

Part 20.30C Development Agreements**20.30C.010 Scope**

- A. In accordance with RCW 36.70B.170 through 36.70B.210, a development agreement is a mechanism by which the City may enter into an agreement with a developer to modify otherwise applicable development standards and other provisions that apply to the development, use, mitigation, or public benefits of a development for the duration specified in the agreement.
- B. While state law would allow the City to utilize development agreements more broadly, the City Council, in adopting this Part 20.30C LUC, has specifically limited the City's use of development agreements to the circumstances described in LUC 20.30C.020.
- C. The execution of a development agreement in and of itself is an administrative act, as opposed to a quasi-judicial or a legislative act, and is a proper exercise of the City's police power and contract authority.

20.30C.020 Applicability.

A. General.

- 1. If a development agreement is authorized under this section and, if required under LUC 20.30C.050, an application for a master development plan or a design review has been submitted, then the City is authorized, but not required, to accept, review, and approve a development agreement proposed by an applicant. This process is voluntary on the part of both the applicant and the City.
- 2. If a development agreement is not authorized under this section or, if required under LUC 20.30C.050, no application for a master development plan or a design review has been submitted, then the City will not accept, review, or approve a development agreement proposed by an applicant.

B. City-Funded Development.

- 1. Authorized Development Agreements. Development agreements are authorized for development, projects, or improvements funded by the City in the following circumstances:

- a. The City provides a monetary contribution of city funding in an amount that meets both of the following requirements:
 - i. The monetary contribution constitutes at least 10% of the total cost to construct the development, project, or improvement; and
 - ii. The monetary contribution totals at least \$5,000,000. The Director is both authorized and directed to annually increase or decrease this \$5,000,000 amount by an adjustment necessary to reflect the then-current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers.
 - b. For the purposes of subsection B.1.a of this section, the City's monetary contribution may come from any City fund or funding source available to the City. However, the following shall not be included when calculating the City's contribution:
 - i. The waiver or reduction of applicable fees by operation of the Bellevue City Code, the Land Use Code, or other City-run programs;
 - ii. All costs incurred by the City during review of the development, project, or improvement;
 - iii. All costs incurred by the City during review of the request for a development agreement; and
 - iv. All costs incurred by the City during negotiation of the development agreement.
2. Limitations on Modifications. If authorized under subsection B.1 of this section, then the development agreement may modify any development standard.
- C. City-Owned Real Property.
1. Authorized Development Agreements. Development agreements are authorized for development occurring entirely on any real property owned or controlled by the City in any land use district.

2. Limitations on Modifications. If authorized under subsection C.1 of this section, then the development agreement may modify any development standard.

D. Downtown

1. Authorized Development Agreements. Development agreements are only authorized in Downtown Land Use Districts in the following circumstances:
 - a. To award FAR Amenity Incentive Points for a Flexible Amenity subject to the terms of LUC 20.25A.070.D.4 Amenity 18.
 - b. To approve the final construction design for Pedestrian Bridges as identified in, and in accordance with, LUC 20.25A.100.
2. Limitations on Modifications. If authorized under subsection D.1 of this section, then the development agreement may only modify development standards to the extent explicitly authorized by LUC 20.25A.070.D.4 Amenity 18 or LUC 20.25A.100, as applicable. No other development standard may be modified.

E. East Main

1. Authorized Development Agreements.
 - a. In the EM-TOD-H land use district, development agreements are authorized for any development when on-site affordable housing is provided at an amount greater than what would be required by the normal operation of the Land Use Code.
 - b. In the EM-TOD-H land use district, development agreements are authorized to award FAR Amenity Incentive Points for a Flexible Amenity as described in Chart 20.25Q.070.D.4, regardless of the amount of on-site affordable housing provided.
 - c. In the EM-TOD-L land use district, development agreements are only authorized to award FAR Amenity Incentive Points for a Flexible Amenity as described in Chart 20.25Q.070.D.4.

2. Limitations on Modifications.

- a. If authorized under subsection E.1.a of this section, then development agreements may modify any of the development standards contained in Part 20.25Q LUC except the following:
 - i. The maximum building height shall not be modified to exceed 400 feet for any building; and
 - ii. The maximum FAR shall not exceed 5.3, as calculated for all lots subject to the development agreement.
- b. If authorized under subsection E.1.b or E.1.c of this section, then development agreements may only modify development standards to the extent explicitly authorized by Chart 20.25Q.070.D.4 in order to award FAR Amenity Incentive Points for a Flexible Amenity.
- c. The only development standards that may be modified are described in subsections E.2.a and E.2.b of this section. Other development standards contained in the Land Use Code, the Bellevue City Code, and other development regulations shall not be modified, including, but not limited to, the following:
 - i. Standards, requirements, and mitigation as provided for in Part 20.25H LUC.
 - ii. The establishment of vested rights and when land use permits and approvals expire.
 - iii. The amount and payment of impact fees and development fees.

F. Homeless Services Uses

1. Authorized Development Agreements. Development agreements are authorized for homeless services uses in any land use district in the following circumstances:
 - a. As allowed under LUC 20.20.455, but only for the permitting of homeless services uses, as that term is defined under LUC 20.20.455.

2. Limitations on Modifications. If authorized under subsection F.1 of this section, then the development agreement may modify any development standard except as provided below:

a. The development agreement may not extend the expiration date of any project permit application for longer than 15 years from the effective date of the development agreement; and

b. The development agreement must remain consistent with the requirements of LUC 20.20.455.

G. Light Rail Overlay District

1. Authorized Development Agreements. Development agreements are authorized in the light rail overlay district in the following circumstances:

a. As allowed under LUC 20.25M.030, but only for the use, construction, or installation of a regional light rail transit facility or regional light rail transit system, as those terms are defined in LUC 20.25M.020.

2. Limitations on Modifications. If authorized under subsection G.1 of this section, then the development agreement may modify any development standard except as provided below:

a. The development agreement may not extend the expiration date of any project permit application for longer than 15 years from the effective date of the development agreement.

H. Mixed-Use Land Use Districts Subject to Part 20.25R LUC.

1. Authorized Development Agreements. Development agreements are only authorized in Mixed-Use Land Use Districts subject to Part 20.25R LUC in the following circumstances:

a. For development occurring on real property that is immediately adjoining and touching any section of the Grand Connection.

2. Limitations on Modifications. If authorized under subsection H.1 of this section, then the development agreement may modify any of the development standards contained in the Land Use Code or the Bellevue City Code except for the following:
 - a. The maximum building height shall not be modified to exceed 450 feet for any building; and
 - b. Development standards contained in Chapter 22.16 BCC, including any transportation impact fee schedule adopted by separate ordinance in accordance with BCC 22.16.085, shall not be modified through a development agreement.

20.30C.030 Decision Criteria.

- A. The City Council has discretion to approve, or not approve, the proposed development agreement.
- B. The City Council may approve a development agreement if the development agreement:
 1. Is authorized under LUC 20.30C.020;
 2. Complies with all applicable requirements of the Land Use Code, except as may be modified under LUC 20.30C.020;
 3. Complies with all applicable requirements of the Bellevue City Code, except as may be modified under LUC 20.30C.020;
 4. Is consistent with the vision, goals, and policies of the Comprehensive Plan; and
 5. Results in a development that includes public benefits beyond what would be provided without the development agreement.
- C. Exception:
 1. Homeless Services Uses. Subsection 20.30C.030.B shall not apply to development agreements for homeless services uses. Instead, the decision criteria for

development agreements for homeless services uses shall be as provided in LUC 20.20.455.

20.30C.040 Contents of Development Agreement.

- A. Development agreements must set forth the development standards and other provisions that apply to the development, use, mitigation, and public benefits of the development for the duration specified in the agreement.
- B. Development agreements must be consistent with applicable development regulations, except where development standards may be modified under LUC 20.30C.020.

20.30C.050 Submittal Requirements.

- A. Master Development Plan or Design Review Application Required.
 - 1. If a master development plan is required for the project, then a proposal for a development agreement shall be included as part of a complete application for the master development plan.
 - 2. If a master development plan is not required for the project, but a design review is required, then a proposal for a development agreement shall be included as part of a complete application for a design review.
 - 3. If neither a master development plan nor a design review are required for the project, then the City will not review a proposal for a development agreement.
 - 4. Exceptions. Subsections A.1, A.2, and A.3 of this section do not apply to proposals for a development agreement in circumstances when the development agreement is authorized:
 - a. For City-funded development under LUC 20.30C.020.B;
 - b. For development on City-owned real property under LUC 20.30C.020.C;
 - c. For homeless services uses under LUC 20.30C.020.F; or

- d. For the use, construction, or installation of a regional light rail transit facility or regional light rail transit system under LUC 20.30C.020.G.

B. Pre-Application Conference Encouraged.

Even if not required under LUC 20.35.020, an applicant desiring a development agreement is encouraged to participate in a pre-application conference prior to submitting a proposed development agreement for review under this Part 20.30C LUC.

C. Submittal Requirements

1. The submittal of a proposal for a development agreement shall include the following:
 - a. The applicant must identify all development standards that are proposed to be modified, describe all proposed modifications, and must certify that the proposal complies with all applicable limitations on modifications described in LUC 20.30C.020;
 - b. The applicant must describe the additional or alternative public benefits and compare them to the baseline public benefits that would be required to be provided without the development agreement;
 - c. If a complete master development plan application or a complete design review application is either required under LUC 20.30C.050 or has otherwise been submitted, then the applicant shall include a request under LUC 20.35.030.E.2.d that the City temporarily suspend review of such applications until review of the proposal for a development agreement has been completed by the City Council; and
 - d. The applicant must provide any other information that may be reasonably required by the Director to review the development agreement.
2. Exception: Subsection C.1 of this section shall not apply to development agreements for homeless services uses. Instead, the submittal requirements for development agreements for homeless services uses shall be as provided in LUC 20.20.455.

20.30C.060 Review Process.

- A. If a development agreement is authorized under LUC 20.30C.020, then an applicant for a project may apply, in accordance with LUC 20.30C.050, to negotiate and enter into a development agreement.
- B. Upon receipt of a complete application of a development agreement, the Director shall schedule presentation of the application to the City Council. The City Council shall consider the application and may either authorize the Director to initiate negotiation of the Development agreement or decline to negotiate a development agreement.
 1. If initiated, the City Council may provide direction to guide the negotiation and the proposed development agreement will be reviewed and negotiated in accordance with subsections C through G of this section.
 2. If the City Council declines to negotiate a development agreement, then review and processing of the application for a development agreement shall cease and no development agreement will be negotiated or approved for the project.
- C. Notice of the development agreement application shall be provided with the notice for the corresponding Master Development Plan or Design Review pursuant to LUC 20.35.210.
 1. Exceptions:
 - a. If neither a master development plan nor a design review application is required under LUC 20.30C.050 and the development agreement is not for a homeless services use, then notice shall be published and mailed as provided in LUC 20.35.210.
 - b. If the development agreement is for a homeless services use, then the required notice and public engagement procedures contained in LUC 20.20.455 shall apply.
- D. Director's Responsibilities.
 1. The Director shall negotiate the development agreement with the applicant using guidance and direction from the City Council, if provided. The Director may

schedule additional study sessions with the City Council for further guidance and direction.

2. The Director shall ensure compliance with the requirements of the Bellevue Environmental Procedures Code, Chapter 22.02 BCC.
 3. If the development agreement is for a homeless services use, then the Director shall prepare a written report in accordance with LUC 20.20.455.
- E. Public Hearing. The City Council shall hold a public hearing on the proposed development agreement prior to taking action. Notice of availability of the proposed development agreement, SEPA determination, and public hearing shall be provided pursuant to LUC 20.35.420.B.
1. Exception: If the development agreement is for a homeless services use, then notice of availability of the proposed development agreement, SEPA determination, and public hearing shall be provided pursuant to LUC 20.35.135, as required under LUC 20.20.455.
- F. City Council Action. Following the public hearing, the City Council shall consider and may approve the proposed development agreement. Approval of a development agreement by the City Council is the final decision of the City and shall be by ordinance.
- G Recording Required. After City Council approval and mutual execution, the applicant shall record the development agreement with the King County Recorder's Office and provide a copy of the recorded agreement to the Director.

20.30C.070 Effect of Approval by City Council.

Once approved, the legal effect of the development agreement shall be as provided in Chapter 36.70B RCW and the agreement itself.

20.30C.080 Previously Authorized Development Agreements.

If a development agreement was both approved and fully executed prior to [insert effective date of this ordinance], then that development agreement shall continue to be governed by its terms until such time as it may expire; Provided, that the development agreement may be modified as allowed under LUC 20.30C.090.

20.30C.090 Modification of Development Agreements.

- A. Minor Modification. The Director may approve a minor modification to a previously approved development agreement when:
1. The change will not result in a reduction to the amount of public benefits required by the development agreement;
 2. The change will not result in increasing the gross floor area of the project as approved by the development agreement;
 3. The change will not result in any structure, vehicular circulation, or parking area which will adversely affect abutting property or public right-of-way;
 4. The modification is exempt from SEPA review;
 5. The modification is within the general scope of the purpose and intent of the original development agreement; and
 6. The modification complies with all other applicable Land Use Code requirements and all other applicable development standards and is compatible with all other applicable design criteria.
- B. Major Modification. Any modification that does not meet all of the requirements for a minor modification shall constitute a major modification. All major modifications require a termination of the original development agreement and negotiation and approval of a new development agreement following the procedures set forth in this Part 20.30C LUC.

20.30C.100 Appeals.

- A. If a complete master development plan application or a complete design review application is either required under LUC 20.30C.050 or has otherwise been submitted, then a development agreement approved by the City Council may be appealed in conjunction with the approval of the underlying master development plan application or design review application to Superior Court as set forth in LUC 20.35.070.

- B. If neither a complete master development plan application nor a complete design review application is either required under LUC 20.30C.050 or has otherwise been submitted, then any development agreement approved by the City Council may be appealed to the Growth Management Hearings Board as set forth in LUC 20.35.440.C.

Conformance Edits

Chapter 20.10 Land Use Districts

20.10.440 Uses in land use districts

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Chart 20.10.440

Uses in land use districts

Wholesale and Retail – Commercial and Mixed-Use Land Use Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Professional Office	Office	Office/Limited Business	Office/Limited Business 2	Light Industry	General Commercial	Neighborhood Business	Mixed Use: 8 Story	Neighborhood Mixed Use	Community Business	Mixed Use: 16 Story	Factoria Land Use District 1	Factoria Land Use District 3
		PO	O	OLB	OLB 2	LI	GC	NB	MU8	NMU	CB (36)	MU16	F1	F3
...														
5511	Autos (Retail)			P 6	P 43	A 4, 35	P		C	P 6	C	C	C	C
	Trucks, Motorcycles, Recreational Vehicles (Retail)			P 25	P 25, 43	P 7, 35	P							

STD LAND USE CODE	LAND USE CLASSIFICATION	Professional Office	Office	Office/Limited Business	Office/Limited Business 2	Light Industry	General Commercial	Neighborhood Business	Mixed Use: 8 Story	Neighborhood Mixed Use	Community Business	Mixed Use: 16 Story	Factoria Land Use District 1	Factoria Land Use District 3
REF		PO	O	OLB	OLB 2	LI	GC	NB	MU8	NMU	CB (36)	MU16	F1	F3
	Boats (Retail)				P.43	P 35	P							
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Notes: Uses in land use districts – Wholesale and Retail:

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(25) Only retail sale of motorcycles is a permitted use and outdoor storage is prohibited.

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(36) Retail uses in CB Districts in the following subareas, as designated in the Comprehensive Plan, are limited in size to 100,000 gross square feet or less: Bridle Trails, Newcastle, North Bellevue, Northeast Bellevue, Richards Valley, South Bellevue, Southeast Bellevue, and Wilburton.; ~~provided, that in CB Districts in the Wilburton Subarea, retail uses may be allowed to exceed 100,000 gross square feet through a Council-approved development agreement that is consistent with Chapter 36.70B-RCW and includes design guidelines that (a) address the potential impacts of that scale of retail use, and (b) are consistent with the Comprehensive Plan.~~

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(43) In the OLB 2 District, retail auto, ~~motorcycle~~, truck, RV, ~~and~~ boat showrooms, ~~or any combination thereof, may be allowed~~ are a permitted use, but through a development agreement. ~~No~~ no outdoor storage of autos, ~~motorcycles~~, trucks, boats, ~~and~~ RVs, ~~or any combination thereof,~~ is allowed.

Chapter 20.20 LUC General Development Requirements**20.20.455 Homeless services uses.**

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D. Approval Process Required.

Two Process Options. Applications for a homeless services use governed by the terms of this section shall be processed pursuant to one of the following options:

1. Use and Design Allowed through a Development Agreement. A homeless services use requires approval of a Conditional Use Permit pursuant to subsection D.2 of this section unless the City Council agrees to negotiate a development agreement ~~pursuant to Part 20.30C LUC. The City Council may by resolution accept or decline to negotiate a development agreement that would allow a homeless services use to be established and constructed in Bellevue pursuant to the provisions of Chapter 36.70B RCW and this section.~~ Nothing in this subsection shall preclude an applicant from requesting the Director to initiate processing of their application under the Conditional Use Permit provisions of Part 20.30B LUC without requesting the City Council to consider negotiation of a development agreement.

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E. Preapplication Process and Determination of Permit Approval Path Required.

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4. Determination of Permit Approval Path.

- a. Development Agreement. An applicant may request, ~~in accordance with Part 20.30C LUC, that~~ the City ~~to~~ negotiate a development agreement for the use and design of a homeless services use. Such request shall be presented to, ~~and considered by,~~ the City Council ~~for consideration in accordance with Part 20.30C LUC; provided that in deciding whether to negotiate a development agreement, the City Council shall review.~~ ~~The City Council shall by resolution accept or decline to negotiate a development agreement that would allow a homeless services use to be established and constructed in Bellevue pursuant to the provisions of Chapter 36.70B RCW and including review of~~ the following information:

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F. Submittal Requirements.

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3. ~~When-If~~ the City Council has, in accordance with Part 20.30C LUC, adopted a resolution to negotiate initiated negotiations for a development agreement that would allow a homeless services use to be established and constructed in Bellevue pursuant to subsection D.1 of this section, the applicant is required to submit application materials required under subsections F.1 and F.2 of this section and any additional submittal requirements identified in the resolution by the Director as needed for City Council negotiation of the development agreement pursuant to this subsection F.3.

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H. City Approval Requirements for Homeless Services Uses.

1. Applicability of City Review Process. There are two process options that can be used to approve a homeless services use as described in subsection D of this section. A homeless services use requires approval of a Conditional Use Permit pursuant to subsection D.2 of this section unless the City Council agrees to negotiate a development agreement pursuant to Part 20.30C LUC and subsections D.1 and E.4 of this section. The approval process requirements contained in this subsection apply to all homeless services uses irrespective of whether City review under subsection D of this section is undertaken through the negotiation of a development agreement or through processing of a Conditional Use Permit.
 - a. Development Agreement – Council Decision.
 - i. Scope of Approval. A homeless services use may be permitted and established pursuant to the terms of a development agreement entered into between the City and a homeless services use operator when the location, design and operation are negotiated pursuant to Chapter 36.70B RCW and subsection E.4 of this section Part 20.30C LUC and are consistent with the terms of this section.
 - ii. Applicable Process. A development agreement adopted by the City Council shall be processed under the authority of and pursuant to the procedures set forth in Chapter 36.70B RCW and this section Part 20.30C LUC. Any development agreement adopted by the City Council shall be consistent with all applicable Comprehensive Plan policies and all adopted “development standards,” as that term is used in RCW 36.70B.170(3), that govern and vest the development for a specified time duration; provided, that a development agreement may not extend the vesting period for longer than 15 years from the effective date. Periodic review of the conditions of a

~~development agreement and grounds for revocation may be included. Any appeal of a development agreement shall be directly to superior court.~~

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5. Public Hearing and Appeals.

- a. Development Agreements. Public hearings on development agreements applied for to establish a homeless services use shall be held by the City Council ~~pursuant to Chapter 36.70B RCW and adopted City Council rules of procedure as provided in Part 20.30C LUC.~~

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6. Recording. The description of the population to be served, the conditions of approval, and any binding site plan for a homeless services use shall be recorded with the King County Recorder's Office ~~or its successor organization. If approved by the City Council, a development agreement shall be recorded as provided in Part 20.30C LUC.~~

7. Modifications to a Homeless Services Use. Conditions of approval for a homeless services use apply for the life of the project. Any increase in the number of beds beyond that applied for by the applicant and included in the City approval, or changes to the population served by the homeless services use, shall be processed as a new application in accordance with the standards and requirements for a new or expanding use in this section, ~~except that a development agreement may be modified as provided in Part 20.30C LUC.~~

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Part 20.25A Downtown

20.25A.030 Review Required

A. Applicable Review.

1. Review ~~is~~ Required. All development in Downtown shall be reviewed by the Director consistent with the terms of this Part 20.25A LUC through the administration of Part 20.30V LUC (Master Development Plan), and Part 20.30F LUC (Design Review) using the applicable procedures of Chapter 20.35 LUC. A Master Development Plan is required where there is more than one building or where the development of a project is proposed to be phased. Design Review is required for all Downtown projects. ~~A Development Agreement is required for departures from Part 20.25A LUC~~

~~that are not permitted to be granted through an administrative process, and shall be consistent with Chapter 36.70B RCW.~~

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D. Departures.

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b. Decision Criteria. The Director may approve or approve with conditions an Administrative Departure from applicable provisions of the Land Use Code if the applicant demonstrates that the following criteria have been met:

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v. The modification is reasonably necessary to implement or ensure consistency with a departure allowed through a Development Agreement approved pursuant to ~~Part 20.30C LUC subsection D.2 of this section.~~

c. Limitation on Authority. Administrative Departures may only be approved consistent with the limitations contained in the Land Use Code section that authorizes the departure, or through a variance granted under the terms of Part 20.30G LUC. ~~This subsection does not limit the ability of an applicant to pursue legislative departures that are authorized through a Development Agreement pursuant to the terms of subsection D.2 of this section and consistent with Chapter 36.70B RCW.~~

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~~2. City Council Departures. There are many opportunities for creativity and innovation in the design of Downtown projects that advance the vision and policy goals articulated in the Comprehensive Plan. The accommodation of iconic opportunities can be constrained by the Code, the amenity list and associated Amenity Design Criteria that were drafted to foster development of a livable Downtown while ensuring timely, predictable, and consistent administration of regulations that are drafted to be applicable to a widely variable range of projects. The purpose of this subsection is to provide a departure process to create a Flexible Amenity as envisioned in LUC 20.25A.070.D.4 Amenity 18, and to approve final construction design for privately developed spaces that function as part of the public realm.~~

~~a. Applicability. The City Council may, through the adoption of a Development Agreement consistent with Chapter 36.70B RCW:~~

- ~~i.—Award FAR Amenity Incentive points for a Flexible Amenity subject to the terms of LUC 20.25A.070.D.4 Amenity 18; and/or~~
- ~~ii.—Approve the final construction design for Pedestrian Bridges as identified in LUC 20.25A.100.~~
- ~~b.—Decision Criteria. The City Council may approve or approve with conditions a Legislative Departure from the strict application of the Land Use Code consistent with Chapter 36.70B RCW.~~
- ~~c.—Limitations on Modification.~~
 - ~~i.—Development Agreements are an exception, and not the rule and shall not be used to vary provisions of the Land Use Code which, by the terms of that Code, are not identified as appropriate for modification through a Development Agreement.~~
 - ~~ii.—Development Agreements shall not be used to depart from the FAR bonus values adopted for the amenities specifically identified in LUC 20.25A.070.D.~~
 - ~~iii.—Development Agreements shall not be used for proposals that are capable of being approved through administration of the Master Development Plan or Design Review processes using the flexibility tools such as Administrative Departures and variances that currently exist in the Code.~~
 - ~~iv.—Development Agreements shall not be used to vary the procedural provisions contained in Chapter 20.30 or 20.35 LUC.~~

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20.25A.070 Amenity incentive system and floor area ratio.

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D. Specific Amenity Incentive System Requirements.

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4. Amenity Incentive System.

**Chart 20.25A.070.D.4
Amenity Incentive System**

	APPLICABLE NEIGHBORHOODS AND BONUS RATIOS
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LIST OF BONUSABLE AMENITIES	Northwest Village	City Center North	Ashwood	Eastside Center	Old Bellevue	City Center South	East Main
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FLEXIBLE AMENITY							
<p>18. Flexible Amenity: For proposed amenities not <u>otherwise</u> identified in items 1 through 17 of this list, the Flexible Amenity allows an applicant the opportunity to propose an additional amenity that would substantially increase livability in Downtown. Credit shall be determined on a case-by-case basis; it is expected that the public benefit shall equal or exceed what would be provided by amenities on the standard list provided above. The Flexible Amenity may also be used to determine a mix of amenities that is appropriate for a DT-Small Site when the application of standard list would not provide it with the development rights permitted to other similarly situated properties.</p>	<p>Values for this amenity shall be set through the City Council Departure process in LUC 20.25A.030 and require a Development Agreement <u>approved in accordance with Part 20.30C LUC</u>. May be pursued in all Downtown Neighborhoods. This amenity may be used on DT-Small Sites to earn necessary amenity bonus points needed to exceed base FAR.</p>						
	DESIGN CRITERIA:						
	<ol style="list-style-type: none"> 1. The bonus proposal shall be approved by City Council through a Legislative Departure and Development Agreement <u>pursuant to Part 20.30C LUC. The development agreement shall only modify development standards to the extent necessary to effectuate the location, construction, operation, and maintenance of the flexible amenity. Development standards unrelated to locating, constructing, operating, or maintaining the flexible amenity may not be modified through a development agreement.</u> 2. The proposed bonus shall have merit and value to the community. 3. The proposed bonus shall be outside of the anticipated amenity bonus structure. 4. The proposed bonus shall not be in conflict with existing Land Use Code regulations. 						

	<p>TECHNICAL REVIEW:</p> <p>The City may require the applicant to pay for an independent technical review, by a consultant retained by the City, of materials submitted by the applicant to support the requested departures contained within a requested Development Agreement. Consultant services may include, but are not limited to, economic evaluation of public benefits, impacts on property values, review of construction valuations, documentation related to constructability, and other input deemed necessary by the City Council to support its legislative decision making.</p>
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20.25A.100 Downtown pedestrian bridges.

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B. Location and Design Plan.

The City Council shall review any Downtown Pedestrian Bridge Location and Design Plan, by entering into a Development Agreement pursuant to the terms of ~~LUC~~

~~20.25A.030.D.2Part 20.30C LUC.~~

1. Prior to issuance of any permits for a proposed Downtown pedestrian bridge, a Downtown Pedestrian Bridge Location and Design Plan shall be submitted to and approved by the City Council, through a Development Agreement consistent with ~~Chapter 36.70B RCWPart 20.30C LUC.~~

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Part 20.25M Light Rail Overlay District

20.25M.010 General

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C. Who May Apply.

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2. Nothing in this subsection C shall prohibit the Regional Transit Authority and City from entering into a development agreement as allowed pursuant to [Part 20.30C LUC](#) and LUC 20.25M.030.B.1 at any time.

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20.25M.030 Required permits.

A. Process Roadmap.

1. Use Approval – Two Process Options.
 - a. Use Permitted by Land Use Code. An RLRT system and its facilities are permitted uses in all land use districts; provided, that the alignment location and profile of the RLRT system has been approved, subsequent to adoption of this overlay, by a Bellevue City Council-adopted resolution or ordinance, or by a development agreement. Any Council-adopted development agreement shall be consistent with ~~Chapter 36.70B RCW~~[Part 20.30C LUC](#) and subsection B.1 of this section. Refer to LUC 20.10.440 (Transportation and Utilities Uses in Land Use Districts), LUC 20.25D.070 (Transportation and Utilities Uses in BelRed Land Use Districts), and LUC 20.25H.055.B Note 12.
 - b. Applicable Process. A development agreement adopted by the City Council shall be processed under the authority of and pursuant to the procedures set forth in ~~Chapter 36.70B RCW~~[Part 20.30C LUC](#). ~~Any development agreement adopted by the City Council shall be consistent with all applicable Comprehensive Plan policies including without limitation those set forth in LUC 20.25M.010.B.7, and all adopted “development standards,” as that term is used in RCW 36.70B.170(3), that govern and vest the development for a specified time duration to this overlay district and other applicable City regulations; provided, that a development agreement may not extend the vesting period for longer than 15 years from the effective date. Any appeal of a development agreement shall be directly to superior court.~~

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Part 20.25Q East Main Transit Oriented Development Land Use District

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20.25Q.030 Review Required.

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~~F. Development Agreement Authorized.~~

1. ~~Purpose. A Development agreement is a mechanism by which the City may, when appropriate, enter into an agreement with a developer to modify the requirements, standards, criteria, and guidelines in East Main, Part 20.25Q LUC, that apply to Development and activity within the EM-TOD Land Use Districts. The Development agreement balances the public and private interests, providing reasonable certainty for a Development project and the public, and addressing other matters, including advancing the East Main Comprehensive Plan vision, goals and policies and creating additional Affordable Housing and other public benefits.~~
2. ~~Applicability. This subsection F applies to Development agreements authorized pursuant to RCW 36.70B.170 through 36.70B.210, between the City of Bellevue and any person having ownership or control of real property located within the EM-TOD Land Use Districts. The City is authorized, but not required, to accept, review and approve a proposed Development agreement. This process is voluntary on the part of both the applicant and the City. The decision to approve a Development agreement is discretionary with the Bellevue City Council.~~
3. ~~Development Standards:~~
 - a. ~~Development agreements must set forth the Development standards and other provisions that shall apply to, govern and vest the Development, use, and public benefits of the Development of the real property within the EM-TOD Land Use Districts for the duration specified in the agreement.~~
 - b. ~~Limitations on Modification:~~
 - i. ~~The maximum Building Height shall not be modified to exceed 400 feet for any Building.~~
 - ii. ~~The maximum FAR shall not exceed 5.3, as calculated for all Lots subject to the Development agreement.~~
 - iii. ~~The amount and payment of impact fees and Development fees, including cost of improvement for infrastructure shall not be modified.~~
 - iv. ~~Standards, requirements, and Mitigation as provided for in Part 20.25H LUC shall not be modified.~~
 - v. ~~Vesting and expiration of vested status of Land Use permits and approvals shall not be modified.~~
 - vi. ~~Other provisions of this Code, the Bellevue City Code, and other City ordinances shall not be modified.~~

~~4.–Development Agreement Submittal Requirements.~~

- ~~a.–A proposal for a Development agreement shall be accompanied by a complete application for the required Land Use entitlement application, Master Development Plan, Part 20.30V LUC, or Design Review, Part 20.30F LUC.~~
- ~~b.–All proposed modifications to requirements and standards in Part 20.25Q LUC shall be described, including identification of the requirement or standard requested to be modified;~~
- ~~c.–The additional Affordable Housing and other public benefits shall be described and compared to the baseline Affordable Housing and public benefits that would be provided without the Development agreement; and~~
- ~~d.–Any other such information that may be reasonably required by the Director to review the Development agreement.~~

~~5.–Review Process:~~

- ~~a.–An applicant may apply to negotiate and enter into a Development agreement for a project in East Main. Such request shall include the submittal requirements in subsection F.4 of this section.~~
- ~~b.–Upon receipt of a complete application of a Development agreement, the Director shall schedule presentation of the application to the City Council. The City Council shall consider the application, and may initiate negotiation of the Development agreement by the Director. If initiated, the City Council may provide direction to guide the negotiation.~~
- ~~c.–Notice of the Development agreement application shall be provided with the notice for the corresponding Master Development Plan or Design Review pursuant to LUC 20.35.210.~~
- ~~d.–The Director shall negotiate the Development agreement with the applicant using guidance and direction from the City Council, including the framework for review in subsection F.6 of this section. The Director may schedule additional study sessions with the City Council for further guidance and direction. The Development agreement shall be presented to the City Council for consideration at the public hearing.~~
- ~~e.–Public Hearing. The City Council shall hold a public hearing on the proposed Development agreement prior to taking action. Notice of availability of the~~

- ~~proposed Development agreement, SEPA determination, and public hearing shall be provided pursuant to LUC 20.35.420.~~
- ~~f. City Council Action. Following the public hearing, the City Council shall consider and may approve the proposed Development agreement. Any approval of the City Council of a Development agreement is the final decision of the City and shall be by resolution or ordinance.~~
- ~~g. Recording Required. After City Council approval and mutual execution, the applicant shall record the Development agreement with the King County Recorder's Office (or its successor agency) and provide a copy of the recorded agreement to the Director.~~
- ~~6. Framework for City Review of Development Agreement.~~
- ~~a. The City Council has discretion to approve, or not approve, the proposed Development agreement;~~
- ~~b. The Development agreement shall comply with all other applicable requirements of this Code and other City Codes not modified by the Development agreement;~~
- ~~c. The Development agreement shall be consistent with Comprehensive Plan, and specifically the East Main TOD vision, goals, and policies;~~
- ~~d. The Development agreement shall meet the purpose in subsection F.1 of this section; and~~
- ~~e. The Development agreement shall result in a Development that includes more Affordable Housing and other public benefits beyond what would be provided without the Development agreement.~~
- ~~7. Modification of Development Agreements.~~
- ~~a. Minor Modification. The Director may approve a minor modification to a previously approved Development agreement when:~~
- ~~i. The change will not result in a reduction to the amount of Affordable Housing and public benefit required by the Development agreement;~~
- ~~ii. The change will not result in increasing the Gross Floor Area of the project as approved by the Development agreement;~~
- ~~iii. The change will not result in any Structure, or vehicular circulation or parking area which will adversely affect abutting property or Public Right-of-Way;~~

- ~~iv.–The modification is exempt from SEPA review;~~
 - ~~v.–The modification is within the general scope of the purpose and intent of the original Development agreement; and~~
 - ~~vi.–The modification complies with all other applicable Land Use Code requirements and all other applicable Development standards and is compatible with all other applicable design criteria.~~
- ~~b.–Major Modification. Any modification that does not meet all of the requirements of subsection F.7.a of this section shall require a termination of the original Development agreement and a New Development agreement following the procedures set forth in this subsection F.~~

20.25Q.040 Expansions of existing athletic club and accessory hotel uses.

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D. Applicable Regulations.

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- 4. An existing Athletic Club and accessory Hotel use may be expanded with additional floor area consisting of Athletic Club use, and Hotel as an accessory use, beyond the base FAR up to maximum FAR for nonresidential allowed in this Code, Part 20.25Q LUC, and be exempted from the requirements, standards, and guidelines in this Part 20.25Q LUC, as listed in subsection D.3 of this section, through a Development Agreement, as provided in ~~LUC 20.25Q.030.F~~Part 20.30C LUC; and

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20.25Q.070 FAR and the amenity incentive system.

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D. Amenity Incentive Program.

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- 4. Amenity Incentive System.

Chart 20.25Q.070.D.4

List of Bonusable Amenities	Applicable Land Use Districts and Bonus Ratios	
	East Main Transit-Oriented District Higher Density (EM-TOD-H)	East Main Transit-Oriented District Lower Density (EM-TOD-L)

	Nonresidential	Residential	Nonresidential	Residential
...				
Flexible Amenity	Values for this amenity shall be set through a Development Agreement. It may be pursued in all East Main Land Use Districts.			
	Criteria:			
	<p>1. The flexible amenity shall be approved by City Council through a Development Agreement <u>approved under Part 20.30C LUC. The development agreement shall only modify development standards to the extent necessary to effectuate the location, construction, operation, and maintenance of the flexible amenity. Development standards unrelated to locating, constructing, operating, or maintaining the flexible amenity may not be modified through a development agreement.</u></p>			
	2. The flexible amenity shall have merit and value to the community and substantially increase livability in East Main.			
	3. The flexible amenity shall provide public benefit equal to or better than what would be provided by amenities on the standard list provided above.			
4. The proposed bonus shall be outside of the amenities identified on the list provided above.				
5. The proposed bonus shall not be in conflict with existing Land Use Code regulations.				
Technical Review:				
The City may require the applicant to pay for an independent technical review, by a consultant retained by the City, of materials submitted by the applicant to support the requested departures contained within a requested Development Agreement. Consultant services may include, but are not limited to, economic evaluation of public benefits, impacts on property values, review of construction valuations, documentation related to constructability, and other input deemed necessary by the City Council to support its legislative decision making.				

Part 20.25R Mixed-Use Land Use Districts**20.25R.010 General**

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D. Review Required.

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~~5. Development Agreements:~~

- ~~a. Purpose. For the purposes of this subsection D.5, a development agreement is a mechanism by which the City may, when appropriate, enter into an agreement with a developer to modify requirements, standards, criteria, and guidelines that apply to Development and activity within the Mixed-Use Land Use Districts. The Development agreement balances the public and private interests, providing reasonable certainty for a development project and the public, and addressing other matters, including advancing the vision, goals, and policies of the Comprehensive Plan, constructing the Grand Connection, and other public benefits.~~
- ~~b. Applicability. This subsection D.5 only applies to development agreements authorized pursuant to RCW 36.70B.170 through 36.70B.210, between the City and any person having ownership or control of real property located entirely within a Mixed-Use Land Use District that is immediately adjoining and touching any section of the Grand Connection.~~
- ~~c. Discretion. The City is authorized, but not required, to accept, review, and approve a proposed Development agreement under this subsection D.5. This process is voluntary on the part of both the applicant and the City. The decision to approve a development agreement is discretionary with the Bellevue City Council.~~
- ~~d. Development Standards. Development agreements must set forth the Development standards and other provisions that shall apply to, govern, and vest the Development, use, and public benefits of the Development of the real property within the Mixed-Use Land Use Districts for the duration specified in the agreement.~~
- ~~e. Limitations on Modification. Except where explicitly identified below, a development agreement approved under this subsection may modify any requirements, standards, criteria, and guidelines that apply to Development and~~

- ~~activity within the Mixed-Use Land Use Districts. The following shall not be modified through a Development agreement approved under this subsection:~~
- ~~i. The maximum Building Height shall not be modified to exceed 450 feet for any Building; and~~
 - ~~ii. Any provision contained in Chapter 22.16 BCC, including any transportation impact fee schedule adopted by separate ordinance in accordance with BCC 22.16.085.~~
- ~~f. Development Agreement Submittal Requirements:~~
- ~~i. A proposal for a Development agreement shall be accompanied by a complete application for the required Land Use entitlement application, Master Development Plan, Part 20.30V LUC, or Design Review, Part 20.30F LUC;~~
 - ~~ii. All proposed modifications to requirements, standards, or guidelines in Chapter 20.20 LUC and this Part 20.25R shall be described, including identification of the requirement, standard, or guideline requested to be modified;~~
 - ~~iii. The additional or alternative public benefits shall be described and compared to the baseline public benefits that would be provided without the Development agreement; and~~
 - ~~iv. Any other such information that may be reasonably required by the Director to review the Development agreement.~~
- ~~g. Review Process:~~
- ~~i. An applicant may apply to negotiate and enter into a Development agreement for a project in a Mixed-Use Land Use District. Such request shall include the submittal requirements in subsection D.5.f of this section.~~
 - ~~ii. Upon receipt of a complete application of a Development agreement, the Director shall schedule presentation of the application to the City Council. The City Council shall consider the application and may authorize the Director to initiate negotiation of the Development agreement. If initiated, the City Council may provide direction to guide the negotiation.~~
 - ~~iii. Notice of the Development agreement application shall be provided with the notice for the corresponding Master Development Plan or Design Review pursuant to LUC 20.35.210.~~

- ~~iv. The Director shall negotiate the Development agreement with the applicant using guidance and direction from the City Council, if provided. The Director may schedule additional study sessions with the City Council for further guidance and direction. The Development agreement shall be presented to the City Council for consideration at the public hearing.~~
- ~~v. Public Hearing. The City Council shall hold a public hearing on the proposed Development agreement prior to taking action. Notice of availability of the proposed Development agreement, SEPA determination, and public hearing shall be provided pursuant to LUC 20.35.420.~~
- ~~vi. City Council Action. Following the public hearing, the City Council shall consider and may approve the proposed Development agreement. Any approval of the City Council of a Development agreement is the final decision of the City and shall be by resolution or ordinance.~~
- ~~vii. Recording Required. After City Council approval and mutual execution, the applicant shall record the Development agreement with the King County Recorder's Office and provide a copy of the recorded agreement to the Director.~~
- ~~h. Framework for City Review of Development Agreement.
 - ~~i. The City Council has discretion to approve, or not approve, the proposed Development agreement;~~
 - ~~ii. The Development agreement shall comply with all applicable requirements of the Land Use Code, except as may be modified in accordance with this subsection;~~
 - ~~iii. The Development agreement shall comply with all applicable requirements of the Bellevue City Code, except as may be modified in accordance with this subsection;~~
 - ~~iv. The Development agreement shall be consistent with the vision, goals, and policies of the Comprehensive Plan;~~
 - ~~v. The Development agreement shall meet the purpose in subsection D.5.a of this section; and~~
 - ~~vi. The Development agreement shall result in a Development that includes public benefits beyond what would be provided without the Development agreement.~~~~

56. Procedural Merger.

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Part 20.30F Design Review

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20.30F.190 Expiration – Extension

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C. Other Extensions of Design Review Approval.

A Design Review approval may be extended pursuant to one or more of the following:

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2. A Development Agreement, but only in circumstances where ~~a separate provision of this Land Use Code~~ **Part 20.30C LUC** specifically authorizes the extension, by Development Agreement, of the time period that a Land Use Permit or approval remains in effect or its vested status; or

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Chapter 20.35 Review and Appeal Procedures**20.35.210 Notice of Application**

- A. A notice of application shall be provided, as follows, within 14 days of issuance of a determination of completeness for Process II land use decisions:

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 Under Part 20.30K LUC	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		

1. For Process II decisions not included in Table 20.35.210.A, notice of application shall be provided by publication and mailing.

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20.35.230 Director's Decision

A written record of the Process II decision shall be prepared in each case. The record may be in the form of a staff report, letter, the permit itself, or other written document and shall indicate whether the application has been approved, approved with conditions or denied. The Director's decision shall be based on the applicable Land Use Code decision criteria, shall include any conditions to ensure consistency with City development regulations, and may include mitigation measures proposed under the provisions of the State Environmental Policy Act (SEPA). If a development agreement has been approved as set forth in Part 20.30C LUC and the development agreement applies to the Process II land use application, then the Director's decision shall be consistent with that development agreement.

20.35.250 Appeal of Process II Decisions.

A. Process II decisions, except for SEPA threshold determinations on Process IV and Process V 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 fourteenth 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.

4. Exception. If a development agreement has been approved under Part 20.30C LUC, then the appeal procedures contained in this section do not apply to the Director's Process II Decision on a related master development plan or design review application. Instead, the Director's Process II Decision may be appealed to Superior Court as set forth in LUC 20.35.070 and LUC 20.30C.100.

~~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.~~

~~BE.~~ 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.

~~CD.~~ 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.

~~DE.~~ 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.

EF. 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.

EG. 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.

Chapter 20.50 Definitions

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20.50.016 D definitions

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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.

Development Agreement. Means an agreement reviewed in accordance with Part 20.30C LUC.

Development Area. That portion of a parcel designated as OLB-OS that is not reserved as open space as described in Part 20.25L LUC.

Development Services Department. The Development Services Department is an administrative department of the City as described in Chapter 3.44 BCC.

Development Standards. Shall have the same meaning as set forth in RCW 36.70B.170.

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