



DATE: June 19, 2020

TO: Chair Hummer and Members of the East Bellevue Community Council

FROM: Trisna Tanus, Consulting Attorney
Nick Whipple, Senior Planner
Development Services Department

SUBJECT: Floodplain Regulations Land Use Code Amendment

I. Introduction

This Management Brief is being provided to the East Bellevue Community Council (EBCC) regarding a recommended Land Use Code Amendment (LUCA) to conform the frequently flooded areas regulations in the Land Use Code (LUC) to current federal and state standards and to adopt the Federal Emergency Management Agency's (FEMA) updated countywide Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS). The LUCA is necessary for the City's continued eligibility in the National Flood Insurance Program (NFIP). The City Council initiated this recommended LUCA in its Study Session on June 15.

II. Discussion

A. Purpose of the Recommended LUCA

At the June 15 Study Session, the City Council initiated a LUCA to update Part 20.25H LUC and other LUC sections related to frequently flooded areas and to adopt updated FIRMs and FIS transmitted to the City earlier on February 19. FEMA requires communities to have in place conforming regulations within six months of the transmittal date, or August 19, in order 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 regulations to applicable federal and state standards are consistent with the goals of preserving and promoting healthy floodplains and biological processes.

B. 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; • New construction; • Start of construction; and • Variance 	<ul style="list-style-type: none"> • Base flood elevation (BFE); • Flood or flooding; • Flood Insurance Rate Map (FIRM); • Floodproofing; • Floodway; and • Substantial improvement

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.

C. EBCC Jurisdiction

The EBCC jurisdictional area contains properties within frequently flooded areas. A map of the City’s frequently flooded areas, with the EBCC jurisdictional area delineated, is provided in Attachment B.

III. Comprehensive Plan

The Comprehensive Plan analysis will be included in the Staff Report that will be published with the Notice of Public Hearing.

IV. Action requested of the EBCC

The EBCC is requested to consider the recommended LUCA and provide its comments to the City Council. Staff will be present at the June 30 Special Meeting to answer any questions the EBCC members may have. If there are questions before the June 30 meeting, please contact Trisna Tanus, 452-2970 or at ttanus@bellevuewa.gov, or Nick Whipple, 452-4578 or at nwhipple@bellevuewa.gov.

ATTACHMENTS:

- A. Recommended LUCA strike-draft
- B. Map of City’s Frequently Flooded Areas