



DATE: September 7, 2017

TO: Mayor Stokes and Members of the City Council

FROM: Carol Helland, Code and Policy Director 452-2724  
Development Services Department

**SUBJECT:** Public Hearing on Ordinance No. 6369 imposing an Interim Official Control that amends the Land Use Code (LUC) to prohibit Community Health Engagement Locations (CHELs), safe injection sites, and other uses or activities designed to provide a location for individuals to consume illicit drugs.

On August 7, 2017, the City Council adopted an Interim Official Control amending the LUC by adding language to Chapter 20.10 LUC. The new section 20.10.410 in the LUC defines the activity that occurs at CHELs, safe injection sites, and other supervised injection facilities, and the Interim Official Control prohibits this activity outright citywide. On September 25, 2017, the City Council will be holding a public hearing on the Interim Official Control and seeking public comment on whether the ordinance should be adopted as a permanent regulation.

## **I. BACKGROUND**

In April 2017, the City Council provided direction for staff to pursue a citywide ban on CHELs also known as “safe injection sites.” Safe injection sites are part of a regional conversation led by King County in response to county-wide impacts from heroin use and heroin addiction. At the July 24, 2017 Council Study Session, the City Council again expressed a strong preference for prohibiting uses and activities in the City of Bellevue that are established and designed to provide a location for individuals to consume illicit drugs.

The Interim Official Control adopted by the City Council on August 7 amends the LUC by adding language to Chapter 20.10 LUC. A new section 20.10.410 in the LUC defines the activity that occurs at CHELs, safe injection sites, and other supervised injection facilities, and the Interim Official Control prohibits the activity outright citywide.

The adoption of the Interim Official Control to ban safe injection sites citywide provided a near-term solution to the Council-stated interests. The Public Hearing scheduled for September 25 is necessary for the Interim Official Control to remain in place, and for permanent LUC amendments to be adopted to prohibit safe injection sites citywide in the long-term. Following the Public Hearing, the City Council will provide direction to staff on whether to prepare the Interim Official Control as a permanent regulation for final adoption, or to prepare modifications to the Interim Official Control prior to final

adoption. Permanent regulations banning safe injection sites could be adopted by the City Council as soon as October of this year.

## **II. REVIEW PROCESS**

The City Council initiated this LUC amendment at its Council meeting on August 7 when it adopted Ordinance No. 6369 imposing an Interim Official Control banning safe injection sites citywide. The Public Hearing is being held by the City Council in lieu of forwarding the amendment to the Planning Commission. This step allows the public hearings on the Interim Official Control and the permanent regulations to be consolidated, and meets the City Council interest in expediting the LUC amendment process and retaining consideration of the topics related to homeless shelters.

An Interim Official Control puts temporary regulations in place to guide new development while permanent regulations are being prepared. Notice and a public hearing are not necessary prior to enactment of an Interim Official Control, so the regulations can be put in place quickly. However, a public hearing must be held within 60 days of its adoption, and to make the regulations permanent.

The Growth Management Act, RCW 36.70A.390, states that this Interim Official Control may be effective for six (6) months. If necessary, the Interim Official Control may be renewed for one or more additional six (6) month periods if a subsequent public hearing is held and findings of fact are made prior to each successive renewal.

The adoption of an Interim Official Control to ban safe injection sites citywide provides a near-term solution consistent with the City Council's direction. The Public Hearing scheduled for September 25 is necessary for the Interim Official Control to remain in place and for permanent LUC amendments to be adopted to prohibit safe injection sites citywide. Following the Public Hearing, the City Council will be asked to provide direction to staff on whether to prepare the Interim Official Control for final adoption, or to prepare modifications to the Interim Official Control prior to final adoption. Permanent regulations banning safe injection sites could be adopted by the City Council as soon as October of this year.

A LUC amendment to ban safe injection sites was considered by the City Council in the form of an Interim Official Control during its August 7 Regular Session, and a public hearing before the City Council is scheduled for September 25, 2017. These steps satisfy the City code requirements for adoption of the requested LUC amendment by the City Council, and final action can be taken at any time after the public hearing.

Following completion of the code amendment process, including a public hearing and adoption of a final ordinance by the City Council, the documents will be forwarded to the Washington State Department of Commerce.

### **III. PUBLIC ENGAGEMENT**

#### Required Public Notice

The notice required for City Council Legislative Actions is governed by the terms of LUC sections 20.35.415 through 20.35.450. Notice of the Public Hearing scheduled for September 25, 2017, and availability of this staff report, was published in the Weekly Permit Bulletin and in the Seattle Times on September 7, 2017. Both notices were also provided to members of the Community Council, representatives of neighborhood associations, community groups, and others who have subscribed to receive these notices.

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 Ordinance NO. 6369, was transmitted on September 6, 2017, and is available for review in the code amendment file.

#### Enhanced Public Outreach

In addition to the required public notice, enhanced outreach was provided for this Land Use Code Amendment. This outreach included expanded distribution of the public notice to the list of approximately 1,200 individuals who have expressed an interest in this topic.

#### Participation in the Public Hearing

Any person may participate in the Public Hearing by submitting written comments to the City Council in care of Kyle Stannert, City Clerk, P.O. Box 90012, Bellevue, WA 98009, before the Public Hearing, or by submitting written comments or making oral comments to the City Council at the hearing. Written comments may also be submitted by mail to Carol Helland, Code and Policy Director, Development Services Department, City of Bellevue, P.O. Box 90012, Bellevue, Washington, 98009-9012 or by e-mail to [chelland@bellevuewa.gov](mailto:chelland@bellevuewa.gov). Comments must be received by 5:00 p.m. on September 25th, 2017. All written comments received by the City Clerk or the Code and Policy Director prior to the comment deadline will be transmitted to the City Council no later than the date of the Public Hearing.

The balance of this Staff Report analyzes the decision criteria in the Land Use Code that must be met to support permanent adoption of LUC amendments.

### **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 amendment to them, are discussed below:

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

**Finding:** The City of Bellevue has adopted several policies that support a ban on safe injection sites:

Comprehensive Plan Policy LU-22:

*Monitor trends in Bellevue’s job centers and consider land use changes, if needed, to maintain the vitality of these centers.*

Comprehensive Plan Policy N-1:

*Maintain neighborhoods as safe and welcoming environments for everyone to enjoy.*

Comprehensive Plan Policy HS-3:

*Identify opportunities and develop strategies that are preventive in their approach to human services needs.*

At its July 24, 2017 Study Session, the City Council expressed a strong preference for prohibiting uses and activities in the City of Bellevue that are established and designed to provide a location for individuals to consume illicit drugs. The Interim Official Control proposed to permanently amend the Land Use Code and ban safe injection sites citywide is consistent with and supports these Comprehensive Plan policies. The amendment will help to maintain the vitality of commercial centers, keep neighborhoods safe, and focus on drug abuse prevention and treatment as a mechanism to address opiate addiction.

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

**Finding:** The amendment will enhance the public health, safety and welfare of people confronting heroin and opioid addiction by focusing City efforts and support in the areas of drug abuse prevention and treatment, rather than on combating the secondary effects that can occur around safe injection sites.

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

**Finding:** The amendment is not contrary to the interests of citizens and property owners, because it does not condone illicit drug use, will not invite the secondary effects that can be associated with safe injection sites, and will maintain safety in commercial and residential areas.

**V. STATE ENVIRONMENTAL POLICY ACT**

Although the action to amend the LUC is subject to the State Environmental Policy Act (SEPA), the requested LUC amendment to ban a use that is currently illegal under Federal and State law would be categorically exempt from SEPA review pursuant to

WAC 197-11-800(19)(b) as a text amendment that will result in no substantive changes respecting use or modification of the environment.

## **VI. RECOMMENDATION**

The City Council adopted Ordinance No. 6369 imposing an Interim Official Control that amends the LUC to prohibit community health engagement locations, safe injection sites, and other uses or activities designed to provide a location for individuals to consume illicit drugs on August 7, 2017 (Attached). Staff has concluded that the Interim Official Control is consistent with the decision criteria required for adoption of amendments to the text of the LUC, pursuant to Part 20.30J LUC, and could be adopted as a permanent amendment to the LUC following a public hearing and completion of the code amendment processing requirements.

## **ATTACHMENTS**

Ordinance No. 6369

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6369

AN ORDINANCE imposing an interim official control regarding the prohibition of community health engagement locations, safe injection sites, and other uses or activities designed to provide a location for individuals to consume illicit drugs; providing for severability; and establishing an effective date.

WHEREAS, in September 2016, the Heroin and Opioid Addiction Task Force convened by King County and Seattle recommended a comprehensive strategy focusing on prevention and increasing access to addiction treatment on demand; and

WHEREAS, in January 2017, the King County Executive and Seattle Mayor announced they would move forward on the complete set of recommendations, including the establishment of facilities referred to as Community Health Engagement Locations (safe injection sites); and

WHEREAS, in June 2017, the King County Council voted to limit establishment of Community Health Engagement Locations (safe injection sites) only to cities whose elected leaders choose to locate these facilities in their communities; and

WHEREAS, in order to respond to this rapidly emerging policy issue the City Council expressed a strong preference for prohibiting uses and activities in the City of Bellevue that are established and designed to provide a location for individuals to consume illicit drugs; and

WHEREAS, the Environmental Coordinator for the City of Bellevue has determined that this text amendment to the Land Use Code would be Categorically Exempt from the Threshold Determination requirements of the State Environmental Policy Act pursuant to the terms of WAC 197-11-800(19); and

WHEREAS, the City Council adopts the foregoing as its findings of fact justifying adoption of this Ordinance; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Imposition of Interim Official Control. An interim official control is hereby imposed to amend Chapter 20.10 of the Bellevue Land Use Code and to add a new section 20.10.410 as follows:

**20.10.410 Use Prohibited in all Land Use Districts**

Medically Supervised Injection Centers (MSIC) designed to provide an hygienic environment where individuals are able to consume illicit drugs intravenously are prohibited in all Land Use Districts in the City. An MSIC includes all uses established or activities undertaken for the above-defined purpose, irrespective of how the use or activity is described. A MSIC may also be referred to as a community health engagement location, supervised injection site or facility, safe injection site, fix room, or drug consumption facility.

Section 2. Duration and Scope of Interim Official Control. Pursuant to RCW 36.70A.390, this Interim Official Control is recommended to be in effect for a period of 6 months. This Interim Official Control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 3. Public Hearing. Pursuant to RCW 36.70A.390, the City Council shall hold a public hearing on this Interim Official Control within sixty (60) days of its adoption, so as to hear and consider public comment and testimony regarding this Interim Official Control. Following such hearing, the City Council may adopt additional findings of fact, and may extend the Interim Official Control for a period up to an additional six (6) months. The City Council may adopt additional six month extensions after any required public hearing, pursuant to RCW 36.70A.390.

Section 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

Section 6. Findings of Fact. The findings contained in this Ordinance are hereby adopted as Findings of Fact to justify adoption of this interim official control.

1603-ORD  
8/3/2017

Passed by the City Council this 7<sup>th</sup> day of August, 2017 and signed in authentication of its passage this 8<sup>th</sup> day of August, 2017.

(SEAL)



John Stokes, Mayor

Approved as to form:

  
Matthew McFarland, Assistant City Attorney

Attest:

  
Kyle Stannert, City Clerk

Published: August 10, 2017