

**LUC 20.30K.120 Purpose**

An interpretation of the provisions of the Land Use Code clarifies conflicting or ambiguous wording, or the scope or intent of the provisions of the Code. A request for a Code interpretation must relate to a specific site, ~~land use district, use or~~ to a specific land use permit application, or to interrelated land use permit applications for a single project, within the City ~~of Bellevue~~. An interpretation of the provisions of the Land Use Code may not be used to amend ~~that the Land Use~~ Code.

**LUC 20.30K.140 Factors for consideration**

In making an interpretation of the provisions of the Land Use Code, the Director shall consider all of the following:

- A. The applicable provisions of the Land Use Code, including their purpose and context; ~~and~~
- B. The impact of the interpretation on other provisions of the Land Use Code; ~~and~~
- C. The implications of the interpretation for development within the City as a whole; and
- D. The applicable provisions of the Comprehensive Plan and other relevant codes and policies.

**LUC 20.35.015 Framework for decisions**

A. Land use decisions, other than decisions on rulemaking, emergency rulemaking, or on applications for Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and variances to the Shoreline Master Program, are classified into five processes based on who makes the decision, the amount of discretion exercised by the decisionmaker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. Refer to LUC 20.25E.100 through 20.25E.200 for procedures, permits, and decisions related to Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and variances to the Shoreline Master Program. Refer to LUC 20.40.100 for procedures relating to rulemaking and emergency rulemaking.

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C. Process II decisions are administrative land use decisions made by the Director. Threshold determinations under the State Environmental Policy Act (SEPA) made by the Environmental Coordinator and Sign Code variances are also Process II decisions. (See the Environmental Procedures Code, BCC 22.02.034, and Sign Code, BCC 22B.10.180.) The following types of applications require a Process II decision:

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5. Interpretation of the Land Use Code under Part 20.30K LUC;

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### **LUC 20.35.020 Pre-application conferences**

A pre-application conference is required prior to submitting an application for Conditional Use Permits, preliminary subdivision approvals, short plats, Critical Areas Land Use Permits, planned unit developments, Master Development Plans, Design and Mitigation Permits required pursuant to Part 20.25M LUC, Light Rail Overlay District, and design review projects, unless waived by the Director.

### **LUC 20.35.030 Applications**

A. Who May Apply.

Applications for the various types of land use decisions may be made by the following parties:

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8. Any person may request an interpretation of the Land Use Code under Part 20.30K LUC. ~~In addition, the Director may issue interpretations of the Land Use Code as needed.~~

B. Submittal Requirements.

For each type of land use permit application, tThe Director shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. The Director may waive specific submittal requirements determined to be unnecessary for review of an application. Submittal requirements shall be posted on the City's official website. The Director may require additional material such as maps, studies, or models when the Director determines such material is needed to adequately assess the proposed project.

#### C. Intake of a Land Use Permit Application

1. When a land use permit application is submitted to the City, the Director shall first process the application for intake. Intake shall be a simple, ministerial process to determine whether the application contains information purporting to address each applicable submittal requirement. During intake, no substantive review of the application shall occur and the City shall make no effort to evaluate the substantive adequacy of the information contained in the application to actually meet any applicable submittal requirement.

- a. If the Director determines that the application contains information purporting to address each applicable submittal requirement, including required formatting, then intake shall conclude and the Director shall accept the land use permit application for completeness review.
- b. If the Director determines that the application does not contain information purporting to address each submittal requirement, including required formatting, then intake shall continue and the Director shall return the application to the applicant with a written determination describing what additional information appears to be necessary for intake of the application.

2. For the purposes of RCW 36.70B.070, the land use permit application shall be deemed to have been “received” by the City on the business day that intake of a land use permit application concludes.

DC. Notice of Complete Application.

1. Within 28 calendar days of the day that intake of a land use permit application concludes, the Director shall review the application for completeness using the procedure outlined below and shall provide a written determination to the applicant that either the application is complete or that the application is incomplete and what is necessary to make the application complete:

- a. A land use application is complete for purposes of this subsection when it meets the submittal requirements established by the Director even if additional information or studies may be required or project modifications may be undertaken subsequently.
- b. If the Director determines that the application is complete, the Director shall provide to the applicant a written determination that the application is complete.
- c. If the Director determines that the application is not complete, then the Director shall provide to the applicant a written determination that the application is incomplete and what is necessary to make the application complete.

2. If no written determination stating whether the application is complete or incomplete is provided to the applicant within 28 calendar days after receipt of the land use permit application, then the application shall automatically be deemed to be complete and shall be accepted for review.

3. If additional information is needed to make the application complete, within 14 calendar days after receiving, from the applicant, additional information that was identified by the Director in their written determination as being needed, the Director shall provide a written determination to the applicant whether the application is complete or what additional information is necessary to make the application complete.

4. The Director's determination that an application is complete shall not preclude the Director from requesting, in writing, additional information or studies either at the time of the determination of completeness or subsequently during review of the application if new information is required to complete review of the application or substantial changes in the application are proposed. Following, or in conjunction with, the Director's determination that an application is complete, any written notice from the City to the applicant that additional information is required to further process the application must include the following:

- a. Notice that nonresponsiveness for 60 calendar days may result in 30 calendar days being added to the time period for review of the application in accordance with subsection E of this section; and
- b. Notice that nonresponsiveness for 60 calendar days may result in cancellation of the application pursuant to LUC 20.40.510.

~~1. Within 28 days after receiving a land use permit application, the Director shall mail, fax, or otherwise provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.~~

~~2. If the Director does not provide a written determination within the 28 days, the application shall be deemed complete as of the end of the 28th day.~~

~~3. If additional information is needed to make the application complete, within 14 days after an applicant has submitted the information identified by the Director as being needed, the Director shall notify the applicant whether the application is complete or what additional information is necessary.~~

~~4. A land use application is complete for purposes of this section when it meets the submittal requirements established by the Director and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Director from requesting additional information or studies either at the time of the notice of completeness or subsequently, if new information is required to complete review of the application or substantial changes in the permit application are proposed.~~

ED. Project Time Periods ~~lines~~ for Review of Land Use Permit Applications.

1. The City should issue a final decision for each type of land use permit application subject to Chapter 36.70B within the following time periods:

- a. Within 65 days for applications that do not require public notice under RCW 36.70B.110.

b. Within 100 days for applications that require public notice under RCW 36.70B.110, but excluding the following permit types:

- i. Critical Area Land Use Permits;
- ii. Design Reviews;
- iii. Master Development Plans;
- iv. Shoreline Substantial Development Permits.

c. Within 170 days for applications that require public notice under RCW 36.70B.110 and a public hearing and for the following permit types:

- i. Critical Area Land Use Permits;
- ii. Design Reviews;
- iii. Master Development Plans;
- iv. Shoreline Substantial Development Permits.

2. For each land use permit application, the applicable time period identified in subsection E.1 shall be calculated as follows:

- a. The time period shall begin on the day that application is determined to be procedurally complete.
- b. The time period shall end on the day a final decision is issued on that application, the application is withdrawn, or the application is cancelled for inactivity, whichever occurs first.
- c. The time period shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required under subsection D of this section.
- d. An applicant may request, in writing, that the City temporarily suspend review of the applicant's application. If the Director accepts the request, the review of the application shall be suspended until the time that the applicant notifies the City, in writing, that they would like to resume review of the application. If review of the application is suspended for more than 60 calendar days, the Director may add an additional 30 calendar days to the applicable time period for review of the application. The Director may set conditions for the temporary suspension of a permit application.
- e. If an applicant is not responsive for more than 60 calendar days after the City has notified the applicant, in writing, that additional information is required to further

process the application, then the Director may add an additional 30 calendar days to the applicable time period for review of the application.

- f. The number of days within the time period shall be calculated by counting every calendar day and excluding the following time periods:
  - i. Any period between the day that the city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;
  - ii. Any period after the applicant informs the city, in writing, that they would like to temporarily suspend review of the land use permit application until the time that the applicant notifies the City, in writing, that they would like to resume the application; and
  - iii. Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.

3. Exceptions. The following are not subject to any time period specified in Subsection E of this section:

- a. Process IV decisions.

~~Subject to Chapter 36.70B RCW, the Director shall establish reasonable and predictable timelines for review of land use applications and shall provide target dates for decisions on such applications. The project timelines established by the Director may be modified for a proposal including a critical areas report as set forth in LUC 20.25H.270.~~

**LUC 20.35.210 Notice of application**

A. Notice of application for Process II land use decisions shall be provided within 14 days of issuance of a notice of completeness as follows:

**Table 20.35.210.A**

<b>Application Type</b>	<b>Publish</b>	<b>Mail</b>	<b>Sign</b>
Administrative Amendment	X	X	X
Administrative Conditional Use	X	X	X
Design Review	X	X	X
Home Occupation Permit	X	X	
Interpretation of Land Use Code <u>Under Part 20.30K LUC</u>	X		
Preliminary Short Plat	X	X	X

Variance	X	X	
Critical Areas Land Use Permit	X	X	
SEPA review (When Not Consolidated with Another Permit)	X		

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**LUC 20.40.100 Administration of the Land Use Code**

- A. Administration. The Director shall be responsible for administration of this title.
- B. Rulemaking Authority. The Director is authorized to engage in rulemaking or emergency rulemaking in the following circumstances:
  - 1. Where a provision of this title or of the Bellevue City Code explicitly authorizes or requires the Director to engage in rulemaking.
  - 2. Where a provision of this title or of the Bellevue City Code authorizes or requires the Director to take some action, but does not explicitly state that such action must be taken through rulemaking, the Director may, but is not required to, engage in rulemaking to take said action.
  - 3. Where a provision of this title, Chapter 22B.10 BCC, or Chapter 23.76 BCC contains conflicting or ambiguous wording, or the scope or intent of the provision is unclear, the Director may adopt an interpretive rule of general applicability to resolve the conflict, clarify the ambiguity, or clarify the scope or intent of the provision. Interpretations relating to a specific site, to a specific land use permit application, or to interrelated land use permit applications for a single project, within the City must be applied for and processed in accordance with Part 20.30K LUC. When engaging in rulemaking or emergency rulemaking relating to an interpretive rule of general applicability under this subsection, the Director shall consider the factors outlined in LUC 20.30K.140.
- C. Rulemaking Procedure. Where authorized to engage in rulemaking, the Director may adopt, amend, or repeal a rule using the following procedure:
  - 1. The Director shall comply with the requirements of the Bellevue Environmental Procedures Code, Ch. 22.02 BCC.
  - 2. The Director shall provide notice of the proposed rulemaking at least 21 days prior to taking final action on the proposed rulemaking. The notice shall comply with the following requirements:
    - a. Notice must be provided through at least one of the following means:

- i. At least one form of publication, as defined in LUC 20.35.035.
      - ii. At least one form of mailing, as defined in LUC 20.35.035, to persons owning real property that will be affected by the rulemaking.
      - iii. Email notice to persons who have signed up for alerts concerning rulemaking.
    - b. Notice must include all of the following:
      - i. A brief description of the proposed rulemaking;
      - ii. A link through which the proposed rulemaking may be viewed electronically in full;
      - iii. A procedure through which written public comment may be submitted to the Director concerning the proposed rulemaking; and
      - iv. The first and last date and time by which written public comment may be submitted to the Director concerning the proposed rulemaking.
  3. Following the 21-day notice period, the Director may adopt, amend, or repeal the rule as initially proposed or, in the Director's discretion, as may be modified to respond to public comment, new information, or changed circumstances.
    - a. The Director shall publish notice of their final decision on the proposed rulemaking in a newspaper of general circulation within the City.
    - b. The effective date of the rulemaking shall be on the date that notice of the Director's final decision is published.
  4. The rulemaking procedure outlined in this subsection C sets out the minimum requirements that must be followed when engaging in rulemaking. The Director may, but is not required, to incorporate additional forms of public outreach or public engagement.
- D. Emergency Rulemaking Procedure. When both an emergency exists and the Director is authorized to engage in emergency rulemaking, the Director may adopt, amend, or repeal a rule using the following procedure:



## Attachment B

1. For the purposes of this subsection D, “emergency” shall mean the existence of one or more of the following circumstances:
  - a. An imminent threat to public health or safety;
  - b. An imminent danger to public or private property; or
  - c. An imminent threat of serious environmental degradation.
2. The effective date of the emergency rulemaking shall be the date on which the Director issues their final decision on the emergency rulemaking.
3. Within 14 days following the effective date of the emergency rulemaking, the Director shall provide notice of the emergency rulemaking as follows:
  - a. Notice must be provided through at least one of the following means:
    - i. At least one form of publication, as defined in LUC 20.35.035.
    - ii. At least one form of mailing, as defined in LUC 20.35.035, to persons owning real property that will be affected by the adoption, amendment, or repeal of the rule.
    - iii. Email notice to persons who have signed up for alerts concerning proposed rulemaking activity.
    - iv. Physical posting of the notice at the main entrances to City Hall.
    - v. If the Director determines that none of the foregoing means of providing notice is feasible given the nature of the emergency, the Director may choose some other means of providing notice that is reasonable given the nature of the emergency.
  - b. Notice must include all of the following:
    - i. A brief description of the emergency rulemaking;
    - ii. If internet access is available, a link through which the emergency rulemaking may be viewed electronically in full;
    - iii. If internet access is not available, the address of a location at which the emergency rulemaking will be physically posted in full; and

- iv. The date and time on which the emergency rulemaking will expire.
- 4. Emergency rulemaking shall not remain in effect for longer than 90 days. Upon the expiration of emergency rulemaking under the subsection, the following shall occur as may be applicable:
  - a. If the emergency rulemaking resulted in the adoption of a rule, that rule will automatically be repealed and no longer be in force or effect.
  - b. If the emergency rulemaking resulted in the amendment of a rule, the rule will automatically revert to how it read prior to amendment and be reinstated in full force and effect as it existed prior to amendment.
  - d. If the emergency rulemaking resulted in the repeal of a rule, the rule that was repealed will automatically be reinstated in full force and effect as it existed prior to repeal.
- 5. The emergency rulemaking procedure outlined in this subsection D sets out the minimum requirements that must be followed when engaging in emergency rulemaking. The Director may, but is not required, to incorporate additional forms of public outreach or public engagement.
- E. Vested Rights and Project-Specific Interpretations. A rule or emergency rule resulting from rulemaking or emergency rulemaking shall be considered to be part of the land use code for the purposes of both LUC 20.40.500 and Part 20.30K LUC.
- F. Appeals. The Director's final decision on rulemaking or emergency rulemaking is the final decision of the City and there is no opportunity for administrative appeal of the Director's decision.
  - 1. The Director's decision on rulemaking or emergency rulemaking may be appealed to the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290.
  - 2. Where an interpretation issued under Part 20.30K LUC interprets a rule resulting from rulemaking or emergency rulemaking, such interpretation may be appealed pursuant to the requirements set forth in Chapter 36.70C RCW.

~~The Director shall be responsible for administration of this title. The Director may adopt rules for the implementation of this title; provided, the Director shall first hold a public hearing. The Director shall publish notice of intent to adopt any rule, and the date, time and place of the public hearing thereon in a newspaper of general circulation in the City at least 14 days prior to the hearing date. Any person may submit written comment to the Director in response to such notice,~~

~~and any person may speak at the public hearing. Following the public hearing, the Director shall adopt, adopt with modifications, or reject the proposed rule.~~

#### **LUC 20.40.510 Cancellation of land use applications**

~~The Director may cancel Applications applications for land use permits and or approvals may be canceled for inactivity if the applicant is nonresponsiveness if an applicant fails to respond to the Department's written request for revisions, corrections, or additional information within for 60 calendar days of following the a request by the Director for revisions, corrections, or additional information.~~ The Director may extend the response period beyond 60 calendar days if within that time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections, or other information needed by the Department.

#### **LUC 20.50.036 N definitions**

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**Nonconforming Use.** 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.

**Nonresponsiveness.** The occurrence of either or both of the following in relation to the review of a land use permit application:

- a. That an applicant is not making demonstrable progress on providing additional requested information to the City or making revisions or corrections requested by the City; or
- b. That there is no ongoing communication from the applicant to the City on the applicant's ability or willingness to provide the additional information or make revisions or corrections requested by the City.

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#### **LUC 20.50.044 R Definitions**

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**Rooming House.** A non-owner-occupied dwelling in which rooms are rented on an individual room basis. (Refer to LUC 20.20.700 for general development requirements applicable to rooming house uses.)

**Rulemaking:** The adoption, amendment, or repeal of a rule by the Director acting under the authority granted to the Director by LUC 20.40.100.B and using the procedure outlined in LUC 20.40.100.C.

**Rulemaking, Emergency:** The adoption, amendment, or repeal of an emergency rule by the Director acting under the authority granted to the Director by LUC 20.40.100 and using the emergency procedure outlined in LUC 20.40.100.D.

**LUC 20.50.046 S Definitions**

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**Site.** A lot or group of lots associated with a certain application, building or buildings or other development.

**Site Plan Review.** For the purposes of RCW 36.70B.140, “site plan review” does not occur simply because a site plan is required as a submittal requirement for a specific permit application.

**Solid Planting.** A planting of evergreen trees and shrubs which will prevent a through and unobscured penetration of sight or light.

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