

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE SECTION 11.20.025, FLOTATION DEVICES
ON THE SOUTH FORK OF THE NOOKSACK RIVER, ON AN INTERIM BASIS TO
BETTER PROTECT ESA-LISTED CHINOOK SALMON**

WHEREAS, in 1999, Puget Sound Chinook were listed as “threatened” under the federal Endangered Species Act; and

WHEREAS, the spring Chinook salmon in the South Fork of the Nooksack River are particularly “threatened” and could become “endangered” if no action is taken to increase protection; and

WHEREAS, the South Fork Nooksack is identified as an impaired waterbody on Ecology’s 303(d) list for high stream temperature, which is a known stressor for salmon; and

WHEREAS, in summer 2021, over 2,500 returning adult Chinook died on the South Fork spawning grounds before they could spawn due to a disease outbreak exacerbated by low river flows, high temperatures, and a lack of adequate habitat; and

WHEREAS, this mortality event prompted Lummi Nation to declare an emergency and both Lummi Nation and the Nooksack Indian Tribe to petition Governor Inslee to establish a crisis team to implement solutions to avoid future mortality events and to invest \$25.5 million to fund critically important actions in the South Fork; and

WHEREAS, the South Fork Nooksack River has been a top priority for habitat restoration, with over \$10 million invested from the Salmon Recovery Funding Board alone and over 27 river restoration projects completed by Lummi Nation and the Nooksack Indian Tribe; and

WHEREAS, natural-origin spawns remain critically low and far below the recovery goal of at least 9,900; and

WHEREAS, the impacts of hundreds to thousands of people recreating in the South Fork directly impact salmon habitat and salmon currently residing in the river, and further threaten recovery of the South Fork Nooksack Early Chinook and the millions of dollars invested in habitat restoration; and

WHEREAS, the 1855 Treaty of Point Elliot and 1974 Boldt Decision guarantee tribal fishing rights to Lummi Nation and Nooksack Indian Tribe; and

WHEREAS, Whatcom County shall honor and uphold tribal treaty rights by taking every possible measure to protect salmon; and

WHEREAS, the Council desires the opportunity to further study this issue while simultaneously protecting Early Chinook Salmon; and

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NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that WCC 11.20.025 is hereby amended, on an interim basis, as presented in Exhibit A to this ordinance.

BE IT FINALLY ORDAINED by the Whatcom County Council that this interim ordinance shall be effective for not longer than six months following its effective date, but may be renewed for one or more six-month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.

ADOPTED this ____ day of _____, 2022.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____

1 **EXHIBIT A**

2 **WCC 11.20.025 WATER SKIING, SWIMMING AND SKIN DIVING REGULATIONS**

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4 **11.20.025 Flotation devices on the South Fork of the Nooksack River.**

5 No person shall operate a paddleboard, innertube, inflatable flotation device, foam flotation
6 device, limb-propelled flotation device, or rubber raft intended for limb use on the ~~section of~~
7 ~~the~~ South Fork of the Nooksack River ~~between Edfro Creek and the Acme Bridge~~ between
8 the dates of June 1st and October 31st. The provisions of this section shall not apply to:

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10 A. Devices engaged principally in commercial operations constituting an act of interstate or
11 foreign commerce or bona fide scientific research;

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13 B. Use for emergency purposes when there is reasonable belief that such use is necessary
14 to protect or preserve persons, animals or property;

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16 C. Use by law enforcement agencies to enforce the above provisions;

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18 D. Department of Natural Resources-designated and Whatcom County-designated
19 swimming/boating areas on the South Fork of the Nooksack River. (Ord. 2020-002 (Exh. A);
20 Ord. 2019-046 (Exh. A); Ord. 2005-089 Exh. A).