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Chapter 11 – Shorelines

Chapter Eleven Shorelines

Introduction

The State Legislature passed the Washington State Shoreline Management Act (SMA) in June 1971. The SMA was overwhelmingly passed by public initiative in 1972. Under the SMA, each county and city was required to prepare a shoreline “master program” in accordance with the shoreline guidelines issued by the State Department of Ecology in 1972.

The Whatcom County Shoreline Management Program (SMP), ~~WCC Title 23~~, is the set of policies and regulations document that implements the goals and policies of the SMA at the local level. It was first adopted in 1976 in accordance with RCW 90.58. The goals and policies of the Whatcom County ~~Shoreline Management Program SMP~~ also constitute the shoreline component of the Whatcom County Comprehensive Plan.

The Whatcom County Shoreline Management Program jurisdiction includes:

- More than 130 miles of marine shoreline;
- More than 60 miles of lake shoreline;
- More than 220 miles of stream channels; and,
- All wetlands and floodways associated with the above shorelines, together with all upland areas within 200-feet of the Ordinary High Water Mark (OHWM).

Whatcom County and the Washington State Department of Ecology (DOE) share joint authority and responsibility for the Whatcom County SMP. Whatcom County Planning and Development Services is the primary agency responsible for its implementation of the ~~Whatcom County Shoreline Management Program~~.

Chapter Organization

This chapter is composed of an introduction and five sections organized by topic heading. The first section, entitled “Overall SMP Goals and Objectives,” addresses general shoreline goals and objectives. The next provides the purposes, designation criteria, and policies for the County’s various shoreline area designations. The third section contains the County’s policies for Shorelines of Statewide Significance. The fourth section provides the general policies that apply to all area designations. And the fifth section provides the policies specific to the type of use proposed. Together with the regulations of WCC Title 23, the sections of this chapter provide the direction necessary to ensure and promote long-term sustainability of the shorelines in Whatcom County.

Purpose

This chapter together with WCC Title 23 comprises Whatcom County’s Shoreline Management Program. This chapter contains the SMP’s goals, objectives, and policies, while its regulations are found in WCC Title 23. All development proposed

Comment [CES1]: This text was moved from Chapter 10. Proposed amendments to the existing text are shown as strikeout/underline.

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1 within jurisdictional shorelines must be consistent with both the policies of this
2 chapter and the regulations of WCC Title 23.

3 The Shoreline Management Act (SMA) was developed and adopted to protect “the
4 most valuable and fragile of [the state’s] natural resources from the “inherent harm
5 in uncoordinated and piecemeal development of the state’s shorelines” (quotes
6 from RCW 90.58.020). The SMA in Chapter 90.58 RCW contains three distinct but
7 related priorities:

8 1. The promotion of shoreline uses that are both water-oriented and
9 appropriate for the broader environmental context. Developments such as
10 single family residences, recreational areas, and water-dependent businesses
11 such as marinas are considered priority uses provided they are constructed in
12 a manner “consistent with control of pollution and prevention of damage to
13 the environment” (quote from RCW 90.58.020).

14 2. The SMA requires local governments to take an active role in protecting the
15 shoreline ecology: the water, the land, the vegetation and the wildlife. The
16 state guidelines are explicit: “Local master programs shall include regulations
17 and mitigation standards ensuring that each permitted development will not
18 cause a net loss of ecological functions of the shoreline.” (WAC 173-26-
19 186(8)(b)(i).)

20 3. The SMA also promotes public access to the shoreline by requiring protection
21 of existing public access features and requiring certain types of new
22 development to include public access.

23 The SMP regulations (WCC Title 23) apply to individual projects, and impacts of
24 shoreline development are evaluated on a project-by-project basis. However, the
25 SMP goals and policies, shoreline designations, regulations, and the restoration plan
26 are comprehensively structured to achieve no net loss of shoreline ecological
27 functions as a whole in Whatcom County.

28 **GMA Goals and Countywide Planning Policies**

29 First adopted in 1990, The Growth Management Act (GMA) is a series of state
30 statutes that requires fast-growing cities and counties to develop a comprehensive
31 plan to manage their population growth. It is primarily codified under Chapter
32 36.70A RCW, although it has been amended and added to in several other parts of
33 the RCW. Under RCW 36.70A.020, the GMA established a series of 13 goals that
34 should act as the basis of all comprehensive plans. In 2003, the legislature added
35 the goals and policies of the Shoreline Management Act as the fourteenth GMA goal
36 (RCW 36.70A.480). The shoreline goals may be found at RCW 90.58.020.

37 As of this time, there are no Countywide Planning Policies that address
38 development in the shoreline.

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~~GMA~~ SMA Requirements

Under the provisions of the SMA, all development along shorelines of the state is required to comply with the provisions of local shoreline master programs. The Whatcom County ~~Shoreline Management Program~~ SMP works with other chapters of the Whatcom County Code to protect and preserve saltwater and freshwater shorelines throughout the county by managing natural resources and directing development and land use suitable for the shoreline environment.

~~23.10.030~~ Governing Principles

The following principles, along with the policy statements of RCW 90.58.020 and the principles of Chapter 173-26 WAC, establish basic concepts that underpin the goals, policies, and regulations of the ~~SMP~~ Shoreline Management Plan (SMP) ~~this program~~:

- A. Any inconsistencies between the ~~SMP~~ ~~this program~~ and the Shoreline Management Act (SMA) must be resolved in accordance with the SMA.
- B. The policies of the ~~SMP~~ ~~this program~~ may be achieved by diverse means, one of which is regulation. Other means, authorized by the SMA, include, but are not limited to: acquisition of lands and/or easements by purchase or gift, incentive programs, and implementation of capital facility and/or nonstructural programs.
- C. Protecting the shoreline environment is an essential statewide policy goal, consistent with other policy goals. Permitted and/or exempt development, actions taken prior to the SMA's adoption, and/or unregulated activities can impair shoreline ecological processes and functions. ~~The SMP~~ ~~this program~~ protects shoreline ecology from such impairments in the following ways:
 1. By using a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by shorelines.
 2. By including policies and regulations that require mitigation of significant adverse impacts in a manner that ensures no net loss of shoreline ecological functions. The required mitigation shall include avoidance, minimization, and compensation of impacts in accordance with the policies and regulations for mitigation sequencing in WCC 23-~~90.030~~ and the Whatcom County Critical Areas Ordinance (CAO, Chapter 16.16 WCC). ~~The SMP~~ ~~this program~~ and any future amendment thereto shall ensure no net loss of shoreline ecological functions and processes on a programmatic basis in accordance with the baseline functions present as of the date of adoption of the comprehensive SMP update ~~this program~~, February 27, 2007.
 3. By including policies and regulations to address cumulative impacts, including ensuring that the cumulative effect of exempt development will not cause a net loss of shoreline ecological functions, and by fairly

Comment [CES2]: These principles have been moved from 23.10.030.

Comment [RE3]: **Cliff to do**: This should also be state in the regulations, per the RCW.

Comment [MD4]: Deleting "significant," as there is no such threshold under SMA.

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1 allocating the burden of addressing such impacts among development
2 opportunities.

3 4. By including regulations and regulatory incentives designed to protect
4 shoreline ecological functions, and restore impaired ecological functions
5 where such opportunities have been identified, consistent with the
6 Shoreline Management Program Restoration Plan developed by Whatcom
7 County.

8 D. Regulation of private property to implement ~~SMP program~~ goals such as
9 public access and protection of ecological functions and processes must be
10 consistent with all relevant constitutional and other legal limitations. These
11 include, but are not limited to, civil rights guaranteed by the U.S. and state
12 Constitutions, ~~recent pertinent~~ federal and state case law, and state statutes,
13 such as RCW 34.05.328 and 43.21C.060 and Chapter 82.02 RCW.

14 E. Regulatory or administrative actions ~~contained herein~~ must be implemented
15 consistent with the public trust doctrine and other applicable legal principles
16 as appropriate and must not unconstitutionally infringe on private property
17 rights or result in an unconstitutional taking of private property.

18 F. The regulatory provisions of ~~the SMP this program~~ are limited to jurisdictional
19 shorelines ~~shorelines of the state~~, whereas the planning functions of the
20 SMP this program may extend beyond the designated shoreline boundaries.

21 G. The policies and regulations established by the ~~SMP program~~ must be
22 integrated and coordinated with those policies and rules of the ~~Whatcom~~
23 ~~County Comprehensive Plan~~ and development regulations adopted under the
24 ~~Growth Management Act (GMA)~~ and RCW 34.05.328.

25 H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom
26 County should balance the various policy goals of ~~the SMP this program~~ giving
27 consideration to other relevant local, state, and federal regulatory and non-
28 regulatory programs.

Chapter 23-20 Overall SMP Goals and Objectives

29 ~~23-20.005 Generally.~~

30 This ~~section~~ chapter ~~describes~~ contains overall ~~program~~ SMP goals and objectives.
31 They provide the ~~comprehensive~~ foundation and framework upon which the
32 shoreline area designations, policies, regulations, and administrative procedures are
33 based.
34

35 The general policies and regulations (in a later section of this chapter and in
36 Chapter Title 23-90 WCC, respectively) and the specific use policies and regulations
37 (in a later section of this chapter and in Chapter Title 23-100 WCC, respectively)
38 are the means by which these goals and objectives are implemented.

23-20.010 Adoption:

39 ~~In addition to the policy adopted in WCC 23.10.020(C), the following goals and~~
40 ~~objectives relating to the program elements specified in RCW 90.58.100(2) are~~
41

Comment [MD5]: Moved all policy content from Chapter 23.20. This section reviewed and coordinated with Title 23 updates.

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hereby adopted. They provide the comprehensive foundation and framework upon which the shoreline area designations, policies, regulations, and administrative procedures are based.

Comment [MD6]: Moved up.

~~23-20-020~~ Economic Development:

The economic development element provides for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent upon a shoreline location and/or use of the shorelines of the state.

Goal 11A: ~~Goal. To e~~ Create and maintain an economic environment that can coexist harmoniously with the natural and human environment.

B. Objectives:

11A-1: Encourage economic development that has minimal adverse effects and mitigates unavoidable impacts upon shoreline ecological functions and processes and the built environment.

11A-2: Encourage shoreline development that has a positive effect upon economic and social activities of value to the region.

11A-3: Encourage new water-dependent, water-related, and water-enjoyment economic development in priority order.

11A-4: Encourage economic development that is consistent with the adopted Comprehensive Economic Development Strategy (CEDS) for Whatcom County.

11A-5: Implement economic development policies contained in other chapters of the ~~Whatcom County Comprehensive Plan~~ in shoreline areas consistent with this chapter, Title 23 WCC program and the SMA Act.

11A-6: Encourage new economic development to locate in areas that are already developed with similar uses.

11A-7: Discourage expansion of existing development that is incompatible with ~~the Comprehensive Plan~~ this program, Title 23 WCC, or the character of the local area, ~~or the Whatcom County Comprehensive Plan.~~

~~23-20-030~~ Public Access:

The public access element provides for public access to publicly owned or privately owned shoreline areas where the public is granted a right of use or access.

Goal 11B:A: ~~Goal. To i~~ Increase the general public's ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and/or to view the water and the shoreline from adjacent locations; provided, that private rights, ~~the~~ public safety, and shoreline ecological functions and processes are

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protected consistent with the U.S. and state Constitutions, state case law, and state statutes.

~~B.~~ Objectives:-

11B-1: Locate, design, manage, and maintain public access in a manner that protects shoreline ecological functions and processes and the public health and safety.

11B-2: Design and manage public access in a manner that ensures compatibility with water-dependent uses.

11B-3: Where appropriate, acquire access to publicly owned tidelands and shorelands. Encourage cooperation among the County, landowners, developers, and other agencies and organizations to enhance and increase public access to shorelines as specific opportunities arise.

11B-4: Provide and protect visual access to shorelines and tidelands.

11B-5: Require physical or visual access to shorelines as a condition of approval for shoreline development activities commensurate with the impacts of such development and the corresponding benefit to the public, and consistent with constitutional limitations.

11B-6: Develop and manage public access to prevent adverse impacts to adjacent private shoreline properties and developments.

~~23-20-040~~ Recreation:-

The recreation element provides for the preservation and expansion of water-oriented recreational opportunities that facilitate the public's ability to enjoy the physical and aesthetic qualities of the shoreline through parks, public access to tidelands and beaches, bicycle and pedestrian paths, viewpoints, and other recreational amenities.

Goal 11C:A: ~~Goal. To p~~ Provide opportunities and space for diverse forms of water-oriented recreation.

~~B.~~ Objectives:-

11C-1: Locate, develop, manage, and maintain recreation areas in a manner that protects shoreline ecological functions and processes.

11C-2: Provide a balanced choice of water-oriented public recreational opportunities regionally. Ensure that shoreline recreation facilities serve projected County growth in accordance with the level of service standards established in the ~~Whatcom County~~ Comprehensive Plan and related goals and policies; ~~the~~ Comprehensive Park and Recreation Open Space Plan; ~~the~~ Whatcom County Bicycle Plan; ~~and~~ the Natural Heritage Plan.

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- 1 | 11C-3: Acquire additional recreation ~~areas~~ and public access areas with
2 | a high recreation value prior to demand to assure that sufficient
3 | shoreline recreation opportunities are available to serve future
4 | recreational needs.
- 5 | 11C-4: Encourage cooperation among public agencies, nonprofit
6 | groups, ~~and~~ private landowners, and developers to increase and
7 | diversify recreational opportunities through a variety of means
8 | including incorporating water-oriented recreational opportunities
9 | into mixed use developments and other innovative techniques.
- 10 | 11C-5: Recognize and protect the interest of all people of the state by
11 | providing increased recreational opportunities within shorelines
12 | of statewide significance and associated shorelands.
- 13 | 11C-6: Encourage private and public investment in recreation facilities.
- 14 | 11C-7: Locate, design, and operate recreational development in a
15 | manner that minimizes adverse effects on adjacent properties
16 | as well as other social, recreational, or economic activities.
- 17 | ~~23-20-050-Transportation and Essential Public Facilities-~~
- 18 | The transportation and essential public facilities element provides for the general
19 | location and extent of existing and proposed public thoroughfares, transportation
20 | routes, terminals, and other public utilities and facilities.
- 21 | **Goal 11D:A: ~~Goal. To provide transportation systems and essential~~**
22 | **public facilities in shoreline areas without adverse effects**
23 | **on existing shoreline use and development or shoreline**
24 | **ecological functions and/or processes.**
- 25 | ~~B.~~ Objectives:
- 26 | -
- 27 | 11D-1: Locate, develop, manage, and maintain transportation systems
28 | and essential public facilities in a manner that protects shoreline
29 | ecological functions and processes. Minimize and mitigate
30 | unavoidable impacts.
- 31 | 11D-2: Locate and design transportation systems and essential public
32 | facilities to be harmonious with the existing and future economic
33 | and social needs of the community.
- 34 | 11D-3: Discourage the development of non-water-dependent
35 | transportation systems and essential public facilities unless no
36 | feasible alternatives exist. Devote roads within the shoreline
37 | jurisdiction to low volume local access routes and shoreline
38 | public access where feasible.
- 39 | 11D-4: When appropriate, require ~~adequate~~ appropriate compensation
40 | where transportation systems and essential public facilities
41 | reduce the benefits people derive from their property.

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- 1 | 11D-5: Provide for alternate modes of travel, encourage freedom of
2 | choice among travel modes, and provide multiple use
3 | transportation corridors where compatible in association with
4 | shoreline transportation development.
- 5 | 11D-6: Require transportation system and essential public facility
6 | development in shoreline areas to protect and enhance physical
7 | and visual shoreline public access.
- 8 |
- 9 | ~~23-20-060~~ **Shoreline Use:**
- 10 | The shoreline use element ~~considers~~ prioritizes the use and development of
11 | shorelines and adjacent land areas for housing, business, industry, transportation,
12 | agriculture, forestry, natural resources, recreation, education, public institutions,
13 | utilities, and other categories of public and private land use with respect to the
14 | type, general distribution, location, and extent of such uses and developments.
- 15 | **Goal 11E:A: ~~Goal. To p~~Preserve and develop shorelines in a manner**
16 | **that allows for an orderly balance of uses.**
- 17 | ~~B.~~ Objectives:-
- 18 |
- 19 | 11E-1: Give preference to water-dependent and single-family
20 | residential uses that are consistent with preservation of
21 | shoreline ecological functions and processes. Give secondary
22 | preference to water-related and water-enjoyment uses. Allow
23 | non-water-oriented uses only when substantial public benefit is
24 | provided with respect to the goals of the ~~SMA Act~~ for public
25 | access and ecological restoration.
- 26 | 11E-2: Designate and maintain appropriate areas for protecting and
27 | restoring shoreline ecological functions and processes to control
28 | pollution and prevent damage to the shoreline environment
29 | and/or public health.
- 30 | 11E-3: Ensure shoreline uses are consistent with the ~~Whatcom County~~
31 | Comprehensive Plan.
- 32 | 11E-4: Balance the location, design, and management of shoreline uses
33 | throughout the County to prevent a net loss of shoreline
34 | ecological functions and processes over time.
- 35 | 11E-5: Encourage mixed use developments that include and support
36 | water-oriented uses and provide a substantial public benefit
37 | consistent with the public access and ecological restoration
38 | goals and policies of the ~~SMA Act~~.
- 39 | 11E-6: Encourage shoreline uses and development that enhance
40 | shoreline ecological functions and/or processes or employ
41 | innovative features that further the purposes of ~~the SMP~~
42 | this program.

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1 | 11E-7: Encourage shoreline uses and development that enhance and/or
2 | increase public access to the shoreline.

3 | ~~23-20-070~~ Conservation-

4 | The shoreline conservation element provides for the protection of natural resources,
5 | and shoreline ecological functions and processes. Resources to be conserved and
6 | protected include, but are not limited to, wetlands; riparian, nearshore, and aquatic
7 | habitats; priority fish and wildlife habitats and species; floodplains; feeder bluffs
8 | and other geological features; cultural and historic resources; as well as scenic
9 | vistas and aesthetics.

10 | **Goal 11F:A:** ~~Goal. To e~~Conserve shoreline resources and important
11 | shoreline features, and protect shoreline ecological
12 | functions and the processes that sustain them to the
13 | maximum extent practicable.

14 | B. Objectives:-

15 |
16 | 11F-1: ~~Develop~~ Maintain regulations and mitigation standards that
17 | ensure new shoreline developments prevent a net loss of
18 | shoreline ecological functions and processes. Implement such
19 | regulations and standards in a manner consistent with all
20 | relevant constitutional and other legal limitations on the
21 | regulation of private property.

22 | 11F-2: Protect critical areas in accordance with ~~the policies and~~
23 | ~~regulations in the County's critical areas regulations (WCC~~
24 | ~~Chapter 16.16), as adopted by reference in the SMP.~~

25 | 11F-3: Manage renewable natural resources on a sustained yield basis.
26 | Extract nonrenewable natural resources in a manner that
27 | maintains the quality of other resources and shoreline ecological
28 | functions and processes.

29 | 11F-4: Prioritize protection and/or conservation of shoreline areas that
30 | are ecologically intact and minimally developed or degraded.

31 | ~~23-20-080~~ Archaeological, historical and Cultural Resources

32 | The ~~archaeological-historical-cultural resource~~ element provides for protection,
33 | preservation and/or restoration of buildings, sites, and areas having archaeological,
34 | historical, cultural, or scientific value or significance. “Cultural resource” refers to
35 | any archaeological, historic, cemetery, or other cultural sites or artifacts; as well as
36 | those traditional food, medicine, fibers, and objects that sustain the religious,
37 | ceremonial, and social activities of affected Native American tribes that may be
38 | regulated under state or federal laws administered by the Washington State
39 | Department of Archaeologic and Historic Preservation (DAHP).

40 | **Goal 11G:A:** ~~Goal.~~Protect shoreline features of historic, cultural,
41 | archeological, or scientific value or significance to
42 | prevent damage or destruction through coordination and

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1 **consultation with the appropriate local, state and federal**
2 **authorities, including affected Indian tribes.**

3 ~~B.~~ Objectives:-

4 11G-1: Protect ~~cultural resources sites~~ in collaboration with appropriate
5 tribal, state, federal, and local governments.

6 11G-2 Engage in and encourage public agencies and private parties to
7 cooperate in the identification, protection and management of
8 cultural resources.

9 11G-3: Consult with the Washington State Department of Archaeology
10 and Historic Preservation (DAHP) and affected Native American
11 tribes when developing local policies and regulations for
12 identifying, protecting, and preserving cultural resources.

13 11G-4: Where appropriate, restore unique resources that have cultural,
14 archaeological, historic, educational, or scientific value or
15 significance to further enhance the value of the shorelines.

16 11G-5: Where appropriate, provide access to cultural resources in a
17 manner that is culturally sensitive and does not degrade the
18 resource or impact the quality of the environment, ~~make access~~
19 ~~to such sites available to parties of interest; provided, that~~
20 ~~access to such sites must be designed and managed in a~~
21 ~~manner that gives maximum protection to the resource.~~

22 11G-3: Provide opportunities for education related to archaeological,
23 historical, and cultural features where appropriate and
24 incorporated into public and private programs and development.

25 ~~23-20-090~~ Views and Aesthetics:-

26 This element provides for preservation and/or protection of scenic vistas, views of
27 the water, and other aesthetic qualities of shorelines for public enjoyment.

28 **Goal 11H:A: ~~Goal. To a~~Assure that the public's ability and opportunity**
29 **to enjoy shoreline views and aesthetics is protected.**

30 ~~B.~~ Objectives:-

31
32 11H-1: Identify and protect areas with scenic vistas and areas where
33 the shoreline has high aesthetic value.

34 11H-2: Design development to minimize adverse impacts on views from
35 public property or views enjoyed by a substantial number of
36 residences.

37 ~~23-20-100~~ Restoration and eEnhancement:-

38 This element provides for the timely restoration and enhancement of ecologically
39 impaired areas in a manner that achieves a net gain in shoreline ecological

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1 functions and processes above baseline conditions ~~as of the adoption of this~~
2 ~~program.~~

3 **Goal 111:A-** ~~Goal. To r~~**Reestablish, rehabilitate and/or otherwise**
4 **improve impaired shoreline ecological functions and/or**
5 **processes through voluntary and incentive-based public**
6 **and private programs and actions that are consistent with**
7 **the Shoreline Management Program Restoration Plan**
8 **(County Resolution 2007-011) and other approved**
9 **restoration plans.**

10 ~~B.~~ Objectives:-

11
12 111-1: Encourage and facilitate cooperative restoration and
13 enhancement programs between local, state, and federal public
14 agencies, tribes, nonprofit organizations, and landowners to
15 address shorelines with impaired ecological functions and/or
16 processes.

17 111-2: Restore and enhance shoreline ecological functions, ~~and~~
18 ~~processes, and as well as shoreline features through voluntary~~
19 ~~and incentive-based public and private programs, such as the~~
20 Shore Friendly Program developed by the Washington State
21 Department of Fish and Wildlife, Washington State Department
22 of Natural Resources, and the Environmental Protection Agency.

23 111-3: Target restoration and enhancement towards improving habitat
24 requirements of priority and/or locally important wildlife species.

25 111-4: Ensure restoration and enhancement is consistent with and,
26 where practicable, prioritized based on the biological recovery
27 goals for early Chinook and bull trout populations and other
28 species and/or populations for which a recovery plan is
29 available.

30 111-5: Integrate restoration and enhancement with other parallel
31 natural resource management efforts such as the WRIA 1
32 Salmonid Recovery Plan, Drayton Harbor and Portage Bay
33 Shellfish Protection District Plans, WRIA 1 Watershed
34 Management Plan, ~~Whatcom County Comprehensive Plan,~~ and
35 the Puget Sound Salmon Recovery Draft Plan.

Chapter 23.30 Shoreline Jurisdiction and Area Designations

38 ~~23.30.022 Shoreline area designations-~~

39 ~~A-~~A set of 10 shoreline area designations has been developed as a part of the
40 SMP~~this program~~. The purpose of the shoreline area designations is to provide a
41 systematic, rational, and equitable basis upon which to guide and regulate
42 development within specific shoreline reaches.

Comment [AP7]: Draft revision per Scoping Document, Item #8a regarding the Shore Friendly Program.

Comment [MD8]: Moved some content from Chapter 23.30. Section reviewed and coordinated with Title 23 updates.

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B. Shoreline area designations have been determined after consideration of:

1. The ecological functions and processes that characterize the shoreline, together with the degree of human alteration; ~~and~~
2. Existing development patterns together with WCC Title 20, Zoning, designations, the ~~County~~ Comprehensive Plan designations, and other officially adopted plans; ~~and~~
3. Federal and tribal ownership status; ~~and~~
4. The goals of Whatcom County citizens for their shorelines; ~~and~~
5. Pursuant to RCW 90.58.100(4), in designating state-owned shorelines, consideration has been given to public demand for wilderness beaches, ecological study areas, and other recreational activities; ~~and~~
6. Other state policies in the ~~SMA~~ Act and the ~~SMPS~~ Shoreline Master Program Guidelines (RCW 90.58.020 and Chapter 173-26 WAC, respectively).

~~23.30.030~~ Urban Shoreline Area

~~23.30.031~~ Urban shoreline area — Purpose

The purpose of the urban shoreline area is to provide for intensive development of water-oriented commercial, transportation, and industrial uses and accommodate mixed use developments such as those consisting of urban density residential, commercial, and industrial uses, while protecting existing shoreline ecological functions and processes and restoring shoreline ecological functions and/or processes in areas that have been previously degraded.

~~23.30.032~~ Urban shoreline area — Designation Criteria

The urban shoreline area is applied to shoreline areas zoned commercial, industrial, and urban density residential within urban growth areas and ~~limited~~ industrial or commercial areas in Limited Areas of More Intense Rural Development (LAMIRDs), if they:

- A. Are currently characterized by high intensity development and/or uses; are designated by the Comprehensive Plan for high intensity uses or intensive uses related to commerce, transportation or navigation; or are suitable and planned for high intensity mixed use; and
- B. Do not contain limitations to urban use such as geologic hazards, and have adequate utilities and access; and
- C. Do not provide important ecological functions that would be significantly compromised by high intensity residential, commercial, or industrial use.

~~23.30.033~~ Urban shoreline area — Policies

Development within urban shoreline areas shall be consistent with the following policies:

- ~~Policy 11J-1-A:~~ New urban character development should be directed toward already developed or developing areas where compatible.

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1 | ~~Policy 11J-2:B-~~ First priority should be given to water-dependent uses. Second
2 | priority should be given to water-related and then water-
3 | enjoyment uses. Non-water-oriented uses should not be allowed
4 | except as part of mixed use developments. Non-water-oriented
5 | uses may also be allowed in limited situations where they do not
6 | conflict with or limit opportunities for water-oriented uses or on
7 | sites where there is no direct access to the shoreline, or where
8 | the needs of existing and future water-dependent uses are met.

9 | ~~23.30.040 Urban Resort Shoreline Area~~

10 | ~~23.30.041 Urban resort shoreline area — Purpose~~

11 | The purpose of the urban resort shoreline area is to provide for intensive residential
12 | and commercial uses geared to the needs of tourists and day visitors while
13 | protecting existing shoreline ecological functions and processes. Emphasis is on
14 | hotels, motels, shops, restaurants, commercial rental campgrounds, rental cabins,
15 | and shoreline-related recreation facilities.

16 | ~~23.30.042 Urban resort shoreline area — Designation Criteria~~

17 | The urban resort shoreline area is applied to shoreline areas identified in the
18 | Comprehensive Plan as suitable for resort commercial development with substantial
19 | features that might reasonably attract resort development compatible with other
20 | development in the area, and which have existing and/or planned infrastructure
21 | sufficient to support such development.

22 | ~~23.30.043 Urban resort shoreline area — Policies~~

23 | Development within urban resort shoreline areas shall be consistent with the
24 | following policies:

25 | ~~Policy 11K-1:A-~~ Scale and design of resort development should assure
26 | compatibility with allowed uses of adjacent shoreline areas and
27 | shoreline ecological functions and processes.

28 | ~~Policy 11K-2:B-~~ Buildings over 35 feet in height may be permitted if additional
29 | open space, view areas, public access and/or other amenities
30 | are provided.

31 | ~~23.30.050 Urban Conservancy Shoreline Area~~

32 | ~~23.30.051 Urban conservancy shoreline area — Purpose~~

33 | The purpose of the urban conservancy shoreline area is to protect shoreline
34 | ecological functions and processes in urban growth areas and Limited Areas of More
35 | Intense Rural Development (LAMIRDs) that are not designated for high intensity
36 | residential use and are not generally suitable for water-dependent uses. The
37 | primary management goal is to preserve shoreline ecological functions and
38 | processes by avoiding forms of development that would be incompatible with
39 | existing functions and processes, as well as identify and focus restoration efforts in

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1 ~~areas where benefits to overall functions and processes can be realized. This policy~~
2 ~~should be furthered by maintaining most of the area's natural character.~~

Comment [CES9]: Copied from Conservancy Shoreline Area, as these two are similar though intended for different areas with different levels of existing development.

3 ~~23.30.052 Urban conservancy shoreline area—Designation Criteria~~

4 The urban conservancy shoreline area is applied to shoreline areas inside urban
5 growth areas where any of the following characteristics apply:

- 6 A. They support or retain important shoreline ecological functions and/or
7 processes, even though partially developed.
- 8 B. They have the potential for development at an intensity and character that is
9 compatible with preserving and restoring ecological functions. They are
10 generally not designated for high intensity residential use, commercial use,
11 or industrial use.
- 12 C. They are characterized by critical areas or ~~indicate~~ the presence of other
13 valuable or sensitive ecological resources.

14 ~~23.30.053 Urban conservancy shoreline area—Policies~~

15 Development within urban conservancy shoreline areas shall be consistent with the
16 following policies:

17 ~~Policy 11L-1:A-~~ Primary permitted uses should consist of low intensity
18 residential uses or other low intensity uses that preserve the
19 natural character of the area or promote preservation of open
20 space and critical areas.

21 ~~Policy 11L-2:B-~~ Moderate to high intensity residential use may be permitted if
22 the proposed uses and design result in substantial open space,
23 public access and/or restoration of shoreline ecological functions
24 and/or processes, and if compatible with surrounding uses.

25 ~~Policy 11L-3:C-~~ Public access and public recreation facilities are a preferred use
26 if they will not cause substantial ecological impacts and when
27 restoration of ecological functions is incorporated.

28 ~~Policy 11L-4:D-~~ Low intensity commercial uses may be permitted if the specific
29 uses and design result in substantial open space, public access,
30 and/or restoration of ecological functions, and if compatible with
31 surrounding uses.

32 ~~23.30.060 Shoreline Residential Area~~

33 ~~23.30.061 Shoreline residential area—Purpose~~

34 The shoreline residential shoreline area accommodates residential development and
35 accessory structures that are consistent with this chapter.

36 ~~23.30.062 Shoreline residential area—Designation Criteria~~

37 The shoreline residential shoreline area is applied to shorelines if they have been
38 predominantly developed with single-family or multifamily residential uses or are

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1 planned and platted for residential development. The designation is generally
2 applied to residential densities of greater than one unit per acre.

~~23.30.063 Shoreline residential area~~ — Policies

4 Development within shoreline residential shoreline areas shall be consistent with
5 the following policies:

6 | Policy 11M-1:A: The scale and density of new uses and development should be
7 compatible with, and protect or enhance, the existing residential
8 character of the area while sustaining shoreline ecological
9 functions and processes.

10 | Policy 11M-2:B: Public or private outdoor recreation facilities should be
11 encouraged if compatible with the character of the area.
12 Preferred uses include water-dependent and water-enjoyment
13 recreation facilities that provide opportunities for substantial
14 numbers of people to access and enjoy the shoreline.

15 | Policy 11M-3:C: Commercial development should be limited to water-oriented
16 uses. Non-water-oriented commercial uses may be permitted as
17 part of mixed use developments where the primary use is
18 residential; provided, that such uses ~~should~~ provide a
19 substantial benefit with respect to the goals and policies of the
20 SMP~~this program~~, such as providing public access or restoring
21 degraded shorelines.

~~23.30.070 Rural Shoreline Area~~

~~23.30.071 Rural shoreline area~~ — Purpose

24 The purpose of the rural shoreline area is to protect shoreline ecological functions in
25 areas having a rural character characterized by open space and low density
26 development including, but not limited to: residences, agriculture, forestry, and
27 outdoor recreation. Uses should be compatible with the physical capabilities and
28 limitations, natural resources, and shoreline ecological functions and processes of
29 the area.

~~23.30.072 Rural shoreline area~~ — Designation Criteria

31 The rural shoreline area is applied to shoreline areas outside urban growth areas,
32 particularly areas designated as Rural in the ~~Whatcom County~~ Comprehensive Plan,
33 and includes areas:

- 34 A. Where the shoreline currently accommodates residential uses outside urban
35 growth areas and is characterized by low density development, pasture,
36 agriculture, woodlots, home occupations, and cottage industries. The
37 distribution of rural land use is adjacent to agricultural, forestry, and urban
38 land uses and often provides a transition between urban areas and
39 commercial agriculture and forestry uses. Natural vegetative cover and
40 topography have been altered in many rural areas, but substantial ecological

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- 1 functions, and/or the potential for restoration of ecological functions, are
- 2 present.
- 3 B. That are now used or potentially usable for a mix of agriculture, forestry, and
- 4 residential use.
- 5 C. Where residential development is or should be of low density, because of
- 6 limitations by physical features, infrastructure, the presence of critical areas,
- 7 and/or lack of utilities or access.
- 8 D. That have high recreational value or unique historic or cultural resources.
- 9 E. Where low intensity outdoor recreation use or development would be
- 10 appropriate and compatible with other uses and the physical environment.
- 11 F. Where the shoreline has been developed with low intensity water-dependent
- 12 uses.

~~23.30.073 Rural shoreline area~~ Policies

14 Development within rural shoreline areas shall be consistent with the following

15 policies:

- 16 Policy 11N-1:A- Uses in rural areas should protect or enhance the rural character
- 17 of the shoreline and sustain the shoreline ecological functions
- 18 and processes by limiting building density and height, and
- 19 providing effective setbacks, buffers, and open space.
- 20 Policy 11N-2:B- Residential development consistent with the rural character of
- 21 the area is permitted, provided it includes measures to protect
- 22 ecological functions and processes. Related uses consistent with
- 23 the rural character of the area are permitted.
- 24 Policy 11N-3:C- Public or private outdoor recreation facilities should be
- 25 encouraged if compatible with the rural character of the area
- 26 and developed in a manner that maintains shoreline ecological
- 27 functions and processes. Preferred uses include water-oriented
- 28 recreation facilities that do not deplete shoreline resources over
- 29 time, such as boating facilities, angling, wildlife viewing trails,
- 30 and swimming beaches.
- 31 Policy 11N-4:D- Industrial or commercial development should be limited to
- 32 water-oriented commercial and industrial uses in the limited
- 33 locations where such uses have been established or at sites in
- 34 rural communities that possess appropriate shoreline conditions
- 35 and services sufficient to support such developments. Non-
- 36 water-dependent uses should only be allowed when they
- 37 provide a substantial benefit with respect to the goals and
- 38 policies of ~~the SMP~~ this program, such as providing public access
- 39 and/or restoring degraded shorelines.
- 40 Policy 11N-5:E- Agriculture and forestry consistent with rural character and the
- 41 maintenance of shoreline ecological functions and processes
- 42 should be encouraged.

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~~23.30.080 Resource Shoreline Area~~

~~23.30.081 Resource shoreline area – Purpose~~

The purpose of the resource shoreline area is to protect shoreline ecological functions and processes in areas designated in the ~~Whatcom County~~ Comprehensive Plan as agriculture ~~resource lands~~, rural forestry, commercial forestry, and mineral resource lands and to protect the economic base of those lands and limit incompatible uses.

~~23.30.082 Resource shoreline area – Designation Criteria~~

The resource shoreline area is applied to shoreline areas designated as agriculture, rural forestry, commercial forestry, and mineral resource lands in the ~~Whatcom County~~ Comprehensive Plan and includes areas where the shoreline currently accommodates ongoing resource management, where natural vegetation cover has been altered but substantial ecological functions, or the potential for restoring ecological functions, are present.

~~23.30.083 Resource shoreline area – Policies~~

Development within resource shoreline areas shall be consistent with the following policies:

Policy 110-1:A- Uses in resource areas should protect the economic base of those lands, limit incompatible uses, and sustain the shoreline area ecological processes and functions by limiting uses and intensity. Residential use is generally limited to one dwelling per existing parcel. The dwelling may be located within the shoreline jurisdiction, only where no other building site is feasible on the parcel.

Policy 110-2:B- Public or private outdoor recreation facilities should be permitted if they do not displace designated resource lands and if they are developed in a manner that maintains shoreline ecological functions. Preferred uses include water-dependent and water-enjoyment recreation facilities.

Policy 110-3:C- Industrial or commercial use and development should be limited to uses that serve resource uses. Such uses may be located within the shoreline only if they are water-dependent, water-related, or if no other feasible location exists within the contiguous property.

~~23.30.090 Conservancy Shoreline Area~~

~~23.30.091 Conservancy shoreline area – Purpose~~

The purpose of the conservancy shoreline area is to retain shoreline ecological functions in areas outside of urban growth areas and LAMIRDs where important ecological processes have not been substantially degraded by human activities. ~~Conservancy areas are designated outside of urban growth areas.~~ The primary

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1 management goal is to preserve shoreline ecological functions and processes by
2 avoiding forms of development that would be incompatible with existing functions
3 and processes, as well as identify and focus restoration efforts in areas where
4 benefits to overall functions and processes can be realized. This policy should be
5 furthered by keeping overall intensity of development or use low, and by
6 maintaining most of the area's natural character.

~~23.30.092 Conservancy shoreline area~~ — Designation Criteria

8 The conservancy shoreline area is applied to shoreline areas outside urban growth
9 areas and LAMIRDS that include areas:

- 10 A. Where development activities and uses are buffered from and do not
11 substantially degrade ecological processes and functions.
- 12 B. Where ecological functions are more intact than in areas designated rural or
13 resource.
- 14 C. Of outstanding scenic quality or other aesthetic qualities of high value to the
15 region, which would likely be diminished unless development is strictly
16 controlled.
- 17 D. Containing critical areas or other sensitive natural or cultural features that
18 require more than normal restrictions on development and use.
- 19 E. Having the potential to influence ecological processes in a manner that will
20 produce ecosystem-wide benefits upon restoration.
- 21 F. That contain valuable or sensitive natural or cultural features that preclude
22 more than a low overall density of residents, recreation use, structures, or
23 livestock, as well as extensive alterations to topography or other features.
- 24 G. Have recreational value to the region that would likely be diminished unless
25 development is strictly controlled.

~~23.30.093 Conservancy shoreline area~~ — Policies

27 Development within conservancy shoreline areas shall be consistent with the
28 following policies:

29 Policy 11P-1:A- Natural ecological processes should be protected and renewable
30 resources managed so that ecological functions and the
31 resource base are maintained. Nonrenewable resources should
32 only be consumed in a manner compatible with conservation of
33 other resources and other appropriate uses.

34 Policy 11P-2:B- Permitted uses should be limited to those compatible with each
35 other and with conservation of shoreline ecological processes
36 and resources.

37 Policy 11P-3:C- Shorelines should be protected from ~~harmful~~ concentrations of
38 people, livestock, buildings, or structures that would adversely
39 impact shoreline ecological functions and processes.

Comment [AP10]: Revised for clarity and usability.

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1 | ~~Policy 11P-4:D-~~ Opportunities for ecological restoration should be pursued,
2 | prioritizing those areas with the greatest potential to restore
3 | ecosystem-wide processes and functions.

4 | ~~Policy 11P-5:E-~~ Outstanding recreational or scenic values should be protected
5 | from incompatible development.

6 | ~~23.30.100 Natural Shoreline Area~~

7 | ~~23.30.101 Natural shoreline area — Purpose~~

8 | The purpose of the natural shoreline area is to ensure long-term preservation of
9 | ecologically intact shorelines inside or outside urban growth areas ~~that are~~
10 | ~~ecologically intact~~.

11 | ~~23.30.102 Natural shoreline area — Designation Criteria~~

12 | The natural shoreline area is applied to shoreline areas where any of the following
13 | characteristics apply:

14 | A. The majority of natural ecological shoreline functions and/or processes are
15 | retained, often evidenced by the shoreline configuration and the presence of
16 | native vegetation. Generally, but not necessarily, they include ecologically
17 | intact shorelines that are free of structural shoreline modifications,
18 | structures, and intensive human uses.

19 | B. Forested areas that generally include native vegetation with diverse plant
20 | communities, multiple canopy layers, and the presence of large woody debris
21 | available for recruitment to adjacent water bodies.

22 | C. Valuable functions are provided for the larger aquatic and terrestrial
23 | environments, which could be lost or significantly reduced by human
24 | development.

25 | D. Ecosystems or geologic types that are of particular scientific and educational
26 | interest are represented.

27 | E. Largely undisturbed areas of wetlands, estuaries, unstable bluffs, coastal
28 | dunes, and spits are present.

29 | F. New development, extractive uses, or physical modifications cannot be
30 | supported without significant adverse impacts to ecological functions and/or
31 | processes or risk to human safety.

32 | ~~23.30.103 Natural shoreline area — Policies~~

33 | Development within natural shoreline areas shall be consistent with the following
34 | policies:

35 | ~~Policy 11Q-1:A-~~ Preservation of the area's ecological functions, natural features
36 | and overall character must receive priority over any other
37 | potential use. Uses should not degrade shoreline ecological
38 | functions or processes or the natural character of the shoreline
39 | area. New development or significant vegetation removal that

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1 would reduce the capability of the shoreline to perform a full
2 range of ecological functions or processes should not be
3 permitted.

4 | Policy 11Q-2-B- Private and/or public enjoyment of natural shoreline areas
5 should be encouraged and facilitated through low intensity
6 recreational, scientific, historical, cultural, and educational
7 research uses; provided, that no significant ecological impact on
8 the area will result.

9 | Policy 11Q-3-C- Agricultural and forestry uses of a very low intensity nature may
10 be consistent with the natural shoreline area when such use is
11 subject to appropriate limitations or conditions to assure that
12 the use does not expand or alter practices in a manner
13 inconsistent with the purpose of the designation.

14 | Policy 11Q-4-D- The following uses should not be permitted in the natural
15 shoreline area:
16 1. Commercial uses.
17 2. Industrial uses.
18 3. Non-water-oriented recreation.
19 4. Roads, utility corridors, and parking areas that can be
20 located outside of natural shoreline areas.

21 ~~23.30.110 Aquatic Shoreline Area~~

22 ~~23.30.111 Aquatic shoreline area—Purpose~~

23 The purpose of the aquatic shoreline area is to protect, restore, and manage the
24 characteristics and resources of the areas waterward of the ordinary high water
25 mark.

26 ~~23.30.112 Aquatic shoreline area—Designation Criteria~~

27 The aquatic shoreline area is defined as the area waterward of the ordinary high
28 water mark of all streams, rivers, lakes, and marine water-bodies, ~~and lakes,~~
29 constituting shorelines of the state together with their underlying lands and their
30 water column.

31 ~~23.30.113 Aquatic shoreline area—Policies~~

32 Development within aquatic shoreline areas shall be consistent with the following
33 policies:

34 | Policy 11R-1-A- New over-water structures should only be permitted for water-
35 dependent uses, public access, or ecological restoration. The
36 size of new over-water structures should be limited to the
37 minimum necessary to support the structure's intended use. In
38 order to reduce the impacts of shoreline development and
39 increase effective use of water resources, multiple use of over-
40 water facilities should be encouraged.

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- 1 | ~~Policy 11R-2:B-~~ All developments and uses on navigable waters or their beds
2 | should be located and designed to minimize interference with
3 | surface navigation, to consider impacts to public views, and to
4 | allow for the safe, unobstructed passage of fish and wildlife,
5 | particularly those species dependent on migration.
- 6 | ~~Policy 11R-3:C-~~ Uses that adversely impact the ecological functions of critical
7 | saltwater and freshwater habitats should not be permitted
8 | except where necessary to achieve the objectives of RCW
9 | 90.58.020, and then only when all potential impacts are
10 | mitigated as necessary to assure maintenance of shoreline
11 | ecological functions and processes.
- 12 | ~~Policy 11R-4:D-~~ Shoreline uses and modifications should be designed and
13 | managed to prevent degradation of water quality and alteration
14 | of natural conditions.

15 | ~~23.30.120~~ Cherry Point Management Area

16 | ~~The policies applicable to the Cherry Point Management Area are found in the~~
17 | ~~Shoreline Use and Modifications Policies section of this chapter; applicable~~
18 | ~~regulations and standards, etc., applicable to the Cherry Point management area~~
19 | ~~are found in WCC 23.100.170, except as otherwise specified therein.~~

20 | Shorelines of Statewide Significance

21 | ~~23.40.010~~ Adoption of policy.

22 | In accordance with RCW 90.58.020, the following management and administrative
23 | policies are hereby adopted for all shorelines of statewide significance in
24 | unincorporated Whatcom County, as defined in RCW 90.58.030(2)(e) and identified
25 | in WCC 23.40.020. Consistent with the policy contained in RCW 90.58.020,
26 | preference shall be given to the uses that are consistent with the statewide interest
27 | in such shorelines. In the following order or preference, these are uses that:

- 28 | A. Recognize and protect the statewide interest over local interest.
29 | B. Preserve the natural character of the shoreline.
30 | C. Result in long-term over short-term benefit.
31 | D. Protect the resources and ecology of the shoreline.
32 | E. Increase public access to publicly owned areas of the shoreline.
33 | F. Increase recreational opportunities for the public in the shoreline.
34 | G. Provide for any other element as defined in RCW 90.58.100 deemed
35 | appropriate or necessary.

36 | Uses that are not consistent with these policies should not be permitted on
37 | shorelines of statewide significance.

Comment [MD11]: Moved some content from Chapter 23.40. Section reviewed and coordinated with Title 23 updates.

Comment [CES12]: The language of WAC 173-26-181 recognizes an order of preference

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~~23.40.030 Policies for Shorelines of Statewide Significance~~

The statewide interest should be recognized and protected over the local interest in shorelines of statewide significance. To ensure that statewide interests are protected over local interests, the County shall review all development proposals within shorelines of statewide significance for consistency with RCW 90.58.030 and the following policies:

Policy 11S-1:A- Redevelopment of shorelines should be encouraged where it restores or enhances shoreline ecological functions and processes impaired by prior development activities.

Policy 11S-2:B- The Washington Departments of Fish and Wildlife and Ecology, the Lummi Nation, the Nooksack Tribe, and other resources agencies should be consulted for development proposals that could affect anadromous fisheries.

Policy 11S-3:C- Where commercial timber cutting takes place pursuant to **WCC 23.90.110** and RCW 90.58.150, reforestation should take place as soon as possible.

Policy 11S-4:D- Activities that use shoreline resources on a sustained yield or non-consuming basis and that are compatible with other appropriate uses should be given priority over uses not meeting these criteria.

Policy 11S-5:E- The range of options for shoreline use should be preserved to the maximum possible extent for succeeding generations. Development that consumes valuable, scarce, sensitive, or irreplaceable natural resources should be protected to the maximum extent feasible and should not be permitted if alternative sites are available.

Policy 11S-6:F- Potential short-term economic gains or convenience should be measured against potential long-term and/or costly impairment of natural features.

Policy 11S-7:G- Protection or enhancement of aesthetic values should be actively promoted in design review of new or expanding development.

Policy 11S-8:H- Resources and ecological systems of shorelines of statewide significance should be protected. Shorelands and submerged lands should be protected to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds.

~~t. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected to the maximum extent feasible.~~

Policy 11S-9:J- Erosion and sedimentation from development sites should be controlled to minimize adverse impacts on ecosystem processes. If site conditions preclude effective erosion and sediment

Comment [CES13]: Cliff to do: Ryan suggests that most of the following policies (those not marked as "Keep Here") should apply to all jurisdictional shorelines, not just SSS, which would mean moving them to the gen policies. Also, check to see if such policies are already included in the gen policies.

Comment [CES14]: Keep here

Comment [CES15]: Keep here

Comment [CES16]: Keep here

Comment [AP17]: Incorporated into Policy 11X-5 above to avoid redundancy.

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1 control, excavations, land clearing, or other activities likely to
2 result in significant erosion should be severely limited.

3 | ~~Policy 11S-10:K-~~ Public access development in extremely sensitive areas should
4 be restricted or prohibited. All forms of recreation or access
5 development should be designed to protect the resource base
6 upon which such uses in general depend.

7 | ~~Policy 11S-11:L-~~ Public and private developments should be encouraged to
8 provide trails, viewpoints, water access points and shoreline-
9 related recreation opportunities whenever possible. Such
10 development is recognized as a high priority use.

11 | ~~Policy 11S-12:M-~~ Development not requiring a ~~waterside or~~ shoreline location
12 should be located inland so that lawful public enjoyment of
13 shorelines is ~~enhanced~~ preserved.

14 | ~~Policy 11S-13:N-~~ Lodging and related facilities should be located inland and
15 provide for appropriate means of access to the shoreline.

Chapter 23.90 General Policies and Regulations

17 ~~The following general policies apply to all use and development activities on~~
18 ~~shorelines.~~

~~23.90.020 Land Use~~

20 ~~The following land use policies delineate the use preferences of the Act and this~~
21 ~~program and are intended to support the goals and objectives of the program:~~

22 A. ~~Policies.~~

23 | ~~Policy 11T-1:-~~ Single-family residences should be given preference for location
24 on shorelines in those limited instances when an alteration of
25 the shorelines is authorized (RCW 90.58.020). Single-family
26 residences occupied prior to January 1, 1992, and their
27 appurtenant structures should be protected against damage or
28 loss caused by shoreline erosion; provided, that measures to
29 protect single-family residences should be designed to minimize
30 harm to the shoreline environment. However, single-family
31 residences permitted after January 1, 1992, and their
32 appurtenant structures should be built in a manner so as to not
33 need protective structures.

34 | ~~Policy 11T-2:-~~ Shoreline uses that are water-dependent or water-related
35 should be given preference (RCW 90.58.020). Such uses should
36 be located, designed, and maintained in a manner that
37 minimizes adverse impacts to shoreline ecological functions
38 and/or processes. Non-water-oriented development may be
39 allowed; provided, that existing water-dependent uses are not
40 displaced and the future supply of sites for water-dependent or
41 water-related uses is not compromised.

Comment [MD18]: Moved most policy content from Chapter 23.90. Section reviewed and coordinated with Title 23 updates.

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1 | Policy 11T-3:- Adequate space should be reserved on shorelines to meet the
2 | current and projected demand for water-dependent uses, in
3 | conjunction with areas provided in cities, towns and areas under
4 | tribal jurisdiction.

5 | ~~23.90.030~~ Ecological Protection and Critical Areas

6 | A. ~~_____~~ Policies:

7 | Policy 11U-1:- Shoreline use and development should be carried out in a
8 | manner that prevents or mitigates adverse impacts so that the
9 | resulting ecological condition does not become worse than the
10 | current condition. This means assuring no net loss of ecological
11 | functions and processes and protecting critical areas designated
12 | in WCC Chapter 16.16, in a manner consistent with all relevant
13 | constitutional and other legal limitations on the regulation of
14 | private property. Permitted uses shall be designed and
15 | conducted to minimize, insofar as practical, any resultant
16 | damage to the ecology and environment (RCW 90.58.020).
17 | Shoreline ecological functions that should be protected include,
18 | but are not limited to, fish and wildlife habitat, food chain
19 | support, and water temperature maintenance. Shoreline
20 | processes that should be protected include, but are not limited
21 | to, water flow; littoral drift; erosion and accretion; infiltration;
22 | ground water recharge and discharge; sediment delivery,
23 | transport, and storage; large woody debris recruitment; organic
24 | matter input; nutrient and pathogen removal; and stream
25 | channel formation/maintenance.

26 | Policy 11U-2:- In assessing the potential for net loss of ecological functions or
27 | processes, project-specific and cumulative impacts should be
28 | considered.

29 | Policy 11U-3:- Development standards for density, frontage, setbacks,
30 | impervious surface, shoreline stabilization, vegetation
31 | conservation, buffers, critical areas, and water quality should
32 | protect existing shoreline ecological functions and processes.
33 | During permit review, the administrator should consider the
34 | expected impacts associated with proposed shoreline
35 | development when assessing compliance with this policy.

36 | ~~23.90.040~~ Water Quality and Quantity

37 | A. ~~_____~~ Policies:

38 | Policy 11V-1:- The location, construction, operation, and maintenance of all
39 | shoreline uses and developments should maintain ~~or enhance~~
40 | the quantity and maintain or enhance the quality of surface and
41 | ground-water over the long term.

42 | Policy 11V-2:- Shoreline use and development should minimize the need for
43 | chemical fertilizers, pesticides, or other similar chemical

Comment [CES19]: Development shouldn't enhance the quantity of surface water. We're not supposed to *increase* stormwater runoff.

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1 treatments to prevent contamination of surface and ground
2 water and/or soils, and adverse effects on shoreline ecological
3 functions and values.

4 | Policy 11V-3:- Appropriate buffers along all wetlands, streams, lakes, and
5 marine water bodies should be provided and maintained in a
6 manner that avoids the need for chemical treatment.

7 ~~23.90.050~~ Views and Aesthetics

8 A. ~~_____~~ Policies:

9 | Policy 11W-1:- Shoreline use and development activities should be designed
10 and operated to minimize obstructions of the public's visual
11 access to the water and shoreline.

12 | Policy 11W-2:- Shoreline use and development should not significantly detract
13 from shoreline scenic and aesthetic qualities that are derived
14 from natural or cultural features, such as shoreforms, vegetative
15 cover and historic sites/structures.

16 | Policy 11W-3:- Aesthetic objectives should be implemented through regulations
17 and criteria for site planning, maximum height, setbacks, siting
18 of buildings and accessories, screening, vegetation
19 conservation, architectural standards, sign control regulations,
20 appropriate development siting, designation of view corridors,
21 and maintenance of natural vegetative buffers.

22 | Policy 11W-4:- To protect shoreline ecological functions and aesthetics,
23 vegetation conservation should be preferred over the creation or
24 maintenance of views from shoreline properties. Clearing,
25 thinning, and/or limbing for limited view corridors should only
26 be allowed where it does not adversely impact ecological and/or
27 aesthetic values, and/or slope stability. ~~Vegetation conservation~~
28 ~~should be preferred over the creation or maintenance of views~~
29 ~~from property on the shoreline to protect shoreline ecological~~
30 ~~functions and aesthetics.~~

31 ~~23.90.060~~ Vegetation Conservation

32 A. ~~_____~~ Policies:

33 | Policy 11X-1:- Where new developments and/or uses are proposed, native
34 shoreline vegetation should be conserved to maintain shoreline
35 ecological functions and/or processes and mitigate the direct,
36 indirect and/or cumulative impacts of shoreline development,
37 wherever feasible. ~~Important functions of shoreline vegetation~~
38 ~~include, but are not limited to:~~

39 ~~Providing shade necessary to maintain water temperatures required by salmonids,~~
40 ~~forage fish, and other aquatic biota.~~

41 ~~Regulating microclimate in riparian and nearshore areas.~~

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~~Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.~~

~~Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.~~

~~Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.~~

~~Improving water quality through filtration and vegetative uptake of nutrients and pollutants.~~

~~Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase aquatic diversity for salmonids and other species.~~

~~Providing habitat for wildlife, including connectivity for travel and migration corridors.~~

Comment [MD20]: Importance of veg has been established; don't need to repeat in a policy.

~~23-90.070 Archaeological, Historic and Cultural Resources~~

~~The following policies apply to cultural resources that are either (a) listed on the national, state, or local registers of historic places; (b) recorded by the Washington State Department of Archaeology and Historic Preservation (DAHP), a Native American tribe, and/or a local jurisdiction; or (c) undiscovered, inadvertently uncovered, or yet unrecorded.~~

~~Archaeological sites located both in and outside shoreline jurisdiction are subject to RCW Chapter 27.44 (Indian graves and records) and RCW Chapter 27.53 (Archaeological sites and records). Shoreline uses or development that may impact such sites shall comply with WAC Chapter 25-48 as well as the provisions of this Shoreline Master Program.~~

~~Pursuant to RCW 27.53.070, information and documents pertaining to the location of archaeological sites or resources are confidential and not considered public records that require disclosure.~~

~~A. Policies.~~

~~Policy 11X-1:- The County should work with tribal, state, federal, and local governments as appropriate to maintain an inventory of all known significant local historic, cultural and archaeological sites resources in observance of applicable state and federal laws protecting such information from general public disclosure. As appropriate, such sites should be protected, preserved and/or restored for study, education, and/or public enjoyment to the maximum possible extent.~~

~~Policy 11X-2:- Site development plans should incorporate provisions for historic, cultural and archaeological sites resource preservation, restoration, and education with open space or recreation areas whenever compatible and possible.~~

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- 1 ~~3.~~ Cooperation among involved private and public parties is
2 encouraged to achieve the archaeological, historical and cultural
3 element goals and objectives of this program.
- 4 Policy 11X-3:4- Owners of property containing identified historic, cultural or
5 archaeological sites/resources are encouraged to make
6 development plans known well in advance of application, so that
7 appropriate agencies such as the Lummi Nation, Nooksack
8 Tribe, Washington State Department of Archaeology and Historic
9 Preservation, and others may have ~~ample~~ adequate time to
10 assess the site and make arrangements to preserve historical,
11 cultural and archaeological values as applicable.
- 12 Policy 11X-4:5- Private and public owners of historic sites should be encouraged
13 to provide public access and educational opportunities in a
14 manner consistent with long-term protection of both historic
15 values and shoreline ecological functions.
- 16 Policy 11X-5:6- ~~Historic, cultural, and archaeological site d~~Development on sites
17 containing cultural resources should be planned and carried out
18 so as to prevent impacts to the resource. Impacts to
19 neighboring properties and other shore uses should be limited to
20 temporary or reasonable levels.
- 21 Policy 11X-6:7- If development is proposed adjacent to an identified historic,
22 cultural or archaeological sites/resource, then the proposed
23 development should be designed and operated so as to be
24 compatible with continued protection of the historic, cultural or
25 archaeological that sites/resource.
- 26 Policy 11X-7:8- The cultural resource provisions of this program are consistent
27 with Chapters 27.44 and 27.53 RCW and WAC 25-48-060. In
28 accordance with state law, all applicants are subject to these
29 requirements.
- 30 Policy 11X-8: The County shall consult with DAHP and affected Native
31 American tribes as appropriate in implementing the cultural
32 archaeological, and historic resources goals, objectives, policies,
33 and regulations of this program ~~SMP~~.
- 34 Policy 11X-9: In reviewing development proposals, the County shall take, or
35 cause project applicants to take, all required actions to:
36 1. Minimize the risk of disturbing cultural resources within
37 Whatcom County shorelines.
38 2. Due to the limited and irreplaceable nature of the
39 resource(s), prevent the destruction of or damage to any site
40 having cultural, scientific, or educational value as identified
41 by the appropriate authorities, including affected Tribes and
42 the DAHP.

Comment [AP21]: This is captured in policies #1 and #4 (revised to #3).

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- 3. Consult with professional archaeologists, DAHP, and affected Tribes before permitting or otherwise approving the use or development of shoreline areas containing cultural resources. This consultation shall be accomplished through the regulations and procedures provided in WCC Title 23.
- 4. Consult with DAHP and affected Tribes and coordinate with project archaeologists to establish site- and project-specific procedures for protection and management of cultural resources.
- 5. Make informed specific land use decisions based upon information provided by DAHP and Tribes.
- 6. Ensure the use of the best available information, technology, and techniques in identifying, protecting, preserving, and restoring cultural resources.

~~23.90.080~~ Public Access

~~A. Policies.~~

Policy 11Y-1:- Use and development that provide an opportunity for substantial numbers of ~~the~~ people to enjoy the shorelines of the state are a preferred use.

Policy 11Y-2:- Physical or visual access to shorelines should be incorporated in all new development when the development would either generate a demand for one or more forms of such access, and/or would impair existing legal access opportunities or rights. ~~Public health and safety concerns should also be adequately addressed and maintenance of shoreline ecological functions and/or processes should be assured.~~ As required by the governing principles, all such conditions should be consistent with all relevant constitutional and other legal limitations on regulation of private property.

Comment [MD22]: Addressed in #6 below.

Policy 11Y-3:- Public access should be provided for water-oriented uses and non-water-dependent uses and developments that increase public use of the shorelines and public aquatic lands, or that would impair existing, legal access opportunities.

Policy 11Y-4:- Non-water-related uses or activities located on the shoreline should provide public access as a public benefit.

Policy 11Y-5:- Public access area and/or facility requirements should be commensurate with the scale and character of the development and should be reasonable, effective, and fair to all affected parties including but not limited to the land-owner and the public.

Policy 11Y-6:- Public access design should provide for public safety and minimize potential impacts to private property, individual privacy, and shoreline ecological functions and processes.

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1 | Policy 11Y-7:- Shoreline development by public entities, such as local
2 | governments, port districts, state agencies, and public utility
3 | districts, should provide public access measures as part of each
4 | development project, unless such access is shown to be
5 | incompatible due to reasons of safety, security, or impact to the
6 | shoreline.

7 | ~~23.90.090~~ **Site Planning**

8 | ~~A.~~ **Policies:**

9 | Policy 11Z-1:- Development and use should be designed in a manner that
10 | directs land alteration to the least sensitive portions of the site
11 | to maximize vegetation conservation; minimize impervious
12 | surfaces and runoff; protect riparian, nearshore and wetland
13 | habitats; protect wildlife and habitats; protect archaeological,
14 | historic, and cultural resources; and preserve aesthetic values.
15 | This may be accomplished by minimizing the project footprint,
16 | the use of clustering, and other appropriate design approaches.

17 | Policy 11Z-2:- To maintain shoreline ecological functions and processes, ~~How~~
18 | impact and sustainable development practices such as rain
19 | gardens, and pervious surfacing methods including, but not
20 | limited to, porous paving blocks, porous concrete, and other
21 | similar materials, should be incorporated in developments where
22 | site conditions allow ~~to maintain shoreline ecological functions~~
23 | ~~and processes.~~ Topographic modification, vegetation clearing,
24 | use of impervious surfaces, and alteration of natural drainage or
25 | other features should be limited to the minimum necessary to
26 | accommodate approved uses and development. An engineering
27 | geologist should be consulted prior to using infiltration practices
28 | on shore bluffs.

29 | Policy 11Z-3:- Accessory development or use that does not require a shoreline
30 | location should be located outside of shoreline jurisdiction unless
31 | such development is required to serve approved water-oriented
32 | uses and/or developments. When sited within shoreline
33 | jurisdiction, uses and/or developments such as parking, service
34 | buildings or areas, access roads, utilities, signs, and storage of
35 | materials should be located inland away from the land/water
36 | interface and landward of water-oriented developments and/or
37 | other approved uses.

38 | Policy 11Z-4:- Development should be located, designed, and managed so that
39 | impacts on shoreline or upland uses are minimized through bulk
40 | and scale restrictions, setbacks, buffers, and control of
41 | proximity impacts such as noise or light and glare.

42 | Policy 11Z-5:- Shoreline uses should not deprive other uses of reasonable
43 | access to navigable waters. Public recreation activities such as
44 | fishing, clam digging, swimming, boating, ~~and~~ wading, and

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1 other water-related recreation should be preserved and
2 enhanced. The rights of treaty tribes to resources within their
3 usual and accustomed areas should be accommodated.

4 Climate Change/Sea Level Rise

5 Policy 11AA-1: Coordinate with Tribal, Federal, State, and local agencies to
6 address issues related to climate change and sea level rise as
7 related to shoreline management.

8 Policy 11AA-2: Whatcom County should plan and prepare for the likely impacts
9 of climate change on County-owned facilities, infrastructure, and
10 natural resources and ensure that projects for major
11 maintenance or replacement of utilities, roads, and other public
12 infrastructure consider the impacts of sea-level rise in the
13 location, design, and operation of the projects.

14 Policy 11AA-3: Whatcom County should strive to increase resident and business
15 resiliency to the anticipated impacts of climate change by
16 implementing land use regulations based on best available
17 science, such as sea level rise, changes in rainfall patterns,
18 changes in flood volumes and frequencies, and changes in
19 average and extreme temperatures.

20 Policy 11AA-4: Habitat protection and restoration projects in shoreline
21 jurisdiction should consider implications of sea-level rise and
22 other climate change impacts to promote resiliency of habitats
23 and species. Those that promote climate change and sea-level
24 rise resiliency should be considered priority actions.

25 Policy 11AA-5: Whatcom County should periodically assess the best available
26 sea level rise projections and incorporate them into future
27 program updates, as relevant.

28 Policy 11AA-6: Public infrastructure—such as transportation systems, utilities,
29 flood control works, and instream structures—and essential
30 public facilities in shoreline areas should be built in a manner
31 that accounts for increased sea level rise and storm surge, and
32 the flooding that may accompany it.

33 Policy 11AA-7: Whatcom County should evaluate opportunities to protect
34 shoreline investments and infrastructure from the impacts of
35 climate change, as necessary and feasible. Specifically, the
36 County should maintain shoreline protection and erosion control
37 by:

- 38 • Facilitating the installation and maintenance of native
39 vegetation along appropriate areas of shoreline;
- 40 • Revisiting development policies with the objective of
41 providing additional shoreline buffer area between developed
42 areas and the shoreline; and

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- Only consider structural shoreline stabilization structures when alternative options are unavailable.

~~Chapter 23.100~~ Shoreline Use and Modification Policies and Regulations

The following shoreline use and modification policies apply to specific development activities on shorelines.

~~23.100.020~~ Shoreline Bulk Provisions – Buffers, Setbacks, Height, Open Space and Impervious Surface Coverage

~~Policy 11BB-1:-~~ Policies- Standards for density, setbacks, height, and other provisions should ensure no net loss of shoreline ecological functions and/or processes and preserve the existing character of the shoreline consistent with the purpose of the shoreline area designation.

~~23.100.030~~ Agriculture

~~A. Policies-~~

~~Policy 11BB-1:-~~ This program The SMP recognizes the importance of agriculture in Whatcom County and supports its continued economic viability. ~~The SMP~~ This program It allows for ongoing agricultural activities and should protect agricultural lands from conflicting uses such as intensive or unrelated residential, industrial, or commercial uses, while also maintaining shoreline ecological functions and processes.

~~Policy 11BB-2:-~~ Agricultural uses and development in support of agricultural uses should be conducted in such a manner as to assure no net loss of shoreline ecological functions and processes and avoid substantial adverse impacts on other shoreline resources and values.

~~Policy 11BB-3:-~~ Conversion of agricultural uses to other uses should comply with all policies and regulations for nonagricultural uses.

~~23.100.040~~ Aquaculture

~~A. Policies-~~

~~Policy 11CC-1:-~~ Aquaculture is a water-dependent use and, when consistent with control of pollution, ~~and~~ avoidance of adverse impacts to the environment, and preservation of habitat for resident native species, is a preferred use of the shoreline (WAC 173-26-241(3)(b)).

~~Policy 11CC-2:-~~ Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, commercial navigation, and salinity. The

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1 technology associated with some forms of aquaculture is still
2 experimental and in formative states. Therefore, some latitude
3 should be given when implementing the policies of this
4 subsection and the regulations in of this section, **WCC Chapter**
5 **23.100-WCC**; provided, that potential impacts on existing uses
6 and shoreline ecological functions and processes should be given
7 due consideration.

8 Policy 11CC-3:- Preference should be given to those forms of aquaculture that
9 involve lesser environmental and visual impacts and lesser
10 impacts to native plant and animal species. In general, projects
11 that require ~~no structures, submerged, structures or intertidal,~~
12 or no structures are preferred over those that involve
13 substantial floating structures. Projects that involve little or no
14 substrate modification are preferred over those that involve
15 substantial modification. Projects that involve little or no
16 supplemental food sources, pesticides, herbicides, or antibiotic
17 application are preferred over those that involve such practices.

18 ~~Policy 11-4. Community restoration projects associated with aquaculture~~
19 ~~should be reviewed and permitted in a timely manner.~~

20 Policy 11CC-54:- Aquaculture activities should be designed, located and operated
21 in a manner that supports long-term beneficial use of the
22 shoreline and protects and maintains shoreline ecological
23 functions and processes. Aquaculture should not be permitted
24 where it would result in a net loss of shoreline ecological
25 functions; adversely affect the quality or extent of habitat for
26 native species, including eelgrass, kelp, and other macroalgae;
27 adversely impact other habitat conservation areas; or interfere
28 with navigation or other water-dependent uses.

29 ~~Policy 11CC-65:-~~ Aquaculture that involves significant risk of cumulative adverse
30 effects on water quality, sediment quality, benthic and pelagic
31 organisms, and/or wild fish populations through potential
32 contribution of antibiotic resistant bacteria, or escapement of
33 nonnative species, or other adverse effects on ESA-listed
34 species should not be permitted.

35 Policy 11CC-76:- The County should actively seek substantive comment on any
36 shoreline permit application for aquaculture from all appropriate
37 federal, state, and local agencies; the Lummi Nation, Nooksack
38 Tribe, and other affected tribes; and the general public
39 regarding potential adverse impacts. Comments of nearby
40 residents or property owners directly affected by a proposal
41 should be considered and evaluated, especially in regard to use
42 compatibility and aesthetics.

43 Policy 11CC-87:- The rights of treaty tribes to aquatic resources within their usual
44 and accustomed areas should be addressed through the permit

Comment [AP23]: Don't need, as *all* projects should be reviewed and permitted in a timely manner. Furthermore, we don't really know what a "community restoration project associated with aquaculture" is.

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- 1 review process. Direct coordination between the
2 applicant/proponent and the tribe should be encouraged.
- 3 | Policy 11CC-98:- Consideration should be given to both the potential beneficial
4 impacts and potential adverse impacts that aquaculture
5 development might have on the physical environment; on other
6 existing and approved land and water uses, including
7 navigation; and on the aesthetic qualities of a project area.
- 8 | Policy 11CC-109:- Legally established aquaculture enterprises, including authorized
9 experimental projects, should be protected from incompatible
10 uses that may seek to locate nearby. Use or developments that
11 have a high probability of damaging or destroying an existing
12 aquaculture operation may be denied.
- 13 | Policy 11CC-110:- Experimental aquaculture projects in water-bodies should be
14 limited in scale and should be approved for a limited period of
15 time. Experimental aquaculture means an aquaculture activity
16 that uses methods or technologies that are unprecedented or
17 unproven in the state of Washington.

18 **~~23-100-050~~ Boating Facilities – Marinas and Launch Ramps**

19 Boating facilities, including marinas and launch ramp development, are subject to
20 the following policies. Docks serving four or fewer single-family residences are
21 subject to the policies in Moorage – Docks, Piers, and Mooring Buoys.

22 A. _____ Policies.

- 23 | Policy 11DD-1:- Boating facilities, including marinas and launch ramps, are
24 water-dependent uses and should be given priority for shoreline
25 location. Boating facilities should also contribute to public access
26 and enjoyment of waters of the state. Shorelines particularly
27 suitable for marinas and launch ramps are limited and should be
28 identified and reserved to prevent irreversible commitment for
29 other uses having less stringent site requirements.
- 30 | Policy 11DD-2:- Regional needs for marina and boat launch facilities should be
31 carefully considered in reviewing new proposals as well as in
32 allocating shorelines for such development. Such facilities
33 should be coordinated with park and recreation plans and,
34 where feasible, collocated with port or other compatible water-
35 dependent uses. Review of such facilities should be coordinated
36 with recreation providers, including cities, adjacent counties,
37 port districts, the Whatcom County Parks and Recreation
38 department, the Washington State Parks and Recreation
39 Commission, and the Washington State Department of Natural
40 Resources to avoid unnecessary duplication and to efficiently
41 provide recreational resources while minimizing adverse impacts
42 to shoreline ecological functions and processes.

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- 1 | Policy 11DD-3:- Upland boat storage is preferred over new in-water moorage.
2 | Mooring buoys are preferred over docks and piers. Boating
3 | facilities that minimize the amount of shoreline modification are
4 | preferred.
- 5 | Policy 11DD-4:- Boating facilities should provide physical and visual public
6 | shoreline access and provide for multiple uses, including water-
7 | related use, to the extent compatible with shoreline ecological
8 | functions and processes and adjacent shoreline use.
- 9 | Policy 11DD-5:- Accessory uses at marinas or launch ramps should be limited to
10 | water-oriented uses, or uses that provide physical or visual
11 | shoreline access for substantial numbers of the general public.
- 12 | Policy 11DD-6:- New or expanding boating facilities including marinas, launch
13 | ramps, and accessory uses should only be sited where suitable
14 | environmental conditions are present and should avoid critical
15 | saltwater habitat including kelp beds, and eelgrass beds, and
16 | spawning and holding areas for forage fish (such as herring, surf
17 | smelt and sandlance); subsistence, commercial, and
18 | recreational shellfish beds; mudflats, intertidal habitats with
19 | vascular plants; and areas with which priority species have a
20 | primary association.
- 21 | Policy 11DD-7:- Boating facilities should be located and designed to avoid
22 | adverse effects upon coastal, riverine, and nearshore processes
23 | such as erosion, littoral or riparian transport, and accretion, and
24 | should, where feasible, enhance degraded, scarce, and/or
25 | valuable shore features including accretion shoreforms.
- 26 | Policy 11DD-8:- Launch ramps are preferred over marinas on accretion shores
27 | because associated impacts are often reversible and such
28 | structures will not normally interfere with littoral drift and
29 | accretion unless offshore defense structures or dredging are also
30 | required.
- 31 | Policy 11DD-9:- Nonregulatory methods to protect, enhance, and restore
32 | shoreline ecological functions and processes and other shoreline
33 | resources should be encouraged during the design,
34 | development, and operation of boating facilities. Nonregulatory
35 | methods may include public facility and resource planning,
36 | education, voluntary protection and enhancement projects, or
37 | incentive programs.
- 38 | Policy 11DD-10:- Boating facilities should be located, designed, and operated so
39 | that other appropriate water-dependent uses are not adversely
40 | affected.
- 41 | Policy 11DD-11:- Location and design of boating facilities should not unduly
42 | obstruct navigable waters and should avoid adverse effects to
43 | recreational opportunities such as fishing, shellfish gathering,

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1 pleasure boating, commercial aquaculture, swimming, beach
2 walking, picnicking, and shoreline viewing.

3 Policy 11DD-12:- Boating facilities should be located, designed, constructed, and
4 maintained, and operated to avoid adverse proximity impacts
5 such as noise, light and glare; aesthetic impacts to adjacent
6 land uses; and impacts to public visual access to the shoreline.

7 Policy 11DD-13: Live-aboards should be regulated so as to prevent adverse
8 impacts to public health and safety.

Comment [CES24]: Added to support regulating live-aboards, per scoping #17,

9 ~~23.100.060~~ Commercial Use

10 ~~Commercial development in shoreline areas shall be subject to the policies and~~
11 ~~regulations of this section and Chapter 23.90 WCC.~~

12 A. ~~_____~~ Policies.

13 Policy 11EE-1:- In securing shoreline locations for commercial uses, preference
14 should be given first to water-dependent commercial uses, then
15 to water-related and water-enjoyment commercial uses.

16 Policy 11EE-2:- Restoration of impaired shoreline ecological functions and
17 processes should be encouraged as part of commercial
18 development.

19 Policy 11EE-3:- Commercial development should ensure visual compatibility with
20 adjacent noncommercial properties.

21 Policy 11EE-4:- Commercial uses located in the shoreline should provide public
22 access in accordance with constitutional or other legal
23 limitations unless such improvements are demonstrated to be
24 infeasible or present hazards to life and property.

25 ~~23.100.070~~ Dredging

26 A. ~~_____~~ Policies.

27 Policy 11FF-1:- Dredging should be permitted for water-dependent uses of
28 economic importance to the region and/or essential public
29 facilities only when necessary and when alternatives are
30 infeasible or less consistent with ~~the SMP~~this program.

31 Policy 11FF-2:- Dredging to provide water-oriented recreation should not be
32 permitted.

33 Policy 11FF-3:- Minor dredging as part of ecological restoration or enhancement,
34 beach nourishment, public access, or public recreation should be
35 permitted if consistent with ~~the SMP~~this program.

36 Policy 11FF-4:- New development should be sited and designed to avoid or,
37 where avoidance is not possible, to minimize the need for new
38 maintenance dredging.

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- 1 | ~~Policy 11FF-5~~ Dredging of bottom materials for the primary purpose of
2 | obtaining material for landfill, construction, or beach
3 | nourishment should not be permitted.
- 4 | ~~Policy 11FF-6~~ Spoil disposal on land away from the shoreline is generally
5 | preferred over open water disposal.
- 6 | ~~Policy 11FF-7~~ Long-term cooperative management programs that rely
7 | primarily on natural processes, and involve ~~land~~
8 | ~~owners~~landowners and applicable local, state, and federal
9 | agencies and tribes, should be pursued to prevent or minimize
10 | conditions which make dredging necessary.
- 11 | ~~23.100.080~~ **Flood Control Works and Instream Structures**
- 12 | A. ~~_____~~ Policies.
- 13 | ~~Policy 11GG-1~~ Purpose and Need:
- 14 | a. ~~_____~~ New or expanding development or uses in the shoreline,
15 | including subdivision of land, that would likely require structural
16 | flood control works within a stream, channel migration zone, or
17 | floodway should not be allowed.
- 18 | ~~Policy 11GG-2~~ Flood control works and instream structures should be planned
19 | and designed to be compatible with appropriate multiple uses of
20 | stream resources over the long term, especially in shorelines of
21 | statewide significance.
- 22 | ~~Policy 11GG-3~~ Flood control works should only be allowed in the shoreline if
23 | they are necessary to protect existing development and where
24 | nonstructural flood hazard reduction measures are infeasible.
- 25 | ~~Policy 11GG-4~~ Flood control works to protect existing development should be
26 | permitted only when the primary use being protected is
27 | consistent with ~~the SMP~~this program, and the works can be
28 | developed in a manner that is compatible with multiple use of
29 | streams and associated resources for the long term, including
30 | shoreline ecological functions, fish and wildlife management,
31 | and recreation.
- 32 | ~~23.100.090~~ **Forest Practices**
- 33 | A. ~~_____~~ Policies.
- 34 | ~~Policy 11HH-1~~ Forest lands should be reserved for long-term forest
35 | management and such other uses as are compatible with the
36 | ~~dominant primary~~ use. Other more intensive and incompatible
37 | uses tending to impair the ~~dominant primary~~ use should be
38 | discouraged from locating on forest lands.
- 39 | ~~Policy 11HH-2~~ Forest practices should maintain high levels of water quality, as
40 | well as surface and ground-water movement patterns.

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- 1 Policy 11HH-3:- Forest practices should minimize damage to wetlands, fish and
2 wildlife species, and habitats, especially aquatic habitats.
- 3 ~~4. Extreme caution must be observed whenever chemicals are to~~
4 ~~be used along shorelines; such use should be avoided altogether~~
5 ~~if possible.~~
- 6 Policy 11HH-4:- Forest practices should maintain or improve the quality of soils
7 and minimize erosion.
- 8 Policy 11HH-5:- Where slopes are extremely steep or soils are subject to sliding,
9 rapid erosion, or high water table, special practices should be
10 employed to minimize damage to shoreland and water features,
11 and adjacent properties.

Comment [MD25]: Addressed by existing policy #2 in Water Quality and Quantity.

12 ~~23-100-100~~ Industrial and Port Development

13 The following policies apply to industrial and port development in shoreline areas
14 outside of the Cherry Point management area.

15 A. Policies:

- 16 Policy 11II-1:- Shoreline sites particularly suitable for development such as
17 deep water harbors with access to adequate rail, highway, and
18 utility systems should be reserved for water-dependent or
19 water-related industrial and port development.
- 20 Policy 11II-2:- In order to provide adequate shoreline for future water-
21 dependent and water-related uses, industrial or port
22 development at deep water sites should be limited to those uses
23 that produce the greatest long-term economic base. Industrial
24 and port development that is consistent with ~~this program~~ the
25 SMP should be protected from encroachment or interference by
26 incompatible uses with less stringent siting requirements, such
27 as residential or commercial uses. Mixed use development,
28 including non-water-dependent uses, should only be allowed
29 when they include and support water-dependent uses.
- 30 Policy 11II-3:- Regional needs for port facilities should be carefully considered
31 in reviewing new port proposals and in allocating shorelines for
32 such development. Such reviews or allocations should be
33 coordinated with port districts, adjacent counties and cities, and
34 the state. Existing, officially designated State Harbor Areas
35 should be used for new port development to the maximum
36 extent whenever possible.
- 37 Policy 11II-4:- Multiple use of industrial and port facilities is encouraged to limit
38 duplicative facilities and reduce adverse impacts. Multiple use
39 should be implemented in the following manner:
- 40 a. Cooperative use of piers, cargo handling, storage, parking
41 and other accessory facilities among private or public entities
42 should be required in industrial or port facilities whenever
43 feasible. New facilities for water-dependent uses should be

Comment [CES26]: **Cliff to do:** These policies read like they were intended to apply in the CPMA (i.e., they talk about deep water sites, which I believe is only in Cherry Point). Also sounds like they were intended to preserve the Cherry Point area for such uses. Could/should they all be combined? The only other industrial or port development allowed is the marina in Point Roberts.

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- 1 allowed only after assessment of the potential for shared use
- 2 of existing facilities.
- 3 b. Industrial and port developments should provide
- 4 opportunities for physical and/or visual public shoreline
- 5 access in accordance with the public access policies,
- 6 including recreational use of undeveloped shorelines not
- 7 needed for port or industry operations; provided, that such
- 8 uses are safely compatible with facility operations.
- 9 Policy 11II-5:- Industrial and port development in the shoreline should be
- 10 located and designed to avoid significant adverse impacts to
- 11 other shoreline uses, resources, and values, including shoreline
- 12 geomorphic processes, water quality, fish and wildlife habitat,
- 13 commercial aquaculture, and the aquatic food chain.
- 14 Policy 11II-6:- Restoration of impaired shoreline ecological functions and
- 15 processes should be encouraged as part of industrial and port
- 16 development.

~~23.100.210~~ **Cherry Point Management Area**

A. ~~_____~~ Policies:

Policy 11TT-1:- Purpose and Intent.

- a. The purpose of the Cherry Point management area is to provide a regulatory framework that recognizes and balances the special port, industrial, and natural resource needs associated with the development of this marine resource. This subsection and **WCC 23.100.210** identifies policies and regulations, respectively, for water-dependent industrial activities that apply in addition to specific other elements of the SMP ~~this program~~ as referenced herein.
- b. Washington State natural resource agencies and Whatcom County have identified certain portions of the Cherry Point management area as providing herring spawning habitat and other key habitat characteristics that warrant special consideration due to their importance to regional fisheries and other elements of the aquatic environment.
- c. Development of the Cherry Point major port/industrial urban growth area will accommodate uses that require marine access for marine cargo transfer, ~~including oil and other materials. For this reason, w~~
- i. ~~Water-dependent terminal facilities are encouraged as the preferred use in the Cherry Point management area. Due to the environmental sensitivity of the area, it is the policy of Whatcom County to limit the number of piers to one pier, in addition to those in operation or approved as of January 1, 1998.~~

Comment [CES27]: These policies amended per Council's pending draft fossil fuel amendments.

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1 ii. Existing legal fossil fuel refineries should be allowed to
2 continue and maintain their operations with limited
3 expansions subject to environmental review, greenhouse
4 gas emission mitigation, and conformance with the
5 Shoreline Master Program and other applicable land use
6 designation.

7 iii. It is the policy of Whatcom County to limit the number of
8 industrial piers at Cherry Point to the existing three piers
9 in operation or approved as of January 1, 1998, taking
10 into account the need to:

- 11 • Act conservatively in land use matters at Cherry Point
12 to prevent further harm to habitat important to the
13 Cherry Point Herring stock and Southern Resident
14 Orcas;
- 15 • Optimally implement the Shoreline Master Program
16 policy regarding shorelines of statewide significance
17 per WCC 23.40;
- 18 • Encourage the continued County use of best available
19 science;
- 20 • Support and remain consistent with the state
21 Department of Natural Resources' withdrawal of
22 Cherry Point tidelands and bedlands from the general
23 leasing program and the species recovery goals of the
24 Cherry Point Aquatic Reserve designation and
25 Management Plan;
- 26 • Recognize federal actions upholding treaty rights;
- 27 • Protect traditional commercial and tribal fishing; and
- 28 • Prevent conflicts with vessel shipment operations of
29 existing refineries that could lead to catastrophic oil or
30 fuel spills.

31 ~~e. Whatcom County should consider participation with local,~~
32 ~~state, and federal agencies, tribal governments and other~~
33 ~~stakeholders in the development of a plan to address~~
34 ~~integrated management of the uplands and public aquatic~~
35 ~~lands within the Cherry Point management area. The~~
36 ~~development of such a plan could provide a forum and~~
37 ~~process for addressing aquatic resources by all stakeholders.~~
38 ~~Elements of the plan could be adopted as future~~
39 ~~amendments to the SMP this program as appropriate.~~

40 d. Whatcom County should ensure that shoreline development
41 applicants demonstrate conformance with the State of
42 Washington Department of Natural Resources Cherry Point
43 Aquatic Reserve Management Plan.

Comment [CES28]: Deleted per Council's pending draft fossil fuel amendments.

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~~d.e.~~ All development that is to be located within the Cherry Point management area, as defined in **Chapter 23.110 WCC**, shall be subject to the policies in this subsection and the regulations found in **WCC 23.100.210**. Development that is to be located within the Cherry Point management area ~~this section, and~~ shall not be subject to: the General Policies of this chapter; the Shoreline Use and Modification Policies of this chapter except for those in the Cherry Point Management Area subsection; policies and the regulations found in Chapter 23.90 WCC and WCC 23.100.010 through 23.100.160, nor Chapter 23.90 WCC, unless otherwise referenced in this subsection. The policies ~~and regulations~~ found in this subsection are applicable only within the geographic boundaries of the Cherry Point management area and do not apply elsewhere in the County. In the event that the provisions of this subsection conflict with other applicable referenced provisions of ~~the SMP this program,~~ the policies and regulations that are most protective of shoreline resources shall prevail.

Policy 11TT-2:- Water-Dependent Industrial Development. Only water-dependent facilities that serve industrial facilities should be allowed in the Cherry Point management area. Industry within the major port/industrial urban growth area, as designated in the ~~County~~-Comprehensive Plan, which is not water-dependent should locate away from shoreline jurisdiction.

Policy 11TT-3:- Multiple Use Facilities. Facilities that allow for multiple use of piers, cargo handling, storage, parking and other accessory facilities are encouraged.

Policy 11TT-4:- Public Access.

- a. Where appropriate, industrial and port development within the Cherry Point management area should provide public beach and shoreline access in a manner that does not cause interference with facility operations or present hazards to life and property. This may be accomplished through individual action or by joint, coordinated action with other developers and landowners, for example, by setting aside a common public access area.
- b. Special emphasis should be given to providing public beach and shoreline access for recreational opportunities including but not limited to crabbing, small craft launching, surf fishing, picnicking, clamming, and beach walking.
- c. Public access within the Cherry Point management area should be consistent with the Whatcom County Parks and Recreation Open Space Plan.

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- 1 | Policy 11TT-5:- Shoreline Ecological Functions and Processes. In recognition of
2 | the diverse and vital ecological resources in the Cherry Point
3 | management area, consideration of probable effects of all
4 | development proposals on shoreline ecological functions and
5 | processes should be assessed with the other long-term
6 | statewide interests. New port development that requires dredge
7 | and fill should not be permitted in the Cherry Point management
8 | area due to potential adverse effects on ecological functions,
9 | including fish and shellfish habitat and geohydraulic processes.
- 10 | Policy 11TT-6:- Aesthetics. All development should be designed to avoid or
11 | minimize negative visual impacts on the scenic character of the
12 | area and to ensure visual compatibility with adjacent
13 | nonindustrial zoned properties.
- 14 | Policy 11TT-7:- Site Development. All development should be constructed and
15 | operated in a manner that, while permitting water-dependent
16 | uses, also protects shoreline resources, their ecological
17 | functions and processes, and that incorporates the following:
18 | a. Low impact development approaches to avoid or minimize
19 | adverse impact to topography, vegetation, water quality, fish
20 | and wildlife habitat, and other natural site conditions;
21 | b. Adequate temporary and permanent management measures
22 | to control erosion and sediment impacts during construction
23 | and operation; and
24 | c. Adequate stormwater management facilities.
- 25 |
- 26 | **~~23.100.110~~ Landfill and Excavation**
- 27 | ~~A. Policies-~~
- 28 | Policy 11JJ-1:- Landfill and excavation should only be permitted to the
29 | minimum extent necessary to accommodate an approved
30 | shoreline use or development and with assurance of no net loss
31 | of shoreline ecological functions and processes. Enhancement
32 | and voluntary restoration of landforms and habitat are
33 | encouraged.
- 34 | Policy 11JJ-2:- Landfill in water-bodies, floodways, and/or wetlands should not
35 | be permitted for creation of new uplands, unless it is part of an
36 | approved ecological restoration activity. Landfill should be
37 | permitted in limited instances to restore uplands where recent
38 | erosion has rapidly reduced upland area, to build beaches and
39 | protective berms for shore stabilization or recreation, to restore
40 | or enhance degraded shoreline ecological functions and
41 | processes, or to moderately elevate low uplands to make such
42 | uplands more suitable for purposes consistent with the SMP~~this~~
43 | ~~program~~.

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- 1 | Policy 11JJ-3:- Fill should not be allowed where shore stabilization works would
2 | be required to maintain the materials placed.
- 3 | Policy 11JJ-4:- Landfills and excavation should be located and developed so
4 | that water quality, hydrology, and runoff patterns are not
5 | altered.
- 6 | Policy 11JJ-5:- The predicted economic benefits of landfills and excavation
7 | should be weighed against long-term cumulative impacts on
8 | ecological processes and functions.
- 9 | ~~23.100.120~~ **Mining**
- 10 | ~~A. Policies:~~
- 11 | Policy 11KK-1:- Mining should not be located on shorelines where unavoidable
12 | adverse impacts on other users or resources together equal or
13 | outweigh the benefits from mining.
- 14 | Policy 11KK-2:- Mining should not interfere with public recreation on the
15 | shoreline.
- 16 | Policy 11KK-3:- Mining should be located and operated so as to provide long-
17 | term protection of water quality, fish and wildlife, and fish and
18 | wildlife habitat.
- 19 | Policy 11KK-4:- Mining, particularly surface or strip mining, should provide for
20 | timely restoration of disturbed areas to a biologically productive,
21 | semi-natural, or other useful condition through a reclamation
22 | process consistent with regulations administered by the
23 | Department of Natural Resources and other applicable county
24 | standards.
- 25 | Policy 11KK-5:- Mining of marine and lake shores or accretional shoreforms,
26 | such as point bars, that have a high value for recreation or as
27 | fish or wildlife habitat should generally not be permitted.
- 28 | Policy 11KK-6:- Mining should only be permitted on accretion point and channel
29 | bars where appropriate studies and detailed operation plans
30 | demonstrate that:
 - 31 | a. Fish habitat, upland habitat and water quality will not be
32 | significantly impacted; and
 - 33 | b. The operation will not adversely affect geohydraulic
34 | processes, channel alignment, nor increase bank erosion or
35 | flood damages.
- 36 | Policy 11KK-7:- Mining operations should be located, designed, and managed so
37 | that other appropriate uses are not subjected to substantial or
38 | unnecessary adverse impacts from noise, dust, or other effects
39 | of the operation. The operator may be required to implement
40 | measures such as buffers, limited hours, or other mitigating
41 | measures for the purpose of minimizing adverse proximity
42 | impacts.

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~~23-100-130~~ Moorage – Docks, Piers and Mooring Buoys

Moorage—including docks, piers and mooring buoys—in shoreline areas are subject to the following policies. Shared moorage with more than four berths and boat launching facilities are subject to the policies in Boating facilities – Marinas and Launch Ramps.

A. Policies.

Policy 11LL-1:- Moorage associated with a single-family residence is considered a water-dependent use; provided, that it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible. Moorage for water-related and water-enjoyment uses or shared moorage for multifamily use should be allowed as part of a mixed use development or where it provides public access.

Policy 11LL-2:- New moorage, excluding docks accessory to single-family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support the intended water-dependent or public access use.

Policy 11LL-3:- As an alternative to continued proliferation of individual private moorage, mooring buoys are preferred over docks or floats. Shared moorage facilities are preferred over single-user moorage where feasible, especially where water use conflicts exist or are predictable. New subdivisions of more than two lots and new multifamily development of more than two dwelling units should provide shared moorage.

Policy 11LL-4:- Docks, piers and mooring buoys, including those accessory to single-family residences, should avoid locations where they will adversely impact shoreline ecological functions or processes, including currents and littoral drift, and critical saltwater habitat including kelp beds, eelgrass beds, spawning and holding areas for forage fish (such as herring, surf smelt and sandlance); subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants; and areas with which priority species have a primary association.

Comment [AP29]: Draft revision per Scoping Document, Item #8c.

Policy 11LL-5:- Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming, and pleasure boating, as well as private riparian rights of adjacent land-owners.

Policy 11LL-6:- Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and heightsize of piers and docks should be no greater than that required for safety and practicality for the primary use.

Comment [AP30]: Simplify to "size" for consistency with updated approach to dock standards, which include an overall square footage requirement, rather than prescriptive dimensional standards.

Policy 11LL-7:- Pile supports are preferred over fills because piles do not displace water surface and intertidal or aquatic habitat and are

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- 1 removable and thus more flexible in terms of long-term use
2 patterns. Floats may be less desirable than pile structures where
3 aquatic habitat or littoral drift are significant.
- 4 | Policy 11LL-8:- The use of buoys for small craft moorage is preferred over pile
5 or float structures because of lesser long-term impact on shore
6 features and users; moorage buoys should be placed as close to
7 shore as possible to minimize obstruction to navigation.
- 8 | Policy 11LL-9:- Shoreline resources and water quality should be protected from
9 overuse by boaters living on vessels (live-aboards). Boaters
10 living on vessels are restricted to established marinas with
11 facilities to address waste handling and other sanitary services.
- 12 | Policy 11LL-10:- Vessels should be restricted from extended mooring on waters
13 of the state unless authorization is obtained from the DNR and
14 impacts to navigation and public access are mitigated.
- 15 | Policy 11LL-11:- Piers and docks should be constructed of materials that will not
16 adversely affect water quality or aquatic plants and animals in
17 the long term.
- 18 | Policy 11LL-12:- New pier and dock development should be designed so as not to
19 interfere with lawful public access to or use of shorelines.
20 Developers of new piers and shared moorage should be
21 encouraged to provide physical or visual public access to
22 shorelines whenever safe and compatible with the primary use
23 and shore features.
- 24 ~~23-100-140~~ **Recreation**
- 25 ~~A. Policies.~~
- 26 | Policy 11MM-1:- Shoreline recreational development should be given priority for
27 shoreline location to the extent that the use facilitates the
28 public's ability to reach, touch, and enjoy the water's edge, to
29 travel on the waters of the state, and to view the water and the
30 shoreline. Where appropriate, such facilities should be dispersed
31 along the shoreline in a manner that supports more frequent
32 recreational access and aesthetic enjoyment of the shoreline for
33 a substantial number of people.
- 34 | Policy 11MM-2:- Recreational developments should facilitate appropriate use of
35 shoreline resources while conserving them. These resources
36 include, but are not limited to: accretion shoreforms, wetlands,
37 soils, ground-water, surface water, native plant and animal life,
38 and shore processes.
- 39 | ~~3. Recreational development requiring extensive structures,~~
40 ~~utilities and roads and/or substantial modifications of~~
41 ~~topography or vegetation removal should not be located or~~
42 ~~expanded in areas where damage to persons, property, and/or~~
43 ~~shoreline functions and processes is likely to occur.~~

Comment [AP31]: Proposed for removal, as this is captured in policy #8 below.

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- 1 | ~~Policy 11MM-3:4:~~ Recreational developments and plans should provide the
2 regional population a varied and balanced choice of recreation
3 experiences in appropriate locations. Public agencies and private
4 developers should coordinate their plans and activities to
5 provide a wide variety of recreational opportunities without
6 needlessly duplicating facilities.
- 7 | ~~Policy 11MM-4:5:~~ Trail links between shoreline parks and public access points
8 should be encouraged for walking, horseback or bicycle riding,
9 and other non-motorized vehicle access where appropriate. The
10 Whatcom County Comprehensive Park and Recreation Open
11 Space Plan should be considered in design and approval of
12 public trail systems.
- 13 | ~~Policy 11MM-5:6:~~ Access to natural character recreational areas, including but not
14 limited to beaches and fishing streams, should be a combination
15 of linear shoreline trails or easements and small parking or
16 access tracts to minimize user concentration on small portions
17 of the shoreline.
- 18 | ~~Policy 11MM-6:7:~~ Recreation facilities should incorporate public education
19 regarding shoreline ecological functions and processes, the role
20 of human actions on the environment, and the importance of
21 public involvement in shorelines management. Opportunities
22 incorporating educational and interpretive information should be
23 pursued in design and operation of recreation facilities and
24 nature trails.
- 25 | ~~Policy 11MM-7:8:~~ Reasonable physical or visual public access to shorelines should
26 be provided and integrated with recreational developments in
27 accordance with [WCC 23.90.080](#).
- 28 | ~~Policy 11MM-8:9:~~ Recreation development should be located only where utility and
29 road capability ~~is~~are adequate, or may be provided without
30 significant damage to shore features commensurate with the
31 number and concentration of anticipated users.
- 32 | ~~Policy 11MM-9:10:~~ Cooperative efforts among public and private persons toward
33 the acquisition and/or development of suitable recreation sites
34 or facilities should be explored to assure long-term availability
35 of sufficient public sites to meet local recreation needs.

~~23.100-150-Residential~~

~~A. Policies:~~

- 38 | ~~Policy 11NN-1:-~~ Single-family residences are designated in Chapter [90.58](#) RCW
39 as a priority use in those limited instances when authorization is
40 given for alterations of the natural condition of shorelines of the
41 state.
- 42 | ~~Policy 11NN-2:-~~ New residential development is encouraged to cluster dwelling
43 units together to reduce physical and visual impacts on

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1 shorelines and to reduce utility and road costs. Planned unit
2 developments that include common open space and recreation
3 facilities, or a variety of dwelling sizes and types, are
4 encouraged at suitable locations as a preferable alternative to
5 extensive single-lot subdivisions on shorelines. Planned unit
6 developments (Chapter [20.85](#) WCC) may also include a limited
7 number of neighborhood commercial business uses where
8 consistent with the applicable zoning regulations.

9 | Policy 11NN-3:- Allowable density of new residential development should comply
10 | with applicable ~~Comprehensive Plan~~ goals and policies, zoning
11 | restrictions, and shoreline area designation standards. The
12 | density ~~per acre~~ of development should be appropriate to local
13 | natural and cultural features.

14 | Policy 11NN-4:- Structures or development for uses accessory to residential use
15 | should preserve shoreline open space, be visually and physically
16 | compatible with adjacent cultural and shoreline features, be
17 | reasonable in size and purpose, and result in no net loss of
18 | shoreline ecological functions and processes.

19 | Policy 11NN-5:- Buildings greater than 35 feet above average grade level that
20 | will obstruct the views of a substantial number of residences on
21 | areas adjoining such shorelines are limited by the ~~SMA Act~~
22 | (RCW [90.58.320](#)) to those cases where ~~the SMP~~ ~~this program~~
23 | does not prohibit such development and then only when
24 | overriding considerations of the public interest will be served.
25 | ~~The SMP~~ ~~this program~~ provides opportunities for buildings
26 | greater than 35 feet in height in limited areas where consistent
27 | with development objectives and the goals and polices of this
28 | ~~chapter~~ ~~program~~.

29 | Policy 11NN-6:- New residential development should be planned and built ~~in~~
30 | ~~accordance with the policies and regulations in~~
31 | ~~WCC 23.90.030~~ ~~and~~ to minimize the need for shoreline
32 | stabilization and flood hazard reduction measures.

Comment [MD32]: Deleted for brevity as already required.

33 | Policy 11NN-7:- Measures to conserve native vegetation along shorelines should
34 | be required for all residential development. Vegetation
35 | conservation may include avoidance or minimization of clearing
36 | or grading, restoration of areas of native vegetation, and/or
37 | control of invasive or nonnative vegetation.

38 | Policy 11NN-8:- Whenever possible, nonregulatory methods to protect, enhance,
39 | and restore shoreline ecological functions and other shoreline
40 | resources should be encouraged for residential development.
41 | Such methods may include resource management planning, low
42 | impact development techniques, voluntary protection and
43 | enhancement projects, education, or incentive programs.

44 | Policy 11NN-9:- New multiunit residential development, including subdivision of
45 | land for more than four parcels, should provide substantial

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1 | shore ~~space~~ recreational opportunities for development
2 | residents and the public, unless public access is infeasible due to
3 | incompatible uses, safety, impacts to shoreline ecology, or legal
4 | limitations. New developments of four or fewer units should
5 | provide private access to the shore for those living in the
6 | development (non-public).

7 | Policy 11NN-10:- Development should provide open space corridors between
8 | structures, and along site boundaries, so as to provide space for
9 | outdoor recreation, preserve views, and minimize use conflicts.

10 | Policy 11NN-11:- Recreation-oriented residential development in the shoreline
11 | should be located only where substantial recreation
12 | opportunities are provided on site, and where nearby property
13 | owners and other appropriate uses will not be adversely
14 | affected.

15 | ~~23.100.160~~ Restoration and Enhancement

16 | A. Policies:

17 | Policy 1100-1:- ~~The SMP~~ This program recognizes the importance of restoration
18 | of shoreline ecological functions and processes and encourages
19 | cooperative restoration efforts and programs between local,
20 | state, and federal public agencies, tribes, nonprofit
21 | organizations, and landowners to address shorelines with
22 | impaired ecological functions and/or processes.

23 | Policy 1100-2:- Restoration actions should restore shoreline ecological functions
24 | and processes as well as shoreline features and should be
25 | targeted towards meeting the needs of sensitive and/or locally
26 | important plant, fish and wildlife species, ~~as well as~~ the
27 | biological recovery goals for early Chinook and bull trout
28 | populations, and other salmonid species and populations.

29 | Policy 1100-3:- Restoration should be integrated with other parallel natural
30 | resource management efforts such as the WRIA 1 Salmonid
31 | Recovery Plan and the WRIA 1 Watershed Management Plan.

32 | Policy 1100-4:- Priority should be given to restoration actions that:
33 | a. Create dynamic and sustainable ecosystems.
34 | b. Restore connectivity between stream/river channels,
35 | floodplains and hyporheic zones.
36 | c. Restore natural channel-forming geomorphologic processes.
37 | d. Mitigate peak flows and associated impacts caused by high
38 | stormwater runoff volume.
39 | e. Reduce sediment input to streams and rivers and associated
40 | impacts.
41 | f. Improve water quality.

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- g. Restore native vegetation and natural hydrologic functions of degraded and former wetlands.
- h. Replant native vegetation in riparian areas to restore functions.
- i. Restore nearshore ecosystem processes, such as sediment transport and delivery and tidal currents that create and sustain habitat.
- j. Restore pocket estuaries that support salmon life histories, including feeding and growth, refuge, osmoregulation, and migration.
- k. Address contamination along industrial shoreline regions.

~~23.100.170~~ Shoreline Stabilization

Shore stabilization in shoreline areas shall be subject to the policies and regulations of this section and **Chapter 23.90 WCC**.

A. Policies.

Policy 11PP-1:- Alternatives to structures for shore protection should be used whenever possible. Such alternatives may include no action (allow the shoreline to retreat naturally), increased building setbacks, building relocation, drainage controls, and bioengineering, including vegetative stabilization, and beach nourishment.

Policy 11PP-2:- New or expanded structural shore stabilization for new primary structures should be avoided. Instead, structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require structural shore stabilization for reasonable development to occur.

Policy 11PP-3:- New or expanded structural shore stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.

Policy 11PP-4:- New or expanded structural shore stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when nonstructural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration, or remediation objectives.

Policy 11PP-5:- Shore stabilization on streams should be located and designed to fit the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.

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- 1 | Policy 11PP-6:- Shore stabilization should not be permitted to unnecessarily
2 | interfere with public access to public shorelines, nor with other
3 | appropriate shoreline uses including, but not limited to,
4 | navigation, seafood harvest, or ~~private~~-recreation.
- 5 | Policy 11PP-7:- Provisions for multiple use, restoration, and/or public shore
6 | access should be incorporated into the location, design, and
7 | maintenance of shore stabilization for public or quasi-public
8 | developments whenever safely compatible with the primary
9 | purpose. Shore stabilization on publicly owned shorelines should
10 | not be allowed to decrease long-term public use of the
11 | shoreline.
- 12 | Policy 11PP-8:- Shore stabilization should be developed in a coordinated manner
13 | among affected property owners and public agencies for a whole
14 | drift sector (net shore-drift cell) or reach where feasible,
15 | particularly those that cross jurisdictional boundaries, to address
16 | ecological and geohydraulic processes, sediment conveyance
17 | and beach management issues. Where beach erosion threatens
18 | existing development, a comprehensive program for shoreline
19 | management should be established.
- 20 | Policy 11PP-9:- In addition to conformance with the regulations in ~~this~~
21 | ~~section~~the SMP, nonregulatory methods to protect, enhance,
22 | and restore shoreline ecological functions and other shoreline
23 | resources should be encouraged for shore stabilization.
24 | Nonregulatory methods may include public facility and resource
25 | planning, technical assistance, education, voluntary
26 | enhancement and restoration projects, or other incentive
27 | programs.
- 28 | Policy 11PP-10:- Shore stabilization should be located, designed, and maintained
29 | to protect and maintain shoreline ecological functions, ongoing
30 | shore processes, and the integrity of shore features. Ongoing
31 | stream, lake, or marine processes and the probable effects of
32 | proposed shore stabilization on other properties and shore
33 | features should be considered. Shore stabilization should not be
34 | developed for the purpose of filling shorelines.
- 35 | Policy 11PP-11:- Failing, harmful, unnecessary, or ineffective structures should
36 | be removed, and shoreline ecological functions and processes
37 | should be restored using nonstructural methods or less harmful
38 | long-term stabilization measures.
- 39 | Policy 11PP-12:- Structural shoreline stabilization measures should only be used
40 | when more natural, flexible, nonstructural methods such as
41 | vegetative stabilization, beach nourishment, and bioengineering
42 | have been determined infeasible. Alternatives for shoreline
43 | stabilization should be based on the following hierarchy of
44 | preference:

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- 1 a. No action (allow the shoreline to retreat naturally), increase
- 2 building setbacks, and relocate structures.
- 3 b. Flexible defense works constructed of natural materials
- 4 including soft shore protection, bioengineering, including
- 5 beach nourishment, protective berms, or vegetative
- 6 stabilization.
- 7 c. Rigid works constructed of artificial materials such as riprap
- 8 or concrete.

9 Materials used for construction of shoreline stabilization should
10 be selected for long-term durability, ease of maintenance,
11 compatibility with local shore features, including aesthetic
12 values, and flexibility for future uses.

13 Policy 11PP-13:- Larger works such as jetties, breakwaters, weirs, or groin
14 systems should be permitted only for water-dependent uses
15 when the benefits to the region outweigh resource losses from
16 such works, and only where mitigated to provide no net loss of
17 shoreline ecological functions and processes.

18 Policy 11PP-14:- Alternative structures, including floating, portable or submerged
19 breakwater structures, or several smaller discontinuous
20 structures, should be considered where physical conditions
21 make such alternatives with less impact feasible.

~~23.100.180~~ **Signs**

23 **A. Policies:**

24 Policy 11QQ-1:- Whatcom County recognizes the constitutional right for property
25 owners to communicate using signs on their property. These
26 policies are intended to ensure that signage within shoreline
27 areas is consistent with the purpose and intent of the ~~SMA Act~~
28 and ~~the SMP~~ ~~this program~~ by addressing impacts to ecological
29 functions, public safety, and visual aesthetics.

30 Policy 11QQ-2:- Signs should be located, designed, and maintained to be visually
31 compatible with local shoreline scenery as seen from both land
32 and water, especially on shorelines of statewide significance.

33 Policy 11QQ-3:- Sign location and design should not significantly impair shoreline
34 views.

35 Policy 11QQ-4:- As a preferable alternative to continued proliferation of single-
36 purpose signs, communities, districts, and/or multiuse or
37 multitenant commercial developments are encouraged to erect
38 single, common use gateway signs to identify and give
39 directions to local premises and public facilities.

40 Policy 11QQ-5:- Signs of a commercial or industrial nature should be limited to
41 those areas or premises to which the sign messages refer.

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- 1 | Policy 11QQ-6:- Billboards and other off-premises signs are not water-
2 | dependent, reduce public enjoyment of or access to shorelines,
3 | and often lower values of nearby properties. ~~Such signs should~~
4 | ~~not be located on shorelines~~ Except for approved community
5 | gateway or directional signs, such signs should not be located
6 | on shorelines.
- 7 | Policy 11QQ-7:- Signs near scenic vistas and viewpoints should be restricted in
8 | number, location, and height so that enjoyment of these limited
9 | and scarce areas is not impaired.
- 10 | Policy 11QQ-8:- Freestanding signs should be located to avoid blocking scenic
11 | views and be located on the landward side of public
12 | transportation routes, which generally parallel the shoreline.
- 13 | Policy 11QQ-9:- To minimize negative visual impacts and obstructions to
14 | shoreline access and use, low profile, on-premises wall signs are
15 | strongly preferred over freestanding signs or off-premises wall
16 | signs.
- 17 | Policy 11QQ-10:- Signs should be designed mainly to identify the premises and
18 | nature of enterprise without unduly distracting uninterested
19 | passersby. Moving or flashing signs should be prohibited on
20 | shorelines.
- 21 | ~~23.100.190~~ **Transportation**
- 22 | A. ~~_____~~ Policies:
- 23 | Policy 11RR-1:- New public or private transportation facilities should be located
24 | inland from the land/water interface, preferably out of the
25 | shoreline, unless:
- 26 | a. Perpendicular water crossings are required for access to
27 | authorized uses consistent with ~~the SMP~~this program; or
- 28 | b. Facilities are primarily oriented to pedestrian and non-
29 | motorized use and provide an opportunity for a substantial
30 | number of people to enjoy shoreline areas, and are
31 | consistent with the policies and regulations for ecological
32 | protection in the General Policies section of this chapter and
33 | in **WCC 23.90.030**, respectively.
- 34 | Policy 11RR-2:- Transportation facilities should be located and designed to avoid
35 | public recreation and public access areas and significant natural,
36 | historic, archaeological, or cultural sites.
- 37 | Policy 11RR-3:- Parking is not a preferred use in shorelines and should only be
38 | allowed to support authorized uses where no feasible
39 | alternatives exist.
- 40 | Policy 11RR-4:- New or expanded public transportation facility route selection
41 | and development should be coordinated with related local and
42 | state government land use and circulation planning.

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- 1 | Policy 11RR-5:- Transportation system route planning, acquisition, and design in
2 | the shoreline should provide space wherever possible for
3 | compatible multiple uses such as utility lines, pedestrian shore
4 | access or viewpoints, or recreational trails.
- 5 | Policy 11RR-6:- Transportation system plans and transportation projects within
6 | shorelines should provide safe trail space for non-motorized
7 | traffic such as pedestrians, bicyclists, or equestrians. Space for
8 | such uses should be required along roads on shorelines, where
9 | appropriate, and should be considered when rights-of-way are
10 | being vacated or abandoned.
- 11 | Policy 11RR-7:- Public access should be provided to shorelines where safe and
12 | compatible with the primary and adjacent use, or should be
13 | replaced where transportation development substantially
14 | impairs lawful public access. Viewpoints, parking, trails, and
15 | similar improvements should be considered for transportation
16 | system projects in shoreline areas, especially where a need has
17 | been identified.
- 18 | Policy 11RR-8:- Public transportation routes, particularly arterial highways and
19 | railways, should be located, designed, and maintained to permit
20 | safe enjoyment of adjacent shore areas and properties by other
21 | appropriate uses such as recreation or residences. Vegetative
22 | screening or other buffering should be considered.
- 23 |
- 24 | ~~23.100-200~~ **Utilities**
- 25 | ~~A. Policies:~~
- 26 | Policy 11SS-1:- New public or private utilities should be located inland from the
27 | land/water interface, preferably out of the shoreline jurisdiction,
28 | unless:
29 | a. Perpendicular water crossings are unavoidable; or
30 | b. Utilities are required for authorized shoreline uses consistent
31 | with ~~the SMP~~ this program.
- 32 | Policy 11SS-2:- Utilities should be located and designed to avoid public
33 | recreation and public access areas and significant natural,
34 | historic, archaeological, or cultural resources.
- 35 | Policy 11SS-3:- Utilities should be located, designed, constructed, and operated
36 | to result in no net loss of shoreline ecological functions and
37 | processes with appropriate mitigation as provided in **WCC**
38 | **23.90.030**.
- 39 | Policy 11SS-4:- All utility development should be consistent ~~with~~ and
40 | coordinated with all local government and state planning,
41 | including comprehensive plans and single purpose plans to meet
42 | the needs of future populations in areas planned to

Exhibit B - Planning Commission Review Draft

August 17, 2020

Chapter 11 – Shorelines

- 1 accommodate growth. Site planning and rights-of-way for utility
2 development should provide for compatible multiple uses such
3 as shore access, trails, and recreation or other appropriate use
4 whenever possible; utility right-of-way acquisition should also
5 be coordinated with transportation and recreation planning.
- 6 | Policy 11SS-5:- Utilities should be located in existing rights-of-way and corridors
7 whenever possible.
- 8 | Policy 11SS-6:- Utilities serving new development should be located
9 underground, wherever possible.
- 10 | Policy 11SS-7:- Development of pipelines and cables on aquatic lands and
11 tidelands, particularly those running roughly parallel to the
12 shoreline, and development of facilities that may require
13 periodic maintenance ~~which~~ that would disrupt shoreline
14 ecological functions should be discouraged except where no
15 other feasible alternative exists. When permitted, provisions
16 shall assure that the facilities do not result in a net loss of
17 shoreline ecological functions or significant impacts to other
18 shoreline resources and values.
- 19 | Policy 11SS-8: Given the different scales of regional, local, and accessory
20 utilities and their potential impacts, the County may establish
21 different regulations regarding each.

Comment [CES33]: New policy to allow for different regulations regarding the different types of utilities.