



# STAFF REPORT

DATE: October 13, 2021

TO: Chair Malakoutian and Members of the Planning Commission

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***Development Services Department***

**SUBJECT:** Public Hearing 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 LUC into conformance with recently amended state statute, which prohibits cities in Washington from limiting the number of occupants in a dwelling unit.

## I. BACKGROUND

This LUCA is in direct response to the Washington State Legislature's enactment of Senate Bill (SB) 5235, which became effective on July 25. The new state legislation prohibits cities in Washington from imposing limitations on, or otherwise regulating, the number of occupants within a dwelling unit, except for occupancy limits for short-term/transient rentals, as well as health- and safety-related limits such as building and fire codes.

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

Prior to the adoption of the IOC, the LUC restricted the number of occupants in various residential dwellings. The definition of "Family" in LUC 20.50.020 capped the number of unrelated adults within a single family dwelling unit to no more than four (4). There was no limitation on the number of related adults. Further, Accessory Dwelling Units (ADUs) were limited based on the definition of "Family;" Boarding Houses and Bed and Breakfasts were limited to a maximum of two renters at any time; and Rooming Houses had a maximum of five renters occupying the home at any one time. Each of these limitations are inconsistent with state law as amended by SB 5235.

This proposed LUCA includes the following amendments to the following LUC sections:

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.

## **II. REVIEW PROCESS**

The content of this LUCA was introduced and presented to the Planning Commission during the September 8 Study Session. After discussion, the Planning Commission directed staff to schedule the required public hearing for October 13. The LUCA was also introduced to the East Bellevue Community Council (EBCC) at a courtesy public hearing on October 5.

Following the public hearing on October 13, the Planning Commission will be asked to make a recommendation for transmittal to the City Council. The City Council is anticipated to consider the LUCA and the Planning Commission Recommendation at a future meeting. The EBCC will hold a public hearing to make an approval/disapproval decision, consistent with procedural requirements for this legislative item.

## **III. PUBLIC ENGAGEMENT**

### Required Public Notice

The notice required for City Council Legislative Actions (Process IV) is governed by the terms of LUC sections 20.35.415 through 20.35.450. Notice of the Public Hearing scheduled for October 13, and availability of this staff report, was published in the Weekly Permit Bulletin on September 23, 2021. This notice was also provided to members of the EBCC, and others who have subscribed to receive these notices or previously provided written comments on the Interim Official Control.

### Department of Commerce Notice

Pursuant to the Washington State Growth Management Act, proposed amendments to the Land Use Code must be sent to the Washington State Department of Commerce. A copy of the required transmittal to the Department of Commerce, including a copy of the proposed amendments, was transmitted on September 20, 2021, and is available for review in the code amendment file.

Enhanced Public Notice

In addition to the requirements of LUC 20.35.415 *et seq* for City Council Legislative Actions, staff has provided enhanced public outreach for this LUCA to include an online presence. A webpage was launched for this LUCA to provide opportunity for the public to learn about the LUCA, with sections on public information messages regarding the LUCA progression, and staff contact information to submit written comments.

Public Comments

As of this writing, no public comments have been received in response to this LUCA.

**IV. DECISION CRITERIA**

LUC 20.30J.135 establishes the decision criteria for an application to amend the text of the Land Use Code. Those criteria, and the relationship of these proposed amendments to them, are discussed below:

A. The amendment is consistent with the Comprehensive Plan; and

**Finding:** The City of Bellevue Comprehensive Plan contains many references to housing affordability and expanding opportunities for individuals to find housing in Bellevue. This LUCA promotes the ability of people to share housing costs with as many people as they wish and can safely reside in a single dwelling. Thus, this LUCA is in support of the Comprehensive Plan's goals and policies related to housing affordability.

B. The amendment enhances the public health, safety or welfare; and

**Finding:** The LUCA will enhance the public health, safety, and welfare by creating new opportunities for people to afford their homes. Removing limits on occupancy in residential dwellings will allow people to more easily share housing costs in Bellevue, thereby promoting housing affordability.

C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

**Finding:** The LUCA is not contrary to the interests of citizens and property owners because the LUCA amendments keep in place health- and safety-regulations. Further, residential development is still subject to density and dimensional standards that ensure compatible land uses, including preventing from encroachments into environmentally critical areas and protecting lower-density neighborhoods. Therefore, the LUCA expands housing opportunities while also keeping in place important regulations to protect the interests of citizens and property owners in the City of Bellevue.

**V. STATE ENVIRONMENTAL POLICY ACT**

The Environmental Coordinator for the City of Bellevue has determined that this LUCA is Categorically Exempt from the Threshold Determination requirements of the State Environmental Policy Act pursuant to the terms of WAC 197-11-800(19).

**VI. RECOMMENDATION**

Staff has concluded that the Residential Occupancy LUCA is consistent with the decision criteria required for adoption of amendments to the text of the LUC, pursuant to Part 20.30J LUC. Staff recommends for the Planning Commission to hold the required public hearing for the LUCA, and, following the public hearing, make a recommendation on this LUCA for transmittal to the City Council.

**ATTACHMENTS**

Attachment A – Proposed LUCA Strike-Draft