



## STAFF REPORT

DATE: October 8, 2025

TO: Chair Khanloo and Members of the Planning Commission

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*Development Services Department*

**SUBJECT:** Proposed Land Use Code Amendment (LUCA) to revise the Critical Areas Ordinance (CAO) and associated Land Use Code (LUC) to comply with the state's update requirements. File No. 25-116714 AD.

### I. 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.

### II. PROPOSED LUCA

The proposed LUCA contains multiple components related to the five different critical areas subject to regulation. Some of the proposed updates are required to align with BAS, while others were included in the scope initiated by City Council to streamline and simplify the code where possible, while also ensuring alignment with the adopted Comprehensive Plan, and including input collected during public engagement. Key components of the proposed LUCA are included in the table below.

| Critical Area   | Proposed Updates                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Streams</i>  | <p>For non-degraded streams:</p> <ul style="list-style-type: none"><li>• Type F stream buffers increase to 150</li><li>• Separate 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><li>• Buffer reduction to 50 feet for degraded stream conditions:</li><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><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></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

|                                        |                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                        | <ul style="list-style-type: none"> <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 address needed regulations 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 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 restriction on lot coverage 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>  |

Some revisions to the review and permitting process are included in the proposed LUCA for better ease of use and clarity.

### **III. REVIEW PROCESS**

The City Council initiated this LUCA on February 25, 2025, directing staff to begin work on the CAO update.

At the Planning Commission's April 23, 2025 study session, staff introduced the project and gave an overview on critical areas, the process and requirements for updating the CAO, and the proposed scope and engagement plan.

Four additional study sessions were held to review various details of the code update, with staff collection feedback while working through the development of the BAS, gap analysis, and draft code. Planning Commission directed staff to hold a public hearing at the September 24 meeting, which is scheduled for October 22. Following the public hearing, the Planning Commission will be asked to make a recommendation for transmittal to the City Council for final action. The state deadline to adopt regulations is December 31, 2025.

### **IV. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The application for SEPA review was noticed together with the notice of application on July 24, 2025. The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal for the CAO LUCA. A Determination of Non-significance (DNS) was issued with the notice of public hearing on October 8, 2025, pursuant to the threshold determination requirements in WAC 197-11-310.

### **V. PUBLIC ENGAGEMENT**

#### Required Public Notice

The notice required for City Council Legislative Actions (Process IV) is governed by LUC 20.35.415 through 20.35.450. Public notice of the LUCA application was provided on July 24, 2025 and notice of the public hearing was published in the Weekly Permit Bulletin on October 8, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times.

#### Department of Commerce Notice

Pursuant to the Washington State Growth Management Act, proposed amendments to the LUC must be sent to the Washington State Department of Commerce to review and comment on the proposed amendments to the LUC. The required notice to the Department of Commerce and the initial draft LUCA were transmitted on October 7, 2025

and a copy of both documents is available for review in the code amendment file. No comments have been received by Commerce as of the date of this report.

### Public Comments

Per the public engagement plan provided to the Planning Commission at the May 28, 2025 study session, staff held a series of engagement events over summer 2025. One in-person session was held in June with a subsequent virtual session in July. Staff also had a presence at the City's Earthfest event. After the publishing of the draft code, staff held another virtual event to provide information on the initial draft, to answer questions, and to collect feedback.

Staff also collected public comment received by writing and will be including comments and responses as part of a public comment matrix with the public hearing materials.

## **VI. DECISION CRITERIA**

LUC 20.30J.135 establishes the decision criteria for an application to amend the text of the Land Use Code. Those criteria, and the relationship of these proposed amendments to them, are discussed below:

### **A. The amendment is consistent with the Comprehensive Plan; and**

**Finding:** The proposed LUCA is consistent with the Comprehensive Plan. The City of Bellevue has adopted the following comprehensive plan policies that require protection of critical areas as well as balancing these protections with the need to encourage the development of housing:

- **Policy CL-52:** Use geotechnical information and an analysis of critical areas functions and values to evaluate the geologic and environmental risks of potential development on geologically hazardous areas and implement appropriate controls on development.
- **Policy CL-54:** Use specific criteria in decisions to exempt specific small, isolated or artificially created steep slopes from critical areas designation.
- **Policy CL-87:** Require and provide incentives for the opening of piped stream segments during redevelopment where scientific analysis demonstrates that substantial habitat function can be restored, and where the cost of restoration is not disproportionate to the community and environmental benefit.

- **Policy CL-88:** Preserve and enhance native vegetation in Critical Area buffers and integrate suitable native plants in urban landscape development, considering species' climate resilience.
- **Policy CL-100:** Use prescriptive development regulations for critical areas based on the type of critical area and the functions to be protected; and as an alternative to the prescriptive regulations, allow for a site specific or programmatic critical areas study to provide a science-based approach to development that will achieve an equal or better result for the critical area functions.
- **Policy CL-106:** Facilitate the transfer of development potential away from critical areas and the clustering of development on the least sensitive portion of a site.

B. The amendment enhances the public health, safety or welfare; and

**Finding:** This LUCA will enhance public health, safety, and welfare by ensuring that crucial natural resources and riparian habitat is protected and in some cases enhanced, particularly where the code is written to incentivize ecological restoration with development.

C. The amendment is not contrary to the best interests of the citizens and property owners of the City of Bellevue.

**Finding:** The proposed LUCA is not contrary to the best interests of the citizens and property owners of the City of Bellevue. The LUCA serves the best interests of Bellevue's citizens and property owners by balancing the need to protect critical areas with the need to build housing in the city, while also ensuring that critical areas such as geologic hazard areas are managed to ensure public safety.

## VII. RECOMMENDATION

Staff has concluded that the CAO LUCA, as drafted in Attachments A, B, and C is consistent with the decision criteria required for adoption of amendments to the text of the LUC, pursuant to Part 20.30J LUC. Staff recommends that the Planning Commission recommend adoption of the proposed LUCA.

### ATTACHMENT:

- A. CAO LUCA Strike-Draft - Citywide
- B. CAO LUCA Strike-Draft – CARAs
- C. CAO LUCA Strike-Draft – Part 20.25H