

3899c  
01-19-89

## CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 5097

A RESOLUTION relating to appeal procedures before the City Council and repealing Resolutions No. 2833, 2900 and 3608.

WHEREAS, the City Council wishes to standardize the procedures to be followed on all appeals to the City Council which are authorized by ordinance; and

WHEREAS, such procedures will enable all testimony to be fairly evaluated and to be given its proper weight; and

WHEREAS, copies of such rules of procedure are to be made available for public inspection in compliance with the requirements of the public records section of RCW Chapter 42.17 and Bellevue City Code Chapter 2.26; now, therefore,

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

Section 1. A written notice of appeal must be filed with the City Clerk within the time specified by ordinance when such appeal has been authorized by ordinance. In any case where no time limit is otherwise specified, the notice of appeal must be filed within twenty (20) days of the action appealed from. The notice of appeal shall identify generally the grounds for the appeal.

Section 2. After filing of the notice of appeal and the preparation of the transcript, the City Clerk shall set a date for hearing the appeal and shall notify all parties to the proceeding of the appeal and of the date set for the hearing thereon.

Section 3. Within thirty (30) days of the action which is appealed from, the appellant shall order from the City Clerk, on a form provided by the Clerk, a full transcript of the hearing before the Hearing Body and shall post at the time of such order, security in the amount of One Hundred Dollars (\$100.00) for each tape to be transcribed. Should the security not be posted, the appeal shall be deemed abandoned.

Should the actual cost incurred by the City in preparation of the transcript exceed the amount of security posted, the appellant shall be required to reimburse the City for the amount of such excess prior to the hearing by the Council. Should the actual cost incurred by the City be less than the amount of security posted, any credit due shall be reimbursed by the City to the appellant.

3899c  
01-19-89

Section 4. Any person may request waiver of the fee for a transcript of the hearings contained in Section 3. above by filing the following documents and information:

- (a) an affidavit stating his or her net financial worth does not exceed \$20,000.00;
- (b) an affidavit stating his or her annual income does not exceed \$5,200.00;
- (c) a brief statement of the issues sought to be reviewed;
- (d) a designation of those parts of the record the party thinks are necessary for review;
- (e) a statement that review is sought in good faith.

The City Clerk will waive charges imposed by Section 3. above, provided the above information is submitted, the appellant's net worth does not exceed \$20,000.00 and the appellant's annual income does not exceed \$5,200.00. This Section shall be applicable only to individuals over eighteen (18) years of age who will be adversely affected by the action appealed from. This section shall not apply or be available to corporations, companies, partnerships, or any business, enterprise, community club or any social or recreational organization.

Section 5. Every appeal shall be based upon the record. For the purposes of this section, the record shall consist of:

- (a) the notice of appeal;
- (b) the findings and recommendations of the Hearing Body;
- (c) evidence received by the Hearing Body;
- (d) staff report;
- (e) transcript of the proceedings
- (f) minutes of the proceedings.

Section 6. Briefs and written comments relating to the appeal may be submitted to the Council by filing the same with the City Clerk no later than 1:00 p.m. of the Wednesday preceding the hearing. No material submitted later will be considered by the Council. Such briefs and written comments to the Council must be reviewed by the City

3899c  
01-19-89

Attorney who will exclude any reference to information not contained in the record before submission to the Council.

The total time allowed for oral argument on the appeal shall be sixty (60) minutes, of which thirty (30) minutes shall be allocated to the appellants and thirty (30) minutes shall be allocated to the opponents to the appeal. The appellants may reserve a portion of their time for rebuttal. Oral argument shall be confined to the record and to any alleged errors therein or to any allegation of irregularities in procedure. The Council may request additional information from any staff member, party or members of the audience at its discretion. Such additional information need not be contained or referenced within the record.

Section 7. (1) If the Council finds that:

- (a) there has been substantial error; or
- (b) the proceedings were materially affected by irregularities in procedure; or
- (c) the recommendation or decision was unsupported by material and substantial evidence in view of the entire record as submitted; or
- (d) the recommendation or decision is in conflict with the City's applicable decision criteria.

it may remand for a further hearing before the Hearing Body; or may reject the Hearing Body recommendation or decision; or modify the proposal and approve it as modified; or continue to matter to a time certain for additional city staff analysis desired by the Council, before a final determination by the Council.

(2) If the Council finds none of the above procedural or factual bases for the appeal exist and believes that there has been no substantial error, the Council may adopt the findings and/or conclusions of the Hearing Body, concur with the recommendation or decision of the Hearing Body and approve the proposal as submitted by the Hearing Body, with or without modifications.

Section 8. This procedure is the only method of bringing alleged errors or alleged irregularities in procedure which may have occurred before the decision-maker or the Hearing Body to the attention of the Council. All objections are deemed waived if no appeal is taken from action by the decision-maker or the Hearing Body.

Section 9. Resolutions No. 2833, 2900 and 3608 are hereby repealed.

3899c  
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PASSED by the City Council this 23<sup>rd</sup> day of January  
1989, and signed in authentication of its passage this 23<sup>rd</sup> day  
of January, 1989.  
(SEAL)

Nan Campbell  
Nan Campbell, Mayor

Attest:

Marie K. O'Connell  
Marie K. O'Connell, City Clerk