

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6837

AN ORDINANCE relating administration of the State Environmental Policy Act (SEPA); amending the Environmental Procedures Code, Chapter 22.02 of the Bellevue City Code (BCC), to maximize SEPA categorical exemption flexible thresholds for mixed-use projects up to the state allowances and conform the Environmental Procedures Code to state SEPA rules adopted by the City; amending BCC 22.02.032 to categorically exempt interior redevelopment of existing commercial or mixed-use buildings into residential development from review under the State Environmental Policy Act (SEPA), in accordance with RCW 35A.21.440; providing for severability; and establishing an effective date.

WHEREAS, WAC 197-11-800(1)(c)(i) provides that the City may raise the categorical exemption flexible threshold levels up to maximum levels established by state law after documenting that required analysis, protection and mitigation for environmental impacts from projects that would become exempt from SEPA are adequately addressed by other federal, state, or local regulations, and documenting the result of outreach to the Washington State Department of Transportation (WSDOT); and

WHEREAS, the City satisfied the documentation requirements set forth in WAC 197-11-800(1)(c)(i) for the City to raise SEPA categorical exemption flexible thresholds; and

WHEREAS, WAC 197-11-800(1)(c)(ii) provides that the City may raise the categorical exemption flexible threshold levels up to maximum levels established by state law after describing in this enacting Ordinance the notice and comment opportunities for projects that would become exempt from SEPA; and

WHEREAS, the City satisfied the description requirement set forth in WAC 197-11-800(1)(c)(ii) for the City to raise SEPA categorical exemption flexible thresholds as shown on Attachment A to this Ordinance; and

WHEREAS, WAC 197-11-800(1)(c)(iii) provides that the City may raise the categorical exemption flexible threshold levels up to maximum levels established by state law after providing at least 60 days' notice and a corresponding comment period to various stakeholder groups; and

WHEREAS, the City satisfied the notice and comment requirements set forth in WAC 197-11-800(1)(c)(iii) for the City to raise SEPA categorical exemption flexible thresholds by providing 60-days' notice and a corresponding comment period beginning on December 12, 2024, in the City's Weekly Permit Bulletin and to affected tribes, the Washington State Department of Archaeology and Historic Preservation, Department of Ecology, and WSDOT, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times; and

WHEREAS, WAC 197-11-800(1)(c)(iv) provides that the City may raise the categorical exemption flexible threshold levels up to maximum levels established by state law after documenting how cultural and historic resources are protected when exemption levels are raised; and

WHEREAS, the City satisfied the documentation requirement set forth in WAC 197-11-800(1)(c)(iv) for the City to raise SEPA categorical exemption flexible thresholds; and

WHEREAS, the City's Environmental Procedures Code contains a gap relating to the SEPA threshold determination appeal process for non-project City Council actions; and

WHEREAS, this Ordinance will close this gap by merging the SEPA threshold determination for a non-project City Council action with the underlying Council action and provide consistency for the threshold determination appeal process associated with non-project City Council actions; and

WHEREAS, the City Council reviewed the proposed amendments to the Environmental Procedures Code, Chapter 22.02 BCC, at a study session on January 7, 2025; and

WHEREAS, on January 7, 2025, the City Council directed staff to prepare ordinances to adopt the proposed amendments to the Bellevue City Code for final action as part of the consent agenda at a future City Council meeting; and

WHEREAS, during the 2023 legislative session, the Washington State Legislature adopted ESHB 1042, requiring cities to amend their codes to encourage the interior redevelopment of existing commercial or mixed-use buildings into residential development and encourage the redevelopment of existing residential buildings at a higher density; and

WHEREAS, ESHB 1042 was codified as RCW 35A.21.440; and

WHEREAS, on July 16, 2024, the City Council initiated work to respond to ESHB 1042 and promote the conversion of buildings from nonresidential to residential uses in mixed-use areas; and

WHEREAS, on September 25, 2024, the Planning Commission held a study session to review amendments to the Land Use Code relating to ESHB 1042; and

WHEREAS, on October 23, 2024, the Planning Commission held a public hearing to receive public comment on the proposed amendments to the Land Use Code relating to ESHB 1042;

WHEREAS, on October 23, 2024, following the close of the public hearing, the Planning Commission voted to recommend that the City Council adopt the proposed amendments to the Land Use Code relating to ESHB 1042; and

WHEREAS, in addition to amendments to the Land Use Code, amendments to the Bellevue City Code were also proposed to implement ESHB 1042 and encourage residential development within the City; and

WHEREAS, ESHB 1042 exempts conversions from environmental studies under the State Environmental Policy Act (SEPA), necessitating amendments to Chapter 22.02 BCC; and

WHEREAS, under RCW 43.21C.450(5), the amendments contained in this Ordinance that propose adding a new subsection F to Section 22.02.034 of the Bellevue City Code are categorically exempt from review under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 22.02 BCC; and

WHEREAS, pursuant to WAC 197-11-800(19)(c), the remainder of this Ordinance is categorically exempt from review under the SEPA, Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 22.02 BCC; Now, therefore:

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

Section 1. The foregoing recitals are hereby adopted by the City Council as findings of fact supporting and explaining the legislative intent behind the adoption of this ordinance.

Section 2. Section 22.02.032 of the Bellevue City Code is hereby amended to read as follows, with all other provisions of Section 22.02.032 that are omitted below, as indicated by an ellipsis, remaining unchanged:

22.02.032 Determination of categorical exemption.

A. Upon the receipt of an application for a proposal, the receiving department shall, and for city proposals, the initiating department shall, determine whether the proposal is an action potentially subject to SEPA and, if so, whether it is categorically exempt. This determination shall be made based on the definition of

action (WAC 197-11-704), the process for determining categorical exemption (WAC 197-11-305), and the designation of critical areas under subsection C of this section. Departments shall ensure that the proposal is properly defined per WAC 197-11-060(3). If there is any question whether or not a proposal is exempt, the environmental coordinator shall be consulted and shall make the determination. If the proposal is not categorically exempt, the department making this determination (if different from the proponent) shall notify the proponent of the proposal that they must submit an environmental checklist per BCC 22.02.033.

B. Pursuant to the authority provided by WAC 197-11-800(1)(c), the following categorical exemption thresholds apply to exemptions determined under WAC 197-11-800(1) for minor new construction in Bellevue, replacing those provided under WAC 197-11-800(1)(b)(i), (ii), (iii), (iv), and (v), as now or hereafter amended:

1. The construction or location of single-family residential structure(s) containing 30 or less dwelling units;
2. The construction or location of multifamily residential structure(s) containing 200 or less dwelling units;
3. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 40,000 square feet or less of gross floor area, and to be used by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;
4. The construction of an office, school, commercial, recreational, service, or storage building with 30,000 square feet or less of gross floor area, and with associated parking facilities designed for 90 or less automobiles. This exemption includes parking lots for 90 or less automobiles not associated with a structure;
5. Any landfill or excavation of 1,000 or less cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder;
6. The construction or location of any mixed-use development meeting the following requirements:
 - a. Contains 200 or less dwelling units;
 - b. Contains 30,000 square feet or less of gross floor area of any one or more of the following uses: office, school, commercial, recreational, service, or storage use; and
 - c. If the mixed-use development contains parking facilities associated with an office, school, commercial, recreational, service, or storage

use, then such parking facilities are designed for 90 automobiles or less.

. . .

E. All categorical exemptions listed in WAC 197-11-800, as modified by BCC 22.02.032(B) and not listed in subsection D of this section, apply within a critical area.

F. Pursuant to the authority provided by RCW 35A.21.440, the redevelopment of existing buildings into residential uses meeting the requirements of LUC 20.20.727.A are categorically exempt from SEPA.

Section 3. Section 22.02.034 of the Bellevue City Code is hereby amended to read as follows, with all other provisions of Section 22.02.034 that are omitted below, as indicated by an ellipsis, remaining unchanged:

22.02.034 Threshold determination.

A. The environmental coordinator shall make the threshold determination and issue a determination of nonsignificance (DNS) or significance (DS). The environmental coordinator shall make such threshold determination in accordance with applicable sections of the SEPA rules, as adopted by this code. A threshold determination is a Process II decision governed by the procedures set out at LUC 20.35.200 et seq., as now or hereafter amended, except for a threshold determination associated with a Process IV action, Process V action, or a non-project City Council action that is not a Process IV land use decision.

B. A threshold determination associated with a Process IV or Process V action shall be merged with the Process IV and Process V action, and processed according to the notice, decision, appeal, and other procedures set forth in LUC 20.35.400 to 20.35.450 (Process IV) or LUC 20.35.500 to 20.35.540 (Process V), as now or hereafter amended. A threshold determination associated with a non-project City Council action shall be merged with the underlying non-project Council action; notice of application shall be provided as set forth in LUC 20.35.415, and notice of action may be provided pursuant to RCW 43.21C.080.

C. Except where the threshold determination is merged with a Process IV action, a Process V action, or a non-project City Council action, the environmental coordinator shall provide notice according to the rules set forth for Process II land use applications, decisions, and public hearings or meetings (LUC 20.35.200 et seq.). The timing of SEPA actions shall be coordinated to coincide with the underlying or related decision making processes as specified in BCC 22.02.160.

D. Time Limitation.

1. A threshold determination on a non-project action does not expire and is not subject to a time limitation. New or additional environmental review may be required, however, if the environmental coordinator determines that substantial changes to a proposal are being considered.

2. Except as set forth in subsection (C)(3) of this section, a threshold determination on a project action shall have a life of two years, but shall be automatically extended if a building permit is applied for or the use is established within that two-year period; provided, however, the environmental coordinator may also extend a threshold determination for a project action if no substantial changes to the project are proposed and environmental conditions considered in issuance of the original threshold determination have not changed substantially.

3. The time limit for threshold determinations on a master development plan and associated Process II land use decisions for catalyst projects may be extended for up to a maximum of 15 years through a development agreement approved by the city council pursuant to Chapter 36.70B RCW. Any such extension shall be subject to the limitations contained in LUC 20.25D.035.B.2.b. As used in this section, “catalyst project” and “master development plan” shall have the meanings assigned in the Bellevue Land Use Code. Nothing in this section, the development agreement or the Bellevue Land Use Code provisions regarding catalyst projects shall be deemed to limit the environmental coordinator’s authority under BCC 22.02.037.

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Section 4. Section 22.02.080 of the Bellevue City Code is hereby amended to read as follows, with all other provisions of Section 22.02.080 that are omitted below, as indicated by an ellipsis, remaining unchanged:

22.02.080 Appeal of threshold determination.

A. General. Except as provided in this section, the decision of the environmental coordinator in making a threshold determination may be appealed to the hearing examiner using the appeal provisions for Process II decisions (see LUC 20.35.200 et seq., as now or hereafter amended); provided, however, when the threshold determination is a determination of significance which has been agreed to by the proponent, it shall not be appealable. The appeal of a threshold determination issued on a Process IV or Process V action shall be appealable only in the manner set forth for Process IV decisions (LUC 20.35.400 et seq., as now or hereafter amended) or Process V decisions (LUC 20.35.500 et seq., as now or hereafter amended). The appeal of a threshold determination associated with a non-project City Council action is not within the hearing examiner’s jurisdiction and shall be filed together with an appeal of the underlying non-project Council action. Any provisions

of this section which conflict with Chapter 20.35 LUC, as now or hereafter amended, control over those sections.

B. Who May Appeal. Any person adversely affected by a threshold determination may appeal the decision; provided, however, only those persons who submit comments prior to issuance of the threshold determination may appeal the determination unless a showing is made to demonstrate that environmental issues raised in the appeal were not known to the appellants and could not reasonably have been known to the appellants in time to submit comments before the decision was made.

C. Issues on Appeal. Appeals are limited to those issues raised through the comment period; provided, that new issues may be raised if the appellant shows that the project has changed substantially from what was identified in the public notice or information on expected environmental impacts was not reasonably available prior to issuance of the threshold determination.

D. Time to Appeal. For appeals of a threshold determination subject to the hearing examiner's jurisdiction, a written statement appealing the threshold determination of the environmental coordinator must be filed with the city clerk within 14 days of the date of publication of the threshold determination or, if there is a comment period under WAC 197-11-340 or 197-11-350, within 21 days of the date of publication of the threshold determination.

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Section 5. Severability. 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 6. Effective Date. This Ordinance shall take effect and be in force five (5) days after adoption and legal publication.

Passed by the City Council this _____ day of _____, 2025 and signed in authentication of its passage this _____ day of _____, 2025.

(SEAL)

Lynne Robinson, Mayor

Approved as to form:
Trisna Tanus, City Attorney

Robert Sepler, Assistant City Attorney

Attest:

Charmaine Arredondo, City Clerk

Published _____

Attachment A Public Notice Requirements

Use	Existing Public Notice Process			
	Single-Family Districts	Multifamily Districts	Commercial, Office, and Mixed-Use Districts	Light Industrial
Single-Family (Up to 30 lots)	<ul style="list-style-type: none"> • Preliminary Plat (Process I or II) • PUD (Process I) Public Notice Required	<ul style="list-style-type: none"> • Preliminary Plat (Process I or II) • PUD (Process I) Public Notice Required	<ul style="list-style-type: none"> • Design Review (Process II) Public Notice Required	N/A (Allowed only as subordinate use)
Multifamily (Up to 200 Units)	<ul style="list-style-type: none"> • PUD (Process I) Public Notice Required	<ul style="list-style-type: none"> • Design Review (Process II) in Transition Areas Public Notice Required	<ul style="list-style-type: none"> • Design Review (Process II) Public Notice Required	N/A (Not an allowed use)
Commercial (Up to 30,000 sf and 90 parking stalls)	<ul style="list-style-type: none"> • ACUP (Process II) • CUP (Process I) Public Notice Required <i>Note: limited commercial uses allowed in these districts.</i>	<ul style="list-style-type: none"> • ACUP (Process II) • CUP (Process I) Public Notice Required <i>Note: limited commercial uses allowed in these districts.</i>	<ul style="list-style-type: none"> • Design Review (Process II) Public Notice Required	<ul style="list-style-type: none"> • No public notice unless certain Land Use approval required.
Agricultural Structures (Up to 30,000 sf)	<ul style="list-style-type: none"> • N/A (Not an allowed use) 	<ul style="list-style-type: none"> • N/A (Not an allowed use) 	<ul style="list-style-type: none"> • Design Review (Process II) Public Notice Required	<ul style="list-style-type: none"> • No public notice unless certain Land Use approval required.
Landfill/Excavation (Up to 1,000 cy)	<ul style="list-style-type: none"> • No public notice unless certain Land Use approval required. 			