

Exhibit B – Planning Commission Review Draft #2

October 23, 2020

Chapter 11 – Shorelines

**Chapter Eleven
Shorelines**

Comment [CES1]: The P/C reviewed this version at their 11.12/20 mtg but didn't quite finish with it. Does include some of their changes.

Moved to tentatively approve for public hearing at their 12/10/20 mtg. Passed 8-0-1

Comment [CES2]: Much of text was moved from either C/P Ch. 10 or Title 23, and is not shown as being new. Proposed amendments to the existing text are shown as ~~strikeout~~/underline.

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

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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.

39 **GMA-SMA Requirements**

40 Under the provisions of the SMA, all development along shorelines of the state is
41 required to comply with the provisions of local shoreline master programs. The
42 Whatcom County Shoreline Management ProgramSMP works with other chapters of

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1 the Whatcom County Code to protect and preserve saltwater and freshwater
2 shorelines throughout the county by managing natural resources and directing
3 development and land use suitable for the shoreline environment.

4 **~~23.10.030~~ Governing Principles**

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

- 9 A. Any inconsistencies between the SMP ~~this program~~ and the Shoreline
10 Management Act (SMA) must be resolved in accordance with the SMA.
11 B. The policies of the SMP ~~this program~~ may be achieved by diverse means, one
12 of which is regulation. Other means, authorized by the SMA, include, but
13 are not limited to: acquisition of lands and/or easements by purchase or gift,
14 incentive programs, and implementation of capital facility and/or
15 nonstructural programs.
16 C. Protecting the shoreline environment is an essential statewide policy goal,
17 consistent with other policy goals. Permitted and/or exempt development,
18 actions taken prior to the SMA's adoption, and/or unregulated activities
19 can impair shoreline ecological processes and functions. The SMP ~~this~~
20 program protects shoreline ecology from such impairments in the following
21 ways:
 - 22 1. By using a process that identifies, inventories, and ensures meaningful
23 understanding of current and potential ecological functions provided by
24 shorelines.
 - 25 2. By including policies and regulations that require mitigation of significant
26 adverse impacts in a manner that ensures no net loss of shoreline
27 ecological functions. The required mitigation shall include avoidance,
28 minimization, and compensation of impacts in accordance with the
29 policies and regulations for mitigation sequencing in WCC 23-~~90.030~~ and
30 the Whatcom County Critical Areas Ordinance (CAO, Chapter 16.16 WCC).
31 The SMP ~~this program~~ and any future amendment thereto shall ensure no
32 net loss of shoreline ecological functions and processes on a
33 programmatic basis in accordance with the baseline functions present as
34 of the date of adoption of the comprehensive SMP update ~~this program~~,
35 February 27, 2007.
 - 36 3. By including policies and regulations to address cumulative impacts,
37 including ensuring that the cumulative effect of exempt development will
38 not cause a net loss of shoreline ecological functions, and by fairly
39 allocating the burden of addressing such impacts among development
40 opportunities.
 - 41 4. By including regulations and regulatory incentives designed to protect
42 shoreline ecological functions, and restore impaired ecological functions
43 where such opportunities have been identified, consistent with the

Comment [CES3]: These principles have been moved from 23.10.030.

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

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1 Shoreline Management Program Restoration Plan developed by Whatcom
2 County.

3 | D. Regulation of private property to implement SMPprogram goals such as
4 public access and protection of ecological functions and processes must be
5 consistent with all relevant constitutional and other legal limitations. These
6 include, but are not limited to, civil rights guaranteed by the U.S. and state
7 | Constitutions, recent-pertinent federal and state case law, and state statutes,
8 such as RCW 34.05.328 and 43.21C.060 and Chapter 82.02 RCW.

9 | E. Regulatory or administrative actions contained-herein must be implemented
10 consistent with the public trust doctrine and other applicable legal principles
11 as appropriate and must not unconstitutionally infringe on private property
12 rights or result in an unconstitutional taking of private property.

13 | F. The regulatory provisions of the SMPthis-program are limited to jurisdictional
14 shorelinesshorelines-of-the-state, whereas the planning functions of the
15 SMPthis-program may extend beyond the designated shoreline boundaries.

16 | G. The policies and regulations established by the SMPprogram must be
17 integrated and coordinated with those policies and rules of the Whatcom
18 County-Comprehensive Plan and development regulations adopted under the
19 Growth-Management-Act-(GMA) and RCW 34.05.328.

20 | H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom
21 County should balance the various policy goals of the SMPthis-program giving
22 consideration to other relevant local, state, and federal regulatory and non-
23 regulatory programs.

24 **Chapter 23.20 Overall SMP Goals and Objectives**

25 23.20.005-Generally.

26 This sectionchapter describes-contains overall programSMP goals and objectives.
27 They provide the comprehensive foundation and framework upon which the
28 shoreline area designations, policies, regulations, and administrative procedures are
29 based.

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

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

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~~23.20.010 Adoption:~~

~~In addition to the policy adopted in WCC 23.10.020(C), the following goals and objectives relating to the program elements specified in RCW 90.58.100(2) are 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~~ **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, WCC Title 23 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~~, WCC Title 23, 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: ~~Goal. To~~ **increase the general public's ability of the general public to reach, touch, and enjoy the water's**

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1 **edge, to travel on the waters of the state, and/or to view**
2 **the water and the shoreline from adjacent locations;**
3 **provided, that private rights, ~~the~~ public safety, and**
4 **shoreline ecological functions and processes are**
5 **protected consistent with the U.S. and state**
6 **Constitutions, state case law, and state statutes.**

7 ~~B.~~ Objectives:

8 11B-1: Locate, design, manage, and maintain public access in a manner
9 that protects shoreline ecological functions and processes and
10 the public health and safety.

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

13 11B-3: Where appropriate, acquire access to publicly owned tidelands
14 and shorelands. Encourage cooperation among the County,
15 landowners, developers, and other agencies and organizations
16 to enhance and increase public access to shorelines as specific
17 opportunities arise.

18 11B-4: Provide and protect visual access to shorelines and tidelands.

19 11B-5: Require physical or visual access to shorelines as a condition of
20 approval for shoreline development activities commensurate
21 with the impacts of such development and the corresponding
22 benefit to the public, ~~and~~ consistent with constitutional
23 limitations.

24 11B-6: Develop and manage public access to prevent adverse impacts
25 to adjacent private shoreline properties and developments.

26 ~~23-20-040-Recreation-~~

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

32 ~~Goal 11C:A:~~ **Goal. To provide opportunities and space for diverse**
33 **forms of water-oriented recreation.**

34 ~~B.~~ Objectives:

35 11C-1: Locate, develop, manage, and maintain recreation areas in a
36 manner that protects shoreline ecological functions and
37 processes.

38 11C-2: Provide a balanced choice of water-oriented public recreational
39 opportunities regionally. Ensure that shoreline recreation
40 facilities serve projected County growth in accordance with the
41 level of service standards established in the ~~Whatcom County~~
42 Comprehensive Plan and related goals and policies; ~~the~~

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- 1 Comprehensive Park and Recreation Open Space Plan, the
2 Whatcom County Bicycle Plan, and the Natural Heritage Plan.
- 3 11C-3: Acquire additional recreation areas and public access areas with
4 a high recreation value prior to demand to assure that sufficient
5 shoreline recreation opportunities are available to serve future
6 recreational needs.
- 7 11C-4: Encourage cooperation among public agencies, nonprofit
8 groups, and private landowners, and developers to increase and
9 diversify recreational opportunities through a variety of means
10 including incorporating water-oriented recreational opportunities
11 into mixed use developments and other innovative techniques.
- 12 11C-5: Recognize and protect the interest of all people of the state by
13 providing increased recreational opportunities within shorelines
14 of statewide significance and associated shorelands.
- 15 11C-6: Encourage private and public investment in recreation facilities.
- 16 11C-7: Locate, design, and operate recreational development in a
17 manner that minimizes adverse effects on adjacent properties
18 as well as other social, recreational, or economic activities.
- 19 ~~23-20-050-Transportation and Essential Public Facilities:~~
- 20 The transportation and essential public facilities element provides for the general
21 location and extent of existing and proposed public thoroughfares, transportation
22 routes, terminals, and other public utilities and facilities.
- 23 ~~Goal 11D:A:~~ **Goal. To provide transportation systems and essential**
24 **public facilities in shoreline areas without adverse effects**
25 **on existing shoreline use and development or shoreline**
26 **ecological functions and/or processes.**
- 27 ~~B.~~ Objectives:
- 28 11D-1: Locate, develop, manage, and maintain transportation systems
29 and essential public facilities in a manner that protects shoreline
30 ecological functions and processes. Minimize and mitigate
31 unavoidable impacts.
- 32 11D-2: Locate and design transportation systems and essential public
33 facilities to be harmonious with the existing and future economic
34 and social needs of the community.
- 35 11D-3: Discourage the development of non-water-dependent
36 transportation systems and essential public facilities unless no
37 feasible alternatives exist. Devote roads within the shoreline
38 jurisdiction to low volume local access routes and shoreline
39 public access where feasible.
- 40 11D-4: When appropriate, require adequate appropriate compensation
41 where transportation systems and essential public facilities
42 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 | ~~23-20-060~~ **Shoreline Use:**
- 9 | The shoreline use element ~~considers~~ prioritizes the use and development of
10 | shorelines and adjacent land areas for housing, business, industry, transportation,
11 | agriculture, forestry, natural resources, recreation, education, public institutions,
12 | utilities, and other categories of public and private land use with respect to the
13 | type, general distribution, location, and extent of such uses and developments.
- 14 | **Goal 11E:A: ~~Goal. To p~~ Preserve and develop shorelines in a manner**
15 | **that allows for an orderly balance of uses.**
- 16 | ~~B.~~ Objectives:
- 17 | 11E-1: Give preference to water-dependent and single-family
18 | residential uses that are consistent with preservation of
19 | shoreline ecological functions and processes. Give secondary
20 | preference to water-related and water-enjoyment uses. Allow
21 | non-water-oriented uses only when substantial public benefit is
22 | provided with respect to the goals of the SMAAct for public
23 | access and ecological restoration.
- 24 | 11E-2: Designate and maintain appropriate areas for protecting and
25 | restoring shoreline ecological functions and processes to control
26 | pollution and prevent damage to the shoreline environment
27 | and/or public health.
- 28 | 11E-3: Ensure shoreline uses are consistent with the Whatcom County
29 | Comprehensive Plan.
- 30 | 11E-4: Balance the location, design, and management of shoreline uses
31 | throughout the County to prevent a net loss of shoreline
32 | ecological functions and processes over time.
- 33 | 11E-5: Encourage mixed use developments that include and support
34 | water-oriented uses and provide a substantial public benefit
35 | consistent with the public access and ecological restoration
36 | goals and policies of the SMAAct.
- 37 | 11E-6: Encourage shoreline uses and development that enhance
38 | shoreline ecological functions and/or processes or employ
39 | innovative features that further the purposes of the SMP
40 | program.
- 41 | 11E-7: Encourage shoreline uses and development that enhance and/or
42 | increase public access to the shoreline.

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~~23-20-070~~ **Conservation-**

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

Goal 11F:A- ~~Goal. To c~~Conserve shoreline resources and important shoreline features, and protect shoreline ecological functions and the processes that sustain them to the maximum extent practicable.

B. Objectives:-

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

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

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

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

~~23-20-080~~ **Archaeological, historical and Cultural Resources**

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

Comment [CES7]: DAHP definition.

Goal 11G:A- ~~Goal.~~Protect shoreline features of historic, cultural, archeological, or scientific value or significance to prevent damage or destruction through coordination and consultation with the appropriate local, state and federal authorities, including affected Indian tribes.

B. Objectives:-

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- 1 | 11G-1: Protect ~~cultural resources sites~~ in collaboration with appropriate
- 2 | tribal, state, federal, and local governments.
- 3 | 11G-2 Engage in and encourage public agencies and private parties to
- 4 | cooperate in the identification, protection and management of
- 5 | cultural resources.
- 6 | 11G-3: Consult with the Washington State Department of Archaeology
- 7 | and Historic Preservation (DAHP) and affected Native American
- 8 | tribes when developing local policies and regulations for
- 9 | identifying, protecting, and preserving cultural resources.
- 10 | 11G-4: Where appropriate, restore unique resources that have cultural,
- 11 | archaeological, historic, educational, or scientific value or
- 12 | significance to further enhance the value of the shorelines.
- 13 | 11G-5: Where appropriate provide access to cultural resources in a
- 14 | manner that is culturally sensitive and does not degrade the
- 15 | resource or impact the quality of the environment; make access
- 16 | to such sites available to parties of interest; provided, that
- 17 | access to such sites must be designed and managed in a
- 18 | manner that gives maximum protection to the resource.
- 19 | 11G-3: Provide opportunities for education related to archaeological,
- 20 | historical, and cultural features where appropriate and
- 21 | incorporated into public and private programs and development.

Comment [CES8]: New proposed policies consistent with our MOU with DAHP and Lummi Nation.

22 | **~~23.20.090-Views and Aesthetics.~~**

23 | This element provides for preservation and/or protection of scenic vistas, views of

24 | the water, and other aesthetic qualities of shorelines for public enjoyment.

25 | **~~Goal 11H:A:~~** **~~Goal. To~~ Assure that the public's ability and opportunity**

26 | **to enjoy shoreline views and aesthetics is protected.**

27 | **~~B.~~** Objectives:

28 | 11H-1: Identify and protect areas with scenic vistas and areas where

29 | the shoreline has high aesthetic value.

30 | 11H-2: Design development to minimize adverse impacts on views from

31 | public property or views enjoyed by a substantial number of

32 | residences.

33 | **~~23.20.100-Restoration and eEnhancement.~~**

34 | This element provides for the timely restoration and enhancement of ecologically

35 | impaired areas in a manner that achieves a net gain in shoreline ecological

36 | functions and processes above baseline conditions ~~as of the adoption of this~~

37 | ~~program.~~

38 | **~~Goal 11I:A:~~** **~~Goal. To~~ Reestablish, rehabilitate and/or otherwise**

39 | **improve impaired shoreline ecological functions and/or**

40 | **processes through voluntary and incentive-based public**

41 | **and private programs and actions that are consistent with**

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1 **the Shoreline Management Program Restoration Plan**
2 **(~~County Resolution 2007-011~~) and other approved**
3 **restoration plans.**

4 **B. Objectives:-**

5 11I-1: Encourage and facilitate cooperative restoration and
6 enhancement programs between local, state, and federal public
7 agencies, tribes, nonprofit organizations, and landowners to
8 address shorelines with impaired ecological functions and/or
9 processes.

10 11I-2: Restore and enhance shoreline ecological functions, and
11 processes, ~~and as well as shoreline~~ features through voluntary
12 and incentive-based public and private programs, such as the
13 Shore Friendly Program developed by the Washington State
14 Department of Fish and Wildlife, Washington State Department
15 of Natural Resources, and the Environmental Protection Agency.

16 11I-3: Target restoration and enhancement towards improving habitat
17 requirements of priority and/or locally important wildlife species.

18 11I-4: Ensure restoration and enhancement is consistent with and,
19 where practicable, prioritized based on the biological recovery
20 goals for early Chinook and bull trout populations and other
21 species and/or populations for which a recovery plan is
22 available.

23 11I-5: Integrate restoration and enhancement with other parallel
24 natural resource management efforts such as the WRIA 1
25 Salmonid Recovery Plan, Drayton Harbor and Portage Bay
26 Shellfish Protection District Plans, WRIA 1 Watershed
27 Management Plan, ~~Whatcom County Comprehensive Plan,~~ and
28 the Puget Sound Salmon Recovery Draft Plan.

30 ~~Chapter 23.30 Shoreline Jurisdiction and Area Environment~~
31 ~~Designations~~

32 ~~23.30.022 Shoreline area designations:~~

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

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

- 38 1. The ecological functions and processes that characterize the shoreline,
39 together with the degree of human alteration; ~~and~~
- 40 2. Existing development patterns together with WCC Title 20₇ Zoning₇
41 designations, the ~~County~~ Comprehensive Plan designations, and other
42 officially adopted plans; ~~and~~

Comment [AP9]: Draft revision per Scoping Document, Item #8a, Reference WDFW and DNR's Shore Friendly Program.

Comment [MD10]: Moved some content from Chapter 23.30. Section reviewed and coordinated with Title 23 updates.

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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 SMP 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.
- ~~Policy 11J-2:B-~~ First priority should be given to water-dependent uses. Second priority should be given to water-related and then water-enjoyment uses. Non-water-oriented uses should not be allowed except as part of mixed use developments. Non-water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on

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1 sites where there is no direct access to the shoreline, or where
2 the needs of existing and future water-dependent uses are met.

3 ~~23.30.040~~ **Urban Resort Shoreline Area**

4 ~~23.30.041~~ **Urban resort shoreline area—Purpose**

5 The purpose of the urban resort shoreline area is to provide for intensive residential
6 and commercial uses geared to the needs of tourists and day visitors while
7 protecting existing shoreline ecological functions and processes. Emphasis is on
8 hotels, motels, shops, restaurants, commercial rental campgrounds, rental cabins,
9 and shoreline-related recreation facilities.

10 ~~23.30.042~~ **Urban resort shoreline area—Designation Criteria**

11 The urban resort shoreline area is applied to shoreline areas identified in the
12 Comprehensive Plan as suitable for resort commercial development with substantial
13 features that might reasonably attract resort development compatible with other
14 development in the area, and which have existing and/or planned infrastructure
15 sufficient to support such development.

16 ~~23.30.043~~ **Urban resort shoreline area—Policies**

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

19 ~~Policy 11K-1:A-~~ Scale and design of resort development should assure
20 compatibility with allowed uses of adjacent shoreline areas and
21 shoreline ecological functions and processes.

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

25 ~~23.30.050~~ **Urban Conservancy Shoreline Area**

26 ~~23.30.051~~ **Urban conservancy shoreline area—Purpose**

27 The purpose of the urban conservancy shoreline area is to protect shoreline
28 ecological functions and processes in urban growth areas and Limited Areas of More
29 Intense Rural Development (LAMIRDs) that are not designated for high intensity
30 residential use and are not generally suitable for water-dependent uses. The
31 primary management goal is to preserve shoreline ecological functions and
32 processes by avoiding forms of development that would be incompatible with
33 existing functions and processes, as well as identify and focus restoration efforts in
34 areas where benefits to overall functions and processes can be realized. This policy
35 should be furthered by maintaining most of the area’s natural character.

36 ~~23.30.052~~ **Urban conservancy shoreline area—Designation Criteria**

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

Comment [CES11]: Copied from Conservancy Shoreline Area, as these two are similar though intended for different areas with different levels of existing development.

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

~~23.30.053 Urban conservancy shoreline area~~ — Policies

10 Development within urban conservancy shoreline areas shall be consistent with the

11 following policies:

12 ~~Policy 11L-1:A:~~ Primary permitted uses should consist of low intensity

13 residential uses or other low intensity uses that preserve the

14 natural character of the area or promote preservation of open

15 space and critical areas.

16 ~~Policy 11L-2:B:~~ Moderate to high intensity residential use may be permitted if

17 the proposed uses and design result in substantial open space,

18 public access and/or restoration of shoreline ecological functions

19 and/or processes, and if compatible with surrounding uses.

20 ~~Policy 11L-3:C:~~ Public access and public recreation facilities are a preferred use

21 if they will not cause substantial ecological impacts and when

22 restoration of ecological functions is incorporated.

23 ~~Policy 11L-4:D:~~ Low intensity commercial uses may be permitted if the specific

24 uses and design result in substantial open space, public access,

25 and/or restoration of ecological functions, and if compatible with

26 surrounding uses.

~~23.30.060 Shoreline Residential Area~~

~~23.30.061 Shoreline residential area~~ — Purpose

29 The shoreline residential shoreline area accommodates residential development and

30 accessory structures that are consistent with this chapter.

~~23.30.062 Shoreline residential area~~ — Designation Criteria

32 The shoreline residential shoreline area is applied to shorelines if they have been

33 predominantly developed with single-family or multifamily residential uses or are

34 planned and platted for residential development. The designation is generally

35 applied to residential densities of greater than one unit per acre.

~~23.30.063 Shoreline residential area~~ — Policies

37 Development within shoreline residential shoreline areas shall be consistent with

38 the following policies:

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

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

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

17 | ~~23.30.070 Rural Shoreline Area~~

18 | ~~23.30.071 Rural shoreline area — Purpose~~

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

25 | ~~23.30.072 Rural shoreline area — Designation Criteria~~

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

- 29 A. Where the shoreline currently accommodates residential uses outside urban
30 growth areas and is characterized by low density development, pasture,
31 agriculture, woodlots, home occupations, and cottage industries. The
32 distribution of rural land use is adjacent to agricultural, forestry, and urban
33 land uses and often provides a transition between urban areas and
34 commercial agriculture and forestry uses. Natural vegetative cover and
35 topography have been altered in many rural areas, but substantial ecological
36 functions, and/or the potential for restoration of ecological functions, are
37 present.
- 38 B. That are now used or potentially usable for a mix of agriculture, forestry, and
39 residential use.
- 40 C. Where residential development is or should be of low density, because of
41 limitations by physical features, infrastructure, the presence of critical areas,
42 and/or lack of utilities or access.

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- 1 D. That have high recreational value or unique historic or cultural resources.
- 2 E. Where low intensity outdoor recreation use or development would be
- 3 appropriate and compatible with other uses and the physical environment.
- 4 F. Where the shoreline has been developed with low intensity water-dependent
- 5 uses.

~~23.30.073 Rural shoreline area~~ Policies

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

8 policies:

9 ~~Policy 11N-1:A-~~ Uses in rural areas should protect or enhance the rural character

10 of the shoreline and sustain the shoreline ecological functions

11 and processes by limiting building density and height, and

12 providing effective setbacks, buffers, and open space.

13 ~~Policy 11N-2:B-~~ Residential development consistent with the rural character of

14 the area is permitted, provided it includes measures to protect

15 ecological functions and processes. Related uses consistent with

16 the rural character of the area are permitted.

17 ~~Policy 11N-3:C-~~ Public or private outdoor recreation facilities should be

18 encouraged if compatible with the rural character of the area

19 and developed in a manner that maintains shoreline ecological

20 functions and processes. Preferred uses include water-oriented

21 recreation facilities that do not deplete shoreline resources over

22 time, such as boating facilities, angling, wildlife viewing trails,

23 and swimming beaches.

24 ~~Policy 11N-4:D-~~ Industrial or commercial development should be limited to

25 water-oriented commercial and industrial uses in the limited

26 locations where such uses have been established or at sites in

27 rural communities that possess appropriate shoreline conditions

28 and services sufficient to support such developments. Non-

29 water-dependent uses should only be allowed when they

30 provide a substantial benefit with respect to the goals and

31 policies of the SMP, such as providing public access

32 and/or restoring degraded shorelines.

33 ~~Policy 11N-5:E-~~ Agriculture and forestry consistent with rural character and the

34 maintenance of shoreline ecological functions and processes

35 should be encouraged.

~~23.30.080 Resource Shoreline Area~~

~~23.30.081 Resource shoreline area~~ Purpose

38 The purpose of the resource shoreline area is to protect shoreline ecological

39 functions and processes in areas designated in the ~~Whatcom County~~

40 Comprehensive Plan as agriculture resource lands, ~~rural forestry, commercial~~

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1 forestry and mineral resource lands and to protect the economic base of those
2 lands and limit incompatible uses.

3 ~~23.30.082 Resource shoreline area~~ **Designation Criteria**

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

10 ~~23.30.083 Resource shoreline area~~ **Policies**

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

13 ~~Policy 11O-1:A-~~ Uses in resource areas should protect the economic base of
14 those lands, limit incompatible uses, and sustain the shoreline
15 area ecological processes and functions by limiting uses and
16 intensity. Residential use is generally limited to one dwelling per
17 existing parcel. The dwelling may be located within the shoreline
18 jurisdiction, only where no other building site is feasible on the
19 parcel.

20 ~~Policy 11O-2:B-~~ Public or private outdoor recreation facilities should be
21 permitted if they do not displace designated resource lands and
22 if they are developed in a manner that maintains shoreline
23 ecological functions. Preferred uses include water-dependent
24 and water-enjoyment recreation facilities.

25 ~~Policy 11O-3:C-~~ Industrial or commercial use and development should be limited
26 to uses that serve resource uses. Such uses may be located
27 within the shoreline only if they are water-dependent, water-
28 related, or if no other feasible location exists within the
29 contiguous property.

30 ~~23.30.090 Conservancy Shoreline Area~~

31 ~~23.30.091 Conservancy shoreline area~~ **Purpose**

32 The purpose of the conservancy shoreline area is to retain shoreline ecological
33 functions in areas outside of urban growth areas and LAMIRDs where important
34 ecological processes have not been substantially degraded by human activities.
35 ~~Conservancy areas are designated outside of urban growth areas.~~ The primary
36 management goal is to preserve shoreline ecological functions and processes by
37 avoiding forms of development that would be incompatible with existing functions
38 and processes, as well as identify and focus restoration efforts in areas where
39 benefits to overall functions and processes can be realized. This policy should be
40 furthered by keeping overall intensity of development or use low, and by
41 maintaining most of the area's natural character.

Comment [CES12]: Clarification, as per the SMA, Conservancy is only to be applied outside of urban areas.

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~~23.30.092 Conservancy shoreline area~~—Designation Criteria

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

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

~~23.30.093 Conservancy shoreline area~~—Policies

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

- ~~Policy 11P-1:A-~~ Natural ecological processes should be protected and renewable resources managed so that ecological functions and the resource base are maintained. Nonrenewable resources should only be consumed in a manner compatible with conservation of other resources and other appropriate uses.
- ~~Policy 11P-2:B-~~ Permitted uses should be limited to those compatible with each other and with conservation of shoreline ecological processes and resources.
- ~~Policy 11P-3:C-~~ Shorelines should be protected from ~~harmful~~ concentrations of people, livestock, buildings, or structures that would adversely impact shoreline ecological functions and processes.
- ~~Policy 11P-4:D-~~ Opportunities for ecological restoration should be pursued, prioritizing those areas with the greatest potential to restore ecosystem-wide processes and functions.
- ~~Policy 11P-5:E-~~ Outstanding recreational or scenic values should be protected from incompatible development.

Comment [AP13]: Revised for clarity and usability.

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1 ~~23.30.100~~ **Natural Shoreline Area**

2 ~~23.30.101~~ **Natural shoreline area — Purpose**

3 The purpose of the natural shoreline area is to ensure long-term preservation of
4 ecologically intact shorelines inside or outside urban growth areas ~~that are~~
5 ecologically intact.

6 ~~23.30.102~~ **Natural shoreline area — Designation Criteria**

7 The natural shoreline area is applied to shoreline areas where any of the following
8 characteristics apply:

- 9 A. The majority of natural ecological shoreline functions and/or processes are
10 retained, often evidenced by the shoreline configuration and the presence of
11 native vegetation. Generally, but not necessarily, they include ecologically
12 intact shorelines that are free of structural shoreline modifications,
13 structures, and intensive human uses.
- 14 B. Forested areas that generally include native vegetation with diverse plant
15 communities, multiple canopy layers, and the presence of large woody debris
16 available for recruitment to adjacent water bodies.
- 17 C. Valuable functions are provided for the larger aquatic and terrestrial
18 environments, which could be lost or significantly reduced by human
19 development.
- 20 D. Ecosystems or geologic types that are of particular scientific and educational
21 interest are represented.
- 22 E. Largely undisturbed areas of wetlands, estuaries, unstable bluffs, coastal
23 dunes, and spits are present.
- 24 F. New development, extractive uses, or physical modifications cannot be
25 supported without significant adverse impacts to ecological functions and/or
26 processes or risk to human safety.

27 ~~23.30.103~~ **Natural shoreline area — Policies**

28 Development within natural shoreline areas shall be consistent with the following
29 policies:

30 ~~Policy 11Q-1:A-~~ Preservation of the area’s ecological functions, natural features
31 and overall character must receive priority over any other
32 potential use. Uses should not degrade shoreline ecological
33 functions or processes or the natural character of the shoreline
34 area. New development or significant vegetation removal that
35 would reduce the capability of the shoreline to perform a full
36 range of ecological functions or processes should not be
37 permitted.

38 ~~Policy 11Q-2:B-~~ Private and/or public enjoyment of natural shoreline areas
39 should be encouraged and facilitated through low intensity
40 recreational, scientific, historical, cultural, and educational

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1 research uses; provided, that no significant ecological impact on
2 the area will result.

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

8 | ~~Policy 11Q-4:D-~~ The following uses should not be permitted in the natural
9 shoreline area:
10 1. Commercial uses.
11 2. Industrial uses.
12 3. Non-water-oriented recreation.
13 4. Roads, utility corridors, and parking areas that can be
14 located outside of natural shoreline areas.

15 | ~~23.30.110 Aquatic Shoreline Area~~

16 | ~~23.30.111 Aquatic shoreline area—Purpose~~

17 The purpose of the aquatic shoreline area is to protect, restore, and manage the
18 characteristics and resources of the areas waterward of the ordinary high water
19 mark.

20 | ~~23.30.112 Aquatic shoreline area—Designation Criteria~~

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

25 | ~~23.30.113 Aquatic shoreline area—Policies~~

26 Development within aquatic shoreline areas shall be consistent with the following
27 policies:

28 | ~~Policy 11R-1:A-~~ New over-water structures should only be permitted for water-
29 dependent uses, public access, or ecological restoration. The
30 size of new over-water structures should be limited to the
31 minimum necessary to support the structure’s intended use. In
32 order to reduce the impacts of shoreline development and
33 increase effective use of water resources, multiple use of over-
34 water facilities should be encouraged.

35 | ~~Policy 11R-2:B-~~ All developments and uses on navigable waters or their beds
36 should be located and designed to minimize interference with
37 surface navigation, to consider impacts to public views, and to
38 allow for the safe, unobstructed passage of fish and wildlife,
39 particularly those species dependent on migration.

40 | ~~Policy 11R-3:C-~~ Uses that adversely impact the ecological functions of critical
41 saltwater and freshwater habitats should not be permitted

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1 except where necessary to achieve the objectives of RCW
2 90.58.020, and then only when all potential impacts are
3 mitigated as necessary to assure maintenance of shoreline
4 ecological functions and processes.

5 ~~Policy 11R-4:D-~~ Shoreline uses and modifications should be designed and
6 managed to prevent degradation of water quality and alteration
7 of natural conditions.

8 ~~23.30.120~~ **Cherry Point Management Area**

9 **Purpose**

10 Washington State natural resource agencies and Whatcom County have identified
11 certain portions of the Cherry Point management area as providing herring
12 spawning habitat and other key habitat characteristics that warrant special
13 consideration due to their importance to regional fisheries and other elements of
14 the aquatic environment. The purpose of the Cherry Point management area is to
15 provide a regulatory framework that recognizes and balances the special port,
16 industrial, and natural resource needs associated with the development of this
17 marine resource.

Comment [P/C14]: Moved from Use & Modification section, CPMA, Policies 11TT-1 & 2, to fit the layout of other sections where in purpose is located in the Shoreline Environments section.

18 **Designation Criteria**

19 The Cherry Point Management Area is a geographic area lying between the eastern
20 property boundary of Tax Lots 2.27 and 2.28 within the SE 1/4 of Section 11,
21 Township 39 North, Range 1 West, as it existed on June 18, 1987, and the southern
22 boundary of Section 32, Township 39 North, Range 1 East, extending waterward a
23 distance of 5,000 feet and extending landward for 200 feet as measured on a
24 horizontal plane from the OHWM. This area shall have the Cherry Point
25 Management Area shoreline environment designation.

Comment [CES15]: Copied from original definition of the CPMA in Title 23

26 **Policies**

27 The policies applicable to the Cherry Point Management Area are found in the
28 Shoreline Use and Modifications Policies section of this chapter; applicable
29 regulations and standards, etc., applicable to the Cherry Point management area
30 are found in WCC Title 23.100.170, except as otherwise specified therein.

31 **Shorelines of Statewide Significance**

32 ~~23.40.010~~ Adoption of policy.

33 In accordance with RCW 90.58.020, the following management and administrative
34 policies are hereby adopted for all shorelines of statewide significance in
35 unincorporated Whatcom County, as defined in RCW 90.58.030(2)(e) and identified
36 in WCC 23.2.06040-020. Consistent with the policy contained in RCW 90.58.020,
37 preference shall be given to the uses that are consistent with the statewide interest
38 in such shorelines. In the following order of preference, these are uses that:

Comment [MD16]: Moved some content from Chapter 23.40. Section reviewed and coordinated with Title 23 updates.

- 39 A. Recognize and protect the statewide interest over local interest.
- 40 B. Preserve the natural character of the shoreline.
- 41 C. Result in long-term over short-term benefit.

Comment [CES17]: The language of WAC 173-26-181 recognizes an order of preference

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- 1 D. Protect the resources and ecology of the shoreline.
- 2 E. Increase public access to publicly owned areas of the shoreline.
- 3 F. Increase recreational opportunities for the public in the shoreline.
- 4 G. Provide for any other element as defined in RCW 90.58.100 deemed
- 5 appropriate or necessary.

6 Uses that are not consistent with these policies should not be permitted on
7 shorelines of statewide significance.

8 ~~23.40.030 Policies for Shorelines of Statewide Significance~~

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

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

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

21 | ~~Policy 11S-3:C-~~ Where commercial timber cutting takes place pursuant to WCC
22 ~~23.40.11023-90-110~~ and RCW 90.58.150, reforestation should
23 take place as soon as possible.

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

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

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

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

40 | ~~Policy 11S-8:H-~~ Resources and ecological systems of shorelines of statewide
41 significance should be protected. Shorelands and submerged

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lands should be protected to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds.

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

Comment [AP18]: Incorporated into Policy 11X-5 above to avoid redundancy.

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

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

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

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

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

Chapter 23.90 General Policies and Regulations

Comment [MD19]: Moved most policy content from Chapter 23.90. Section reviewed and coordinated with Title 23 updates.

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

~~23.90.020~~ Land Use

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

~~A. Policies:~~

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

Comment [CES20]: Stricken part moved to Shoreline Stabilization section at P/C's request, as it's a separate concept from the 1st sentence.

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1 | [Policy 11T-2:](#) Shoreline uses that are water-dependent or water-related
2 should be given preference (RCW 90.58.020). Such uses should
3 be located, designed, and maintained in a manner that
4 minimizes adverse impacts to shoreline ecological functions
5 and/or processes. Non-water-oriented development may be
6 allowed; provided, that existing water-dependent uses are not
7 displaced and the future supply of sites for water-dependent or
8 water-related uses is not compromised.

9 | [Policy 11T-3:](#) Adequate space should be reserved on shorelines to meet the
10 current and projected demand for water-dependent uses, in
11 conjunction with areas provided in cities, towns and areas under
12 tribal jurisdiction.

13 | **~~23-90-030~~ Ecological Protection and Critical Areas**

14 | ~~A. Policies:~~

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

34 | [Policy 11U-2:](#) In assessing the potential for net loss of ecological functions or
35 processes, project-specific and cumulative impacts should be
36 considered.

37 | [Policy 11U-3:](#) Development standards for density, frontage, setbacks,
38 impervious surface, shoreline stabilization, vegetation
39 conservation, buffers, critical areas, and water quality should
40 protect existing shoreline ecological functions and processes.
41 During permit review, the administrator should consider the
42 expected impacts associated with proposed shoreline
43 development when assessing compliance with this policy.

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~~23-90-040~~ Water Quality and Quantity

~~A. Policies:~~

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

Comment [CES21]: Development shouldn't enhance the quantity of surface water. We're not supposed to *increase* stormwater runoff.

Policy 11V-2: Shoreline use and development should minimize the need for chemical fertilizers, pesticides, or other similar chemical treatments to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.

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

~~23-90-050~~ Views and Aesthetics

~~A. Policies:~~

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

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

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

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

~~23-90-060~~ Vegetation Conservation

~~A. Policies:~~

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Policy 11X-1:

Where new developments and/or uses are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. ~~Important functions of shoreline vegetation include, but are not limited to:~~

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

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

~~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 [MD22]: 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 (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 in (as well as outside of) 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

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- 1 | known significant ~~local historic,~~ cultural ~~and archaeological sites~~
2 | ~~resources~~ in observance of applicable state and federal laws
3 | protecting such information from general public disclosure. As
4 | appropriate, such sites should be protected, preserved and/or
5 | restored for study, education, and/or public enjoyment to the
6 | maximum possible extent.
- 7 | Policy 11X-2: Site development plans should incorporate provisions for
8 | ~~historic,~~ cultural ~~and archaeological sites~~ resource preservation,
9 | restoration, and education with open space or recreation areas
10 | whenever compatible and possible.
- 11 | ~~3. Cooperation among involved private and public parties is~~
12 | ~~encouraged to achieve the archaeological, historical and cultural~~
13 | ~~element goals and objectives of this program.~~
- 14 | Policy 11X-3:4- Owners of property containing identified ~~historic,~~ cultural ~~or~~
15 | ~~archaeological sites~~ resources are encouraged to make
16 | development plans known well in advance of application, so that
17 | appropriate agencies such as the Lummi Nation, Nooksack
18 | Tribe, Washington State Department of Archaeology and Historic
19 | Preservation, and others may have ~~ample~~ adequate time to
20 | assess the site and make arrangements to preserve ~~historical,~~
21 | cultural ~~and archaeological~~ values as applicable.
- 22 | Policy 11X-4:5- Private and public owners of historic sites should be encouraged
23 | to provide public access and educational opportunities in a
24 | manner consistent with long-term protection of both historic
25 | values and shoreline ecological functions.
- 26 | Policy 11X-5:6- ~~Historic, cultural, and archaeological sites~~ Development on sites
27 | containing cultural resources should be planned and carried out
28 | so as to prevent impacts to the resource. Impacts to
29 | neighboring properties and other shore uses should be limited to
30 | temporary or reasonable levels.
- 31 | Policy 11X-6:7- If development is proposed adjacent to an identified ~~historic,~~
32 | cultural ~~or archaeological sites~~ resource, then the proposed
33 | development should be designed and operated so as to be
34 | compatible with continued protection of ~~the historic, cultural or~~
35 | ~~archaeological~~ that sites resource.
- 36 | Policy 11X-7:8- The cultural resource provisions of this program are consistent
37 | with Chapters 27.44 and 27.53 RCW and WAC 25-48-060. In
38 | accordance with state law, all applicants are subject to these
39 | requirements.
- 40 | Policy 11X-8: The County shall consult with DAHP and affected Native
41 | American tribes as appropriate in implementing the cultural
42 | ~~archaeological, and historic resources~~ goals, objectives, policies,
43 | and regulations of this program-SMP.

Comment [AP23]: This is captured in policies #1 and #4 (revised to #3).

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- 1 Policy 11X-9: In reviewing development proposals, the County shall take, or
2 cause project applicants to take, all required actions to:
- 3 1. Minimize the risk of disturbing cultural resources within
4 Whatcom County shorelines.
 - 5 2. Due to the limited and irreplaceable nature of the
6 resource(s), prevent the destruction of or damage to any site
7 having historic, cultural, scientific, or educational value as
8 identified by the appropriate authorities, including affected
9 Tribes and the DAHP.
 - 10 3. Consult with professional archaeologists, DAHP, and affected
11 Tribes before permitting or otherwise approving the use or
12 development of shoreline areas containing cultural resources.
13 This consultation shall be accomplished through the
14 regulations and procedures provided in WCC Title 23.
 - 15 4. Consult with DAHP and affected Tribes and coordinate with
16 project archaeologists to establish site- and project-specific
17 procedures for protection and management of cultural
18 resources.
 - 19 5. Make informed specific land use decisions based upon
20 information provided by DAHP and Tribes.
 - 21 6. Ensure the use of the best available information, technology,
22 and techniques in identifying, protecting, preserving, and
23 restoring cultural resources.

Comment [CES24]: New policy based on language of our MOU with DAHP and Lummi Nation.

24 **~~23.90-080~~ Public Access**

25 **A. Policies:**

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

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

Comment [MD25]: Addressed in #6 below.

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

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- 1 | Policy 11Y-4: Non-water-related uses or activities located on the shoreline
2 | should provide public access as a public benefit.
- 3 | Policy 11Y-5: Public access area and/or facility requirements should be
4 | commensurate with the scale and character of the development
5 | and should be reasonable, effective, and fair to all affected
6 | parties including but not limited to the landowner and the
7 | public.
- 8 | Policy 11Y-6: Public access design should provide for public safety and
9 | minimize potential impacts to private property, individual
10 | privacy, and shoreline ecological functions and processes.
- 11 | Policy 11Y-7: Shoreline development by public entities, such as local
12 | governments, port districts, state agencies, and public utility
13 | districts, should provide public access measures as part of each
14 | development project, unless such access is shown to be
15 | incompatible due to reasons of safety, security, or impact to the
16 | shoreline.
- 17 | ~~23.90.090~~ **Site Planning**
- 18 | ~~A. Policies:~~
- 19 | Policy 11Z-1: Development and use should be designed in a manner that
20 | directs land alteration to the least sensitive portions of the site
21 | to maximize vegetation conservation; minimize impervious
22 | surfaces and runoff; protect riparian, nearshore and wetland
23 | habitats; protect wildlife and habitats; protect archaeological,
24 | historic, and cultural resources; and preserve aesthetic values.
25 | This may be accomplished by minimizing the project footprint,
26 | the use of clustering, and other appropriate design approaches.
- 27 | Policy 11Z-2: ~~To maintain shoreline ecological functions and processes,~~ low
28 | impact and sustainable development practices such as rain
29 | gardens, and pervious surfacing methods including, but not
30 | limited to, porous paving blocks, porous concrete, and other
31 | similar materials, should be incorporated in developments where
32 | site conditions allow ~~to maintain shoreline ecological functions~~
33 | ~~and processes.~~ Topographic modification, vegetation clearing,
34 | use of impervious surfaces, and alteration of natural drainage or
35 | other features should be limited to the minimum necessary to
36 | accommodate approved uses and development. An engineering
37 | geologist should be consulted prior to using infiltration practices
38 | on shore bluffs.
- 39 | Policy 11Z-3: Accessory development or use that does not require a shoreline
40 | location should be located outside of shoreline jurisdiction unless
41 | such development is required to serve approved water-oriented
42 | uses and/or developments. When sited within shoreline
43 | jurisdiction, uses and/or developments such as parking, service
44 | buildings or areas, access roads, utilities, signs, and storage of

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1 materials should be located inland away from the land/water
2 interface and landward of water-oriented developments and/or
3 other approved uses.

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

8 | **Policy 11Z-5:** Shoreline uses should not deprive other uses of reasonable
9 access to navigable waters. Public recreation activities such as
10 fishing, clam digging, swimming, boating, ~~and~~ wading, and
11 other water-related recreation should be preserved and
12 enhanced. The rights of treaty tribes to resources within their
13 usual and accustomed areas should be accommodated.

14 **Climate Change/Sea Level Rise**

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

18 **Policy 11AA-2:** Whatcom County should plan and prepare for the likely impacts
19 of climate change on County-owned facilities, infrastructure, and
20 natural resources and ensure that projects for major
21 maintenance or replacement of utilities, roads, and other public
22 infrastructure consider the impacts of sea-level rise in the
23 location, design, and operation of the projects.

24 **Policy 11AA-3:** Whatcom County should strive to increase resident and business
25 resiliency to the anticipated impacts of climate change by
26 implementing land use regulations based on best available
27 science, such as sea level rise, changes in rainfall patterns,
28 changes in flood volumes and frequencies, and changes in
29 average and extreme temperatures.

30 **Policy 11AA-4:** Habitat protection and restoration projects in shoreline
31 jurisdiction should consider implications of sea-level rise and
32 other climate change impacts to promote resiliency of habitats
33 and species. Those that promote climate change and sea-level
34 rise resiliency should be considered priority actions.

35 **Policy 11AA-5:** Whatcom County should monitor the impacts of climate change
36 on Whatcom County’s shorelands, the shoreline master
37 program’s ability to adapt to sea level rise and other aspects of
38 climate change at least every periodic update, and revise the
39 shoreline master program as needed. Whatcom County should
40 periodically assess the best available sea level rise projections
41 and other science related to climate change within shoreline
42 jurisdiction and incorporate them into future program updates,
43 as relevant.

Comment [CES26]: New policies based on Scoping Document Topic #6a, *Develop and/or strengthen policies regarding climate change/sea level rise, including the incorporation and use of new data (as it becomes available), to review and revise, if warranted, shoreline use regulations.*

Comment [P/C27]: P/C approved 9-0-0

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1 Policy 11AA-6: Public infrastructure—such as transportation systems, utilities,
2 flood hazard control, and instream structures—and essential
3 public facilities in shoreline areas should be built in a manner
4 that accounts for increased sea level rise and storm surge, and
5 the flooding that may accompany it.

6 Policy 11AA-7: Whatcom County should evaluate opportunities to protect
7 shoreline investments and infrastructure from the impacts of
8 climate change, as necessary and feasible. Specifically, the
9 County should maintain shoreline protection and erosion control
10 by:

- 11 • Facilitating the installation and maintenance of native
12 vegetation along appropriate areas of shoreline;
- 13 • Revisiting development policies with the objective of
14 providing additional shoreline buffer area between developed
15 areas and the shoreline; and
- 16 • Only consider structural shoreline stabilization structures
17 when alternative options are unavailable.

18 **~~Chapter 23.100—Shoreline Use and Modification Policies and~~**
19 **~~Regulations~~**

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

22 **~~23.100.020—Shoreline Bulk Provisions – Buffers, Setbacks, Height, Open~~**
23 **~~Space and Impervious Surface Coverage~~**

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

29 **~~23.100.030—Agriculture~~**

30 A. Policies.

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

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

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- 1 | [Policy 11BB-3:](#) Conversion of agricultural uses to other uses should comply with
2 | all policies and regulations for nonagricultural uses.
- 3 | ~~23.100.040~~ **Aquaculture**
- 4 | ~~A. Policies:~~
- 5 | [Policy 11CC-1:](#) Aquaculture is a water-dependent use and, when consistent with
6 | control of pollution, and avoidance of adverse impacts to the
7 | environment, and preservation of habitat for resident native
8 | species, is a preferred use of the shoreline (WAC 173-26-
9 | 241(3)(b)).
- 10 | [Policy 11CC-2:](#) Potential locations for aquaculture activities are relatively
11 | restricted because of specific requirements related to water
12 | quality, temperature, oxygen content, currents, adjacent land
13 | use, wind protection, commercial navigation, and salinity. The
14 | technology associated with some forms of aquaculture is still
15 | experimental and in formative states. Therefore, some latitude
16 | should be given when implementing the policies of this
17 | subsection and the regulations in of this section WCC
18 | ChapterTitle 23.100 WCC; provided, that potential impacts on
19 | existing uses and shoreline ecological functions and processes
20 | should be given due consideration.
- 21 | [Policy 11CC-3:](#) Preference should be given to those forms of aquaculture that
22 | involve lesser environmental and visual impacts and lesser
23 | impacts to native plant and animal species. In general, projects
24 | that require ~~no structures, submerged, structures or intertidal,~~
25 | ~~or no~~ structures are preferred over those that involve
26 | substantial floating structures. Projects that involve little or no
27 | substrate modification are preferred over those that involve
28 | substantial modification. Projects that involve little or no
29 | supplemental food sources, pesticides, herbicides, or antibiotic
30 | application are preferred over those that involve such practices.
- 31 | ~~[Policy 11.4.](#) Community restoration projects associated with aquaculture~~
32 | ~~should be reviewed and permitted in a timely manner.~~
- 33 | [Policy 11CC-54:](#) Aquaculture activities should be designed, located and operated
34 | in a manner that supports long-term beneficial use of the
35 | shoreline and protects and maintains shoreline ecological
36 | functions and processes. Aquaculture should not be permitted
37 | where it would result in a net loss of shoreline ecological
38 | functions; adversely affect the quality or extent of habitat for
39 | native species, including eelgrass, kelp, and other macroalgae;
40 | adversely impact other habitat conservation areas; or interfere
41 | with navigation or other water-dependent uses.
- 42 | [Policy 11CC-65:](#) Aquaculture that involves significant risk of cumulative adverse
43 | effects on water quality, sediment quality, benthic and pelagic
44 | organisms, and/or wild fish populations through potential

Comment [AP28]: 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 contribution of antibiotic resistant bacteria, or escapement of
2 nonnative species, or other adverse effects on ESA-listed
3 species should not be permitted.

4 | [Policy 11CC-76:](#) The County should actively seek substantive comment on any
5 shoreline permit application for aquaculture from all appropriate
6 federal, state, and local agencies; the Lummi Nation, Nooksack
7 Tribe, and other affected tribes; and the general public
8 regarding potential adverse impacts. Comments of nearby
9 residents or property owners directly affected by a proposal
10 should be considered and evaluated, especially in regard to use
11 compatibility and aesthetics.

12 | [Policy 11CC-87:](#) The rights of treaty tribes to aquatic resources within their usual
13 and accustomed areas should be addressed through the permit
14 review process. Direct coordination between the
15 applicant/proponent and the tribe should be encouraged.

16 | [Policy 11CC-98:](#) Consideration should be given to both the potential beneficial
17 impacts and potential adverse impacts that aquaculture
18 development might have on the physical environment; on other
19 existing and approved land and water uses, including
20 navigation; and on the aesthetic qualities of a project area.

21 | [Policy 11CC-109:](#) Legally established aquaculture enterprises, including authorized
22 experimental projects, should be protected from incompatible
23 uses that may seek to locate nearby. Use or developments that
24 have a high probability of damaging or destroying an existing
25 aquaculture operation may be denied.

26 | [Policy 11CC-110:](#) Experimental aquaculture projects in water-bodies should be
27 limited in scale and should be approved for a limited period of
28 time. Experimental aquaculture means an aquaculture activity
29 that uses methods or technologies that are unprecedented or
30 unproven in the state of Washington.

31 ~~23.100.050~~ **Boating Facilities—Marinas and Launch Ramps**

32 ~~Boating facilities, including marinas and launch ramp development, are subject~~
33 ~~to the following policies. Docks, moorage structures serving four or fewer single-~~
34 ~~family residences users are only subject to the policies in Moorage Structures-~~
35 ~~Docks, Piers, and Mooring Buoys.~~

36 ~~A. Policies:~~

37 | [Policy 11DD-1:](#) Boating facilities, including marinas and launch ramps, are
38 water-dependent uses and should be given priority for shoreline
39 location. Boating facilities should also contribute to public access
40 and enjoyment of waters of the state. Shorelines particularly
41 suitable for marinas and launch ramps are limited, and should
42 be identified and reserved to prevent irreversible commitment
43 for other uses having less stringent site requirements.

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- 1 | [Policy 11DD-2:](#) Regional needs for marina and boat launch facilities should be
2 | carefully considered in reviewing new proposals as well as in
3 | allocating shorelines for such development. Such facilities
4 | should be coordinated with park and recreation plans and,
5 | where feasible, collocated with port or other compatible water-
6 | dependent uses. Review of such facilities should be coordinated
7 | with recreation providers, including cities, adjacent counties,
8 | port districts, the Whatcom County [Parks](#) and [Recreation](#)
9 | department, the Washington State Parks and Recreation
10 | Commission, and the Washington State Department of Natural
11 | Resources to avoid unnecessary duplication and to efficiently
12 | provide recreational resources while minimizing adverse impacts
13 | to shoreline ecological functions and processes.
- 14 | [Policy 11DD-3:](#) Upland boat storage is preferred over new in-water moorage.
15 | Mooring buoys are preferred over docks and piers. Boating
16 | facilities that minimize the amount of shoreline modification are
17 | preferred.
- 18 | [Policy 11DD-4:](#) Boating facilities should provide physical and visual public
19 | shoreline access and provide for multiple uses, including water-
20 | related use, to the extent compatible with shoreline ecological
21 | functions and processes and adjacent shoreline use.
- 22 | [Policy 11DD-5:](#) Accessory uses at marinas or launch ramps should be limited to
23 | water-oriented uses, or uses that provide physical or visual
24 | shoreline access for substantial numbers of the general public.
- 25 | [Policy 11DD-6:](#) New or expanding boating facilities including marinas, launch
26 | ramps, and accessory uses should only be sited where suitable
27 | environmental conditions are present and should avoid critical
28 | saltwater habitat including kelp ~~beds,~~ and eelgrass beds, and
29 | spawning and holding areas for forage fish (such as herring, surf
30 | smelt and sandlance); subsistence, commercial, and
31 | recreational shellfish beds; mudflats, intertidal habitats with
32 | vascular plants; and areas with which priority species have a
33 | primary association.
- 34 | [Policy 11DD-7:](#) Boating facilities should be located and designed to avoid
35 | adverse effects upon coastal, riverine, and nearshore processes
36 | such as erosion, littoral or riparian transport, and accretion, and
37 | should, where feasible, enhance degraded, scarce, and/or
38 | valuable shore features including accretion shoreforms.
- 39 | [Policy 11DD-8:](#) Launch ramps are preferred over marinas on accretion shores
40 | because associated impacts are often reversible and such
41 | structures will not normally interfere with littoral drift and
42 | accretion unless offshore defense structures or dredging are also
43 | required.
- 44 | [Policy 11DD-9:](#) Nonregulatory methods to protect, enhance, and restore
45 | shoreline ecological functions and processes and other shoreline

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resources should be encouraged during the design, development, and operation of boating facilities. Nonregulatory methods may include public facility and resource planning, education, voluntary protection and enhancement projects, or incentive programs.

Policy 11DD-10: Boating facilities should be located, designed, and operated so that other appropriate water-dependent uses are not adversely affected.

Policy 11DD-11: Location and design of boating facilities should not unduly obstruct navigable waters and should avoid adverse effects to recreational opportunities such as fishing, shellfish gathering, pleasure boating, commercial aquaculture, swimming, beach walking, picnicking, and shoreline viewing.

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

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

Comment [CES29]: New policy added to support regulating live-aboards, per #17; "Add standards for live-aboards in marinas."

~~**23.100.060 Commercial Use**~~

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

~~**A. Policies:**~~

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

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

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

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

~~**23.100.070 Dredging**~~

~~**A. Policies:**~~

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

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- 1 | Policy 11FF-2: Dredging to provide water-oriented recreation should not be
2 | permitted.
- 3 | Policy 11FF-3: Minor dredging as part of ecological restoration or enhancement,
4 | beach ~~enhancement/nourishment~~, public access, or public
5 | recreation should be permitted if consistent with the SMP~~this~~
6 | program.
- 7 | Policy 11FF-4: New development should be sited and designed to avoid or,
8 | where avoidance is not possible, to minimize the need for new
9 | maintenance dredging.
- 10 | Policy 11FF-5: Dredging of bottom materials for the primary purpose of
11 | obtaining material for landfill, construction, or beach
12 | ~~enhancement/nourishment~~ should not be permitted.
- 13 | Policy 11FF-6: Spoil disposal on land away from the shoreline is generally
14 | preferred over open water disposal.
- 15 | Policy 11FF-7: Long-term cooperative management programs that rely
16 | primarily on natural processes, and involve ~~land~~
17 | ~~owners/landowners~~ and applicable local, state, and federal
18 | agencies and tribes, should be pursued to prevent or minimize
19 | conditions which make dredging necessary.
- 20 | ~~23-100-080~~ **Flood Control Works Hazard Reduction and Instream Structures**
- 21 | ~~A. Policies:~~
- 22 | Policy 11GG-1: ~~Purpose and Need:~~
- 23 | ~~a.~~ New or expanding development or uses in the shoreline,
24 | including subdivision of land, that would likely require structural
25 | flood ~~hazard reduction control~~-works within a stream, channel
26 | migration zone, or floodway should not be allowed.
- 27 | Policy 11GG-2b: Flood ~~hazard reduction control~~-works and instream structures
28 | should be planned and designed to be compatible with
29 | appropriate multiple uses of stream resources over the long
30 | term, especially in shorelines of statewide significance.
- 31 | Policy 11GG-3e: Flood ~~hazard reduction control~~-works should only be allowed in
32 | the shoreline if they are necessary to protect existing
33 | development and where nonstructural flood hazard reduction
34 | measures are infeasible.
- 35 | Policy 11GG-4e: Flood ~~hazard reduction control~~-works to protect existing
36 | development should be permitted only when the primary use
37 | being protected is consistent with the SMP~~this program~~, and the
38 | works can be developed in a manner that is compatible with
39 | multiple use of streams and associated resources for the long
40 | term, including shoreline ecological functions, fish and wildlife
41 | management, and recreation.

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~~23.100.090~~ Forest Practices

~~A. Policies:~~

~~Policy 11HH-1:~~ Forest lands should be reserved for long-term forest management and such other uses as are compatible with the ~~dominant-primary~~ use. Other more intensive and incompatible uses tending to impair the ~~dominant-primary~~ use should be discouraged from locating on forest lands.

~~Policy 11HH-2:~~ Forest practices should maintain high levels of water quality, as well as surface and ground-water movement patterns.

~~Policy 11HH-3:~~ Forest practices should minimize damage to wetlands, fish and wildlife species, and habitats, especially aquatic habitats.

~~4. Extreme caution must be observed whenever chemicals are to be used along shorelines; such use should be avoided altogether if possible.~~

~~Policy 11HH-4:5:~~ Forest practices should maintain or improve the quality of soils and minimize erosion.

~~Policy 11HH-5:6:~~ Where slopes are extremely steep or soils are subject to sliding, rapid erosion, or high water table, special practices should be employed to minimize damage to shoreland and water features, and adjacent properties.

~~23.100.100~~ Industrial and Port Development

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

~~A. Policies:~~

~~Policy 11II-1:~~ Shoreline sites particularly suitable for development such as deep-water harbors with access to adequate rail, highway, and utility systems should be reserved for water-dependent or water-related industrial and port development.

~~Policy 11II-2:~~ In order to provide adequate shoreline for future water-dependent and water-related uses, industrial or port development at deep-water sites should be limited to those uses that produce the greatest long-term economic base. Industrial and port development that is consistent with ~~this program~~ the SMP should be protected from encroachment or interference by incompatible uses with less stringent siting requirements, such as residential or commercial uses. Mixed use development, including non-water-dependent uses, should only be allowed when they include and support water-dependent uses.

~~Policy 11II-3:~~ Regional needs for port facilities should be carefully considered in reviewing new port proposals and in allocating shorelines for such development. Such reviews or allocations should be coordinated with port districts, adjacent counties and cities, and

Comment [MD30]: Addressed by existing policy #2 in Water Quality and Quantity.

Comment [CES31]: Note to P/C: Policies 11II1 & 2 read like they were intended to apply in the CPMA, as they talk about deep water sites, which are only found in Cherry Point. Also, it sounds like they were intended to preserve the Cherry Point area for uses requiring deepwater ports. Should they moved to that section, or should we amend the "outside of CPMA" text to apply to all areas, including CPMA? Staff is hesitant to amend anything having to do with Cherry Point given Council's parallel process.

P/C discussed at 11/12/20 mtg but made no decision.

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the state. Existing, officially designated State Harbor Areas should be used for new port development to the maximum extent whenever possible.

Policy 11II-4:

Multiple use of industrial and port facilities is encouraged to limit duplicative facilities and reduce adverse impacts. Multiple use should be implemented in the following manner:

- a. Cooperative use of piers, cargo handling, storage, parking and other accessory facilities among private or public entities should be required in industrial or port facilities whenever feasible. New facilities for water-dependent uses should be allowed only after assessment of the potential for shared use of existing facilities.
- b. Industrial and port developments should provide opportunities for physical and/or visual public shoreline access in accordance with the public access policies, including recreational use of undeveloped shorelines not needed for port or industry operations; provided, that such uses are safely compatible with facility operations.

Policy 11II-5:

Industrial and port development in the shoreline should be located and designed to avoid significant adverse impacts to other shoreline uses, resources, and values, including shoreline geomorphic processes, water quality, fish and wildlife habitat, commercial aquaculture, and the aquatic food chain.

Policy 11II-6:

Restoration of impaired shoreline ecological functions and processes should be encouraged as part of industrial and port 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 23.100.21040.125 (Cherry Point Management Area) identify 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

Comment [CES32]: These policies amended per Council's pending draft fossil fuel amendments.

Comment [CES33]: To do: renumber

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~~consideration due to their importance to regional fisheries and other elements of the aquatic environment.~~

Policy 11JJ-1: 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~~

~~a. 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.~~

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

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

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

~~e. Whatcom County should consider participation with local, state, and federal agencies, tribal governments and other~~

Comment [CES34]: Moved to the Shoreline Environment Designations, CPMA section, as they address the purpose of this environment designation.

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1 stakeholders in the development of a plan to address
2 integrated management of the uplands and public aquatic
3 lands within the Cherry Point management area. The
4 development of such a plan could provide a forum and
5 process for addressing aquatic resources by all stakeholders.
6 Elements of the plan could be adopted as future
7 amendments to this program as appropriate.

8 Policy 11JJ-2: Whatcom County should ensure that shoreline development
9 applicants demonstrate ~~conformance~~ consistency with the State
10 of Washington Department of Natural Resources' Cherry Point
11 Aquatic Reserve Management Plan.

Comment [P/C35]: P/C Motion to change.
Passes 7-0-1-1

12 ~~All development that is to be located within the Cherry Point~~
13 ~~Management Area, as defined identified in WCC~~
14 ~~23.20.020(E)Chapter 23.110 WCC, shall be subject to the~~
15 ~~policies in this subsection and the regulations found in WCC~~
16 ~~23.40.12523.100.210. Development that is to be located within~~
17 ~~the Cherry Point Management Areathis section, and shall not be~~
18 ~~subject to: the General Policies of this chapter; the Shoreline~~
19 ~~Use and Modification Policies of this chapter, except for those in~~
20 ~~the Cherry Point Management Area subsection; policies and the~~
21 ~~regulations found in WCC Chapter 23.930 and WCC Chapter~~
22 ~~23.40,23.100.010 through 23.100.160 except WCC 23.40.125,~~
23 ~~nor Chapter 23.90 WCC, unless otherwise referenced in this~~
24 ~~subsection. The policies and regulations found in this subsection~~
25 ~~are applicable only within the geographic boundaries of the~~
26 ~~Cherry Point management area and do not apply elsewhere in~~
27 ~~the County. In the event that the provisions of this subsection~~
28 ~~conflict with other applicable referenced provisions of the~~
29 ~~SMPthis program, the policies and regulations that are most~~
30 ~~protective of shoreline resources shall prevail.~~

Comment [P/C36]: P/C Motion to delete.
Passes 8-0-1. This policy makes no sense. Other than
updating the references, staff has not changed it. It
basically says that any development in the CPMA
only has to comply with the policies in this section
of Ch. 11 and the regulations of WCC 23.40.125, and
specifically says such development doesn't have to
comply with any other policies or regulations. But
there are many other policies and regulations that
should apply, such as ecological protection, cultural
resources, vegetation management, moorage
facilities, etc. Staff believes this policy ought to be
deleted.

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

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

40 Policy 11JJ-4: Public Access.
41 a. Where appropriate, industrial and port development within
42 the Cherry Point management area should provide public
43 beach and shoreline access in a manner that does not cause
44 interference with facility operations or present hazards to life
45 and property. This may be accomplished through individual

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- 1 action or by joint, coordinated action with other developers
- 2 and landowners, for example, by setting aside a common
- 3 public access area.
- 4 b. Special emphasis should be given to providing public beach
- 5 and shoreline access for recreational opportunities including
- 6 but not limited to crabbing, small craft launching, surf
- 7 fishing, picnicking, clamming, and beach walking.
- 8 c. Public access within the Cherry Point management area
- 9 should be consistent with the Whatcom County Parks and
- 10 Recreation Open Space Plan.

11 | Policy 11JJ-5: Shoreline Ecological Functions and Processes. In recognition of
12 the diverse and vital ecological resources in the Cherry Point
13 management area, consideration of probable effects of all
14 development proposals on shoreline ecological functions and
15 processes should be assessed with the other long-term
16 statewide interests. New port development that requires dredge
17 and fill should not be permitted in the Cherry Point management
18 area due to potential adverse effects on ecological functions,
19 including fish and shellfish habitat and geohydraulic processes.

20 | Policy 11JJ-6: Aesthetics. All development should be designed to avoid or
21 minimize negative visual impacts on the scenic character of the
22 area and to ensure visual compatibility with adjacent
23 nonindustrial zoned properties.

24 | Policy 11JJ-7: Site Development. All development should be constructed and
25 operated in a manner that, while permitting water-dependent
26 uses, also protects shoreline resources, their ecological
27 functions and processes, and that incorporates the following:

- 28 a. Low impact development approaches to avoid or minimize
- 29 adverse impact to topography, vegetation, water quality, fish
- 30 and wildlife habitat, and other natural site conditions;
- 31 b. Adequate temporary and permanent management measures
- 32 to control erosion and sediment impacts during construction
- 33 and operation; and
- 34 c. Adequate stormwater management facilities.

35 | **23.100.110 Landfill and Excavation**

36 | ~~A. Policies-~~

37 | Policy 11KK-1: Landfill and excavation should only be permitted to the
38 minimum extent necessary to accommodate an approved
39 shoreline use or development and with assurance of no net loss
40 of shoreline ecological functions and processes. Enhancement
41 and voluntary restoration of landforms and habitat are
42 encouraged.

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- 1 | [Policy 11KK-2:](#) Landfill in water-bodies, floodways, and/or wetlands should not
2 | be permitted for creation of new uplands, unless it is part of an
3 | approved ecological restoration activity. Landfill should be
4 | permitted in limited instances to restore uplands where recent
5 | erosion has rapidly reduced upland area, to build beaches and
6 | protective berms for shore stabilization or recreation, to restore
7 | or enhance degraded shoreline ecological functions and
8 | processes, or to moderately elevate low uplands to make such
9 | uplands more suitable for purposes consistent with [the SMP](#)~~this~~
10 | [program](#).
- 11 | [Policy 11KK-3:](#) Fill should not be allowed where shore stabilization works would
12 | be required to maintain the materials placed.
- 13 | [Policy 11KK-4:](#) Landfills and excavation should be located and developed so
14 | that water quality, hydrology~~ite~~, and runoff patterns are not
15 | altered.
- 16 | [Policy 11KK-5:](#) The predicted economic benefits of landfills and excavation
17 | should be weighed against long-term cumulative impacts on
18 | ecological processes and functions.
- 19 | ~~23.100.120~~ **Mining**
- 20 | ~~A. Policies-~~
- 21 | [Policy 11LL-1:](#) Mining should not be located on shorelines where unavoidable
22 | adverse impacts on other users or resources together equal or
23 | outweigh the benefits from mining.
- 24 | [Policy 11LL-2:](#) Mining should not interfere with public recreation on the
25 | shoreline.
- 26 | [Policy 11LL-3:](#) Mining should be located and operated so as to provide long-
27 | term protection of water quality, fish and wildlife, and fish and
28 | wildlife habitat.
- 29 | [Policy 11LL-4:](#) Mining, particularly surface or strip mining, should provide for
30 | timely restoration of disturbed areas to a biologically productive,
31 | semi-natural, or other useful condition through a reclamation
32 | process consistent with regulations administered by the
33 | Department of Natural Resources and other applicable county
34 | standards.
- 35 | [Policy 11LL-5:](#) Mining of marine and lake shores or accretional shoreforms,
36 | such as point bars, that have a high value for recreation or as
37 | fish or wildlife habitat should generally not be permitted.
- 38 | [Policy 11LL-6:](#) Mining should only be permitted on accretion point and channel
39 | bars where appropriate studies and detailed operation plans
40 | demonstrate that:
41 | a. Fish habitat, upland habitat and water quality will not be
42 | significantly impacted; and

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1 b. The operation will not adversely affect geohydraulic
2 processes, channel alignment, nor increase bank erosion or
3 flood damages.

4 | Policy 11LL-7:

5 Mining operations should be located, designed, and managed so
6 that other appropriate uses are not subjected to substantial or
7 unnecessary adverse impacts from noise, dust, or other effects
8 of the operation. The operator may be required to implement
9 measures such as buffers, limited hours, or other mitigating
10 measures for the purpose of minimizing adverse proximity
impacts.

11 | ~~23.100.130~~ **Moorage Structures – Docks, Piers and Mooring Buoys**

12 ~~Moorage—including docks, piers and mooring buoys— in shoreline areas are subject~~
13 ~~to the following policies. Shared m~~Moorage structures serving with more than four
14 berthsusers and boat launching facilities are also subject to the policies in Boating
15 facilities—Marinas and Launch Ramps.

16 | ~~A. Policies:~~

17 | Policy 11MM-1:

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

24 | Policy 11MM-2:

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

28 | Policy 11MM-3:

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

35 | Policy 11MM-4:

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

Comment [AP37]: Draft revision per Scoping Document, Item #8c, "Consider ways to improve protections for salmon and forage fish habitat,"

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- 1 | [Policy 11MM-5:](#) Moorage should be spaced and oriented in a manner that
2 | minimizes hazards and obstructions to public navigation rights
3 | and corollary rights thereto such as, but not limited to, fishing,
4 | swimming, and pleasure boating, as well as private riparian
5 | rights of adjacent land-owners.
- 6 | [Policy 11MM-6:](#) Moorage should be restricted to the minimum size necessary to
7 | meet the needs of the proposed use. ~~The length, width and~~
8 | ~~heightsize~~ of piers and docks should be no greater than that
9 | required for safety and practicality for the primary use.
- 10 | [Policy 11MM-7:](#) Pile supports are preferred over fills because piles do not
11 | displace water surface and intertidal or aquatic habitat and are
12 | removable and thus more flexible in terms of long-term use
13 | patterns. Floats may be less desirable than pile structures where
14 | aquatic habitat or littoral drift are significant.
- 15 | [Policy 11MM-8:](#) The use of buoys for small craft moorage is preferred over pile
16 | or float structures because of lesser long-term impact on shore
17 | features and users; moorage buoys should be placed as close to
18 | shore as possible to minimize obstruction to navigation.
- 19 | [Policy 11MM-9:](#) Shoreline resources and water quality should be protected from
20 | overuse by boaters living on vessels (live boards). Boaters living
21 | on vessels are restricted to established marinas with facilities to
22 | address waste handling and other sanitary services.
- 23 | [Policy 11MM-10:](#) Vessels should be restricted from extended mooring on waters
24 | of the state unless authorization is obtained from the DNR and
25 | impacts to navigation and public access are mitigated.
- 26 | [Policy 11MM-11:](#) Piers and docks should be constructed of materials that will not
27 | adversely affect water quality or aquatic plants and animals in
28 | the long term.
- 29 | [Policy 11MM-12:](#) New pier and dock development should be designed so as not to
30 | interfere with lawful public access to or use of shorelines.
31 | Developers of new piers and shared moorage should be
32 | encouraged to provide physical or visual public access to
33 | shorelines whenever safe and compatible with the primary use
34 | and shore features.
- 35 | **~~23.100-140 Recreation~~**
- 36 | ~~A. Policies:~~
- 37 | [Policy 11NN-1:](#) Shoreline recreational development should be given priority for
38 | shoreline location to the extent that the use facilitates the
39 | public’s ability to reach, touch, and enjoy the water’s edge, to
40 | travel on the waters of the state, and to view the water and the
41 | shoreline. Where appropriate, such facilities should be dispersed
42 | along the shoreline in a manner that supports more frequent

Comment [AP38]: Simplify to “size” for consistency with updated approach to dock standards, which include an overall square footage requirement, rather than prescriptive dimensional standards.

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- 1 recreational access and aesthetic enjoyment of the shoreline for
2 a substantial number of people.
- 3 | Policy 11NN-2: Recreational developments should facilitate appropriate use of
4 shoreline resources while conserving them. These resources
5 include, but are not limited to: accretion shoreforms, wetlands,
6 | soils, ground-water, surface water, native plant and animal life,
7 and shore processes.
- 8 | ~~3. Recreational development requiring extensive structures,
9 utilities and roads and/or substantial modifications of
10 topography or vegetation removal should not be located or
11 expanded in areas where damage to persons, property, and/or
12 shoreline functions and processes is likely to occur.~~
- 13 | Policy 11NN-3: Recreational developments and plans should provide the
14 regional population a varied and balanced choice of recreation
15 experiences in appropriate locations. Public agencies and private
16 developers should coordinate their plans and activities to
17 provide a wide variety of recreational opportunities without
18 needlessly duplicating facilities.
- 19 | Policy 11NN-4: Trail links between shoreline parks and public access points
20 should be encouraged for walking, horseback or bicycle riding,
21 and other non-motorized vehicle access where appropriate. The
22 Whatcom County Comprehensive Park and Recreation Open
23 Space Plan should be considered in design and approval of
24 public trail systems.
- 25 | Policy 11NN-5: Access to natural character recreational areas, including but not
26 limited to beaches and fishing streams, should be a combination
27 of linear shoreline trails or easements and small parking or
28 access tracts to minimize user concentration on small portions
29 of the shoreline.
- 30 | Policy 11NN-6: Recreation facilities should incorporate public education
31 regarding shoreline ecological functions and processes, the role
32 | of human actions on the environment, and the importance of
33 public involvement in shorelines management. Opportunities
34 incorporating educational and interpretive information should be
35 pursued in design and operation of recreation facilities and
36 nature trails.
- 37 | Policy 11NN-7: Reasonable physical or visual public access to shorelines should
38 be provided and integrated with recreational developments in
39 accordance with WCC ~~23-90-080~~23.30.070 (Public Access).
- 40 | Policy 11NN-8: Recreation development should be located only where utility and
41 road capability ~~is~~are adequate, or may be provided without
42 significant damage to shore features commensurate with the
43 number and concentration of anticipated users.

Comment [AP39]: Proposed for removal, as this is captured in policy #8 below.

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1 | Policy 11NN-9: Cooperative efforts among public and private persons toward
2 | the acquisition and/or development of suitable recreation sites
3 | or facilities should be explored to assure long-term availability
4 | of sufficient public sites to meet local recreation needs.

5 | ~~23.100-150~~ **Residential**

6 | ~~A. Policies.~~

7 | Policy 1100-1: Single-family residences are designated in Chapter [90.58](#) RCW
8 | as a priority use in those limited instances when authorization is
9 | given for alterations of the natural condition of shorelines of the
10 | state.

11 | Policy 1100-2: New residential development is encouraged to cluster dwelling
12 | units together to reduce physical and visual impacts on
13 | shorelines and to reduce utility and road costs. Planned unit
14 | developments that include common open space and recreation
15 | facilities, or a variety of dwelling sizes and types, are
16 | encouraged at suitable locations as a preferable alternative to
17 | extensive single-lot subdivisions on shorelines. Planned unit
18 | developments (Chapter [20.85](#) WCC) may also include a limited
19 | number of neighborhood commercial business uses where
20 | consistent with the applicable zoning regulations.

21 | Policy 1100-3: Allowable density of new residential development should comply
22 | with applicable ~~C~~omprehensive ~~P~~lan goals and policies, zoning
23 | restrictions, and shoreline area designation standards. The
24 | density ~~per acre~~ of development should be appropriate to local
25 | natural and cultural features.

26 | Policy 1100-4: Structures or development for uses accessory to residential use
27 | should preserve shoreline open space, be visually and physically
28 | compatible with adjacent cultural and shoreline features, be
29 | reasonable in size and purpose, and result in no net loss of
30 | shoreline ecological functions and processes.

31 | Policy 1100-5: Buildings greater than 35 feet above average grade level that
32 | will obstruct the views of a substantial number of residences on
33 | areas adjoining such shorelines are limited by the ~~SMAA~~ct
34 | (RCW [90.58.320](#)) to those cases where ~~the SMP~~this program
35 | does not prohibit such development and then only when
36 | overriding considerations of the public interest will be served.
37 | ~~The SMP~~This program provides opportunities for buildings
38 | greater than 35 feet in height in limited areas where consistent
39 | with development objectives and the goals and polices of this
40 | ~~chapter~~program.

41 | Policy 1100-6: New residential development should be planned and built ~~in~~
42 | ~~accordance with the policies and regulations in~~
43 | ~~WCC 23.90.030~~and to minimize the need for shoreline
44 | stabilization and flood hazard reduction measures.

Comment [MD40]: Deleted for brevity as already required.

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- 1 | [Policy 1100-7:](#) Measures to conserve native vegetation along shorelines should
2 | be required for all residential development. Vegetation
3 | conservation may include avoidance or minimization of clearing
4 | or grading, restoration of areas of native vegetation, and/or
5 | control of invasive or nonnative vegetation.
- 6 | [Policy 1100-8:](#) Whenever possible, nonregulatory methods to protect, enhance,
7 | and restore shoreline ecological functions and other shoreline
8 | resources should be encouraged for residential development.
9 | Such methods may include resource management planning, low
10 | impact development techniques, voluntary protection and
11 | enhancement projects, education, or incentive programs.
- 12 | [Policy 1100-9:](#) New multiunit residential development, including subdivision of
13 | land for more than four parcels, should provide substantial
14 | shore ~~space—recreational opportunities~~ for development
15 | residents and the public, unless public access is infeasible due to
16 | incompatible uses, safety, impacts to shoreline ecology, or legal
17 | limitations. ~~Developments of four or fewer units should provide~~
18 | ~~private access to the shore for those living in the development~~
19 | ~~(non-public).~~
- 20 | [Policy 1100-10:](#) Development should provide open space corridors between
21 | structures, and along site boundaries, so as to provide space for
22 | outdoor recreation, preserve views, and minimize use conflicts.
- 23 | [Policy 1100-11:](#) Recreation-oriented residential development in the shoreline
24 | should be located only where substantial recreation
25 | opportunities are provided on site, and where nearby property
26 | owners and other appropriate uses will not be adversely
27 | affected.

Comment [CES41]: Amended, as all shoreline development is supposed to provide access, though it need not be public for small developments.

~~23.100.160~~ Restoration and Enhancement

~~A. Policies:~~

- 30 | [Policy 11PP-1:](#) ~~The SMP~~~~This program~~ recognizes the importance of restoration
31 | of shoreline ecological functions and processes and encourages
32 | cooperative restoration efforts and programs between local,
33 | state, and federal public agencies, tribes, nonprofit
34 | organizations, and landowners to address shorelines with
35 | impaired ecological functions and/or processes.
- 36 | [Policy 11PP-2:](#) Restoration actions should restore shoreline ecological functions
37 | and processes as well as shoreline features and should be
38 | targeted towards meeting the needs of sensitive and/or locally
39 | important plant, fish and wildlife species, ~~as well as the~~
40 | biological recovery goals for early Chinook and bull trout
41 | populations, and other salmonid species and populations.

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- 1 | Policy 11PP-3: Restoration should be integrated with other parallel natural
- 2 | resource management efforts such as the WRIA 1 Salmonid
- 3 | Recovery Plan and the WRIA 1 Watershed Management Plan.
- 4 | Policy 11PP-4: Priority should be given to restoration actions that:
- 5 | a. Create dynamic and sustainable ecosystems.
- 6 | b. Restore connectivity between stream/river channels,
- 7 | floodplains and hyporheic zones.
- 8 | c. Restore natural channel-forming geomorphologic processes.
- 9 | d. Mitigate peak flows and associated impacts caused by high
- 10 | stormwater runoff volume.
- 11 | e. Reduce sediment input to streams and rivers and associated
- 12 | impacts.
- 13 | f. Improve water quality.
- 14 | g. Restore native vegetation and natural hydrologic functions of
- 15 | degraded and former wetlands.
- 16 | h. Replant native vegetation in riparian areas to restore
- 17 | functions.
- 18 | i. Restore nearshore ecosystem processes, such as sediment
- 19 | transport and delivery and tidal currents that create and
- 20 | sustain habitat.
- 21 | j. Restore pocket estuaries that support salmon life histories,
- 22 | including feeding and growth, refuge, osmoregulation, and
- 23 | migration.
- 24 | 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:~~

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

35 | Policy 11QQ-2: ~~Single-family residences occupied prior to January 1, 1992, and~~
36 | ~~their appurtenant structures should be protected against~~
37 | ~~damage or loss caused by shoreline erosion; provided, that~~
38 | ~~measures to protect single-family residences should be designed~~
39 | ~~to minimize harm to the shoreline environment. After that date,~~
40 | ~~all new single-family residences and their appurtenant~~

Comment [P/C42]: To do: Replace throughout

Comment [CES43]: Moved from Policy 11T-1 at P/C's request, as it contained 2 different concepts.

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- 1 | structures should be built in a manner so as to not need
2 | protective measures.
- 3 | Policy 11QQ-3: New or expanded structural shore stabilization for new primary
4 | structures should be avoided. Instead, structures should be
5 | located and designed to avoid the need for future shoreline
6 | stabilization where feasible. Land subdivisions should be
7 | designed to assure that future development of the created lots
8 | will not require structural shore stabilization for reasonable
9 | development to occur.
- 10 | Policy 11QQ-3: New or expanded structural shore stabilization should only be
11 | permitted where demonstrated to be necessary to protect an
12 | existing primary structure that is in danger of loss or substantial
13 | damage, and where mitigation of impacts would not cause a net
14 | loss of shoreline ecological functions and processes.
- 15 | Policy 11QQ-4: New or expanded structural shore stabilization for enhancement,
16 | restoration, or hazardous substance remediation projects should
17 | only be allowed when nonstructural measures, vegetation
18 | planting, or on-site drainage improvements would be insufficient
19 | to achieve enhancement, restoration, or remediation objectives.
- 20 | Policy 11QQ-5: Shore stabilization on streams should be located and designed
21 | to fit the physical character and hydraulic energy potential of a
22 | specific shoreline reach, which may differ substantially from
23 | adjacent reaches.
- 24 | Policy 11QQ-6: Shore stabilization should not be permitted to unnecessarily
25 | interfere with public access to public shorelines, nor with other
26 | appropriate shoreline uses including, but not limited to,
27 | navigation, seafood harvest, or private recreation.
- 28 | Policy 11QQ-7: Provisions for multiple use, restoration, and/or public shore
29 | access should be incorporated into the location, design, and
30 | maintenance of shore stabilization for public or quasi-public
31 | developments whenever safely compatible with the primary
32 | purpose. Shore stabilization on publicly owned shorelines should
33 | not be allowed to decrease long-term public use of the
34 | shoreline.
- 35 | Policy 11QQ-8: Shore stabilization should be developed in a coordinated manner
36 | among affected property owners and public agencies for a whole
37 | drift sector (net shore-drift cell) or reach where feasible,
38 | particularly those that cross jurisdictional boundaries, to address
39 | ecological and geohydraulic processes, sediment conveyance
40 | and beach management issues. Where beach erosion threatens
41 | existing development, a comprehensive program for shoreline
42 | management should be established.
- 43 | Policy 11QQ-9: In addition to conformance with the regulations in ~~this~~
44 | ~~section~~ the SMP, nonregulatory methods to protect, enhance,

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- 1 and restore shoreline ecological functions and other shoreline
2 resources should be encouraged for shore stabilization.
3 Nonregulatory methods may include public facility and resource
4 planning, technical assistance, education, voluntary
5 enhancement and restoration projects, or other incentive
6 programs.
- 7 | [Policy 11QQ-10:](#) Shore stabilization should be located, designed, and maintained
8 to protect and maintain shoreline ecological functions, ongoing
9 shore processes, and the integrity of shore features. Ongoing
10 | stream, lake, or marine processes and the probable effects of
11 proposed shore stabilization on other properties and shore
12 features should be considered. Shore stabilization should not be
13 developed for the purpose of filling shorelines.
- 14 | [Policy 11QQ-11:](#) Failing, harmful, unnecessary, or ineffective structures should
15 be removed, and shoreline ecological functions and processes
16 should be restored using nonstructural methods or less harmful
17 long-term stabilization measures.
- 18 | [Policy 11QQ-12:](#) Structural shoreline stabilization measures should only be used
19 when more natural, flexible, [sustainable](#), nonstructural methods
20 such as vegetative stabilization, beach [enhancement](#)
21 [nourishment](#), and bioengineering have been determined
22 infeasible. Alternatives for shoreline stabilization should be
23 based on the following hierarchy of preference:
- 24 a. No action (allow the shoreline to retreat naturally), increase
25 building setbacks, and relocate structures.
 - 26 b. Flexible defense works constructed of natural materials
27 including soft shore protection, bioengineering, including
28 | beach [enhancement](#)[nourishment](#), protective berms, or
29 vegetative stabilization.
 - 30 c. Rigid works constructed of artificial materials such as riprap
31 or concrete.
- 32 Materials used for construction of shoreline stabilization should
33 be selected for long-term durability, ease of maintenance,
34 compatibility with local shore features, including aesthetic
35 values, and flexibility for future uses.
- 36 | [Policy 11QQ-13:](#) Larger works such as jetties, breakwaters, weirs, or groin
37 systems should be permitted only for water-dependent uses
38 when the benefits to the region outweigh resource losses from
39 such works, and only where mitigated to provide no net loss of
40 shoreline ecological functions and processes.
- 41 | [Policy 11QQ-14:](#) Alternative structures, including floating, portable or submerged
42 breakwater structures, or several smaller discontinuous
43 structures, should be considered where physical conditions
44 make such alternatives with less impact feasible.

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Chapter 11 – Shorelines

~~23.100.180~~ Signs

~~A. Policies:~~

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

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

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

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

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

Policy 11 RR-6: Billboards and other off-premises signs are not water-dependent, ~~they~~ reduce public enjoyment of or access to shorelines, and ~~they~~ often lower values of nearby properties. ~~Such signs should not be located on shorelines~~ Except for approved community gateway or directional signs, ~~such signs should not be located on shorelines.~~

Policy 11 RR-7: Signs near scenic vistas and viewpoints should be restricted in number, location, and height so that enjoyment of these limited and scarce areas is not impaired.

Policy 11 RR-8: Freestanding signs should be located to avoid blocking scenic views and be located on the landward side of public transportation routes, which generally parallel the shoreline.

Policy 11 RR-9: To minimize negative visual impacts and obstructions to shoreline access and use, low profile, on-premises wall signs are strongly preferred over freestanding signs or off-premises wall signs.

Policy 11 RR-10: Signs should be designed mainly to identify the premises and nature of enterprise without unduly distracting uninterested passersby. Moving or flashing signs should be prohibited on shorelines.

~~23.100.190~~ Transportation

~~A. Policies:~~

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Chapter 11 – Shorelines

- 1 | [Policy 11SS-1:](#) New public or private transportation facilities should be located
2 inland from the land/water interface, preferably out of the
3 shoreline, unless:
- 4 a. Perpendicular water crossings are required for access to
5 authorized uses consistent with ~~the SMP~~~~this program~~; or
- 6 b. Facilities are primarily oriented to pedestrian and non-
7 motorized use and provide an opportunity for a substantial
8 number of people to enjoy shoreline areas, and are
9 consistent with the policies and regulations for ecological
10 protection in the General Policies section of this chapter and
11 in WCC [23.30.010 \(Ecological Protection\)](#)~~23.90.030~~,
12 respectively.
- 13 | [Policy 11SS-2:](#) Transportation facilities should be located and designed to avoid
14 public recreation and public access areas and significant natural,
15 historic, archaeological, or cultural sites.
- 16 | [Policy 11SS-3:](#) Parking is not a preferred use in shorelines and should only be
17 allowed to support authorized uses where no feasible
18 alternatives exist.
- 19 | [Policy 11SS-4:](#) New or expanded public transportation facility route selection
20 and development should be coordinated with related local and
21 state government land use and circulation planning.
- 22 | [Policy 11SS-5:](#) Transportation system route planning, acquisition, and design in
23 the shoreline should provide space wherever possible for
24 compatible multiple uses such as utility lines, pedestrian shore
25 access or viewpoints, or recreational trails.
- 26 | [Policy 11SS-6:](#) Transportation system plans and transportation projects within
27 shorelines should provide safe trail space for non-motorized
28 traffic such as pedestrians, bicyclists, or equestrians. Space for
29 such uses should be required along roads on shorelines, where
30 appropriate, and should be considered when rights-of-way are
31 being vacated or abandoned.
- 32 | [Policy 11SS-7:](#) Public access should be provided to shorelines where safe and
33 compatible with the primary and adjacent use, or should be
34 replaced where transportation development substantially
35 impairs lawful public access. Viewpoints, parking, trails, and
36 similar improvements should be considered for transportation
37 system projects in shoreline areas, especially where a need has
38 been identified.
- 39 | [Policy 11SS-8:](#) Public transportation routes, particularly arterial highways and
40 railways, should be located, designed, and maintained to permit
41 safe enjoyment of adjacent shore areas and properties by other
42 appropriate uses such as recreation or residences. Vegetative
43 screening or other buffering should be considered.

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Chapter 11 – Shorelines

23.100.200 Utilities

A. Policies-

Policy 11TT-1: New public or private utilities should be located inland from the land/water interface, preferably out of the shoreline jurisdiction, unless:

- a. Perpendicular water crossings are unavoidable; or
- b. Utilities are required for authorized shoreline uses consistent with the SMP~~this program~~.

Policy 11TT-2: Utilities should be located and designed to avoid public recreation and public access areas and significant natural, historic, archaeological, or cultural resources.

Policy 11TT-3: Utilities should be located, designed, constructed, and operated to result in no net loss of shoreline ecological functions and processes with appropriate mitigation as provided in 23.30.010 (Ecological Protection)~~WCC 23.90.030~~.

Policy 11TT-4: All utility development should be consistent ~~with~~ and coordinated with all local government and state planning, including comprehensive plans and single purpose plans to meet the needs of future populations in areas planned to accommodate growth. Site planning and rights-of-way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.

Policy 11TT-5: Utilities should be located in existing rights-of-way and corridors whenever possible.

Policy 11TT-6: Utilities serving new development should be located underground, wherever possible.

Policy 11TT-7: Development of pipelines and cables on aquatic lands and tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance ~~which~~that would disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

Policy 11TT-8: Given the different scales of regional, local, and accessory utilities and their potential impacts, the County may establish different regulations regarding each.

Comment [CES44]: New policy to allow for different regulations regarding the different types of utilities in support of Scope issue #7b, "Add definitions for regional, local, and accessory utilities."