

**CITY COUNCIL AGENDA TOPIC**

Recommended Land Use Code Amendment revising the City's critical areas regulations to comply with the state-mandated update deadline of December 31, 2025.

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**EXECUTIVE SUMMARY****DIRECTION**

Staff will introduce the recommended Critical Areas Ordinance (CAO) Land Use Code Amendment (LUCA). Planning Commission Chair Khanloo will present the Planning Commission recommendation approving the LUCA without modification. The Resolution documenting this recommendation is included as Attachment A.

Following discussion, staff is seeking Council direction to prepare the LUCA for final action at a future meeting.

**RECOMMENDATION**

Consider directing staff to finalize the CAO LUCA Ordinance for final action at a future meeting.

**BACKGROUND/ANALYSIS****Background**

Every ten years, the Growth Management Act, Chapter 36.70A RCW (GMA), requires local jurisdictions to periodically review and evaluate their adopted critical areas policies and regulations using Best Available Science (BAS) to ensure protection of these areas. State law requires the designation and protection of five types of critical areas: wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

Bellevue last conducted a major update to its CAO in 2006. Since then, limited amendments to the CAO have been adopted to address specific regulatory needs. The proposed LUCA to update the City's CAO is necessary to maintain compliance with the GMA and meet the state-mandated deadline of December 31, 2025.

This update will incorporate BAS to align Land Use Code (LUC) regulations with current, science-based environmental best practices while balancing the need for enhanced environmental protections with the City's growth priorities outlined in the recently adopted Comprehensive Plan. Additionally, the update will help ensure the City remains eligible for grants, loans, and other state and federal funding for public projects and infrastructure.

***Best Available Science***

As noted in the initiation materials and the [management brief provided as a mid-point check-in](#) on this project, a review of the best available science (BAS) must be conducted as a part of this LUCA, as required by WAC 365-195-915. There are a number of criteria that determine by state law what

constitutes BAS. The City consultant developed an inventory of BAS to serve as the foundation of this LUCA, particularly in developing the gap analysis to determine what changes may need to be made to the existing code.

### Key Strike Draft Components of the Planning Commission Recommendation

Key components of the revised draft organized by critical area type are included in the table below, and the full recommended strike draft is included as Attachment B.

| Critical Area                          | Proposed Updates                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Streams</i>                         | <ul style="list-style-type: none"> <li>For non-degraded streams: <ul style="list-style-type: none"> <li>Type F stream buffers increase to 150 feet</li> <li>Differentiate perennial and seasonal Type N Streams</li> <li>Perennial Type N stream buffers increase to 75 feet</li> <li>Seasonal Type N stream buffers remain at 50 feet</li> <li>Remove Type O streams</li> </ul> </li> <li>Buffer reduction to 50 feet for degraded stream conditions: <ul style="list-style-type: none"> <li>Daylighting</li> <li>Armored or other degraded open channels</li> <li>Additional 25% reduction where net gain in ecological function can be demonstrated</li> </ul> </li> <li>Retain buffer averaging</li> <li>Measure buffers from ordinary high-water mark rather than top-of-bank</li> <li>Add habitat corridor requirement per Department of Ecology guidance</li> <li>Add vegetated buffer standards with fencing and signage</li> </ul> |
| <i>Wetlands</i>                        | <ul style="list-style-type: none"> <li>Update habitat scores and mitigation ratios consistent with Department of Ecology guidance</li> <li>Add vegetated buffer standards with fencing and signage</li> <li>Add regulatory exemption for small Category IV wetlands</li> <li>Retain buffer averaging</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <i>Geologic Hazard Areas</i>           | <ul style="list-style-type: none"> <li>Create exemption pathway for manmade slopes to not qualify as a critical area</li> <li>Simplify regulations to only require a buffer for geologic hazard areas rather than a buffer and setback</li> <li>Add buffer reduction pathway</li> <li>Add regulatory exemption for “minor work” as defined within the new code section</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <i>Critical Aquifer Recharge Areas</i> | <ul style="list-style-type: none"> <li>Add new section for CARAs to implement required regulations for wellhead protection areas</li> <li>Generally establishes area where added protections for groundwater are needed and restricting some uses such as gas stations</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <i>Reasonable Use Exception</i>        | <ul style="list-style-type: none"> <li>Increase allowance of units allowed as an RUE to reflect</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

|              |                                                                                                                                                                                                                                                                                                                                                                             |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>(RUE)</i> | <ul style="list-style-type: none"> <li>increased minimum residential densities from middle housing</li> <li>Streamline and simplify RUE limits of disturbance</li> </ul>                                                                                                                                                                                                    |
| <i>All</i>   | <ul style="list-style-type: none"> <li>Remove Density/Intensity calculation for development yield</li> <li>Remove lot coverage reduction calculation</li> <li>Standardize buffer structure setbacks (except for geologic hazard areas)</li> <li>Add innovative mitigation option for sites in a degraded condition to provide additional site design flexibility</li> </ul> |

### **Planning Commission Process**

The LUCA was reviewed by the Planning Commission during five study sessions ahead of the public hearing: a written-only briefing on April 23 and subsequent study sessions on May 28, June 25, July 23, and September 24. Following the last session, the Planning Commission directed staff to prepare the LUCA for public hearing on October 22.

During the LUCA review process and public hearing, the Planning Commission received a wide variety of comment ranging from providing entirely flexible regulations for certain buffers for streams to residents wanting the Planning Commission to adopt the significantly wider site potential tree height (SPTH) recommended buffers developed by the Department of Fish and Wildlife (WDFW). The Planning Commission recommendation ultimately landed on a balanced approach to comments received.

### **Project Timeline**

Work on this LUCA was initiated by Council on February 25. Early efforts on this project included the development of the BAS and a gap analysis, as well as a public engagement plan. Development of the LUCA began in the late spring through the summer along with ongoing engagement efforts, culminating in a draft release in late July and a subsequent virtual engagement session on the LUCA draft in August. After the August break, the Planning Commission continued and completed their review of this LUCA.

### **Public Engagement**

Staff followed a public engagement plan with three modes of outreach and engagement to ensure the public, stakeholders, other city staff, and any interested parties had access to up-to-date project information and the opportunity to provide comments. Additional detail on the LUCA process and public engagement is noted above as well as in the staff report provided with the notice of public hearing, included as Attachment C.

1. Process IV Requirements. Process consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment, including:
  - Notice of Application and Public Hearing for the proposed LUCA
  - Public hearing on the proposed LUCA
2. Community Outreach:
  - Three community engagement events, including one in person and two online
  - Tabling at Earthfest

- Fielding inquiries from the public and stakeholders via phone, e-mail, and in-person meetings
  - Bellevue Development Committee engagement
  - Direct engagement with stakeholders in the development community
  - Direct engagement with State agencies, tribes, and other nearby jurisdictions
  - Direct engagement with other Bellevue staff with related work, such as the Watershed Management Plan
3. Online Presence. City webpage to provide opportunities for the public to stay informed and to request additional information, including:
- Staff contact information
  - Information regarding the LUCA
  - Related documents
  - Timeline and link to public meeting materials

## POLICY & FISCAL IMPACTS

### Policy Impact

The recommended LUCA is consistent with the Comprehensive Plan and advances the overarching goal of achieving a balanced approach to accommodating housing production and managing growth while safeguarding environmental quality. The proposal is particularly aligned with the Climate and Environment Element of the Comprehensive Plan, which focuses on restoring, protecting, and enhancing Bellevue's built and natural environments to strengthen resiliency, promote sustainability, and address the impacts of climate change.

### Fiscal Impact

There is no fiscal impact associated with implementing this LUCA.

## OPTIONS

1. Direct staff to finalize the LUCA Ordinance for final action at a future meeting.
2. Provide alternative direction to staff.

## ATTACHMENTS

- A. Planning Commission Resolution
- B. CAO LUCA Strike-draft
- C. Staff Report

## AVAILABLE IN COUNCIL LIBRARY

N/A