



# Bellevue Planning Commission

September 8, 2021

## PLANNING COMMISSION STUDY SESSION ITEM

### SUBJECT

Study Session on a proposed Land Use Code Amendment (LUCA) to remove residential occupancy limits in the Land Use Code (LUC). This LUCA is necessary to bring the Land Use Code (LUC) into conformance with recently-amended state law, which restricts cities in Washington from regulating or limiting the number of unrelated occupants within a dwelling unit.

### STAFF CONTACT(S)

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### POLICY ISSUES

The proposed LUCA is required for consistency with Chapter 35A.21 RCW, as amended by Senate Bill (SB) 5235, which restricts cities from regulating or limiting the number of unrelated occupants within a dwelling unit.

Further, the Comprehensive Plan contains many references to increasing housing opportunities in Bellevue. This LUCA promotes housing affordability by increasing the housing stock available to unrelated individuals living in the City and by allowing individuals to share housing costs with others in a single dwelling. Thus, this LUCA is consistent with and supports the Comprehensive Plan’s goals and policies related to housing affordability and opportunity.

### DIRECTION NEEDED FROM THE PLANNING COMMISSION

**ACTION**

**DIRECTION**

**INFORMATION ONLY**

Staff will be presenting the components of the proposed LUCA in one study session. After the study session, the Planning Commission will be asked to hold a public hearing on and recommend approval of the proposed LUCA.

	Topic Areas
<input checked="" type="checkbox"/>	<b>Study Session 1 (September 8):</b> <ul style="list-style-type: none"> <li>Discussion on proposed amendments</li> </ul>
<input type="checkbox"/>	<b>Public Hearing (October 13):</b> <ul style="list-style-type: none"> <li>Required Public Hearing</li> <li>Planning Commission Recommendation</li> </ul>

### BACKGROUND/ANALYSIS

#### **State Legislation – SB 5235**

The Washington State Legislature adopted SB 5235 during the 2021 legislative session, and the bill was subsequently signed by the Governor in May 2021. The bill, which included amendments to Chapter

35A.21 RCW and became effective on July 25, addresses local control over residential occupancy by restricting the ability of local jurisdictions to regulate or limit the number of occupants within a dwelling. This new state law exempts occupancy limits based on occupant load per square foot or generally applicable health- and safety-related limits, as well as caps on the number of guests in a dwelling used for transient lodging.

### **Existing Occupancy Limits in the Land Use Code**

Within the City's LUC, the definition of "Family" in LUC 20.50.020 is the primary governor of the number of persons who may occupy a "single family" dwelling unit and their relation to one another. This definition allows for an unlimited number of persons related by blood, marriage, or legal adoption to be considered a Family and thus occupy a single family dwelling unit. However, for unrelated persons, the maximum number of adults that may be considered a Family under the LUC, and thus occupy a single family dwelling unit, is four (4). This maximum number may be increased on a case-by-case basis through a formal determination by the Director, provided that those individuals can meet the qualifying criteria and factors to be established as functionally equivalent to a Family. This current limitation in the definition of Family in LUC 20.50.020 is inconsistent with state law.

Additionally, occupants of a dwelling must operate as a "single housekeeping unit," in order to meet the definition of "Family." The definition of "single housekeeping unit," under LUC 20.20.046 requires all occupants of a rental unit to be on a single lease. This single lease requirement is an additional occupancy regulation that is inconsistent with state law which prohibits regulation of occupancy.

There are other types of dwelling units with their own specific limitations on occupancy. The provisions for Accessory Dwelling Units (ADUs) in LUC 20.20.120.A.3 limit the number of persons that may occupy the primary residence and the ADU to a combined total of a "Family." Additionally, Boarding Houses, which may accommodate non-transient room rentals, have a maximum of two (2) renters at any one time per LUC 20.20.140. Finally, Rooming Houses are limited to no more than five (5) individuals renting no more than four (4) rooms at any one time, per LUC 20.20.700.A.2. The current limitations in LUC 20.20.120.A.3, LUC 20.20.140, and LUC 20.20.700.A.2 are also inconsistent with state law.

### **Interim Official Control (IOC) – Ordinance No. 6586**

In order to bring the LUC into immediate compliance with these amendments prior to the effective date of SB 5235, Council adopted an IOC on Ordinance No. 6586 (Attachment A) on July 12. This IOC remains in effect for six months, expiring in January 2022. Staff anticipate this LUCA will be adopted prior to the IOC expiration, but Council may extend the IOC by another six months if necessary.

### **Components of Proposed LUCA**

This LUCA will permanently codify the interim amendments as adopted under the IOC. The components of this LUCA include (Attachment B):

1. LUC 20.20.120.A.3: Strike this subsection to remove the occupancy limits for properties with ADUs.
2. LUC 20.20.140: Remove two-renter limit for non-transient occupancy of Boarding Houses and Bed and Breakfasts.

3. LUC 20.20.700.A.2: Remove the limitation on the number of occupants in Rooming Houses. The limitation of rooms being rented is proposed to remain.
4. LUC 20.30N.140: Add an exception for Boarding Houses and Bed and Breakfasts to the requirement that no more than one person may participate in Home Occupation businesses at any one time.
5. LUC 20.50.020: Amend the definition of “Family” to remove occupancy limits and criteria for unrelated occupants to be considered a functional equivalent of a family.
6. LUC 20.50.044: Amend the definition of “Rooming House” to clarify that these uses include any non-owner-occupied dwelling where rooms are rented on an individual basis.
7. LUC 20.50.046: Amend the definition of “Single Housekeeping Unit” to remove single lease requirements for rented properties, and to clarify that occupants in dwellings used for transient lodging are not considered a Single Housekeeping Unit.

### **Public Engagement**

Staff is implementing two modes of outreach to ensure the public, stakeholders, and interested parties have the opportunity to be informed and 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; and
  - Public hearing on the proposed LUCA anticipated in October
  - EBCC public hearings, including a courtesy hearing and a public hearing prior to approval/disapproval of the LUCA.
2. Online Presence. City webpage to provide opportunities for the public to stay informed and to request additional information, including:
  - Staff contacts; and
  - Public information regarding LUCA progression.

Staff will continue to collect feedback from the public, stakeholders, and interested parties and summarize their comments for the Planning Commission throughout the LUCA process.

### **Anticipated Schedule and Next Steps:**

The Planning Commission will be introduced to and asked to consider the proposed LUCA. Staff will ask the Planning Commission to set a public hearing date for the LUCA at the end of the study session and the anticipated timeline for processing the LUCA is as follows:

- Planning Commission Study Session: September 8
- EBCC Courtesy Hearing: October 5 (tentative)
- Planning Commission Public Hearing and Recommendation: October 13 (tentative)
- City Council Study Session: TBD
- City Council Action: TBD
- EBCC Public Hearing and Approval/Disapproval: TBD

**ATTACHMENT(S)**

- A. Ordinance No. 6586 (Interim Official Control)
- B. Strike-Draft of Proposed LUCA