

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5615

AN ORDINANCE amending the Bellevue Land Use Code to allow for the permitting of Temporary Encampments while assuring the health, safety and welfare of all residents of those Encampments and of the citizens of Bellevue; amending Sections 20.35.015, 20.35.045, 20.35.070, 20.35.080, 20.35.200, 20.35.250, 20.50.018, and 20.50.048 of the Bellevue Land Use Code; creating a new Part 20.30U and creating new Sections 20.35.500, 20.35.510, 20.35.520, 20.35.525, 20.35.530, 20.35.535, 20.35.540 of the Bellevue Land Use Code; and establishing an effective date.

WHEREAS, the City recognizes that homelessness is a problem within King County; and

WHEREAS, the City has taken and will continue to take steps to alleviate the problems of homelessness within the City and throughout King County; including the provision of shelter and the funding of affordable housing; and

WHEREAS, the City finds that while Temporary Encampments may provide an interim measure of relief from homelessness, Temporary Encampments are not permanent solutions to the problem, nor are they intended to be; and

WHEREAS, the City has determined that temporary accommodations must be safe and sanitary, and finds guidance in state and local laws, regulations, and practices pertaining to health and safety; and

WHEREAS, the City finds that residents of Temporary Encampments have an equal right to safe, healthy and sanitary conditions; and

WHEREAS, the City finds that hosts, sponsors and managers of Temporary Encampments have a responsibility to assure the health and safety of Temporary Encampment residents, as well as the surrounding community; and

WHEREAS, in other jurisdictions through legislation, permitting, and court orders, Temporary Encampments have been subject to health and safety regulations, codes of conduct, zoning laws, and other conditions; and

WHEREAS, the City has a compelling interest in the protection of the health and safety of all of its residents, as well as the enforcement of its zoning laws; and

WHEREAS, many houses of worship are conditional uses that are located in residential areas throughout the City; and

WHEREAS, the recent history of Temporary Encampments in other jurisdictions, including the Cities of Bothell, Woodinville, and Kirkland, demonstrates a critical need for public involvement in the process of permitting and siting Temporary Encampments, including adequate notice to the surrounding community, an opportunity for community members to comment upon the application and to exercise their fundamental right to petition the government, and an opportunity for review and processing of a permit by City staff; and

WHEREAS, the City's Comprehensive Plan supports establishing and enforcing land use regulations to further a variety of goals, including ensuring compatibility between adjacent land uses, protecting public health and safety, and including public participation in land use actions; and

WHEREAS, the City Council held public hearings on June 6, 2005 and July 5, 2005, with regard to this proposed Land Use Code amendment; and

WHEREAS, the City Council finds that the amendments to the Land Use Code contained in this ordinance satisfy the decision criteria established in LUC 20.30J.135; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

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

Section 1. A new Part 20.30U is hereby added to the Land Use Code as follows:

20.30U Temporary Encampment Permit

20.30U.110 Scope

This Part establishes the exclusive procedure and criteria that the City will use in making a decision upon an application to permit a Temporary Encampment.

20.30U.115 Applicability.

This Part 20.30U applies to each application for a Temporary Encampment Permit within the City. The requirements of this Part shall be imposed at the initiation of any Temporary Encampment use, and upon any addition or modification to a Temporary Encampment use.

20.30U.120 Who may apply.

Temporary Encampments shall not be permitted within the City except as an accommodation of religious exercise by an Encampment Host, Encampment Sponsor, or Encampment Manager. Each Encampment Host, Encampment Manager and Encampment Sponsor of a Temporary Encampment shall jointly apply for a permit under

this Part 20.30U, and shall jointly certify compliance with all applicable use requirements and conditions of this Part in the application.

20.30U.121 Submittal Requirements.

A. Prior to or upon filing their application for a Temporary Encampment Permit, the Encampment Host, Encampment Sponsor and Encampment Manager shall prepare an Encampment Management Responsibility Plan, which shall be included with their permit application. An application that does not contain an Encampment Management Responsibility Plan shall not be considered complete. The Encampment Management Responsibility Plan shall include the following:

1. A description of the security measures that the Encampment Host, Encampment Sponsor and Encampment Manager intend to employ at the Encampment site, including criteria for rejection as a resident, a code of conduct, neighborhood security patrols, if any, whether and how they will implement outstanding warrant or registered sex offender background checks, and whether and how any Temporary Encampment residents or prospective residents may be ejected from the Temporary Encampment based on the results of such checks.

2. A description of any applicable liability and management agreements, obligations, or policies of insurance held by or entered between the Encampment Host, Encampment Sponsor, or Encampment Manager, as well as copies of any such agreements, obligations or policies.

3. A description of any requested exemptions sought pursuant to LUC 20.30U.125(A)(8)(a), 20.30U.125(A)(11)(k), or 20.30U.127, and a description of the manner in which the proposed exemptions satisfy the criteria of the exemption provision and this ordinance.

4. A transportation plan demonstrating compliance with LUC 20.30U.125(A)(6).

5. A proposed site plan.

6. A street address which, for the duration of the Temporary Encampment, shall be considered the permanent and fixed address of each individual while residing at the Temporary Encampment.

20.30U.122 Applicable Procedures.

A Temporary Encampment Permit is a Process V decision. In addition to the requirements for Process V in Part 20.35, the following additional procedures apply:

A. Public meeting required. The director shall hold an informational public meeting. The meeting shall comply with the requirements of LUC 20.35.525. Prior to the public meeting, the Encampment Host shall meet and confer with the Bellevue Police Department regarding the proposed security measures. At the public meeting, a representative of the Encampment Host shall present in writing and describe the

proposed Encampment Management Responsibility Plan, and any input or comment received on the plan, including any comment or input from the Bellevue Police Department, or comment or input from schools and/or child care services under LUC 20.30U.122(B). The public meeting shall be attended by all applicants of the proposed Temporary Encampment Permit.

B. Additional mailed notice. The requirements for mailed notice of the application set forth in LUC 20.35.510 shall be expanded to include owners of real property within 600 feet of the project site. Prior to the decision of the Director on a Temporary Encampment Permit, the Encampment Host, Encampment Sponsor, or Encampment Manager, shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed Temporary Encampment site, and shall meet and confer with the operators of any known child care service within 600 feet of the boundaries of the proposed Temporary Encampment site. The Encampment Host and the school administration and/or child care service operator shall make a good faith effort to agree upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a Temporary Encampment within 600 feet of such a facility. Any such conditions agreed upon between the parties shall be submitted to the Director for consideration for inclusion within the Temporary Encampment Permit. In the event the parties fail to agree on any conditions, either party may provide the Director with a written summary of the parties' discussions, which the Director may consider in evaluating whether the criteria for the Temporary Encampment Permit are met, or the need for additional conditions upon the Temporary Encampment Permit based on the applicable decision criteria.

C. The applicant shall provide notice of the application by posting 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.

20.30U.125 Use Requirements.

A. The following requirements apply to each Temporary Encampment:

1. The Encampment Host, Encampment Sponsor, and Encampment Manager must demonstrate that the proposed use meets the definition of a Temporary Encampment, as set out in LUC 20.50.048.

2. The Encampment Host, Encampment Sponsor, and Encampment Manager shall ensure enforcement of a Code of Conduct at the Temporary Encampment site. The Code of Conduct shall be in substantially the following form or address the following issues:

- a. Possession or use of illegal drugs is not permitted.
- b. No alcohol is permitted.
- c. No weapons are permitted.

- d. All knives over 3 and one-half inches must be turned into the Encampment Manager for safekeeping.
- e. No violence is permitted.
- f. No open flames are permitted.
- g. No trespassing into private property in the surrounding neighborhood is permitted.
- h. No loitering in the surrounding neighborhood is permitted.
- i. No littering on the Temporary Encampment site or in the surrounding neighborhood is permitted.
- j. A trash patrol in the surrounding neighborhood is required every other day.

Nothing within this Section shall prohibit the Encampment Host, Encampment Sponsor or Encampment Manager from imposing and enforcing additional Code of Conduct conditions not otherwise inconsistent with this Section.

3. The maximum number of residents at a Temporary Encampment site shall be determined taking into consideration site conditions, but shall in no case be greater than one hundred at any one time. Any proposed site shall be of sufficient size to support the activities of the Temporary Encampment without the overcrowding of residents or any intrusion into required setbacks. In determining the maximum occupancy of a Temporary Encampment, the Director shall consider the square footage of the Encampment Site; the number of proposed Temporary Enclosures; the number of required or proposed bathing, food handling, hand washing, laundry, and toilet facilities; required setbacks; and the ongoing use of the site by the Encampment Host. The City shall impose a condition on the Temporary Encampment Permit for the Encampment limiting the number of residents or occupants to the number determined pursuant to this subsection. Any increase in the number of residents or occupants beyond that applied for by the applicants and included in the Temporary Encampment Permit shall require a revision to the Temporary Encampment Permit, which shall be processed as a new application.

4. The duration of a Temporary Encampment at any specific location shall not exceed 60 days at any one time, provided that, in the event the final day of this period falls upon a Friday, up to an additional two days shall be allowed to dismantle and remove the Temporary Encampment as necessary.

5. A Temporary Encampment may be located at the same site no more than once every 18 months.

6. A Temporary Encampment shall be within one half mile of a public transportation stop, or the Encampment Sponsor, Encampment Host or Encampment Manager shall otherwise demonstrate the ability for Temporary Encampment occupants to obtain access to the nearest public transportation stop through van or car pools provided by the Encampment Host, Encampment Sponsor, or Encampment Manager. During hours when public transportation is not available, the Encampment Sponsor, Encampment Host, or Encampment Manager shall also make transportation available to anyone who is rejected from or ordered to leave the Temporary Encampment.

7. On-site parking spaces of the Encampment Host shall not be displaced unless the required minimum parking remains available for the Encampment Host's use, as set forth in LUC 20.20.590. The Host may provide shared parking pursuant to LUC 20.20.590.I, or off-site parking pursuant to LUC 20.20.590.J, to satisfy minimum parking requirements.

8. The perimeter of a Temporary Encampment must be buffered from surrounding properties as follows:

a. The Temporary Encampment, as measured from the Temporary Encampment perimeter, shall meet the minimum setback requirements applicable to the Encampment Host in the underlying Land Use District; provided that, no Temporary Encampment setback shall be less than 20 feet; and provided further that the Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for a reduction of setback requirements applicable to the Encampment Host in the underlying Land Use District to no less than 20 feet. In considering whether a reduction should be granted, the Director may consider whether the minimum setback requirements applicable to the Encampment Host in the underlying Land Use District, if applied to the Temporary Encampment, would substantially burden the siting or hosting of a Temporary Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager and may consider the effects on health and safety of residents and the community should the reduction be granted.

b. The Temporary Encampment shall be surrounded by a view obscuring fence or equivalent solid structure, which in no event shall be less than six feet high. The perimeter surrounding the Temporary Encampment shall have a single designated point for ingress or egress, consistent with applicable fire and other safety regulations.

9. The Encampment Host, Encampment Sponsor and Encampment Manager shall not permit children under the age of eighteen to stay overnight in a Temporary Encampment, unless circumstances prevent a more suitable overnight accommodation for the child and parent or guardian. If a child under the age of eighteen, either alone or accompanied by a parent or guardian, attempts to stay overnight, the Encampment Host, Encampment Sponsor or Encampment Manager shall endeavor to find alternative shelter for the child and any accompanying parent or guardian.

10. The Encampment Host, Encampment Sponsor or Encampment Manager shall take all reasonable and lawful steps to obtain verifiable identification, such as a valid driver's license, government issued identification card, military identification card, or passport, from all prospective and current residents of a Temporary Encampment. The Encampment Host, or a third party approved by the Director, shall retain a log of all overnight residents of the Temporary Encampment, including names and dates.

11. The Encampment Host, Encampment Sponsor or Encampment Manager shall assure compliance with the following health and safety regulations. References to the application of local ordinances and regulations shall include the Codes and Regulations of King County and the City of Bellevue. All references are to regulations, ordinances and codes now or as hereafter amended:

a. Water Supply

The Encampment Host, Encampment Manager or Encampment Sponsor must:

i. Provide access to hot and cold water for drinking, cooking, and bathing purposes. The Temporary Encampment water supply must be adequate to meet the needs of all residents of the Temporary Encampment, and must be located in a manner that provides access to water adjacent to food preparation, toilet and bathing facilities.

ii. Prohibit the use of common drinking cups or containers from which water is dipped or poured.

iii. When water is unsafe for drinking purposes and accessible to residents, post a sign by the source reading "DO NOT DRINK. DO NOT USE FOR WASHING. DO NOT USE FOR PREPARING FOOD."

b. Sewage & Wastewater Disposal

The Encampment Host, Encampment Manager and Encampment Sponsor must:

i. Provide for sewage and wastewater disposal in accordance with the Codes and regulations of local health jurisdictions.

ii. Assure that all portable toilets comply with King County Code Section 8.20.

c. Electricity & Lighting

The Encampment Host, Encampment Manager or Encampment Sponsor must ensure that all electrical wiring, fixtures and electrical equipment must comply with the electrical standards of the department of labor and industries regulations, chapter 19.28 RCW, and local ordinances, and be maintained in a safe condition.

d. Hand Washing and Bathing

An Encampment Host, Encampment Manager or Encampment Sponsor must:

- i. Provide one hand wash sink for every fifteen persons. At least two hand wash sinks must be adjacent to toilets, and at least one hand wash sink must be adjacent to food preparation facilities. Other hand wash sinks may be located throughout the Temporary Encampment site for general use.
- ii. Provide one showerhead for every forty persons.
- iii. Provide all showers, baths, or shower rooms with floor drains to remove wastewater.
- iv. Provide cleanable, nonabsorbent waste containers.
- v. Maintain bathing and hand washing facilities in a clean and sanitary condition, cleaned at least daily.
- vi. Make showers and bathing facilities available when needed.

e. Toilets

The Encampment Host, Encampment Manager or Encampment Sponsor must meet the following requirements:

- i. Provide the following toilet facilities:
 - (A) One toilet, including portable toilets, for every fifteen persons;
 - (B) Hand washing sinks adjacent to toilets, as provided in LUC 20.30U.125.A.11.d above;
 - (C) For each toilet facility, either a window of at least six square feet opening directly to the outside or satisfactory ventilation; and
 - (D) For each toilet facility, all outside openings screened with sixteen-mesh material.
- ii. Maintain toilets in a clean and sanitary condition, cleaned at least daily.

f. Cooking and Food Handling

In common food-handling areas, the Encampment Host, Encampment Manager or Encampment Sponsor must provide:

ORIGINAL

- i. An enclosure, adequate in size, separate from any sleeping quarters;
- ii. No direct openings to living or sleeping areas from the common food-handling area;
- iii. Sinks with hot and cold running potable water, as provided in LUC 20.30U.125.A.11.d above;
- iv. Nonabsorbent, easily cleanable food preparation counters situated off the floor;
- v. When perishable food will be in place, mechanical refrigeration conveniently located and able to maintain a temperature of forty-five degrees Fahrenheit or below.

g. Maintenance of Bedding

The Encampment Host, Encampment Manager or Encampment Sponsor must maintain bedding, if provided by the Encampment Host, Encampment Manager or Encampment Sponsor, in a clean and sanitary condition.

h. Refuse Disposal

The Encampment Host, Encampment Manager or Encampment Sponsor must:

- i. Comply with local sanitation codes for removing and disposing of refuse from housing areas.
- ii. Protect against rodent harborage, insect breeding, and other health hazards while storing, collecting, transporting, and disposing of refuse.
- iii. Store refuse in fly-tight, rodent-tight, impervious, and cleanable or single-use containers.
- iv. Keep refuse containers clean.
- v. Provide a container on a wooden, metal, or concrete stand within one hundred feet of each dwelling unit.
- vi. Empty refuse containers at least twice each week, and when full.

i. Insect and Rodent Control

The Encampment Host, Encampment Manager or Encampment Sponsor must take effective measures to prevent and control insect and rodent infestation.

j. Disease Prevention and Control

The Encampment Host, Encampment Manager or Encampment Sponsor must:

i. Report immediately to Seattle & King County Public Health the name and address of any occupant known to have or suspected of having a communicable disease, as now or hereafter designated by Seattle & King County Public Health.

ii. Report immediately to Seattle & King County Public Health:

(A) Suspected food poisoning;

(B) Unusual prevalence of fever, diarrhea, sore throat, vomiting, or jaundice; or

(C) Productive cough, or when weight loss is a prominent symptom among occupants.

iii. Prohibit any individual with a communicable disease, as now or hereafter designated by Seattle & King County Public Health, from preparing, cooking, serving, or handling food, foodstuffs, or materials in dining halls.

k. Substantial Compliance

An Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for an exemption from particular provisions of this LUC 20.30U.125.A.11 upon a showing of substantial compliance or alternative means of compliance. Alternative means of compliance may include the following: (1) Use of facilities already available on the Encampment Host site or within the Encampment Host's facilities (such as preexisting indoor or outdoor hand washing, toilet, or shower facilities); (2) Use of facilities located sufficiently near the Encampment Host Site so as to adequately address the health and safety of Encampment residents (such as adjacent public toilet, shower or hand washing facilities); (3) Use of alternative means to assure the health and safety of both the Temporary Encampment residents and surrounding neighborhood residents, occupants and users. In considering whether an exemption should be granted, the Director may consider whether the provision or provisions of LUC 20.30U.125.A.11 at issue, if applied to the Temporary Encampment, would substantially burden the siting or hosting of a Temporary Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager.

12. Exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the Temporary Encampment, and shall also be directed

downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures utilized at Temporary Encampments shall be appropriate in scale, intensity, and height to the use that they are serving.

20.30U.127 Hardship Exception.

An Encampment Host, Encampment Sponsor, or Encampment Manager may petition the Director for an exception from any of the specific Use Requirements of LUC 20.30U.125 upon grounds of hardship. In considering whether a hardship exception should be granted, the Director may consider whether the provision or provisions at issue substantially burden the siting or hosting of a Temporary Encampment at a particular location or by a particular Encampment Host, Encampment Sponsor, or Encampment Manager and the effects on health and safety of residents and the community should the exception be granted.

20.30U.130 Decision Criteria.

The Director may approve or approve with modifications an application for a Temporary Encampment Permit if:

- A. The Temporary Encampment complies with the Use Requirements set out in LUC 20.30U.125, and other applicable requirements of this Code; and
- B. The Temporary Encampment will not be materially detrimental to the public health, safety or welfare of the Temporary Encampment residents or the surrounding community; and
- C. The imposition of a condition under which the City reserves the right to impose additional conditions or to reconsider the Temporary Encampment Permit within a certain timeframe from approval date, based on complaints filed with the City.

20.30U.135 Revocation of Temporary Encampment Permit.

Upon determination that there has been a violation of any decision criteria or condition of approval, the Director may give written notice to the permit holder describing the alleged violation. Within 14 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 14-day period, the Director shall sustain or revoke the permit. When a Temporary Encampment permit is revoked, the Director 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 Temporary Encampment permit will be processed using the Process V appeal procedures. This availability of this procedure shall be in addition to the procedures set out in BCC Chapter 1.18.

Section 2. 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 five processes based on who makes the decision, the amount of discretion exercised by the decisionmaker, 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 (CUPs) and Shoreline Conditional Use Permits;
2. Preliminary Subdivision Approval (Plat);
3. Planned Unit Development (PUD) Approval; 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 unless otherwise provided in this Title 20 or in the Environmental Procedures Code. (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 State Environment Policy Act (SEPA) when not merged with any Process IV or Process V decision.

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 citywide or areawide basis.

F. Process V decisions are administrative land use decisions made by the Director, for which no administrative appeal is available. The following are Process V decisions:

1. Temporary Encampment Permits.

G. 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 3. 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. Process V decisions and minor or ministerial 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 4. Section 20.35.070 of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.070 Appeal of City land use decisions to Superior Court.

A. General. A final City decision on a land use permit application (Processes I – III and V), except for shoreline permits, may be appealed to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040. Notwithstanding the provisions of this paragraph, the time for filing an appeal of a final Process II land use action that has been merged with a Process I or III application will be tolled until the Process I or III decisions are final. Requirements for fully exhausting City administrative appeal opportunities, if any are available, must be fulfilled. An appeal of a Shoreline Substantial Development Permit, a Shoreline Conditional Use Permit, or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.

B. A final City action on a legislative nonproject land use proposal (Process IV) may be appealed by petition to the Growth Management Hearings Board as set forth in LUC 20.35.440.C and RCW 36.70A.290.

Section 5. Section 20.35.080 of the Bellevue Land Use Code is hereby amended as follows:

20.35.080 Merger of Certain Decisions.

A. Process I and III and Process II, Including SEPA threshold determinations. When a single project includes a combination of Process I, Process II, including the SEPA threshold determination associated with the Process I or III action and/or Process III land use applications, review of the project shall combine review of the Process I, Process II, and Process III components. A consolidated report setting forth the Process I and/or Process III recommendation of the Director and the Process II decisions will be issued.

B. SEPA Threshold Determination with Process IV or Process V Decisions. The SEPA threshold determination associated with a Process IV or Process V action shall be merged with the Process IV and Process V action, and processed according to the notice, decision, appeal and other procedures set forth in LUC Sections 20.35.400 to 20.35.450 (Process IV) or LUC Sections 20.35.500 to 20.35.540 (Process V).

Section 6. Section 20.35.200.B of the Bellevue Land Use Code is hereby amended as follows:

B. If required by the State Environmental Policy Act (SEPA), a threshold determination will be issued by the Environmental Coordinator. The threshold determination is also a Process II decision, except as set forth in LUC 20.35.015.C, and may be issued in conjunction with the Director's decision on the accompanying land use decision. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed prior to the issuance of the accompanying land use decision. If the requirement to prepare an EIS or a supplemental EIS is appealed by the applicant, that appeal will be resolved prior to the issuance of the land use decision. (See 22.02.031 and 22.02.160 regarding timing of issuance of the threshold determination.)

Section 7. Section 20.35.250.C of the Bellevue Land Use Code is hereby amended as follows:

C. SEPA Threshold Determinations on Process IV and Process V Actions.

1. Process IV. An appeal of a SEPA threshold determination on a Process IV action shall be filed together with an appeal of the underlying Process IV action. The appeal shall be by petition to the Growth Management Hearings Board and shall be filed within the 60-day time period set forth in RCW 36.70A.290.

2. Process V. An appeal of a SEPA threshold determination on a Process V action shall be filed together with an appeal of the underlying Process V action. The appeal shall be as set forth in LUC 20.35.070 and 20.35.540.

Section 8. A new Section 20.35.500 is hereby added to the Land Use Code as follows:

20.35.500 Process V: Administrative decisions with no administrative appeal.

A. LUC 20.35.500 through 20.35.540 contain the procedures the City will use in implementing Process V. A Process V land use decision is an administrative decision made by the Director of the Department of Planning and Community Development. Process V applications go through a period of public notice and an opportunity for public comment. A public meeting may be held for Process V applications where required for each type of Process V application. The Director then makes a decision based upon the decision criteria set forth in the Code for each type of Process V application. Public notice of the decision is provided, but there is no opportunity for administrative appeal of the decision.

B. If required by the State Environmental Policy Act (SEPA), a threshold determination will be issued by the Environmental Coordinator. The threshold determination for an underlying Process V application is also a Process V decision, and may be issued in conjunction with the Director's decision on the accompanying land use decision. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed prior to the issuance of the accompanying land use decision. If the requirement to prepare an EIS or a supplemental EIS is appealed by the applicant, that appeal will be resolved prior to the issuance of the land use decision.

Section 9. A new Section 20.35.510 is hereby added to the Land Use Code as follows:

20.35.510 Notice of application.

A. Notice of application for Process V land use decisions shall be provided within 14 days of issuance of a notice of completeness pursuant to the requirements of this section. See additional noticing requirements in LUC 20.30U.122 for Temporary Encampment Permits.

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 300 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, 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 B.2 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 10. A new Section 20.35.520 is hereby added to the Land Use Code as follows:

20.35.520 Minimum comment period.

A. The Notice of Application shall provide a minimum comment period of 14 days. The Director's decision on a Process V application will not be issued prior to the expiration of the minimum comment period.

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

C. The Director may accept and respond to public comments at any time prior to making the Process V decision.

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

Section 11. A new Section 20.35.525 is hereby added to the Land Use Code as follows:

20.35.525 Public meetings.

The Director may require the applicant to participate in a public meeting to inform citizens about a proposal. When required, public meetings shall be held as early in the review process as possible for Process V applications. For projects located within the boundaries of a Community Council, the public meeting may be held as part of that Community Council's regular meeting or otherwise coordinated with that Council's meeting schedule. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the notice of application whenever possible.

Section 12. A new Section 20.35.530 is hereby added to the Land Use Code as follows:

20.35.530 Director's decision.

A written record of the Process V decision shall be prepared in each case. The record may be in the form of a staff report, letter, the permit itself, or other written document and shall indicate whether the application has been approved, approved with conditions or denied. The Director's decision shall be based on the applicable Land Use Code decision criteria, shall include any conditions to ensure consistency with such decision criteria and with City development regulations, and may include mitigation measures proposed under the provisions of the State Environmental Policy Act (SEPA).

Section 13. A new Section 20.35.535 is hereby added to the Land Use Code as follows:

20.35.535 Notice of decision.

- A. Public notice of all Process V 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 and who provided an adequate address for mailing.
- 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 14. A new Section 20.35.540 is hereby added to the Land Use Code as follows:

20.35.540 Appeal of Process V decisions.

The Director of Planning and Community Development's decision regarding a Process V application may be appealed to Superior Court pursuant to LUC 20.35.070. An appeal of a SEPA Threshold Determination on a Process V action shall be filed together with an appeal of the underlying Process V action.

Section 15. Section 20.50.018 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions:

"Encampment Manager" shall mean an individual, group, organization, or entity that organizes, manages or operates a Temporary Encampment. An "Encampment

Manager" may be the same individual, group, organization, or entity as the Encampment Host or the Encampment Sponsor of a Temporary Encampment.

"Encampment Host" shall mean the individual, group, organization, or entity (including but not limited to an owner, tenant, or lessee) that has the legal right to occupy the site of a Temporary Encampment. An "Encampment Host" may be the same individual, group, organization, or entity as the Encampment Sponsor or the Encampment Manager of a Temporary Encampment.

"Encampment Sponsor" shall mean an individual, group, organization, or entity which, in conjunction or by agreement with the Encampment Host or Encampment Manager, provides services or support on an ongoing basis for the residents of a Temporary Encampment. An "Encampment Sponsor" may be the same individual, group, organization, or entity as the Encampment Host or the Encampment Manager of a Temporary Encampment.

Section 16. Section 20.50.048 of the Bellevue Land Use Code is hereby amended as follows:

"Temporary Encampment" shall mean a transient or interim gathering or community comprised of Temporary Enclosures, which may include common areas designed to provide food, living, and sanitary services to occupants of the encampment; provided that, this definition shall not include recreational encampments of less than ten days in duration.

"Temporary Enclosures" shall mean tents and other forms of portable shelter that are not permanently attached to the ground, are intended to be erected and dismantled, and are intended for temporary outdoor occupancy. "Temporary Enclosures" shall provide protection from the elements, shall be comprised of flame-resistant material or treated with flame retardant in an approved manner, shall be elevated above and shall not allow direct contact with the bare ground, shall allow for means of unobstructed ingress and egress, shall protect against the entry of rodents and insects, and shall contain at least one window to allow for ventilation.

Section 17. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the or the application of the provision to other persons or circumstances shall not be affected.

ORIGINAL

0804-ORD
07/26/05

Section 18. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 25th day of July, 2005,
and signed in authentication of its passage this 26th day of July, 2005.

(SEAL)

Connie B. Marshall
Connie B. Marshall, Mayor

Approved as to form:

Lori M. Riordan
Lori M. Riordan, City Attorney

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk

Published July 29, 2005