the applicant, and if applicable, the project name and
  - b. If the application involves specific property, the street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
  - c. If the application involves specific property, a vicinity map indicating the location of the subject property, and
  - d. The citation of the Bellevue City Code provision requiring a decision using Process IV, and
  - e. A brief description of the action, permit or approval requested in the application, and
  - f. A statement of the right of any person to participate in the public hearing on the application.
2. Time of Notice: The Planning Director shall provide notice of the receipt of an application for a Comprehensive Plan Amendment within 10 calendar days of the receipt of that application and at least 17 calendar days prior to the public meeting at which the Planning Commission first reviews the application for possible merit as provided by Paragraph 20.30I.135.C.
3. Means of Notice: The Planning Director shall provide notice of the receipt of an application for a Comprehensive Plan Amendment by:
  - a. Publishing notice of the receipt of the application in a newspaper printed and published within the City (See BCC 1.08), and
  - b. Posting notice of the receipt of the application at each official posting place of the City (See BCC 1.08), and
  - c. If the application involves specific property rather than an area or land use designation-wide change --

8-05-85  
0898c

- i. Mailing notice of the receipt of the application to each owner of real property within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater, and
- ii. Mailing notice of the receipt of the application to "occupant/tenant" to each address within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant need not be identified by name, and
- iii. Mailing notice of the receipt of the application to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
- iv. Mailing notice of the receipt of the application to each member of a Community Council.

C. Determination of Possible Merit Required:

1. Prior to conducting a public hearing on an applicable submitted under Paragraph .130.B the Planning Commission shall determine whether the application has possible merit.
2. The Commission decision whether an application by a resident or property owner presented under Paragraph .130.B has possible merit shall be made at a public meeting conducted prior to June 1 each year. No public testimony regarding the application will be accepted at a public meeting at which possible merit is considered or determined. The decision of the Commission is final and may not be appealed.

.140 Possible Merit - Factors for Consideration: In deciding whether or not a proposed amendment has possible merit the Commission or Council shall consider the time elapsed since review of the policy, designation or affected Subarea Plan. To support the stability of a Subarea Plan, unless at least three years have passed since its adoption or its review and

8-05-85  
0898c

reaffirmation pursuant to Paragraph 155.B the application must prove that there exists obvious technical error in order for the amendment to be determined to have possible merit. In addition to the above, the Commission or Council shall consider, but is not limited to consideration of, the following in deciding whether an amendment has possible merit:

- A. Obvious technical error in a prior land use designation;
- B. Changed circumstances affecting the subject property;
- C. The effect of the proposal on the physical, economic or social environment;
- D. The compatibility with and impact on adjacent land use and surrounding neighborhoods;
- E. The adequacy of and impact on community facilities including but not limited to utilities, transportation, parks and schools;
- F. The benefit to the neighborhood, City and region;
- G. The quantity and location of land already planned for a proposed designation;
- H. The current and projected population or employment density in the general area;
- I. The continuous development of land in the City in relation to the Comprehensive Plan;
- J. The effect upon other aspects of the Comprehensive Plan, or changes in the goals or policies of the City.

.145 Submittal Requirements:

- A. The Planning Director shall specify the submittal requirements, including type, detail and number of copies, for a Comprehensive Plan amendment application to be deemed complete and accepted for filing.
- B. The Planning Director may waive specific submittal requirements determined to be unnecessary for review of an application.

8-05-85  
0898c

- .150 Decision Criteria: The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the Comprehensive Plan if --
- A. The amendment bears a substantial relation to the public health, safety or welfare, and
  - B. The amendment addresses changing circumstances or the needs of the City as a whole.

.155 Comprehensive Plan Review:

A. General Goals and Policies:

The Planning Commission shall review and consider amendments to the general goals and policies of the Comprehensive Plan (Chapters 21.A-21.U) regularly at five year intervals beginning in 1985.

B. Subarea Plans:

- a. The Planning Commission shall establish a rotating schedule to consider and review amendments to the Subarea Plan portion of the Comprehensive Plan. Subarea Plans shall be reviewed in chronological order from the date of adoption. Two Subarea Plans will be reviewed each year. A Subarea Plan may be reviewed outside of the established schedule only upon direction by a vote of not less than a majority of the total members of the City Council.
- b. Prior to review of a Subarea Plan by the Planning Commission or the City Council, the Council shall appoint a Citizens Advisory Committee to be named by the Mayor with the concurrence of a majority of the City Council. This Committee shall solicit public comment and make a recommendation on the Subarea Plan to the Planning Commission and City Council.

20.30J Amendments to the Text of the Land Use Code

- .110 Scope: This Part (20.30J) establishes the procedure and criteria that the City will use in deciding upon an amendment to the text of the Land Use Code.
- .115 Applicability: This Part applies to each amendment to the text of the Land Use Code.

8-05-85  
0898c

- .120 Purpose: An amendment to the text of the Land Use Code is a mechanism by which the City may bring its land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City.
- .125 Who May Initiate: The City Council, the Planning Commission or the Director of Design and Development with the concurrence of either body may initiate an amendment to the text of the Land Use Code.
- .130 Applicable Procedure: The City will process an amendment to the text of the Land Use Code using Process IV (Section 20.35.400 et. seq.) The Planning Commission is the Advisory Body and the Director of Design and Development is the applicable Department Director.
- .135 Decision Criteria: The City may approve or approve with modifications a proposal to amend the text of the Land Use Code if --
- A. The amendment is in accord with the Comprehensive Plan,
  - B. The amendment bears a substantial relation to the public health, safety or welfare, and
  - C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

#### 20.30K Interpretation of the Land Use Code

- .110 Scope: This Part (20.30K) establishes the procedure and criteria that the City will use in deciding upon a written request to interpret the provisions of the Land Use Code and in issuing any other written interpretation of the Land Use Code. The interpretation of the provisions of a concomitant agreement will be treated as an interpretation of the Land Use Code.
- .115 Applicability: This Chapter applies to each written request to interpret the provisions of the Land Use Code and to any other interpretation of the Land Use Code issued by the Director of Design and Development.
- .120 Purpose: An interpretation of the provisions of the Land Use Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of the Code. An interpretation of the provisions of the Land Use Code may not be used to amend that Code.
- .125 Who May Request: Any person may request a written interpretation of

8-05-85  
0898c

the provisions of the Land Use Code. In addition, the Director of Design and Development may issue an interpretation on his/her own initiative.

.130 Applicable Procedure:

- A. The Director of Design and Development shall interpret the provisions of the Land Use Code in conformance with this Part 20.30K.
- B. When an interpretation is made in response to a written request pursuant to this Part, the person filing the written request may appeal the decision of the Director through Process V (Section 20.35.500, et. seq.).

.135 Submittal Requirements: Any person requesting an interpretation of the Land Use Code shall submit a written request specifying each provision of the Land Use Code for which an interpretation is requested, why an interpretation of each provision is necessary and any reasons or material in support of a proposed interpretation.

.140 Factors for Consideration: In making an interpretation of the provisions of the Land Use Code, the Director of Design and Development shall consider the following:

- A. The applicable provisions of the Land Use Code including their purpose and context, and
- B. The applicable provisions of the Standard Land Use Coding Manual and the Standard Industrial Classification Manual, and
- C. The implications of the interpretation for development within the City as a whole, and
- D. The impact of the interpretation on other provisions of the Land Use Code, and
- E. The Comprehensive Plan and other relevant codes and policies, and
- F. The opinion of the City Attorney on the interpretation.

.145 Limitation on Authority: The Director of Design and Development may not make an interpretation of any provision of the Land Use Code which modifies or conflicts with any other provision of the Land Use Code, unless the purpose of the interpretation is to resolve a conflict between provisions of the Land Use Code.

.150 Enforcement: An interpretation of the Land Use Code issued under



8-05-85  
0898c

this Part may be enforced in the same manner that any provision of the Land Use Code is enforced.

- .155 Time Limitation: An interpretation of the Land Use Code remains in effect until rescinded in writing by the Director of Design and Development.
- .160 Response to Written Request: The Director of Design and Development shall mail a written response to any person filing a written request to interpret the provisions of the Land Use Code within 14 calendar days of having received that request.
- 20.30L Vacation of Public Right-of-Way
- .110 Owner Defined - Establishing Sufficiency of Signatures on Petitions
- A. Owner. The term "owner of an interest in real estate" means and includes the owners of fee title, and contract vendees.
- B. Sufficiency of Signature. For the purpose of determining the sufficiency of signatures of "owners of private property" on the petition, or consent to vacate, the following rules shall govern:
1. The signature of an owner, as determined by the records of the County Comptroller shall be sufficient without the signature of his or her spouse.
  2. In the case of mortgaged property, the signature of the mortgagor shall be sufficient.
  3. In the case of property subject to a contract of purchase, the signatures of the contractor vendor and vendee shall be required.
  4. In the case of ownership by a corporation, the signature of any officer authorized by the bylaws or resolution of the board of directors shall be sufficient when evidenced by an excerpt of the said bylaws or said resolution, certified by the secretary of said corporation, granting such authority.
  5. In the case of property owned by the estate of a decedent or incompetent, the signature of the duly qualified administrator or executor or guardian shall be equivalent to the signature of the owner of the property.
- .115 Petition or Resolution for Vacation
- The owners of an interest in any real estate abutting upon any street

8-05-85  
0898c

or alley who may desire to vacate the street or alley, or any part thereof, may petition the council to make vacation, giving the description of the property to be vacated; or the council may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, the council by resolution, shall fix a time when the petition will be heard, which time shall not be more than sixty days nor less than twenty days after the date of passage of such resolution.

.120 Filing Petition - Prehearing Fee and Posthearing Fee:

- A. The petition, properly signed, shall be filed with the City Clerk upon payment of a nonrefundable prehearing fee, which shall be paid into the general fund of the City to aid in defraying the expenses incurred by the City in checking the sufficiency of such petition and investigating or reporting the facts. The amount of such fee shall be determined from a fee schedule approved by the City Council and on file with the City Clerk. Said schedule shall be subject to change from time to time to allow for any changes in costs. Where one to five separate ownerships abut the proposed vacation, a minimum filing fee shall be charged; and an additional sum shall be charged for each additional ownership over five in accordance with the fee schedule. In the event that the filing fee, computed on petitioner's estimate, proves to be insufficient as evidenced by the engineer's report, the balance of said fee shall be paid before notices of hearing are mailed.
- B. Subsequent to the hearing and to the conditional approval by Council of the petition, should the petitioner elect to proceed, a posthearing fee shall be paid by the petitioner in accordance with the fee schedule and deposited in the General Fund of the City to defray expenses of the City in further processing the application. The posthearing fee shall be due from any petitioner whose application receives conditional approval on or after the effective date of this ordinance.
- C. In the event that the City Council initiates a right-of-way vacation, fees shall not be required unless the Council directs otherwise. (Ord. 3265, 6-6-83, Section 1)

.125 Notice of Hearing

Upon passage of the resolution fixing the time for a public hearing, the City Clerk shall cause a written notice of the pendency of the petition to be posted, at least 20 calendar days prior to the date set for hearing, in three public places in the City as determined in

8-05-85  
0898c

Chapter 1.08 of the Bellevue City Code and a like notice to be posted in a conspicuous place on that portion of the street or alley sought to be vacated, and copies of such notice shall be mailed, at least 20 calendar days prior to date of hearing, to each owner of property within 300 feet of the right-of-way proposed to be vacated, including the petitioners, at a local address if a resident of the City, otherwise to the last address showing on the records of the county department of records and elections. Said notice shall contain a statement that the petition has been filed to vacate the portion described in the notice together with a statement of the time and place fixed for the hearing of the petition and inviting interested persons to appear and be heard for or against the granting thereof or to submit written comment prior to that date. (Ord. 3265, 6-6-83, Section 2)

.130 Notice Where Vacation Initiated by Council; Objections

In all cases where the proceeding is initiated by resolution of the Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be given as provided in Section 20.30.570; provided, that if fifty percent of the abutting property owners file written objection to the proposed vacation with the clerk, prior to the time of the hearing, the Council shall be prohibited from proceeding with the resolution. (Ord. 3265, 6-6-83, Section 3)

.135 Hearing

At the time appointed for the hearing of the petition or resolution, or at such time as the same may be adjourned to by the council, the matter shall be considered and persons desiring to speak for or against the vacation thereof shall be heard. Following such hearing, the council shall determine:

- A. Whether a change of use or vacation of the described portion will better serve the public good; or
- B. Whether the street, alley or portion thereof is no longer required for public use; or
- C. Whether the use thereof as a public way is of such public benefit as not to justify the cost of maintenance; or
- D. Whether the substitution of a new and different thoroughfare would be more useful to the public; or
- E. Whether conditions may so change in the future as to provide a greater public use or need than presently exists; and

8-05-85  
0898c

F. Whether objections to the proposed vacation are made by owners of private property (exclusive of petitioners) abutting the same.

.140 Objections to Vacations

In the event that the owners of any real estate abutting upon the portion of any street or alley sought to be vacated object to such vacation (exclusive of petitioners), the City Council shall not vacate such street or alley or portion thereof without (A) determining the extent of the damage or injury to any objecting abutting owner whose vested rights shall be affected by such vacation and (B) making provision for the compensation thereof.

.145 Granting Vacation - Provision for Rededication

If there are no objections, by owners of real estate abutting on the portion of the street or alley to be vacated, sufficient to warrant retention of the right-of-way as determined by the Council, and if the Council deems that such vacation shall be to the public's interest and advantage, the Council may, by ordinance and subject to provisions of this Code regarding payment of compensation, vacate such street, alley or part thereof reserving to the City an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair and maintenance of public utilities and services and may impose such other conditions or limitations as it deems necessary and proper to preserve any desired public use or benefit. If the council finds that future development of undeveloped land abutting such street or alley may alter or increase need or public use in such strip, such vacation may be granted only upon execution of a covenant running with such abutting land to rededicate such portion upon a declaration of public use and necessity by the City Council.

.150 Objections to be in Writing

Objections of abutting owners must be in writing and filed with the clerk or council before conclusion of said hearing.

.155 Amended Petition

If, after a hearing, the council determines that the petition cannot be granted in whole, but that a vacation of a portion of the area described in the original petition should be vacated, then the Council may order that said portion be vacated.

.160 Classifications of Public Ways for Purpose of Compensation

For purposes of this Code, all properties within the City primarily

8-05-85  
0898c

used or reserved for use as public ways, including streets and alleys, are declared to be within one of three classes:

Class I: Real property in which the City holds fee simple title;

Class II: Real property in which the interest of the City is limited to a public easement or right of use for particular purposes and not qualifying under Class III below.

Class III: Easements conveyed to or held by the City for which no public funds have been expended in the acquisition and which would otherwise be classified as Class II, except for the fact that the grantor has applied for vacation of the same.

.165 Amount of Compensation

The amount of compensation required to be paid to the City as a condition precedent to the vacation of a public way shall be determined according to the following criteria:

- A. Class I property, as defined in Section 20.30.593, shall be considered a sale of a capital asset and shall be compensated for at 100% of its fair market value;
- B. Rights of way over Class II property shall be compensated for in the amount of 50% of the fair market value of said property;
- C. Vacation of Class III rights-of-way shall not require compensation in excess of filing fees.

.170 Appraisals

Determinations of fair market value for purposes of this Code shall be made by appraisal of the subject property prepared at the direction of the City Manager or his designee. The costs of any appraisals shall be added to the amount of compensation established by Section 20.30.594 of this Code. Such appraisals shall take into account any retained right of the City for future use which would restrict the private use of the property.

.175 Procedure Where Compensation Required

In the case of Class I or II properties, upon a finding, after a public hearing, the requirements for approval set forth in Section 20.30.590 are satisfied, the City Council may adopt a motion to conditionally approve the petition and direct the City Manager to

8-05-85  
0898c

secure an appraisal of the subject property. The applicant shall post a \$1,000 cash deposit with the City Clerk to ensure payment of the cost of the appraisal. Upon notification that the amount of required compensation has been established, the applicant shall have 90 days to deposit such amount together with appraisal costs with the City Clerk. Credit shall be given for the \$1,000 deposit. In cases where required compensation plus costs exceeds \$10,000, payment may be made under contract acceptable to the City provided that 25% of the amount due is paid down and the contract provides for the unpaid balance plus 12% interest thereon to be paid in equal annual payments over a period of not more than five years. Upon notification of compliance with this Section and any other conditions imposed, the City Council shall, in accordance with its prior motion of approval, adopt an ordinance authorizing the City Manager to execute an appropriate deed to convey Class I property or adopt an ordinance of vacation of a Class II property. If the installment contract method of payment is elected and approved, an ordinance of vacation shall not become effective or be published until the entire balance plus interest has been paid in full and the subject property to be vacated shall not be considered in computing setbacks, minimum lot dimensions and similar requirements until such time. All funds received as compensation pursuant to this chapter shall be deposited in the City's Land Purchase Revolving Fund. (Ord. 3265, 6-6-83, Section 4).

.180 Property Trade in Lieu of Payment

In lieu of payment for monetary compensation, the petitioners may grant or dedicate to the City for street or other purposes, real property useful for that purpose where the property to be acquired by such exchange has a fair market value at least equal to the amount of cash compensation that would otherwise be required. The City shall not be obligated to accept such an exchange and the decision of the City Manager on the acceptability of the alternate property offered shall be final.

.185 Waiving Compensation - Other Governmental Agencies

Where vacation or transfer of a public way is applied for by or on behalf of another governmental agency or jurisdiction, the City Council may waive any compensation required by this Code and may also waive filing fees, if the Council deems such a waiver to be to the public's interest and advantage. A transfer or vacation of property in which compensation has been waived under this section shall be accompanied by a covenant providing that the City shall be compensated by the fair market value of the interest conveyed or vacated at the time of any future sale or lease of the subject property by said other governmental agency.

8-05-85  
0898c

20.30M Temporary Use Permitt

- .110 Scope: This Part (20.30M) establishes the procedure and criteria that the City will use in making a decision upon an application for a Temporary Use Permit.
- .115 Applicability: This Part applies to each application for a Temporary Use Permit whether located on private property or on the public right-of-way.
- .120 Purpose: A Temporary Use Permit is a mechanism by which the City may permit a use to locate within the City on an interim basis without requiring full compliance with the development standards of the Land Use District or by which the City may permit seasonal or transient uses not otherwise permitted.
- .125 Applicable Procedure:
- A. The Director of Design and Development shall, in consultation with the Public Works Department, the Fire Department, and the Police Department as appropriate, review and decide upon each application for a Temporary Use Permit.
  - B. The decision of the Director of Design and Development may be appealed using Process VI, Section 20.35.600 et. seq.
- .130 Who May Apply: The property owner may apply for a Temporary Use Permit on private property. Any person may apply for a Temporary Use Permit on public right-of-way.
- .135 Submittal Requirements:
- A. The Director of Design and Development shall specify the submittal requirements, including type, detail, and number of copies, for a Temporary Use Permit application to be deemed complete and accepted for filing.
  - B. The Director of Design and Development may waive specific submittal requirements determined to be unnecessary for review of an application.
- .140 Decision Criteria: The Director of Design and Development may approve or modify and approve an application for a Temporary Use Permit if --
- A. The Temporary Use will not be materially detrimental to the public health, safety, or welfare, nor injurious to property or improvements in the immediate vicinity of the Temporary Use, and

8-05-85  
0898c

- B. The Temporary Use is compatible with the purpose and intent of this Code and the specific Land Use District in which it will be located, and
- C. The Temporary Use is compatible in intensity and appearance with existing land uses in the immediate vicinity of the Temporary Use, and
- D. Structures proposed for the Temporary Use comply with setback and sight distance requirements of the Land Use Code and with applicable Building and Fire Code standards, and
- E. Access is provided such that on-street parking is not required, and
- F. Adequate parking is provided to serve the Temporary Use, and if applicable the Temporary Use does not create a parking shortage for other existing uses on the site, and
- G. Hours of operation of the Temporary Use are specified, and
- H. The Temporary Use will not cause noise, light, or glare which adversely impacts surrounding uses, and
- I. If applicable, the applicant has obtained the required right-of-way use permit.

.145 Time Limitation:

- A. General: A Temporary Use Permit is valid for up to 90 calendar days from the effective date of the permit, except as specifically provided in the Land Use Code. The Director of Design and Development may establish a shorter time frame.
- B. Extended Temporary Uses: The Director of Design and Development may approve a Temporary Use Permit for up to one year for temporary sales offices in subdivisions, temporary sales or rental offices in multifamily projects or other longer term uses as specified in the Land Use Code.

.150 Limitation on Activity: A property owner or other holder of a Temporary Use Permit may not file an application for a successive Temporary Use Permit for 30 days following the expiration of an approved permit applying to that property.

.155 Removal of Temporary Use:

- A. The Director of Design and Development shall establish, as a



8-05-85  
0897c

condition of each Temporary Use Permit, a time within which the use and all physical evidence of the use must be removed.

- B. If the applicant has not removed the use as required by the Temporary Use Permit, the City may abate the use as provided under Section .160.

- .160 Abatement of Temporary Use: Prior to the approval of a Temporary Use Permit, the applicant shall submit to the Director of Design and Development an irrevocable, signed and notarized statement granting the City permission to summarily abate the Temporary Use, and all physical evidence of that use if it has not been removed as required by the terms of the Permit. The statement shall also indicate that the applicant will reimburse the City for any expenses incurred in abating a Temporary Use under the authority of this Section.
- .165 Assurance Device: In appropriate circumstances the Director of Design and Development may require a reasonable performance or maintenance assurance device in conformance with Section 20.40.490 to assure compliance with the provisions of the Land Use Code and the Temporary Use Permit as approved.

Section 75. Bellevue City Code (Land Use Code) Title 20 is amended by the addition of a new Chapter (20.35) which reads as follows:

20.35.100 Process I - Hearing Examiner Review Process

- .110 Scope: Section 20.35.100 et.seq. contains the procedures that the City will use in implementing Process I. This Process includes a hearing and recommendation or decision by the Hearing Examiner. City Council action may be required following that of the Hearing Examiner and Community Council action may also be required. Means to modify approved decisions are also included.
- .115 Applicability: Section 20.35.100 et.seq. applies each time a provision of the Bellevue City Code requires a decision using Process I.
- .120 State Environmental Policy Act: The State Environmental Act and the Bellevue Environmental Procedures Code (Bellevue City Code

8-05-85  
0897c

22.02) may apply to an action taken under Section 20.35.100 et.seq. Read Bellevue City Code 22.02 for additional notice provisions, decision authority and other review requirements.

.125 Authority: In accordance with the provisions of this Chapter --

- A. The Hearing Examiner shall conduct a public hearing and either recommend approval or approval with modifications to the City Council or shall deny the proposal.
- B. The City Council shall approve, approve with modifications or deny each application which comes before it under Process I.
- C. When applicable, the Community Council with jurisdiction shall approve, disapprove or take no action on each application which comes before it under Process I.
- D. The applicable Department Director shall approve, approve with modifications or deny an administrative amendment to a previously approved project or decision.

.130 Public Notice of Hearing Examiner Hearing:

- A. Content: The applicable Department Director shall prepare a notice of a public hearing on the application containing the following:
  - 1. The name of the applicant and, if applicable, the project name, and
  - 2. The street address of the subject property and a description in non-legal terms sufficient to identify its location, and
  - 3. A vicinity map indicating the location of the subject property, and
  - 4. The citation of the Bellevue City Code provision requiring a decision using Process I, and
  - 5. A brief description of the action, permit or approval requested in the application, and
  - 6. The date, time and place of the public hearing before the Hearing Examiner, and

8-05-85  
0897c

7. A statement of the right of any person to participate in the public hearing as provided for in Paragraph .135.B, and
8. A statement that only those persons who participate in the public hearing as provided in Paragraph .135.B may --
  - a. Request reconsideration by the Hearing Examiner, or
  - b. Appeal the decision or recommendation of the Hearing Examiner.

B. Provision of Notice:

1. Time of Notice: The applicable Department Director shall provide notice of the public hearing at least 17 calendar days prior to the date of the public hearing.
2. Means of Notice: The applicable Department Director shall provide notice of the public hearing by --
  - a. Publishing notice of the public hearing in a newspaper printed and published within the City (See Bellevue City Code 1.08), and
  - b. Posting notice of the public hearing at each official posting place of the City (See Bellevue City Code 1.08), and
  - c. Requiring the applicant to erect public information signs in conformance with Bellevue City Code 2.14, and
  - d. Mailing notice of the public hearing to each owner of real property within 300 feet or within three separate property ownerships of the boundary of the subject property, whichever is greater, and
  - e. Mailing notice of the public hearing addressed to "occupant/tenant" to each address within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant.

8-05-85  
0897c

"Occupant/tenant" need not be identified by name, and

- f. Mailing notice of the public hearing to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director.
- g. Mailing notice to each member of a Community Council.

.135 Public Hearing Before Hearing Examiner:

- A. Who May Participate: Any person may participate in the public hearing.
- B. How to Participate: A person may participate in the public hearing by --
  - 1. Submitting written comments to the applicable Department Director prior to the public hearing, or
  - 2. Submitting written comments or making oral comments to the Hearing Examiner at the public hearing.

The applicable Department Director shall transmit all written comments received prior to the public hearing to the Hearing Examiner no later than the date of that hearing.
- C. Hearing Record: The Hearing Examiner shall make an electronic sound recording of each hearing.

.140 Hearing Examiner Action:

- A. General: After the public hearing the Hearing Examiner shall either recommend approval or approval with modifications of the application or shall deny the application.
- B. Criteria: The Hearing Examiner may recommend approval or approval with modifications if --
  - 1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications, and

8-05-85  
0897c

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

In all other cases, the Hearing Examiner shall deny the application.

- C. Limitation on Modification: If the Hearing Examiner recommends a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Paragraph .130.A, the Hearing Examiner shall conduct a new hearing on the proposal as modified.
- D. Conditions: The Hearing Examiner may include conditions as part of the recommendation of approval or approval with modifications to insure conformance with Paragraph 140.B.
- E. Written Recommendation/Decision of the Hearing Examiner:
  1. Content: The Hearing Examiner shall within 10 working days following the conclusion of all testimony and hearings distribute a written recommendation or decision which contains --
    - a. A statement indicating that the application is recommended for approval or approval with modifications or is denied, and
    - b. A statement of any conditions included as part of the recommendation of approval or approval with modifications, and
    - c. A statement of the facts upon which the recommendation or decision, including any conditions, was based and the conclusions derived from those facts, and
    - d. A statement of the right of any person who participated in the public hearing as provided for in Paragraph .135.B to --
      - i. Request a reconsideration by the Hearing Examiner as provided for in Section .145, or
      - ii. Appeal the recommendation or decision of the Hearing Examiner as provided for in Section .150.

8-05-85  
0897c

2. Distribution: The Office of the Hearing Examiner shall mail the written recommendation or decision of the Hearing Examiner, bearing the date it is mailed, to each person who participated in the public hearing as provided for in Paragraph .135.B.
3. Limitation on Council Action: The City Council may not consider the application for at least 20 calendar days after the date the recommendation or decision of the Hearing Examiner was mailed.

F. Hearing Examiner's Power to Correct Errors or Clarify:

1. The Hearing Examiner may, at any time prior to a City Council decision on the application, amend the recommendation or decision to correct ministerial errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in Section 20.35.100 et. seq.
2. The Hearing Examiner may at any time clarify a statement in the written recommendation or decision as long as the clarification does not alter the intent or effect of the recommendation or decision.

.145 Request for Reconsideration by the Hearing Examiner:

- A. Who May Request Reconsideration: Any person who participated in the public hearing as provided for in Paragraph .135.B may request that the Hearing Examiner reconsider the recommendation or decision. In addition, the Hearing Examiner may initiate a reconsideration on his/her own initiative.
- B. When Reconsideration is Permitted: The Hearing Examiner may reconsider the recommendation or decision only if --
  1. There is a material error of fact which substantially affects the recommendation or decision, or
  2. There is a provision in the Bellevue City Code which substantially affects the recommendation or decision which was not considered by the Hearing Examiner, or
  3. There is new information which substantially affects the recommendation or decision which was not reasonably available at the time of the public hearing.

8-05-85  
0897c

- C. Form of Request: The person requesting reconsideration must file a written statement identifying the specific findings of fact or conclusions of the Hearing Examiner which are alleged to be in error or identifying the specific omission or new evidence; and must provide a factual showing sufficient to substantiate the need for reconsideration.
- D. Filing Requirements: The person requesting reconsideration must file that request with the Office of the Hearing Examiner by 5:00 p.m., no more than 10 calendar days following the date on which the recommendation or decision of the Hearing Examiner was mailed.
- E. Decision to Reconsider:
1. The Hearing Examiner shall consider the Request for Reconsideration to determine whether it has possible merit.
  2. A Request for Reconsideration has possible merit if it is within the scope of Paragraph .145.B and the proponent has provided a factual showing sufficient to substantiate the need for reconsideration.
  3. If the Hearing Examiner decides that the Request for Reconsideration has possible merit, the provisions of Paragraph .145.G apply. Otherwise, the Hearing Examiner shall deny the request and the provisions of Paragraph .145.F apply.
  4. The Hearing Examiner shall summarily deny a Request for Reconsideration that is brought merely to secure a delay.
- F. Denial of Request for Reconsideration:
1. The Office of the Hearing Examiner shall mail to the proponent of the Request a written notice of the decision that the Request was without possible merit and is denied within 10 calendar days following receipt of the Request for Reconsideration.
  2. This notice does not affect the time by which a person must appeal the recommendation or decision of the Hearing Examiner as provided in Section .150.

8-C5-85  
0897c

3. The decision of the Hearing Examiner to deny a Request for Reconsideration is final.

G. Granting of Request for Reconsideration:

1. The Office of the Hearing Examiner shall mail to the proponent of the Request a written notice of the decision that the Request had possible merit and was granted within 10 calendar days following receipt of the Request for Reconsideration.
2. The Hearing Examiner shall notify each person who participated in the public hearing in conformance with Paragraph .135.B and shall conduct the reconsideration review in accordance with the Hearing Examiner Rules of Procedure.
3. The Hearing Examiner shall either affirm the prior recommendation or decision or shall issue a new recommendation or decision. A new appeal period shall begin from the date the recommendation or decision is affirmed or issued. The provisions of Paragraph .140.E and 140.F apply.

.150 Appeal of Hearing Examiner Recommendation or Decision:

- A. General: A recommendation or decision of the Hearing Examiner may be appealed to the City Council.
- B. Who May Appeal: The recommendation or decision of the Hearing Examiner may be appealed by any person who participated in the public hearing as provided for in Paragraph .135.B.
- C. Form of Appeal: A person appealing the recommendation or decision of the Hearing Examiner must file a written statement of the findings of fact or conclusions which are being appealed with the City Clerk and must pay a fee as established by ordinance or resolution.
- D. Time to Appeal: A written statement appealing the recommendation or decision of the Hearing Examiner must be filed and the appeal fee paid no more than 20 calendar days following the date that the recommendation or decision of the Hearing Examiner was mailed. The time to appeal is stayed only if the Hearing Examiner grants a Request for Reconsideration as provided for in Section 145.



8-05-85  
0897c

E. Hearing Required:

1. Authority: The City Council shall conduct an appeal hearing limited to the record developed before the Hearing Examiner, and shall decide upon an appeal of the recommendation or decision of the Hearing Examiner prior to or in conjunction with taking final action on the application pursuant to Section .155.

2. Public Notice of Appeal Hearing:

a. Content: The City Clerk shall prepare a notice of an appeal hearing on the appeal of the recommendation or decision of the Hearing Examiner containing the following:

- i. The name of the appellant, and if applicable the project name, and
- ii. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
- iii. A vicinity map indicating the location of the subject property, and
- iv. A brief description of the recommendation or decision of the Hearing Examiner which is being appealed, and
- v. The date, time and place of the appeal hearing before the City Council, and
- vi. A statement of the right of the project proponent, the appellant, the applicable Department Director, witnesses called by each and any non-party upon a determination that the testimony will be relevant and non-repetitive to participate in the appeal hearing as provided in Paragraph .150.E.3.b.

b. Time and Provision of Notice: The City Clerk shall mail notice of the appeal hearing on an appeal of the recommendation or decision of the Hearing Examiner, bearing the date it is mailed at least 17 calendar days prior to the appeal hearing to each person entitled to participate in the appeal pursuant to Paragraph .150.E.3.a.

8-05-85  
0897c

3. Public Hearing on Appeal:

- a. Who May Participate: The applicant, the appellant, the applicable Department Director, witnesses called by each and a non-party upon a determination that their testimony will be relevant and non-repetitive, may participate in the appeal hearing.
- b. How to Participate: A person entitled to participate may participate in the appeal hearing by --
  - i. Submitting written comments on the appeal to the City Clerk at least five calendar days prior to the appeal hearing, or
  - ii. Submitting written comments or making oral comments on the appeal to the City Council at the appeal hearing.

The City Clerk shall transmit all written comments received prior to the appeal hearing to the City Council no later than the date of that hearing.

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

4. City Council Decision on Appeal:

- a. General: After the appeal hearing the City Council shall either grant, grant with modifications or deny the appeal.
- b. Criteria: The City Council may grant the appeal or grant the appeal with modifications if --
  - i. The appellant has carried the burden of proof and produced evidence sufficient to support the conclusion that the appeal should be granted, and
  - ii. The City Council finds that the recommendation or decision of the Hearing Examiner is not supported by the preponderance of the evidence.

8-05-85  
0897c

The City Council shall accord substantial weight to the recommendation or decision of the Hearing Examiner.

- c. Conditions: The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modifications to insure conformance with the criteria under which the application was made.
- d. Findings: The City Council shall adopt findings and conclusions which support its decision on the appeal.
- e. 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.

.155 City Council Action on the Application:

- A. General. The City Council shall, at a public meeting, consider and take final action on each application processed under Section 20.35.100 et.seq.
- B. Elements to be Considered: The City Council shall consider the following in deciding upon an application:
  1. The application, and
  2. The minutes, a verbatim transcript or other written summary of any public hearing on the application, and any written material submitted in conformance with the provisions of this Chapter, and
  3. The recommendation of the Hearing Examiner, and
  4. The recommendation of the applicable City Department, and
  5. The comments of a Community Council with jurisdiction pursuant to RCW 35.14, and
  6. The City Council decision on an appeal of the recommendation or decision of the Hearing Examiner pursuant to Section .150 and

8-05-85  
0897c

7. The criteria listed in each Section of the Bellevue City Code under which the application was made, and
8. Any other relevant information which is part of the record on the application.

The City Council shall not accept new information, written or oral, on the application.

C. Action: The City Council shall either --

1. Approve the application incorporating its decision on any appeal pursuant to Section .150; or
2. Approve the application with modifications, also incorporating its decision on any appeal pursuant to Section .150, unless otherwise precluded by state law; or
3. Conduct a hearing on the application or refer the application to the Hearing Examiner for an additional hearing; or
4. Deny the application.

D. Ordinance or Resolution:

1. Conditions: The City Council may, based on the record, include conditions in any ordinance or resolution approving or approving with modifications an application in order to insure conformance with the criteria under which the application was made.
2. Findings of Fact and Conclusions: The City Council shall include findings of fact and conclusions derived from those facts which support the decision of the Council, including any conditions, in the ordinance or resolution approving or approving with modifications the application. The City Council may by reference adopt some or all of the findings and conclusions of the Hearing Examiner.

E. Required Vote:

1. The City Council shall adopt an ordinance or resolution which approves or approves with modifications the application by a majority vote of the membership of the City Council.

8-05-85  
0897c

2. Any other vote constitutes a denial of the application.

F. Distribution: The City Clerk shall mail a letter, bearing the date it is mailed, indicating the content of the final decision of the City to any person who participated in the public hearing on the application as provided for in Paragraph .135.B.

G. Effect of Decision:

1. Subject to Section .165 relating to jurisdiction of a Community Council, the decision of the City Council on the application is the final decision of the City.

2. Subject to Section .165 relating to jurisdiction of a Community Council, the decision of the City Council on the application may be appealed to the Superior Court as provided for in Section .170.

H. Commencement of Activity: Subject to Section .165 relating to the jurisdiction of a Community Council, the applicant may commence activity or obtain other required approvals authorized by the approval or approval with modifications of the application seven days following the effective date of the Ordinance or Resolution. Activity commenced prior to the expiration of the full appeal period (Section .170) is at the sole risk of the applicant.

.160 Additional Hearing Procedure:

A. If the City Council directs the Hearing Examiner to hear an application, the provisions of Sections .130 through .140 apply. The applicable Department Director shall amend the notice of the public hearing as necessary to reflect this process.

B. If the City Council holds a hearing on the application, the provisions of Section .130, .135 and .155 apply. The City Clerk shall amend the notice of the public hearing as necessary to reflect this process.

.165 Community Council Review and Action:

A. Courtesy Public Hearing:

1. General: If the application is within the disapproval jurisdiction of a Community Council with

8-05-85  
0897c

jurisdiction pursuant to RCW 35.14, that Council may hold a courtesy public hearing on the application prior to the City Council decision on the application.

2. Notice: The applicable Department Director shall prepare and distribute notice of the courtesy public hearing as provided for in the Rules of Procedure of the Community Council.
3. Courtesy Public Hearing Procedure: The Community Council may conduct a courtesy public hearing in accordance with the Rules of Procedure of the Community Council.
4. Comment: Following a courtesy public hearing on the application, the Community Council may provide informational comments on the application to the City Council. These comments may also be addressed to the Hearing Examiner. Comments are not binding on the Community Council in the exercise of its disapproval jurisdiction.

B. Disapproval Jurisdiction:

1. If the City Council approves or approves with modifications, an application within the disapproval jurisdiction of a Community Council pursuant to RCW 35.14, that approval is not effective within the jurisdiction of the Community Council with jurisdiction until --
  - a. The majority of the membership of the Community Council vote following a public hearing to approve the ordinance or resolution, or
  - b. The Community Council fails to disapprove the ordinance or resolution within 60 calendar days of the enactment of that ordinance or resolution.

A majority of the membership of the Community Council must vote to disapprove an ordinance or resolution.

2. Notice: The applicable Department Director shall prepare and distribute notice of the public hearing as provided for in the Rules of Procedure of the Community Council.

8-05-85  
0897c

3. Public Hearing Procedure: The Community Council shall conduct a public hearing in accordance with the Rules of Procedure of the Community Council.
  4. Hearing Record: The Community Council shall make an electronic sound recording of the public hearing.
- C. Appeal to Superior Court: The decision of the Community Council may be appealed to Superior Court as provided for in the Rules of Procedure of the Community Council.

.170 Appeal of City Council Action to Superior Court:

- A. Who May Appeal: The decision of the City Council may be appealed by --
1. The applicant, or
  2. Any person who --
    - a. Participated in the public hearing in conformance with Paragraph .135.B of this Chapter if no appeal was filed, or
    - b. Participated as a party in the appeal hearing in conformance with Paragraph .150.E.3. if an appeal was filed.
- B. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition, or writ of mandamus.
- C. Time to Appeal: The decision of the City Council must be appealed to Superior Court no more than 20 calendar days following the effective date of the Council decision on the application or is thereafter barred.

.175 Amendment of an Approved Project or Decision:

- A. General: Except as otherwise provided in Paragraph .175.B an amendment of a previously approved project or decision is treated as a new application for decision using Process I, Sections .110-.170
- B. Administrative Amendment:
1. Scope: Paragraph .175.B contains the procedure that the City will use in deciding on an Administrative

8-05-85  
0897c

Amendment. A proposed amendment which the applicable Department Director determines is within the authority of Paragraph .175.B.2 will be decided as an Administrative Amendment unless the applicant has chosen to have the amendment reviewed as a new application using Process I, Sections .110-.170.

2. Authority for Administrative Amendment: The applicable Department Director shall act on 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 does not constitute a significant change to the original approval. Examples include small additions; changes in color, plant material or parking configuration; adjustments to structure location not affecting surrounding property, and elements such as fences, minor structural elements, carports or mechanical equipment and associated screening, and
  - d. The amendment does not cause a significant adverse environmental impact on or beyond the site, and
  - e. The amendment does not affect an element of the original approval identified in that approval as requiring major review, and
  - f. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively
3. Decision Criteria: The applicable Department Director may approve or approve with modifications an administrative amendment if --
  - a. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications, and



8-05-85  
0897c

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

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

4. Conditions:

The applicable Department Director may include conditions as part of the approval or approval with modifications to insure conformance with Paragraph .175.B.3.

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

- a. A description of the project or decision and the proposed administrative amendment, and
- b. An analysis of the proposed administrative amendment using the applicable decision criteria and a determination that the administrative amendment is within the scope of an administrative amendment pursuant to Paragraph .175.B.1, and
- c. A statement that the administrative amendment is proposed to be approved, approved with modifications or denied subject to the provisions of this Section, and
- d. A statement of facts upon which the proposed decision, including any conditions, was based and conclusions derived from those facts.

6. Public Notice of Proposed Decision:

- a. Content: The applicable Department Director shall prepare a notice of the proposed decision containing the following:
  - 1. The name of the applicant and, if applicable, the project name, and

8-05-85  
0897c

- ii. The street address of the subject property and a description in non-legal terms sufficient to identify its location, and
  - iii. A vicinity map indicating the location of the subject property, and
  - iv. The file number of the previously approved project or decision, and
  - v. A brief description of the previously approved project or decision and of the proposed administrative amendment, and
  - vi. A statement that the proposed administrative amendment was approved, approved with modifications or denied subject to the filing of an objection pursuant to Paragraph .175.B.8, and
  - vii. A statement that the proposed decision will become final unless an objection is filed pursuant to Section .175, and
  - viii. A statement of the right of any person to whom notice was mailed to file an objection to the proposed decision pursuant to Section .175, and
  - ix. A statement that filing an objection pursuant to Paragraph .175.B.8 will cause the proposed decision to be void and will result in the proposed amendment being treated as a new application under Process I Section .110-.170, and
  - x. A statement that if no objection is filed pursuant to Paragraph .175.B.8 the proposed decision of the Director becomes final and may be appealed as provided in Paragraph 175.B.10.
- b. Provision of Notice: The applicable Department Director shall mail notice of the proposed decision to --
- i. The applicant, and

8-05-85  
0897c

- ii. Each owner of real property within 300' or within three separate property ownerships of any boundary of the subject property, whichever is greater, and
- iii. Each address addressed to "occupant/tenant" within 300' or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant" need not be identified by name, and
- iv. Each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
- v. Each person who can be identified from existing City records as having participated in the original decision, and
- vi. Each member of a Community Council.

7. Community Council Review:

- a. Review Within Geographic Boundary: The applicable Department Director shall review each proposed decision within the jurisdiction of an affected Community Council at a public meeting of that Council.
- b. Time Limit: In addition to the time limits of Paragraph .175.B.8, the proposed decision of the applicable Department Director regarding an action within the geographic boundary of an affected Community Council is not effective for seven calendar days following the public meeting of the Community Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.

8-05-85  
0897c

8. Objection:

- a. Who May File: Any person to whom notice was mailed pursuant to Paragraph .175.B.6, or the applicant may file an objection to the proposed decision.
- b. How to File: An objection must be in writing and must be filed with the Office of Permit Coordination by 5:00 p.m. within 17 calendar days of the date notice of the proposed decision was mailed. There is no fee for filing an objection.
- c. Effect of Objection: If an objection is filed pursuant to Paragraph .175.B.8 the proposed decision of the Director is void and the amendment will be processed as a new application using Process I, Sections .110-.170.
- d. Effect of No Objection: If no objection is filed pursuant to Paragraph .175.B.8, the proposed decision of the Director becomes final and may be appealed pursuant to Paragraph .175.B.10.

9. Commencement of Activity: If no objection is filed pursuant to Paragraph .175.B.8, the applicant may commence activity or obtain other required approvals authorized by the Director's decision seven calendar days following the final decision of the City. Activity commenced prior to the expiration of the full appeal period provided in Paragraph .175.B.10 is at the sole risk of the applicant.

10. Appeal of Director's Decision:

- a. Who May Appeal: The decision of the applicable Department Director may be appealed by --
  - i. The applicant, or
  - ii. Any person to whom notice of the proposed decision was mailed pursuant to Paragraph .175.B.6 or .175.B.7.
- b. Form of Appeal: A person filing an appeal must make application to Superior Court for a writ of

8-05-85  
0897c

certiorari, writ of prohibition or writ of mandamus.

- c. Time to Appeal: The decision of the applicable Department Director must be appealed to Superior Court no more than 20 calendar days following the date on which the time to object expired or is thereafter barred.

20.35.200 Process II: Administrative Review Process

- .210 Scope: Section 20.35.200 et. seq. contains the procedures that the City will use in implementing Process II. This Process includes opportunity for public comment followed by a decision by the applicable Department Director. Means to modify approved decisions are also included.
- .215 Applicability: Section 20.35.200 et. seq. applies each time a provision of the Bellevue City Code requires a decision using Process II.
- .220 State Environmental Policy Act: The State Environmental Policy Act and the Bellevue Environmental Procedures Code (Bellevue City Code 22.02) may apply to any action taken under Section 20.35.200 et. seq. Read Bellevue City Code 22.02 for additional notice provisions, decision authority and other review requirements.
- .225 Authority: In accordance with the provisions of Section 20.35.200 et. seq., the applicable Department Director shall approve, approve with modifications or deny each application under Process II.
- .230 Public Notice of Upcoming Decision:
- A. Content: The applicable Department Director shall prepare notice of an upcoming decision on the application containing the following:
1. The name of the applicant, and if applicable, the project name, and
  2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location, and
  3. A vicinity map indicating the location of the subject property, and

8-05-85  
0897c

4. The citation of the Bellevue City Code provision requiring a decision using Process II, and
5. A brief description of the action, permit, or approval requested in the application, and
6. The date on which the minimum public comment period ends and an explanation of this date in relation to other City processes and time limits, and
7. A statement of the right of any person to participate in the decision as provided for in Paragraph .235.B, and
3. A statement that only those persons who participate in the decision as provided in Paragraph .235.B may appeal the decision of the applicable Department Director.

B. Provision of Notice

1. Time of Notice: The applicable Department Director shall provide notice of an upcoming decision on the application at least 17 calendar days prior to the decision.
2. Means of Notice: The applicable Department Director shall provide notice of an upcoming decision on the application by --
  - a. Posting notice of the upcoming decision at each official posting place of the City (See Bellevue City Code 1.08), and
  - b. Requiring the applicant to erect public information signs in compliance with Bellevue City Code 2.14 or, if public information signs are not required, then by posting at least three notices of the upcoming decision on or in the vicinity of the subject property, and
  - c. Mailing notice of the upcoming decision to each owner of real property within 300 feet or within three separate property ownerships of the boundary of the subject property, whichever is greater, and
  - d. Mailing notice of the upcoming decision addressed to "occupant/tenant" to each address

8-05-85  
0897c

within 300 feet or within three separate property ownerships of the boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant" need not be identified by name, and

- e. Mailing notice of the upcoming decision to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
- f. Mailing notice of the upcoming decision to each member of a Community Council.

.235 Public Comment Process Before Director's Decision:

- A. Who May Participate: Any person may participate in the decision.
- B. How to Participate: A person may participate in the decision by submitting written comments on the application to the applicable Department Director prior to the date on which the decision is made.

240. Community Council Review:

- A. Review Within Geographic Boundary: The applicable Department Director shall review each proposed decision within the jurisdiction of an affected Community Council at a public meeting of that Council.
- B. Time Limit: In addition to the time limits of Paragraph 245.H, the proposed decision of the applicable Department Director regarding an action within the geographic boundary of an affected Community Council is not effective for seven calendar days following the public meeting of the Community Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.

.245 Applicable Department Director Decision:

- A. General: On or after the date specified in Paragraph .230.B.1, and subject to all other restrictions on the time of decision-making, the applicable Department

8-05-85  
0897c

Director shall either approve, approve with modifications or deny the application.

- B. Criteria: The applicable Department Director may approve or approve with modifications if --
1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications, and
  2. The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code.

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

- C. Limitation on Modification: If the applicable Department Director makes a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Paragraph .230.A, the applicable Department Director shall provide a new notice of an upcoming decision and obtain public comment prior to making a decision.
- D. Conditions: The applicable Department Director may include conditions as part of the approval or approval with modifications to insure conformance with Paragraph 240.B.
- E. Written Decision of the Director:
1. Content: The applicable Department Director shall issue a written decision which contains the following:
    - a. A statement indicating that the application is approved, approved with modifications or denied, and
    - b. A statement of any conditions included as part of an approval or approval with modifications, and
    - c. A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts, and



8-05-85  
0897c

d. A statement of the right of any person who participated in the decision as provided for in Paragraph .235.B to appeal the decision of the applicable Department Director as provided for in Section .250.

2. Distribution: The applicable Department Director shall mail the written decision of the Director, bearing the date it is mailed, to each person who participated in the decision as provided for in Paragraph .235.B.

F. Power to Correct Errors or Clarify:

1. The applicable Department Director may at any time amend the decision to correct ministerial errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in this Chapter.

2. The applicable Department Director may at any time clarify a statement in the written decision as long as the clarification does not alter the intent or effect of the decision.

G. Effect of Decision: Subject to Section .250, the decision of the applicable Department Director on the application is the final decision of the City.

H. Commencement of Activity: Subject to Section .250, the applicant may commence activity or obtain other required approvals authorized by the approval or approval with modifications 20 calendar days following the date on which the final decision of the Director was mailed. If the decision of the applicable Department Director is appealed pursuant to Section .250, no activity may begin and no other City approvals may be granted.

.250 Appeal of Decision of Applicable Department Director:

The decision of the applicable Department Director may be appealed in accordance with the provisions of Process V, Section 20.35.500 et. seq. unless otherwise specified in the Bellevue City Code.

.255 Amendment of an Approved Project or Decision:

A. General: Except as otherwise provided in Paragraph .255.B, an amendment to a previously approved project or

8-05-85  
0897c

decision is treated as a new application for decision using Process II, Section .210-.250.

B. Simple Amendment:

1. Scope: Paragraph .255.B contains the procedure that the City will use in deciding on a simple amendment. A proposed amendment which the applicable Department Director determines is within the authority of Paragraph .255.B.2 will be decided on a Simple Amendment unless the applicant has chosen to have the amendment reviewed as a new application using Process II, Sections .210-.250.
2. Authority for Simple Amendment: The applicable Department Director shall act on 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 does not constitute a significant change to the original approval. Examples include small additions; changes in color, plant material or parking configuration; adjustments to structure location not affecting surrounding property; and elements such as fences, minor structural elements, carports or mechanical equipment and associated screening, and
  - d. The amendment does not cause a significant adverse environmental impact on or beyond the site, and
  - e. The amendment does not affect an element of the original approval identified in that approval as requiring major review, and
  - f. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided as a Simple Amendment.
3. Decision Criteria: The applicable Department Director may approve or approve with modifications a Simple Amendment if --

8-05-85  
0897c

- a. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications, and
- b. The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code.

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

4. Conditions: The applicable Department Director may include conditions as part of the proposed approval or approval with modifications to insure conformance with Paragraph .255.B.3.
5. Written Proposed Decision: The applicable Department Director shall issue a written proposed decision on the simple amendment which contains the following:
  - a. A description of the project or decision and the proposed simple amendment, and
  - b. An analysis of the proposed simple amendment using the applicable decision criteria and a determination that the simple amendment is within the scope of a simple amendment pursuant to Paragraph .255.B.1, and
  - c. A statement that the simple amendment is proposed to be approved, approved with modifications or denied subject to the provisions of this Section, and
  - d. A statement of facts upon which the proposed decision, including any conditions, was based and conclusions derived from those facts.
6. Public Notice of Proposed Decision:
  - a. Content: The applicable Department Director shall prepare a notice of the proposed decision containing the following:
    1. The name of the applicant and, if applicable, the project name, and

8-05-85  
0897c

- ii. The street address of the subject property and a description in non-legal terms sufficient to identify its location, and
  - iii. A vicinity map indicating the location of the subject property, and
  - iv. The file number of the previously approved project or decision, and
  - v. A brief description of the previously approved project or decision and of the proposed simple amendment, and
  - vi. A statement that the proposed simple amendment was approved, approved with modifications or denied subject to the filing of an objection pursuant to Paragraph .255.B.8, and
  - vii. A statement that the proposed decision will become final unless an objection is filed pursuant to Paragraph .255.B.8, and
  - viii. A statement of the right of any person to whom notice was mailed to file an objection to the proposed decision pursuant to Paragraph .255.B.8, and
  - ix. A statement that filing an objection pursuant to Paragraph .255.B.8 will cause the proposed decision to be void and will result in the proposed amendment being treated as a new application under Process II, Sections .210-.250, and
  - x. A statement that if no objection is filed pursuant to Paragraph .255.B.8, the proposed decision of the Director become final and may be appealed as provided in Paragraph .255.B.10.
- b. Provision of Notice: The applicable Department Director shall mail notice of the proposed decision to --
- i. The applicant, and

8-05-85  
0897c

- ii. Each owner of real property within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater, and
  - iii. Each address, addressed to "occupant/tenant" within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant" need not be identified by name; and
  - iv. Each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and
  - v. Each person who can be identified as having participated in the original decision, and
  - vi. Each member of a Community Council.
7. Community Council Review:
- a. Review Within Geographic Boundary: The applicable Department Director shall review each proposed decision within the jurisdiction of an affected Community Council at a public meeting of that Council.
  - b. Time Limit: In addition to the time limits of Paragraph .255.B.8, the proposed decision of the applicable Department Director regarding an action within the geographic boundary of an affected Community Council is not effective for seven calendar days following the public meeting of the Community Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.
8. Objection:
- a. Who May File: Any person to whom notice was mailed pursuant to Paragraph .255.B.6 or the

8-05-85  
0897c

applicant may file an objection to the proposed decision.

- b. How to File: An objection must be in writing and must be filed with the Office of Permit Coordination by 5:00 p.m. within 17 calendar days of the date notice of the proposed decision was mailed. There is no fee for filing an objection.
  - c. Effect of Objection: If an objection is filed pursuant to Paragraph .255.B.8, the proposed decision of the Director is void and the amendment will be processed as a new application, using Process II, Sections .210-.250.
  - d. Effect of No Objection: If no objection is filed pursuant to Paragraph .255.B.8, the proposed decision of the Director becomes final and may be appealed pursuant to Paragraph .255.B.10.
9. Commencement of Activity: If no objection is filed pursuant to Paragraph .255.B.8, the applicant may commence activity or obtain other required approvals authorized by the Director's decision seven days following the final decision of the City. Activity commenced prior to the expiration of the full appeal period provided in Paragraph .255.B.10 is at the sole risk of the applicant.
10. Appeal of Director's Decision:
- a. Who May Appeal: The decision of the applicable Department Director may be appealed by --
    - i. The applicant, or
    - ii. Any person to whom notice of the proposed decision was mailed pursuant to Paragraph .255.B.6.
  - b. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition or writ of mandamus.

8-05-85  
0897c

- c. Time to Appeal: The decision of the applicable Department Director must be appealed to Superior Court no more than 20 calendar days following the date on which the time to object expired or is thereafter barred.

20.35.300 Process III - Variance Process

- .310 Scope: Section 20.35.300 et. seq. contains the procedures that the City will use in implementing Process III. This Process includes a proposed administrative decision which becomes final if no objection is filed. Upon objection, a hearing is required by the Board of Adjustment.
- .315 Applicability: Section 20.35.300 et. seq. applies each time a provision of the Bellevue City Code requires a decision using Process III.
- .320 State Environmental Policy Act: The State Environmental Policy Act and the Bellevue Environmental Procedures Code (Bellevue City Code 22.02) may apply to an action taken under Section 20.35.300 et. seq. Read Bellevue City Code 22.02 for additional notice provisions, decision authority and other review requirements.
- .325 Authority: In accordance with the provisions of Section 20.35.300 et. seq. --
- A. The applicable Department Director shall approve, approve with modifications or deny a variance under Process III unless an objection is filed pursuant to Section .330 or unless the applicant has chosen to have the application reviewed by the Board of Adjustment pursuant to Sections .335 - .355.
- B. The Board of Adjustment shall approve, approve with modifications or deny a variance under Sections .335 - .355 of Process III.
- .330 Director's Decision:
- A. General: This Section contains the procedure that the City will use in deciding on a variance unless the applicant has chosen to have the application reviewed by the Board of Adjustment pursuant to Sections .335 - .355.
- B. Criteria: The applicable Department Director may approve or approve with modifications the application if --

8-05-85  
0897c

1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval; and
2. The applicant has demonstrated that the application complies with the applicable decision criteria of the Bellevue City Code.

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

- C. Conditions: The applicable Department Director may include conditions as part of the approval or approval with modifications to ensure conformance with Paragraph .330.B.
- D. Written Proposed Decision: The applicable Department Director shall issue a written proposed decision on the variance which contains the following:
  1. A description of the project or decision under review and the proposed variance; and
  2. A statement indicating that the application is proposed to be approved, approved with modifications or denied; and
  3. A statement of facts upon which the proposed decision, including any conditions, was based and conclusions derived from those facts.
- E. Public Notice of Proposed Decision:
  1. Content: The applicable Department Director shall prepare a notice of the proposed decision containing the following:
    - a. The name of the applicant, and if applicable, the project name; and
    - b. The street address of the subject property, and a description in non-legal terms sufficient to identify its location; and
    - c. A vicinity map indicating the location of the subject property; and
    - d. A brief description of the proposal; and



8-05-85  
0897c

- e. A statement that the proposal was approved, approved with modifications, or denied subject to the filing of an objection pursuant to Paragraph .330G; and
  - f. A statement that the proposed decision will become final unless an objection is filed pursuant to Paragraph .330.G; and
  - g. A statement of the right of any person to whom notice was mailed to file an objection to the proposed decision pursuant to Paragraph .330.G; and
  - h. A statement that filing an objection pursuant to Paragraph .330.G will cause the proposed decision to be void and will result in the proposal being treated as a new variance application under Sections .335 - .355 of Process III; and
  - i. A statement that if no objection is filed pursuant to Paragraph .330.G, the proposed decision of the Director becomes final and may be appealed as provided in Paragraph .330.I.
2. Provision of Notice: The applicable Department Director shall mail notice of the proposed decision to --
- a. The applicant, and
  - b. Each owner of real property within 300' or within three separate property ownerships of any boundary of the subject property, whichever is greater, and
  - c. Each address addressed to "occupant/tenant" within 300' or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant" need not be identified by name, and
  - d. Each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director, and

8-05-85  
0897c

e. Each member of a Community Council.

F. Community Council Review:

1. Review Within Geographic Boundary: The applicable Department Director shall review each proposed decision within the jurisdiction of an affected Community Council at a public meeting of that Council.
2. Time Limit: In addition to the time limits of Paragraph .330.G, the proposed decision of the applicable Department Director regarding an action within the geographic boundary of an affected Community Council is not effective for seven calendar days following the public meeting of the Community Council at which it was reviewed, unless that seven day time limit is waived by motion of the Community Council.

G. Objection:

1. Who May File: Any person to whom notice was mailed pursuant to Paragraph .330.E or the applicant may file an objection to the proposed decision.
2. How to File: An objection must be in writing and must be filed with the Office of Permit Coordination by 5:00 p.m. within 17 calendar days of the date notice of proposed decision was mailed. There is no fee for filing an objection.
3. Effect of Objection: If an objection is filed pursuant to Paragraph .330.G, the proposed decision of the Director is void and the variance will be processed as a new variance application using Sections .335 - .355 of Process III.
4. Effect of No Objection: If no objection is filed pursuant to Paragraph .330.G, the proposed decision of the Director becomes final and may be appealed pursuant to Paragraph .330.I.

H. Commencement of Activity: If no objection is filed pursuant to Paragraph .330.G, the applicant may commence activity or obtain other approvals authorized by the Director's decision seven calendar days following the final decision of the City. Activity commenced prior to the expiration of the full appeal period provided in Paragraph .330.I is at the sole risk of the applicant.

8-05-85  
0897c

I. Appeal of Director's Decision:

1. Who May Appeal: The decision of the applicable Department Director may be appealed by --
  - a. The applicant, or
  - b. Any person to whom notice of the proposed decision was mailed pursuant to Paragraph .330.E.
2. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition or writ of mandamus.
3. Time of Appeal: The decision of the applicable Department Director must be appealed to Superior Court no more than 10 calendar days following the date on which the time to object expired or is thereafter barred.

.335 Board of Adjustment Review: The Board of Adjustment shall hear and decide upon a variance application pursuant to Sections .335 - .355.

.340 Board of Adjustment - Public Notice:

- A. Content: The applicable Department Director shall prepare a notice of a public hearing on the application containing the following:
1. The name of the applicant, and if applicable, the project name; and
  2. The street address of the subject property, and a description in non-legal terms sufficient to identify its location; and
  3. A vicinity map indicating the location of the subject property; and
  4. The citation of the Bellevue City Code provision requiring a decision using Process III; and
  5. A brief description of the action, permit, or approval requested in the application; and
  6. The date, time and place of the public hearing before the Board of Adjustment; and

8-05-85  
0897c

7. A statement of the right of any person to participate in the public hearing as provided for in Paragraph .345.B; and
8. A statement that only those persons who participate in the public hearing as provided for in Paragraph .345.B may appeal the decision of the Board of Adjustment.

B. Provision of Notice:

1. Time of Notice: The applicable Department Director shall provide notice of the public hearing on the application at least 17 calendar days prior to the date of the public hearing.
2. Means of Notice: The applicable Department Director shall provide notice of the public hearing by --
  - a. Publishing notice of the public hearing in a newspaper printed and published within the City (See Bellevue City Code 1.08), and
  - b. Posting notice of the public hearing at each official posting place of the City (See Bellevue City Code 1.08), and
  - c. Requiring the applicant to erect public information signs in conformance with Bellevue City Code 2.14, or if public information signs are not required, then by posting at least three notices of the public hearing on or in the vicinity of the subject property, and
  - d. Mailing notice of the public hearing to each owner of real property within 300 feet or within three separate ownerships of the boundary of the subject property, whichever is greater, and
  - e. Mailing notice of the public hearing addressed to "occupant/tenant" to each address within 300 feet or within three separate property ownerships of the boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant" need not be identified by name, and

8-05-85  
0897c

- f. Mailing notice of the public hearing to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director.
- g. Mailing notice of the public hearing to each member of a Community Council.

.345 Board of Adjustment - Public Hearing:

- A. Who May Participate: Any person may participate in the public hearing.
- B. How to Participate: A person may participate in the public hearing by --
  - 1. Submitting written comments to the applicable Department Director prior to the public hearing, or
  - 2. Submitting written comments or making oral comments to the Board of Adjustment at the public hearing.

The applicable Department Director shall transmit all written comments received prior to the public hearing to the Board of Adjustment no later than the date of that hearing.

- C. Hearing Record: The Board of Adjustment shall make --
  - 1. An electronic sound recording of each hearing, and
  - 2. Written minutes of each hearing.

.350 Board of Adjustment Decision:

- A. General: After the public hearing the Board of Adjustment shall either approve, approve with modifications, or deny the application.
- B. Criteria: The Board of Adjustment may approve or approve with modifications the application if --
  - 1. The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications; and

8-05-85  
0897c

2. The applicant has demonstrated that the application complies with the applicable decision criteria of the Bellevue City Code.

In all other cases, the Board of Adjustment shall deny the application.

- C. Limitation on Modification: If the Board of Adjustment makes a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Paragraph .340.A, the Board of Adjustment shall conduct a new public hearing on the proposal as modified.
- D. Conditions: The Board of Adjustment may include conditions as part of the approval or approval with modifications of an application to insure conformance with Paragraph .340.B.
- E. Required Vote:
  1. A vote to approve, or approve with modifications, an application must be by a majority vote of the members present and voting.
  2. Any other vote constitutes a denial of the application.
- F. Written Decision:
  1. Content: The applicable Department Director shall issue a written report of the decision of the Board of Adjustment on the application which contains --
    - a. A statement indicating that the application is approved, approved with modifications or denied.
    - b. A statement of any conditions included as part of the approval or approval with modifications.
    - c. A statement of the facts upon which the decision, including any conditions, was based and the conclusions derived from those facts.
    - d. A statement of the right of any person who participated in the public hearing as provided for in Paragraph .345.B, to appeal the decision of the Board of Adjustment as provided for in Section .355.

8-05-85  
0897c

2. Distribution: The applicable Department Director shall mail the written decision of the Board of Adjustment, bearing the date it is mailed, to each person who participated in the public hearing as provided for in Paragraph .345.B.

G. Power to Correct Errors or Clarify:

1. The Board of Adjustment may at any time amend the decision to correct ministerial errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in this Chapter.
2. The Board of Adjustment may at any time clarify a statement in the written decision as long as the clarification does not alter the intent or effect of the decision.

H. Commencement of Activity: The applicant may commence activity or obtain other required approvals authorized by the approval or approval with modifications of the application following the date of the decision of the Board of Adjustment seven calendar days following the decision of the Board of Adjustment. Activity commenced prior to the expiration of the full appeal period provided in Section .355 is at the sole risk of the applicant.

.355 Board of Adjustment - Appeal to Superior Court:

- A. General: The decision of the Board of Adjustment may be appealed to the Superior Court.
- B. Who May Appeal: The decision of the Board of Adjustment may be appealed by --
  1. The applicant; or
  2. Any person who participated in the public hearing in conformance with Paragraph .345.B of this Chapter.
- C. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition or writ of mandamus.
- D. Time to Appeal: The decision of the Board of Adjustment must be appealed to Superior Court no more than 10 calendar days following the date of the Board of

8-05-85  
0897c

Adjustment decision on the application or is thereafter barred.

20.35.400 Process IV - Advisory Body Review Process

- .410 Scope: Section 20.35.400 et. seq. contains the procedures that the City will use in implementing Process IV. This Process includes a hearing and recommendation by an Advisory Body and a decision by the City Council. A decision by a Community Council may also be required.
- .415 Applicability: This Chapter applies each time a provision of the Bellevue City Code requires a decision using Process IV.
- .420 State Environmental Policy Act: The State Environmental Policy Act and the Bellevue Environmental Procedures Code (Bellevue City Code 22.02) may apply to an action taken under Section 20.35.400 et. seq. Read Bellevue City Code 22.02 for additional notice provisions, decision authority and other review requirements.
- .425 Authority: In accordance with the provisions of this Section 20.35.400 et. seq. --
- A. The Advisory Body shall conduct a public hearing and make a recommendation to the City Council regarding each application under Process IV.
  - B. The City Council shall approve, approve with modifications or deny each application under Process IV.
  - C. When applicable, the Community Council with jurisdiction shall approve, disapprove or take no action on each application under Process IV.
- .430 Public Notice:
- A. Content: The applicable Department Director shall prepare a notice of a public hearing on the application containing the following:
    - 1. The name of the applicant, and if applicable, the project name, and
    - 2. If the application involves specific property, the street address of the subject property, and a description in non-legal terms sufficient to identify its location, and



8-05-85  
0897c

3. If the application involves specific property, a vicinity map indicating the location of the subject property, and
4. The citation of the Bellevue City Code provision requiring a decision using Process IV, and
5. A brief description of the action, permit or approval requested in the application, and
6. The date, time and place of the public hearing before the Advisory Body, and
7. A statement of the right of any person to participate in the public hearing as provided for in Paragraph .435.B.

B. Provision of Notice:

1. Time of Notice: The applicable Department Director shall provide notice of the public hearing at least 17 calendar days prior to the date of the public hearing.
2. Means of Notice: The applicable Department Director shall provide notice of the public hearing by --
  - a. Publishing notice of the public hearing in a newspaper printed and published within the City (See Bellevue City Code 1.08), and
  - b. Posting notice of the public hearing at each official posting place of the City (See Bellevue City Code 1.08), and
  - c. If the application involves specific property rather than an area or zone-wide change --
    - i. Requiring the applicant to erect public information signs in conformance with Bellevue City Code 2.14, and
    - ii. Mailing notice of the public hearing to each owner of real property within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater, and

8-05-85  
0897c

- iii. Mailing notice of the public hearing addressed to "occupant/tenant" to each address within 300 feet or within three separate property ownerships of any boundary of the subject property, whichever is greater. Notice is mailed to those described above and to each "occupant/tenant" of the applicant. "Occupant/tenant need not be identified by name, and
- iv. Mailing notice of the public hearing to each person who has requested such notice in writing for the calendar year and who has paid the fee established by the applicable Department Director.
- v. Mailing notice of the public hearing to each member of a Community Council.

.435 Public Hearing:

- A. Who May Participate: Any person may participate in the public hearing.
- B. How to Participate: A person may participate in the public hearing by --
  - 1. Submitting written comments on the application to the applicable Department Director prior to the public hearing, or
  - 2. Submitting written comments or making oral comments to the Advisory Body at the public hearing.

The applicable Department Director shall transmit all written comments received prior to the public hearing to the Advisory Body no later than the date of that hearing.

- C. Hearing Record: The Advisory Body shall make --
  - 1. An electronic sound recording of each hearing, and
  - 2. Written minutes of each hearing.

.440 Advisory Body Recommendation:

- A. General: After the public hearing and any necessary public study sessions on the application, the Advisory

8-05-85  
0897c

Body shall either recommend approval, approval with modifications, or denial of the application.

B. Criteria:

1. The Advisory Body may recommend approval or approval with modifications only if the application or the application as modified complies with the applicable decision criteria of the Bellevue City Code.
2. In all other cases, the Advisory Body shall recommend denial of the application.

C. Limitation on Modification: If the Advisory Body recommends a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Paragraph .430.A, the Advisory Body shall conduct a new public hearing on the proposal as modified.

D. Required Vote:

1. A vote to recommend approval or approval with modifications must be by a majority vote of the members of the Advisory Body present and voting.
2. Any other vote constitutes a recommendation of denial of the application.

E. Transmittal to City Council: A copy of the recommendation of the Advisory Body will be transmitted to the City Council through the City Manager. The City Manager shall acknowledge receipt of the recommendation and the City Clerk shall certify the date of receipt on the recommendation.

.445 City Council Action:

- A. General: Within 60 days of receipt of the recommendation of the Advisory Body, the City Council shall consider the application at a public meeting.
- B. Elements to be Considered: The City Council shall consider the following in deciding upon an application:
  1. The application, and

8-05-85  
0897c

2. The minutes of any public hearing on the application and any written material submitted in conformance with Paragraph .435.B, and
  3. The recommendation of the applicable Department Director, and
  4. The recommendation of the Advisory Body, and
  5. The recommendation of any other affected Board or Commission, and
  6. The comments of a Community Council with jurisdiction pursuant to RCW 35.14, and
  7. The criteria listed in each section of the Bellevue City Code under which the application was made, and
  8. Any comments on the application received at a public meeting of the City Council, and
  9. Any other relevant information.
- C. City Council Decision: The City Council shall take one of the following actions:
1. Adopt an ordinance or resolution approving the proposal, or
  2. Adopt an ordinance or resolution approving the proposal with modifications, or
  3. Adopt a motion denying the proposal, or
  4. Refer the proposal back to the Advisory Body for further proceedings, in which case the City Council shall specify the time within which the Advisory Body shall report back to the City Council with a recommendation on the proposal.
- D. Required Vote:
1. The City Council shall adopt a resolution or ordinance which approves or approves with modifications the proposal by a majority vote of the total membership of the City Council.
  2. Any other vote on the proposal constitutes a denial of the application.

8-05-85  
0897c

E. Effect of Decision:

1. Subject to Section .450, the decision of the City Council is the final decision of the City.
2. Subject to Section .450, the decision of the City Council may be appealed to the Superior Court as provided for in Section .455.

F. Commencement of Activity:

Subject to Section .450 the applicant may commence activity or obtain other required approvals 7 calendar days following the effective date of the ordinance or resolution. Activity commenced prior to the expiration of the full appeal period provided in Section .455 is at the sole risk of the applicant.

.450 Community Council Review and Action:

A. Courtesy Public Hearing:

1. General: If the application is within the disapproval jurisdiction of a Community Council with jurisdiction pursuant to RCW 35.14, that Council may hold a courtesy public hearing on the application prior to the City Council action on the application.
2. Notice: The applicable Department Director shall prepare and distribute notice of the courtesy public hearing as provided for in the Rules of Procedure of the Community Council.
3. Courtesy Public Hearing: The Community Council may conduct an courtesy public hearing in accordance with the Rules of Procedure of the Community Council.
4. Comment: Following a courtesy public hearing on the application, the Community Council may provide informational comments on the application to the City Council. These comments may also be addressed to the Advisory Body. Comments are not binding on the Community Council in the exercise of its disapproval jurisdiction.

B. Disapproval Jurisdiction:

1. If the City Council approves or approves with modifications a proposal within the disapproval

8-05-85  
0897c

jurisdiction of a Community Council pursuant to RCW 35.14, that approval is not effective within the jurisdiction of the Community Council with jurisdiction until --

- a. The majority of the membership of the Community Council votes following a public hearing to approve the ordinance or resolution, or
- b. The Community Council fails to disapprove the ordinance or resolution within 60 calendar days of the enactment of that ordinance or resolution.

A majority of the membership of the Community Council must vote to disapprove an ordinance or resolution.

2. Notice: The applicable Department Director shall prepare and distribute notice of the public hearing as provided for in the Rules of Procedure of the Community Council.
3. Public Hearing Procedure: The Community Council shall conduct a public hearing in accordance with the Rules of Procedure of the Community Council.
4. Hearing Record: The Community Council shall make an electronic sound recording of the public hearing.
- C. Appeal to Superior Court: The decision of the Community Council may be appealed to Superior Court as provided for in the Rules of Procedure of the Community Council.

.455 Appeal of City Council Action to Superior Court:

- A. Who May Appeal: Any person adversely affected by the decision may appeal the decision of the City Council.
- B. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition or writ of mandamus.
- C. Time to Appeal: The decision of the City Council must be appealed to Superior Court no more than 20 calendar days following the effective date of the City Council decision on the application or is thereafter barred.

20.35.500 Process V: Appeal of Administrative Decision Before City Council

8-05-85  
0897c

- .510 Scope: Section 20.35.500 et. seq. contains the procedures that the City will use in implementing Process V. This Process includes an appeal hearing and recommendation by the Hearing Examiner and a decision by the City Council on the appeal.
- .515 Applicability: Section 20.35.500 et. seq. applies each time a provision of the Bellevue City Code allows an appeal of an administrative decision and no other appeal process is specified and each time a provision of the Bellevue City Code allows an appeal using Process V.
- .520 Authority: In accordance with the provisions of Section 20.35.500 et. seq. --
- A. The Hearing Examiner shall conduct an appeal hearing and make a recommendation to the City Council regarding each appeal under Process V.
  - B. The City Council shall grant, grant with modifications or deny each appeal under Process V.
- .525 Filing of Appeal:
- A. Who May Appeal:
    - 1. Appeal of a Decision Made Pursuant to Section 20.35.200 et. seq.: The project applicant or any person who submitted written comment in conformance with Paragraph 20.35.235.B may appeal the decision of the applicable Department Director.
    - 2. Appeal of Other Administrative Decisions: The person who requested the decision or any person adversely affected by the decision may appeal the decision of the applicable Department Director.
  - B. Form of Appeal: A person appealing the decision of the applicable Department Director shall submit the following to the Office of Permit Coordination:
    - 1. A brief statement indicating the facts that establish the appellant's right to appeal, and
    - 2. A brief statement identifying explicit exceptions and objections to the decision being appealed or identifying specific errors in fact or conclusion, and
    - 3. The requested relief from the decision being appealed, and

8-05-85  
0897c

4. The appeal fee as established by ordinance or resolution, and
  5. Any other information reasonably necessary to make a decision on the appeal.
- C. Time to Appeal: A written statement appealing the decision of the applicable Department Director must be filed no more than 20 calendar days following the date on which the decision of the Director was mailed or otherwise becomes effective.
- D. Appeal Hearing:
1. Authority:
    - a. Subject to Paragraph .525.D.1.b, the Hearing Examiner shall conduct an appeal hearing and shall make a recommendation to the City Council on the appeal from the decision of the applicable Department Director.
    - b. The Hearing Examiner shall dismiss an appeal without hearing when he/she determines that the appeal is without merit on its face, frivolous or brought merely to secure a delay.
  2. Public Notice:
    - a. Content: The Office of the Hearing Examiner shall prepare a notice of the appeal hearing containing the following:
      - i. The name of the appellant, and if applicable the project name, and
      - ii. If the appeal involves specific property rather than having area- or zone-wide effect, the street address of the subject property, and a description in non-legal terms sufficient to identify the location, and
      - iii. If the appeal involves specific property rather than having area- or zone-wide effect, a vicinity map indicating the location of the subject property, and



8-05-85  
0897c

- iv. A brief description of the decision of the applicable Department Director which is being appealed, and
  - v. A brief description of the alleged error as stated in the appeal, and
  - vi. The date, time and place of the appeal hearing before the Hearing Examiner, and
  - vii. A statement identifying the parties who may participate in the appeal.
- b. Provision of Notice: The Office of the Hearing Examiner shall mail notice of the appeal hearing, bearing the date it is mailed, at least 17 calendar days prior to the appeal hearing to any affected project proponent, the appellant and the applicable Department Director.
3. Appeal Hearing:
- a. Who May Participate: Any affected project proponent, the appellant, the applicable Department Director, witnesses called by each and a non-party, upon a determination by the Hearing Examiner that the testimony will be relevant and non-repetitive, may participate in the appeal hearing.
  - b. How to Participate: A person may participate in the appeal hearing by --
    - i. Submitting written comments to the Hearing Examiner prior to the appeal hearing, or
    - ii. Submitting written comments or making oral comments to the Hearing Examiner at the appeal hearing.
  - c. Hearing Record: The Hearing Examiner shall make an electronic sound recording of each appeal hearing.
4. Hearing Examiner Recommendation on the Appeal:
- a. General: After the appeal hearing, the Hearing Examiner shall recommend that the appeal be granted, granted with modifications or denied.

8-05-85  
0897c

- b. Criteria: The Hearing Examiner may recommend that the appeal be granted or granted with modifications if --
- i. The appellant has carried the burden of proof and produced evidence sufficient to support the conclusion that the appeal should be granted or granted with modifications, and
  - ii. The Hearing Examiner finds the decision of the applicable Department Director is not supported by the preponderance of the evidence.

The Hearing Examiner shall accord substantial weight to the decision of the applicable Department Director.

- c. Conditions: The Hearing Examiner may include conditions as part of a recommendation granting or granting with modifications an appeal to insure conformance with the Bellevue City Code.
- d. Findings: The Hearing Examiner shall adopt findings and conclusions which support the recommendation on the appeal.
- e. Written Decision: The Hearing Examiner shall issue a written recommendation on the appeal which contains the following:
- i. A statement indicating the recommendation of the Hearing Examiner on the appeal.
  - ii. A statement of any conditions included as part of the recommendation on the appeal.
  - iii. A statement of facts upon which the recommendation, including any conditions, was based and conclusions derived from those facts.
- f. Distribution: The Office of the Hearing Examiner shall mail a copy of the written recommendation of the Hearing Examiner, bearing the date it is mailed, to an affected project proponent, the appellant and the applicable Department Director.

8-05-85  
0897c

.530 City Council Consideration and Decision:

- A. General: The City Council shall at a public meeting consider and take final action on each appeal under Process V.
- B. Elements to be Considered: The City Council shall consider the following in deciding upon an appeal:
1. The appeal hearing record, and
  2. Argument on the appeal hearing record by an affected project proponent, the appellant and the applicable Department Director.
- C. Action:
1. General: The City Council shall either grant, grant with modifications or deny the appeal. If applicable, the City Council shall direct the applicable Department Director to issue a permit or approval consistent with the decision of the City Council on the appeal.
  2. Criteria: The City Council may grant or grant with modifications the appeal if --
    - a. The appellant has carried the burden of proof and produced evidence sufficient to support the conclusion that the appeal should be granted or granted with modifications, and
    - b. The City Council finds that the decision of the applicable Department Director is not supported by the preponderance of the evidence.

The City Council shall accord substantial weight to the decision of the applicable Department Director.
  3. Conditions: The City Council may include conditions as part of its decision granting or granting with modifications an appeal to insure conformance with the Bellevue City Code.
  4. Findings: The City Council shall adopt findings and conclusions which support the decision on the appeal.
  5. Required Vote: A vote to grant the appeal or grant the appeal with modifications must be by a majority

8-05-85  
0897c

vote of the entire membership of the City Council. Any other vote constitutes denial of the appeal.

6. Written Decision: The City Council shall issue a written decision on the appeal which contains the following:
  - a. A statement indicating the decision of the City Council on the appeal.
  - b. A statement of any conditions imposed as part of the decision on the appeal.
  - c. A statement of facts upon which the decision, including any conditions, was based and conclusions derived from those facts.
  - d. A statement of the right of an affected project proponent or the appellant to appeal the decision of the City Council to Superior Court as provided for in Section .535.
7. Distribution: The City Clerk shall mail a copy of the written decision of the City Council, bearing the date it is mailed, to an affected project proponent, the appellant and the applicable Department Director.
8. Effect of Decision: The decision of the City Council is the final decision of the City on the appeal.
9. Commencement of Activity: An affected applicant may commence activity or obtain other required approvals authorized by the action on the appeal seven calendar days following the date of the City Council action. Activity commenced prior to the expiration of the full appeal period provided in Section .535 is at the sole risk of the applicant.

.535 Appeal of City Council Decision:

- A. General: The decision of the City Council may be appealed to the Superior Court.
- B. Who May Appeal: The decision of the City Council may be appealed by an affected project proponent or the appellant.
- C. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition or writ of mandamus.

8-05-85  
0897c

- D. Time to Appeal: The decision of the City Council must be appealed to Superior Court no more than 20 calendar days following the effective date of the City Council decision on the appeal or is thereafter barred.

20.35.600 Process VI: Appeal of Administrative Decision Before the Hearing Body

- .610 Scope: Section 20.35.600 et. seq. contains the procedures that the City will use in implementing Process VI. This process includes a hearing and decision on the appeal by the Hearing Body.
- .615 Applicability: Section 20.35.600 et. seq. applies each time a provision of the Bellevue City Code allows an appeal using Process VI.
- .620 Authority: In accordance with the provisions of Section 20.35.600 et. seq., the Hearing Body shall grant, grant with modifications or deny each appeal under Process VI. Except as otherwise specified in the Bellevue City Code, the Hearing Examiner is the Hearing Body.
- .625 Filing of Appeal:
- A. Who May Appeal:
1. Appeal of a Decision Made Pursuant to Section 20.35.200 et. seq.: The project applicant or any person who submitted written comment in conformance with Paragraph 20.35.235.B may appeal the decision of the applicable Department Director.
  2. Appeal of Other Administrative Decisions: The person who requested the decision or any person adversely affected by the decision may appeal the decision of the applicable Department Director.
- B. Form of Appeal: A person appealing the decision of the applicable Department Director shall submit the following to the Office of Permit Coordination:
1. A brief statement indicating the facts that establish the appellant's right to appeal, and
  2. A brief statement identifying explicit exceptions and objections to the decision being appealed or identifying specific errors in fact or conclusion, and

8-05-85  
0897c

3. The requested relief from the decision being appealed, and
  4. The appeal fee as established by ordinance or resolution, and
  5. Any other information relevant to the appeal.
- C. Time to Appeal: A written statement appealing the decision of the applicable Department Director must be filed no more than 20 calendar days following the date on which the decision of the Director was mailed or otherwise became effective.
- D. Appeal Hearing:
1. Authority:
    - a. Subject to Paragraph .625.D.1.b, the Hearing Body shall conduct an appeal hearing and shall decide on the appeal from the decision of the applicable Department Director.
    - b. The Hearing Body shall dismiss an appeal without hearing when he/she determines that the appeal is without merit on its face, frivolous or brought merely to secure a delay.
  2. Public Notice:
    - a. Content: The Hearing Body or its designee shall prepare a notice of the appeal hearing containing the following:
      - i. The name of the appellant, and if applicable the project name, and
      - ii. If the appeal involves specific property rather than having area- or zone-wide effect, the street address of the subject property, and a description in non-legal terms sufficient to identify the location, and
      - iii. If the appeal involves specific property rather than having area- or zone-wide effect, a vicinity map indicating the location of the subject property, and

8-05-85  
0897c

- iv. A brief description of the decision of the applicable Department Director which is being appealed, and
  - v. A brief description of the alleged error, as stated in the appeal, and
  - vi. The date, time and place of the appeal hearing before the Hearing Body, and
  - vii. A statement identifying the parties who may participate in the appeal.
- b. Provision of Notice: The Hearing Body, or its designee shall mail notice of the appeal hearing, bearing the date it is mailed, at least 17 calendar days prior to the appeal hearing to any affected project proponent, the appellant and the applicable Department Director.
3. Appeal Hearing:
- a. Who May Participate: Any affected project proponent, the appellant, the applicable Department Director, witnesses called by each and a non-party, upon a determination by the Hearing Body that the testimony will be relevant and non repetitive, may participate in the appeal hearing.
  - b. How to Participate: A person may participate in the appeal hearing by --
    - i. Submitting written comments to the Hearing Examiner prior to the appeal hearing, or
    - ii. Submitting written comments or making oral comments to the Hearing Body at the appeal hearing.
  - c. Hearing Record: The Hearing Body shall make an electronic sound recording of each appeal hearing.
4. Hearing Examiner Decision on the Appeal:
- a. General: After the appeal hearing, the Hearing Body shall grant, grant with modifications or

8-05-85  
0897c

deny the appeal. If the Hearing Body is a multi-member body, action must be by a majority vote of the membership of that body.

- b. Criteria: The Hearing Body may grant or grant with modifications the appeal if --
- i. The appellant has carried the burden of proof and produced evidence sufficient to support the conclusion that the appeal should be granted or granted with modifications, and
  - ii. The Hearing Body finds that the decision of the applicable Department Director is not supported by the preponderance of the evidence.

The Hearing Body shall accord substantial weight to the decision of the applicable Department Director.

- c. Conditions: The Hearing Body may include conditions as part of a decision granting or granting with modifications an appeal to insure conformance with the Bellevue City Code.
- d. Findings: The Hearing Body shall adopt findings and conclusions which support the decision on the appeal.
- e. Written Decision: The Hearing Body shall issue a written decision on the appeal which contains the following:
- i. A statement indicating the decision of the Hearing Examiner on the appeal.
  - ii. A statement of any conditions included as part of the decision on the appeal.
  - iii. A statement of facts upon which the decision, including any conditions, was based and conclusions derived from those facts.
  - iv. A statement of the right of an affected project proponent or the appellant to



8-05-85  
0897c

appeal the decision of the Hearing Body to Superior Court as provided for in Section .630.

- f. Distribution: The Hearing Body or its designee shall mail a copy of the written decision of the Hearing Examiner, bearing the date it is mailed, to an affected project proponent, the appellant and the applicable Department Director.
- g. Effect of Decision: The decision of the Hearing Body is the final decision of the City on the appeal.
- h. Commencement of Activity: An affected applicant may commence activity or obtain other required approvals authorized by the action on the appeal seven calendar days following the date the decision of the Hearing Body is mailed. Activity commenced prior to the expiration of the full appeal period provided in Section .630 is at the sole risk of the applicant.

.630 Appeal of Hearing Body Decision:

- A. General: The decision of the Hearing Body may be appealed to the Superior Court.
- B. Who May Appeal: The decision of the Hearing Body may be appealed by an affected project proponent or the appellant.
- C. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition, or writ of mandamus.
- D. Time to Appeal: The decision of the Hearing Body must be appealed to Superior Court no more than 20 calendar days following the date that the written decision of the Hearing Examiner was mailed.

20.30.700 Process VII: Review of Administrative Decision by the Interdepartmental Review Committee

- .710 Scope: Section 20.35.700 et. seq. contains the procedures that the City will use in implementing Process VII. This process includes the review of a technical decision of the applicable Department Director by a committee of Department Directors formed by the City Manager.

8-05-85  
0897c

- .715 Applicability: Section 20.35.700 et. seq. applies each time a provision of the Bellevue City Code allows a review using Process VII.
- .720 Authority: In accordance with the provisions of this Chapter, the Interdepartmental Review Committee shall affirm or affirm with modifications the decision of the applicable Department Director or shall issue a new decision on the question.
- .725 Filing of Request for Review:
- A. Who May File: The person who requested the decision of the applicable Department Director may request a review by the Interdepartmental Review Committee.
  - B. Form of Request: A person requesting review of the decision of the applicable Department Director shall submit the following to the Office of Permit Coordination:
    - 1. A brief statement describing the decision of the applicable Department Director of which review is requested, and
    - 2. A brief statement identifying explicit exceptions or objections to the decision or identifying errors made by the Director, and
    - 3. The requested relief, modification or alternative to the decision of the applicable Department Director and facts or documentation which supports that request, and
    - 4. Any other information reasonably necessary to make a decision on the request.
  - C. Time to Request: A written statement requesting review of the decision of the applicable Department Director must be filed with the Office of the Permit Coordination no more than 20 calendar days following the date on which the decision of the Director was mailed or otherwise becomes effective.
- .730 Committee Review:
- A. General: Following submittal of a Request for Review, the Interdepartmental Review Committee shall consider the Request and shall either affirm or modify and affirm the decision of the Director or issue a new decision on the matter.

8-05-85  
0897c

- B. Time of Review: The Interdepartmental Review Committee shall decide upon the Request within 21 calendar days of its filing unless it determines additional information is required, in which case it shall decide on the Request at the meeting following receipt of any requested information.
- C. Form of Review:
1. The Interdepartmental Review Committee is a staff committee empowered to review and reconsider technical decisions by the applicable Department Director. The Committee is not an appeal body.
  2. The Interdepartmental Review Committee will review the Director's decision considering those codes, policies or standards applicable to the decision and shall render a decision which best implements the provisions and intent of those codes, policies or standards.
  3. The Interdepartmental Review Committee shall mail a copy of its decision, bearing the date it is mailed, to the person who requested the review.
- D. Effect of Decision: The decision of the Interdepartmental Review Committee is the final decision of the City.

.735 Appeal of Committee Decision:

- A. General: The decision of the Interdepartmental Review Committee may be appealed to the Superior Court.
- B. Who May Appeal: The person who requested review by the Interdepartmental Review Committee may appeal that decision.
- C. Form of Appeal: A person filing an appeal must make application to the Superior Court for a writ of certiorari, writ of prohibition or writ of mandamus.
- D. Time to Appeal: The decision of the Interdepartmental Review Committee must be appealed to Superior Court no more than 20 calendar days following the date that the written decision of the Committee was mailed.

Section 76. Bellevue City Code (Land Use Code) 20.40.250.A is amended to read as follows:

8-05-85  
0897c

- A. The Examiner shall have the authority to and shall conduct public hearings and prepare a record thereof, and enter written findings and conclusions, recommendations or decisions for the following land use matters:
1. Applications for Reclassifications,
  2. Applications for Conditional Uses,
  3. Applications for Conditional Uses in Shorelines Overlay Districts,
  4. Applications for Planned Unit Developments,
  5. Applications for Plats,
  6. Appeals of administrative short plat decisions,
  7. Appeals of State Environmental Policy Act threshold determinations, and
  8. Any other matter designated by this Code or other City ordinance.

Section 77. Bellevue City Code (Land Use Code) 20.40.260 is amended to read as follows:

20.40.260 Procedures

The procedures of Section 20.35.100 et. seq., Section 20.35.500 et. seq. or Section 20.35.600 et. seq. and Chapter 22C.10 of the Bellevue City Code, as applicable, will apply to the land use matters heard by the Examiner.

Section 78. Bellevue City Code (Land Use Code) 20.40.270 is hereby repealed.

Section 79. Bellevue City Code (Land Use Code) 20.40.420 is hereby repealed.

Section 80. Bellevue City Code (Land Use Code) 20.40 is amended by the addition of a new Section which reads as follows:

20.40.490 Assurance Device:

A. General:

When Applicable:

8-05-85  
0897c

1. Performance Assurance Device:

- a. The applicable Department Director may require a Performance Assurance Device when a use or activity will, in the opinion of the Director, take place in a location or under circumstances which present a significant risk to the public health, safety, or welfare or to protect the City from potential damage claims of others or damage to City streets, utilities, or property.
- b. The applicable Department Director may allow a Performance Assurance Device if --
  - i. The applicant is unable to complete the work or improvements to be covered by the assurance device because of unavoidable circumstances that in no way resulted from the actions or inaction of the applicant, or a performance assurance device is specifically authorized by the Bellevue City Code, and
  - ii. It is reasonably certain that the applicant will be able to complete the work or improvements to be covered by the assurance device within a reasonable amount of time, and
  - iii. Granting a Temporary Certificate of Occupancy prior to completion of the work or improvements will not be materially detrimental to the City or the properties in the vicinity of the subject property.

2. Maintenance Assurance Device:

- a. The applicable Department Director shall require a Maintenance Assurance Device when required by a provision of the Bellevue City Code, or when necessary to mitigate potential adverse impacts in conformance with BCC 22.02.140.
- b. The applicable Department Director may require a maintenance Assurance Device in other cases when he/she determines such a device is necessary to protect the interests of the public.

C. Form of Assurance Device:

1. In each case where the City requires or allows an applicant to provide an assurance device, the applicable Department Director shall determine the type of assurance device that will be used.

8-05-85  
0897c

2. The assurance device may be a non-revocable letter of credit, set-aside letter, assignment of funds, certificate of deposit, deposit account, bond, or other readily accessible source of funds.

A bond will be acceptable when circumstances make it a reasonable form of assurance as determined by the Department Director and the bond adequately protects the interests of the City, or when a bond is required by State statute.

3. Interest from any interest-bearing form of assurance device will accrue to the benefit of the depositor.

D. Amount of Assurance Device:

1. General: The applicable Department Director shall determine the amount of the assurance device as follows:
  - a. For a performance device the amount will be one hundred fifty percent (150%) of the cost of the work or improvements covered by the assurance device based on estimated costs immediately following the expiration of the device.
  - b. For a maintenance device the amount will not be less than twenty percent (20%) of the cost of replacing the materials covered by the assurance device based on estimated costs on the last day covered by the device.
2. Assistance in Determining Estimated Costs: The applicable Department Director may consult with one or more persons with applicable special knowledge or expertise in determining the cost of work or improvements covered by an assurance device under Paragraph 1. of this section. The applicant shall pay the actual costs of this consultation prior to the Director accepting the device.

E. Irrevocable License Signed by the Owner of the Subject Property:

In each case where the City requires or allows an applicant to establish an assurance device, the owner of the subject property shall give the City a signed notarized irrevocable license to run with the property to allow the employees, agents, or contractors of the City to go on the subject property for the purpose of inspecting and, if necessary, doing the work or making the improvements covered by the device. The applicant shall file this license with the Office of Permit Coordination.

8-05-85  
0897c

F. Release of Assurance Device:

1. After the work or improvements covered by a performance assurance device have been completed to the satisfaction of the City or, at the end of the time covered by a maintenance assurance device, the applicant may request the City to release the device.
2. The City shall release such device as expeditiously as possible after receipt of a request for release.

G. Use of Proceeds - Notice to Property Owner:

If during the period of time covered by a maintenance assurance device or after the date by which the required work or improvements are to be completed under a performance assurance device, the applicable Department Director determines that the work or improvements have not been complied with, he/she shall notify the applicant. The notice must state --

1. The work that must be done or the improvement that must be made to comply with the requirements and the assurance device; and
2. The amount of time that the applicant has to commence and complete the required work or improvements; and
3. That, if the work or improvements are not commenced and completed within the time specified, the City will use the proceeds of the assurance device to have the required work or improvements completed.

H. Use of Proceeds - Work by the City:

If the work or improvements covered by the assurance device are not completed within the time specified in the notice given under paragraph G. of this section, the City may at its sole option obtain the proceeds of the device and do the work or make the improvements covered by the device. The City may either have employees of the City do the work or make the improvements or, by using procurement procedures established by law, have a contractor do the work or make the improvements.

I. Use of Proceeds - Emergency Work by City

If at any time the City Manager determines that actions or inaction associated with any assurance device have created an emergency situation endangering the public health, safety, or welfare, creating a potential liability for the City, or endangering City

8-05-85  
0897c

streets, utilities, or property; and if the nature or timing of such an emergency precludes the notification of applicants as provided in Section 20.40.490.G while still minimizing or avoiding the effects of the emergency, the City may use the assurance device to correct the emergency situation. The City may either have employees of the City do the work or make the improvements, or may have a contractor do the work or make the improvements. If the City uses the assurance device as provided by this Section, the applicant shall be notified in writing within 4 days of the commencement of emergency work. The notice must state the work that was completed and the nature or timing of the emergency that necessitated the use of the assurance device without prior notification.

J. Use of Proceeds - Refund of Excess, Charge for all Costs:

The property owner is responsible for all costs incurred by the City in doing the work and making the improvements covered by the assurance device. The City shall release or refund any proceeds of a performance device remaining after subtracting all costs for doing the work covered by the device. The owner of the subject property shall reimburse the City for any amount expended by the City that exceeds the proceeds of the device. The City shall have a lien against the subject property for the amount of any excess.

K. Itemized Statement:

In each case where the City uses any of the proceeds of the device, it shall give the owner of the subject property an itemized statement of all proceeds and funds used.

Section 81. The Bellevue City Code (Land Use Code) 20.40.530.A.4 is amended to read as follows:

4. The requirements of Parts 20.30G or Part 20.35H are met.

Section 82. Bellevue City Code (Land Use Code) 20.40.530.B is hereby repealed.

Section 83. Bellevue City Code (Land Use Code) 20.40.530.C is hereby repealed.

Section 84. Bellevue City Code (Land Use Code) 20.40.530.D is hereby repealed.

Section 85. Bellevue City Code (Land Use Code) 20.40.532 is hereby repealed.

Section 86. Bellevue City Code (Land Use Code) 20.40.535 is hereby repealed.



8-05-85  
0897c

Section 87. Bellevue City Code (Land Use Code) 20.40.550 is hereby repealed.

Section 88. Bellevue City Code (Land Use Code) 20.40.555 is hereby repealed.

Section 89. Bellevue City Code (Land Use Code) 20.40.557 is hereby repealed.

Section 90. Bellevue City Code (Land Use Code) 20.40.560 is hereby repealed.

Section 91. Bellevue City Code (Land Use Code) 20.40.565 is hereby repealed.

Section 92. The Planning Commission shall conduct a public hearing to review the effectiveness of this Ordinance in September, 1987. The Commission shall forward the results of its review and its recommendations to the City Council. The City Council shall, by December, 1987, act on the recommendation of the Planning Commission.

Section 93. This ordinance will apply to all applications filed after its effective date and, in addition, will apply to the following applications filed prior to its effective date:

- A. Applications which the applicant chooses to have reviewed pursuant to this Ordinance, and
- B. Applications for which public notice required under the prior provisions of the Bellevue City Code has not been completed prior to the effective date of this ordinance.

Section 94. This ordinance shall be in force and take effect five days after its publication, provided, however, that Section 22 is not

8-05-85  
0897c

effective until the effective date of Ordinance No. 3531.

PASSED by the City Council this 10<sup>th</sup> day of August, 1985,  
and signed in authentication of its passage this 10<sup>th</sup> day  
of August, 1985.

(SEAL)

  
Cary E. Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

  
Richard Gidley, Assistant City Attorney

Attest:

  
Marie K. O'Connell, City Clerk

Published August 16, 1985