

CITY COUNCIL STUDY SESSION

Recommended Land Use Code Amendment (LUCA) to establish regulations for Permanent Supportive Housing, Transitional Housing, Emergency Housing, and Emergency Shelter in the Land Use Code (LUC).

Liz Stead, Interim Co-Director, 452-2725
Trisna Tanus, Consulting Attorney, 452-2970
Nick Whipple, Planning Manager, 452-4578
Caleb Miller, Senior Planner, 452-4574
Development Services

DIRECTION NEEDED FROM COUNCIL

DIRECTION

On May 23, Council discussed the Planning Commission recommendation for this LUCA to establish regulations for Permanent Supportive Housing, Transitional Housing, Emergency Housing, and Emergency Shelter in the LUC, and requested additional information on several topics. Staff is bringing forward responses on the requested topics. Following discussion, staff is seeking Council direction to prepare the LUCA Ordinance for final action at a future meeting.

RECOMMENDATION

Direct staff to prepare the Permanent Supportive Housing, Transitional Housing, Emergency Housing, and Emergency Shelter LUCA Ordinance for final action at a future meeting.

BACKGROUND & ANALYSIS

Background

The Planning Commission recommended LUCA (Attachment A) will amend Chapters 20.10, 20.20, and 20.25 LUC to regulate permanent supportive housing, transitional housing, and non-transient emergency housing as Supportive Housing and allow this use in all Land Use Districts where residential uses or hotels and motels are allowed; and to regulate transient emergency housing and emergency shelter as Homeless Services Uses and allow these uses in all Land Use Districts where hotels and motels are allowed. A draft Ordinance is provided as Attachment B; a strike-draft of the LUCA is provided as Attachment C; a Staff Report detailing the LUCA components and conformance with the decision criteria in LUC 20.30J.135 is provided as Attachment D; and Councilmember Robertson's proposed amendments to the Planning Commission recommended LUCA are included as Attachment G.

The LUCA is in direct response to RCW 35A.21.430, which was amended in 2021 by House Bill 1220. If adopted, this LUCA Ordinance will repeal and replace the Interim Official Control (IOC) originally adopted by Ordinance No. 6585 (Attachment E) and extended through the adoption of Ordinance No. 6637 (Attachment F). The IOC was necessary to timely comply with the requirements of RCW 35A.21.430 prior to the effective date of HB 1220. The extended IOC is set to expire on July 12.

Planning Commission Recommended LUCA

The below table details the recommended LUC categories of the uses described in RCW 35A.21.430, the duration of stay, and proposed requirements:

<i>LUC Use</i>	<i>RCW Use</i>	<i>Duration of Stay</i>	<i>Approval Process</i>
<i>Supportive Housing</i>	Permanent Supportive Housing	Long-term or permanent	<ul style="list-style-type: none"> • Allowed by right in all Land Use Districts where residential and hotels and motels are allowed • Registration and public notice required for more intensive uses*
	Transitional Housing	Up to 2 years	
	Emergency Housing (Non-Transient)	30 days or longer	
<i>Homeless Services Uses</i>	Emergency Housing (Transient)	Less than 30 days	<ul style="list-style-type: none"> • Allowed in all Land Use Districts where hotels and motels are allowed • Conditional Use Permit required, plus supplemental submittal and procedural requirements
	Emergency Shelter	24 hours or less	
<p><i>*More intensive uses are those with more than 25% of the floor area dedicated to on-site supportive services. Registration includes submittal of a Safety and Security Plan, Code of Conduct, and Standard Operating Procedures.</i></p>			

In its presentation to Council on May 23, the Planning Commission explained that, in reviewing and recommending this LUCA, it was operating from the principle that Supportive Housing is housing for people in our community and should be treated in much the same way as residential uses. The Planning Commission found that this principle was also supported by the fact that there are already Supportive Housing sites in Bellevue, and the City’s enforcement data shows these sites do not generate higher complaints or findings of violations. Prior to adoption of the IOC in 2021, the City did not regulate Supportive Housing as a use distinct or separate from any other residential use.

During the underlying land use process and in connection with its review of the LUCA, the Planning Commission heard and received comments related to community concerns around safety, community engagement, and neighborhood compatibility. Because the state mandate does allow for reasonable regulations based on occupancy, spacing, and intensity of use, the Planning Commission ultimately recommended a balanced approach: treat Supportive Housing similarly to other residential uses in the City and impose a layer of requirements for Supportive Housing when, due to its mix of uses and emphasis on supportive services, the Supportive Housing would be more impactful to surrounding properties.

Consistent with this balanced approach, Transient Emergency Housing and Emergency Shelter are defined as Homeless Services Uses and are regulated under LUC 20.20.455. Homeless Services Uses have different impacts than Supportive Housing due to the short-term duration of stay that generates a

high volume of staff and client visits to the site throughout the day or night. The LUCA does not amend the requirements or procedures in LUC 20.20.455, and Homeless Services Uses will still require a Conditional Use Permit to be sited, along with supplemental submittal and procedural requirements such as a Good Neighbor Agreement Advisory Committee (GNAAC) process.

Responses to Questions and Suggestions from the May 23 Study Session

During discussion at the May 23 study session, Council requested additional information on several topics. A summary of these topics and corresponding responses is provided as follows.

1. *Council initiated this LUCA on August 2, 2021, after holding the required public hearing for the IOC Ordinance. In the same evening, but as a separate agenda item, Council considered a proposal to initiate a body of work related to permanent supportive housing, which included potential conditions in City funding agreements for supportive housing projects or potential regulations in the Land Use Code. How does the recommended LUCA relate to previous Council review and direction to evaluate best practices for permanent supportive housing?*

Response: At this August 2, 2021 meeting, Council reviewed whether to direct work to study best practices and potential regulations for permanent supportive housing related to requirements for interior maintenance, on-site supportive services, ratio of staff/caregivers to residents, a safety and security plan, and neighborhood outreach and relationship-building. After discussion, Council directed staff to evaluate best practices for permanent supportive housing only and specifically for (1) on-site supportive services and (2) neighborhood outreach.

On November 22, 2021, staff returned to Council, recommending that the City develop a community engagement guide to be distributed to supportive housing providers in Bellevue and, in particular, to potential funding partners. Staff also recommended that Council work with individual providers as part of the funding process to ensure the appropriate services are provided to the populations being served. Following discussion, Council concurred with the staff recommendation to advance these policy interests through partnerships and collaboration, rather than through funding conditions or code requirements.

Per this previous Council discussion and the Planning Commission's balanced approach, the recommended LUCA includes a registration and public notification process for more intensive projects with some basic submittal requirements; however, the LUCA does not include specific standards for interior maintenance, on-site services, minimum ratios, safety and security plan, or neighborhood outreach. This does not preclude providers from having their own operational standards and conducting neighborhood engagement activities. The City's engagement guide would be provided to providers to inform them of the best practices for these activities.

2. *Conditional Use Permit (CUP) requirement for transient Emergency Housing.*

Response: Commenters and Council have noted that a CUP could be a complex and lengthy permitting process that may affect the number of Emergency Housing units built in the City. Staff has noted that the impacts of Transient Emergency Housing and Emergency Shelter, with short-term durations of stay, would be similar to impacts associated with Homeless Services Uses. As such, the LUCA defined Transient Emergency Housing as one of those Homeless Services Uses, subject to CUP approval anywhere they are allowed in the City, consistent with current permitting regulations. Conversely, Non-

transient Emergency Housing would be a permitted use as Supportive Housing due to its longer-term durations of stay of more than 30 days and would not require CUP approval anywhere in the City.

3. Are Supportive Housing lease agreements for tenants similar to a Code of Conduct?

Some commenters at the May 23 meeting claimed that the Code of Conduct requirement is unnecessary, as the residents would already typically be asked to sign lease agreements prior to moving in. These leases or rental agreements, which are contracts between property owners or operators and tenants, reportedly contain the same information and requirements that would be in a Code of Conduct. As with any lessor/lessee relationship there are standards by which both parties to the rental agreement must operate, and those standards are often included in written leases or rental agreements. From a City regulatory standpoint, conduct and activity on private property is also regulated through the application of state and local ordinances to protect public health and safety.

4. Potential Modifications

Councilmembers identified potential modifications to several code provisions at the May 23 meeting. Some of these suggestions were taken from other local jurisdictions' regulations for these housing types, in particular Redmond and Kent. In addition, Councilmember Robertson's proposed amendments to the Planning Commission recommended LUCA are included as Attachment G, with Councilmember Robertson's proposed changes to the LUCA in red and the Planning Commission's recommendations in purple.

An overview of the potential modifications identified at the May 23 meeting includes the following:

- Minimum content requirements for Safety/Security Plans, Codes of Conduct, and Standard Operating Procedures;
- Police Department review of Safety/Security Plans;
- Increased notice radius of 1000 feet;
- Community engagement and public meeting requirements;
- Separation requirements between two Supportive Housing sites, ranging from 1/4 to 1/2 mile;
- Limits on the number of occupants or bedrooms in certain Land Use Districts; and
- Priority given to residents from or affiliated with the local area.

The Planning Commission reviewed several of these during its processing of the LUCA, including Police Department review of Safety/Security Plans, a community meeting requirement, a limitation of six bedrooms for Supportive Housing in single-family districts, and a separation requirement of 1/4 mile between sitings. After deliberation the Planning Commission did not recommend any further submittal requirements and put forward a recommendation that the Commission felt was consistent with a balanced approach of code regulations.

To assist in Council's consideration of potential modifications, the below table contained and compared staff recommendations, Planning Commission recommendations, and the above potential modifications to Supportive Housing requirements.

<i>Requirement</i>	<i>Staff Recommendation</i>	<i>PC Recommendation</i>	<i>Potential Modifications</i>
Supportive Housing Registration			
<i>Supplemental Submittal Materials</i>	N/A	<ul style="list-style-type: none"> • Safety/Security Plan • Code of Conduct • Standard Operating Procedures 	<ul style="list-style-type: none"> • Police review of Safety/Security Plan* • Minimum standards for all submittal materials
<i>Exemption to Registration Requirement</i>	<ul style="list-style-type: none"> • Less than 25% floor area for supportive services • No on-site services • Requiring confidentiality 	Same as staff recommendation	Add exemption for sites with six (6) or fewer residents
Noticing and Engagement			
<i>Mailed Notice Radius</i>	500 feet	500 feet	1000 feet
<i>Community Engagement Requirements</i>	N/A	N/A	<ul style="list-style-type: none"> • Community meeting prior to opening* • Engagement and communications plan, minimum standards
<i>Exemption to Notice Requirement</i>	<ul style="list-style-type: none"> • Less than 25% floor area for supportive services • No on-site services • Requiring confidentiality 	Same as staff recommendation	Add exemption for sites with six (6) or fewer residents
Use Requirements			
<i>Separation Requirement</i>	N/A	N/A	1/4 to 1/2 mile separation between Supportive Housing uses*
<i>Bedroom or Occupancy Limit</i>	N/A	N/A	<ul style="list-style-type: none"> • Limit of six (6) bedrooms per site in single family districts* • Limitation on number of occupants

<i>Residency Priority</i>	N/A	N/A	Priority given to residents from or affiliated with local area
<i>*These requirements were reviewed by the Planning Commission, but ultimately not recommended.</i>			

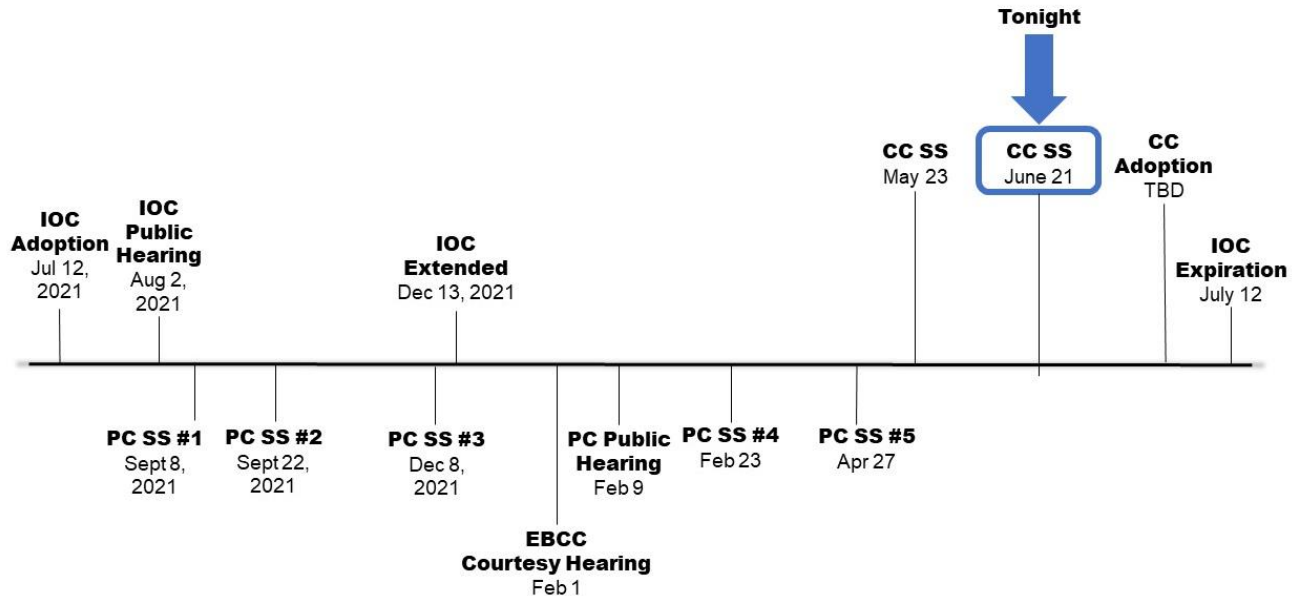
Public Engagement

Extensive internal collaboration and public involvement informed development of the recommended LUCA. Staff followed a public engagement plan with three modes of outreach and engagement to ensure the public, stakeholders, and interested parties had access to up-to-date project information and the opportunity to provide comments.

1. Process IV Requirements. Process consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment, including:
 - Notice of Application of the proposed LUCA on August 19, 2021
 - Notice of Public Hearing and staff report on January 20
 - Notice of EBCC Courtesy Hearing on January 20 and January 25
 - SEPA Determination of Non-Significance issued on January 20
 - EBCC Courtesy Hearing on February 1
 - Public hearing on the proposed LUCA on February 9
2. Direct Engagement and Feedback: Dialogue with supportive housing providers, representatives of the affordable housing development community, and City staff familiar with supportive housing.
3. Online Presence. City webpage to provide opportunities for the public to stay informed and to request additional information, including:
 - Staff contacts
 - Public information regarding LUCA progression

Review Process

The below timeline details the review process for the LUCA, including the adoption and extension of the IOC by Council and the EBCC:



POLICY & FISCAL IMPACTS

Policy Impact

The proposed LUCA responds to recent amendments to RCW 35A.21.430, which require cities to allow Permanent Supportive Housing and Transitional Housing in all Land Use Districts where residential or hotel/motel uses are allowed; and indoor emergency housing and indoor emergency shelter in all Land Use Districts where hotel and motel uses are allowed.

The Comprehensive Plan contains several policies that support the proposed LUCA, including:

- **Comprehensive Plan Policy LU-15:** Provide, through land use regulation, the potential for a broad range of housing choices to meet the changing needs of the community.
- **Comprehensive Plan Policy HO-38:** Support regional efforts to prevent homelessness through the provision of a range of affordable housing options, and to support efforts to move homeless persons and families to long-term financial independence.
- **Comprehensive Plan Policy HS-18:** Support an intentional local community response to homelessness with housing and supportive services provided to families, youth, and single adults.

Further, the 2021 King County Countywide Planning Policies (CPPs), ratified by the City Council through Resolution No. 10080 on March 28, 2022, state the following in relevant part:

- **CPP Housing Policy, H-4:** Conduct an inventory and analysis in each jurisdiction of existing and projected housing needs of all segments of the population and summarize the findings in the housing element. The inventory and analysis shall include:
 - c) Number of existing emergency housing, emergency shelters, and permanent supportive housing facilities and units or beds, as applicable; ... [and]

l) The housing needs of people who need supportive services or accessible units, including but not limited to people experiencing homelessness, persons with disabilities, people with medical conditions, and older adults; ...

- **CPP Housing Policy, H-11:** Adopt policies, incentives, strategies, actions, and regulations that increase the supply of long-term income-restricted housing for extremely low-, very low-, and low-income households and households with special needs.
- **CPP Housing Policy, H-12:** Identify sufficient capacity of land for housing including, but not limited to income-restricted housing; housing for moderate-, low-, very low-, and extremely low-income households; manufactured housing; multifamily housing; group homes; foster care facilities; emergency housing; emergency shelters; permanent supportive housing; and within an urban growth area boundary, duplexes, triplexes, and townhomes.
- **CPP Housing Policy, H-15:** Increase housing choices for everyone, particularly those earning lower wages, that is co-located with, accessible to, or within a reasonable commute to major employment centers and affordable to all income levels. Ensure there are zoning ordinances and development regulations in place that allow and encourage housing production at levels that improve jobs-housing balance throughout the county across all income levels.

Fiscal Impact

There is no fiscal impact associated with implementing the recommended LUCA.

OPTIONS

1. Direct staff to prepare the Permanent Supportive Housing, Transitional Housing, Emergency Housing, and Emergency Shelter LUCA Ordinance for final action at a future meeting.
2. Direct staff to schedule a public hearing to extend the Interim Official Controls prior to the July 12 expiration.
3. Provide alternative direction to staff.

ATTACHMENTS

- A. Planning Commission Resolution Recommending the LUCA with Modifications
- B. Draft Ordinance
- C. Strike-Draft of Recommended LUCA
- D. LUCA Staff Report
- E. Ordinance No. 6585 (Interim Official Control)
- F. Ordinance No. 6637 (Extension of Interim Official Control)
- G. Councilmember Robertson's Proposed Amendments to Planning Commission Recommended LUCA

AVAILABLE IN COUNCIL LIBRARY

N/A