

**CITY COUNCIL AGENDA TOPIC**

Public Hearing and action on Ordinance relating to the administration of the City of Bellevue Land Use Code (LUC); amending Chapter 20.35 LUC to adopt review procedures and timelines consistent with Chapter 338, Laws of 2023; amending LUC 20.40.100 and Chapter 20.30K LUC to clarify the authority and procedures for the adoption, amendment, or repeal of Director's Rules; Amending LUC 20.40.510 to use terminology consistent with Chapter 20.35 LUC and Chapter 338, Laws of 2023; Amending Chapter 20.50 LUC to include new defined terms used within the foregoing amendments; providing for severability; and setting an effective date of January 1, 2025.

Rebecca Horner, Director, 452-6045  
Nick Whipple, Assistant Director, 452-4578  
Jake Hesselgesser, Assistant Director, 452-6964  
*Development Services Department*

**EXECUTIVE SUMMARY****ACTION**

On October 15, staff presented a proposed Land Use Code Amendment (LUCA) to implement updates to the Local Project Review Act (Chapter 36.70B RCW) stemming from the passage of Senate Bill 5290 (SB 5290) by the Washington State Legislature. The LUCA also includes changes to the Director's rulemaking procedures under Land Use Code (LUC) 20.40.100. After discussion, Council directed staff to prepare the LUCA Ordinance for public hearing and action. Following tonight's public hearing, Council may proceed with adopting the proposed LUCA.

**RECOMMENDATION**

Hold the public hearing on the proposed permit streamlining LUCA. Following the hearing, Council may adopt the permit streamlining LUCA, Ordinance No. 6823.

**BACKGROUND/ANALYSIS**

The proposed LUCA responds to recent changes to the Local Project Review Act (Chapter 36.70B RCW) resulting from the passage of SB 5290. It also includes updates to the Director's rulemaking process. This LUCA will implement the requirements of SB 5290 and revise the rulemaking procedures outlined in LUC 20.40.100.

The City Council initiated this LUCA on June 11 and retained processing authority, opting for no review or recommendation from the Planning Commission. On October 15, the Council reviewed the proposed permit streamlining LUCA, which included changes to the Director's rulemaking process. During this meeting, Council discussed the LUCA and raised questions regarding the proposed changes to the Director's rulemaking procedures, particularly the removal of the public hearing requirement. This requirement is proposed to be replaced by an extended comment period, increasing the minimum comment period from 14 days to 21 days.

Staff explained that an extended written comment period can enhance the quality and depth of feedback received, especially on technical matters that may be difficult to address verbally during a hearing. Written comments allow for thoughtful, detailed responses that better inform the Director's rulemaking process. The proposed change aims to shift the engagement format, fostering more meaningful input and providing additional time for public comment, rather than limiting engagement to a single evening for a public hearing.

Council also asked what the appeal procedure for challenging a director's rule would be and how this compares to other land use decision appeals. Under the previous rulemaking procedure, there was no established path for appealing director's rules. The proposed LUCA will change this by allowing individuals to appeal a director's rule by filing a petition with the Washington State Growth Management Hearings Board, as outlined in RCW 36.70A.290. Additionally, interpretations of rules issued by the city's code interpretation process will be appealable through the Land Use Petition Act process, as outlined in Chapter 36.70C RCW.

Typically, appeals of land use decisions are directed to the City's hearing examiner. The hearing examiner's final decision can then be further appealed to Superior Court. However, a director's rule serves a distinct purpose from a project land use decision. Where a project land use decision aims to apply the LUC to a particular project, a director's rule is aimed at supporting the implementation of the LUC itself. It is important to note that the city's LUC must align with our Comprehensive Plan, which in turn must comply with the state's Growth Management Act (Ch. 36.70A RCW). A director's rule is required to be consistent with the LUC, thereby consistent with the GMA, and cannot introduce new or different policies. Since an ordinance amending the LUC can be appealed to the Growth Management Hearings Board, it follows that a director's rule implementing such an ordinance should have the same appeals path as the underlying ordinance itself.

By allowing appeals of director's rules to go before the Growth Management Hearings Board, we create a structured and informed process for addressing these appeals. This approach ensures that decisions are made with consideration of both local and state planning frameworks, promoting consistency and accountability in the implementation of the LUC.

After deliberations, the Council directed staff to prepare the LUCA for public hearing. Notice of this public hearing included the publication of a staff report, which is attached to this memorandum as Attachment A. The staff report outlines the background, process, and components of the LUCA, as well as how the proposed LUCA meets the decision criteria outlined in LUC 20.30J.135 for amendments to the text of the LUC. Additionally, the LUCA strike-draft is included with this memorandum as Attachment B.

### **Proposed LUCA**

The proposed LUCA is intended to update the LUC based on changes to the Local Project Review Act, while also improving the city's procedures for Director rulemaking, which is aimed at improving transparency and clarity around the codes that Development Services administers. These updates include:

- Codifying permit timelines for consistency with state law;
- Updating procedural requirements, including revised definitions, new requirements for determining application completeness, exclusions of site plan review for most interior alterations, clarified application submittal requirements, and minor citation amendments;
- Requiring pre-application conferences for short plats and critical areas permits; and
- Establishing rulemaking procedures in LUC 20.40.100, requiring SEPA review where applicable, clarifying project vesting to rules, provide emergency rulemaking authority, clarify the use of code interpretation processes, and provide an appeal procedure to rulemaking.

### Engagement

Staff has followed the Process IV requirements in the LUC to provide opportunities for public comment. Public notice of the LUCA application and public hearing was published in the Weekly Permit Bulletin on November 7, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times. The public notice included publication of the staff report and recommendation included as Attachment A. The public will also have the opportunity to provide written and oral comments on the proposed LUCA at the November 26 public hearing.

## POLICY & FISCAL IMPACTS

### Policy Impact

#### RCW 36.70B.080

New permit timelines will take effect on January 1, 2025, unless a local government agency elects to modify the review timelines based on special circumstances. As a potential consequence for not meeting the timelines established in state law or by local ordinance, local permitting agencies may be subject to permit fee refunds that range from 10-20%. The proposed LUCA implements review timelines consistent with RCW 36.70B.080. Separate from the proposed LUCA, the Department will be recommending the adoption of three streamlining measures that, if adopted, will provide an initial safe harbor from the requirement to provide fee refunds.

Additionally, the proposed LUCA is consistent with the following Comprehensive Plan policy:

- **Comprehensive Plan Policy ED-7.** Provide an efficient, streamlined, timely, predictable and customer-focused permit process, conducted in a manner that integrates multiple city departments into a coordinated entity.

### Fiscal Impact

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

## OPTIONS

1. Hold the public hearing on the proposed permit streamlining LUCA. Following the hearing, adopt Ordinance relating to the administration of the City of Bellevue Land Use Code (LUC); amending Chapter 20.35 LUC to adopt review procedures and timelines consistent with Chapter 338, Laws of 2023; amending LUC 20.40.100 and Chapter 20.30K LUC to clarify the authority and procedures for

the adoption, amendment, or repeal of Director's Rules; Amending LUC 20.40.510 to use terminology consistent with Chapter 20.35 LUC and Chapter 338, Laws of 2023; Amending Chapter 20.50 LUC to include new defined terms used within the foregoing amendments; providing for severability; and setting an effective date of January 1, 2025.

2. Provide alternative direction to staff.

## **ATTACHMENTS**

- A. LUCA Staff Report
- B. Proposed LUCA Strike-Draft  
Proposed Ordinance No. 6823

## **AVAILABLE IN COUNCIL LIBRARY**

N/A