



# Whatcom County

COUNTY COURTHOUSE  
311 Grand Avenue, Ste #105  
Bellingham, WA 98225-4038  
(360) 778-5010

## Agenda Bill Master Report

File Number: AB2020-445

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<b>File ID:</b>	AB2020-445	<b>Version:</b>	1	<b>Status:</b>	Adopted
<b>File Created:</b>	10/13/2020	<b>Entered by:</b>	CStrong@co.whatcom.wa.us		
<b>Department:</b>	Planning and Development Services Department	<b>File Type:</b>	Ordinance Requiring a Public Hearing		
<b>Assigned to:</b>	Council	<b>Final Action:</b>	11/10/2020		
<b>Agenda Date:</b>	11/10/2020	<b>Enactment #:</b>	ORD 2020-056		

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Primary Contact Email: cstrong@co.whatcom.wa.us

### TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to Whatcom County Code 20.72, Point Roberts Special District

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Proposed amendments to Whatcom County Code 20.72, Point Roberts Special District

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### HISTORY OF LEGISLATIVE FILE

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Date:	Acting Body:	Action:	Sent To:
10/27/2020	Council	INTRODUCED FOR PUBLIC HEARING	Council
		Aye: 6 Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner	
		Nay: 1 Elenbaas	
		Absent: 0	
11/10/2020	Council	ADOPTED	
		Aye: 7 Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner	
		Nay: 0	
		Absent: 0	

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**Attachments:** Staff Report, Proposed Ordinance, Exhibit A - Code Amendments, Exhibit B Zoning Map, Exhibit C - PRCAC 20.72 Minutes Discussion, Exhibit D - O'Brien comments

PROPOSED BY: \_\_\_\_\_  
INTRODUCTION DATE: \_\_\_\_\_

**ORDINANCE NO.** 2020-056

**ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE CHAPTER 20.72, POINT ROBERTS SPECIAL DISTRICT**

**WHEREAS**, the Point Roberts Community Advisory Committee has proposed amendments to Whatcom County Code Chapter 20.72, Point Roberts Special District; and,

**WHEREAS**, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

**WHEREAS**, The County Council hereby adopts the following findings of fact:

**FINDINGS OF FACT**

1. Whatcom County Planning and Development Services has submitted, on behalf of the Point Roberts Community Advisory Committee, an application to make various amendments to Whatcom County Code (WCC) 20.72 (Point Roberts Special District).
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on April 3, 2020.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on September 9, 2020.
4. The Point Roberts Community Advisory Committee discussed these amendments in 27 public meetings over a two and a half year period. The PRCAC heard from members of the community in person at these meetings and through e-mail correspondence. PRCAC's at-large members reached out to Point Roberts for feedback outside the meetings. In addition the 3 member groups Chamber of Commerce, the Point Roberts Taxpayers Association and the Point Roberts Registered Voters Association all held multiple public meetings regarding 20.72 changes.
5. The Planning Commission held a duly noticed public hearing on the proposed amendments on October 8, 2020.
6. The County Council held a duly noticed public hearing on the proposed amendments on November 10, 2020.
7. The amendments are consistent with Comprehensive, and in particular the Point Roberts Subarea Plan.
8. In addition to simplifying and clarifying some of the language of 20.72, the amendments would:
  - a. Allow permitted businesses in the Small Town Commercial district to have up to two on-site storage containers as an accessory use (WCC 20.72.102(1)), and more through a conditional use permit (WCC 20.72.154(4), and add setback standards for them (WCC 20.72.350(3)).
  - b. Allow hotels, motels, and timeshare condominiums in the Small Town Commercial district as a conditional use (in addition to the Resort Commercial district, which is already allowed). (WCC 20.72.154(1))

- c. Allow kennels for kenneling up to 6 animals when associated with an animal groomer as a conditional use. (WCC 20.72.154(2))
- d. Allow RV parks in the Small Town Commercial as a conditional use. (WCC 20.72.154(3))
- e. Repeal the larger, 40-foot setback along Roosevelt Road (though the underlying zones' standard setbacks would still apply) (WCC 20.72.350(1))
- f. Allow a 10-foot setback throughout the Small Town Commercial district, not just along Gulf Road (WCC 20.72.350(2))
- g. Make the maximum building height of 45 feet apply throughout the Small Town Commercial district, not just along Gulf Road. (WCC 20.72.401)
- h. Add measurable standards to the existing screening requirements for trash and utility areas of commercial and institutional uses (WCC 20.72.653(a)) and for vehicle storage areas. (WCC 20.72.653(b))
- i. Allow some flexibility as to where businesses' parking lots area located in the Small Town Commercial district. (WCC 20.72.659(a))

**CONCLUSIONS**

1. The amendments to the development regulations are the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that:

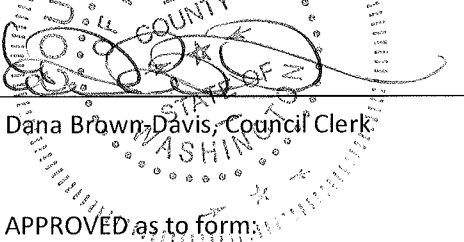
Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. Staff is authorized to work with Code Publishing to correct and update any cross-references made ineffective by these amendments.

ADOPTED this 10th day of November, 2020.

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

ATTEST:



Dana Brown-Davis, Council Clerk



Barry Buchanan, Council Chair

APPROVED as to form:

Approved      ( ) Denied

Approved by Chris Quinn via email / LB  
Civil Deputy Prosecutor



Satpal Sidhu, Executive

Date: 11/16/2020

# Exhibit A: WCC Chapter 20.72 Point Roberts Special District

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## **20.72.010 Purpose.**

Point Roberts is a unique area of Whatcom County because of its relatively small size, its mixed development character, its relative isolation and the constraints on normal growth patterns caused by the impact of access only via an international border crossing. This geographic isolation from the remainder of Whatcom County complicates the direct application of other zone districts within this title. Point Roberts is considered a limited area of more intense rural development, being clearly bounded by the border and marine environment. However, within these boundaries are zoning districts allowing a variety of development intensities. Proposed changes in uses or lots, and new proposed uses, must be consistent with rural land use as set forth in the Comprehensive Plan.

The Point Roberts Special District is an overlay zone which imposes additional controls and creates opportunities not available in the underlying zone districts to fit the needs of Point Roberts. This district is designed to protect the rural character of Point Roberts while allowing opportunities for community growth and self-reliance.

## **20.72.020 Application.**

### **20.72.022 Area and applicability.**

The Point Roberts Special District is an overlay zone which covers the entire geographic area of Point Roberts. Any regulations contained herein which are more restrictive than those in the underlying zone districts or in the Shoreline Management Program shall apply. Opportunities, or lesser restrictions, shall also override the requirements of the underlying zone. However, if the provisions of this chapter conflict with the provisions of the Shoreline Management Program, then the most restrictive shall apply.

### **20.72.030 Review of Permit Applications by the Point Roberts Community Advisory Committee.**

- (1) The Point Roberts Community Advisory Committee (PRCAC) is a local body advisory to Whatcom County through the office of the Whatcom County Executive and of the Whatcom County Council.
- (2) The pertinent purpose of the PRCAC, as it relates to development permits, is to examine commercial and institutional permit applications in the Point Roberts subarea and make recommendations to Whatcom County planning and development services as to their compliance with this chapter and consistency with the Point Roberts design guidelines.
- (3) Upon receipt of a permit application, planning and development services will forward the application to the PRCAC for review and comment. Permit applications are to be promptly examined by the PRCAC and a determination made, with or without recommendations, within 30 days of receipt of the application.
- (4) Planning and development services will consider all pertinent comments received by the PRCAC prior to issuing a decision on the permit.

**20.72.050 Permitted Uses.**

All permitted uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter. In addition, the following uses are permitted:

**.051** In the Resort Commercial District:

- (1) Bed and breakfast establishments and bed and breakfast inns.

**20.72.100 Accessory uses.**

**.101** All accessory uses permitted as accessory uses in the underlying zoning districts are permitted as accessory uses.

**.102** In the Small Town Commercial District:

- (1) No more than two storage containers or other similar temporary storage units per lot if accessory to an approved commercial use on the same lot.
- (2) Accessory vehicles shall be limited to two per each approved commercial use on a lot. The outdoor storage of contractor equipment or fleet vehicles shall not be permitted as accessory uses.

**20.72.130 Administrative approval uses.**

All administrative approval uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter. In addition, the following uses are permitted subject to administrative approval pursuant to WCC 20.84.235:

**.135** One private, noncommercial, recreational vehicle or park model trailer and one accessory guest RV per lot; provided, that the following minimum requirements and standards are met and/or followed:

- (1) All recreational vehicles that remain on the site for more than 14 consecutive days shall be connected to a permitted on-site sewage system or public sewer.
- (2) Maximum length of stay of any recreational vehicle on a lot shall not exceed 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days or more than 30 days total per calendar year.
- (3) All recreational vehicles shall be screened from neighboring properties not using RVs and from public roads. Such screening may consist of landscaped buffer areas, native vegetation or a fence.
- (4) Lots shall not be leased or rented out on a daily or overnight basis for recreational use.
- (5) Accessory structures are limited to one personal storage building no larger than 200 square feet.
- (6) The locations of parked RVs on vacant lots shall observe normal building setback standards for a single-family residence.
- (7) All recreational vehicles shall be supported by their own wheels or camper jacks, and not be fastened to accessory structures. Placement of a recreational vehicle on a foundation or removal of the wheels of a recreational vehicle, except for temporary purposes for repair, is prohibited.

**20.72.150 Conditional uses.**

All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited by this chapter. In addition, the following uses may be conditionally permitted:

**.151** In the Resort Commercial District:

- (1) Dry boat storage, including stacked boat storage, and boat trailer storage associated with a marina.

**.152** In the Rural District:

- (1) Surface and subsurface mining including the extraction of sand and gravel pursuant to the provisions of WCC 20.36.159 (Rural District, Conditional Uses).
- (2) Private commercial recreation facilities and clubs.

**.153** In the R5A Zone located west of the Point Roberts Marina and east of Marine Drive, an air park facility/subdivision and commercial activities incidental to aviation facilities; provided, that:

- (1) The proposed air park will comply with national, state, and local aviation regulations and safety standards; and
- (2) Residential development shall be subordinate to the primary airstrip operations; and
- (3) An air park shall include a 50-foot vegetated buffer between the proposed facility/subdivision and adjacent parcels; provided, that the required buffer may be reduced or eliminated where such a buffer might otherwise interfere with site access; use of the airstrip and/or taxi way(s); health and safety of air park residents, visitors or operators; and/or FAA regulations. Any open space reserve tract(s) associated with the proposed air park shall be exempt from the buffer requirements of this section; provided, that the open space reserve tract establishes a minimum distance of 50 feet between the air park facility/subdivision and adjacent parcels; and
- (4) If a proposed subdivision, binding site plan, or short subdivision is located adjacent to an existing airstrip, the developer and any subsequent purchasers or successors in interest shall agree to refrain from any legal action to restrain or collect damages from the owners or users, or from Whatcom County, arising out of normal operation or use of the airstrip. The agreement shall appear as a covenant or deed restriction upon the plat, tract or instrument of conveyance and shall run with the land.

**.154** In the Small Town Commercial District:

- (1) Hotels, motels, and timeshare condominiums.
- (2) Animal kennels for kenneling up to 6 animals and that are associated with an animal groomer.
- (3) Recreational vehicle parks meeting the requirements of WCC 20.80.950 (Mobile home and recreational vehicle park standards).
- (4) Up to three storage containers or similar temporary storage units per lot if accessory to an approved commercial use on the same lot.

**20.72.200 Prohibited uses.**

In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited:

**.201** Service stations in all zones, except expansion of existing service stations by adding additional pumps or hose dispensers.

**.202** The following uses are prohibited in the Resort Commercial Zone District in the Maple Beach area of Point Roberts:

- (1) Rooming houses.
- (2) Taverns.
- (3) Commercial parking lots or garages.

**.204** The following uses are prohibited in the Small Town Commercial Zone District:

- (1) Mini storage facilities.
- (2) Animal kennels, except as allowed pursuant to WCC 20.72.154(2).
- (3) Facilities for commercial rental, sale, storage, service, repair, or washing of motorized vehicles and equipment, motorcycles, marine vessels or equipment, farm implements, light and heavy equipment, or recreational vehicles .
- (4) Cemeteries.

**20.72.250 Minimum lot size.**

**.251** Where the cluster subdivision option is used to protect a critical area:

- (1) A parcel size reduction of five percent may be granted where average parcel size (except the reserve tract) is less than 10,000 square feet; or
- (2) A parcel size reduction of 10 percent may be granted where average parcel size (except the reserve tract) is 10,000 square feet; or
- (3) More of a reduction may be granted only if the resultant lots are able to meet the applicable development standards of this title and other county ordinances, including setbacks and minimum reserve tract area.

**20.72.260 Maximum density.**

**.261** Except as modified by this chapter, all residential densities in the Rural General Commercial, Small Town Commercial and Resort Commercial Zones shall not exceed 10 units per acre.

**.262** For the purpose of developing an air park facility only, the parcels zoned R5A that are located west of the Point Roberts Marina and east of Marine Drive, including the airstrip property, may be developed as a cluster development at a maximum density of one dwelling unit per acre.

**20.72.270 Subdivision requirements.**

**.271** Lands within the Rural Zone District in Point Roberts shall be exempt from the provisions of the Agriculture Protection Overlay District, Chapter 20.38 WCC.

**20.72.350 Building setbacks/buffer areas. (Adopted by reference in WCCP Chapter 2.)**

- (1) Building setbacks along Tye Drive are increased to 50 feet. In existing treed areas along Tye Drive, a 50-foot vegetative buffer comprised of existing trees shall be maintained for visual or aesthetic purposes except for necessary ingress and egress points. In non-treed areas a 50-foot planted buffer shall be developed as part of the normal landscape requirements for site development.

- (2) Within the Small Town Commercial Zone, commercial, institutional, and mixed use building setbacks shall be reduced to 10 feet. Buildings oriented towards the street edge shall be encouraged and the front of buildings shall be designated for landscaping and pedestrian traffic.
- (3) In the Small Town Commercial district any storage containers or other similar temporary storage units accessory to a permitted business shall be set back 50 feet from any adjacent right-of-way.
- (4) The provisions of WCC 20.64.353 (Building setbacks, Resort Commercial District) shall not apply to single-family residences in the Resort Commercial District at Point Roberts.

**20.72.400 Height limitations.**

**.401** The maximum building height within the Small Town Commercial Zone shall be 45 feet. Height of structures shall also conform to the view corridor provisions of WCC 20.72.654 and the general requirements of WCC 20.80.675.

**.402** The maximum building height in all other zones shall be 25 feet unless further restricted by the Whatcom County Shoreline Management Program. Height of structures shall also conform to the general requirements of WCC 20.80.675 where applicable.

**.403** Through the variance process established in Chapter 20.84 WCC, the maximum building height for any use outside of the Small Town Commercial Zone may be increased to 45 feet under the following conditions:

- (1) The resultant higher structure will not unreasonably impede views from other properties any more than would a similar structure of the same mass which conforms to the 25-foot maximum building height.
- (2) Building setbacks pursuant to this chapter and WCC 20.80.200 shall be increased by one foot for each foot of building height in excess of 25 feet as applicable to all setbacks.

**20.72.650 Development criteria.**

**20.72.651 Facility design. (Adopted by reference in WCCP Chapter 2.)**

- (1) All commercial and institutional use structures shall be consistent with the Point Roberts design guidelines, which are herein adopted by reference as an addendum to this chapter.
- (2) All commercial and institutional structures shall screen roof-mounted mechanical equipment so as not to be visible by surrounding uses or roads.

**20.72.652 Archaeological resources.**

- (1) **Applicability.** This section shall apply to regulated development activities within 500 feet of all known archaeological sites, including all recorded sites listed with the Washington State Office of Archaeology and Historic Preservation. The provisions of this section shall also apply to any archaeological resources that are inadvertently discovered in association with regulated development activities pursuant to this title; provided, that the provisions of this section may be waived if the technical administrator determines that the proposed development activities do not include any ground-disturbing activities and will not impact a regulated archaeological resource.
- (2) **Archaeological Resource Protection.**



- (a) Upon receipt of application for a development permit on properties within 500 feet of a site known to contain archaeological resources, the department shall require an archaeological resources site assessment. The site assessment shall be conducted by a professional archaeologist at the expense of the applicant or project proponent to determine the presence of significant archaeological resources.
- (b) If the archaeological resources site assessment identifies the presence of significant archaeological resources, an Archaeological Resource Management Plan (ARMP) shall be prepared by a professional archaeologist. The professional archaeologist shall solicit comments from the Washington State Office of Archaeology and Historic Preservation, Lummi Nation Historic Preservation Office, and Nooksack Tribe. Comments received shall be incorporated into the conclusions and recommended conditions of the ARMP to the maximum practicable.
  - i. An ARMP shall contain the following minimum elements:
    - (A) The purpose of the project, an examination of project on-site design alternatives, and an explanation of why the proposed activity requires a location on, or access across and/or through, a significant archaeological resource; and
    - (B) A description of the archaeological resources affected by the proposal; and
    - (C) An assessment of the archaeological resource and an analysis of the potential adverse impacts as a result of the activity; and
    - (D) An analysis of how these impacts have been avoided; or
    - (E) Where avoidance is not possible, how these impacts have been mitigated/minimized; and
    - (F) A recommendation of appropriate mitigation measures, which may include but are not limited to the following:
      - 1. Recording the site with the State Office of Archaeology and Historic Preservation;
      - 2. Re-interment in the case of grave sites;
      - 3. Covering the site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);
      - 4. Excavation and recovery of resources;
      - 5. Inventorying prior to covering of resources with structures or development; and
      - 6. Monitoring of construction excavation.
  - ii. The recommendations and conclusions of the ARMP shall be used to assist the technical administrator in making final administrative decisions concerning the presence and extent of archaeological resources and appropriate mitigating measures. The technical administrator shall consult with the Washington State Office of Archaeology and Historic Preservation, Lummi Nation Historic Preservation Office, and Nooksack Tribe prior to approval of the ARMP.
  - iii. The technical administrator may reject or request revision of the conclusions reached in an ARMP when the technical administrator can demonstrate that the assessment is inaccurate or does not fully address the archaeological resource management concerns involved.

- (c) Within 15 days of receipt of a complete development permit application in an area of known archaeological resources, the county shall notify and request a recommendation from appropriate agencies such as the Whatcom Museum, Western Washington University Anthropology Department, the Office of Archaeology and Historic Preservation, the Lummi Nation Historic Preservation Office, and Nooksack Tribe. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable. Notification shall include the following information:
- i. The date of application, the date of notice of completion for the application, and the date of the notice of application;
  - ii. The date, time, place, and type of the hearing, if applicable, and scheduled at the date of notice of the application;
  - iii. A site map including the street address, tax parcel number, township, range, and section of the proposed project area;
  - iv. A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the county;
  - v. The identification of other permits not included in the application to the extent known by the county;
  - vi. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
  - vii. Any other information determined appropriate by the county;
  - viii. A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;
  - ix. A statement of the limits of the public comment period, the right of each agency to comment on the application within a 15-day time period, receive notice of and participate in any hearings, request a copy of the decision once made, and to appeal a decision when allowed by law. In addition, the statement shall indicate that any agency wishing to receive personal notice of any hearings must notify the hearing examiner's office within 15 days of the date of the notice of application.
- (d) In granting development permits, the county may attach reasonable conditions to provide sufficient time and/or conditions for consultation with the Washington State Office of Archaeology and Historic Preservation, Lummi Nation Historic Preservation Office and Nooksack Tribe, and to assure that valuable information and materials are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of archaeological sites shall be incorporated to the maximum extent possible.
- (3) Inadvertent Discovery.
- (a) Whenever historic, cultural or archaeological sites or artifacts of potential significance are discovered in the process of development, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the county.

- (b) The administrator shall then notify the Washington State Office of Archaeology and Historic Preservation, Lummi Nation Historic Preservation Office, Nooksack Tribe and other appropriate agencies and shall request that an immediate site assessment be conducted by a professional archaeologist pursuant to subsection (2)(a) of this section to determine the significance of the discovery. If a positive determination is not received within 14 days of receipt of such request, or if a negative determination is received, such stopped work may resume.
- (c) On receipt of a positive determination of the site's significance, the administrator may invoke the provisions of subsection (2)(b) of this section.

**20.72.653 Landscaping, screening, and tree canopy retention. (Adopted by reference in WCCP Chapter 2.)**

In addition to compliance with all other requirements of this title and other titles of the Whatcom County Code, development activities shall be subject to the following provisions:

- (1) Landscaping.
  - (a) Where possible the removal of existing vegetation should be minimized in areas that possess a natural beauty.
  - (b) Special efforts shall be made to preserve existing stands of healthy trees throughout the area proposed for development.
  - (c) Long expanses of fencing should be broken up by the use of landscaping.
  - (d) The practice of monoculture shall be avoided. Plantings should have variety in their design.
  - (e) Attention should be given to the growth rate of the planting materials used and how they will relate to the site in the future.
- (2) Screening.
  - (a) Dumpster and utility areas of commercial and institutional uses shall be screened pursuant to WCC 20.80.355 (Trash or garbage collection storage areas – Screening and placement).
  - (b) Commercial storage of vehicles, trailers, or truck containers shall be screened from public rights-of-way and adjacent properties to a height of 6 feet using earth berms, landscaping or building wall, or living wall (i.e., fabricated wall with vertical living vegetation).
- (3) Tree Canopy Retention.
  - (a) Permit Required for Removal of Trees. No person shall remove, directly or indirectly, any tree canopy on any property within the Point Roberts subarea without first obtaining a tree removal permit unless the activity is exempted below:
    - (i) Pruning and maintenance of trees of up to 25 percent of the existing tree canopy.
  - (b) In the RC, RGC, and STC Districts, existing tree canopy areas (as defined by the dripline of the tree(s)) may be used to meet all or part of the open space requirements of this title. If existing tree canopy areas do not fully satisfy the minimum open space requirements of the applicable zone district, the remainder of the required open space shall be subject to the landscaping requirements established in WCC 20.80.300.
  - (c) In the RR, TZ, and R Districts:
    - i. Residential Development.

- (A) Lots less than one-half acre may remove 100 percent of the existing tree canopy on site; provided, that 30 percent of the pre-existing tree canopy shall be replanted.
- (B) Lots greater than, or equal to, one-half acre shall retain 30 percent of the existing tree canopy area on a lot. Trees may be removed within areas to be cleared for purposes of a building site, driveways, parking areas, and areas to be landscaped, but such areas shall not exceed 5,000 square feet or 70 percent, whichever is greater, of the total lot area.
- (C) On lots greater than one acre, no more than 50 percent of the existing tree canopy area shall be removed.
- ii. Commercial, institutional and recreational development may use existing tree canopy areas to meet all or part of the landscaping requirements of this title.
- (d) The following criteria shall be used to determine which tree canopy areas are to be prioritized for retention:
  - i. Stands of mature native trees;
  - ii. Trees on sensitive slopes, on lands classified as having landslide hazards, or high erosion hazards, as defined under the critical areas ordinance;
  - iii. Trees within critical areas or their associated setback and/or buffer areas as defined under WCC Title 16 or 23; or
  - iv. Trees with significant habitat value as identified by a qualified wildlife biologist or by the technical administrator, per WCC Title 16.
- (e) A 200-meter protective buffer of existing trees and vegetation shall be maintained around the Heronry.
- (f) Buffering that recognizes the need for safety and the unique features of Lily Point shall be required on Lily Point. No development shall take place in such areas.
- (g) The county shall require that tree canopy areas to be retained are identified on a site plan and clearly flagged, or delineated, on the site. A tree canopy area retention plan must accompany a project or clearing permit application and be approved by the technical administrator before clearing activity takes place. The plan shall contain the following components:
  - i. A scaled drawing identifying the following:
    - (A) North arrow;
    - (B) Property boundaries;
    - (C) Existing structures;
    - (D) Site access;
    - (E) Tree canopy areas to be removed;
    - (F) The outer dripline of tree canopy areas to be retained;
    - (G) Critical areas including, but not limited to, slopes, wetlands, and habitat conservation areas;
    - (H) Protection measures to be utilized for areas that will be undisturbed; and
    - (I) Areas to be replanted pursuant to subsection (3)(i) of this section;

- ii. A planting schedule that indicates the time frame for replanting of trees as applicable; and
  - iii. Provisions for maintenance and monitoring.
- (h) Prior to any land clearing activity or development activity, any tree canopy areas designated for retention shall be delineated by temporary fencing, tape, or other indicators around the outer dripline of the trees. Temporary fencing, tape, or other indicators shall be clearly visible and shall be maintained for the duration of the proposed clearing or development activity. Any tree canopy areas designated for retention shall be field verified by the technical administrator before clearing activities begin. Trees within canopy areas designated for retention shall not be damaged by clearing, excavation, ground surface level changes, soil compaction, or any other activities that may cause damage of roots or trunks. Machinery, impervious surfaces, fill and storage of construction materials shall be kept outside of the dripline of tree canopy areas designated for retention.
- (i) Tree canopy areas may be removed when limited to those canopy areas affected under the following circumstances:
- i. Fire prevention methods when supported by the county fire marshal;
  - ii. Hazard trees, as defined in Chapter 20.97 WCC, are identified (an evaluation and determination by a licensed arborist or forester may be required);
  - iii. Encroachments where the trunk, branches or roots would be, or are, in contact with main or accessory structures; or
  - iv. Where installation and/or maintenance of roads or utilities would unavoidably require removal or cut through the root system.
- (j) In the event that tree canopy areas in excess of the applicable threshold must be removed to facilitate reasonable use of the site, or to eliminate hazard trees, not less than two replacement trees shall be planted for every tree removed. Replacement trees shall:
- i. Be of the same, or similar, native species as those trees removed from the site;
  - ii. Be planted to re-establish tree clusters where they previously existed, or to enhance protected tree clusters;
  - iii. Be planted in locations appropriate to the species' growth habitat and horticultural requirements; and
  - iv. Be located away from areas where damage is likely.
- (k) If any trees within canopy areas designated for retention are damaged or destroyed through the fault of the applicant, agent or successor, the applicant, their agent or successor shall restore the site pursuant to a restoration plan approved by the county.
- (l) The county may require a bond or other security in an amount not to exceed 125 percent of the merchantable timber to guarantee retention of existing trees within designated tree canopy areas during construction. In the event of a dispute between the landowner and the county over the established value, an assessment will be made by a professional forester or arborist whose selection will be made by mutual agreement between the county and the landowner. The fee for the services of the professional forester or arborist shall be paid by the landowner or responsible party. In the event any trees designated to be retained are removed, the county shall require that sufficient trees be replanted to replace those

previously in existence. In the event that replanting does not occur, the county may enforce upon any bond posted. Each tree removed or destroyed shall constitute a separate violation.

**20.72.654 Site design/view corridors. (Adopted by reference in WCCP Chapter 2.)**

Scenic views and open space shall be considered in all developments and the site plan designed to ensure view access is maximized while maintaining reasonable use of the development site.

**20.72.655 Public restrooms and trash facilities.**

All new and redeveloped commercial establishments on Point Roberts that are open to the public shall make adequate provision for trash disposal and handicapped-accessible public restrooms.

Establishments with less than four employees on premises at one time may utilize a unisex facility.

Commercial complexes may provide common restrooms and/or trash disposal, or two or more establishments in one commercial area may jointly provide for such facilities, subject to appropriate agreements or covenants to ensure the facilities are available and properly maintained. Dumpsters within commercial areas shall be screened from public view using landscaping or building walls.

**20.72.656 Vehicular access.**

Driveways and curb cuts shall be minimized along all collector roads. Each existing lot shall be allowed only one driveway or curb cut; adjacent lots are encouraged to share access points. In new developments, lots or leased sites shall be oriented toward internal driveways, parking areas, or roads, with limited access to collector roads. These access points should normally not be closer than 400 feet apart.

**20.72.657 Non-vehicular access.**

- (1) Commercial development or redevelopment of any parcel along Tye Drive, Gulf Road, Marine Drive and APA Road shall be required to install appropriate street improvements along the road frontage of the parcel which may include curbs, gutters, sidewalks, boardwalks, benches, lighting, and appropriate provisions for bicycle and equestrian facilities in accordance with applicable Comprehensive Plan policies, land use regulations and current road standards. Planting of street trees along the road frontage(s) of the subject parcel shall be required. These requirements may be waived if a local improvement district, road improvement district, or transportation benefit district is formed for the purpose of providing the aforementioned improvements.
- (2) Commercial development of any parcel along a collector street shall require a no-protest agreement to participate in a local improvement district, road improvement district, or transportation benefit district.

**20.72.658 Drainage.**

All development activity within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630, Stormwater and drainage, unless specifically exempted. No project permit shall be issued prior to meeting the stormwater management requirements.

### **20.72.659 Parking.**

Parking shall conform to the requirements of WCC 20.80.500 unless otherwise specified in this section.

Within the Small Town Commercial Zone:

- (1) Parking lots shall be provided at the rear or side of buildings, except, when infeasible due to site conditions, alternate on-site parking locations may be allowed.
- (2) New parking lots shall connect with existing parking facilities and allow for connection to future lots where applicable.
- (3) Minimum parking standards may be reduced if a shared parking agreement has been filed with the County Auditor's office establishing a shared parking lot for land uses with noncompeting hours of operation, or for multitenant retail and commercial facilities; provided, the parking lot is not located further than 700 feet from any of the uses it is intended to serve.
  - (a) The minimum required parking in shared facilities shall be based on the land use with the highest parking demand.
  - (b) Mixed use development with similar operating hours may be required to submit a parking demand study to determine if parking can be combined.
- (4) Minimum parking standards along Gulf Road may be reduced to the minimum required emergency, ADA, and/or service parking only; provided, that it can be demonstrated that a public benefit parking area or other similar consolidated parking concept will adequately serve the proposed use.
  - (a) A parking demand study shall be submitted which determines whether all land uses intending to utilize the consolidated parking area will be adequately served.
  - (b) Pedestrian walkways connecting the proposed use with a consolidated parking area shall be provided.

### **20.72.670 Signs and flag poles.**

- (1) Signs in the Small Town Commercial (STC), Rural General Commercial (RGC), Rural Industrial Manufacturing (RIM), and Resort Commercial (RC) Zones are permitted subject to the provisions of WCC 20.80.410 and 20.80.470, and subject to the following:
  - (a) Not more than one freestanding sign is permitted on a lot of record, and a freestanding sign shall have no more than two sign faces. Freestanding signs shall not exceed 12 feet in height and shall not exceed 40 square feet in area per sign face.
  - (b) Not more than 10 square feet of sign area per sign face may be internally illuminated. Characters within the internally illuminated sign area shall be no larger than six inches tall. Signs may be externally illuminated.
  - (c) Single-faced signs placed on walls or eaves of business establishments shall not exceed a total of 40 square feet per business establishment.
  - (d) Signs shall not rotate or otherwise be in motion, and copy or pictures on the sign shall not flash, scroll, or display a video or animated image.
  - (e) For purposes of this section, any sign erected or existing as of July 1, 2016, that has a valid permit from the department, but does not conform with the provisions of this section, is a nonconforming sign. A nonconforming sign may be maintained only by painting or

refinishing the surface of the sign face or sign structure so as to keep the appearance of the sign as it was when the prior permit was issued. Any structural or other substantial maintenance to a nonconforming sign shall render the prior permit void and shall result in the reclassification of such sign as an illegal sign. Where there are conflicts between this section and Chapter 20.83 WCC, the provisions of this section shall prevail.

(2) Flag Poles.

- (a) The height of flag poles shall not exceed 20 feet.
- (b) Flag poles on top of buildings shall not exceed 10 feet above the roof top.