



# Department of Commerce

## Notice of Proposed Amendment Request for Expedited Review

Pursuant to RCW 36.70A.106(3)(b), the following jurisdiction provides notice of a proposed development regulation amendment and requests expedited state agency review under the Growth Management Act.

***The expedited review period is 10 business days (14 calendar days).***

***Proposed amendments to Comprehensive Plans are not eligible for expedited review.***

*If needed, you may expand this form and the fields below, but please try to keep the entire form under two pages in length.*

<b>Jurisdiction:</b>	City of Bellevue
<b>Mailing Address:</b>	450 110 <sup>th</sup> Avenue NE Bellevue, WA 98009-9012
<b>Date:</b>	09/07/2016

<b>Contact Name:</b>	Carol Helland
<b>Title/Position:</b>	Land Use Director
<b>Phone Number:</b>	(425)452-2724
<b>E-mail Address:</b>	CHelland@bellevuewa.gov

<b>Brief Description of the Proposed/Draft Development Regulations Amendment:</b> <i>(40 words or less)</i>	Proposed amendment to update Bellevue's Critical Areas Ordinance consistent with the Growth Management Act. The amendments will be consistent with the best available science and gap analysis report issued in August 2016.
<b>Is this action part of the scheduled review and update?</b> <i>GMA requires review every 8 years under <a href="#">RCW 36.70A.130(4)-(6)</a>.</i>	Yes: x No: ____
<b>Public Hearing Date:</b>	Planning Commission: N/A City Council: Study Session 09/12/2016 and 10/10/2016 for public hearing
<b>Proposed Adoption Date:</b>	10/17/2016

**REQUIRED:** Attach or include a copy the proposed amendment text or document(s).  
**We do not accept a website hyperlink requiring us to retrieve external documents.**  
**Jurisdictions must submit the actual document(s) to Commerce.** If you experience difficulty, please contact [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov).

***City of Bellevue SMP  
May 18, 2015 Conformance Amendment + CAO Update Amendments***

In this document, proposed Critical Areas Overlay (CAO) Update Amendments have been added to the Conformance Amendment that was adopted by Resolution No. 8922 as part of the Shoreline Master Program (SMP) Update. This approach is intended to ensure consistency between the SMP and CAO Updates, which both require state action to become effective. Red-line and strike draft format has been used to identify proposed modifications to the adopted SMP Conformance Amendment and new updates that are required to the CAO. Numbered sections of this document reflect amendments that were previously adopted in Resolution No. 8922 as part of the SMP Conformance Amendments. Amendments identified as a "New CAO Update Section" are the ones currently before the City Council to accomplish the limited update to the CAO that is required by state law. Section numbers will be updated to be sequential prior to final City Council action.

Section 1. Section 20.10.060 of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

**20.10.060 Interpretation of map boundaries.**

When uncertainty exists as to the boundaries of any use district established on the City's land use map(s), the following rules of construction shall apply:

- A. Where district boundaries are indicated as approximately following the centerline of streets, alleys or highways, the actual centerline shall be construed to be the boundary.
- B. Where district boundaries are indicated as running approximately parallel to the centerline of a street, the boundary line shall be construed to be parallel to the centerline of the street.
- C. Where district boundaries are indicated as approximately following lot or tract lines, the actual lot or tract lines shall be construed to be the boundary lines of such use district.
- D. Unmapped shorelands shall automatically be assigned an Urban Conservancy environment designation.
- E. Where a public street or alley is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion shall revert, shall apply to such vacated or abandoned street or alley.
- F. In case uncertainty exists which cannot be determined by application of the foregoing rules, the Planning Commission shall recommend, and the City Council shall determine, the location of such use district boundaries.
- G. Shoreline Overlay (S-O) District boundaries are as described in LUC 20.25E.010.C.1, and, with the exception of paragraph D above, are not subject to these rules of construction.

**City of Bellevue SMP**  
**May 18, 2015 Conformance Amendment + CAO Update Amendments**

Section 2. Section 20.10.400 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.10.400 Use chart described – Interpretation**

(Note: LUC 20.10.400 is not applicable in the Shoreline Overlay District).

In chart 20.10.440, land use classifications and standard Land Use Code reference numbers are listed on the vertical axis. City of Bellevue land use districts are shown on the horizontal axis.

....

Section 3. Section 20.10.420 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.10.420 Interpretation of land use charts by Director.**

(Note: LUC 20.10.420 is not applicable in the Shoreline Overlay District).

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

....

Section 4. Section 20.10.440 (Land Use Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Permitted uses in the Shoreline Overlay District are listed in LUC 20.25E.020.

Section 5. Section 20.10.440 (Land Use Charts – Services) of the Bellevue Land Use Code is hereby amended to revise Note 14 to read as follows:

- (14) These uses are permitted only in Bellevue School District schools, whether under control of the School District or the City.
- (a) In the review of the proposed use or uses under the Administrative Conditional Use Permit application, Part 20.30E LUC, the following criteria shall be considered:
- (i) Consistency of the proposal with the goals and policies of the Comprehensive Plan.
  - (ii) Extent to which the physical environment will be modified by the proposal.
  - (iii) Ability to provide on-site parking facilities to accommodate intended uses under the proposal.
  - (iv) Extent of additional demand on public utilities and public services resulting from the proposal.

**City of Bellevue SMP**

**May 18, 2015 Conformance Amendment + CAO Update Amendments**

- (v) Noise impacts of the proposal.
- (vi) Traffic volumes and street classifications in the area of the proposal.
- (vii) Compatibility of the proposal with surrounding land uses.
- (viii) Impact of the proposal on the visual and aesthetic character of the neighborhood.

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

- (b) A master Conditional Use Permit listing a range of permissible uses from those permitted in the land use district as listed in LUC 20.10.440 can be obtained for the entire school by using the conditional use process, Part 20.30B or LUC 20.25E.150 and .180. Uses listed in the permit shall be permitted outright and uses not listed but permitted as conditional uses shall obtain a Conditional Use Permit.

Section 6. Section 20.10.440 (Land Use Charts – Recreation) is hereby amended to revise the following use listing in all land use charts (Residential Districts, Nonresidential Districts, and Downtown Districts):

744 Yacht Clubs

Section 7. Section 20.10.440 (Land Use Charts – Recreation) is hereby amended to revise Note 10 to read as follows:

(10) City parks are generally permitted in all zones, with the exception of the following types of uses or facilities:

(a) Lighted sports and play fields, sports and play fields with amplified sound, and community recreation centers located in City parks in single-family or R-10 zones require conditional use approval pursuant to Part 20.30B LUC.

(b) City beach parks in single-family or R-10 zones located on Lake Washington, Lake Sammamish, Phantom Lake and Larson Lake and not identified in a Council-adopted Master Plan require approval through the Conditional Use Permit process pursuant to Part 20.30B LUC. However, a City park as described in this paragraph is a permitted use when established consistent with applicable Shoreline Master Program requirements (refer to Part 20.25E LUC).

(c) Nonrecreation uses in City parks in all zones outside the Downtown require conditional use approval, except that the permit requirements for wireless communication facilities shall be as set forth in LUC 20.20.195. For purposes of this requirement, "nonrecreation use" means a commercial, social service or residential use located on park property but not functionally related to City park programs and activities.

**City of Bellevue SMP**

**May 18, 2015 Conformance Amendment + CAO Update Amendments**

Section 8. Section 20.10.440 (Land Use Charts – Resources) is hereby amended to delete the following use listing from all land use charts (Residential Districts, Nonresidential Districts, and Downtown Districts):

8421 Fish Hatcheries

Section 9. Section 20.20.010 (Residential Dimensional Requirements Chart) of the Bellevue Land Use Code is hereby amended by the addition of a Note (47), attached to the “Minimum Greenscape Percentage of Front Yard Setback” dimensional requirement in the Residential chart, to read as follows:

(47~~6~~) Not applicable to properties located in Shoreline Overlay Districts and which have shoreline frontage. For requirements applicable to such properties, see LUC 20.25E.065.

**New CAO Update Section. Section 20.20.010 Note 13 of the Bellevue Land Use Code is hereby amended to read as follows:**

(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), and seismic hazards (20.25H.120.A.4) shall not be subtracted.

Section 10. Section 20.20.010 (Dimensional Requirements Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Additional Dimensional Requirements for Shoreline Overlay Districts are found in Part 20.25E LUC.

Section 11. Section 20.20.018 of the Bellevue Land Use Code is hereby amended to read 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 20.25E LUC relating to variances from the Shoreline Master Program.

Section 12. Section 20.20.020 (Land Use Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Additional Dimensional Requirements for the Shoreline Overlay District are found in Part 20.25E.

*City of Bellevue SMP*  
*May 18, 2015 Conformance Amendment + CAO Update Amendments*

Section 13. Section 20.20.025 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.025 Intrusions into required setbacks**

(Note: LUC 20.20.025 is not applicable in the Shoreline Overlay District).

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

See Sign Code, Chapter 22B.10 BCC.

....

Section 14. Section 20.20.128.C.3 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.128.C Affordable housing.**

**C. Dimensional Standard Modification.**

The following requirements of the Land Use Code may be modified through the procedures outlined in paragraph D of this section, to the extent necessary to accommodate affordable housing units and bonus units on-site.

....

3. Building Height. Except in Transition Areas and the Shoreline Overlay District, the maximum building height in R-10, R-15, R-20 and R-30 Zoning Districts may be increased by up to six feet for those portions of the building(s) at least 20 feet from any property line.

....

Section 15. Section 20.20.255.B of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.255.B Electrical utility facilities.**

**B. Applicability.**

This section applies to all proposals for new or expanding electrical utility facilities as defined in LUC 20.50.018. Additional requirements applicable to Electrical utility facilities located within the Shoreline Overlay District are provided in Part 20.25E LUC.

***City of Bellevue SMP***

***May 18, 2015 Conformance Amendment + CAO Update Amendments***

Section 16. Section 20.20.460.C of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.460 Impervious surface.**

**C. Modifications to Impervious Surface Limits.**

The impervious surface limits contained in LUC 20.20.010 and Chapter 20.25 LUC 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 LUC 20.20.010 and Chapter 20.25 LUC, provided, that impervious limits within the Shoreline Overlay District may be modified pursuant to a Shoreline Special Report or Shoreline Variance, as provided for by LUC 20.25E.050.C.2.

1. ....

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

**20.20.560.E Nonconforming structures, uses and sites.**

**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 LUC. 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 LUC. Refer to LUC 20.25E.040 and .065.I for the requirements for such nonconforming uses, structures and sites.
4. Bel-Red (BR) Land Use Districts. The provisions of this section do not apply to uses, structures, or sites located in the Bel-Red Land Use Districts. For uses in the Bel-Red Land Use Districts established before May 26, 2009, refer to the existing conditions regulations in LUC 20.25D.060.

***City of Bellevue SMP  
May 18, 2015 Conformance Amendment + CAO Update Amendments***

Section 18. Section 20.20.840 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.840 Subordinate Uses.**

(Note: LUC 20.20.840 is not applicable in the Shoreline Overlay District).

**A. Purpose.**

The purpose of this section is to provide performance standards for subordinate uses, as defined in LUC 20.50.046.

....

Section 19. Chapter 20.25 – Special and Overlay Districts, Table of Sections, Part 20.25E, is hereby amended to read as follows:

Part 20.25E Shoreline Overlay District

20.25E.010	General
20.25E.020	Shoreline Uses Described
20.25E.040	Nonconforming Shoreline Conditions
20.25E.050	Dimensional Requirements
20.25E.060	General Requirements Applicable to All Shoreline Development and Uses
20.25E.065	Residential Shoreline Regulations
20.25E.070	Specific Use Regulations
20.25E.080	Shoreline Modifications
20.25E.100	Review and Appeal Procedures
20.25E.110	Shoreline Process I – Quasi Judicial Decisions
20.25E.120	Shoreline Process II – Administrative Decisions
20.25E.130	Shoreline Process III – Ministerial Decisions
20.25E.140	Legislative Non-Project Actions
20.25E.150	Shoreline Project Permits
20.25E.160	Shoreline Substantial Permits
20.25E.170	Exemptions from Shoreline Substantial Development Permits – Letter of Exemption Required
20.25E.180	Shoreline Conditional Use Permits
20.25E.190	Variances to the Shoreline Master Program
20.25E.200	Amendments to the Text of the Shoreline Master Program
20.25E.250	Administration
20.25E.260	Enforcement
20.25E.270	Interpretation
20.25E.280	Definitions



**City of Bellevue SMP**

**May 18, 2015 Conformance Amendment + CAO Update Amendments**

Section 20. Section 20.25H.025 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.025 Designation of critical areas.**

The ~~following~~ areas identified in the table directly below are hereby designated as critical areas. For additional information about identifying each critical area, see the specific sections noted. Together, streams, habitats associated with species of local importance, and steep slopes comprise fish and wildlife habitat conservation areas. Critical aquifer recharge areas are not designated by the City of Bellevue, but state source water protection program standards apply (WAC 246-290-135 as now or hereafter amended).

**Commented [A1]:** Added to address consistency with the Comprehensive Plan reference to Fish and Wildlife Habitat Conservation Areas.

Critical Area Category or Type	Additional Information Identifying Critical Area
<b>Streams</b>	
Type S water	LUC 20.25H.075
Type F water	LUC 20.25H.075
Type N water	LUC 20.25H.075
Type O water	LUC 20.25H.075
Closed segment, regardless of type; Kelsey Creek drainage basin	LUC 20.25H.075
Closed segment, regardless of type; all other drainage basins	LUC 20.25H.075
<b>Wetlands</b>	
Category I	LUC 20.25H.095
Category II	LUC 20.25H.095
Category III	LUC 20.25H.095
Category IV over 2,500 square feet	LUC 20.25H.095
<b>Geologic Hazard Areas</b>	
Landslide hazards	LUC 20.25H.120
Steep slopes	LUC 20.25H.120
Coal mine hazard areas	LUC 20.25H.120
<u>Seismic hazard areas</u>	<u>UC 20.25H.120</u>
<b>Habitat Associated with Species of Local Importance</b>	
Habitat associated with species of local importance	LUC 20.25H.150
<del>Areas of Special Flood Hazard</del> <u>Frequently Flooded Areas</u>	
<del>Areas of special flood hazard</del> <u>Frequently Flooded Areas</u>	LUC 20.25H.175

**Commented [HC2]:** Added for disclosure purposes

**Commented [HC3]:** Change in name for consistency with the Comprehensive Plan

**City of Bellevue SMP**

**May 18, 2015 Conformance Amendment + CAO Update Amendments**

Section 21. Section 20.25H.035.A of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.035.A Critical area buffers and structure setbacks.**

**A. Critical Area Buffer.**

The following critical area buffers and structure setbacks are established for each critical area set forth below. For information about modifying required critical area buffers and structure setbacks, see the referenced sections noted in the table.

Critical Area Category or Type	Critical Area Buffer Width		Structure Setback		Modification of Buffer or Setback
Streams					
	Undeveloped Site¹	Developed Site¹	Undeveloped Site¹	Developed Site¹	
Type S water	100 ft	50 ft	20 ft	50 ft	LUC 20.25H.075 LUC 20.25H.230
Type F water	100 ft	50 ft	20 ft	50 ft	LUC 20.25H.075 LUC 20.25H.230
Type N water	50 ft	25 ft	15 ft	25 ft	LUC 20.25H.075 LUC 20.25H.230
Type O water	25 ft	25 ft	10 ft	None	LUC 20.25H.075 LUC 20.25H.230
Closed segment, regardless of type; Kelsey Creek drainage basin	None	None	50 ft or combined buffer and structure setback required for stream type, whichever is less	50 ft or combined buffer and structure setback required for stream type, whichever is less	LUC 20.25H.075 LUC 20.25H.230
Closed segment, regardless of type; all other drainage basins	None	None	10 ft	10 ft	LUC 20.25H.075 LUC 20.25H.230
Wetlands					
	Undeveloped Site²	Developed Site²	Undeveloped Site²	Developed Site²	
Category I		As established through previously approved and recorded NGPA or NGPE for wetland or through a previously	20 ft	20 ft from edge of previously approved and recorded NGPA or NGPE	LUC 20.25H.095 LUC 20.25H.230
Natural heritage wetland and bogs; <a href="#">habitat score 8-9</a>	<del>190</del> <a href="#">225</a> ft				
<a href="#">Natural heritage wetland and bogs; all others</a>	190 ft				

**Commented [A4]:** Buffers updated per 2014 rating system and Ecology guidance

**City of Bellevue SMP**  
**May 18, 2015 Conformance Amendment + CAO Update Amendments**

Forested wetland	Based on score for habitat or water quality	<a href="#">approved Critical Areas Land Use Permit for wetland</a>			
Habitat score of <del>29 to 368-9</del>	225 ft				
Habitat score of <del>20 to 286-7</del>	<del>165</del> 10 ft				
<a href="#">Habitat score of 5</a>	<a href="#">105 ft</a>				
All others	75 ft				
Category II		As established through previously approved and recorded NGPA or NGPE for wetland <a href="#">or through a previously approved Critical Areas Land Use Permit for wetland</a>	20 ft	20 ft from edge of previously approved and recorded NGPA or NGPE	LUC 20.25H.095 LUC 20.25H.230
Habitat score of <del>29 to 368-9</del>	225 ft				
Habitat score of <del>20 to 286-7</del>	<del>140-165</del> ft				
<del>Water quality score of 24 to 32 and habitat score of less than 205</del>	<del>75-105</del> ft				
All others	75 ft				
Category III		As established through previously approved and recorded NGPA or NGPE for wetland <a href="#">or through a previously approved Critical Areas Land Use Permit for wetland</a>	15 ft	15 ft from edge of previously approved and recorded NGPA or NGPE	LUC 20.25H.095 LUC 20.25H.230
<a href="#">Habitat score of 8-9</a>	<a href="#">225 ft</a>				
<a href="#">Habitat score of 6-7</a>	<a href="#">165 ft</a>				
Habitat score of <del>20 to 285</del>	<del>105</del> 10 ft				
All others	60 ft				
Category IV over 2,500 square feet		As established through previously approved and recorded NGPA or NGPE for wetland <a href="#">or through a previously approved Critical Areas Land Use Permit for wetland</a>	None	None	LUC 20.25H.095 LUC 20.25H.230
All	40 ft				
<b>Geologic Hazard Areas</b>					
Landslide hazards	Toe-of-slope: None	Toe-of-slope: <del>75 ft</del> <a href="#">Based on site specific analysis</a>			LUC 20.25H.120
	Top-of-slope: 50 ft	Top-of-slope: None			LUC 20.25H.230
Steep slopes	Toe-of-slope: None	Toe-of-slope: 75 ft			LUC 20.25H.120

**Commented [A5]:** Added per gap analysis recommendation

**City of Bellevue SMP**  
**May 18, 2015 Conformance Amendment + CAO Update Amendments**

	Top-of-slope: 50 ft	Top-of-slope: None	LUC 20.25H.230
<a href="#">Seismic hazards</a>	<a href="#">None</a>	<a href="#">None</a>	<a href="#">N/A</a>
Coal mine hazard areas	See LUC 20.25H.130	See LUC 20.25.130	LUC 20.25H.120 LUC 20.25H.230
<b>Habitat Associated with Species of Local Importance</b>			
Habitat associated with species of local importance	Only if required for known species on site	None	N/A
Naturally occurring ponds with no other critical area designation	35 ft	None	LUC 20.25H.230
<del>Areas of Special Flood Hazard</del> <a href="#">Frequently Flooded Areas</a>			
<del>Areas of special flood hazard</del> <a href="#">Frequently flooded areas</a>	None	None	N/A

**Commented [A6]:** Added to ensure disclosure of known seismic hazards

**Commented [A7]:** Name change

- For a definition of "undeveloped site" and "developed site" for sites with streams, see LUC 20.25H.075.C.1.a.
- For a definition of "undeveloped site" and "developed site" for sites with wetlands, see LUC 20.25H.095.C.1.a.

Section 22. Section 20.25H.050 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.050 Uses and development in the Critical Areas Overlay District.**

**A. Uses.**

- General. The uses established by LUC 20.10.440 for the applicable land use district may be undertaken in the Critical Areas Overlay District as allowed for in the underlying land use district. All development associated with the use shall comply with the provisions of this part.
- Shorelines. Where the Critical Areas Overlay District and Shoreline Overlay District apply to the same site, the uses established by LUC 20.10.440 for the underlying land use district may be undertaken. Additional uses in the Shoreline Overlay District are set forth in LUC 20.25E.020 and .030. The applicable permitting process to establish the allowed uses within the Shoreline Overlay District is set forth in LUC 20.25E.100-.190. All development associated with the use shall comply with the provisions of this part and Part 20.25E LUC.

**B. Development.**

- [Seismic Hazard Areas](#), Coal Mine Hazard Areas ~~and~~, and Habitat Associated with Species of Local Importance. The [seismic hazard areas](#), coal mine hazard areas, and

**Commented [A8]:** Conformance amendment to LUC Section 20.25H.120. Added so that seismic hazard areas will not limit uses.

**City of Bellevue SMP**  
**May 18, 2015 Conformance Amendment + CAO Update Amendments**

habitat associated with species of local importance designated as critical areas by this part do not include absolute restrictions on development or activity. Instead, uses allowed under subsection A of this section may be undertaken in such critical areas, so long as the performance standards of [LUC 20.25H.120-125\(Landslide hazards, steep slopes, and seismic hazards\)](#), LUC 20.25H.130 (coal mine hazard areas), or LUC 20.25H.160 (habitat associated with species of local importance), [as applicable](#), are satisfied.

2. Other Critical Areas. Except as set forth in subsection B.1 of this section, all development, use, land alteration or other activity within the Critical Areas Overlay District shall be located outside of the critical area and the critical area buffer, unless such use or development is allowed pursuant to the following:
  - a. Uses and development allowed within critical area or critical area buffer, see LUC 20.25H.055;
  - b. Critical area buffer modifications for the following critical areas:
    - i. Streams, see LUC 20.25H.075;
    - ii. Wetlands, see LUC 20.25H.095;
    - iii. Geologic hazards, see LUC 20.25H.120.
  - c. Uses and development in ~~the area of special flood hazard~~ [frequently flooded areas](#), see LUC 20.25H.180;
  - d. Modifications where allowed through a critical areas report, see LUC 20.25H.230;
  - e. Reasonable use exceptions, see LUC 20.25H.190;
  - f. Variances, see Part 20.30G and 20.30H LUC; or
  - g. Shoreline-specific uses and development, where allowed within the Shoreline Overlay District, see Part 20.25E LUC.

**C. No Modification.**

The critical areas report may not be used to modify the uses allowed in the Critical Areas Overlay District as set forth in LUC 20.10.440; nor the provisions of this section.

Section 23. Section 20.25H.055.B of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.055.B Uses and development allowed within critical areas – Performance standards.**

**B. Uses and Development Allowed within Critical Areas.**

The following chart lists uses and development that may be allowed in a critical area, critical area buffer, or critical area structure setback. The sections noted in the chart for each use or activity and critical area refer to the applicable performance standards that must be met.

		Type of Critical Area				
		Streams	Wetlands		Geologic Hazard Areas <sup>7</sup>	Areas of Special Flood Hazard Frequently Flooded Areas
Allowed Use or Development	Repair and maintenance of parks and parks facilities, including trails <sup>1, 2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100		20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C 20.25H.180.D.2
	Repair and maintenance of utility facilities, utility systems, stormwater facilities and essential public facilities <sup>1, 2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100		20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Repair and maintenance of public rights-of-way, private roads, access easements, surface parking areas, and driveways <sup>1, 2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100		20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Repair and maintenance of bridges and culverts <sup>1, 2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100		20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Construction staging <sup>1, 2, 11</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100		20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Existing agricultural activities <sup>2</sup>	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.080.A	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.100		20.25H.055.C.1 20.25H.055.C.3.a 20.25H.125	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.180.C
	Emergency actions	20.25H.055.C.3.b	20.25H.055.C.3.b		20.25H.055.C.3.b	20.25H.055.C.3.b
	New or expanded utility facilities, utility systems, stormwater facilities <sup>3</sup>	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100		20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C
	New or expanded essential public facilities (12)	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100		20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C 20.25H.180.D.3
Allowed Use or Development	Public flood protection measures <sup>4</sup>	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.100		20.25H.055.C.2 20.25H.055.C.3.c 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.180.C

		20.25H.080.B				20.25H.180.D.5
	Instream structures <sup>5</sup>	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.100		20.25H.055.C.2 20.25H.055.C.3.d	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.180.C
	New or expanded public rights-of-way, private roads, access easements and driveways	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100		20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C 20.25H.180.D.4
	New or expanded bridges and culverts	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.100		20.25H.055.C.2 20.25H.055.C.3.e 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.180.C
	New or expanded private nonmotorized trails	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.100		20.25H.055.C.2 20.25H.055.C.3.f 20.25H.125	20.25H.055.C.2 <sup>15,16</sup> 20.25H.055.C.3.f 20.25H.180.C
	New or expanded City and public parks	20.25H.055.C.3.g 20.25H.080.A	20.25H.055.C.3.g 20.25H.100		20.25H.055.C.3.g 20.25H.125	20.25H.055.C.3.g 20.25H.180.C 20.25H.180.D.2
	Existing landscape maintenance <sup>2</sup>	20.25H.055.C.3.h 20.25H.080.A	20.25H.055.C.3.h 20.25H.100		20.25H.055.C.3.h 20.25H.125	20.25H.055.C.3.h <sup>17</sup> 20.25H.180.C
	Vegetation management <sup>6</sup>	20.25H.055.C.3.i 20.25H.080.A	20.25H.055.C.3.i 20.25H.100		20.25H.055.C.3.i 20.25H.125	20.25H.055.C.3.i 20.25H.180.C
	Habitat improvement projects	20.25H.055.C.3.j 20.25H.080.A	20.25H.055.C.3.j 20.25H.100		20.25H.055.C.3.j 20.25H.125	20.25H.055.C.3.j 20.25H.180.C
	Forest practices	20.25H.055.C.3.k 20.25H.080.A	20.25H.055.C.3.k 20.25H.100		20.25H.055.C.3.k 20.25H.125	20.25H.055.C.3.k 20.25H.180.C
	Aquaculture	20.25H.055.C.3.l 20.25H.080.A	20.25H.055.C.3.l 20.25H.100		20.25H.055.C.3.l	20.25H.055.C.3.l 20.25H.180.C
	Stabilization measures	20.25H.055.C.3.m 20.25H.080.A	20.25H.055.C.3.m 20.25H.100		20.25H.055.C.3.m 20.25H.125	20.25H.055.C.3.m <sup>13, 15</sup> 20.25H.180.C
	Expansion of existing single-family primary structures	20.25H.055.C.3.n 20.25H.080.A	20.25H.055.C.3.n 20.25H.100		20.25H.055.C.3.n 20.25H.125	20.25H.180.C <sup>9</sup> 20.25H.180.D.1
	Reasonable use exception <sup>8</sup>	20.25H.080.A	20.25H.100		20.25H.125	20.25H.180.C 20.25H.180.D.7
	Recreational vehicle storage <sup>10</sup>					20.25H.180.C 20.25H.180.D.6
	Moorage and docks associated with a					

	residential use					Part 20.25E.065 <sup>14</sup> , <sup>15</sup>
--	--------------------	--	--	--	--	--

Notes:

1. For purposes of this section, repair and maintenance includes replacement of facilities and systems, or expansion so long as the area of permanent disturbance of the critical area or critical area buffer is not expanded. As applicable to public rights-of-way, private roads, access easements, parking areas and driveways, repair and maintenance also includes removing and replacing improvements within the area of permanent disturbance, and expansion of paved areas, so long as the area of permanent disturbance within the critical area or critical area buffer is not expanded.
2. These uses do not require a Critical Areas Land Use Permit. The requirements of this part shall be applied through the review process applicable to the underlying use or activity.
3. In the event of a conflict between this section and the utilities code, the utilities code shall prevail.
4. Examples of public flood protection measures include, but are not limited to: flood control projects, flood damage reduction facilities such as levees, revetments, and pumping stations, streambank stabilization structures and surface water conveyance facilities, bridge piers and abutments.
5. Examples of instream structures include, but are not limited to: sediment ponds, instream ponds, dams, and weirs.
6. Permit requirements may vary. See subsection C.3.i of this section.
7. For [information on applicability requirements applicable to geologic hazards areas other than coal mine hazard areas, see LUC 20.25H.120. Uses and performance standards for seismic hazard areas and coal mine hazard areas set forth in LUC 20.25H.050.](#)
8. Development authorized pursuant to a reasonable use exception, LUC 20.25H.190, shall incorporate the required performance standards to the maximum extent feasible.
9. In ~~areas of special flood hazard~~[frequently flooded areas](#) located within shoreline jurisdiction, expansion of existing single-family homes and new single-family homes (including full replacement (i.e. teardowns) are allowed in the area of special flood hazard when developed in accordance with the Residential Shoreline Regulations, LUC 20.20E.065 (including the Shoreline Greenscape Conservation Standards and Requirements, LUC 20.25E.065.F), and also in accordance with the performance standards required by LUC 20.25H.180.C and D.1. A Critical Area Land Use Permit will be required.
10. Such storage is not allowed in critical areas or critical area buffers except within ~~the area of special flood hazard~~[frequently flooded areas](#) in compliance with applicable performance standards.

**Commented [A9]:** Modified for clarity with addition of seismic hazard areas



11. Authorized only in areas of the critical area buffer within areas of existing permanent disturbance, including, for example: paved or gravel surface parking areas, access drives, and other similar disturbed areas.
12. Refer to Part 20.25M LUC, Light Rail Overlay District, for specific requirements applicable to EPF defined as a Regional Light Rail Transit Facility or Regional Light Rail Transit System pursuant to LUC 20.25M.020. A conditional use permit is not required when the City Council has approved a Regional Light Rail Transit Facility or Regional Light Rail Transit System by resolution or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with LUC 20.25M.030.B.1.
13. Authorized only in ~~areas of special flood hazard~~ frequently flooded areas located within shoreline jurisdiction and only when developed in accordance with LUC 20.25E.080.F.
14. Authorized only in ~~areas of special flood hazard~~ frequently flooded areas located within shoreline jurisdiction and only when developed in the aquatic environment in accordance with LUC 20.25E.065.
15. In ~~frequently flooded areas~~ ~~areas of special flood hazard~~ located within shoreline jurisdiction performance standards required by this section will be applied through the applicable permit required by Part 20.25E. LUC and do not require a Critical Areas Land Use Permit.
16. Authorized only in ~~frequently flooded areas~~ ~~areas of special flood hazard~~ located within shoreline jurisdiction and only when developed in accordance with LUC 20.25H.
17. In ~~frequently flooded areas~~ ~~areas of special flood hazard~~ located within shoreline jurisdiction, existing landscape maintenance and all modifications to landscaping and landscape features shall comply with the Shoreline Greenscape Conservation Standards and Requirements, LUC 20.25E.065.F, rather than this section.

**New CAO Update Section. Section 20.25H.055.C.3.e of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.055.C.3.e**

- e. New or Expanded Bridges and Culverts. New culverts shall be designed in accordance with the Washington State Department of Fish and Wildlife "~~Design of Road Culverts for Fish Passage~~Water Crossing Design Guidelines" now or as hereafter amended. Culvert expansions shall be considered new culverts and be required to be designed in accordance with "~~Design of Road Culverts for Fish Passage~~Water Crossing Design Guidelines" now or as hereafter amended when the expansion is associated with a project increasing vehicular capacity and (i) there are fish present downstream; (ii) there is potential fish habitat upstream; and (iii) the benefits of so designing the culvert are substantial when compared to expanding the culvert based on its then-existing design.

Commented [A10]: Updated document referenced

Section 24. Section 20.25H.055.C.3.f of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.055.C.3.f**

- f. Private Nonmotorized Trails. New nonmotorized trails within the critical area or critical area buffer are limited to those accessing single-family residential moorage or serving nonresidential uses, multifamily residential uses and more than one single-family lot. Private nonmotorized trails shall comply with the performance standards for trails in subsection C.3.g of this section. Nothing in this section prohibits the creation of a soft surface nonmotorized trail in a critical area buffer on a single-family lot for use of the residents of that lot. Such trail shall not exceed four feet in width, and shall not involve the removal of any significant trees or bank-stabilizing roots. In stream and wetland buffers, trails shall not be generally parallel to the stream or wetland edge ~~closer than a distance of 25 feet.~~ shall be located in the outer 25 percent of the buffer, and shall be located no closer than 25 feet from the upland edge of the wetland or stream. Any clearing of brush or vegetation shall be the minimum necessary, and shall be with hand tools only.

Commented [HC11]: Modified per Ecology guidance

Section 25. Section 20.25H.055.C.3.h of the Bellevue Land Code is hereby amended to read as follows:

**20.25H.055.C.3.h**

- h. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features developed prior to August 1, 2006, in the critical area or critical area buffer may be continued in accordance with this section. For purposes of this section, "routine maintenance" includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this subsection, "landscape features" refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species. Maintenance shall be performed with hand tools or light equipment only, and no significant trees may be removed, except in accordance with Vegetation Management under subsection C.3.i of this section. Use of fertilizers, insecticides, and pesticides is not recommended unless performed in accordance with the City of Bellevue's "Environmental best Management Practices" now or as hereafter amended.

Section 26. Section 20.25H.055.C.3.m of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.055.C.3.m**

- m. Stabilization Measures. Proposed stabilization measures within a critical area or critical area buffer to protect against streambank erosion or steep slopes or landslide hazards may be approved in accordance with this subsection. The performance

standards of this part do not apply to shoreline stabilization measures in flood hazard critical areas when developed in accordance with LUC 20.25E.080.F.

Section 27. Section 20.25H.065 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.065 Uses and development within critical area buffer or critical area structure setback not allowed pursuant to LUC 20.25H.055.**

This section applies to uses and development legally established within the critical area or critical area buffer prior to August 1, 2006, and which is not included as an allowed use or development in LUC 20.25H.055. See performance standards at LUC 20.25H.180 for provisions relating to the repair, remodeling, expansion or reconstruction of structures located in the ~~area of special flood hazard~~frequently flooded areas. Any alterations to existing development allowed under this section shall also comply with provisions for the ~~area of special flood hazard~~frequently flooded areas. In the event of conflict, the provisions that result in most protection for the critical area or critical area buffer shall govern.

**Commented [HC12]:** Conformance amendment with comprehensive plan terminology

**A. Existing Primary Structures.**

.....

Section 28. Section 20.25H.075.B.1 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.075.B.1 Designation of critical area and buffers.**

**B.1. Designation of Streams.**

1. "Type S water" means all waters, within their bankfull width, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands. As of [insert effective date of ordinance], the only known Type S waters are Lower Kelsey Creek and Mercer Slough.

**New CAO Update Section. Section 20.25H.075.C.1.e of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.075.C.1.e**

e. Measurement of Buffer on Eroding Stream Bank. A stream critical area buffer and any applicable structure setback may be measured from a fixed location representing the historic location of the top-of-bank where an applicant demonstrates that:

- i. The location of the top-of-bank has changed over time as a result of natural stream processes; and

ii. The applicant provides ~~existing surveys, maps or other information acceptable to the Director, which accurately determines the historic location of~~ a delineation of the top-of-bank conducted within the past five years.

**Commented [HC13]:** Added per gap analysis recommendation

**New CAO Update Section. Section 20.25H.080.A of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.080.A**

A. General.

Development on sites with a type S or F stream or associated critical area buffer shall incorporate the following performance standards in design of the development, as applicable:

1. Lights shall be directed away from the stream.
2. Activity that generates noise such as parking lots, generators, and residential uses shall be located away from the stream or any noise shall be minimized through use of design and insulation techniques.
3. Toxic runoff from new impervious area shall be routed away from the stream.
4. Treated water may be allowed to enter the stream critical area buffer.
5. The outer edge of the stream critical area buffer shall be planted with dense vegetation to limit pet or human use.
6. Use of pesticides, insecticides and fertilizers within 150 feet of the edge of the stream critical area buffer shall be in accordance with the City of Bellevue's "Environmental Best Management Practices," now or as hereafter amended.

7. All applicable standards of LUC 24.06, Storm and Surface Water Utility Code, are met.

**Commented [A14]:** Added to acknowledge significance of stormwater treatment and LID

**New CAO Update Section. Section 20.25H.095 of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.095 Designation of critical area and buffers.**

A. Definition of Wetland.

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or

highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

#### B. Delineation of Wetland

Wetland boundaries shall be delineated consistent with the standards and methods described in the U.S. Army Corps of Engineers 1987 Wetlands Delineation Manual, as amended, and the 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region, as amended.

**Commented [A15]:** Added to reflect new delineation manuals

#### CB. Designation of Critical Area.

The following wetlands are hereby designated as critical areas subject to the requirements of this part. Wetlands are classified into category I, category II, category III and category IV wetlands based on the adopted Washington State Wetland Rating System for Western Washington, Washington State Department of Ecology Publication Number ~~0414~~-06-02~~95~~, published ~~August, 2004~~ in October, 2014, as amended.

**Commented [A16]:** Updated 2014 Rating System

1. Category I Wetlands. Category I wetlands are those that (a) represent a unique or rare wetland type; or (b) are more sensitive to disturbance than most wetlands; or (c) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions.

2. Category II Wetlands. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than category I wetlands, but still need a relatively high level of protection. Category II wetlands in western Washington include: wetlands scoring between ~~51 to 69~~ 20-22 points (out of ~~100~~ 27) on the questions related to the functions present. Wetlands scoring ~~51 to 69~~ 20-22 points were judged to perform most functions relatively well, or performed one group of functions very well and the other two moderately well.

**Commented [A17]:** Points modified to reflect new rating scoring system

3. Category III Wetlands. Category III wetlands are wetlands with a moderate level of functions (scores between ~~30 to 50~~ 16-19 points). Wetlands scoring between ~~30 to 50~~ 16-19 points generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than category II wetlands.

4. Category IV Wetlands Over 2,500 Square Feet. Category IV wetlands have the lowest levels of functions (scores less than ~~30~~ 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, and in some cases be able to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and also need to be protected.

#### DE. Designation of Wetland Critical Area Buffer.

The following critical area buffers are hereby established:

##### 1. Wetland Critical Area Buffer.

###### a. General.

- i. Undeveloped Sites. An undeveloped site is any site where the wetland and wetland buffer have not previously been included within a Native Growth Protection

Area (NGPA) or Native Growth Protection Easement (NGPE), regardless of whether the site contains a primary structure. Wetlands on undeveloped sites shall have the following critical area buffers, measured from the wetland boundary:

Category	Wetland Characteristic	Buffer
I	Natural heritage wetlands <u>and bogs-</u> <u>Habitat score 8-9</u>	<del>490</del> <u>225</u> feet
	<u>Natural heritage wetlands and bogs-</u> <u>All others</u>	190 feet
	Habitat score of <del>20 to 36</del> <u>8-9</u>	225 feet
	<u>Habitat score of 6-7</u>	<u>165 feet</u>
	Habitat score of <del>20 to 28</del> <u>5</u>	<u>105</u> <del>40</del> feet
	Not meeting any of the above	75 feet
II	Habitat score of <del>20 to 36</del> <u>8-9</u>	225 feet
	<u>Habitat score of 6-7</u>	<u>165 feet</u>
	Habitat score of <del>20 to 28</del> <u>5</u>	<u>105</u> <del>40</del> feet
	Not meeting any of the above	75 feet
III	<u>Habitat score of 8-9</u>	<u>190 feet</u>
	<u>Habitat score of 6-7</u>	<u>165 feet</u>
	Habitat score of <del>20 to 28</del> <u>5</u> points	<del>440</del> <u>105</u> feet
	Not meeting any of the above	60 feet
IV over 2,500 square feet	<del>Score for functions less than 30</del> <u>points</u> <u>All</u>	40

**Commented [A18]:** Modified to reflect new Ecology guidance based on 2014 rating system

ii. Developed Site. Wetlands on developed sites shall be governed by the buffer established within the approved and recorded NGPA or NGPE, or approved Critical Areas Land Use Permit. No additional wetland buffer shall apply.

**Commented [A19]:** Added for clarity/consistency

(A) Previously Approved NGPE/NGPA: A developed site is any site where the wetland and wetland buffer have been included within an NGPE or NGPA approved and recorded prior to August 1, 2006, or any site abutting an NGPA approved and recorded prior to August 1, 2006, containing the wetland and wetland buffer where such site does not also contain a wetland.

(B) Previously Approved Critical Areas Land Use Permit: A developed site is any site where the wetland and wetland buffer have been identified within a Critical Areas Land Use Permit approved prior to [insert date and CAO adoption].

b. Buffer and Setback on Sites with Existing Development. Where a primary structure legally established on a site prior to August 1, 2006, encroaches into the critical area buffer or structure setback established in this section, the critical area buffer and/or structure setback shall be modified to exclude the footprint of the existing primary structure. Expansion of any existing primary structure into the critical area buffer or

critical area structure setback shall be allowed only pursuant to the provisions of LUC 20.25H.055 (single-family primary structures) or LUC 20.25H.230 (all other primary structures).

2. **Buffer Modification.** Modifications to the wetland critical area buffer may be approved pursuant to this section. Modifications to the wetland critical area buffer that do not meet the criteria of this subsection may be considered through a critical areas report, LUC 20.25H.230:

a. **Buffer Averaging.** Buffer averaging may be allowed if all the following criteria are satisfied. Proposals to average the wetland critical area buffer under this subsection shall require a Critical Areas Land Use Permit; provided, that a mitigation or restoration plan is not required for buffer averaging.

i. Buffer averaging may be approved only if the applicant demonstrates that a modification to non-critical area setbacks pursuant to LUC 20.25H.040 would not accommodate the proposed development in a manner consistent with its intended use and function;

ii. Through buffer averaging, the ecological structure and function of the resulting buffer is equivalent to or greater than the structure and function before averaging;

iii. The total buffer area is not reduced;

iv. The buffer area is contiguous;

v. Averaging does not result in any impact to slope stability and does not increase the likelihood of erosion or landslide hazard;

vi. Averaging does not result in a significant adverse impact to habitat associated with species of local importance; and

vii. At no point is the critical area buffer width less than 75 percent of the required buffer dimension.

b. **Transportation or Utility Infrastructure.** Where a legally established right-of-way, railroad right-of-way or other similar infrastructure of a linear nature crosses a wetland critical area buffer, the edge of the improved right-of-way shall be the extent of the buffer, if the part of the critical area buffer on the other side of the right-of-way provides insignificant biological or hydrological function in relation to the portion of the buffer adjacent to the wetland.

#### **ED.** Structure Setbacks.

1. **General.** The requirements of this section apply along with any other dimensional requirements of the Land Use Code (see LUC 20.20.010, 20.20.130, 20.20.190 and Parts 20.25A – 20.25G). The most restrictive dimension controls. Structure setbacks are required in order to:

a. Minimize long-term impacts of development adjacent to critical areas and critical area buffers; and

b. Protect critical areas and critical area buffers from adverse impacts during construction.

2. Minimum Setback of Structures – Undeveloped and Developed Sites. The following structure setbacks apply to both undeveloped and developed sites. Structure setbacks shall be measured from the edge of the critical area buffer on undeveloped sites, or from the edge of the approved and recorded NGPE or NGPA on developed sites:

Category I wetlands	20 feet
Category II wetlands	20 feet
Category III wetlands	15 feet
Category IV wetlands	None required

3. Structure Setback Modification – Undeveloped Sites. The Director may waive or modify the structure setback on an undeveloped site as part of the permit or approval for the underlying proposal if the applicant demonstrates that:

- a. Water quality, or slope stability as documented in a geotechnical report, will not be adversely affected;
- b. Encroachment into the structure setback will not disturb habitat of a species of local importance within a critical area or critical area buffer;
- c. Vegetation in the critical area and critical area buffer will not be disturbed by construction, development, or maintenance activities and will be maintained in a healthy condition for the anticipated life of the development; and
- d. Enhancement planting on the boundary between the structure setback and the critical area buffer will reduce impacts of development within the structure setback.

4. Structure Setback Modification – Developed Sites. Structure setbacks on developed sites may be modified only through an approved critical areas report.

**New CAO Update Section. Section 20.25H.100 of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.100 Performance standards.**

Development on sites with a wetland or wetland critical area buffer shall incorporate the following performance standards in design of the development, as applicable:

- A. Lights shall be directed away from the wetland.
- B. Activity that generates noise such as parking lots, generators, and residential uses, shall be located away from the wetland, or any noise shall be minimized through use of design and insulation techniques.
- C. Toxic runoff from new impervious area shall be routed away from the wetlands.
- D. Treated water may be allowed to enter the wetland critical area buffer.
- E. The outer edge of the wetland critical area buffer shall be planted with dense vegetation to limit pet or human use.



F. Use of pesticides, insecticides and fertilizers within 150 feet of the edge of the stream buffer shall be in accordance with the City of Bellevue's "Environmental Best Management Practices," now or as hereafter amended.

G. All applicable standards of LUC 24.06, Storm and Surface Water Utility Code, are met.

**Commented [A20]:** Added to acknowledge significance of stormwater treatment and LID

**New CAO Update Section. Section 20.25H.110 of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.110 Critical areas report – Additional provisions.**

A. Limitation on Modification.

A critical areas report may not be used to fill a wetland critical area, except where filling is required to allow a use set forth in LUC 20.25H.055.

B. Additional Content.

In addition to the general requirements of LUC 20.25H.230, a critical areas report for wetlands shall include a written assessment and accompanying maps of the wetlands and buffers within 300 feet of the project area, including the following information at a minimum:

1. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.
2. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.
3. Functional evaluation for the wetland and adjacent buffer using ~~a local or state agency staff-recognized method~~ the Washington State Wetland Rating System for Western Washington (14-06-029, published in October, 2014, as amended) and including the reference of the method and all data sheets.

**Commented [A21]:** Amended to clarify that Washington Functional Assessment Method is not necessary and that Washington Rating System should be used

Section 29. Section 20.25H.115 of the Bellevue Land Use Code is hereby amended to read as follows:

**VI. (RESERVED)**

Section 30. Section 20.25H.118 of the Bellevue Land Use Code is hereby deleted.

Section 31. Section 20.25H.119 of the Bellevue Land Use Code is hereby deleted.

**New CAO Update Section. Section 20.25H.120 of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.120 Designation of critical area and buffers.**

**A. Designation of Critical Areas.**

The following geologic hazard areas are hereby designated critical areas subject to the regulations of this part.

1. Landslide Hazards. Areas of slopes of 15 percent or more with more than 10 feet of rise, which also display any of the following characteristics:
  - a. Areas of historic failures, including those areas designated as quaternary slumps, earthflows, mudflows, or landslides.
  - b. Areas that have shown movement during the Holocene Epoch (past 13,500 years) or that are underlain by landslide deposits.
  - c. Slopes that are parallel or subparallel to planes of weakness in subsurface materials.
  - d. Slopes exhibiting geomorphological features indicative of past failures, such as hummocky ground and back-rotated benches on slopes.
  - e. Areas with seeps indicating a shallow ground water table on or adjacent to the slope face.
  - f. Areas of potential instability because of rapid stream incision, stream bank erosion, and undercutting by wave action.
2. Steep Slopes. Slopes of 40 percent or more that have a rise of at least 10 feet and exceed 1,000 square feet in area.
3. Coal Mine Hazards. Areas designated on the Coal Mine Area Maps or in the City's coal mine area regulations, LUC 20.25H.130, as potentially affected by abandoned coal mines; provided, that compliance with the coal mine area regulations shall constitute compliance with the requirements of this chapter in regard to coal mines.
4. [Seismic Hazards. Areas of known faults or Holocene displacement, based on the most up to date information, or areas mapped areas of "moderate to high" or "high" hazard liquefaction susceptibility by the Washington Department of Natural Resources Liquefaction Susceptibility Map of King County, Washington, 2004, as amended.](#)

**Commented [A22]:** Added to ensure that seismic hazards are disclosed to buyers and that most recent information is used

**B. Geologic Hazard Area Buffers.**

The following critical area buffers are established.

1. General Geologic Hazard Critical Area Buffers.
  - a. Landslide hazards Top-of-slope buffer of 50 feet.
  - b. Steep slopes Top-of-slope buffer of 50 feet.

2. Existing Development. Where a primary structure legally established on a site prior to August 1, 2006, encroaches into the critical area buffer established in subsection B.1 of this section, the critical area buffer and structure setback shall be modified to exclude the footprint of the existing structure. Expansion of an existing structure into the critical area buffer shall be allowed only pursuant to the provisions of LUC 20.25H.065.

3. Buffer Modification. Modifications to the geologic hazard critical area buffer may be considered through a critical areas report, LUC 20.25H.230.

C. Structure Setbacks.

1. General. The requirements of this section apply along with any other dimensional requirements of the Land Use Code (see LUC 20.20.010, 20.20.130, 20.20.190 and Parts 20.25A – 20.25G). The most restrictive dimension controls. Structure setbacks are required in order to:

- a. Minimize long-term impacts of development adjacent to critical areas and critical area buffers; and
- b. Protect critical areas and critical area buffers from adverse impacts during construction.

2. Minimum Setback of Structures.

- a. Landslide hazards ~~Toe-of-slope setback of 75 feet~~Determined based on site-specific geotechnical studies to reflect site characteristics, including site topography and conditions that may be conducive to fast moving, shallow debris slides and flows.
- b. Steep slopes Toe-of-slope setback of 75 feet.

3. Structure Setback Modification. Structure setbacks may be modified only through an approved critical areas report.

**Commented [A23]:** Based on recognition of importance of site-specific characteristics following Oso landslide.

Section 32. Section 20.25H.150.D of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.150.D Designation of critical area.**

D. Designation of Critical Area for Naturally Occurring Ponds. The following critical area buffer is hereby established for naturally occurring ponds that are not classified as a stream or wetland:

Naturally occurring ponds where no other critical area designation applies: 35 feet.

Section 33. Section 20.25H.155 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.155 Uses in habitat for species of local importance.**

The uses allowed in the underlying land use district are allowed within habitat associated with species of local importance, so long as the development complies with the performance standards of LUC 20.25H.160; provided, that fish habitat protection is presumed through compliance with

performance standards contained in Part 20.25E LUC. This section does not allow modification of other critical areas of critical area buffers.

**New CAO Update Section. Section 20.25H.175 of the Bellevue Land Use Code is hereby amended to read as follows:**

IX. ~~AREAS OF SPECIAL FLOOD HAZARD~~ FREQUENTLY FLOODED AREAS

**Commented [A24]:** Modified for consistency with comprehensive plan and WAC

**20.25H.175 Designation of critical area.**

A. Designation of Critical Area.

~~Areas of special flood hazard~~ Frequently flooded areas shall include:

1. Land Subject to One-Hundred-Year Flood. The land in the floodplain subject to the flood having a one percent chance or greater of being equaled or exceeded in any given year as determined by customary methods of statistical analysis defined in the City of Bellevue Storm and Surface Water Engineering Standards, January ~~2011~~ 2016, or as hereafter amended. Also referred to as the 100-year flood.
2. ~~Areas Identified of Special Flood Hazard~~ on the Flood Insurance Rate Map(s). Those areas identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County" dated April 19, 2005, with an accompanying flood insurance map(s) and any revisions thereto. The Flood Insurance Study and accompanying map(s) are hereby adopted by reference, declared part of this part, and are available for public review at the City of Bellevue.
3. Additional Areas. Other areas designated by the Director pursuant to this section shall be considered ~~areas of special flood hazard~~ frequently flooded areas.
4. Designation of Areas of Special Flood Hazard. Flood Insurance Rate Maps are to be used as a guide for the City of Bellevue, project applicants, and/or property owners to identify areas of special flood hazard. Flood Insurance Rate Maps may be continuously updated as areas are reexamined or new areas are identified. Newer and more restrictive information for flood hazard area identification shall be the basis for regulation.
5. Use of Additional Information. The Director may use additional flood information that is more restrictive or detailed than that provided in the Flood Insurance Study to designate ~~areas of special flood hazard~~ frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show stream habitat areas, or similar information.
6. Flood Elevation Data. When base flood elevation data is not available (A and V zones), the Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer provisions for ~~the area of special flood hazard~~ frequently flooded areas. In areas of special flood hazard where the BFE has increased due to remapping efforts, the new BFE will establish the regulatory limit.

**Commented [A25]:** This term is specifically used in the FEMA mapping, so it is appropriate here

**New CAO Update Section. Section 20.25H.177 of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.177 Definitions.**

For purposes of the regulations for ~~the area of special flood hazard~~frequently flooded areas, the following definitions apply:

“Base flood elevation (BFE)” means the flood having a one percent chance of being equaled or exceeded in any given year as determined by customary methods of statistical analysis defined in the Storm and Surface Water Utility Code, Chapter 24.06 BCC. Also referred to as the 100-year flood.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Development” means any man-made change to improved or unimproved real estate in ~~the area of special flood hazard~~frequently flooded areas, including, but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Encroachment” means any alteration or development within the regulatory floodway that would result in any increase in the flood levels during the occurrence of the base flood discharge.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Insurance Rate Map” means the map delineating special flood hazard areas effective December, 1978, that was prepared by the Federal Insurance Administration for the City or as subsequently revised by the Federal Emergency Management Agency.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate of improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or stream and overbank areas adjacent to the channel. The floodway carries the bulk of floodwater downstream and is usually the area where water velocities and forces are the greatest and most destructive. The floodway and the adjacent land areas must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Hyporheic zone” means 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.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor;

provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this part found in LUC 20.25H.180.D.1.a.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include "recreational vehicle."

One-Hundred-Year Flood. See "Base flood elevation (BFE)."

"Pre-FIRM building" means a building constructed prior to December 1, 1978.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory floodway" means the floodway delineated on the flood insurance rate map (FIRM).

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.

"Substantial damage" means damage of any origin sustained by a structure where the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" includes the following: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places.

**New CAO Update Section. Section 20.25H.180 of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.180 Development in ~~the area of special flood hazard~~ frequently flooded areas.**

No use, development or activity may occur in ~~an area of special flood hazard~~ frequently flooded areas except as specifically allowed by this part. All use, development or activity which is allowed is subject to the performance standards of this section and shall not result in a rise in the BFE. The requirements of this section may not be modified through a critical areas report.

A. Existing Development Declared Legally Nonconforming.

All development within ~~the area of special flood hazard~~ frequently flooded areas for which a vested Building Permit application exists prior to the effective date of this part and which fails to comply with the requirements of this part is legal nonconforming development. Lateral additions, new development or substantial improvements to a legally nonconforming development shall be allowed in compliance with subsection D of this section, and shall comply with the applicable performance standards of this section. Any other modification to a legally nonconforming development shall not result in a rise in the BFE.

B. Review of Proposed Development – Applicable Process.

Proposals for development in ~~the areas of special flood hazard~~ frequently flooded areas shall require a Critical Areas Land Use Permit, Part 20.30P LUC. The Director shall determine that all necessary permits have been obtained from federal, state, or local agencies prior to approval.

C. General Performance Standards.

Where use or development is allowed pursuant to LUC 20.25H.055, the following general performance standards apply:

1. Intrusion Over ~~the Area of Special Flood Hazard~~ Frequently Flooded Areas Allowed. Any structure may intrude over ~~the area of special flood hazard~~ frequently flooded areas if:

- a. The intrusion is located above existing grade, and does not alter the configuration of the ~~area of special flood hazard~~ frequently flooded area;
- b. The intrusion is at an elevation and orientation which maintains the existing vegetation of the ~~area of special flood hazard~~ frequently flooded area in a healthy condition. Solar access to vegetation must be maintained at least 50 percent of daylight hours during the normal growing season; and
- c. The intrusion does not encroach into the regulated floodway except in compliance with subsection C.5 of this section.

Development not meeting the requirements of this subsection C.1 may be allowed pursuant to LUC 20.25H.055 and only in accordance with the requirements set forth in the remainder of this section C.

2. Elevation Certificate Following Construction. Following construction of a structure within ~~the area of special flood hazard~~ a frequently flooded area, where the base flood elevation is provided, the applicant shall obtain an elevation certificate. The elevation certificate shall be completed by a surveyor licensed in the state of Washington and shall be submitted to City of Bellevue, Utilities Department. The Director shall obtain and transmit to the Director of the Utilities Department the elevation in relation to City of Bellevue vertical datum (NAVD 88) of the lowest floor, including basement, and attendant utilities of a new or substantially improved structure permitted by this part. All records shall be maintained for public inspection in accordance with 44 C.F.R. 60.3(b)(5)(iii) and the City of Bellevue record retention policy.

3. Construction Materials and Methods.

a. Site Design. All structures, utilities, and other improvements shall be located on the buildable portion of the site out of the ~~area of special flood hazard~~frequently flooded area unless there is no buildable site out of the ~~area of special flood hazard~~frequently flooded area. For sites with no buildable area out of the ~~area of special flood hazard~~frequently flooded area, structures, utilities, and other improvements shall be placed on the highest land on the site, outside of the floodway, oriented parallel to flow rather than perpendicular, and sited as far from the stream and other critical areas as possible. ~~Located in flood-fringe where flood flow velocities are less than three feet per second and flood depths are less than three feet.~~ If the Director detects any evidence of active hyporheic exchange on a site, the development shall be located to minimize disruption of such exchange.

b. Methods That Minimize Flood Damage. All new construction and substantial improvements shall be constructed using flood-resistant materials and using methods and practices that minimize flood damage.

c. Utility Protection. Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

4. No Rise in the Base Flood Elevation (BFE). Any allowed use or development shall not result in a rise in the BFE.

a. Post and Pile. Post and piling techniques are preferred and are presumed to produce no increase in the BFE. Demonstration of no net rise in the BFE through calculation is not required.

b. Compensatory Storage. Proposals using compensatory storage techniques to assure no rise in the BFE shall demonstrate no net rise in the BFE through the calculation by methods established in the Utilities Storm and Surface Water Engineering Standards, January ~~2014~~2016, Section D4-04.5, Floodplain/Floodway Analysis, now or as hereafter amended.

5. Development in the Regulatory Floodway.

a. Encroachment into Regulatory Floodway Prohibited. Encroachments, including, but not limited to, fill, new construction, substantial improvements, and other development, are prohibited, unless a registered professional engineer certifies that the proposed encroachment into the regulatory floodway shall not result in any rise in the BFE using hydrological and hydraulic analysis performed in accordance with City of Bellevue Storm and Surface Water Engineering Standards, January ~~2014~~2016, or as hereafter amended. All new construction and substantial improvements shall comply with this section.

b. Residential Structures. A residential structure located partially within the regulatory floodway will be considered as totally within the regulatory floodway and must comply with this subsection C.5. This subsection does not apply to structures identified as historical places. Construction or reconstruction of residential structures is prohibited within the regulatory floodway, except when:



i. Repairs, reconstruction, or improvements to a structure do not increase the footprint; and

ii. Repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (1) before the repair, reconstruction, or improvement is begun, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Work done to comply with state or local health, sanitary, or safety codes identified by the Building Official and which are the minimum necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places shall not be included in the 50 percent market value determination.

c. Substantially Damaged Residential Structures.

i. The Director may request the Washington State Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the regulatory floodway, and provide the City with a recommendation on repair or replacement of a substantially damaged residential structure consistent with WAC 173-158-076, now or as hereafter amended. Property owners shall be responsible for submitting to the City any information necessary to complete the assessment when such information is not otherwise available. No repair or replacement of a substantially damaged residential structure located in the regulatory floodway is allowed without a recommendation from the Department of Ecology.

ii. Before the repair, replacement, or reconstruction is started, all requirements of this section must be satisfied. In addition, the following conditions shall be met:

(1) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway;

(2) A replacement residential structure is a residential structure built as a substitute for a previously existing residential structure of equivalent use and size;

(3) Repairs or reconstruction or replacement of a residential structure shall not increase the total square footage of floodway encroachment;

(4) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the base flood elevation;

(5) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system;

(6) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and

(7) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

6. Modification of Stream Channel. Alteration of open stream channels shall be avoided, if feasible. If unavoidable, the following provisions shall apply to the alteration:

- a. Modifications shall only be allowed in accordance with the habitat improvement projects.
- b. Modification projects shall not result in blockage of side channels.
- c. The City of Bellevue shall notify adjacent communities, the state departments of Ecology and Fish and Wildlife, and the Federal Insurance Administration about the proposed modification at least 30 days prior to permit issuance.
- d. The applicant shall maintain the altered or relocated portion of the stream channel to ensure that the flood-carrying capacity is not diminished. Maintenance shall be bonded for a period of five years, and be in accordance with an approved maintenance program.

7. Compensatory Storage. Development proposals must not reduce the effective base flood storage volume of the area of special flood hazard. Grading or other activity that would reduce the effective storage volume must be mitigated by creating compensatory storage on the site. The compensatory storage must:

- a. Provide equivalent elevations to that being displaced;
- b. Be hydraulically connected to the source of flooding;
- c. Be provided in the same construction season and before the flood season begins on September 30th;
- d. Occur on site or off site if legal arrangements can be made to assure that the effective compensatory storage volume will be preserved over time;
- e. Be supported by a detailed hydraulic analysis that:
  - i. Is prepared by a licensed engineer;
  - ii. Demonstrates that the proposed compensatory storage does not adversely affect the BFE; and
- f. Meet all other critical areas rules subject to this part. If modification to a critical area or critical area buffer is required to complete the compensatory storage requirement, such modification shall be mitigated pursuant to an approved mitigation and restoration plan, LUC 20.25H.210.

[8. Floodplain Ecological Functions. The use or development shall meet National Flood Insurance Program requirements for the protection of floodplain ecological functions in accordance with guidelines established by the Director. Floodplain ecological functions include, but are not limited to, stormwater quality, floodwater storage and conveyance capacity, and habitat.](#)

D. Specific Performance Standards.

Where use or development is allowed pursuant to LUC 20.25H.055, the following specific performance standards apply.

- 1. Modification of Existing Development and Existing Nonconforming Development. Lateral additions and substantial improvements to existing development and existing

nonconforming development is allowed only through a reasonable use exception, LUC 20.25H.190.

- a. Substantial Improvements. Substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE). Fully enclosed areas below the BFE that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - i. A minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding shall be provided.
    - ii. The bottom of all openings shall be no higher than one foot above grade.
    - iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
    - iv. Enclosed areas (including breakaway walls) below the BFE shall be no larger than 300 square feet.
  - b. Lateral Additions. Lateral additions to structures that qualify as a substantial improvement must meet the elevation standards of new construction. If the common wall between the lateral addition and the existing structure is demolished as part of the project, then the entire structure must meet the elevation standards of new construction. If only a doorway or similar opening is knocked through, only the addition has to meet the elevation standards.
  - c. Pre-FIRM Buildings. Pre-FIRM buildings that qualify as a substantial improvement (including lateral additions) must meet the elevation standards of new construction.
2. Repair and Maintenance of Existing Parks and Park Facilities – New or Expanded City and Public Parks. Substantial improvement of any structure in ~~the area of special flood hazard~~frequently flooded areas must comply with the nonresidential performance standards found in this section.
  3. New or Expanded Essential Public Facilities.
    - a. The facility is elevated or protected to the 100-year flood elevation.
    - b. Dry floodproofing and sealing measures must be taken to ensure that hazardous or toxic substances will not be displaced by or released into floodwaters.
  4. New or Expanded Public Rights-of-Way, Private Roads, Access Easements and Driveways.
    - a. The low chord on the bridge structure will be no less than the elevation of the BFE.
    - b. Access to Essential Public Facilities must be elevated to or above the BFE to the nearest maintained public street or roadway.
  5. Public Flood Protection Measures. Such projects may be allowed in the area of special flood hazard and may increase the BFE; provided, that the project produces measurable

benefits, such as decreased erosion, peak flow reduction, improved water quality, improved aquatic habitat and doesn't threaten structures. Prior to approval, the applicant shall obtain conditional approval from the Region X FEMA office to increase the BFE, where applicable.

6. Recreational Vehicles. Recreational vehicles are required to either:

- a. Be on the site for fewer than 180 consecutive days; and
- b. Be fully licensed and ready for highway use on its wheels or jacking system, be attached to the site only by quick-disconnect-type utilities and security devices, and have no permanently attached additions; or
- c. Obtain a development permit and meet the requirements, including elevation and anchoring, for manufactured homes.

7. Reasonable Use Exception. Where a reasonable use exception is granted under LUC 20.25H.190, the following performance standards apply:

- a. Residential Construction (Single-Family and Multifamily Dwellings).
  - i. Must Be Above Base Flood Elevation. New construction of any residential structure shall have the lowest floor, including basement and attendant utilities, elevated one foot or more above the base flood elevation.
  - ii. Enclosed areas (including breakaway walls) below the BFE shall be no larger than 300 square feet.
  - iii. Must comply with the requirements for openings set forth in subsection D.1.a of this section.
- b. Manufactured Homes. All manufactured homes must meet the elevation standards for new construction. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- c. Nonresidential Construction.
  - i. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or
  - ii. Together with attendant utility and sanitary facilities, shall:
    - (A) Be floodproofed so that below one foot or more above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - (C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their

development and/or review of the structural design, specifications, and plans. Such certification shall be provided to the Development Services Department. Following construction of the structure, elevation certificates shall be submitted to the City that record the actual (as-built) elevation to which the structure was floodproofed.

iii. Fully enclosed areas below the BFE that are not floodproofed shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

(A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(B) The bottom of all openings shall be no higher than one foot above grade; and

(C) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

iv. Lateral Additions. Lateral additions to structures that qualify as a substantial improvement must meet the elevation standards of new nonresidential construction. If the common wall between the lateral addition and the existing structure is demolished as part of the project, then the entire structure must meet the standards of new, nonresidential construction. If only a doorway or similar is knocked through, only the addition has to meet the construction standards.

v. Pre-FIRM Buildings. Pre-FIRM buildings that qualify as a substantial improvement (including lateral additions) must meet the elevation standards of new construction.

**New CAO Update Section. Section 20.25H.205 of the Bellevue Land Use Code is hereby amended to read as follows:**

**20.25H.205 Reasonable use exception – Performance standards.**

Where disturbance of a critical area or critical area buffer is allowed under this section, development is subject to the following performance standards. Additional performance standards apply to development in streams (LUC 20.25H.080), wetlands (LUC 20.25H.100), geologic hazard areas (LUC 20.25H.125), and ~~frequently flooded areas~~ ~~areas of special flood hazard~~ (LUC 20.25H.180). Where a conflict exists with the performance standards of this section, the provisions providing the most protection to critical area functions and values apply.

A. The structure shall be located on the site in order to minimize the impact on the critical area or critical area buffer, including modifying the non-critical area setbacks to the maximum extent allowed under LUC 20.25H.040;

B. Ground floor access points on portions of the structure adjacent to undisturbed critical area or critical area buffer shall be limited to the minimum necessary to comply with the requirements

of the International Building Code and International Fire Code, as adopted and amended by the City of Bellevue;

C. Associated development, including access driveways and utility infrastructure shall be located outside of the critical area or critical area buffer to the maximum extent technically feasible;

D. Areas of disturbance for associated development, including access and utility infrastructure shall be consolidated to the maximum extent technically feasible;

E. All areas of temporary disturbance associated with utility installation, construction staging and other development shall be determined by the Director and delineated in the field prior to construction and temporary disturbance shall be restored pursuant to a restoration plan meeting the requirements of LUC 20.25H.210;

F. Areas of permanent disturbance shall be mitigated to the maximum extent feasible on-site pursuant to a mitigation plan meeting the requirements of LUC 20.25H.210; and

G. Fencing, signage and/or additional buffer plantings should be incorporated into the site development in order to prevent long-term disturbance within the critical area or critical area buffer.

Section 34. Section 20.25H.210 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.210 Applicability.**

Where a mitigation or restoration plan is required under this part, the plan shall be developed in accordance with the standards of LUC 20.25H.210 through 20.25H.225 inclusive. Any mitigation or restoration plan shall be approved as part of the permit or approval required for the underlying activity. Where a project requires a critical areas report and a mitigation or restoration plan, the mitigation or restoration plan may be included with the critical areas report.

Section 35. Section 20.20.220.A of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.220.A Mitigation and restoration plan requirements.**

**A. Plan Phases.**

Where an applicant is seeking modifications to this part through a critical areas report pursuant to LUC 20.25H.230, the mitigation plan required for the proposal may be submitted in phases. A conceptual plan shall be submitted as part of the critical areas report and approved with the land use approval for the proposal. A detailed plan shall be approved prior to or with approval of the first permit or other approval required to perform work associated with the proposal.

Section 36. Section 20.25H.230 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.230 Critical areas report – Purpose.**

A critical areas report is a mechanism by which the requirements of this part and the impervious surface standards set forth in LUC 20.20.010 may be modified for a specific proposal.

The critical areas report is intended to provide flexibility for sites where the expected critical area functions and values are not present due to degraded conditions or other unique site characteristics, or for proposals providing unique design or protection of critical area functions and values not anticipated by this part. The scope and complexity of information required in a critical areas report will vary, depending on the scope and complexity and magnitude of impact on critical areas and critical area buffers associated with the proposed development. Generally, the critical areas report must demonstrate that the proposal with the requested modifications leads to equivalent or better protection of critical area functions and values than would result from the application of the standard requirements. Where the proposal involves restoration of degraded conditions in exchange for a reduction in regulated critical area buffer on a site, the critical areas report must demonstrate a net increase in certain critical area functions.

Section 37. Section 20.25H.240 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.240 Critical areas report – Limitation on modifications.**

The critical areas report may not be used to modify sections of the Land Use Code outside of this part unless otherwise expressly permitted. The critical areas report may not be used to modify the definitions of critical areas or definitions of stream types or wetland categories, or any other provision of this part that expressly prohibits modification. The critical areas report may not be used to modify streams or wetlands unless otherwise expressly permitted. Additional limitations on modifications for specific critical areas may be found in the sections of this part addressing that critical area.

Section 38. Section 20.25M.010.D.2 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25M.010.D General**

**D. Applicable Land Use Code Provisions.**

2. Applicable Procedural and Administrative Sections Incorporated by Reference.  
Predictability and certainty with respect to procedural Land Use Code requirements ensures effectiveness of permit review and that the level of public participation for individual RLRT Facility applications occurs consistently across all land use districts and overlay areas of the City. The following procedural and administrative sections of the Land Use Code are expressly incorporated into the provisions of this Chapter 20.25M and apply to an RLRT Facility:
  - a. LUC 20.25E.100 through 20.25E.200 – Shoreline Overlay District Procedures and Permits

- b. LUC 20.25E.250 through 270 – Shoreline Overlay District Administration and Enforcement
- c. Chapter 20.35 LUC – Review and Procedures
- d. Chapter 20.40 LUC – Administration and Enforcement sections as follows:
  - i. LUC 20.40.010 through 20.40.080; and
  - ii. LUC 20.40.500 through 510.
- e. Chapter 20.50 LUC – Definitions.

Section 39. Section 20.25M.030.D of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25M.030.D Required Permits**

**D. Shoreline Substantial Development Permit and Variance**

1. Any RLRT Facility proposed or located in the Shoreline Overlay District (Part 20.25E LUC) shall comply with the Shoreline Substantial Development Permit (SSDP) requirements of LUC 20.25E.100 and .160. Application for a SSDP shall be processed independently of any application for Design and Mitigation approval under this chapter. Application for a SSDP shall be subject to the decision criteria of LUC 20.25E.150 and .160.
2. For properties lying within the Shoreline Overlay District, the City may approve a request to exceed the allowable height limit established by LUC 20.25E.050 through the Variance to the Shoreline Master Program process allowed pursuant to LUC20.25E.100 and .120. Application for a shoreline variance shall be subject to the decision criteria of LUC 20.25E.150 and .190.



Section 40. Chapter 20.30 – Table of Contents - of the Bellevue Land Use Code is hereby amended to read as follows:

## **Chapter 20.30**

### **PERMITS AND DECISIONS**

#### Sections:

#### Part 20.30A Rezone

20.30A.110	Scope
20.30A.115	Applicability
20.30A.120	Purpose
20.30A.140	Decision criteria
20.30A.145	Limitation on authority
20.30A.150	Map change
20.30A.155	Concomitant agreement

#### Part 20.30B Conditional Use Permit

20.30B.110	Scope
20.30B.115	Applicability
20.30B.120	Purpose
20.30B.140	Decision criteria
20.30B.160	Merger with Binding Site Plan
20.30B.165	Periodic review
20.30B.170	Modification/revocation
20.30B.175	Modification or addition to an approved project or decision

#### Part 20.30C (Reserved)

#### Part 20.30D Planned Unit Development

20.30D.110	Scope
20.30D.115	Applicability
20.30D.120	Purpose
20.30D.150	Planned Unit Development plan – Decision criteria
20.30D.160	Planned Unit Development plan – Conservation feature and recreation space requirement
20.30D.165	Planned Unit Development plan – Request for modification of zoning requirements
20.30D.167	Planned Unit Development – Additional bonus density for large-parcel projects
20.30D.170	Planned Unit Development plan – Limitation on authority to modify zoning
20.30D.175	Planned Unit Development plan – Authorized activity
20.30D.195	Planned Unit Development plan – Merger with subdivision
20.30D.200	Planned Unit Development plan – Effect of approval
20.30D.250	Planned Unit Development plan – Phased development
20.30D.255	Planned Unit Development plan – Map designation
20.30D.280	Merger with Binding Site Plan
20.30D.285	Amendment of an approved Planned Unit Development

#### Part 20.30E Administrative Conditional Use Permit

20.30E.110	Scope
20.30E.115	Applicability
20.30E.120	Purpose
20.30E.140	Decision criteria
20.30E.160	Merger with Binding Site Plan
20.30E.165	Periodic review
20.30E.170	Modification/revocation
20.30E.175	Modification or addition to an approved project or decision

#### Part 20.30F Design Review

20.30F.110	Scope
20.30F.115	Applicability
20.30F.116	City Council Design Review
20.30F.120	Purpose
20.30F.125	Who may apply
20.30F.145	Decision criteria
20.30F.165	Merger with Binding Site Plan
20.30F.170	Planning Commission Design Review
20.30F.175	Modification or addition to an approved Design Review project or decision
20.30F.180	Recording required

#### Part 20.30G Variance from the Land Use Code

20.30G.110	Scope
20.30G.115	Applicability
20.30G.120	Purpose
20.30G.140	Decision criteria
20.30G.150	Limitation on authority

#### Part 20.30H (Reserved)

#### Part 20.30I Amendment and Review of the Comprehensive Plan

20.30I.110	Scope and background
20.30I.115	Applicable process
20.30I.120	Purpose
20.30I.130	Initiation of amendment proposals
20.30I.140	Threshold review decision criteria
20.30I.150	Final review decision criteria

#### Part 20.30J Amendments to the Text of the Land Use Code

20.30J.110	Scope
20.30J.115	Applicability
20.30J.120	Purpose
20.30J.125	Who may initiate
20.30J.130	Applicable procedure
20.30J.135	Decision criteria

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

20.30K.110	Scope
20.30K.115	Applicability
20.30K.120	Purpose
20.30K.130	Applicable procedure
20.30K.135	Submittal requirements
20.30K.140	Factors for consideration
20.30K.150	Effect of interpretation
20.30K.155	Time limitation

#### Part 20.30M Temporary Use Permit

20.30M.110	Scope
20.30M.115	Applicability
20.30M.120	Purpose
20.30M.125	Applicable procedure
20.30M.130	Who may apply
20.30M.140	Decision criteria
20.30M.145	Time limitation
20.30M.150	Limitation on activity
20.30M.155	Removal of temporary use
20.30M.160	Abatement of temporary use
20.30M.170	Screening of off-site construction parking areas

#### Part 20.30N Home Occupation Permit

20.30N.110	Scope
20.30N.115	Applicability
20.30N.120	Purpose
20.30N.125	Who may apply
20.30N.140	Decision criteria
20.30N.145	Conditions
20.30N.150	Time limitation
20.30N.155	Quarterly report
20.30N.160	Revocation of Home Occupation Permit
20.30N.165	Assurance device

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

20.30P.110	Scope
20.30P.115	Applicability
20.30P.120	Purpose
20.30P.125	Who may apply
20.30P.130	Applicable procedure
20.30P.140	Decision criteria
20.30P.150	Time limitation
20.30P.155	Extension
20.30P.160	Assurance device
20.30P.170	Hold harmless
20.30P.180	Critical area report – Additional review procedures

Part 20.30R (Reserved)

Part 20.30S Vendor Cart Permit

20.30S.110	Scope
20.30S.115	Applicability
20.30S.120	Purpose
20.30S.125	Applicable procedure
20.30S.130	Who may apply
20.30S.135	Submittal requirements
20.30S.140	Decision criteria

Part 20.30T Reasonable Accommodation

20.30T	Reasonable accommodation
--------	--------------------------

Part 20.30U Temporary Encampment Permit

20.30U.110	Scope
20.30U.115	Applicability
20.30U.120	Who may apply
20.30U.121	Submittal requirements
20.30U.122	Applicable procedures
20.30U.125	Use requirements
20.30U.127	Hardship exception
20.30U.130	Decision criteria
20.30U.135	Revocation of Temporary Encampment Permit

Part 20.30V Master Development Plan

20.30V.110	Scope
20.30V.115	Applicability
20.30V.120	Purpose
20.30V.130	Phasing plan
20.30V.140	Binding Site Plan
20.30V.150	Decision criteria
20.30V.160	Modification or addition to an approved Master Development Plan
20.30V.170	Land area computation
20.30V.180	Recording required
20.30V.190	Extended vesting period for Master Development Plans and associated Design Review approval

Section 41. Part 20.30C of the Bellevue Land Use Code is hereby amended to read as follows:

**Part 20.30C (Reserved)**

Section 42. Part 20.30H of the Bellevue Land Use Code is hereby amended to read as follows:

**Part 20.30H (Reserved)**

Section 43. Part 20.30R of the Bellevue Land Use Code is hereby amended to read as follows:

**Part 20.30R (Reserved)**

Section 44. Section 20.35.015 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.015 Framework for decisions.**

- A. Land use decisions, other than decisions on applications for Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Variances to the Shoreline Master Program, are classified into five processes based on who makes the decision, the amount of discretion exercised by the decisionmaker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. Refer to LUC 20.25E.100-.200 for procedures, permits, and decisions related to Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Variances to the Shoreline Master Program.
- 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);
  - 2. Preliminary Subdivision Approval (Plat); and
  - 3. Planned Unit Development (PUD) Approval; provided, that applications for 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. Variance;
  8. Critical Area Land Use Permits;
  9. Master Development Plans;
  10. Design and Mitigation Permits required pursuant to the Light Rail Overlay Part 20.25M LUC; and
  11. 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, 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 – no change)*
- F. *(Process V decisions – no change)*
- G. *(Other types of land use applications and decisions made by the Director – no change)*

Section 45. Section 20.35.020 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.020 Pre-application conferences.**

A pre-application conference is required prior to submitting an application for Conditional Use Permits, preliminary subdivision approval, planned unit developments, Master Development Plans, Design and Mitigation Permits required pursuant to the Light Rail Overlay Part 20.25M LUC, and Design Review projects, unless waived by the Director.

Section 46. Section 20.35.070 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.070 Appeal of City land use decisions to Superior Court.**

- A. General. A final City decision on a land use permit application (Processes I through III and V) may be appealed to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040. Notwithstanding the provisions of this paragraph, the time for filing an appeal of a final Process II land use action that has been merged with a Process I or III application will be tolled until the Process I or III decisions are final. Requirements for fully exhausting City administrative appeal opportunities, if any are available, must be fulfilled.
- B. A final City action on a legislative nonproject land use proposal (Process IV) may be appealed by petition to the Growth Management Hearings Board as set forth in LUC 20.35.440.C and RCW 36.70A.290.

Section 47. Section 20.35.150.D of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.150.D Appeal of Hearing Examiner decision.**

**D. Effect of Decision.**

The decision of the City Council on the application is the final decision of the City and may be appealed to Superior Court as provided in LUC 20.35.070.

Section 48. Section 20.35.200.C of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.200.C Process II: Administrative decisions.**

- C. Process II decisions of the Director and SEPA threshold determinations are final decisions, effective on the day following the expiration of any associated administrative appeal period, except that for projects where no person or entity submitted comments prior to the date the final decision was issued pursuant to LUC 20.35.250.A.1, the Process II decision is a final decision effective on the date of issuance. If an administrative appeal is filed by a person or entity that submitted comments prior to the date the final decision was issued as set forth in LUC 20.35.250.A.1, the decision is not final until the appeal is heard and decided by the City Hearing Examiner, or the Growth Management Hearings Board pursuant to LUC 20.35.250.C and RCW 36.70A.290.

Section 49. Section 20.35.210, Table 20.35.210.A, of the Bellevue Land Use Code is hereby amended to read 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
Variance	X	X	
Critical Areas Land Use Permit	X	X	
SEPA Review (when not consolidated with another permit)	X		

Section 50. Section 20.35.250 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.250 Appeal of Process II decisions.**

A. Process II decisions, except for SEPA Threshold Determinations on Process IV actions, may be appealed as follows:

1. Who May Appeal. The project applicant or any person who submitted written comments prior to the date the decision was issued may appeal the decision.
2. Form of Appeal. A person appealing a Process II decision must file a written statement setting forth:
  - a. Facts demonstrating that the person is adversely affected by the decision;
  - b. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
  - c. The specific relief requested; and
  - d. Any other information reasonably necessary to make a decision on the appeal.

The written statement must be filed together with an appeal notification form available from the Office of the City Clerk. The appellant must pay such appeal fee, if any, as established by ordinance or resolution at the time the appeal is filed.

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 5:00 p.m. on



the 14th day following the date of publication of the decision of the Director; except that if the Director's decision is consolidated with a threshold Determination of Nonsignificance under the State Environmental Policy Act for which a comment period pursuant to WAC 197-11-340 must be provided, the appeal period for the consolidated decision shall be 21 days.

**B. SEPA Threshold Determinations on Process IV and Process V Actions.**

1. Process IV. An appeal of a SEPA threshold determination on a Process IV action shall be filed together with an appeal of the underlying Process IV action. The appeal shall be by petition to the Growth Management Hearings Board and shall be filed within the 60-day time period set forth in RCW 36.70A.290.
2. Process V. An appeal of a SEPA threshold determination on a Process V action shall be filed together with an appeal of the underlying Process V action. The appeal shall be as set forth in LUC 20.35.070 and 20.35.540.

**C. Notice of Appeal Hearing.**

If a Process II decision is appealed, a hearing before the City Hearing Examiner shall be set and notice of the hearing shall be mailed to the appellant, the applicant, and all parties of record by the applicable Department Director. Notice shall be mailed no less than 14 days prior to the appeal hearing; except that if the Process II decision has been consolidated with a recommendation on a Process I or Process III application, any appeal of the Process II decision shall be consolidated with the Process I or Process III public hearing. No separate notice of a Process II appeal need be provided if the public hearing has already been scheduled for the Process I or Process III component of an application.

**D. Hearing Examiner Hearing.**

The Hearing Examiner shall conduct an open record hearing on a Process II appeal. The appellant, the applicant, and the City shall be designated parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information; provided, that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner's Rules of Procedure.

**E. Hearing Examiner Decision on Appeal.**

Within 10 working days after the close of the record for the Process II appeal, the Hearing Examiner shall issue a decision to grant, grant with modifications, or deny the appeal. The Examiner may grant the appeal or grant the appeal with modification if:

1. The appellant has carried the burden of proof; and
2. The Examiner finds that the Process II decision is not supported by a preponderance of the evidence.

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

#### **F. Appeal of Hearing Examiner Decision.**

A final decision by the Hearing Examiner on a Process II application may be appealed to Superior Court as set forth in LUC 20.35.070.

#### **G. Time Period to Complete Appeal Process.**

In all cases except where the parties to an appeal have agreed to an extended time period, the administrative appeal process shall be completed within 90 days from the date the original administrative appeal period closed. Administrative appeals shall be deemed complete on the date of issuance of the Hearing Examiner's decision on the appeal.

Section 51. Section 20.40.500.A.1 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.40.500.A Vesting and expiration of vested status of land use permits and approvals.**

##### **A. Vesting for Permits and Approvals.**

1. Permits and Approvals Other than Subdivisions and Short Subdivisions and Shoreline Permits. Applications for all land use permits and approvals except subdivisions and short subdivisions and shoreline permits (Shoreline Conditional Use, Shoreline Substantial Development Permit, and Variance to the Shoreline Master Program) shall be considered under the Land Use Code and other land use control ordinances in effect on the date that a fully complete Building Permit application, meeting the requirements of BCC 23.05.090E and F, is filed. Vesting provisions for Shoreline Permits are provided in LUC 20.25E.250.C. If a complete Building Permit application is not filed, the land use permit or approval shall become vested to the provisions of the Land Use Code upon the date of the City's final decision on the land use permit or approval.

Section 52. Section 20.40.500.B.1 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.40.500.B Vesting and expiration of vested status of land use permits and approvals.**

##### **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 subsection 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 subsection 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.
- e. Expiration of Shoreline Permits shall occur pursuant to LUC 20.25E.250.C.

Section 53. Section 20.50.010 of the Bellevue Land Use Code is hereby amended to delete the definition of "Agricultural Lands, Prime".

**New CAO Update Section. Section 20.50.010 of the Bellevue Land Use Code is hereby amended to delete the definition of "Area of Special Flood Hazard".**

Section 54. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to delete the definition of "Boathouse".

Section 55. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to revise the definition of "Building Height" to read as follows:

**20.50.012 B definitions.**

**Building Height.** The vertical distance measured from the average elevation of the finished grade around the building or building segment to the highest point of a flat roof, or to the mean height between the eaves and ridge of a pitched roof. Specifically excluded from this definition and from the regulation of maximum building height are structural elements not intended for habitation and not exceeding 15 feet above the maximum building height including penthouses for mechanical and elevator equipment, chimneys, wireless communication facility antenna arrays, smoke and ventilation stacks, flag poles, mechanical and elevator equipment, and parapet walls designed solely to screen mechanical and elevator equipment. This definition does not apply to projects located within a Transition Area Design District (refer to LUC 20.25B.040), the Shoreline Overlay District (refer to LUC 20.25E.280 – "Height"), Single-Family Land Use Districts (refer to the definition of Building Height – Single-Family Land Use Districts contained in this section; see also LUC 20.10.440, Note (16)), and to the F1 Land Use District (refer to LUC 20.25F1.040, Footnote (6)).

Section 56. Section 20.50.014 of the Bellevue Land Use Code is hereby amended to revise the definition of "Community Club" to read as follows:

**20.50.014 C definitions.**

**Community Club.** A formally constituted nonprofit association or corporation made up of the residents of a given area. This definition does not apply with the Shoreline Overlay District (refer to LUC 20.25E.280 – "Community Club").

**New CAO Update Section. Section 20.50.014 of the Bellevue Land Use Code is hereby amended revise the definition of "Critical Areas" to read as follows:**

**Critical Areas.** Areas required to be protected under the Growth Management Act, Chapter

36.70A RCW. The city's critical areas are designated in Part 20.25H LUC, and include wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, and frequently flooded areas. Fish and wildlife habitat conservation areas are comprised of streams, habitats associated with species of local importance, and steep slopes. Areas with a critical recharging effect on aquifers used for potable water are not designated by the city.

**Commented [A26]:** Described for comp plan consistency

Section 57. Section 20.50.016 of the Bellevue Land Use Code is hereby amended to revise the definition of "Development" to read as follows:

**20.50.016 D definitions.**

**Development.** All structures and other modifications of the natural landscape above and below ground or water, on a particular site. For the purposes of Part 20.25E LUC, regulation for the Shoreline Overlay District, a different definition is used. See "Shoreline Development" in LUC 20.25E.280.

Section 58. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of "Fair Market Value" to read as follows:

**20.50.020 F definitions.**

**Fair Market Value.** The expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitted project. This definition does not apply with the Shoreline Overlay District (refer to LUC 20.25E.280 – "Fair Market Value").

Section 59. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of "Fill" to read as follows:

**20.50.020 F definitions.**

**Fill.** A solid material which increases ground surface elevation. This definition does not apply with the Shoreline Overlay District (refer to LUC 20.25E.280 – "Fill").

**New CAO Update Section. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to add a definition of "Frequently Flooded Areas" to read as follows:**

Frequently Flooded Areas. The land in the floodplain subject to a one percent or greater chance of flooding in any given year as calculated in the Storm and Surface Water Utility Code, Chapter 24.06 BCC. This area is identified in an engineering report entitled "The Flood Insurance Study for King County" dated April 19, 2005, with an accompanying flood insurance map(s) and any effective revisions thereto.

**Commented [A27]:** Consistency with the Comprehensive Plan

Section 60. Section 20.50.040 of the Bellevue Land Use Code is hereby amended to delete the definition of "Ordinary High Water Mark".

Section 61. Section 20.50.046 of the Bellevue Land Use Code is hereby amended to delete the definition of "Shoreland, Shoreline".

Section 62. Section 20.50.046 of the Bellevue Land Use Code is hereby amended to revise the definition of "Structure" to read as follows:

**20.50.046 S definitions.**

**Structure.** A combination of materials constructed and erected permanently on or under the ground or attached to something having a permanent location on or under the ground. Not included are residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height and similar improvements of a minor character. For the purposes of Part 20.25E LUC, regulations for the Shoreline Overlay District, a different definition applies. See LUC 20.25E.280 – "Structure".

Section 63. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 64. This resolution shall take effect and be in force five/thirty (5/30) days after legal publication.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

(SEAL)

~~Claudia Balducci~~John Stokes, Mayor

Approved as to form:

\_\_\_\_\_  
Lori M. Riordan, City Attorney

Attest:

~~Myrna L. Basich~~Kyle Stannert, City Clerk

Published \_\_\_\_\_