

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6457

AN ORDINANCE amending the Bellevue Land Use Code, Title 20 of the Bellevue City Code, Chart 20.10.440 Uses in land use districts Wholesale and Retail – Residential Districts to identify the residential Land Use Districts where Garden Supply Retail and Nursery Uses may be allowed when they have been operating continuously since before 1955; providing for severability; and establishing an effective date.

WHEREAS, the Bellevue Land Use Code (LUC), LUC 20.50.036, defines a nonconforming use as “the use of a structure or of land which does not conform to the regulations of the district in which the use exists due to changes in Code requirements or annexation;” and

WHEREAS, a nonconforming use may continue under the LUC so long as the use is continuous, and the nonconforming use may be expanded pursuant to appropriate permit approvals; and

WHEREAS, the Bellevue City Council considered the nonconforming status of garden supply retail and nursery uses located in residential districts in 2018 during the Comprehensive Plan Amendment (CPA) process initiated by the Bellevue Nursery; and

WHEREAS, certain garden supply retail and nursery uses in Bellevue may be operating as a nonconforming use, and the Bellevue Nursery, which has operated continuously since 1954, is an example of a long-term garden supply retail and nursery business that has operated as a nonconforming use in a residential district for decades; and

WHEREAS, residential districts R-4, R-10, R-15, R-20 and R-30, as identified in Chart 20.10.440 LUC, Wholesale and Retail – Residential Districts, do not allow garden supply retail or nursery uses; and

WHEREAS, established and long-term garden supply retail and nursery businesses serve as places for people to gather, as anchors for neighborhoods throughout the city, and preserve and develop distinctive neighborhood character; and

WHEREAS, established and long-term garden supply retail and nursery businesses and operations are enhanced through adding subordinate uses, such as a coffee cart or landscaping services on site, and remain viable through improvements to their property; and

WHEREAS, the promotion of local businesses and locally-produced goods and services provides for continued economic growth in the City of Bellevue and is consistent with the City’s Comprehensive Plan; and

WHEREAS, the 1955 City of Bellevue Zoning Code described the R-8.5 District as having a minimum lot size of 8,500 square feet, and the City Council finds that districts now zoned R-10, R-15, R-20, and R-30 having minimum lot sizes of 8,500 square feet are comparable to the R-8.5 District in 1955 with respect to garden supply retail and nurseries that have been in continuous operation since before 1955; and

WHEREAS, the City Council finds that garden supply retail and nursery uses that have been legally and continuously operating since before 1955 in districts now zoned R-4, R-10, R-15, R-20 and R-30 should be allowed and encouraged to make additions and improvements necessary to support subordinate uses, such as coffee cart or landscaping services on site, to retain the viability of their property; and

WHEREAS, the City Council finds that nonconforming garden supply retail and nursery uses that have been continuously operating since before 1955 in districts now zoned R-4, R-10, R-15, R-20 and R-30 should be made conforming; and

WHEREAS, the City Council finds that it was necessary and appropriate pursuant to LUC 20.30J.125.B and 20.35.410.A to amend the LUC without prior review or recommendation by the Planning Commission; and

WHEREAS, after providing legally-required public notice, the City Council held a study session on January 28, 2019 and held a public hearing on March 18, 2019 on the proposed permanent zoning regulations; and

WHEREAS, the City Council finds that the proposed amendments meet the decision criteria of LUC 20.30J.135, are consistent with the Comprehensive Plan, enhance the public health, safety and welfare, and are not contrary to the best interests of the citizens and property owners of the City of Bellevue; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, Chapter 22.02 BCC; now, therefore:

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

Section 1. The section of Chart 20.10.440 of the LUC, "Uses in land use districts Wholesale and Retail – Residential Districts," that identifies and regulates "Garden Supplies, Small Trees, Shrubs, Flowers, Ground Cover, Horticultural Nurseries and Light Supplies and Tools" in residential districts is hereby amended to read as follows:

Chart 20.10.440 Uses in land use districts

Wholesale and Retail – Residential Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	R-1	R- 1.8	R- 2.5	R- 3.5	R-4	R-5	R- 7.5*	R-10	R-15	R-20	R-30
5969	Garden Supplies, Small Trees, Shrubs, Flowers, Ground Cover, Horticultural Nurseries and Light Supplies and Tools					(8)			(8)	(8)	(8)	(8)

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Section 2. Note (8) to Chart 20.10.440 LUC, "Notes: Uses in land use districts – Wholesale and Retail," is hereby amended to read as follows:

(8) Garden supply retail and nurseries are permitted uses in these residential districts when they have been operating continuously since prior to 1955.

Section 3. 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 4. 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 18th day of March 2019 and signed in authentication of its passage this 18th day of March, 2019.



John L. Cheliniak
John Chelminiak, Mayor

Approved as to form:
Kathryn L. Gerla, City Attorney

Matthew McFarland
Matthew McFarland, Assistant City Attorney

Attest:
Chamique Jacobs FOR
Kyle Stannert, City Clerk

Published: March 21, 2019