

**CITY COUNCIL AGENDA TOPIC**

Public Hearing on proposed Land Use Code amendment to conform the City's regulations for Wireless Communication Facilities with federal law and address changes in Wireless Communication Facilities technology.

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**EXECUTIVE SUMMARY****DIRECTION**

Staff introduced the proposed Land Use Code amendment (LUCA) at the September 25 study session, following which Council entered a finding of necessity to process the LUCA, then directed staff to schedule a public hearing. Following tonight's public hearing, Council may adopt the proposed LUCA.

**RECOMMENDATION**

Hold the public hearing on the proposed Wireless Communications Facilities (WCF) LUCA. Following the hearing, Council may adopt the WCF LUCA.

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

This proposed LUCA is the third phase in a series of amendments to address changes in WCF technology and regulation. The first two phases, adopted in 2019, amended the Bellevue City Code (BCC) to address small wireless facilities (SWFs) in the public right-of-way (ROW). Conversely, the LUC regulations for WCFs were originally adopted in 2003, and no updates had been made in the decades since. In the interim, demand for cellular capacity increased significantly, and new regulations issued by the Federal Communications Commission (FCC) limited local authority on certain matters. Of note, the FCC issued directives that:

- Established time limits ("shot clocks") for local jurisdictions to review applications for new WCFs;
- Established a process called Eligible Facilities Requests (EFRs) through which a City must approve proposed modifications to WCFs that do not result in substantial changes; and
- Defined and prohibited instances when local regulation constituted an effective prohibition of WCF deployment.

The LUCA was first introduced to the City Council at the September 25 study session, along with a set of amendments to the BCC addressing SWFs in the public ROW. During the meeting, Council heard oral comments from stakeholders in support of the proposed amendments, and Council also noted in their discussion the importance of close collaboration with stakeholders in drafting successful and forward-compatible code language. Following their deliberation, Council directed staff to bring the

LUCA back for a public hearing.

Notice of this public hearing included publication of a staff report, which is included with this memorandum as Attachment A. The staff report describes the background, process, and components of the LUCA and how the proposed LUCA meets the decision criteria in LUC 20.30J.135 for amendments of the text of the LUC, and included the LUCA strike-draft, which is included with this memorandum as Attachment B.

### **Proposed LUCA**

The proposed LUCA is intended to update the code based on changes in technology and federal regulation, while also maintaining allowable requirements for deployment and design of WCFs that already exist in the code. These updates include:

- Revising permitting procedures for consistency with FCC shot clocks;
- Codifying procedures for EFRs and temporary WCFs;
- Allowing for exceptions to requirements which would otherwise render the WCF technically infeasible; and
- Updating definitions for certain WCF elements for consistency with industry standards and federal directives.

Additionally, the LUCA will establish provisions to regulate SWFs on private property. A new definition of SWFs will be added into LUC 20.20.195, which will be consistent with federal definitions for SWFs. Otherwise, these facilities will be subject to the same locational and design standards as any other WCF. Because of their smaller size, however, SWFs will likely be able to meet these standards without issue.

### **Engagement**

Staff has implemented multiple modes of outreach for the proposed amendments to ensure the public, stakeholders, and interested parties have the opportunity to be informed and to provide comments.

1. Process IV LUCA 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 LUCA issued on September 28; and
  - Public hearing on the proposed LUCA on October 23.
2. Direct Engagement and Feedback. Information gathering and code-testing with key stakeholders, including carriers and contractors to inform the draft LUCA.
3. Online Presence. A City webpage to provide opportunities for the public to stay informed and to request additional information, including:
  - Information on LUCA progression and milestones;
  - Staff contact information; and
  - LUCA documents and background information.

## POLICY & FISCAL IMPACTS

### Policy Impact

The proposed LUCA will align the City's WCF regulations with recent changes to wireless technology and applicable federal law. This will facilitate a predictable and streamlined review process for WCFs both in the public right-of-way and on real property. Additionally, the amendments serve to enable needed wireless coverage throughout the City, while maintaining standards that mitigate their aesthetic impacts.

These actions are also consistent with the following Comprehensive Plan policies:

- **Comprehensive Plan Policy UT-79.** Require the placement and design of wireless communication facilities in a manner that minimizes the adverse impacts on adjacent land uses.
- **Comprehensive Plan Policy UT-83.** Recognize that wireless communication facilities will be deployed in all areas of the city to provide coverage and capacity consistent with the changing use of wireless technology. Minimize the attendant impacts, particularly the visual impacts of, wireless communication facility towers, lattice towers and structures by utilizing criteria for the design and location of such facilities that appropriately balance the need for wireless services and the impacts of the necessary facilities.
- **Comprehensive Plan Policy UT-89.** Encourage the co-location of telecommunications equipment on city sites that reduce total impact of antennas on the community.
- **Comprehensive Plan Policy UT-90.** Periodically review and update wireless facility regulations to respond to changes in technology and community conditions to balance impacts with the need for service.

### Fiscal Impact

There is no fiscal impact associated with adoption of the proposed LUCA.

## OPTIONS

1. Hold the public hearing on the proposed WCF LUCA. Following the hearing, Council may adopt the WCF LUCA.
2. Provide alternative direction to staff.

## ATTACHMENTS

- A. LUCA Staff Report
- B. Proposed LUCA Strike-Draft  
Proposed Ordinance No. 6759

## AVAILABLE IN COUNCIL LIBRARY

N/A