

CITY COUNCIL STUDY SESSION

Land Use Code Amendment (LUCA) to conform the frequently flooded areas regulations in the Land Use Code (LUC) Part 20.25H and other related sections to the current federal and state National Flood Insurance Program (NFIP) standards and adopt the Federal Emergency Management Agency's (FEMA) updated countywide Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS), necessary for continued eligibility in NFIP.

Mike Brennan, Director, 452-4113
Trisna Tanus, Consulting Attorney, 452-2970
Nick Whipple, Senior Planner, 452-4578
Development Services

DIRECTION NEEDED FROM COUNCIL

DIRECTION

Staff will be presenting a recommended LUCA to conform the frequently flooded areas regulations in Part 20.25H LUC and other related LUC sections to the current federal and state NFIP standards, and adopt the updated FEMA FIRMs and FIS, necessary for continued eligibility in the NFIP. Staff seeks a finding of necessity for Council to process this LUCA and direct staff to prepare the recommended LUCA for public hearing and final action in July.

RECOMMENDATION

Enter a finding of necessity for Council to process this LUCA and direct staff to prepare the recommended LUCA for public hearing and final action in July.

BACKGROUND & ANALYSIS

Purpose of the Recommended LUCA

On February 19, FEMA transmitted to the City updated countywide FIRMs and FIS. The City is required to adopt the updated FIRMs and FIS, as well as conform its frequently flooded areas regulations in chapter 20.25H LUC and several related sections in the LUC to applicable federal and state standards, by August 19, 2020. Meeting this requirement is necessary for continued eligibility for Bellevue residents and businesses to obtain insurance and participate in the NFIP. If the City does not take this legislative action by August 19, then residents and businesses in Bellevue would immediately lose their federally-backed flood insurance.

The NFIP is a federal flood insurance program that the City has participated in since December 1, 1978 by adopting minimum standards for development in FEMA floodplains. Participation in the NFIP allows any property owner in the City to purchase federal-backed flood insurance. The City has a Class 5 rating in FEMA's Community Rating System (CRS). The CRS program uses a rating scale of 9 to 1, with most communities entering the program at a CRS Class 9, which entitles residents to a 5 percent discount on their flood insurance premiums. As a community implements additional floodplain requirements, its residents become eligible for increased NFIP policy premium discounts. As such, this program is available to the City's residents and businesses and this excellent CRS rating provides a 25

percent discount on NFIP-backed flood insurance policies in the City. As of April 17, 2020, the NFIP has paid out 65 flood claims to Bellevue's residents and businesses for a total amount of \$906,231. However, given Bellevue's strong legacy of effective floodplain management, there have been only five substantial damage claims in the City since 1978.

The NFIP aims to protect human life and safety, minimize environmental and property damage, and reduce expenditures for disaster assistance and flood control. In other words, the requirements to adopt the updated FIRMs and FIS and conform the City's frequently flooded areas to applicable federal and state standards are consistent with the goals of preserving healthy floodplains and promoting healthy biological processes.

Recommended LUCA

The current FIRMs and FIS were published in 1995. The maps and study are used by real estate agents, lenders, and insurance companies to assess when flood insurance is needed on a particular property under the NFIP. The City's Critical Areas Ordinance, chapter 20.25H LUC, references these maps as "Frequently Flooded Areas" and restricts development in these areas to prevent damage to structures and the natural floodplain functions. The maps generally delineate the "100-year floodplain" on Lake Bellevue, Larsen Lake, Phantom Lake, Lake Sammamish, and most streams in the City. Note that Lake Washington is not included in the maps because its level is controlled by the US Army Corps of Engineers at the Hiram M. Chittenden locks and the level predictably only varies by two feet annually. Within this "100-year floodplain" there is a 1-in-100 chance, in a given year, that floodwaters will rise to this level.

The recommended LUCA conforms the City's frequently flooded areas regulations in chapter 20.25H LUC and several related sections in the LUC to applicable federal and state standards, including the new FIRMs and FIS. Staff has worked closely with the Washington Department of Ecology (DOE) to narrowly tailor this LUCA to achieve conformance and include only items deemed necessary by FEMA and DOE. Attachment A is a red-lined-strike-draft of the recommended LUCA.

The following examples explain the categories and components of this LUCA:

Necessary amendments to the definitions

Twelve new definitions are to be added to the LUC, and six definitions are to be amended in order to improve clarity. These changes provide consistency with federal standards and are required by FEMA.

New terms added to the LUC:	Amended terms in the LUC:
<ul style="list-style-type: none"> • Alteration of watercourse; • Area of special flood hazard; • Base flood; • Flood elevation study; • Floodplain or flood-prone area; • Floodplain administrator; • Highest adjacent grade; • Historic structure; • Mean sea level; 	<ul style="list-style-type: none"> • Base flood elevation (BFE); • Flood or flooding; • Flood Insurance Rate Map (FIRM); • Floodproofing; • Floodway; and • Substantial improvement

<ul style="list-style-type: none"> • New construction; • Start of construction; and • Variance 	
---	--

Necessary amendments to the performance standards

The City's floodplain performance standards are intended to prevent flood damage and to prevent the actions of one property owner from increasing flood damage to their neighbors. The amendments to the performance standards aim to improve flood prevention measures, and the changes are necessary to achieve consistency with federal and state regulations.

An example is a new standard to require automatic entry and exit of floodwaters for a garage attached to a residential structure, built below the Base Flood Elevation (BFE), for residential and mixed-use projects. Another example is to introduce the option for a project to waterproof mechanical equipment and utilities associated with the development instead of solely requiring these attendant utilities to be elevated one foot or more above the BFE.

Necessary amendments to the floodplain Variance process

The City requires conformance to the performance standards, except in the case of a reasonable use exception, where a development must comply with the required performance standards "to the maximum extent feasible." FEMA requires the use of "Variances" to allow modifications of the performance standards in LUC 20.25H.180 – Development in the area of special flood hazard. The amendments include requiring a variance process if a proposed development in a frequently flooded area does not comply with all required performance standards and corresponding decision criteria consistent with FEMA's requirements.

Necessary amendments to procedural requirements

The proposed amendments provide that the Director of Development Services must review certain application submittals and materials when evaluating and approving proposals for development within a frequently flooded area. In addition, FEMA requires the City to formally cite the applicable enforcement process and penalties sections in its frequently flooded areas code. This recommended LUCA contains new subsections in the City's Critical Areas Overlay District, Part 20.25H LUC, to clarify enforcement and penalties for violations of the City's floodplain regulations.

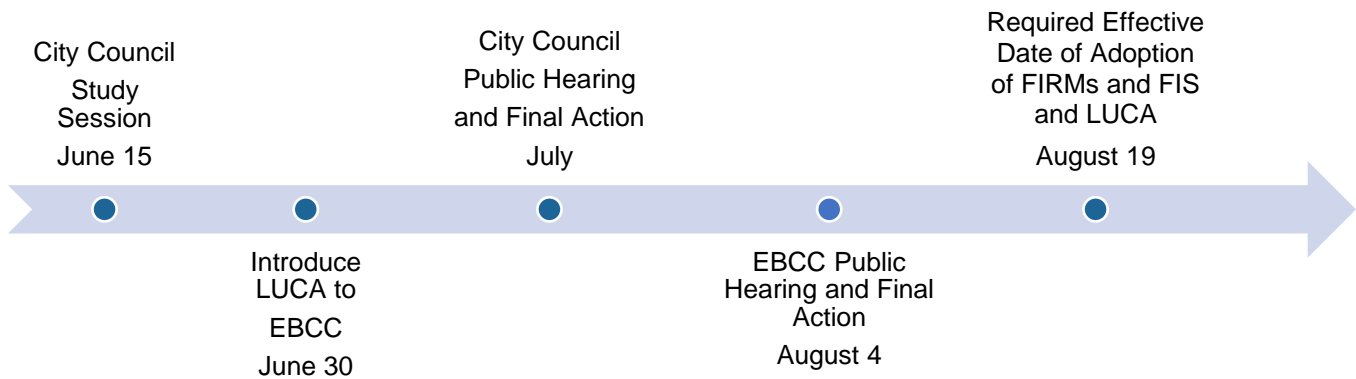
Public Engagement

For this LUCA, staff has developed a public engagement plan with three modes of outreach to ensure that affected residents and community members have the opportunity to be informed and to provide comments.

- A. Process IV Requirements. The LUCA process will follow the Chapter 20.35 LUC procedural requirements to provide opportunities for public comment, including notice of application of the proposed LUCA and notice of public hearing on the proposed LUCA.
- B. Direct Mailing Notice. A courtesy notice for the proposed LUCA and the notice of public hearing on the proposed LUCA will be sent directly to property owners and residents impacted by floodplains.

- C. Online Presence. A webpage was launched for this Floodplain Regulations LUCA during the week of June 8. The webpage provides opportunity for the public to learn about the LUCA, with sections on frequently asked questions, public information messages regarding the LUCA progression, and contact information for public comment. The webpage will be regularly updated throughout the LUCA process.

Review Process



Staff recommends that Council make a finding of necessity to process this LUCA and hold the public hearing in July in order to meet the required effective date of August 19.

POLICY & FISCAL IMPACTS

Policy Impact

The recommended LUCA will conform the frequently flooded areas regulations in the LUC with the new FIRMs and FIS and federal and state standards by the required effective date of August 19. This timely conformance is necessary in order for residents and businesses in the City to remain eligible in the NFIP and to continue to receive 25 percent discount in their flood insurance rates as a CRS Class 5-rated community. If the City does not meet this requirement by August 19, residents and businesses in Bellevue would immediately lose their federally-backed flood insurance.

Fiscal Impact

There is no fiscal impact expected with implementing this recommended LUCA.

OPTIONS

1. Enter a finding of necessity for Council to process this LUCA and direct staff to prepare the recommended LUCA for public hearing and final action in July.
2. Enter a finding of necessity for Council to process this LUCA and direct staff to prepare the recommended LUCA with modifications for public hearing and final action in July.
3. Do not enter a finding of necessity or direct staff to prepare the recommended LUCA and provide alternative direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

- A. Recommended LUCA Strike-draft

AVAILABLE IN COUNCIL LIBRARY

N/A