

CITY COUNCIL STUDY SESSION

Recommended Land Use Code Amendment (LUCA) to remove residential occupancy limits. File No. 21-111196-AD.

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DIRECTION NEEDED FROM COUNCIL**DIRECTION**

Staff will introduce the recommended LUCA to remove residential occupancy limits. Planning Commission Chair Mohammad Malakoutian will present the Planning Commission recommendation to approve the LUCA without modification. The Resolution documenting this recommendation is included as Attachment A.

Following discussion, staff is seeking Council direction to prepare the Ordinance for final action at a future meeting.

RECOMMENDATION

Direct staff to bring back the proposed Ordinance as drafted for final action at a future meeting.

BACKGROUND & ANALYSIS**Background**

The recommended LUCA will amend Land Use Code (LUC) chapters 20.20, 20.30N, and 20.50 to remove limitations on occupancy of unrelated persons within dwelling units and other residential uses. A strike-draft of the proposed LUCA is provided as Attachment B. A draft Ordinance for this LUCA is also included with this memorandum.

This LUCA is in direct response to the Washington State Legislature's enactment of Senate Bill (SB) 5235, which became effective on July 25. This new state legislation was codified at RCW 35A.21.314 and prohibits the City from limiting, or otherwise regulating, the number of unrelated persons occupying a dwelling unit, except based on occupant load per square foot or generally applicable health and safety provisions. However, the state statute does not apply to short-term or transient property rentals, and the City may still regulate those uses separately.

In order to bring the LUC into conformance with the RCW prior to the effective date of SB 5235, the City adopted an Interim Official Control (IOC), Ordinance No. 6586, on July 12 (Attachment C). 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 for another six months, if necessary, by holding an additional public hearing. Should Council adopt the recommended LUCA before the IOC expiration, the LUCA will replace the IOC.

Prior to adoption of the IOC, the LUC restricted the maximum number of unrelated persons living together primarily under the definition of "Family" in LUC 20.50.020. These regulations limited the

maximum number of adults that may be considered a “Family” under the LUC, and thus occupy a single family dwelling unit, to no more than four (4) adults. Additionally, specific types of residential dwellings had their own occupancy limits under the LUC, such as Accessory Dwelling Units (ADUs), Rooming Houses, and Boarding Houses. Further analysis of the occupancy limits in the pre-IOC LUC can be found in the LUCA Staff Report (Attachment D).

Components of the Recommended LUCA

The recommended LUCA is generally consistent with the amendments adopted under the IOC, Ordinance No. 6586, with the following LUC sections recommended for amendment to remove occupancy limits (Attachment B):

1. LUC 20.20.120.A.3 – ADU
2. LUC 20.20.140 – Boarding House and Bed and Breakfast
3. LUC 20.20.700.A.2 – Rooming House
4. LUC 20.30N.140 – Home Occupation Permit
5. LUC 20.50.020 – “Family” Definition
6. LUC 20.50.044 – “Rooming House” Definition
7. LUC 20.50.046 – “Single Housekeeping Unit” Definition

This LUCA does not change requirements related to health or safety, and the LUCA does not change the City’s regulation of short-term or transient lodging. The Bellevue City Code (BCC) contains requirements for fire safety and egress; minimum standards for sanitation, heat, light and air, and other systems; restrictions and prohibitions to prevent nuisance conditions; controls on excessive noise; and parking and traffic laws. The LUC also contains limitations and requirements related to transient lodging in single family and multifamily dwellings, as well as parking and other vehicular circulation requirements on private properties. Consistent with the new RCW 35A.21.314, these BCC and LUC requirements remain in place for the health and safety of the residential occupants and their neighbors.

A detailed description of the recommended LUCA and how the amendments comply with LUCA decision criteria under LUC 20.30J.135 can be found in the Staff Report (Attachment D).

Review Process

Planning Commission Study Session and Public Hearing

The Planning Commission held a study session on this proposed LUCA on September 8. The Commissioners discussed possible impacts resulting from removal of occupancy limits, such as increased demand for on- and off-street parking, and whether the removal of a single lease requirement in the definition for “Single Housekeeping Unit” is necessary. After discussion, the Planning Commission moved to schedule the public hearing for this LUCA and did not request any changes to the proposed LUCA.

The Planning Commission held a public hearing on this LUCA on October 13. During the hearing, Chair Hummer of the EBCC provided a summary of the EBCC’s discussion on this LUCA at their October 5 courtesy hearing. With the exception of Chair Hummer, no other members of the public provided comments during the public hearing on this LUCA.

Following the hearing, Commissioners and Development Services staff discussed current practices to protect public health and safety, including how Code Compliance can respond to complaints and how in extreme cases when a structure poses a danger to habitation, the Building Official or Fire Marshall can intervene. Commissioners and staff also discussed how the proposed LUCA would enhance the public

health, safety, or welfare by promoting housing affordability and choices, while maintaining existing regulations that apply to fire safety, minimum housing standards, nuisance, noise, parking, traffic, and transient lodging.

After discussion, the Planning Commission voted to recommend that Council adopt the LUCA without modification.

East Bellevue Community Council (EBCC) Courtesy Hearing

The EBCC held a courtesy hearing on this LUCA on October 5. Two members of the public testified about potential negative impacts of the proposed LUCA related to overcrowding, rentals, traffic, and parking. The EBCC echoed similar concerns, and also expressed disappointment that this LUCA would reverse the 2015 amendments to the single-family rental regulations, which in part, reduced occupancy limits of unrelated adults from six to four. The EBCC remarked that the removal of occupancy limits would promote housing affordability and choices but noted that the LUCA would not create affordable housing units. Finally, the EBCC discussed how the proposed LUCA narrowly removed occupancy limits, and that regulations for fire safety, minimum housing standards, nuisance, noise, parking, traffic, and transient lodging remain fully in place.

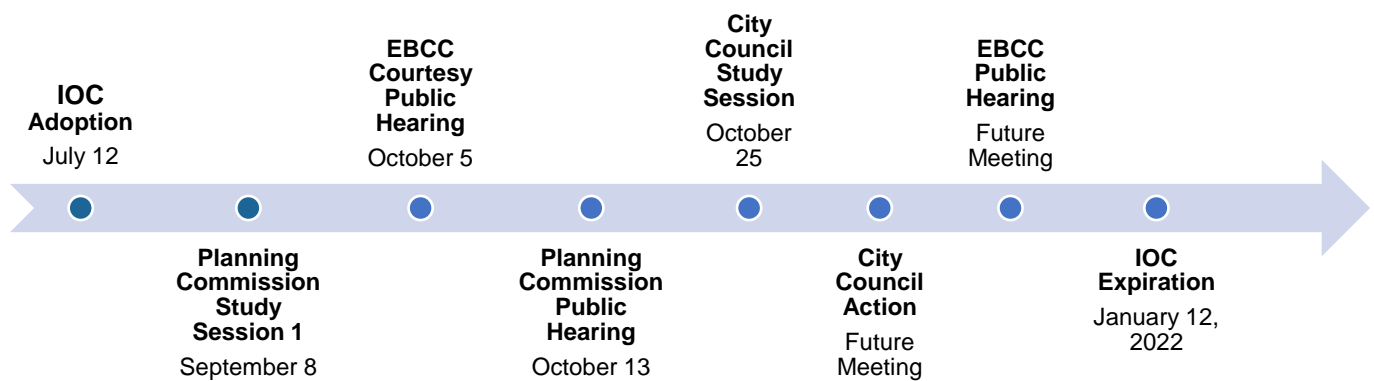
Public Engagement

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 hearings on the proposed 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.

Anticipated Schedule

The anticipated timeline for processing the LUCA is as follows:



POLICY & FISCAL IMPACTS

Policy Impact

The proposed LUCA is required for consistency with RCW 35A.21.314, which restricts cities like Bellevue 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.

Fiscal Impact

There is no fiscal impact associated with implementing these changes.

OPTIONS

1. Direct staff to bring back the proposed Ordinance as drafted for final action at a future meeting.
2. Provide alternative direction to staff.

ATTACHMENTS & AVAILABLE DOCUMENTS

- A. Planning Commission Resolution Recommending LUCA
- B. Strike-Draft of Recommended LUCA
- C. Ordinance No. 6586 (Interim Official Control)
- D. Residential Occupancy LUCA Staff Report
- E. Draft Ordinance

AVAILABLE IN COUNCIL LIBRARY

N/A