

## CITY COUNCIL REGULAR SESSION

Public Hearing and action on Ordinance amending chapters 20.20 and 20.50 of the City of Bellevue Land Use Code (LUC) to conform family child care home provisions to allow more than 12 children as authorized by the Washington State Department of Children, Youth, and Families (DCYF) and pursuant to RCW 43.216.692 and WAC 110-300-0358; providing for severability; and establishing an effective date.

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## EXECUTIVE SUMMARY

At the September 6 Study Session, Council directed staff to prepare and schedule this Land Use Code Amendment (LUCA) Ordinance for a public hearing. This LUCA will conform provisions related to the maximum number of children and correct outdated references for Family Child Care Homes. This Ordinance is in response to recent state legislation, Senate Bill (SB) 5237, which amended Chapter 43.216 RCW and put in place rules in WAC 110-300-0358 for the Department of Children, Youth, and Families to provide a waiver program for Family Child Care Homes to exceed 12 children under their care.

## RECOMMENDATION

Hold the public hearing and, following the public hearing, move to adopt Ordinance No. 6677

## BACKGROUND/ANALYSIS

### Background

On September 6, Council was introduced to the proposed LUCA, detailing the existing regulations for Family Child Care Homes and the recent amendments to Chapter 43.216 RCW (Department of Children, Youth, and Families (“DCYF”)) and Chapter 110-300 WAC (Foundational Quality Standards for Early Learning Programs). In 2021, the Washington State Legislature passed Senate Bill (SB) 5237, which included various provisions related to child care intended to expand early learning opportunities and child care capacity in the state. This bill amended Chapter 43.216 RCW to direct DCYF to provide a waiver program for Family Child Care Homes to exceed 12 children under their care. In January 2022, this waiver program was promulgated in WAC 110-300-0358.

The LUCA will conform the LUC with state law by allowing for Family Child Care Homes in Bellevue to exceed the previous 12-child limit if DCYF grants a waiver, pursuant to Chapter 43.216 RCW and WAC 110-300-0358. Additionally, for consistency with DCYF licensing authority, the LUCA proposes to remove a limit on providing care for no more than 24 hours. Finally, outdated references to state agencies and laws are proposed to be updated as needed under LUC 20.20.170 (Child care service use). The staff report describing the background, process, LUCA components, and analysis of the proposed amendments and their relationship to the LUCA decision criteria in LUC 20.30J.135 is

provided as Attachment A. A final strike-draft showing the proposed amendments is provided as Attachment B.

During the September 6 meeting, Council asked about the need to conform the LUC requirements for Family Child Care Homes to those in state statutes regulations and the City's role in the criteria and approval of the waivers. The City is required to make these updates in response to the state-level amendments. The Growth Management Act (GMA), specifically RCW 36.70A.450, restricts local jurisdictions from imposing requirements on Family Child Care Homes that would not otherwise apply to dwellings within the same land use district. Correspondingly, the LUC provides for the state licensing agency (DCYF) to authorize child care use, including Family Child Care Homes. Therefore, this LUCA is intended to resolve the conflicts between state law (RCW 43.216 and WAC 110-300-0358) and the existing LUC 20.50.020 definition of Family Child Care Homes, which will allow for regulatory certainty and ease of administration.

The RCW confers DCYF the authority and directive to provide for a waiver program to increase allowable capacity for Family Child Care Homes. Subsequently, DCYF enacted rules for the waiver program, effective in January 2022, detailing how providers can apply for waivers and the criteria under which DCYF may determine whether to grant, continue or rescind these waivers. Criteria for consideration include: (1) the provider's years of experience and licensing history; (2) the available square footage in the provider's home; (3) staffing qualifications; (4) staff-to-children ratios and age group limits; (5) intended use of licensed space; (6) emergency preparedness plan; (7) working toilets; (8) the number and variety of early learning materials; and (9) the requested waiver number. DCYF is the sole administrator and approval body for the application process and review of the waiver program. However, as provided by the GMA (RCW 36.70A.450), the City retains its authority to administer and enforce its codes, including requiring the facility to comply with all building, fire, safety, health code, and business licensing requirements.

Because these DCYF rules became effective in January 2022, staff recommended Council enter a finding of necessity to review the LUCA and hold the public hearing, which would allow the City to timely process the LUCA and provide consistency between the LUC and state law. Following discussion on September 6, Council entered the finding and directed staff to schedule the public hearing.

### **Public Engagement**

Consistent with Chapter 20.35 LUC procedural requirements, a combined Notice of Application and Notice of Public Hearing was published in the Weekly Permit Bulletin on September 8, along with the attached Staff Report. A separate Notice of Public Hearing was published in the Seattle Times on September 12. Additionally, a [City webpage](#) was published to provide public information on the LUCA background, components, schedule, and methods for providing comment.

### **Review Process**

The below timeline details the review process for this LUCA:

- Introduction and Study Session – September 6
- Public Hearing and Final Action – September 26

## POLICY & FISCAL IMPACTS

### Policy Impact

In response to state amendments to RCW 43.216.692, the proposed LUCA conforms provisions related to the maximum number of children and corrects outdated references for Family Child Care Homes in the LUC to achieve consistency with DCYF licensing and approval of the allowable capacity for Family Child Care Homes in Bellevue.

The proposed LUCA is also supported by the following Comprehensive Plan policy:

- **Comprehensive Plan Policy HS-16.** Provide leadership and work in partnership with community agencies to encourage and promote the development and expansion of the supply of affordable, accessible, and quality child care which meets the diverse needs of the community in all areas of the city.

### Fiscal Impact

There is no fiscal impact associated with implementing these changes.

## OPTIONS

1. Hold the Public Hearing and, following the Public Hearing, move to adopt the Ordinance amending chapters 20.20 and 20.50 of the City of Bellevue Land Use Code (LUC) to conform family child care home provisions to allow more than 12 children as authorized by the Washington State Department of Children, Youth, and Families (DCYF) and pursuant to RCW 43.216.692 and WAC 110-300-0358; providing for severability; and establishing an effective date.
2. Hold the Public Hearing and, following the Public Hearing, do not adopt the Ordinance and provide alternative direction to staff.

## ATTACHMENTS

- A. LUCA Staff Report
- B. LUCA Final Strike-Draft  
Proposed Ordinance No. 6677

## AVAILABLE IN COUNCIL LIBRARY

N/A