

Staff Comments on Chapter 10 - 4.10.26

Proposed Amendment 27

Water is essential to every aspect of life and thus is managed carefully. Whatcom County, in the past 25 years, has made tremendous progress towards improvement of water quality and in the protection and recovery of aquatic resources. In 2009, the Lighthouse Point Water Reclamation Facility in Blaine significantly reduced wastewater loading to Drayton Harbor. Agricultural runoff has been significantly reduced by ongoing outreach efforts to assist the agricultural community in implementing best practices to control nutrient runoff and protect riparian habitat. Improvements in stormwater infrastructure and enforcement have also reduced the impacts of nonpoint pollution. Extensive water quality monitoring of freshwater and marine water bodies in the county has shown this improvement, and has highlighted where additional efforts need to be focused. All of these efforts have been expended at great cost. Unfortunately, recent trends in monitoring show that these improvements of the past may be at risk. All the efforts to protect and restore water quality and aquatic resources could be undone by the threats of aging or inadequate sewer and stormwater infrastructure, population growth in environmentally sensitive areas, and the effects of climate change on precipitation, flooding, elevated water temperature, and coastal sea level rise.

Staff Comment – Staff is not certain what data supports the statement, “recent trends in monitoring show that these improvements of the past may be at risk.” Staff proposes changing this statement to “Water quality improvements may be at risk.”

Proposed Amendment 38

Policy 10H-12- Focus on the Lake Whatcom watershed as a high priority in developing a stormwater management program, including inspections of private stormwater systems.

Staff Comment- Whatcom County already has a stormwater management program that includes public and private systems. Recommend revising the policy to:

“Focus on the Lake Whatcom watershed as a high priority in implementing stormwater management programs and ensuring the proper function of public and private stormwater systems.”

Proposed Amendment 39

Policy 10H-13: Develop cooperative relationships with institutions with technical experience in toxics monitoring such as the NW Indian College, WWU, and non-governmental organizations to help monitor surface water and other possible sources of toxic pollution. Monitor stormwater discharge and septic systems along marine shorelines and within watersheds to prevent declines in water quality.

Staff Comment – This policy combines two different topics/tasks. This would make more sense as two separate policies. Regarding toxics monitoring, staff is not aware of anyone at the County who has been assigned with developing cooperative relationships with the entities named and it is not clear who would be responsible for doing this. Programs already exist that monitor septic systems along marine shorelines and in priority watersheds. It is not clear what the extent of monitoring is being proposed. Also, recommend replacing the word, “toxics” and replacing with “water quality” and removing the word “toxic” from “toxic pollution”.

Proposed Amendment 40

Policy 10I-5: Require water users and purveyors to quantify water use and make the data publicly available to promote conservation.

Staff Comment: It is not clear what authority the County has to require quantification. Recommend getting legal advice.

Proposed Amendment 41

Policy 10J-9: Update County phosphorus neutral development code in the Lake Whatcom watershed, with a goal of meeting or exceeding the standards set by the corresponding City of Bellingham policies.

Staff Comment: Recommend removing “with a goal of meeting or exceeding the standards set by the corresponding City of Bellingham policies.” with “to ensure they are protective of lake water quality.

Proposed Amendment 42

Policy 10J-10: Ensure efficacy of BMPs designed to minimize development impacts within the Lake Whatcom watershed through regular monitoring and inspections of public and private stormwater systems.

Staff Comment: This policy appears to be beyond the County’s authority. Whatcom County does not determine the efficacy of BMPs and is required to use BMPs that are approved by the Department of Ecology. Whatcom County does ensure that the BMPs are functioning properly as stated in proposed Policy 39. Recommend deleting this policy.

Proposed Amendment 50

Policy 10K-9: Reevaluate and strengthen the SEPA cumulative impacts analysis, especially when considering the impacts of multiple developments along the same shoreline.

Staff Comment: Washington courts have limited the requirement for cumulative impact analysis under SEPA unless there is some evidence that the project will facilitate future action that will result in additional impacts or the project is dependent on subsequent proposed development. Recommend getting legal advice regarding “reevaluate” or “strengthen.”

Proposed Amendment 59

Policy 10L-12- In coordination with FLIP, consider establishing formal channel migration zones for the Nooksack River, precluding additional development within these zones, actively pursue voluntary acquisitions to promote flood risk reduction and riverine and marine shoreline restoration. Ensure any levee setbacks provide more flood storage and improve natural river processes and meandering, riparian buffers, and salmon habitat.

Staff comment: Restoration conditions are based on applicable project permitting and negotiation with property owners. Recommend changing ensure to, “Work with property owners on levee setback projects to...”

Proposed Amendment 60

Policy 10L-15: During and after emergency flood repairs, ensure that any repair is fully mitigated to reduce impacts to salmon habitat.

Staff Comment – Staff recommends striking “fully mitigated” to “mitigated to applicable permitting conditions” because mitigation conditions for emergency flood repairs are evaluated by all applicable permitting agencies and the scope of mitigation depends on project permitting conditions. Furthermore, full mitigation is not always possible without willing landowners.

Proposed Amendment 70

Policy 10N-8: Address the issue of derelict vessels and change the current language in code to hold owners more accountable. Ensure that resources are available to fund established policies designed to address this issue.

Staff Comment – The County only has jurisdiction over derelict vessels located on County-owned or managed aquatic lands. Recommend specifying that in the proposed policy.

Proposed Amendment 71

Policy 10N-9: Provide adequate toxicity testing of crab and bottomfish that dwell in areas of contaminated sediments to demonstrate that public health is protected. Determine mercury levels in edible tissues of juvenile Dungeness crab collected from Whatcom Waterway and create realistic models of consumption for populations and age groups most at risk.

Staff Comment – The County does not have funding to do this and it is unclear if it has authority.