

# ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5481

AN ORDINANCE amending the Bellevue Land Use Code to clarify and improve process provisions of the Code; amending Sections 20.25J.050.E, 20.30B.140, 20.30B.175, 20.30D.200, 20.30D.285, 20.30E.175, 20.30F.175, 20.30G.140, 20.30J.135, 20.30K.130, 20.30P.140, 20.30S.140, 20.35.015, 20.35.030.A, 20.35.045, 20.35.120, 20.35.135, 20.35.210, 20.35.235, 20.35.320, 20.35.335, 20.35.355.G, 20.35.420, and 20.45A.110 in the Bellevue Land Use Code; creating new sections 20.25A.120, 20.25A.125, and 20.35.415 in the Bellevue Land Use Code; and establishing an effective date.

WHEREAS, the City of Bellevue has determined that consistency in decision criteria across land use decision types, additional cross referencing and other minor amendments will clarify and improve the Land Use Code; and

WHEREAS, the increased use of electronic mail technology provides an opportunity to inform citizens of land use actions in additional ways than anticipated by the Code; and

WHEREAS, additional flexibility in the timing to complete certain larger, complex construction projects is desirable; and

WHEREAS, the Planning Commission held a public hearing on July 16, 2003 with regard to such proposed Land Use Code amendment; and

WHEREAS, the Planning Commission recommends that the City Council approve such proposed amendment; now, therefore,

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

Section 1. A new section 20.25A.120 is created in the Bellevue Land Use Code as follows:

**20.25A.120 Project Phasing Plan Required.**

An applicant for a project with multiple buildings within a single project limit shall submit a project phasing plan for approval by the Director with the application for land use review. A phasing plan may also be submitted for a project approved prior to the effective date of this Section at any time prior to expiration of the original approval pursuant to Section 20.40.500. If submitted at the time of application for land use review, the decision on the phasing plan shall be merged with the decision

on the underlying land use permit. If submitted after the land use permit or approval has been issued, the request for modification shall be processed pursuant to Section 20.30F.175. The land use review will include review of all phases of the project. The phasing plan shall identify the discrete phases of intended project development, including delineation of the individual site areas for each phase and the sequence of development of each phase. The phasing plan may be approved by the Director if the following criteria are met:

- A. Each phase of the project independently complies with this Code within the limits of that phase; and
- B. The site areas of future phases within the single project limit will remain in current use or, if altered, be improved in the interim to create a site that complies with the requirements of this Code for permanent development with the completion of each phase.

The Director may require an assurance device pursuant to Section 20.40.490 to ensure compliance with the conditions of land use approval and the phasing plan.

Section 2. A new Section 20.25A.125 is hereby added to the Bellevue Land Use Code as follows:

**20.25A.125 Vesting and expiration of vested status of land use permits and approvals -- Downtown projects.**

- A. **General.** The vested status of a land use permit or approval granted pursuant to this Part 20.25A shall expire as provided pursuant to Section 20.40.500, unless otherwise provided in this section.
- B. **Extended Vesting Period.** An applicant for a project with multiple buildings within a single project limit may request a modification to the vesting and expiration provisions of Section 20.40.500, allowing for vesting of the land use permits and approvals for a period of up to 10 years from the date of issuance of the design review pursuant to Section 20.30F.145.
  - 1. **Timing of Request for Modification.** The request for modification may be submitted with the application for land use review, or at any time prior to expiration of a previously approved land use permit or approval pursuant to Section 20.40.500. If submitted at the time of application for land use review, the decision on the request for modification shall be merged with the decision on the underlying land use permit. If submitted after the land use permit or approval has been issued, the request for modification shall be processed pursuant to Section 20.30F.175. In no event shall the vesting period exceed 10 years from the date of issuance of the design review pursuant to Section 20.30F.145.

2. The Director may approve an increased vesting period, provided that the project complies with an approved phasing plan pursuant to Section 20.25A.120. The Director shall consider: (i) the site and size, (ii) the size, scope and complexity of the project, and (iii) construction and permitting activity in the vicinity of the project in determining the appropriate vesting period. The vested status of other required reviews, including but not limited to SEPA, Traffic Standards Code, Transportation Development Code, and building or other technical code review, is not controlled by this Section 20.25A.125.
3. The Director may require an assurance device pursuant to Section 20.40.490 to ensure compliance with the conditions of land use approval and the phasing plan throughout the vested period.

Section 3. Section 20.25J.050.E of the Bellevue Land Use Code is hereby amended as follows:

**E. Modification or Addition to an Approved Master Development Plan.**

There are three ways in which to modify or add to an approved Master Development Plan: process as a new Master Development Plan, process as a Land Use Exemption, or process as an administrative amendment.

1. General.

Except as provided in subsections E.2 and E.3 of this section, an amendment of a previously approved Master Development Plan is treated as a new application.

2. Land Use Exemption for a Master Development Plan.

The Director may determine that an addition or modification to a previously approved Master Development Plan is exempt from further review under the administrative amendment process or as a new application, provided the following criteria are met:

- a. The addition or modification does not result in any significant adverse impact beyond the site; and
- b. The addition or modification is within the general scope of the purpose and intent of the original approval; and
- c. The addition or modification complies with all applicable Land Use Code requirements, and all applicable development standards and is compatible with all applicable design criteria; and
- d. The addition or modification does not add square footage that is more than 20 percent of existing gross square footage; and
- e. If an addition or expansion has been approved within the preceding 24-month period, the combined additions or expansions will not add

square footage that exceeds 20 percent of existing gross square footage.

3. Administrative Amendment of a Master Development Plan.
  - a. Scope. A proposed amendment which the Director determines meets the criteria of this section will be decided as an administrative amendment unless the applicant has chosen to have the amendment reviewed as a new application.
  - b. Decision Criteria. The Director shall approve a proposed amendment to an approved Master Development Plan if:
    - i. The amendment maintains the design intent or purpose of the original approval; and
    - ii. The amendment maintains the quality of design or product established by the original approval; and
    - iii. The amendment does not cause a significant adverse environmental or land use impact on or beyond the site; and
    - iv. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively; and
    - v. The applicant carries the burden of proof and demonstrates that the application merits approval or approval with modifications.
  - c. Conditions. The Director may include conditions as part of the approval or approval with modifications to ensure conformance with the decision criteria for an administrative amendment and for the original approval.
  - d. Written Decision. The Director shall issue a written decision on the administrative amendment which contains the following:
    - i. A description of the original Master Development Plan and the proposed administrative amendment; and
    - ii. An analysis of the proposed administrative amendment using the applicable decision criteria, including the facts upon which the decision and any conditions for the project are based; and
    - iii. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section.

Section 4. Section 20.30B.140 of the Bellevue Land Use Code is hereby amended as follows:

**20.30B.140 Decision criteria.**

The City may approve or approve with modifications an application for a Conditional Use Permit if:

- A. The conditional use is consistent with the Comprehensive Plan; and
- B. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- C. The conditional use will be served by adequate public facilities including streets, fire protection, and utilities; and
- D. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
- E. The conditional use complies with the applicable requirements of this Code.

Section 5. Section 20.30B.175 of the Bellevue Land Use Code is hereby amended as follows:

**20.30B.175 Modification or addition to an approved project or decision.**

- A. There are three ways in which to modify or add to an approved conditional use: process as a new decision, process as a Land Use Exemption, or process as an administrative amendment.

**B. General.**

Except as provided in subsections C and D of this section, an amendment of a previously approved project or decision is treated as a new application.

**C. Land Use Exemption for Conditional Use Permit.**

The Director may determine that an addition or modification to a previously approved project or decision is exempt from further review under the administrative amendment process or as a new application, provided the following criteria are met:

- 1. The proposal does not result in any significant adverse impact beyond the site; and
- 2. The proposal is within the general scope of the purpose and intent of the original approval; and
- 3. The proposal complies with all applicable Land Use Code requirements; and

4. The proposal does not add square footage that is more than 20 percent of existing gross square footage; and
5. If an addition or expansion has been approved within the preceding 24-month period, the combined additions will not add square footage that exceeds 20 percent of existing gross square footage.

**D. Administrative Amendment.**

1. **Scope.** A proposed amendment which the Director determines meets the criteria of this section will be decided as an administrative amendment unless the applicant has chosen to have the amendment reviewed as a new application.
2. **Decision Criteria.** The Director shall approve a proposed amendment to an approved project or decision if:
  - a. The amendment maintains the design intent or purpose of the original approval; and
  - b. The amendment maintains the quality of design or product established by the original approval; and
  - c. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property; and
  - d. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively.
3. The applicant carries the burden of proof and must demonstrate that the application merits approval or approval with modifications.
4. **Conditions.** The Director may include conditions as part of the approval or approval with modifications to ensure conformance with the decision criteria for an administrative amendment and for the original approval.
5. **Written Decision.** The Director shall issue a written decision on the administrative amendment which contains the following:
  - a. A description of the original project or decision and the proposed administrative amendment; and
  - b. An analysis of the proposed administrative amendment using the applicable decision criteria, including the facts upon which the decision and any conditions for the project are based; and
  - c. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section.

Section 6. Section 20.30D.200 of the Bellevue Land Use Code is hereby amended as follows:

**20.30D.200 Planned Unit Development plan – Effect of approval.**

The approval of the Planned Unit Development plan constitutes the City's acceptance of the general project, including its density, intensity, arrangement and design. Upon final Planned Unit Development approval that is not merged with a subdivision, the Department of Planning and Community Development will forward an approved Planned Unit Development to the King County Department of Records and Elections for recording. No administrative approval of a Planned Unit Development is deemed final until the Planned Unit Development is recorded and proof of recording is received by the Department of Planning and Community Development. See part 20.45 for recording requirements of Planned Unit Developments merged with subdivisions.

Section 7. Section 20.30D.285 of the Bellevue Land Use Code is hereby amended as follows:

**20.30D.285 Amendment of an approved Planned Unit Development.**

- A. There are three ways to modify or add to an approved Planned Unit Development: process as a new decision, process as a Land Use Exemption, or process as an administrative amendment.
- B. Except as provided in subsections C and D of this section, modification of a previously approved Planned Unit Development shall be treated as a new application.
- C. **Land Use Exemption for a Planned Unit Development.**

The Director may determine that a modification to a previously approved Planned Unit Development is exempt from further review under the administrative amendment process or as a new application, provided the following criteria are met:

- 1. 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 Planned Unit Development; and
- 2. The change will not have the effect of significantly reducing any area of landscaping, open space, natural area or parking; and
- 3. The change will not have the effect of increasing the density of the Planned Unit Development; and
- 4. The change will not add square footage that is more than 20 percent of the existing gross square footage of the Planned Unit Development; and

5. If an addition or expansion has been approved within the preceding 24-month period, the combined additions will not add square footage that exceeds 20 percent of existing gross square footage of the Planned Unit Development; and
6. The change will not result in any structure, circulation or parking area being moved significantly in any direction; and
7. The change will not reduce any approved setback by more than 10 percent; and
8. The change will not result in a significant increase in the height of any structure; and
9. The change does not result in any significant adverse impacts beyond the site.

**D. Administrative Amendment of Planned Unit Development.**

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

1. The amendment maintains the design intent or purpose of the original approval; and
  2. The amendment maintains the quality of design or product established by the original approval; and
  3. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property; and
  4. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively.
- E. The Director may impose conditions upon any administrative amendment to ensure the proposal complies with the decision criteria and the purpose and intent of the original approval.

Section 8. Section 20.30E.175 of the Bellevue Land Use Code is hereby amended as follows:

**20.30E.175 Modification or addition to an approved project or decision.**

- A. There are two ways in which to modify or add to an approved administrative conditional use. They include process as a new decision using Process II, or process as a Land Use Exemption.
- B. **General.**

Except as provided in subsection C of this section, an amendment of a previously approved project or decision is treated as a new application.

**C. Land Use Exemption from Administrative Conditional Use Permits.**

The Director of Planning and Community Development may determine that an addition or modification to a previously approved project or decision is exempt from an Administrative Conditional Use Permit, provided the following criteria can be met:

1. The proposal does not result in any significant adverse impact beyond the site; and
2. The proposal is within the general scope of the purpose and intent of the original approval; and
3. The proposal complies with all applicable Land Use Code requirements and all applicable development standards, and is compatible with all applicable design criteria; and
4. The proposal does not add square footage that is more than 20 percent of existing gross square footage; and
5. If an addition or expansion has been approved within the preceding 24-month period, the combined additions will not add square footage that exceeds 20 percent of existing gross square footage.

Section 9. Section 20.30F.175 of the Bellevue Land Use Code is hereby amended as follows:

**20.30F.175 Modification or addition to an approved design review project or decision.**

A. There are two ways to modify or add to an approved project or decision: process as a new decision, or process as a Land Use Exemption.

**B. General.**

Except as provided in subsection C of this section, an amendment of a previously approved project or decision is treated as a new application.

**C. Land Use Exemption for Design Review Approval.**

1. The Director may determine that an addition or modification to a previously approved project or decision is exempt from further review or review as a new application, provided the following criteria are met:
  - a. The proposal does not result in any significant adverse impact beyond the site; and

- b. The proposal is within the general scope of the purpose and intent of the original approval; and
  - c. The proposal complies with applicable Land Use Code requirements, and all applicable development standards, and is compatible with all applicable design criteria; and
  - d. The proposal does not add square footage that is more than 20 percent of existing gross square footage; and
  - e. If an addition or expansion has been approved within the preceding 24-month period, the combined additions will not add square footage that exceeds 20 percent of existing gross square footage.
2. The Director may determine that a new development outside the Downtown is exempt from review as a new application; provided, that the building form and scale of the new building or addition, regardless of size, is not visible from the right-of-way, a public park or zoned and developed single-family residential property.

**D. Conditions.**

The Director may impose conditions on a Land Use Exemption to ensure that the applicable decision criteria and any conditions of the original approval are met.

Section 10. Section 20.30G.140 of the Bellevue Land Use Code is hereby amended as follows:

**20.30G.140 Decision criteria.**

The Director 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 of the subject property; 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 of the subject property; and
- C. The granting of the variance will not be materially detrimental to property or improvements in the immediate vicinity of the subject property; and
- D. The variance is not inconsistent with the Comprehensive Plan.

Section 11. Section 20.30J.135 of the Bellevue Land Use Code is hereby amended as follows:

**20.30J.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 consistent with the Comprehensive Plan; and
- B. The amendment enhances 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.

Section 12. Section 20.30K.130 of the Bellevue Land Use Code is hereby amended as follows:

**20.30K.130 Applicable procedure.**

- A. The Director shall interpret the provisions of the Land Use Code in conformance with this Part 20.30K.
- B. A Code interpretation requested by a person other than the project proponent or property owner must be requested prior to the date of expiration of any applicable administrative appeal period for a land use decision on the application to which the request relates. Any Code interpretation requested after the applicable administrative appeal period shall not affect an issued permit or decision.
- C. The Department shall determine how to process the Code interpretation request. The request may be:
  - 1. Processed pursuant to Process II, LUC 20.35.200 et seq., which shall include notice to the project proponent or property owner; or
  - 2. Consolidated with the process associated with the review of the application. An appeal of a Code interpretation consolidated with the process associated with the review of the application shall be consolidated with the appeal of the decision on the underlying application.

Section 13. Section 20.30P.140 of the Bellevue Land Use Code is hereby amended as follows:

**20.30P.140 Decision criteria.**

The City may approve or approve with modifications an application for a Protected Area Development Exception if:

- A. Limiting use of the property to those uses provided in LUC 20.25H.080.B is not reasonable given the physical characteristics of the property, its location and surrounding development potential; and
- B. The Protected Area Exception is the minimum necessary to fulfill the purpose of this part; and
- C. The proposal results in no more than 10 percent of the site being disturbed by structure or other land alteration including but not limited to grading, utility installation, and landscaping; provided, however, that if the subject property is a lot of less than 30,000 gross square feet, a total area of up to 3,000 square feet may be disturbed. (Mitigation measures required by the applicable decisionmaker are not included in this calculation); and
- D. The proposal is compatible in design, scale and use with other development or potential development in the immediate vicinity of the subject property in the same zone and with similar site constraints; and
- E. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the protected area; and
- F. The proposal incorporates the performance standards of LUC 20.25H.110 to the maximum extent possible; and
- G. The proposal complies with other applicable requirements of this Code.

Section 14. Section 20.30S.140 of the Bellevue Land Use Code is hereby amended as follows:

**20.30S.140 Decision criteria.**

The Director may approve or modify and approve an application for a Vendor Cart Permit, if:

- A. The use will not cause pedestrian or traffic congestion; and
- B. The use is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- C. The use complies with the applicable requirements of this Code; and
- D. The use is covered by a valid Right-of-Way Use Permit, if required under BCC 14.30.080.

Section 15. Section 20.35.015 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.015 Framework for decisions.**

- A. Land use decisions are classified into four processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity.
- B. Process I decisions are quasi-judicial decisions made by the Hearing Examiner on project applications. The following types of applications require a Process I decision:
1. Conditional Use Permits (CUP) and Shoreline Conditional Use Permits;
  2. Preliminary Subdivision Approval (Plat);
  3. Planned Unit Development Approval (PUD); and
  4. Protected Area Development Exception (PADE);

provided, that applications for CUPs, shoreline CUPs, preliminary plats, PUDs, and PADEs within the jurisdiction of a Community Council pursuant to RCW 35.14.040 shall require a Process III decision.

- C. Process II decisions are administrative land use decisions made by the Director. Threshold determinations under the State Environmental Policy Act (SEPA) made by the Environmental Coordinator and Sign Code variances are also Process II decisions. (See the Environmental Procedures Code, BCC 22.02.034 and Sign Code, BCC 22B.10.180.) The following types of applications require a Process II decision:
1. Administrative Amendments;
  2. Administrative Conditional Use;
  3. Design Review;
  4. Home Occupation Permit;
  5. Interpretation of the Land Use Code;
  6. Preliminary Short Plat;
  7. Shoreline Substantial Development Permit;
  8. Variance and Shoreline Variance;
  9. Small Lot Protected Area Development Exception; and

10. Review under the State Environmental Policy Act (SEPA) when not consolidated with another permit.
- D. Process III decisions are quasi-judicial decisions made by the City Council. The following types of applications require a Process III decision:
1. Site-specific or project-specific rezone;
  2. Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development, and Protected Area Development Exception projects subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040;
  3. Master Development Plans for Institutional Uses; and
  4. A rezone of any property to the OLB-OS Land Use District designation.
- E. Process IV decisions are legislative nonproject decisions made by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. The following are Process IV decisions:
1. Consideration of suggestions for amendments to the Comprehensive Plan (Annual Docket Adoption);
  2. Amendments to the text of the Land Use Code or Comprehensive Plan;
  3. Amendments to the Comprehensive Plan Map;
  4. Amendments to the Zoning Map (rezones) on a City-wide or area-wide basis.
- F. Other types of land use applications and decisions made by the Director, including those set forth below, are minor or ministerial administrative decisions, exempt from the above land use processes. Notice and an administrative appeal opportunity are not provided. LUC 20.35.020 through 20.35.070, however, apply to all land use applications.
1. Boundary Line Adjustment;
  2. Final Plat (also requires Hearing Examiner approval prior to recording);
  3. Final Short Plat;
  4. Land Use Exemption;
  5. Temporary Use Permit;
  6. Vendor Cart Permit;

7. Requests for Reasonable Accommodation as defined by Part 20.30T LUC.\*

*\*Not effective within the jurisdiction of the East Bellevue Community Council.*

Section 16. Section 20.35.030.A of the Bellevue Land Use Code is hereby amended as follows:

**20.35.030 Applications.**

**A. Who May Apply.**

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

1. The property owner or authorized agent of the owner may apply for any type of Process I, Process II, or Process III land use decision.
2. A resident of the dwelling may apply for a Home Occupation Permit.
3. The City Council, the Director of Planning and Community Development or the Planning Director may apply for a project-specific or site-specific rezone or for an area-wide (Process IV) rezone.
4. The Director of Planning and Community Development, the Planning Director, or the Planning Commission may suggest site-specific and non-site-specific amendments to the Comprehensive Plan Map or to the text of the Comprehensive Plan for consideration during the Annual Docket Adoption.
5. City Council, the Planning Commission, or the Director with the concurrence of either body, may initiate an amendment to the text of the Land Use Code.
6. The property owner or authorized agent of the property owner may apply suggesting site-specific amendments to the Comprehensive Plan for consideration during the Annual Docket Adoption.
7. Any person may apply suggesting non-site-specific amendments to the Comprehensive Plan for consideration during the Annual Docket Adoption.
8. Any person may request an interpretation of the Land Use Code. In addition, the Director may issue interpretations of the Land Use Code as needed.

Section 17. Section 20.35.045 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.045 Land use decisions -- When Final.**

When a decision is made to approve, conditionally approve, or deny an application, the applicant shall be notified. Administrative land use decisions that are not subject to administrative appeal shall be final at the time of the Director's decision that the application conforms to all applicable codes and requirements. Process I decisions are final upon expiration of any applicable City administrative appeal period, or if appealed, on the date of the City Council's final decision on the application. Process II decisions are final upon expiration of any applicable City administrative appeal period, or, if appealed, on the day following issuance of a final City decision on the administrative appeal. Process III and IV decisions are final on the date of the City Council's final decision or action on the application or proposal, subject to LUC 20.35.355.G, 20.35.365 and 20.35.450 regarding Community Council jurisdiction.

Section 18. Section 20.35.120 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.120 Notice of application.**

- A. Notice of application shall be provided, pursuant to the requirements of this section, within 14 days of issuance of the notice of completeness for an application for a Process I land use decision. See additional noticing requirements in Section 20.45A.110 for preliminary subdivisions (plats).
- B. The Director shall provide notice of the application as follows:
  - 1. Publication of the project description, location, types of City permits or approvals applied for, date of application and location where the complete application file may be reviewed in a newspaper of general circulation in the City;
  - 2. Mailed notice to owners of real property within 200 feet of the project site including the following information:
    - a. The date of application,
    - b. The project description and location,
    - c. The types of City permits or approvals applied for,
    - d. The Director may, but need not, include other information to the extent known at the time of notice of application, such as: the identification of other City permits or approvals required, related permits from other agencies or jurisdictions not included in the City permit process, the dates for any public meetings or public hearings, identification of any studies requested for application review, any existing environmental documents that apply to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation;

3. Mailed notice of the application including at least the information required in paragraph A.1 of this section to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested regular notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient;
- C. The applicant shall provide notice of the application as follows:
1. Posting of two signs or placards on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.

Section 19. Section 20.35.135 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.135 Public notice of Director's recommendation.**

- A. Notice of Recommendation, SEPA Determination, and Hearing Examiner Hearing.
1. Public Notice of the availability of the Director's recommendation shall be published in a newspaper of general circulation. If a Determination of Significance (DS) was issued by the Environmental Coordinator, the notice of the Director's recommendation shall state whether an EIS or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) is issued, the DNS may be issued and published in conjunction with the Director's recommendation except as provided in the Environmental Procedures Code, BCC 22.02.031 and 22.02.160. The notice of recommendation shall also include the date of the Hearing Examiner public hearing for the application, which shall be scheduled no sooner than 14 days following the date of publication of the notice.
  2. The Director shall mail notice of the recommendation and public hearing to each owner of real property within 200 feet of the project site.
  3. The Director shall mail notice to each person who submitted comments during the comment period or at any time prior to the publication of the notice of recommendation.

4. The Director shall mail notice to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested regular notice of land use decisions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.
5. See additional noticing requirements in Section 20.45A.110 for preliminary subdivisions (plats).

Section 20. Section 20.35.210 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.210 Notice of application.**

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

**Table 20.35.210.A**

<b>Application Type</b>	<b>Publish</b>	<b>Mail</b>	<b>Sign</b>
Administrative Amendment	X	X	X
Administrative Conditional Use	X	X	X
Design Review	X	X	X
Home Occupation Permit	X	X	
Interpretation of Land Use Code	X		
Preliminary Short Plat	X	X	X
Shoreline Substantial Development Permit	X	X	
Variance, Shoreline Variance	X	X	
Small Lot Protected Area Development Exception	X	X	
SEPA review (when not consolidated with another permit)	X		

1. For Process II decisions not included in Table 20.35.210.A, notice of application shall be provided by publication and mailing.
2. When required by Table 20.35.210.A, publishing shall include publication of the project description, location, types of City permits or approvals applied for, date of application and location where the complete application file may be reviewed, in a newspaper of general circulation in the City.
3. Mailing shall include mailed notice to owners of real property within 200 feet of the project site including the following information:
  - a. The date of application;
  - b. The project description and location;
  - c. The types of City permit(s) or approval(s) applied for;
  - d. The Director may, but need not, include other information to the extent known at the time of notice of application, such as: the identification of other City permits required, related permits from other agencies or jurisdictions not included in the City permit process, the dates for any public meetings or public hearings, identification of any studies requested for application review, any existing environmental documents that apply to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation.
4. If signs are required, two signs or placards shall be posted by the applicant on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.
5. Mailings shall also include mailing notice of the application including at least the information required in paragraph A.1 of this section to each person who has requested such notice for the calendar year and paid any fee as established by the Director. This mailing shall also include all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens groups who have requested notice of land use activity. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

Section 21. Section 20.35.235 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.235 Notice of decision.**

- A. Public notice of all Process II decisions shall be published in a newspaper of general circulation.
- B. The Director shall mail notice of the decision to each person who submitted comments during the public comment period or at any time prior to issuance of the decision.
- C. The Director shall mail notice to each person who has requested such notice and paid any fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, and other citizens' groups who have requested regular notice of land use decisions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

Section 22. Section 20.35.320 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.320 Notice of application.**

- A. Notice of application shall be provided, pursuant to the requirements of this section, within 14 days of issuance of the notice of completeness for an application for a Process III land use decision. See additional noticing requirements in Section 20.45A.110 for preliminary subdivisions (plats).
- B. The Director shall provide notice of the application as follows:
  - 1. Publication of the project description, location, types of City permits or approvals applied for, date of application and location where the complete application file may be reviewed in a newspaper of general circulation in the City.
  - 2. Mailed notice to owners of real property within 200 feet of the project site including the following information:
    - a. The date of application;
    - b. The project description and location;
    - c. The types of City permits or approvals applied for;
    - d. The Director may, but need not, include other information to the extent known at the time of notice of application, such as: the identification of other City permits or approvals required; related permits from other agencies or jurisdictions not included in the City permit process; the dates for any public meetings or public hearings; identification of any studies requested for application

review; any existing environmental documents that apply to the project; and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation.

3. Mailed notice of the application including at least the information required in paragraph A.1 of this section to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens groups who have requested regular notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.
- C. The Applicant shall provide notice of the application as follows:
1. Posting of two signs or placards on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.

Section 23. Section 20.35.335 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.335 Public notice of Director's recommendation.**

Notice of Recommendation, SEPA determination, and Hearing Examiner hearing.

- A. Public notice of the availability of the Director's recommendation shall be published in a newspaper of general circulation. If a Determination of Significance (DS) was issued by the Environmental Coordinator, the notice of the Director's recommendation shall state whether an Environmental Impact Statement (EIS) or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) is issued, the DNS may be issued and published in conjunction with the Director's recommendation. The notice of recommendation shall also include the date of the Hearing Examiner public hearing for the application, which shall be scheduled no sooner than 14 days following the date of publication of the notice.
- B. The Director shall mail notice of the recommendation and public hearing to each owner of real property within 200 feet of the project site.
- C. The Director shall mail notice to each person who submitted comments during the comment period or at any time prior to the publication of the notice of recommendation.

- D. The Director shall mail notice to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood associations, community clubs, or other citizens groups who have requested notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.
- E. See additional noticing requirements in Section 20.45A.110 for preliminary subdivisions (plats).

Section 24. Section 20.35.355.G of the Bellevue Land Use Code is hereby amended as follows:

**20.35.355 City Council decision on the application.**

**G. Effect of Decision.**

- 1. The decision of the City Council on the application is the final decision of the City and may be appealed to Superior Court as provided in LUC 20.35.070.
- 2. For City Council decisions that are subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040, the decision of the City Council shall be final upon the earlier of the date of Community Council action or upon the end of the 60th day following City Council action.

Section 25. A new Section 20.35.415 is hereby added to the Bellevue Land Use Code as follows:

**20.35.415 Notice of application.**

- A. The Director shall provide notice of the application as follows:
  - 1. Publication of a brief description of the action or approval requested; if the application involves specific property, the street address of the subject property; name of the applicant and project name; date of application; and location where the complete application file may be reviewed in a newspaper of general circulation in the City.
  - 2. If the proposal involves specific property, rather than an area-wide or zone-wide change, notice of the application containing at least the information in B.1 shall be mailed to each owner of real property within 200 feet of any boundary of the subject property.
  - 3. The Director shall mail notice containing at least the information in B.1 to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in

this mailing shall be all members of a Community Council and a representative from each of the neighborhood associations, community clubs, or other citizens groups who have requested notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

4. If the proposal involves specific property, rather than an area-wide or zone-wide change, two signs or placards shall be posted by the applicant on the site or in a location immediately adjacent to the site that provides visibility to motorists using the adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.

Section 26. Section 20.35.420 of the Bellevue Land Use Code is hereby amended as follows:

**20.35.420 Public hearing notice.**

**A. Content.**

When the Planning Commission or City Council has scheduled a public hearing on a Process IV proposal, the applicable Department Director shall prepare a notice containing the following information:

1. The name of the applicant, and, if applicable, the project name;
2. If the application involves specific property, the street address of the subject property;
3. A brief description of the action or approval requested;
4. The date, time and place of the public hearing; and
5. A statement of the right of any person to participate in the public hearing as provided for in LUC 20.35.430.

**B. Provision of Notice.**

1. The applicable Department Director shall provide for notice of the public hearing to be published in a newspaper of general circulation in the City at least 14 days prior to the date of the public hearing.
2. If the proposal involves specific property, rather than an area-wide or zone-wide change, two signs or placards shall be posted by the applicant on the site or in a location immediately adjacent to the site that provides visibility to motorists using the adjacent streets. The Director shall establish standards for size, color, layout, design,

wording, placement, and timing of installation and removal of the signs or placards.

3. If the proposal involves specific property, rather than an area-wide or zone-wide change, notice of the public hearing shall be mailed to each owner of real property within 200 feet of any boundary of the subject property.
4. The Director shall mail notice to each person who has requested such notice and paid any fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, and other citizens' groups who have requested regular notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.
5. The Director shall mail notice to each person who submitted comments during the comment period or at any time prior to the publication of the notice of public hearing.

Section 27. Section 20.45A.110 of the Bellevue Land Use Code is hereby amended as follows:

**20.45A.110 Preliminary plat – Special notice requirement.**

**A. General.**

The notice requirements of this section are in addition to the notice requirements of LUC 20.35.120 and 20.35.135.

**B. Means of Notice.**

The Director of Planning and Community Development shall provide notice of the public hearing by:

1. Mailing notice of the public hearing to appropriate city or town officials if the plat includes the use of any city or town utility or is adjacent to or within a mile of the boundaries of that city or town. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.; and
2. Mailing notice of the public hearing to appropriate county officials if the plat is adjacent to the Bellevue City boundary. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.; and
3. Mailing notice of the public hearing to the State Secretary of Transportation if the plat is adjacent to the right-of-way of a state highway or within two miles

of the boundary of a state or municipal airport. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.; and

4. Mailing notice of the public hearing to owners of real property within 300 feet of the proposed subdivision site.

Section 28. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

PASSED by the City Council this 20<sup>th</sup> day of October, 2003, and signed in authentication of its passage this 20<sup>th</sup> day of October, 2003.

(SEAL)

Connie B. Marshall

Connie B. Marshall, Mayor

Approved as to form:

Richard L. Andrews, City Attorney

Lori M. Riordan

Lori M. Riordan, Assistant City Attorney

Attest:

Myrna L. Basich

Myrna L. Basich, City Clerk

Published October 24, 2003