



**Elizabeth Kosa**  
Public Works Director

## MEMORANDUM

**To:** The Honorable Satpal Sidhu, Whatcom County Executive  
The Honorable members of the Whatcom County Council

**Through:** Elizabeth Kosa, Public Works Director *EK*

**From:** Gary Stoyka, Natural Resources Program Manager – Public Works *(GSt)*  
Jon-Paul Shannahan, Environmental Programs Manager – Public Works *JPS*

**Prepared by:** Ingrid Enschede, Senior Planner – Public Works *IE*

**Subject:** Ordinance amending Whatcom County Code 16.20 Whatcom County Shellfish Protection Districts

**Date:** June 24, 2026

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### Background

[Chapter 90.72 RCW](#) requires that the county legislative authority create a shellfish protection district (SPD) and establish a shellfish protection program within 180 days after the Washington State Department of Health (DOH) closes or downgrades a commercial shellfish growing area due fecal bacteria pollution. Shellfish protection programs must address known or suspected causes of fecal bacteria pollution with the objective of removing downgrades and restoring year-round shellfish harvest. Whatcom County Code (WCC) 16.20 establishes state-required SPDs, adopts shellfish protection programs, and establishes SPD advisory committees.

There are currently three council-approved SPDs in Whatcom County (Figure 1): Drayton Harbor (established 1995), Portage Bay (established 1998), and Birch Bay (established 2009). Each district has a shellfish recovery program (i.e., shellfish recovery plan) and its own council-appointed advisory committee. Current code also specifies that each of these three districts will dissolve upon removal of DOH downgrades or on December 31, 2026 unless extended by ordinance of the county legislative authority.

Public Works Natural Resources Division coordinates implementation of Whatcom County's shellfish recovery programs using the Pollution Identification and Correction (PIC) Program as a framework for identifying and addressing bacteria sources impacting Whatcom County freshwater and marine water resources (Resolution 2014-044). Priority focus is on Drayton Harbor and Portage Bay, where closures and downgrades are ongoing. Implementation of Birch Bay shellfish recovery work is coordinated between Public Works Natural Resources and Stormwater Divisions due to the overlapping objectives of the Birch Bay SPD and the Birch Bay Watershed and Aquatic Resources Management (BBWARM) District.

Public Works staff worked with the SPD advisory committees in 2025 and early 2026 to review current code and develop the code revisions proposed in this ordinance. Code revisions reflect committee recommendations and feedback to the extent possible. Advisory Committee meeting summaries provide a record of discussion points, concerns raised, and different points of view.

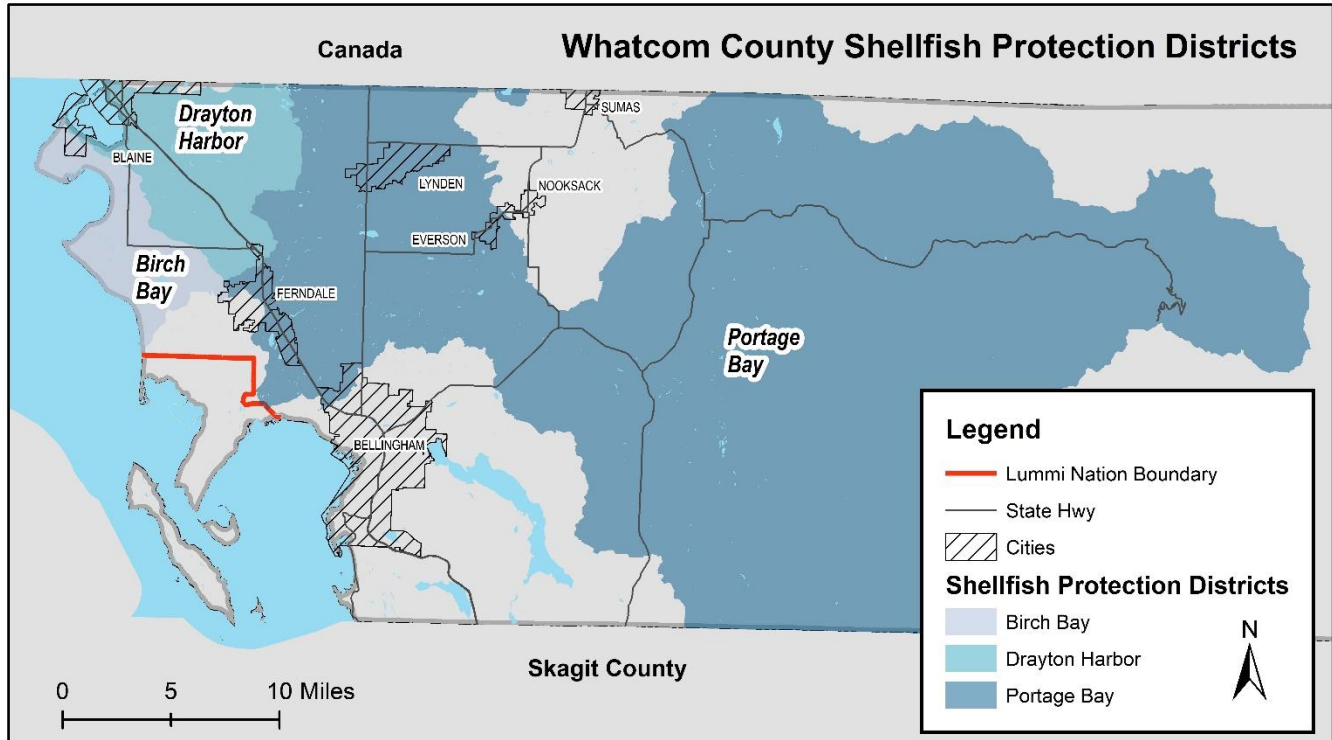


Figure 1. Current Whatcom County Shellfish Protection Districts as of June 2026.

## Summary of Code Revisions

### Dissolution of the Birch Bay Shellfish Protection District

This ordinance dissolves the Birch Bay SPD. This district was established in 2009 after DOH closed 129 acres of shellfish growing area in Birch Bay. BBWARM was established in 2007 as a stormwater management district to address citizen concerns about water quality, flooding, and the loss of aquatic habitat in the Birch Bay watershed. These two districts share the same boundary and an objective to protect and improve water quality. Shellfish recovery efforts in Birch Bay are coordinated between the BBWARM and PIC programs and include: water quality monitoring; community outreach and engagement; habitat improvements; and stormwater infrastructure maintenance, improvements, and capital projects. These activities are ongoing with BBWARM and Flood Control Zone District funding. The dissolution of the Birch Bay SPD will not affect these Public Works programs and services.

DOH removed the Birch Bay shellfish growing area closure in 2018. At that point in time, there was a decision made to keep the SPD in place, counter to WCC 16.20.050, in case water quality declined again. However, water quality declines did not occur. Since 2018, marine water quality in Birch Bay has remained well within water quality standards for shellfish harvest and Whatcom County is no longer required to have a shellfish protection district in the watershed. Dissolving the Birch Bay SPD is consistent with WCC 16.20.050. If marine water quality declines in the future and water quality standards for safe shellfish harvest are no longer met, Whatcom County will be required by Chapter 90.72 RCW to re-established a Birch Bay SPD by ordinance and adopt a new shellfish recovery plan for the watershed.

## Creation of a Single Shellfish Protection Advisory Committee

The potential sources and solutions to address non-point source bacteria pollution are primarily the same across all Whatcom County shellfish growing areas. To more efficiently work on issues related to shellfish recovery, the Drayton Harbor and Portage Bay SPD Advisory Committees have been meeting jointly since 2018. This ordinance creates a single Shellfish Protection Advisory Committee to replace individual committees for each SPD. The new nine-position committee structure includes positions to represent both Drayton Harbor and Portage Bay stakeholders as well as a shellfish grower representative. The ordinance also establishes clarity between council-appointed voting positions and permanent, non-voting positions for representatives of partner jurisdictions. Finally, advisory committee purpose is expanded to include both the core responsibility of providing advice on shellfish recovery programs and recovery plans for SPDs and the opportunity to provide recommendations related to shellfish protection in all Whatcom County shellfish growing watersheds.

## New Criteria for Dissolution of Districts

This ordinance provides new language that removes statutory or arbitrary calendar sunset dates and creates a process for the advisory committee to provide recommendations on any potential future dissolution of SPDs. Sunset dates create an administrative burden to revise the code by ordinance based on an arbitrary date instead of water quality status. The new language solidifies the county legislative authority to dissolve these SPDs. If all applicable downgrades are removed by DOH, then the state legal requirement for an SPD is also removed; however, the proposed advisory committee shall provide a recommendation to council on whether to maintain or dissolve the district based on ongoing threats to water quality. Maintaining good water quality and Approved shellfish harvest classification requires ongoing work and investment in resources. An advisory committee recommendation will allow for consideration of current conditions, status of county services, future threats, and recovery plan recommendations for council to consider.

## Minor Administrative Revisions

- Establishing permanent, non-voting advisory committee jurisdiction representation for the Lummi Nation, Nooksack Indian Tribe, and local governments within the shellfish protection districts
- Updating code reference to the most current Drayton Harbor Shellfish Recovery and Protection Plan
- Adding clarifying language around purpose of the districts and definition of shellfish recovery programs
- Other minor edits to improve clarity and consistency

## Advisory Committee Position Transfer

This ordinance calls for transferring current members of both the Drayton Harbor and Portage Bay Shellfish Protection District Advisory Committees to the new Shellfish Protection Advisory Committee. The tables below show how current members' positions will transfer to the new single committee structure described in revised WCC 16.20.065.

### Council-Appointed Voting Members

New Position	Name	Current Committee	Term End	Note
Drayton 1	Katherine Garrah	Drayton	1/31/2028	Employed by Drayton Harbor Oyster Company; spends part-time in Drayton Harbor watershed
Drayton 2	Kyle Burton	Drayton	1/31/2029	Lives in Drayton Harbor watershed
Drayton 3	Julie Hirsch	Drayton	1/31/2027	Lives outside Drayton Harbor watershed; represents Garden of the Salish Sea Curriculum, which is active in the Drayton Harbor watershed
Portage 1	Alan Chapman	Portage	1/31/2027	Lives in the Portage Bay watershed
Portage 2	Albert DeBoer	Portage	1/31/2029	Lives in the Portage Bay watershed
Portage 3	Fred Likkel	Portage	1/31/2029	Lives in the Portage Bay watershed
Shellfish Grower	Steve Seymour	Drayton	1/31/2027	Drayton Harbor Oyster Company owner
At Large/General Interests	George Kaas	Drayton	1/31/2028	Lives outside both Shellfish Protection Districts
At Large/General Interests	Eleanor Hines	Portage	1/31/2027	Lives outside both Shellfish Protection Districts

## Permanent Non-Voting Jurisdiction Representatives

Jurisdiction	Name	Current Committee	Note
Lummi Nation	vacant	Both	Changing from council-appointed voting to permanent non-voting position
Nooksack Indian Tribe	Vacant	Both	Changing from council-appointed voting to permanent non-voting position
City of Blaine - City Council	Jiggy Sorrell	Drayton	Not currently defined in code, annual appointment
Whatcom County - County Council	Jon Scanlon/Ben Elenbaas	Both	Not currently defined in code, annual appointment
Port of Bellingham	Kurt Baumgarten	Drayton	Changing from council-appointed voting to permanent non-voting position

## Requested Action

On behalf of the shellfish protection district advisory committees, Public Works respectfully requests that Whatcom County Council approve the ordinance amending WCC 16.20.

Please contact Ingrid Enschede, Senior Planner, at extension 6229 or [iensched@co.whatcom.wa.us](mailto:iensched@co.whatcom.wa.us) with any questions regarding the proposed code revisions.

Encl.