

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5683

AN ORDINANCE amending the Bellevue Land Use Code to adopt city-wide impervious surface standards, and amend cross references, administrative provisions, and other sections for consistency with the Critical Areas Update; amending Sections 20.20.005, 20.20.010, 20.20.017, 20.20.018, 20.20.025, 20.20.030, 20.20.450, 20.20.520, 20.20.525, 20.20.540, 20.20.560, 20.20.590, 20.20.730, 20.25B.040, 20.25C.040, 20.25K.050, 20.25L.010, 20.25L.030, 20.30G.140, 20.35.015, 20.35.030, 20.35.210, 20.40.490, 20.40.500, 20.50.020, 20.50.026, 20.50.040; repealing Section 20.20.023 and Part 20.30P; and creating new Sections 20.20.460, 20.50.042 and a new Part 20.30P of the Bellevue Land Use Code; and establishing an effective date.

WHEREAS, the City of Bellevue is a designated urban growth area under the state's Growth Management Act (GMA); and

WHEREAS, as an urban growth area, the City of Bellevue plans for and accepts its portion of the forecasted growth and development expected in King County; and

WHEREAS, the state Growth Management Act (GMA) requires local jurisdictions to designate and protect critical areas; and

WHEREAS, GMA requires local jurisdictions to include the best available science (BAS) in developing policies and regulations to protect critical area functions and values, and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries; and

WHEREAS, the City of Bellevue has a long history of protecting environmentally sensitive critical areas, with its first protective regulations adopted in 1987; and

WHEREAS, the City of Bellevue has a long history of developing and protecting exceptional neighborhoods and commercial areas, which contribute to economic development and the citizens' quality of life; and

WHEREAS, the City of Bellevue initiated its Critical Areas Update process in order to review existing regulations and policies protecting critical areas in 2001; and

WHEREAS, following substantial work by the Critical Areas Citizens Advisory Committee and the Planning Commission, the City Council adopted updated critical

areas policies into the Environmental Element of the Comprehensive Plan, in November, 2004; and

WHEREAS, the Comprehensive Plan policies directs a regulatory and non-regulatory approach to protecting critical area functions and values; and

WHEREAS, the City of Bellevue protects critical areas with a variety of non-regulatory measures, including acquisition of critical areas, rehabilitation projects, education programs, and best management practices in city operations and management of city property and rights of way; and

WHEREAS, the proposed amendments to the Land Use Code updating the City's critical areas regulations, together with other regulations, including the City's clearing and grading regulations and stormwater regulations, and together with non-regulatory measures and incentives, provide protection of critical area functions and values; and

WHEREAS, the proposed amendments to the general provisions of the Land Use Code establish impervious surface limits for all land use districts outside the downtown, and modify landscaping standards for commercial and multi-family land use districts outside the downtown, recognizing the impact of all development on critical area functions and values; and

WHEREAS, the proposed amendments to the general provisions of the Land Use Code also update definitions and cross references for consistency with the changes to the city's specific critical areas regulations; and

WHEREAS, development of the proposed amendments included BAS, with BAS sources set forth completely in the Planning Commission Transmittal dated September 7, 2005 as updated by the City Council Agenda Memorandum dated June 26, 2006; and

WHEREAS, the City prepared a risk analysis of the proposed amendments, entitled "*City of Bellevue's Critical Areas Update – Risk Analysis of Regulatory, City Programs and Best Available Science Alternatives for Improving Critical Area Protection*," dated June 16, 2005 and updated on May 9, 2006, which discloses any departure from best available science and the risks associated with such departures; and

WHEREAS, the Planning Commission held a public hearing on July 6, 2005 with regard to such proposed Land Use Code amendment; and

WHEREAS, the Planning Commission finds that the Land Use Code amendment satisfies the criteria of LUC 20.30J.135 and therefore recommends that the City Council approve such proposed amendment; and

WHEREAS, the City Council held a public hearing on May 15, 2006 with regard to the proposed Land Use Code amendments, as modified by the City Council; and

WHEREAS, the City Council concurs in the analysis of the Land Use Code amendment criteria as set forth in the Planning Commission Transmittal dated September 7, 2005 and finds that the Land Use Code amendment, as modified pursuant to Council direction, satisfies the criteria of LUC 20.30J.135; and

WHEREAS, the City Council adopts the analysis and discussion of GMA and BAS obligations as set forth in the Planning Commission Transmittal dated September 7, 2005, as updated in the City Council Agenda Memorandum dated June 26, 2006; 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, including preparation of a Draft Environmental Impact Statement dated June 15, 2005 and the Final Environmental Impact Statement dated May 9, 2006; now, therefore,

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

Section 1. Section 20.20.005 of the Bellevue Land Use Code is hereby amended as follows:

**20.20.005 Chart of dimensional requirements described.**

Chart 20.20.010 sets forth the dimensional requirements for each land use district except: the Downtown Land Use Districts, the Evergreen Highlands Design District, the Evergreen Highlands Subarea Transportation Improvement Overlay District, Institutional District, and the OLB-OS Land Use District. All structures and activities in the City not located in the above districts shall conform to the dimensional requirements in Chart 20.20.010. Dimensional requirements for the Downtown Land Use Districts are found in LUC 20.25A.020. Dimensional requirements for the Evergreen Highlands Design District are found in Part 20.25F. Dimensional requirements for the Evergreen Highlands Subarea Transportation Improvement Overlay District are found in Part 20.25G. Dimensional requirements for the Medical Institutional District are found in Part 20.25J. Dimensional requirements for the OLB-OS Land Use District are found in LUC 20.25L.030. Additional special dimensional requirements for designated areas of the City are contained in other parts of the Code as follows:

- A. Part 20.25B LUC – Transition Areas;
- B. Part 20.25C LUC – OLB Districts;
- C. Part 20.25E LUC – Shoreline Overlay District;

D. Part 20.25H LUC – Critical Areas Overlay District;

E. Part 20.45A LUC – Platting and Subdivisions;

F. Part 20.45B LUC – Short Plats and Short Subdivisions.

Section 2. Section 20.20.010 of the Bellevue Land Use Code is hereby amended as follows:

**20.20.010 Uses in land use districts dimensional requirements.**

**Chart 20.20.010**

Uses in land use districts		Dimensional Requirements											
STD LAND USE CODE REF	LAND USE CLASSIFICATION	Residential											
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30	
	<b>DIMENSIONS</b>												
	Minimum Setbacks of Structures (feet) Front Yard (18) (20) (38) (39)	35	30	20	20	20	20	20	20	20	20	20	20
	Rear Yard (11) (17) (18) (20) (38) (39)	25	25	25	25	20	20	20	25	25	25	25	25
	Side Yard (11) (17) (18) (20) (38) (39)	5	5	5	5	5	5	5	5	5	5	5	5(1)
	2 Side Yards (17) (18) (20) (38) (39)	20	15	15	15	15	15	10	15	15	15	15	15
	Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3) (39)	35	20	13.5	10	8.5	7.2	4.7	8.5	8.5	8.5(12)	8.5(12)	8.5(12)
	Dwelling Units per Acre (15) (21) (22)	1	1.8	2.5	3.5	4	5	7.5	10	15	20	30	30
	Minimum Dimensions (feet) Width of Street Frontage	30	30	30	30	30	30	30	30	30	30	30	30
	Width Required in Lot (4)	100	90	80	70	65	60	50	70	70	70	70	70
	Depth Required in Lot (4)	150	80	80	80	80	80	80	80	80	80	80	80
	Maximum in Building Height (feet) (10) (19) (26)	30	30	30	30	30	30	30	30	30	30	30(5)	40
	Maximum Lot Coverage by Structures (percent) (13) (14) (16) (26) (27) (37) (39)	35	35	35	35	35	40	40	35	35	35	35	35
	Maximum Impervious Surface (percent) (35) (37) (39)	50(36)	50(36)	50(36)	50(36)	50(36)	55(36)	55(36)	80	80	80	80	80

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

NOTE: Dimensional Requirements for Downtown are found in Part 20.25A LUC.

Dimensional Requirements for Evergreen Highlands Design District (EH-A, EH-B, EH-C, EH-D) are found in Part 20.25F LUC.

Dimensional Requirements for Office and Limited Business – Open Space (OLB-OS) are found in Part 20.25L LUC.  
Dimensional Requirements for Medical Institution District (MI) are found in Part 20.25J LUC.

**20.20.010**

**Chart 20.20.010 [Reader Note: the columns of this table for the Downtown land use districts have not been reprinted here for formatting reasons; they are not impacted by this ordinance]**

	Professional Office	Office	Office/Limited Business	Light Industry	General Commercial	Neighborhood Business	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3
LAND USE CLASSIFICATION	PO	O	OLB	LI	GC	NB	CB	F1	F2	F3
<b>DIMENSIONS</b>	(8, 21)	(8, 21)	(8, 21)	(8, 21)	(8, 21)	(8, 21)	(8, 21)	(8, 21)	(21, 31)	(21, 32)
Minimum Setbacks of Structures (feet) Front Yard (18) (20)	30	30	50	15	15			(28)	50	20
Rear Yard (17) (18) (20)	25	25	50	(2)	(2)	(2)	(2)	(2, 28)	30	5
Side Yard (17) (18) (20)	20	20	30	(2)	(2)	(2)	(2)	(2, 28)	30	5
2 Side Yards (17) (18) (20)	40	40	60	(2)	(2)	(2)	(2)	(2, 28)	60	10
Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3)			2A						2A	2A
Dwelling Units per Acre (15) (22)	10 (23)	20 (23)	30 (23)			15 (23)	30 (23)	30 (23)	30 (23)	30 (23)
Minimum Dimensions (feet) Width of Street Frontage			200						200	200
Width Required in Lot (4)			200						200	200
Depth Required in Lot (4)										
Maximum in Building Height (feet) (10) (19)	20	30	45 (6)	45 (9)	30	20 (25)	45	45/60 (29, 30)	75	75/135 (33, 34)
Maximum Lot Coverage by Structures (percent) (13) (14) (16) (37)	35 (24)	35 (24)	35 (24)	50		35 (24)			35 (24)	35 (24)
Maximum Impervious Surface (percent) (35) (37)	80	80	80	85	85	80	85	85	80	80

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

NOTE: Dimensional Requirements for Downtown are found in Part 20.25A LUC.  
Dimensional Requirements for Evergreen Highlands Design District (EH-A, EH-B, EH-C, EH-D) are found in Part 20.25F LUC.

Dimensional Requirements for Office and Limited Business – Open Space (OLB-OS) are found in Part 20.25L LUC.  
Dimensional Requirements for Institutional District (I) are found in Part 20.25J LUC.

**Notes: Uses in land use districts – Dimensional requirements**

- (1) Side yard setback in R-30 Districts increases to 20 feet on any side yard where structure exceeds 30 feet above finished grade.
- (2) All rear and side yards shall contain landscaping as required by LUC 20.20.520.
- (3) See LUC 20.20.012.
- (4) See LUC 20.20.015.
- (5) Except in Transition Areas, the maximum allowable building height in R-20 Districts may be increased to 40 feet if ground floor or underground parking for that building is provided and occupies a minimum of 75 percent of the building footprint.
- (6) The maximum allowable building height is 75 feet on any property designated OLB which lies within 475 feet of the right-of-way of I-405, between I-90 and SR-520.
- (7) Dimensional requirements for Downtown Land Use Districts are listed in LUC 20.25A.020.
- (8) Any office building or any office portion of a building in the PO, O, OLB, LI, GC, NB, CB or F1 Districts shall comply with the following limitations on Floor Area Ratio:
  - (a) At 0.5 FAR, no office building or office portion of a building may exceed 50,000 square feet of gross floor area; and
  - (b) For any office building or office portion of a building greater than 50,000 square feet in gross floor area the following sliding scale shall be observed as interpolated and extrapolated below:
    - (i) At 0.3 FAR, no office building or office portion of a building may exceed 100,000 square feet of gross floor area; and
    - (ii) At 0.1 FAR, no office building or office portion of a building may exceed 150,000 square feet of gross floor area.

This footnote 8 shall not apply to sites in the critical areas overlay district. Density/intensity on sites in the critical areas overlay district is calculated pursuant to LUC 20.25H.045.

- \* (9) The maximum building height may be exceeded upon approval of the Director of Planning and Community Development. Requests for such approval shall be

processed in accordance with the administrative conditional use procedure of Part 20.30E LUC. Before granting any such approval, the Director of Planning and Community Development must find that:

- (a) The height increase is only to accommodate equipment, structures or buildings that contain special equipment primarily related to light manufacturing, wholesale, trade and distribution use, and is not for office or bulk retail use; and
- (b) There is functional need for a height increase; and
- (c) The overall site development will minimize adverse impacts caused by the height increase.

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

*\*Not effective within the jurisdiction of the East Bellevue Community Council. The maximum building height in LI Districts shall remain 30 feet.*

\*(10) Except in Transition Areas, the allowable building height of any building located in PO, O, OLB, GC, NB, or CB Districts may be increased by one story, but not to exceed 15 feet, if basement parking for that building occupies a minimum of 75 percent of the building footprint.

*\* Not effective within the jurisdiction of the East Bellevue Community Council. The maximum building height in the LI Districts shall remain 30 feet.*

(11) The LUC contains enhanced setback requirements for churches, clubs, and institutions (refer to LUC 20.20.190) and schools (refer to LUC 20.20.740) located in residential land use districts.

(12) For each square foot of lot area devoted to open space in excess of 30 percent of the total lot area, one square foot is added to the lot area for the purpose of calculating density.

(13) Lot coverage is calculated after subtracting all critical areas and stream critical area buffers, provided that coal mine hazards (20.25H.130) and habitat associated with species of local importance (20.25H.150) shall not be subtracted..

(14) Maximum lot coverage by structures is determined after public right-of-way and private roads are subtracted from the gross land area.

(15) Except for sites in the critical areas overlay district, if there is a conflict between the minimum lot area and the permitted number of dwelling units per acre, the minimum lot area controls. Density/intensity on sites in the critical areas overlay district is calculated pursuant to LUC 20.25H.045

- (16) Exceptions to Lot Coverage. Although not considered structures for purposes of calculating lot coverage, the following may be considered impervious surfaces subject to the impervious surface limits. See LUC 20.20.460 and 20.50.026.
- (a) Underground buildings as defined in LUC 20.50.050 are not structures for the purpose of calculating lot coverage.
  - (b) Buildings constructed partially below grade and not higher than 30 inches above existing or finished grade, whichever is lower, are not structures for the purpose of calculating lot coverage subject to the following conditions:
    - (i) The 30-inch height limit must be met at all points along the building excluding those areas necessary to provide reasonable ingress and egress to the underground portions of the building; and
    - (ii) The rooftop of the building shall be screened from abutting properties with 10 feet of Type II landscaping as described in LUC 20.20.520.G.2 except that the required trees shall be a minimum of 10 feet in height at planting; or, if a use is proposed for the rooftop, the rooftop may be landscaped consistent with the planting requirements for the specific use that is proposed and for the land use district in which the use is located. All landscaping shall comply with standards set forth in LUC 20.20.520. The provisions of LUC 20.20.520.J (Alternative Landscaping Option) are applicable.
- (17) If the setback abuts a street right-of-way, access easement or private road, the minimum dimension is 10 feet unless a greater dimension is specified.
- (18) See LUC 20.20.030 for designation and measurement of setbacks.
- \*(19) Notwithstanding any other provision of this Code, except Part 20.25B LUC or LUC 20.20.900 through 20.20.910, as applicable, the allowable building height of an office building may be increased by one story, not to exceed 15 feet, if a minimum of 75 percent of the ground floor of that building is devoted to parking for that building.
- \*Effective only within East Bellevue Community Council jurisdiction.*
- (20) See LUC 20.25H.035 for additional critical area setbacks.
- (21) See LUC 20.25H.045 for calculation of density/intensity on sites in the critical areas overlay district.
- (22) Density for senior citizen dwelling, congregate care senior housing, and assisted living is calculated as follows: units less than 600 square feet count as 0.5 unit and units 600 square feet or greater count as one unit.
- (23) This residential density may be in addition to FAR only for senior citizen dwellings, assisted living and congregate care senior housing.



- (24) Lot coverage may be increased to 50 percent if congregate care senior housing, senior citizen dwellings, assisted living or nursing homes are constructed on-site; provided, however, that coverage for the nonresidential portions of the development cannot exceed the maximum limits indicated. Lot coverage within NB Districts may be increased to 50 percent for mixed use development which includes residential uses comprising at least one-half the square footage of the building footprint. Underground parking in excess of 50 percent of the site area shall not be included in lot coverage calculations.
- (25) The maximum building height for structures is increased to 30 feet only if residential uses or administrative office uses are provided on the second floor and provided the structure does not exceed two stories. For purposes of this note, a story is defined pursuant to the International Building Code, Section 202, as adopted and amended by the City of Bellevue.
- (26) See LUC 20.20.125 for specific requirements applicable to detached accessory structures.
- (27) Lot coverage for schools located in residential land use districts is limited to 35 percent of the site area (refer to LUC 20.20.740).
- (28) A 15-foot setback from the right-of-way line of Factoria Boulevard is required for development in the F1 Land Use District. A 15-foot setback from the right-of-way line of SE 38th Street between Factoria Boulevard and 126th Avenue SE is required for development in the F1 Land Use District.
- (29) Maximum building height in the F1 Land Use District shall be measured from average existing grade. Maximum building height in Area II and Area III of the F1 Land Use District is 60 feet, measured from average existing grade.
- (30) The allowable maximum building height of any building located in the F1 Land Use District may be increased by one story, not to exceed 15 feet, if a minimum of 75 percent of the ground floor of that building is devoted to parking. In no event shall a building in Area II or Area III of the F1 District exceed 75 feet, as measured to the highest point of the structure from average existing grade, including pitched roof areas and penthouse equipment screening.
- (31) Any office building or any office portion of a building in the F2 District may not exceed a Floor Area Ratio of 0.6 FAR.
- (32) The maximum FAR for the combined properties in the F3 Land Use District, regardless of use, shall be 1.26 FAR; provided, that individual parcels or portions of property lying within the F3 Land Use District may have FAR for those individual parcels or portions which exceed an FAR of 1.26 provided that the FAR calculated for the entire aggregated property within the F3 Land Use District shall not exceed 1.26. The maximum FAR permitted herein is based on a maximum total development, including existing and new development of 950,000 square feet, calculated in the same manner as provided for in the

calculation of FAR. In the event of an inconsistency between the FAR maximum of 1.26 and the maximum total development amount of 950,000 square feet, the latter shall control.

- (33) In no event shall building height exceed 324 feet above sea level, based on North American Vertical Datum, 1988 (NAVD – 88).
- (34) Maximum building height south of the F3 Land Use District Separation Line shall be 135 feet, with structural elements not intended for habitation above 135 feet, so long as structural elements do not exceed 275 feet above sea level based on NAVD – 88.
- (35) See LUC 20.20.460 for exceptions and performance standards relating to impervious surface.
- (36) Impervious surface limits for legally-established nonconforming non-residential uses and for new allowed non-residential uses in these residential land use districts shall be 80 percent.
- (37) Maximum impervious surface and maximum lot coverage by structures are independent limitations on allowed development. All areas of lot coverage by structures are included in the calculation of total maximum impervious surface, unless such structures are excepted under LUC 20.20.460.
- (38) Certain non-critical area setbacks on sites in the critical areas overlay district may be modified pursuant to LUC 20.25H.040.
- (39) These dimensional standards may be modified through an approved conservation subdivision, LUC 20.45A.060 or conservation short subdivision, LUC 20.45B.055.

Section 3. Section 20.20.017 of the Bellevue Land Use Code is hereby amended as follows:

**20.20.017 Minimum lot size – Averaging in short plats and subdivisions.**

In approved short plats and subdivisions, the individual lots shall be considered in compliance with minimum area requirements if the average of the areas of all the lots in the short plat or plat meets the minimum requirement for the district in which the short plat or plat is located, provided: (1) that no individual lot therein shall be reduced more than 10 percent from the district minimum required area, except that lots in zones R-1, R-1.8, R-2.5, and R-3.5 may be reduced by up to 15 percent from the district minimum; (2) a reduction of five percent in the required lot width may be applied to 20 percent of the lots provided no reduction in the required area is applied to these lots. The lot averaging described in this section shall not be allowed for conservation subdivisions or conservation short subdivisions where the required minimum lot size for such subdivision is reduced as allowed under LUC 20.45A.060 or 20.45B.055, as applicable.

Section 4. Section 20.20.018 of the Bellevue Land Use Code is hereby amended as follows:

**20.20.018 Variation in minimum requirements – Area, width and depth.**

Except as set forth in LUC 20.20.017 above, in no case may the Director or any other hearing body vary the minimum requirements for minimum lot area, width of street frontage, width required in lot or depth required in lot, as stated in Chart 20.20.010, by more than 10 percent; except that this section shall not apply to planned unit developments, Part 20.30D LUC, conservation subdivisions, LUC 20.45A.060, or conservation short subdivisions, LUC 20.45B.055. See Part 20.30G LUC relating to variances from the Land Use Code and Part 20.30H LUC relating to variances from the Shoreline Master Program.

Section 5. Section 20.20.023 of the Bellevue Land Use Code is hereby deleted in its entirety.

Section 6. Section 20.20.025 of the Bellevue Land Use Code is hereby amended as follows:

**20.20.025 Intrusions into required setbacks.**

**A. Signs, Marquees and Awnings.**

See Sign Code, Chapter 22B.10 BCC.

**B. Garages/Carports on Slopes.**

1. If the topography of a lot is such that the front building line is eight feet or more above the street grade, and there is no reasonable way to construct a driveway up to the dwelling level, a garage/carport may be built into the bank and set at least five feet back from the front property line, except as set forth in subsection 4 below.
2. If the topography of a lot is such that there is no reasonable way to construct a driveway with a slope less than 15 percent to the dwelling level, a garage/carport may be built in the front yard setback, LUC 20.20.010, subject to approval by the Director of Planning and Community Development. The garage/carport must be set at least five feet back from the front lot line, and may not exceed 15 feet above street level measured to the peak of a pitched roof or nine feet above street level measured to the top of a flat roof. The garage/carport and its vehicular access must be located and oriented to minimize disturbance of the slope.
3. A garage/carport must comply with the street intersection sight obstruction requirements of BCC 14.60.240.

4. Notwithstanding any other provision of this section B to the contrary, a garage/carport may not be located within a critical area or critical area buffer unless allowed under Part 20.25H.

### **C. Minor Building Elements.**

Subject to LUC 20.20.025.C.3, minor building elements including patios, platforms, eaves, trellises, open beams, fireplace chimneys, decks, porches, balconies, lanais, bay windows, greenhouse windows and similar elements of a minor character may intrude into a required setback as follows:

1. Any portion of a minor building element which equals or exceeds 30 inches above finished grade at its location may intrude into a required setback a distance no greater than 20 percent of the minimum dimension of that setback, or at least 18 inches, whichever is greater.
2. Any portion of a minor building element which is less than 30 inches above finished grade at its location may extend to any lot line.
3. Except for eaves, the combined length of all minor building elements which equal or exceed 30 inches above finished grade on any building facade shall not exceed 25 percent of the length of that facade.
4. Minor building elements may not be used to extend the enclosed building floor area into the required setback, except chimneys and bay windows protruding no more than 18 inches into the setback may extend to the finished grade at their location.
5. A minor building element may extend into a critical area structure setback required by LUC 20.25H.035 only if it is above the ground level and if vegetation will be maintained in a healthy condition. Solar access to vegetation must be maintained at least 50 percent of daylight hours during the normal growing season.

Note: Heat pumps are not minor building elements. Retaining walls and rockeries 30 inches or greater in height are not minor building elements.

### **D. Rockeries and Retaining Walls.**

On a lot of less than 30,000 gross square feet or on any single-family lot, rockeries and retaining walls 30 inches or greater in height may extend into setbacks established by LUC 20.20.010; provided, that the existing grade change is such that no feasible alternative to location or height exists. In any event, the critical area buffer and structure setbacks of LUC 20.25H.035 apply.

## **E. Underground Buildings and Buildings Constructed Partially Below Grade.**

1. Limitations. This paragraph cannot be used to develop any building (including an underground building) which intrudes into critical areas, critical area buffers, or critical area structure setbacks required by LUC Part 20.25H.
2. Subject to the limitations contained in this paragraph, underground buildings may intrude in the required setback.
3. Subject to the limitations contained in this paragraph, buildings constructed partially below grade and not higher than 30 inches above existing or finished grade, whichever is lower, may intrude into required setbacks subject to the following conditions:
  - a. The 30-inch height limit must be met at all points along the building except those areas necessary to provide reasonable ingress and egress to the underground portions of the building; and
  - b. The rooftop of the building shall be screened from abutting properties with 10 feet of Type II landscaping as described in LUC 20.20.520.G.2 except that the required trees shall be a minimum of 10 feet in height at planting or, if a use is proposed for the rooftop, the rooftop may be landscaped consistent with the planting requirements for the specific use that is proposed and for the land use district in which the use is located. All landscaping shall comply with standards set forth in LUC 20.20.520. The provisions of LUC 20.20.520.J (Alternative Landscaping Option) are applicable.

Section 7. Section 20.20.030.E of the Bellevue Land Use Code is hereby amended as follows:

- E. The critical area buffer and critical area structure setback requirements of LUC Part 20.25H are in addition to the setback requirements of LUC 20.20.010 and 20.25A.020. The greater setback dimension is required.

Section 8. Section 20.20.450.A.1 of the Bellevue Land Use Code is hereby amended as follows:

### **A. Heliports – General Requirements.**

1. In addition to the decision criteria in LUC 20.30B.140, the City shall consider, but not be limited to, the following criteria, in deciding whether to approve or approve with modifications an application for a heliport Conditional Use Permit:
  - a. In consideration of identified noise impacts, the City may impose conditions restricting the type of aircraft permitted to land at an approved heliport, and conditions which limit the number of daily takeoffs and landings and hours of operation.

- b. The City may impose a periodic review requirement on heliport conditional use approvals in order to consider imposing additional conditions to mitigate adverse impacts from new aircraft technology.
- c. The City may consider whether approach and departure paths are obstruction-free and whether residential or critical areas would be adversely affected. The City may also consider whether approach and departure paths abut freeway corridors or waterways.
- d. The City may consider whether the proposed heliport facility will participate in a voluntary noise reduction program such as the "Fly Neighborly Program."

Section 9. A new Section 20.20.460 is hereby added to the Bellevue Land Use Code as follows:

**20.20.460 Impervious Surface**

- A. Purpose.** Limits on the total amount of impervious surfaces associated with site development are desirable to protect critical areas, which are impacted by the increased levels and rates of surface flow generated by impervious surfaces.
- B. Applicability.** The impervious surface limits contained in LUC 20.20.010, and the standards of this section shall be imposed any time a permit, approval, or review including land alteration or land development including subdivisions, short subdivisions or planned unit developments, a change in lot coverage, or a change in the area devoted to parking and circulation is required by this Code, or by the International Building Code.
- C. Modifications to Impervious Surface Limits.** The impervious surface limits contained in LUC 20.20.010 may be modified pursuant to a critical areas report, LUC 20.25H.230, so long as the critical areas report demonstrates that the effective impervious surface on the site does not exceed the limit established in 20.20.010.
- D. Exemptions.** The following are exempted from determining maximum impervious surface. These exemptions do not apply to any other Land Use Code requirement, including setbacks and limits on maximum lot coverage by structure; building code, utilities code or other applicable City of Bellevue codes or regulations.
  - 1. Decks/platforms. Decks and platforms constructed with gaps measuring 1/8 inch or greater between boards, so long as the surface below the deck or platform is pervious;
  - 2. Rockeries/retaining walls. Rockeries and retaining walls shall be exempt from the maximum impervious surface limits;

3. Stabilization measures. Shoreline stabilization measures shall be exempt from the maximum impervious surface limits; and
4. Landscape features. Fences, arbors with lattice or open roof materials and similar structures, individual stepping stones placed in the ground but not cemented or held together with an impervious material, and gravel mulch shall be exempt from the maximum impervious surface limits.

**E. Performance Standards.**

1. Design shall minimize topographic modification. Structures shall conform to the natural contour of the slope. The foundation shall be tiered to conform to the existing topography and step down the slope with earth retention incorporated into the structure where feasible. Standard prepared building pads, i.e., slab on grade, shall be avoided; and
2. Garages on sites sloping uphill should be placed below the main floor elevation where feasible to reduce grading and to fit structures into existing topography. Garages on sites sloping downhill from the street may be required to be placed as close to the right-of-way as feasible and at or near street grade. Intrusion into the front setback, as provided in LUC 20.20.025.B, may be required. On slopes in excess of 25 percent, driveways shall be designed to minimize disturbance and should provide the most direct connection between the building and the public or private street; and
3. Changes in existing grade outside the building footprint shall be minimized. Excavation shall not exceed 10 feet. Fill shall not exceed five feet subject to the following provisions: all fill in excess of four feet shall be engineered; and engineered fill may be approved in exceptional circumstances to exceed five feet to a maximum of eight feet. Exceptional circumstances are: 1) instances where driveway access would exceed 15 percent slope if additional fill retained by the building foundation is not permitted; or 2) where the five-foot fill maximum generally is observed but limited additional fill is necessary to accommodate localized variations in topography.

**F. Existing Impervious Surfaces.** Impervious surfaces legally established on a site prior to August 1, 2006 and which exceed the limits set for thin LUC 20.20.020 shall not be considered non-conforming. Proposals to increase impervious surface on a site shall conform to the limits of LUC 20.20.020; where a site already exceeds the allowed amount of impervious surface, the additional impervious surface shall not be approved unless an equal amount of existing impervious surface is removed such that the net amount of impervious surface is unchanged.

**G. Innovative Techniques.** Surfaces paved with pervious pavement or other innovative techniques designed to mimic the function of a pervious surface shall not be included in the calculation of impervious surface areas, so long as the technique is designed by a professional engineer licensed by the State of

Washington and the plans are approved by the Director. The Director may require a maintenance plan and long term performance assurance device to ensure the continued function of the pervious pavement or other technique.

Section 10. Section 20.20.520.B of the Bellevue Land Use Code is hereby amended as follows:

**B. Applicability.**

The requirements of this section shall be imposed any time a permit, approval, or review including land alteration or land development including subdivisions, short subdivisions or planned unit developments, a change in lot coverage or impervious surface, or a change in the area devoted to parking and circulation is required by this Code, or by the International Building Code, as adopted and amended by the City of Bellevue. However, this section does not apply to a permit for a single-family dwelling, unless restrictions on the removal of significant trees on individual single-family lots have been imposed through prior City approval.

Section 11. Section 20.20.520.F of the Bellevue Land Use Code is hereby amended as follows:

**F. Site Landscaping.**

1. Perimeter Landscaping Requirements for Use Districts. The applicant shall provide site perimeter landscaping either according to the following chart and subject to paragraphs F.2 and F.6 of this section; or in conformance with subsection J of this section.

**Perimeter Landscaping Requirements for Use Districts**

Land Use District in Which the Subject Property is Located <sup>3</sup>	Street Frontage (Type and Minimum Depth)	Interior Property Lines (Type and Minimum Depth) <sup>1</sup>
R-10, 15, 20, 30	Type III, 10' but if located in a Transition Area, and directly abutting S/F <sup>2</sup> , see Part 20.25B LUC for requirements.	Type III, 8' but if located in a Transition Area, and directly abutting S/F <sup>2</sup> , see Part 20.25B LUC for requirements.
NB, PO, O, OLB, OLB-OS	Type III, 10' but if located in a Transition Area, and directly abutting S/F <sup>2</sup> , R-10, 15, 20 or 30, see Part 20.25B LUC for requirements. <sup>4</sup>	Type III, 10' but if located in a Transition Area, and directly abutting S/F <sup>2</sup> , R-10, 15, 20 or 30, see Part 20.25B LUC for requirements. <sup>4</sup>



LI, GC, CB	Type III, 10' but if located in a Transition Area, and directly abutting S/F <sup>2</sup> , R-10, 15, 20 or 30, see Part 20.25B LUC for requirements.	Type III, 8' but if located in a Transition Area, and directly abutting S/F <sup>2</sup> , R-10, 15, 20 or 30, see Part 20.25B LUC for requirements.
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(1) If approved by the Directors of the Planning and Community Development and Utilities Departments, such landscape area may be used for biofiltration swales. If used for biofiltration swales, this area shall be landscaped with quantities and species of plant materials that are compatible with the functional intent of the biofiltration swale. If the property which abuts the subject property is in the same or a more intensive land use district than the subject property, the landscaping required along that common interior property line may be relocated.

(2) S/F includes the R-1, R-1.8, R-2.5, R-3.5, R-4, R-5, and R-7.5 Land Use Districts.

(3) Notwithstanding the provisions of this paragraph, landscape development requirements for specific uses are listed in paragraph F.2 of this section.

(4) Landscape development requirements for the OLB-OS District may be modified pursuant to Part 20.25L LUC.

2. Planting Requirements for Specific Uses. Notwithstanding the provisions of paragraph F.1 of this section, the uses listed in this paragraph require specific landscaping as follows:

a. Subject to paragraph F.6 of this section, the following uses require 15 feet of Type I landscaping on all sides when located above ground and not housed within a building or accessory to another use; and if located outside of a public right-of-way:

- i. Utility sub-station;
- ii. Sewage pumping station;
- iii. Water distribution facility.

Alternative landscaping may be approved by the Director of Planning and Community Development if the requirements of subsection J of this section are met, and if visibility is essential to safety, security, or maintenance access.

b. Subject to paragraph F.6 of this section, the following uses require 10 feet of Type II landscaping along the street frontage, and 10 feet of Type III landscaping along interior property lines unless a more stringent requirement is specified in paragraph F.1 of this section:

- i. Church;
- ii. Commercial or public parking lot not serving a primary use;

- iii. Mobile home park;
- iv. Government service building;
- v. Community club;
- vi. Charitable or fraternal organization;
- vii. Hospital not located in the Medical Institution District;
- viii. Solid waste disposal facility.

Alternative landscaping may be approved by the Director of Planning and Community Development if the requirements of subsection J of this section are met.

- c. Subject to paragraph F.6 of this section, equipment and vehicle storage yards require 15 feet of Type I landscaping on all sides if in a Transition Area, or visible from a public right-of-way. Alternative landscaping may be approved by the Director of Planning and Community Development if the requirements of subsection J of this section are met.
  - d. Subject to paragraph F.6 of this section, the perimeter landscaping requirements for schools are set forth in LUC 20.20.740. Alternative landscaping may be approved by the Director of Planning and Community Development if the requirements of subsection J of this section are met.
3. Parking Area Landscaping. Parking areas require landscaping as follows in addition to any site perimeter landscaping required by paragraph F.1 or F.2 of this section:
- a. Type V landscaping is required within a parking area.
  - b. A curb or other physical separation is required around each landscape area to separate that area from the parking and circulation area.
4. Except for site perimeter landscaping areas required under paragraph F.6 of this section, landscape features such as decorative paving, sculptures, rock features or fountains are permitted in the required site perimeter landscaping area so long as such features are made of pervious materials, or are specifically exempt from impervious surface limits under LUC 20.20.460.D. The area devoted to such a feature may not exceed 50 percent of the required area. Rockeries over 30 inches in height are not rock features for the purpose of this section, and may not be counted toward the required area for landscaping.
5. All plantings and fences required by this section are subject to the street intersection sight obstruction requirements, BCC 14.60.240. All plant materials must be pruned as necessary to comply with BCC 14.60.240.
6. Existing Vegetation in Lieu of Landscape Development. If the proposal is located within the Critical Areas Overlay District, the Director shall waive the planting requirements of paragraphs F.1 and F.2 of this section and shall require the use of native vegetation that exists within a critical area or within a

critical area buffer in lieu of landscape development if the width of that existing vegetated area equals at least twice the dimension required by paragraph F.1 or F.2 of this section. Supplemental landscaping may be added adjacent to a setback to create the necessary width.

7. The Director will allow the planting requirements of paragraphs F.1 and F.2 of this section to be satisfied within a critical area buffer where landscaping is added pursuant to a habitat improvement plan meeting the requirements of 20.25H.070.
8. Site Landscaping Design Standards.
  - a. Landscaping plans shall show locations of retained trees, initial size, location and name of plant materials to be installed. For landscaping plans submitted with Building Permits or Clearing and Grading Permits, detailed irrigation plans are required.
  - b. Landscaping shall not include irrigated turf strips which are less than five feet in width. Soils within any irrigated turf strip used to satisfy the requirements of this Section 20.20.520 shall be amended as required by soil amendment standards established by the Director.
  - c. Irrigated turf shall not be included on slopes with finished grades in excess of 33 percent.
  - d. Landscaping areas which are irrigated shall be designed so that plants are grouped according to distinct hydrozones for irrigation of plants with similar water needs at a good efficiency.
  - e. In all newly landscaped areas, soils shall be amended as required by soil amendment standards established by the Director.
  - f. Newly landscaped areas, except turf, shall be covered and maintained with at least two inches of organic mulch to minimize evaporation.

Section 12. Section 20.20.520.I of the Bellevue Land Use Code is hereby amended as follows:

**I. Species Choice.**

The applicant shall utilize plant materials which complement the natural character of the Pacific Northwest, and which are adaptable to the climatic, topographic, and hydrologic characteristics of the site, and shall include at least 50 percent native species in the required plantings. If the subject property is within the critical areas overlay district, the applicant shall utilize plant species as specified by the Director, which enhance that critical area and critical area buffer. In selecting species, the applicant should utilize plant materials which reduce or eliminate the need for fertilizers, herbicides, or other chemical controls, especially for properties within the

critical areas overlay district . Plant materials may not include noxious weeds or species, as designated by the Director.

Section 13. Section 20.20.520.J of the Bellevue Land Use Code is hereby amended as follows:

**J. Alternative Landscaping Option.**

1. The applicant may request a modification of the landscaping requirements set forth in subsections E through I of this section; provided, however, that modification of the provisions of paragraph F.6 of this section may not allow disturbance of a critical area or critical area buffer.
2. The Director may administratively approve a modification of the landscaping requirements of this chapter if:
  - a. The proposed landscaping represents an equal or better result than that which could be achieved by strictly following the requirements of this section; and
  - b. The proposed landscaping complies with the stated purpose of this section (subsection A), and with the purpose and intent of paragraphs F.1 and G of this section; and
  - c. If a modification of any paragraph excluding subsection E of this section is requested, the proposed landscaping either:
    - i. Incorporates the increased retention of significant trees and naturally occurring undergrowth, or
    - ii. Better accommodates or improves the existing physical conditions of the subject property, or
    - iii. Incorporates elements to provide for wind protection or to maintain solar access, or
    - iv. Incorporates elements to protect or improve water quality; or
    - v. Incorporates native species in a design that better buffers a critical area and critical area buffer from uses on the site, including parking.
  - d. If a modification of subsection E of this section is requested, the proposal either:
    - i. Incorporates the retention of significant trees equal in number to what would otherwise be required, or
    - ii. Incorporates the retention of other natural vegetation in consolidated locations which promotes the natural vegetated character of the site.

3. Effect of Approval. Following approval of alternative landscaping by the Director, the applicant may meet the landscaping requirements of this Code by complying with the approved landscape development proposal. A copy of the approved landscape development proposal will be placed in the official file.

Section 14. Section 20.20.525.C.1 of the Bellevue Land Use Code is hereby amended as follows:

**C. Implementation.**

1. Mechanical equipment located at or below grade may be placed within a required rear or side setback area unless that setback directly abuts a residential land use district or unless that setback is within a critical area, critical area buffer, or critical area structure setback required by Part 20.25H.

Section 15. Section 20.20.540.C of the Bellevue Land Use Code is hereby amended as follows:

- C. The children's play area shall not be located in a critical area, critical area buffer, or critical area structure setback required by Part 20.25H, or in required street frontage landscaping.

Section 16. Section 20.20.560.A of the Bellevue Land Use Code is hereby amended as follows:

**A. Nonconforming Structures.**

1. Repair of an existing nonconforming structure is permitted.
2. Remodeling of a nonconforming structure is permitted provided the fair market value of the remodel does not exceed 100 percent of replacement value of the structure over any three-year period. If remodeling exceeds 100 percent of replacement value over any three-year period, the structure shall be brought into compliance with existing Land Use Code requirements.
3. A nonconforming structure may not be expanded unless the expansion conforms to the regulations of this Code. However, in single-family districts, an expansion may extend along existing building setbacks, provided the area affected by the expansion is not a critical area or critical area buffer .
4. If a nonconforming structure is destroyed by fire, explosion, or other unforeseen circumstances to the extent of 75 percent or less of its replacement value as determined by the Director for the year of its destruction, it may be reconstructed consistent with its previous nonconformity. If such a structure is destroyed to the extent of greater than 75 percent of its replacement value, then any structure erected and any related site development shall conform to the regulations of this Code.

Section 17. Section 20.20.560.E of the Bellevue Land Use Code is hereby amended as follows:

**E. Exceptions.**

1. Downtown. The provisions of this section shall not apply in the Downtown Special Overlay District, Part 20.25A LUC. Refer to LUC 20.25A.025 for the requirements for nonconforming uses, structures, and sites located within the Downtown Special Overlay District.
2. Critical Areas Overlay District. The provisions of this section do not apply to structures or sites nonconforming to the requirements of Part 20.25H. Refer to LUC 20.25H.065 for the requirements for such nonconforming structures and sites.
3. Shoreline Overlay District. The provisions of this section do not apply to uses, structures or sites nonconforming to the requirements of Part 20.25E. Refer to LUC 20.25E.055 for the requirements for such nonconforming uses, structures and sites.

Section 18. Section 20.20.590.K.1 of the Bellevue Land Use Code is hereby amended as follows:

**K. Parking Area and Circulation Improvements and Design.**

Parking of vehicles for all uses is only permitted in parking areas that meet the requirements of this section; except that, vehicles on residential lots may also be parked in areas that meet the requirements of LUC 20.20.720 and 20.20.890 relating to the storage of recreational vehicles and trailers.

1. Materials. A parking and circulation area must be hard-surfaced and conform to any applicable City of Bellevue Development Standards as now or hereafter amended. For purposes of this section, the term hard-surfaced includes pavers, stones, bricks or other similar materials placed to support vehicle circulation, but also allow rain and other water to penetrate the surface (i.e. "grasscrete"). Hard surfaced also includes innovative pavement techniques approved pursuant to LUC 20.20.460.F. Existing legally established parking areas within critical areas and critical area buffers are exempt from the requirement to use hard surfaced materials. The Director of Planning and Community Development may approve a gravel surface for parking and circulation areas used on a temporary basis during construction pursuant to paragraph K.11 of this section.

Section 19. Section 20.20.730.C of the Bellevue Land Use Code is hereby amended as follows:

- C. Large satellite dish antennas in any residential development consisting of detached or single-family attached housing as specified in paragraph B.2 of this section are permitted subject to the following criteria, provided the Director of

Planning and Community Development may modify setback and screening requirements upon proof that strict application of the requirements is infeasible or renders use of an antenna impossible:

1. The antenna shall meet front and side setback requirements for the main building and shall be a minimum of five feet from any rear property line;
2. The antenna shall be a minimum of 10 feet distant from any street right-of-way, vehicular access easement, or private road;
3. No antenna shall be located in a buffer or setback required by the City's critical areas regulations (see Part 20.25H LUC), unless affixed to a structure allowed pursuant to Part 20.25H; and
4. The antenna shall be substantially screened from view from adjacent property and the adjacent public rights-of-way by sight-obstructing landscaping, fencing, on-site structures, or natural topography.

Section 20. Section 20.25B.040.B of the Bellevue Land Use Code is hereby amended as follows:

**B. Setbacks.**

1. Setback for Primary Structures. Primary structures must be located a minimum of 30 feet from the property line of the district receiving transition.
2. Distance Between Primary Structures. Primary structures must be located a minimum of 20 feet from other primary structures, provided that this separation requirement may be modified pursuant to LUC 20.25H.040 on sites in the Critical Areas Overlay District.

Section 21. Section 20.25B.040.C of the Bellevue Land Use Code is hereby amended as follows:

**C. Landscaping, Open Space and Buffers.**

1. Landscaping. All landscaping shall comply with standards set forth in LUC 20.20.520. The provisions of LUC 20.20.520.J (Alternative Landscaping Option) are applicable and, in addition, may be used to modify up to 10 feet of required street frontage landscaping.
2. Buffer.
  - a. A landscaped buffer, at least 20 feet in width, shall be provided along the entire street frontage where any portion of the street frontage is abutting a district receiving transition and along the interior property line abutting the district receiving transition.

- b. All significant trees within 15 feet of the property line shall be retained as required by LUC 20.20.520.E.
- c. The buffer shall be planted with the following, and shall include at least 50 percent native species in the required plantings:
  - i. Evergreen and deciduous trees, of which no more than 40 percent can be deciduous. There shall be a minimum of five trees per 1,000 square feet of buffer area, which shall be a minimum of 10 feet high at planting, along with the evergreen shrubs and living groundcover as described in paragraphs C.2.c(ii) and (iii) of this section to effectively buffer development from adjacent residential properties; and
  - ii. Evergreen shrubs, a minimum 42 inches in height at planting, at a spacing no greater than three feet on center; and
  - iii. Living groundcover planted to cover the ground within three years; and
  - iv. Alternatively, where the street frontage landscaping will be planted to buffer a building elevation and not a parking area, driveway or site development other than a building, lawn no less than five feet in width may be substituted for the shrubs and groundcover required in paragraphs C.2.c(ii) and (iii) of this section, provided that the soil in the entire area of lawn is amended in accordance with LUC 20.20.520.F.8. This paragraph does not apply in LI and GC Districts.
- d. Where an LI, GC or CB zoned property abuts a residential district on an interior property line, an evergreen hedge a minimum of four feet in height at planting and capable of achieving a continued visual screen with a height of five feet within a three-year period or a combination of shrubs and fence shall be added within the required planting area to achieve the effect of a hedge.
- e. Patios and other similar ground level features and trails may be incorporated into the buffer area, except that no more than 20 percent of the area may be used for such features. Patios shall not be located within 10 feet of the property line.

Section 22. Section 20.25C.040.B of the Bellevue Land Use Code is hereby amended as follows:

**B. Landscaping Design Standards.**

1. The provisions of LUC 20.20.520, Tree Preservation and Landscape Development, except as they conflict with this section shall apply to development in the OLB District.
2. Except for retail auto sales uses, a minimum of 15 percent of the property area of each site shall be in landscaped open space. For each percent that a



structure's ground floor area exceeds 15 percent, the landscaping requirements for that site shall be increased by 0.5 percent to a maximum of 20 percent of the property area of the site.

3. Service yards and at-grade mechanical equipment shall be sight-screened from adjoining property or streets or highway by a solid planting of evergreen trees and shrubs at least as high as the equipment or use being screened within two years from the time of planting.
4. Except for retail auto sales uses, parking areas shall include plantings using trees of three inches caliper or 14 to 16 feet high and 42-inch high shrubs at approximately 35 feet on-center parallel to the aisle, or shall be screened as a service yard using similar materials. Other parking lot landscaping shall meet LUC 20.20.590 requirements for Type V landscaping. Plantings shall include a minimum of 50 percent native species. Noxious species, as designated by the Director in submittal requirements, are prohibited.
5. When property abuts the right-of-way for I-90, I-405, or SR 520 highways, or abuts parallel frontage roads of said highways, plant material shall be planted and spaced in a planting area a minimum of 10 feet wide. Deciduous trees shall have a minimum caliper of three inches, evergreen trees shall have a minimum height of 14 to 16 feet tall and shall be at intervals of no greater than 35 feet on center along the right-of-way. No more than 30 percent of the trees shall be deciduous. Trees shall have a minimum mature height of 45 feet. Shrubs shall be a minimum of 42 inches high.
6. Trees installed as part of general site landscaping shall be a minimum of one and one-half inches in caliper or eight to 12 feet high.
7. Accessible outdoor gathering areas should be provided for the employees, general public and visitors to the site.
8. Outdoor display of vehicles for retail auto sales uses shall meet the requirements of LUC 20.20.520 for Type V landscaping for auto display areas and LUC 20.20.520.F.2.c for vehicle storage yards.

Section 23. Section 20.25K.050 of the Bellevue Land Use Code is hereby amended as follows:

**20.25K.050 F3 Land Use District.**

**A. Critical Areas.**

Steep Slopes and Landslide Hazard Areas, as designated in LUC 20.25H.025, located within the F3 Land Use District shall not be considered critical areas for purposes of the Land Use Code.

## B. Application Review Criteria.

The provisions of Chapter 20.25B LUC, Transition Area Design District; the provisions of Chapter 20.25C LUC, Office and Limited Business (OLB) District; and the provisions of this Part 20.25K LUC shall apply to applications for development in the F3 Land Use District.

Section 24. Section 20.25L.010.A.2 of the Bellevue Land Use Code is hereby amended as follows:

2. Forty percent of the gross land area, including any critical area, of the subject property must be retained or developed as open space as defined by LUC 20.50.038 for public use and public access. The area reserved as open space shall consist of contiguous acres.

Section 25. Section 20.25L.030 of the Bellevue Land Use Code is hereby amended as follows:

### 20.25L.030 Dimensional requirements.

Except for the dimensional requirements chart at LUC 20.20.010, the provisions of Chapter 20.20 LUC apply to development within the OLB-OS Land Use District. The following chart establishes the dimensional requirements for the OLB-OS Land Use District.

Dimensions (1)	OLB-OS Land Use District
Minimum Setbacks of Structures (feet) (2) (3) (13)	50
Rear Yard (2) (3) (4) (10) (13)	50
Side Yard (2) (3) (4) (10) (13)	30
2 Side Yards (2) (3) (4) (10) (13)	60
Minimum Lot Area (5) (12)	2 acres
Minimum Dimensions (feet) Width of Street Frontage	200
Width Required in Lot (6)	200
Maximum in Building Height (feet) (7)	70
Maximum Lot Coverage by Structures (8) (9) (10)	35
Floor Area Ratio (11)	0.5
Impervious Surface (14) (15) (16)	80

(1) See LUC 20.25H.045 for density/intensity limitations in the critical areas overlay district.

(2) See LUC 20.20.030 for designation and measurement of setbacks.

(3) See LUC Part 20.25H for critical area buffers and critical area structure setbacks.

(4) Except as provided in Note (13) of this section, if the setback abuts a street right-of-way, access easement or private road, the minimum dimension is 10 feet unless a greater dimension is specified.

- (5) See LUC 20.20.012.
- (6) See LUC 20.20.015.
- (7) Except where the provisions of Part 20.25B LUC apply, the allowable building height of any building located in OLB-OS may be increased by one story, but not to exceed 15 feet, if basement parking for that building occupies a minimum of 75 percent of the building footprint.
- (8) Maximum lot coverage by structures is calculated based on the total area of the entire parcel designated OLB-OS, including both the Development Area and the Reserved Area.
- (9) Lot coverage is calculated after subtracting all critical areas and stream critical area buffers, provided that coal mine hazards (20.25H.130) and habitat associated with species of local importance (20.25H.150) shall not be subtracted.
- (10) Any portion of a parking structure that is entirely below the average finished grade shall not be included in calculation of maximum lot coverage by structures, and such portion may intrude into required setbacks.
- (11) Any office building or any office portion of a building shall not exceed a floor area ratio of 0.5, calculated by dividing the total amount of gross square footage of buildings or structures to be constructed in the Development Area by the net on-site land area (as described in the definition of "Floor Area Ratio" in LUC 20.50.020) of the entire parcel designated OLB-OS, including both the Development Area and the Reserved Area. Refer to LUC 20.25H.045 for limitations on development intensity applicable to sites in the critical areas overlay district.
- (12) Only one structure may occupy a site of not less than the minimum lot size (two acres). Two structures may occupy a site of four acres and for each increment of minimum lot size (two acres), an additional structure may be added. Structures on four acres or more may be clustered. All structures shall conform to these requirements.
- (13) The required setbacks on the interior of an OLB-OS parcel, or on the interior of a larger development of which the OLB-OS parcel is a part, may be reduced down to zero feet in order to increase required external setbacks or to preserve significant topographic or vegetative features of the Development Area. Modifications to required setbacks pursuant to this section may be included in the concomitant agreement authorized by LUC 20.25L.010, or may be imposed as conditions to a permit for development in the Development Area.
- (14) See LUC 20.20.460 for exceptions and performance standards relating to impervious surface.
- (15) Impervious surface limits for legally-established nonconforming non-residential uses and for new allowed non-residential uses in these residential land use districts shall be 80 percent.
- (16) Maximum impervious surface and maximum lot coverage by structures are independent limitations on allowed development. All areas of lot coverage by structures are included

in the calculation of total maximum impervious surface, unless such structures are excepted under LUC 20.20.460.

Section 26. 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. General.

1. 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
2. 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
3. The granting of the variance will not be materially detrimental to property or improvements in the immediate vicinity of the subject property; and
4. The variance is not inconsistent with the Comprehensive Plan; and

B. Additional Decision Criteria – Variances from Provisions of Part 20.25H.

1. A variance to the requirements of Part 20.25H may be granted only if the applicant demonstrates that a variance from other provisions of the LUC, where allowed under Part 20.30G or 20.30H, are not feasible. For purposes of this section, variances from the other provisions of the LUC shall be considered not feasible only when, considering the function to be served by the proposal a variance to other provisions of the LUC, including non-critical area setbacks, will not realize the intended function of the proposal; and
2. Where the variance involves disturbance of a critical area or critical area buffer, the variance includes a mitigation plan meeting the requirements of LUC 20.25H.210.

C. Additional Decision Criteria -- Variances from Standards Applicable to Areas of Special Flood Hazard. In addition to the decision criteria in paragraphs A and B above, a proposal to vary the requirements for areas of special flood hazard shall meet the following criteria:

1. A variance shall only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public

safety, extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing laws or ordinances; and

2. Variances shall not be issued within a designated floodway, if any increase in flood levels during the base flood discharge would result.

Section 27. Part 20.30P of the Bellevue Land Use Code is hereby repealed in its entirety and replaced as follows:

### **Part 20.30P Critical Areas Land Use Permit**

#### **20.30P.110 Scope.**

This Part 20.30P establishes the procedures and criteria that the City will use in making a decision upon an application to develop, disturb or otherwise modify a critical area or critical area buffer.

#### **20.30P.115 Applicability.**

This part applies to each application for a critical areas land use permit.

#### **20.30P.120 Purpose.**

A critical areas land use permit is the mechanism by which the City may approve limited use and disturbance of a critical area or critical area buffer. The provisions of Part 20.25H and Part 20.25E establish the uses and activities that may be allowed in a critical area or critical area buffer. The provisions of this part establish the requirements for a critical areas land use permit.

#### **20.30P.125 Who may apply.**

The property owner may apply for a critical area land use permit.

#### **20.30P.130 Applicable procedure.**

The City will process a critical area land use permit through Process II, LUC 20.35.200 et seq. The critical area land use permit may be merged with any other permit required for the proposal, pursuant to LUC 20.35.080.

#### **20.30P.140 Decision criteria.**

The Director may approve or approve with modifications an application for a critical area land use permit if:

- A. The proposal obtains all other permits required by the Land Use Code;

- B. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer; and
- C. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable; and
- D. The proposal will be served by adequate public facilities including streets, fire protection, and utilities; and
- E. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC 20.25H.210; except that a proposal to modify or remove vegetation pursuant to an approved Vegetation Management Plan under LUC 20.25H.055.C.3.i shall not require a mitigation or restoration plan; and
- F. The proposal complies with other applicable requirements of this Code.

**20.30P.150 Time limitation.**

A Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit within one year of the effective date of the Critical Areas Land Use Permit unless:

- A. The applicant has received an extension for the Critical Areas Land Use Permit pursuant to LUC 20.30P.155; or
- B. The Critical Areas Land Use Permit approval provides for a greater time period.

The time period established pursuant to this section shall not include the time during which an activity was not actively pursued due to the pendency of litigation which may materially affect rights of the applicant for the permit or approval related to that permit or approval.

**20.30P.155 Extension.**

- A. The Director may extend a Critical Areas Land Use Permit, not to exceed one year, if:
  - 1. Unforeseen circumstances or conditions necessitate the extension of the permit; and
  - 2. Termination of the permit would result in unreasonable hardship to the applicant; and the applicant is not responsible for the delay; and
  - 3. The extension of the permit will not cause substantial detriment to existing uses, critical areas, or critical area buffers in the immediate vicinity of the subject property.
- B. The Director may grant no more than one extension.

**20.30P.160 Assurance device.**

In appropriate circumstances, the City may require a reasonable performance or maintenance assurance device in conformance with LUC 20.40.490 to assure compliance with the provisions of the Land Use Code and the Critical Areas Land Use Permit as approved.

**20.30P.170 Hold Harmless**

Property owners who request approval of disturbance in a critical area or critical area buffer shall execute a hold harmless agreement in a form approved by the City Attorney which releases the City from liability for any damage arising from the location of improvements within the critical area or critical area buffer.

**20.30P.180 Critical Areas Report – Additional Review Procedures**

See LUC 20.25H.265 and 20.25H.270 for additional review procedures for Critical Areas Land Use permits involving a critical areas report.

Section 28. 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 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); and
  - 3. Planned Unit Development (PUD) Approval

provided, that applications for CUPs, shoreline CUPs, preliminary plats, and PUDs, 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. Critical Area Land Use Permits; and
  10. Review under State Environment 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, and Planned Unit Development projects subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040; and
  3. 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 29. Section 20.35.030.D of the Bellevue Land Use Code is hereby amended as follows:

**D. Project Timelines.**

The Director shall establish reasonable and predictable timelines for review of land use applications and shall provide target dates for decisions on such applications. All land use decisions on applications filed on or after April 1, 1996, shall be made within the time period specified under RCW 36.70B.090. For purposes of calculating timelines and counting days of permit processing, the applicable time period shall begin on the first working day following the date the application is determined to be complete and shall only include the time during which the City can proceed with review of the application as specified in RCW 36.70B.090. The project timelines established by this section may be modified for a proposal including a critical areas report as set forth in LUC 20.25H.270.

Section 30. 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**

Application Type	Publish	Mail	Sign
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	
Critical Areas Land Use Permit	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 500 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 31. Section 20.40.490.D of the Bellevue Land Use Code is hereby amended as follows:

**D. Amount of Assurance Device.**

1. General. The applicable Department Director shall determine the amount of the assurance device as follows:
  - a. For a performance device the amount will be 150 percent of the cost of the work or improvements covered by the assurance device based on estimated costs immediately following the expiration of the device.
  - b. For a maintenance device the amount will not be less than 20 percent of the cost of replacing the materials covered by the assurance device based on estimated costs on the last day covered by the device. The Director may require an amount more than 20 percent where the Director determines such increased amount is necessary to assure that adequate funds will be available to protect health, safety and welfare, or to protect critical area functions and values in the event of total or partial failure or underperformance of the work requiring the maintenance device..
2. Assistance in Determining Estimated Costs. The applicable Department Director may consult with one or more persons with applicable special knowledge or expertise in determining the cost of work or improvements covered by an assurance device under paragraph D.1 of this section. The applicant shall pay the actual costs of this consultation prior to the Director accepting the device.

Section 32. Section 20.40.490.I of the Bellevue Land Use Code is hereby amended as follows:

**I. Use of Proceeds – Emergency Work by City.**

If at any time the Director or Director's designee determines that actions or inaction associated with any assurance device have created an emergency situation endangering the public health, safety, or welfare, creating a potential liability for the City, or endangering City streets, utilities, or property, or endangering critical area functions and values; and if the nature or timing of such an emergency precludes the notification of applicants as provided in subsection G of this section while still minimizing or avoiding the effects of the emergency, the City may use the assurance device to correct the emergency situation. The City may either have employees of the City do the work or make the improvements, or may have a contractor do the work or make the improvements. If the City uses the assurance device as provided by this section, the applicant shall be notified in writing within four days of the commencement of emergency work. The notice must state the work that was

completed and the nature or timing of the emergency that necessitated the use of the assurance device without prior notification.

Section 33. Section 20.40.500 of the Bellevue Land Use Code is hereby amended as follows:

**B. Expiration of Vested Status of Land Use Permit or Approval.**

1. The vested status of a land use permit or approval shall expire as provided in paragraph B.2 of this section; provided, that:
  - a. Variances shall run with the land in perpetuity if recorded with King County Department of Records and Elections within 60 days following the City's final action; and
  - b. Critical Areas Land Use Permits shall expire as set forth in LUC 20.30P.150; and
  - c. Lots in a subdivision or short subdivision shall be vested against changes in the Land Use Code, except for changes that address a serious threat to the public health or safety as found by the City Council when such change is adopted, for a period of five years following the date of recording of the final plat or final short plat; and
  - d. The time period established pursuant to paragraph B.2 of this section shall not include the time during which an activity was not actively pursued due to the pendency of litigation which may materially affect rights of the applicant for the permit or approval related to that permit or approval.
2. The vested status of a land use permit or approval shall expire two years from the date of the City's final decision, unless:
  - a. A complete Building Permit application is filed before the end of the two-year term. In such cases, the vested status of the land use permit or approval shall be automatically extended for the time period during which the Building Permit application is pending prior to issuance; provided, that if the Building Permit application expires or is canceled pursuant to BCC 23.05.160, the vested status of a land use permit or approval shall also expire or be canceled. If a Building Permit is issued and subsequently renewed, the vested status of the land use permit or approval shall be automatically extended for the period of the renewal;
  - b. For projects which do not require a Building Permit, the use allowed by the permit or approval has been established prior to the expiration of the vested status of the land use permit or approval and is not terminated by abandonment or otherwise; or
  - c. The vested status of a land use permit or approval is extended pursuant to paragraph B.3 of this section.

3. When a Building Permit is issued, the vested status of a land use permit or approval shall be automatically extended for the life of the Building Permit. If the Building Permit expires, or is revoked or canceled pursuant to BCC 23.05.160 or otherwise, then the vested status of a land use permit or approval shall also expire, or be revoked or canceled.

Section 34. Section 20.50.012 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions.

**Best Available Science (BAS).** Current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925, now or as hereafter amended.

**Bridge.** A structure spanning and providing passage over a gap or barrier, such as a stream, river, floodplain, ravine or roadway. There are six basic modern bridge forms: the beam, the truss, the arch, the cantilever, the cable-stay, and the suspension.

Section 35. Section 20.50.012 of the Bellevue Land Use Code is hereby amended as follows:

**Buildable Area.** That area of a property remaining after area defined as a critical area and critical area buffer pursuant to LUC Part 20.25H has been subtracted from the gross land area.

Section 36. Section 20.50.014 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions.

**Closed Stream Segment.** Those stream segments, regardless of their type, that are fully enclosed in an underground pipe or similar conveyance.

**Critical Areas.** Areas required to be protected under the Growth Management Act, RCW 36.70A. The city's critical areas are designated in Part 20.25H.

**Culvert.** Transverse pipes or conveyance used to convey streams or drainage under driveway, roads, rail lines or other similar transportation corridors.

Section 37. Section 20.50.014 of the Bellevue Land Use Code is hereby amended by the deletion of the following definition.

~~**Colluvium.** A soil deposit derived from downslope movement of material from other soil formations as the result of one or more small earth slides. These deposits are typically found on steep hillsides or at the base of slopes.~~

Section 38. Section 20.50.020 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions.

**Fish habitat.** Any habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management. Fish habitat includes off-channel habitat.

**Functions and Values.** Functions are the ecological things that critical areas do and can include biochemical, hydrological and food web and habitat processes at a variety of temporal and spatial scales. The economic or social roles provided by critical areas are also functions. Values are societal perceptions regarding the goods and services provided by critical areas.

Section 39. Section 20.50.020 of the Bellevue Land Use Code is hereby amended as follows:

**Floor Area Ratio (FAR).** A measure of development intensity equal to the gross floor area, excluding parking and mechanical floors or areas, divided by net on-site land area (square feet). Net on-site land area includes the area of an easement but does not include public right-of-way except in the Downtown as provided for in LUC 20.25A.020.D. Refer to LUC 20.25H.045 for additional limitations on development intensity applicable to sites with critical areas or critical area buffers.

Section 40. Section 20.50.024 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions:

**Habitat.** Refers to an individual, species-specific use of a wildlife-habitat type. Habitat is the place, including physical and biotic conditions, where a plant or animal usually occurs and is fundamentally linked to the distribution and abundance of species. Species may depend on a habitat or structural characteristics for part or all of its life history or may exhibit a high degree of adaptability using more than one habitat. The relationship of species to habitat is scale dependent and varies from geographic range, home range, to local or site specific habitat components. Habitat includes areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These areas may also include habitats that are of limited availability or high vulnerability to alteration. Other examples include: remnant patches of mature mixed Puget Sound lowland forest, caves and cliffs, snag-rich areas and downed logs, riparian areas, lakes and ponds, wetlands and their buffers, and heron rookeries.

**Habitat Type.** Place where an animal or plant normally lives and which is characterized by a dominant plant form or physical characteristic. A habitat type is based on actual conditions and consequently can be mapped, and is assumed to contain all the essential needs for a species' maintenance and viability. Habitat types are not species specific because they are based on the similarity of many wildlife species using a suite of vegetation types.

**Hydrology.** Scientific study of the properties, distribution and effects of water on the Earth's surface, in the soil and underlying rocks, and in the atmosphere.

**Hyporheic zone.** The saturated zone located beneath and adjacent to streams that contains some portion of surface waters, serves as a filter for nutrients and maintains water quality.

Section 41. Section 20.50.026 of the Bellevue Land Use Code is hereby amended by the addition of the following new definition.

**Impervious surface.** Any structure or other hard surface affixed to the ground that prevents or retards the entry of water into the soil layer, or that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow rate prior to addition of such surface. Impervious surfaces include, without limitation: structures, including eaves; vehicular, bicycle, pedestrian or other circulation facilities constructed of solid surfaces, including pavement, concrete, brick or stone; decks, patios, sport courts, swimming pools, hot tubs and similar recreation facilities; and landscape features, including sheds, arbors, and play structures.

Section 42. Section 20.50.032 of the Bellevue Land Use Code is hereby amended by the addition of the following new definition:

**Low Impact Development.** An approach to land development and stormwater management that reduces adverse impacts while accommodating growth. Key principles include protecting native soils and vegetation and minimizing and managing stormwater at the source.

Section 43. Section 20.50.034 of the Bellevue Land Use Code is hereby amended by the addition of the following new definition:

**Mitigation.** Methods used to compensate for adverse impacts to critical areas.

Section 44. Section 20.50.036 of the Bellevue Land Use Code is hereby amended by the deletion of the following definition:

~~**Natural Conditions, Natural Determinants, Natural Environment.** Existing topography, geology, soils, hydrology, water quality, climate, air quality, noise, vegetation, wildlife, marine life, and natural resources in the City, as recognized in the Comprehensive Plan Element 21D and Bellevue Environmental Procedures Code Chapter 22.02 BCC as important in determining the types and forms of development permissible.~~

Section 45. Section 20.50.040 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions.

**Primary structure.** The structure on a site that houses the principal use. For residential uses, the primary structure houses the dwelling unit(s). For non-residential uses, the primary structure houses the use undertaken on the site, as classified by LUC 20.10.440. Primary structures do not include structures that contain only certain functions or equipment that support the principal use, such as sheds, garages, or mechanical equipment structures.

Section 46. A new section 20.50.042 of the Bellevue Land Use Code is hereby created and the following new definition of “qualified professional” included:

**Qualified professional.** A qualified professional is one who, by meeting certain defined educational, licensing or other qualifications established by the director, has the knowledge to provide expert design, engineering, habitat, or other evaluations necessary to allow the city to make a decision on a specific proposal. Where the applicant for a proposal is a city, county, state or federal agency, a qualified professional may include trained staff whose job functions include providing the expertise required by this code.

Section 47. Section 20.50.044 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions.

**Restore.** To reestablish ecological processes, structures, functions and biotic and abiotic linkages that lead to the recovery of an ecosystem that has been degraded, damaged or destroyed. Restoration does not mandate a return to pre-development conditions.

Section 48. Section 20.50.044 of the Bellevue Land Use Code is hereby amended by the deletion of the following definition.

~~**Riparian Corridor.** The area mapped or defined as a Riparian Corridor in the City of Bellevue Sensitive Area Notebook. Riparian Corridors are classified as one of four types as follows:~~

~~A. Type A Riparian Corridors: Are stable and established corridors which have an established floodplain as mapped by FEMA National Flood Insurance Program, or generally satisfy the following conditions:~~

- ~~1. Include Riparian habitat, as distinguished from other terrestrial habitats, which includes a vegetation community that is integrated with the stream ecosystem and provides food, shelter, breeding and rearing areas for aquatic and terrestrial animals. Type A Riparian Corridors are measured from the top of each stream bank and include a primary setback which extends away from the stream on each side a distance of 50 feet;~~
- ~~2. May contribute to or establish a natural open space character; and~~
- ~~3. Scored 40 or less on the City of Bellevue Storm and Surface Water Utility Department Comprehensive Watercourse Inventory, or are bounded upstream and downstream by corridor reaches with scores of 40 or less (unless the subject reach is longer than the sum of the lengths of the adjacent upstream and downstream reaches).~~



~~B. Type B Riparian Corridors: Are Riparian Corridors with perennial watercourses which are not rated as Type A Riparian Corridors and that scored between 41 and 60 on the City of Bellevue Storm and Surface Water Utility Department Comprehensive Watercourse Inventory, or are bounded upstream and downstream by corridor reaches with scores between 41 and 60 (unless the subject reach is longer than the sum of the lengths of the adjacent upstream and downstream reaches). Type B Riparian Corridors are measured from the top of each stream bank and include a primary setback which extends away from the stream on each side a distance of 25 feet.~~

~~C. Type C Riparian Corridors: Are Riparian Corridors not rated as Types A and B, including all seasonal or intermittent flows or ponding, that are not mapped as wetlands by the City of Bellevue, which are fed by groundwater seepage or stormwater runoff, or corridors which scored 61 or greater on the City of Bellevue Storm and Surface Water Utility Department Comprehensive Watercourse Inventory, or are bounded upstream and downstream by corridor reaches with scores greater than 60 (unless the subject reach is longer than the sum of the lengths of the adjacent upstream and downstream reaches). Type C Riparian Corridors consist of an open conveyance channel, which is physically and hydrologically connected to a downstream Type A or B Riparian Corridor and continues the vegetation and wildlife corridor. Type C Riparian Corridors are measured from the top of each stream bank and includes a primary setback which extends away from the stream on each side a distance of 10 feet.~~

~~D. Type D Riparian Corridors: Are Riparian Corridors not rated as Types A, B, or C including all seasonal or intermittent flows or ponding, that are not mapped as wetlands by the City of Bellevue, which are fed by groundwater seepage or stormwater runoff, or corridors which scored 61 or greater on the City of Bellevue Storm and Surface Water Utility Department Comprehensive Watercourse Inventory, or are bounded upstream and downstream by corridor reaches with scores greater than 60 (unless the subject reach is longer than the sum of the lengths of the adjacent upstream and downstream reaches). Type D Riparian Corridors consist of a conveyance channel, open or closed, and extends to the top of the bank of the open channel or swale or the sides of a pipe or culvert.~~

Section 49. Section 20.50.046 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions.

**Salmonid.** A member of the fish family *salmonidae*, which includes salmon, trout, dolly varden, char and white fish

**Stormwater.** Precipitation that does not infiltrate into the soil, or evaporate, but flows over the surface into a pipe or directly to surface water.

Section 50. Section 20.50.046 of the Bellevue Land Use Code is hereby amended by the deletion of the following definitions.

~~**Sensitive Area.** An area mapped or defined in the City of Bellevue Sensitive Area Notebook as a Sensitive Area including Areas of Special Flood Hazard, Wetlands, Riparian Corridors and Slopes equal to or exceeding 15 percent. (Ord. 4654, 6-6-94, § 82; Ord. 3775, 5-26-87, § 31)~~

~~**Surface, Impervious.** Ground or covered ground, through which water cannot percolate. (Ord. 4654, 6-6-94, § 82)~~

Section 51. Section 20.50.048 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions:

**Top-of-bank**

- 1) The point closest to the boundary of the active floodplain of a stream where a break in the slope of the land occurs such that the grade beyond the break is flatter than 3:1 at any point for minimum distance of 50 feet measured perpendicularly from the break; and
- 2) for a floodplain area not contained within a ravine, the edge of the active floodplain of a stream where the slope of the land beyond the edge is flatter than 3:1 at any point for a minimum distance of 50 feet measured perpendicularly from the edge.

Section 52. Section 20.50.048 of the Bellevue Land Use Code is hereby amended as follows:

**Toe of Slope.** The lower boundary of the 40 percent slope as delineated on the slope category analysis; or in the case of landslide hazards, as delineated by the geotechnical report.

**Top of Slope.** The upper boundary of the 40 percent slope as delineated on the slope category analysis; or in the case of landslide hazards, as delineated by the geotechnical report.

Section 53. Section 20.50.054 of the Bellevue Land Use Code is hereby amended by the addition of the following new definitions.

**Watershed.** A drainage basin defined by topographic divides from which precipitation and irrigation water flows to a stream or river.

**Wetland Mitigation.** The following mitigation techniques comprise wetland mitigation:

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. Restoration is divided into:

- **Re-establishment.** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a **former** wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
- **Rehabilitation.** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a **degraded** wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain.

Creation (Establishment): The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

Section 54. Section 20.50.054 of the Bellevue Land Use Code is hereby amended by deletion of the following definition:

~~**Wetlands.** An area meeting the definition of a wetland as defined by the State of Washington, Department of Ecology pursuant to Chapter 382, Laws of 1995. For the purpose of these regulations, a wetland is classified as one of three types as follows:~~

~~**A. Type A.**~~

~~Those wetlands which include, are adjacent to, or are hydrologically related with a Type A or B Riparian Corridor.~~

~~**B. Type B.**~~

~~Those wetlands with an area exceeding 7,200 square feet which do not include, are not adjacent to, or are not otherwise hydrologically interdependent with a Type A or B Riparian Corridor.~~


~~**C. Type C.**~~

~~Those wetlands with an area of less than 7,200 square feet which do not include, are not adjacent to, or are not otherwise hydrologically related with a Type A or B Riparian Corridor.~~

Section 55. This ordinance shall take effect on August 1, 2006.

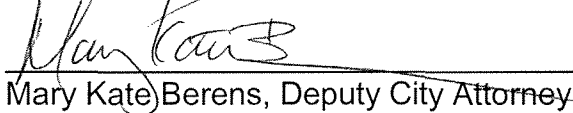
PASSED by the City Council this 26<sup>th</sup> day of June, 2006,  
and signed in authentication of its passage this 26<sup>th</sup> day of June,  
2006.

(SEAL)


  
\_\_\_\_\_  
Grant Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

  
\_\_\_\_\_  
Mary Kate Berens, Deputy City Attorney

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published June 30, 2006