

# Shoreline Master Program

U P D A T E



**April 27, 2015**



# Meeting Objectives

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## Confirm Code Responds to March 16 Direction

- **March 16** - Code Drafting Options Matrix
  - 12 Regulatory Alternatives reviewed by Council
  - 9 modifications to the Land Use Code advanced for final drafting
- **Attachment A** – All direction except 1,000 SF Vegetation Modification change
  - Action Requested: Confirm code responds to Council direction on 8 modifications advanced for final drafting
- **Attachment B** – Options to achieve the 1,000 SF Vegetation Modification change
  - 3 Alternative Options provided to achieve Council direction
  - Action Requested: Select one alternative that is best aligned with the Council direction

# Attachment A – Code Direction

- Responds to Council direction on 8 of 9 modifications advanced for final drafting
  1. OHWM determinations at sole discretion of property owner
  2. More nuanced mitigation menu / add rain gardens
  3. Mitigation plan recording optional
  4. Tree replacement allowed within shoreline jurisdiction (0-200')
  5. Mitigation credits given for docks
  6. Noxious weed removal allowed, but cannot create erosion
  7. Minor expansion exemption for primary structures
  8. Administrative modification process for substandard lots

# Attachment A – Code Direction

- Questions?
- Action Requested: Confirm code responds to Council direction on 8 modifications advanced for final drafting excluding the 1,000 SF Vegetation Modification change

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
10. Expand allowance for vegetation modifications	Create a 25' restricted area from OHWM for vegetation modifications that do not include impervious surface changes or removal of significant trees. Apply the 200 sf exception from the requirement to provide mitigation in the 0-25 'area from OHWM and a 1000 sf exception from the requirement to provide mitigation in the 0-50 area when a grading permit is required.

#### **LUC 20.25E.065.F.7.b – *Existing Language* Attachment A (Page 9)**

7. Impacts to Existing Shoreline Vegetation. All development or activity resulting in adverse impacts to existing shoreline vegetative functions shall require mitigation per the applicable standards set forth in LUC 20.25E.065.F.8 of this section. Adverse impacts to existing vegetative functions are defined as follows:

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- b. Shoreline Vegetation Impact. Removal or alteration of more than 200 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a three year period within the Shoreline Vegetation Conservation Area, except when the alteration is part of an approved watershed restoration plan pursuant to LUC 20.25E.170.C.15, a fish or wildlife habitat improvement project pursuant to LUC 20.25E.170.C.16 or a voluntary removal of shoreline stabilization meeting the requirements of LUC 20.25E.080.F.7.

**Option 1: 1,000 SF Vegetation Disturbance allowed with Limitation**

- **No increase in the total area of lawn or bare ground**
- **No removal of native vegetation areas in excess of 200 sf**

LUC 20.25E.065.F.7.b

. . . .

- b. Shoreline Vegetation Impact. Removal or alteration of more than 200 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a ~~three~~ five year period within the area between 0-25 feet of OHWM, or any of the following conducted within the Shoreline Vegetation Conservation Area; ~~except when the alteration is part of an approved watershed restoration plan pursuant to LUC 20.25E.170.C.15, a fish or wildlife habitat improvement project pursuant to LUC 20.25E.170.C.16 or a voluntary removal of shoreline stabilization meeting the requirements of LUC 20.25E.080.F.7.~~
- i. Removal or alteration of more than a total of 1,000 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a five year period;
  - ii. Vegetation modifications resulting in an increase in the total area of lawn or bare ground; or
  - iii. Removal of native vegetation communities larger than 200 square feet.

Vegetation removal and alterations are not governed by the square footage limitations set forth in this paragraph when part of an approved watershed restoration plan pursuant to LUC 20.25E.170.C.15, a fish or wildlife habitat improvement project pursuant to LUC 20.25E.170.C.16 or a voluntary removal of shoreline stabilization meeting the requirements of LUC 20.25E.080.F.7. Regular landscape maintenance, as described under LUC 20.25E.065.F.11, is not considered a shoreline vegetation impact.

**Option 2: 1,000 SF Vegetation Disturbance allowed Outright and New Impervious Surface Mitigation Added**

- **No limitation on vegetation modifications:**
  - **200 sf or less within 0-25' of OHWM**
  - **1,000 sf or less within 50' of OHWM**
- **Additional Mitigation of Impervious Surface added to offset the new unregulated disturbance**
  - **Applies to any new impervious surface added waterward of existing structures in the VCA**
  - **Requires 150 sf of vegetation within 10' of OHWM**

LUC 20.25E.065.F.7.b

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- b. Shoreline Vegetation Impact. Removal or alteration of more than 200 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a ~~three-five~~ year period within the area between 0-25 feet of OHWM, or removal or alteration of more than 1,000 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a five-year period within the Shoreline Vegetation Conservation Area, except Vegetation removal and alterations are not governed by the square footage limitations set forth in this paragraph when the alteration is part of an approved watershed restoration plan pursuant to LUC 20.25E.170.C.15, a fish or wildlife habitat improvement project pursuant to LUC 20.25E.170.C.16 or a voluntary removal of shoreline stabilization meeting the requirements of LUC 20.25E.080.F.7. Regular landscape maintenance, as described under LUC 20.25E.065.F.11, is not considered a shoreline vegetation impact.

LUC 20.25E.065.F.8.c – new subparagraph iv.

iv. Impervious Surface Waterward of Existing Structures. Any shoreline impact resulting from an increase in impervious surface located waterward of existing structures shall require installation of 150 square feet of native vegetation within 0-10 feet of OHWM. Planting shall meet the standards described in LUC 20.25E.065.8.g.



**Option 3: 1,000 SF Vegetation Disturbance allowed with Limitation and New Mitigation (Hybrid of 1 & 2)**

- **No increase greater than 200 sf of lawn or bare ground**
- **Additional Mitigation of Impervious Surface added to offset the new unregulated disturbance**
  - **Applies to any new impervious surface added waterward of existing structures in the VCA**
  - **Requires 75 sf of vegetation within 10' of OHWM**

20.25E.065.F.7.b

b. Shoreline Vegetation Impact. Shoreline vegetation impacts are defined as any of the following:

- Removal or alteration of more than 200 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a ~~three-five~~ year period within the ~~Shoreline Vegetation Conservation Area~~, except area between 0-25 feet of OHWM;
- Removal or alteration of more than a total of 1,000 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a five-year period within the Shoreline Vegetation Conservation Area;
- Removal or alteration of less than 1,000 square feet of existing shoreline vegetation including non-significant trees, shrubs, or groundcover in a five-year period within the Shoreline Vegetation Conservation Area if the area of lawn or bare ground increases by more than 200 square feet.

Vegetation removal and alterations are not governed by the square footage limitations set forth in this paragraph when the alteration is part of an approved watershed restoration plan pursuant to LUC 20.25E.170.C.15, a fish or wildlife habitat improvement project pursuant to LUC 20.25E.170.C.16 or a voluntary removal of shoreline stabilization meeting the requirements of LUC 20.25E.080.F.7. Regular landscape maintenance, as described under LUC 20.25E.065.F.11, is not considered a shoreline vegetation impact.

LUC 20.25E.065.F.8.c – new subparagraph iv.

- Impervious Surface Waterward of Existing Structures. Any shoreline impact resulting from an increase in impervious surface located waterward of existing structures shall require installation of 75 square feet of native vegetation within 0-10 feet of OHWM. Planting shall meet the standards described in LUC 20.25E.065.8.g.



# Direction Requested

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- **Attachment A** – Code Direction without 1,000 SF Vegetation Modification change
  - Action Requested: Confirm code responds to Council direction on 8 modifications advanced for final drafting excluding the 1,000 SF Vegetation Modification change

– AND –

- **Attachment B** – Options to achieve the 1,000 SF Vegetation Modification change
  - Action Requested: Select one of three options provided to achieve Council direction

# Next Steps

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- Finalize regulatory package
- Direct The Watershed Company to finalize the Cumulative Impact Analysis
- Council adoption of regulatory package scheduled for May 18
- Transmittal to Ecology

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
1. <u>Determination of OHWM</u> : Clarify that individual determination can “only be undertaken at the sole direction of the applicant.”	Add language to the base document at LUC 20.25E.065.E.1.b to clarify that a site-specific OHWM determination can “only be undertaken at the sole discretion of the applicant.”

### **LUC 20.25E.065.E.1.b - Attachment A (Page 6)**

Measurement of Shoreline Structure Setback. The shoreline structure setback shall be measured landward from ordinary high water mark on a horizontal plane and to a point that results in the required dimension. On Lake Sammamish, the shoreline structure setback may be measured landward from elevation 31.2 NAVD 88 on a horizontal plane and to a point that results in the required dimension, or from that point identified in a site-specific ordinary high water mark determination prepared by a qualified professional **at the sole discretion of the applicant**. The fixed elevation shall not be used for the determination of ordinary high water mark required for the purpose of locating a residential moorage (refer to LUC 20.25E.065.H) or shoreline stabilization (refer to LUC 20.25E.065.G). If critical areas are located on the site, the requirements for the associated critical area buffer and buffer setback may impose a larger setback than required under this section.

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
<p>2. Create more nuanced mitigation menu and add rain gardens/swales.</p>	<p>Add some additional nuance between non-native plantings that are located between 0-25 feet from OHWM (value of 0.3) and between 25-50 feet from OHWM (value of 0.25). Provide a line item for mown lawn, annual or perennial gardens, and noxious species/weeds (value of 0.1), and provide a line item for bare ground or pervious features (value of 0.15). Promote rain garden option more by giving it a value of 0.7 and include an implementation footnote that requires installations to follow the Western Washington Rain Garden Handbook for Region 3.</p>

**Chart 20.25E.065.F.8.d Note (7) - Attachment A (Page 13)**

- (7) Installation shall be pursuant to the Western Washington Rain Garden Handbook for Region 3, now or as hereafter amended. Rain gardens provide water quality benefits that may not fully mitigate for lost habitat structure associated with a project that impacts trees and shrubs. Projects that impact native vegetation shall also be mitigated with the installation of native vegetation having a shoreline land cover value of 0.6 or greater pursuant to the terms of LUC 20.25E.065.F.8.c.

**Chart 20.25E.065.F.8.d - Attachment A (Page 13)**

Land cover type	Standard value (1)	Mitigation planting types
Impervious surface (2)	0.0	Not allowed as mitigation planting for removal of Land Cover having a value of greater than 0.2.
Mown lawn, <del>bare ground</del> , annual or perennial gardens, noxious species/weeds or <del>pervious features</del>	<del>0.2</del> <u>0.1</u>	
<u>Bare ground or pervious features</u>	<u>0.15</u>	
<u>Non-native vegetation, 25-50 feet from OHWM (3)</u>	<u>0.25</u>	Shoreline vegetation replacement, enhancement, or retention.
Non-native vegetation, <u>0-25 feet from OHWM (3)</u>	<del>0.4</del> <u>0.3</u>	
Native vegetation (4), 25-50 feet from OHWM (6)	0.6	
<u>Rain garden/swale, 0-200 feet from OHWM (7)</u>	<u>0.7</u>	
Native vegetation (4), 0-25 feet from OHWM (6)	0.8	
Native overhanging vegetation (5), 0-10 feet from OHWM	1.0	

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
<p>3. Recording of Mitigation Credits should be optional at applicant's discretion.</p>	<p>Amend Planting Plan requirement of LUC 20.25E.065.F.8.i to provide an avenue for applicants to record mitigation credits at their discretion (would remove requirement to record planting plans).</p>

#### **LUC 20.25E.065.F.8.j - Attachment A (Page 18)**

- j. Planting Plan. The applicant shall submit a planting plan prepared by a qualified professional or per guidance in the City of Bellevue Shoreline Handbook [to be developed]. The planting plan shall show location, size, species, and quantity of proposed mitigation planting, including replacement, enhancement, and retention of vegetation. The applicant shall record plans ~~and credits earned~~ with the King County Recorder's Office or its successor agency as a mechanism to track advance mitigation credits earned.

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
<p>4. Allow replacement of removed significant trees to occur anywhere within shoreline jurisdiction located 0-200 feet of OHWM</p>	<p>Amend LUC 20.25E.065.F.8.c.iii to allow additional flexibility in the placement of trees within 200 feet of OHWM.</p> <ul style="list-style-type: none"> <li>• For impacts to significant trees within 0-25' from OHWM, mitigation shall be provided anywhere between 0-50' from OHWM.</li> <li>• For impacts to significant trees between 25-50' from the OHWM, mitigation shall be provided at the same proposed mitigation standards for size and number, but trees may be placed anywhere within shoreline jurisdiction (0-200') as long as at least one tree is placed within 0-50' from the OHWM.</li> </ul>

#### **LUC 20.25E.065.F.8.c.iii - Attachment A (Page 12)**

- (3) Planting Location. All significant trees removed from the area within 25 feet of OHWM shall be replaced in a location within 50 feet of OHWM. All significant trees removed from the area between 25 to 50 feet of OHWM shall be replaced in a location within 200 feet of OHWM, provide that at least one replacement tree is located within 50 feet of OHWM.



REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
5. Provide mitigation credits for dock grating.	<p>Dock grating would be added as a new paragraph to LUC 20.25E.065.F.8 and given a fixed mitigation credit as follows:</p> <ul style="list-style-type: none"> <li>• Replacement of solid decking with grated decking in the near-shore 30 feet would be given a 50 unit credit.</li> <li>• If the entire dock is resurfaced with grated decking, an additional credit of 25 units would be provided.</li> </ul>

#### LUC 20.25E.065.F.8.h - Attachment A (Page 17)

- h. Dock Grating Mitigation. The applicant shall receive mitigation credit for the replacement of solid decking with grated decking.
- Dock Area within 30 feet of OHWM. Replacement of solid decking with grated decking in the near shore area earns 50 units of mitigation credit.
  - Entire Dock Area. Replacement of all solid decking with grated decking over the entire dock area earns 75 units of mitigation credit.

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
7. Noxious weeds should not be protected.	Add language at LUC 20.25E.065.F.12 to clarify that noxious weeds are not protected and to ensure removal of noxious weeds does not create erosion or sedimentation impact.

#### LUC 20.25E.065.F.12 - Attachment A (Page 18-19)

12. Removal of Noxious Species. Noxious species may be removed from the shoreline vegetation conservation area consistent with King County's Noxious Weed Program's best management practices for removal of noxious weeds so long as the -  
~~Exposed areas are~~ shall be replanted with native or non-native species as necessary to control sediment runoff from areas of  
~~exposed soil.~~ The preferred method to remove noxious species from the shoreline vegetation conservation area is with hand labor and hand-operated equipment. Eurasian water milfoil and Brazilian elodea may be removed without triggering the mitigation requirements of LUC 20.25E.065.F.8.g.

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
<p>8. Create Minor Expansion Exemption for Primary Structure like Mercer Island</p>	<p>A one-time expansion to an existing structure or impervious surface in the area between 25-50 feet from the OWHM would be provided without the need for mitigation. The expansion could not be closer to the OWHM than the existing structure, and impacts to significant trees would still need to meet the mitigation requirement. The size of the expansion would be limited to 200 sf or 5% of the area between 0-50' from OWHM, whichever is greater.</p>

## LUC 20.25E.065.F.7.a - Attachment A (Page 8)

- a. New or Expanded Impervious Surfaces. Placement of any impervious surface within the Shoreline Vegetation Conservation Area, and outside of the footprint of the existing impervious surface that was legally established before [INSERT EFFECTIVE DATE of ordinance]. Placement of impervious surface applies to new, reconfigured, and expanded structures or impervious surfaces allowed pursuant to the requirements of LUC 20.25E.065.C through E. A one-time lateral expansion of an existing impervious surface may be undertaken in that area between 25-50 feet from OHWM without the need for mitigation of non-significant tree impacts under the terms of LUC 20.25E.065.F.7 and 8, so long as the following criteria are met:
- i. The lateral expansion is not located within 25 feet of OHWM; and
  - ii. The lateral expansion does not increase the existing total footprint of the residence and/or associated impervious surface lying within the Shoreline Vegetation Conservation Area by more than 200 square feet or five percent (5%), whichever is greater, over that existing before [insert effective date of ordinance]; and
  - iii. No portion of the modification, addition or replacement is located closer to the OHWM; and
  - iv. Impacts to any significant trees are mitigated pursuant to the terms of LUC 20.25E.065.F.8.c.iii; and
  - i. This allowance may only be used once for the lifetime of the existing impervious surfaces.

REQUESTED REGULATORY ALTERNATIVE	MARCH 16 COUNCIL DIRECTION
9. Add administrative modification process from vegetation regulations for odd or substandard lots	Amend LUC 20.25E.065.F.4 to allow provisions to be administratively modified by the Director without going through the Special Shoreline Report Process in order to address oddly shaped or substandard sized lots.

#### **LUC 20.25E.065.F.4 - Attachment A (Page 7)**

4. Modification of Standards. The vegetation impact and mitigation requirements contained in this section may be modified using the Special Shoreline Report Process (refer to LUC 20.25E.160.E). A Special Shoreline Report is not necessary for the Director to modify the requirements for nonconforming lots or lots with unique sizes and shapes when necessary to ensure mitigation has a nexus and rough proportionality to the proposed impact and is consistent with all relevant constitutional and other legal limitations.