

**Exhibit B – CompPlan Ch. 11 Amendments, Department of Ecology  
Approved**

August 30, 2024

Chapter 11 – Shorelines

**Chapter Eleven  
Shorelines**

**Commented [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

**Commented [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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within jurisdictional shorelines must be consistent with both the policies of this chapter and the regulations of WCC Title 23.

The Shoreline Management Act (SMA) was developed and adopted to protect “the most valuable and fragile of [the state’s] natural resources from the “inherent harm in uncoordinated and piecemeal development of the state’s shorelines” (quotes from RCW 90.58.020). The SMA in Chapter 90.58 RCW contains three distinct but related priorities:

1. The promotion of shoreline uses that are both water-oriented and appropriate for the broader environmental context. Developments such as single family residences, recreational areas, and water-dependent businesses such as marinas are considered priority uses provided they are constructed in a manner “consistent with control of pollution and prevention of damage to the environment” (quote from RCW 90.58.020).
2. The SMA requires local governments to take an active role in protecting the shoreline ecology: the water, the land, the vegetation and the wildlife. The state guidelines are explicit: “Local master programs shall include regulations and mitigation standards ensuring that each permitted development will not cause a net loss of ecological functions of the shoreline.” (WAC 173-26-186(8)(b)(i).)
3. The SMA also promotes public access to the shoreline by requiring protection of existing public access features and requiring certain types of new development to include public access.

The SMP regulations (WCC Title 23) apply to individual projects, and impacts of shoreline development are evaluated on a project-by-project basis. However, the SMP goals and policies, shoreline designations, regulations, and the restoration plan are comprehensively structured to achieve no net loss of shoreline ecological functions as a whole in Whatcom County.

**GMA Goals and Countywide Planning Policies**

First adopted in 1990, The Growth Management Act (GMA) is a series of state statutes that requires fast-growing cities and counties to develop a comprehensive plan to manage their population growth. It is primarily codified under Chapter 36.70A RCW, although it has been amended and added to in several other parts of the RCW. Under RCW 36.70A.020, the GMA established a series of 13 goals that should act as the basis of all comprehensive plans. In 2003, the legislature added the goals and policies of the Shoreline Management Act as the fourteenth GMA goal (RCW 36.70A.480). The shoreline goals may be found at RCW 90.58.020.

As of this time, there are no Countywide Planning Policies that address development in the shoreline.

**GMA-SMA Requirements**

Under the provisions of the SMA, all development along shorelines of the state is required to comply with the provisions of local shoreline master programs. The Whatcom County ~~Shoreline Management Program~~SMP 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 the  
6 principles of Chapter 173-26 WAC, establish basic concepts that underpin the goals,  
7 policies, and regulations of the SMP Shoreline Management Plan (SMP) this program:

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

8 A. Any inconsistencies between the SMP this program and the Shoreline  
9 Management Act (SMA Act) must be resolved in accordance with the SMA Act.

10 B. The policies of the SMP this program may be achieved by diverse means, one  
11 of which is regulation. Other means, authorized by the SMA Act, include, but  
12 are not limited to: acquisition of lands and/or easements by purchase or gift,  
13 incentive programs, and implementation of capital facility and/or nonstructural  
14 programs.

15 C. Protecting the shoreline environment is an essential statewide policy goal,  
16 consistent with other policy goals. Permitted and/or exempt development,  
17 actions taken prior to the SMA Act's adoption, and/or unregulated activities can  
18 impair shoreline ecological processes and functions. The SMP this program  
19 protects shoreline ecology from such impairments in the following ways:

20 1. By using a process that identifies, inventories, and ensures meaningful  
21 understanding of current and potential ecological functions provided by  
22 shorelines.

23 2. By including policies and regulations that require mitigation of significant  
24 adverse impacts in a manner that ensures no net loss of shoreline ecological  
25 functions. The required mitigation shall include avoidance, minimization,  
26 and compensation of impacts in accordance with the policies and  
27 regulations for mitigation sequencing in WCC ~~23-90-030~~ and the Whatcom  
28 County Critical Areas Ordinance (CAO, Chapter 16.16 WCC). The SMP this  
29 program and any future amendment thereto shall ensure no net loss of  
30 shoreline ecological functions and processes on a programmatic basis in  
31 accordance with the baseline functions present as of the date of adoption  
32 of the comprehensive SMP update this program, February 27, 2007.

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

33 3. By including policies and regulations to address cumulative impacts,  
34 including ensuring that the cumulative effect of exempt development will  
35 not cause a net loss of shoreline ecological functions, and by fairly allocating  
36 the burden of addressing such impacts among development opportunities.

37 4. By including regulations and regulatory incentives designed to protect  
38 shoreline ecological functions, and restore impaired ecological functions  
39 where such opportunities have been identified, consistent with the  
40 Shoreline Management Program Restoration Plan developed by Whatcom  
41 County.

42 D. Regulation of private property to implement SMP program goals such as public  
43 access and protection of ecological functions and processes must be consistent

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1 with all relevant constitutional and other legal limitations. These include, but  
2 are not limited to, civil rights guaranteed by the U.S. and state Constitutions,  
3 ~~recent-pertinent~~ federal and state case law, and state statutes, such as RCW  
4 34.05.328 and 43.21C.060 and Chapter 82.02 RCW.

5 E. Regulatory or administrative actions ~~contained herein~~ must be implemented  
6 consistent with the public trust doctrine and other applicable legal principles  
7 as appropriate and must not unconstitutionally infringe on private property  
8 rights or result in an unconstitutional taking of private property.

9 F. The regulatory provisions of ~~the SMPthis program~~ are limited to jurisdictional  
10 ~~shorelines~~shorelines of the state, whereas the planning functions of the  
11 ~~SMPthis program~~ may extend beyond the designated shoreline boundaries.

12 G. The policies and regulations established by the ~~SMPprogram~~ must be  
13 integrated and coordinated with those policies and rules of the ~~Whatcom~~  
14 County Comprehensive Plan and development regulations adopted under the  
15 Growth Management Act (GMA) and RCW 34.05.328.

16 H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom  
17 County should balance the various policy goals of ~~the SMPthis program~~ giving  
18 consideration to other relevant local, state, and federal regulatory and non-  
19 regulatory programs.

20 **Chapter 23.20 Overall SMPShoreline Management Program Goals and**  
21 **Objectives**

22 **23.20.005 Generally:**

23 This ~~sectionchapter describes-contains~~ overall ~~program~~SMP goals and objectives.  
24 They provide the ~~comprehensive~~ foundation and framework upon which the shoreline  
25 area designations, policies, regulations, and administrative procedures are based.

26 The general policies and regulations (in a later section of this chapter and in Chapter  
27 Title 23.90 WCC, respectively) and the specific use policies and regulations (in a later  
28 section of this chapter and in WCC Chapter Title 23.100 WCC, respectively) are the  
29 means by which these goals and objectives are implemented.

30 **23.20.010 Adoption:**

31 ~~In addition to the policy adopted in WCC 23.10.020(C), the following goals and~~  
32 ~~objectives relating to the program elements specified in RCW 90.58.100(2) are~~  
33 ~~hereby adopted. They provide the comprehensive foundation and framework upon~~  
34 ~~which the shoreline area designations, policies, regulations, and administrative~~  
35 ~~procedures are based.~~

36 **23.20.020 Economic Development:**

37 The economic development element provides for the location and design of  
38 industries, transportation facilities, port facilities, tourist facilities, commerce, and  
39 other developments that are particularly dependent upon a shoreline location and/or  
40 use of the shorelines of the state.

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

Commented [MD6]: Moved up.

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1	<b>Goal 11A:</b>	<del>Goal. To e</del> <b>Create and maintain an economic environment that can coexist harmoniously with the natural and human environment.</b>
2		
3		
4	<del>B.</del>	<del>Objectives:-</del>
5	<u>11A-1:</u>	Encourage economic development that has minimal adverse effects and mitigates unavoidable impacts upon shoreline ecological functions and processes and the built environment.
6		
7		
8	<u>11A-2:</u>	Encourage shoreline development that has a positive effect upon economic and social activities of value to the region.
9		
10	<u>11A-3:</u>	Encourage new water-dependent, water-related, and water-enjoyment economic development in priority order.
11		
12	<u>11A-4:</u>	Encourage economic development that is consistent with the adopted Comprehensive Economic Development Strategy (CEDs) for Whatcom County.
13		
14		
15	<u>11A-5:</u>	Implement economic development policies contained in <u>other chapters of the Whatcom County Comprehensive Plan</u> in shoreline areas consistent with this <u>chapter, WCC Title 23 program</u> and the <u>SMA Act</u> .
16		
17		
18		
19	<u>11A-6:</u>	Encourage new economic development to locate in areas that are already developed with similar uses.
20		
21	<u>11A-7:</u>	Discourage expansion of existing development that is incompatible with <u>the Comprehensive Plan</u> <del>this program</del> , WCC <u>Title 23</u> , <del>or</del> the character of the local area, <del>or the Whatcom County Comprehensive Plan</del> .
22		
23		
24		
25	<del>23-20-030</del> <b>Public eAccess:</b>	
26		The public access element provides for public access to publicly <del>owned</del> or privately owned shoreline areas where the public is granted a right of use or access.
27		
28	<del>Goal 11B:A:</del>	<del>Goal. To i</del> <b>increase the <u>general public's ability of the general public</u> to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and/or to view the water and the shoreline from adjacent locations; provided, that private rights, <del>the</del> public safety, and shoreline ecological functions and processes are protected consistent with the U.S. and state Constitutions, state case law, and state statutes.</b>
29		
30		
31		
32		
33		
34		
35		
36	<del>B.</del>	<del>Objectives:-</del>
37	<u>11B-1:</u>	Locate, design, manage, and maintain public access in a manner that protects shoreline ecological functions and processes and the public health and safety.
38		
39		
40	<u>11B-2:</u>	Design and manage public access in a manner that ensures compatibility with water-dependent uses.
41		

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- 1 [11B-3:](#) Where appropriate, acquire access to publicly owned tidelands  
2 and shorelands. Encourage cooperation among the County,  
3 landowners, developers, and other agencies and organizations to  
4 enhance and increase public access to shorelines as specific  
5 opportunities arise.
- 6 [11B-4:](#) Provide and protect visual access to shorelines and tidelands.
- 7 [11B-5:](#) Require physical or visual access to shorelines as a condition of  
8 approval for shoreline development activities commensurate with  
9 the impacts of such development and the corresponding benefit  
10 to the public, ~~and~~ consistent with constitutional limitations.
- 11 [11B-6:](#) Develop and manage public access to prevent adverse impacts to  
12 adjacent private shoreline properties and developments.
- 13 ~~23.20.040 Recreation:~~
- 14 The recreation element provides for the preservation and expansion of water-oriented  
15 recreational opportunities that facilitate the public’s ability to enjoy the physical and  
16 aesthetic qualities of the shoreline through parks, public access to tidelands and  
17 beaches, bicycle and pedestrian paths, viewpoints, and other recreational amenities.
- 18 ~~Goal 11C:A:~~ **Goal. To provide opportunities and space for diverse**  
19 **forms of water-oriented recreation.**
- 20 ~~B.~~ Objectives:-
- 21
- 22 [11C-1:](#) Locate, develop, manage, and maintain recreation areas in a  
23 manner that protects shoreline ecological functions and  
24 processes.
- 25 [11C-2:](#) Provide a balanced choice of water-oriented public recreational  
26 opportunities regionally. Ensure that shoreline recreation facilities  
27 serve projected County growth in accordance with the level of  
28 service standards established in the ~~Whatcom County~~  
29 Comprehensive Plan and related goals and policies; ~~the~~  
30 Comprehensive Park and Recreation Open Space Plan; ~~the~~  
31 Whatcom County Bicycle Plan; ~~and~~ the Natural Heritage Plan.
- 32 [11C-3:](#) Acquire additional recreation ~~areas~~ and public access areas with  
33 a high recreation value prior to demand to assure that sufficient  
34 shoreline recreation opportunities are available to serve future  
35 recreational needs.
- 36 [11C-4:](#) Encourage cooperation among public agencies, nonprofit groups,  
37 ~~and~~ private landowners, and developers to increase and diversify  
38 recreational opportunities through a variety of means including  
39 incorporating water-oriented recreational opportunities into  
40 mixed use developments and other innovative techniques.

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1	<a href="#">11C-5:</a>	Recognize and protect the interest of all people of the state by
2		providing increased recreational opportunities within shorelines of
3		statewide significance and associated shorelands.
4	<a href="#">11C-6:</a>	Encourage private and public investment in recreation facilities.
5	<a href="#">11C-7:</a>	Locate, design, and operate recreational development in a
6		manner that minimizes adverse effects on adjacent properties as
7		well as other social, recreational, or economic activities.
8	<b><del>23-20-050-Transportation and Essential Public Facilities-</del></b>	
9	The transportation and essential public facilities element provides for the general	
10	location and extent of existing and proposed public thoroughfares, transportation	
11	routes, terminals, and other public utilities and facilities.	
12	<b><del>Goal 11D:A:</del></b>	<b><del>Goal. To p</del>Provide transportation systems and essential</b>
13		<b>public facilities in shoreline areas without adverse effects</b>
14		<b>on existing shoreline use and development or shoreline</b>
15		<b>ecological functions and/or processes.</b>
16	<b>B.</b>	Objectives:
17	<a href="#">11D-1:</a>	Locate, develop, manage, and maintain transportation systems
18		and essential public facilities in a manner that protects shoreline
19		ecological functions and processes. Minimize and mitigate
20		unavoidable impacts.
21	<a href="#">11D-2:</a>	Locate and design transportation systems and essential public
22		facilities to be harmonious with the existing and future economic
23		and social needs of the community.
24	<a href="#">11D-3:</a>	Discourage the development of non-water-dependent
25		transportation systems and essential public facilities unless no
26		feasible alternatives exist. Devote roads within the shoreline
27		jurisdiction to low volume local access routes and shoreline public
28		access where feasible.
29	<a href="#">11D-4:</a>	When appropriate, require <del>adequate</del> - <del>appropriate</del> compensation
30		where transportation systems and essential public facilities
31		reduce the benefits people derive from their property.
32	<a href="#">11D-5:</a>	Provide for alternate modes of travel, encourage freedom of
33		choice among travel modes, and provide multiple use
34		transportation corridors where compatible in association with
35		shoreline transportation development.
36	<a href="#">11D-6:</a>	Require transportation system and essential public facility
37		development in shoreline areas to protect and enhance physical
38		and visual shoreline public access.

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~~23-20-060~~ **Shoreline Use:**

The shoreline use element ~~considers~~ prioritizes the use and development of shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, forestry, natural resources, recreation, education, public institutions, utilities, and other categories of public and private land use with respect to the type, general distribution, location, and extent of such uses and developments.

~~Goal 11E:A:~~ **Goal: To preserve and develop shorelines in a manner that allows for an orderly balance of uses.**

~~B:~~ Objectives:

11E-1: Give preference to water-dependent and single-family residential uses that are consistent with preservation of shoreline ecological functions and processes. Give secondary preference to water-related and water-enjoyment uses. Allow non-water-oriented uses only when substantial public benefit is provided with respect to the goals of the SMAAct for public access and ecological restoration.

11E-2: Designate and maintain appropriate areas for protecting and restoring shoreline ecological functions and processes to control pollution and prevent damage to the shoreline environment and/or public health.

11E-3: Ensure shoreline uses are consistent with the Whatcom County Comprehensive Plan.

11E-4: Balance the location, design, and management of shoreline uses throughout the County to prevent a net loss of shoreline ecological functions and processes over time.

11E-5: Encourage mixed use developments that include and support water-oriented uses and provide a substantial public benefit consistent with the public access and ecological restoration goals and policies of the SMAAct.

11E-6: Encourage shoreline uses and development that enhance shoreline ecological functions and/or processes or employ innovative features that further the purposes of the SMP ~~this program~~.

11E-7: Encourage shoreline uses and development that enhance and/or increase public access to the shoreline.

~~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.

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1 **Goal 11F:A:** ~~Goal. To~~ **Conserve shoreline resources and important**  
2 **shoreline features, and protect shoreline ecological**  
3 **functions and the processes that sustain them to the**  
4 **maximum extent practicable.**

5 **B.** Objectives:-

6 **11F-1:** ~~Develop~~ **Maintain** regulations and mitigation standards that  
7 ensure new shoreline developments prevent a net loss of  
8 shoreline ecological functions and processes. Implement such  
9 regulations and standards in a manner consistent with all relevant  
10 constitutional and other legal limitations on the regulation of  
11 private property.

12 **11F-2:** Protect critical areas in accordance with ~~the policies and~~  
13 ~~regulations in the County's critical areas regulations~~ (WCC  
14 Chapter 16.16), ~~as adopted by reference in the SMP.~~

15 **11F-3:** Manage renewable natural resources on a sustained yield basis.  
16 Extract nonrenewable natural resources in a manner that  
17 maintains the quality of other resources and shoreline ecological  
18 functions and processes.

19 **11F-4:** Prioritize protection and/or conservation of shoreline areas that  
20 are ecologically intact and minimally developed or degraded.

21 ~~23.20.080~~ **Archaeological, historical and Cultural Resources**

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

Commented [CES7]: DAHP definition.

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

35 **B.** Objectives:-

36 **11G-1:** Protect cultural resources sites in collaboration with appropriate  
37 tribal, state, federal, and local governments.

38 **11G-2** Engage in and encourage public agencies and private parties to  
39 cooperate in the identification, protection and management of  
40 cultural resources.

41 **11G-3:** Consult with the Washington State Department of Archaeology  
42 and Historic Preservation (DAHP) and affected Native American

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1 ~~tribes when developing local policies and regulations for~~  
2 ~~identifying, protecting, and preserving cultural resources.~~

3 **11G-4:** Where appropriate, restore unique resources that have cultural,  
4 archaeological, historic, educational, or scientific value or  
5 significance to further enhance the value of the shorelines.

6 **11G-5:** Where appropriate, provide access to cultural resources in a  
7 manner that is culturally sensitive and does not degrade the  
8 resource or impact the quality of the environment, ~~make access~~  
9 ~~to such sites available to parties of interest; provided, that access~~  
10 ~~to such sites must be designed and managed in a manner that~~  
11 ~~gives maximum protection to the resource.~~

12 **11G-3:** Provide opportunities for education related to archaeological,  
13 historical, and cultural features where appropriate and  
14 incorporated into public and private programs and development.

15 ~~23-20-090~~ **Views and Aesthetics**

16 This element provides for preservation and/or protection of scenic vistas, views of  
17 the water, and other aesthetic qualities of shorelines for public enjoyment.

18 **Goal 11H:A:** ~~Goal. To~~ **Assure that the public's ability and opportunity**  
19 **to enjoy shoreline views and aesthetics is protected.**

20 **B.** Objectives:-

21 **11H-1:** Identify and protect areas with scenic vistas and areas where the  
22 shoreline has high aesthetic value.

23 **11H-2:** Design development to minimize adverse impacts on views from  
24 public property or views enjoyed by a substantial number of  
25 residences.

26 ~~23-20-100~~ **Restoration and Enhancement**

27 This element provides for the timely restoration and enhancement of ecologically  
28 impaired areas in a manner that achieves a net gain in shoreline ecological functions  
29 and processes above baseline conditions set as of the date of adoption of the  
30 comprehensive SMP update, February 27, 2007 ~~as of the adoption of this program.~~

31 **Goal 11I:A:** ~~Goal. To~~ **Reestablish, rehabilitate and/or otherwise**  
32 **improve impaired shoreline ecological functions and/or**  
33 **processes through voluntary and incentive-based public**  
34 **and private programs and actions that are consistent with**  
35 **the Shoreline Management Program Restoration Plan**  
36 **(County Resolution 2007-011) and other approved**  
37 **restoration plans.**

38 **B.** Objectives:-

39 **11I-1:** Encourage and facilitate cooperative restoration and  
40 enhancement programs between local, state, and federal public

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

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- 1 agencies, tribes, nonprofit organizations, and landowners to  
2 address shorelines with impaired ecological functions and/or  
3 processes.
- 4 111-2: Restore and enhance shoreline ecological functions, ~~and~~  
5 processes, ~~and as well as shoreline~~ features through voluntary  
6 and incentive-based public and private programs, ~~such as the~~  
7 ~~Shore Friendly Program developed by the Washington State~~  
8 ~~Department of Fish and Wildlife, Washington State Department of~~  
9 ~~Natural Resources, and the Environmental Protection Agency.~~
- 10 111-3: Target restoration and enhancement towards improving habitat  
11 requirements of priority and/or locally important wildlife species.
- 12 111-4: Ensure restoration and enhancement is consistent with and,  
13 where practicable, prioritized based on the biological recovery  
14 goals for early Chinook and bull trout populations and other  
15 species and/or populations for which a recovery plan is available.
- 16 111-5: Integrate restoration and enhancement with other parallel natural  
17 resource management efforts such as the WRIA 1 Salmonid  
18 Recovery Plan, Drayton Harbor and Portage Bay Shellfish  
19 Protection District Plans, WRIA 1 Watershed Management Plan,  
20 ~~Whatcom County Comprehensive Plan,~~ and the Puget Sound  
21 Salmon Recovery Draft Plan.

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

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

~~23.30.022 Shoreline area designations:~~

- 26 ~~A-~~ A set of 10 shoreline area designations has been developed as a part of ~~the SMP~~  
27 ~~program~~. The purpose of the shoreline area designations is to provide a systematic,  
28 rational, and equitable basis upon which to guide and regulate development within  
29 specific shoreline reaches.
- 30 ~~B-~~ Shoreline area designations have been determined after consideration of:
- 31 1. The ecological functions and processes that characterize the shoreline,  
32 together with the degree of human alteration; ~~and~~
  - 33 2. Existing development patterns together with WCC Title 20, Zoning,  
34 designations, the ~~County~~-Comprehensive Plan designations, and other officially  
35 adopted plans; ~~and~~
  - 36 3. Federal and tribal ownership status; ~~and~~
  - 37 4. The goals of Whatcom County citizens for their shorelines; ~~and~~
  - 38 5. Pursuant to RCW 90.58.100(4), in designating state-owned shorelines,  
39 consideration has been given to public demand for wilderness beaches,  
40 ecological study areas, and other recreational activities; ~~and~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. They support or retain important shoreline ecological functions and/or processes, even though partially developed.

**Commented [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 B. They have the potential for development at an intensity and character that is  
2 compatible with preserving and restoring ecological functions. They are  
3 generally not designated for high intensity residential use, commercial use, or  
4 industrial use.

5 C. They are characterized by critical areas or ~~indicate~~ the presence of other  
6 valuable or sensitive ecological resources.

7 ~~23.30.053 Urban conservancy shoreline area~~ — **Policies**

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

10 ~~Policy 11L-1:A-~~ Primary permitted uses should consist of low intensity residential  
11 uses or other low intensity uses that preserve the natural  
12 character of the area or promote preservation of open space and  
13 critical areas.

14 ~~Policy 11L-2:B-~~ Moderate to high intensity residential use may be permitted if the  
15 proposed uses and design result in substantial open space, public  
16 access and/or restoration of shoreline ecological functions and/or  
17 processes, and if compatible with surrounding uses.

18 ~~Policy 11L-3:C-~~ Public access and public recreation facilities are a preferred use if  
19 they will not cause substantial ecological impacts and when  
20 restoration of ecological functions is incorporated.

21 ~~Policy 11L-4:D-~~ Low intensity commercial uses may be permitted if the specific  
22 uses and design result in substantial open space, public access,  
23 and/or restoration of ecological functions, and if compatible with  
24 surrounding uses.

25 ~~23.30.060 Shoreline Residential Area~~

26 ~~23.30.061 Shoreline residential area~~ — **Purpose**

27 The shoreline residential shoreline area accommodates residential development and  
28 accessory structures that are consistent with this chapter.

29 ~~23.30.062 Shoreline residential area~~ — **Designation Criteria**

30 The shoreline residential shoreline area is applied to shorelines if they have been  
31 predominantly developed with single-family or multifamily residential uses or are  
32 planned and platted for residential development. The designation is generally applied  
33 to residential densities of greater than one unit per acre.

34 ~~23.30.063 Shoreline residential area~~ — **Policies**

35 Development within shoreline residential shoreline areas shall be consistent with the  
36 following policies:

37 ~~Policy 11M-1:A-~~ The scale and density of new uses and development should be  
38 compatible with, and protect or enhance, the existing residential

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1 character of the area while sustaining shoreline ecological  
2 functions and processes.

3 ~~Policy 11M-2-B:~~

4 Public or private outdoor recreation facilities should be  
5 encouraged if compatible with the character of the area. Preferred  
6 uses include water-dependent and water-enjoyment recreation  
7 facilities that provide opportunities for substantial numbers of  
people to access and enjoy the shoreline.

8 ~~Policy 11M-3-C:~~

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

15 ~~23.30.070 Rural Shoreline Area~~

16 ~~23.30.071 Rural shoreline area — Purpose~~

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

23 ~~23.30.072 Rural shoreline area — Designation Criteria~~

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

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

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1 E. Where low intensity outdoor recreation use or development would be  
2 appropriate and compatible with other uses and the physical environment.

3 F. Where the shoreline has been developed with low intensity water-dependent  
4 uses.

5 ~~23.30.073 Rural shoreline area~~ — **Policies**

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

8 ~~Policy 11N-1:A-~~ Uses in rural areas should protect or enhance the rural character  
9 of the shoreline and sustain the shoreline ecological functions and  
10 processes by limiting building density and height, and providing  
11 effective setbacks, buffers, and open space.

12 ~~Policy 11N-2:B-~~ Residential development consistent with the rural character of the  
13 area is permitted, provided it includes measures to protect  
14 ecological functions and processes. Related uses consistent with  
15 the rural character of the area are permitted.

16 ~~Policy 11N-3:C-~~ Public or private outdoor recreation facilities should be  
17 encouraged if compatible with the rural character of the area and  
18 developed in a manner that maintains shoreline ecological  
19 functions and processes. Preferred uses include water-oriented  
20 recreation facilities that do not deplete shoreline resources over  
21 time, such as boating facilities, angling, wildlife viewing trails, and  
22 swimming beaches.

23 ~~Policy 11N-4:D-~~ Industrial or commercial development should be limited to,  
24 water-oriented commercial and industrial uses in the limited  
25 locations where such uses have been established or at sites in  
26 rural communities that possess appropriate shoreline conditions  
27 and services sufficient to support such developments. Non-water-  
28 dependent uses should only be allowed when they provide a  
29 substantial benefit with respect to the goals and policies of the  
30 ~~SMP~~this program, such as providing public access and/or  
31 restoring degraded shorelines.

32 ~~Policy 11N-5:E-~~ Agriculture and forestry consistent with rural character and the  
33 maintenance of shoreline ecological functions and processes  
34 should be encouraged.

35 ~~23.30.080 Resource Shoreline Area~~

36 ~~23.30.081 Resource shoreline area~~ — **Purpose**

37 The purpose of the resource shoreline area is to protect shoreline ecological functions  
38 and processes in areas designated in the ~~Whatcom County~~ Comprehensive Plan as  
39 agriculture ~~resource lands, rural forestry, commercial~~ forestry, and mineral resource  
40 lands and to protect the economic base of those lands and limit incompatible uses.

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

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

~~23.30.083 Resource shoreline area~~ — **Policies**

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

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

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

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

~~23.30.090 Conservancy Shoreline Area~~

~~23.30.091 Conservancy shoreline area~~ — **Purpose**

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

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

~~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:

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

17 ~~23.30.093 Conservancy shoreline area~~ **Policies**

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

20 ~~Policy 11P-1:A-~~ Natural ecological processes should be protected and renewable  
21 resources managed so that ecological functions and the resource  
22 base are maintained. Nonrenewable resources should only be  
23 consumed in a manner compatible with conservation of other  
24 resources and other appropriate uses.

25 ~~Policy 11P-2:B-~~ Permitted uses should be limited to those compatible with each  
26 other and with conservation of shoreline ecological processes and  
27 resources.

28 ~~Policy 11P-3:C-~~ Shorelines should be protected from ~~harmful~~ concentrations of  
29 people, livestock, buildings, or structures that would adversely  
30 impact shoreline ecological functions and processes.

31 ~~Policy 11P-4:D-~~ Opportunities for ecological restoration should be pursued,  
32 prioritizing those areas with the greatest potential to restore  
33 ecosystem-wide processes and functions.

34 ~~Policy 11P-5:E-~~ Outstanding recreational or scenic values should be protected  
35 from incompatible development.

Commented [AP13]: Revised for clarity and usability.

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

**~~23.30.101~~ Natural shoreline area – Purpose**

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

**~~23.30.102~~ Natural shoreline area – Designation Criteria**

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

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

**~~23.30.103~~ Natural shoreline area – Policies**

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

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

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

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- 1 provided, that no significant ecological impact on the area will  
2 result.
- 3 ~~Policy 11Q-3:G-~~ 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 the  
6 use does not expand or alter practices in a manner inconsistent  
7 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 located  
14 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 mark.
- 19 ~~23.30.112 Aquatic shoreline area – Designation Criteria~~
- 20 The aquatic shoreline area is defined as the area waterward of the ordinary high  
21 water mark of all streams, rivers, ~~lakes, and~~ marine water-bodies, ~~and lakes,~~  
22 constituting shorelines of the state together with their underlying lands and their  
23 water column.
- 24 ~~23.30.113 Aquatic shoreline area – Policies~~
- 25 Development within aquatic shoreline areas shall be consistent with the following  
26 policies:
- 27 ~~Policy 11R-1:A-~~ New over-water structures should only be permitted for water-  
28 dependent uses, public access, or ecological restoration. The size  
29 of new over-water structures should be limited to the minimum  
30 necessary to support the structure’s intended use. In order to  
31 reduce the impacts of shoreline development and increase  
32 effective use of water resources, multiple use of over-water  
33 facilities should be encouraged.
- 34 ~~Policy 11R-2:B-~~ All developments and uses on navigable waters or their beds  
35 should be located and designed to minimize interference with  
36 surface navigation, to consider impacts to public views, and to  
37 allow for the safe, unobstructed passage of fish and wildlife,  
38 particularly those species dependent on migration.
- 39 ~~Policy 11R-3:C-~~ Uses that adversely impact the ecological functions of critical  
40 saltwater and freshwater habitats should not be permitted except

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1 where necessary to achieve the objectives of RCW 90.58.020, and  
2 then only when all potential impacts are mitigated as necessary  
3 to assure maintenance of shoreline ecological functions and  
4 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 spawning  
12 habitat and other key habitat characteristics that warrant special consideration due  
13 to their importance to regional fisheries and other elements of the aquatic  
14 environment. The purpose of the Cherry Point management area is to provide a  
15 regulatory framework that recognizes and balances the special port, industrial, and  
16 natural resource needs associated with the development of this marine resource.

**Commented [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.

17 **Designation Criteria**

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

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

25 **Policies**

26 The policies applicable to the Cherry Point Management Area are found in the  
27 Shoreline Use and Modifications Policies section of this chapter; applicable  
28 regulations and standards, etc., applicable to the Cherry Point management area  
29 are found in WCC Title 23.400.170, except as otherwise specified therein.

30 **Shorelines of Statewide Significance**

31 ~~23.40.010~~ **Adoption of policy.**

32 In accordance with RCW 90.58.020, the following management and administrative  
33 policies are hereby adopted for all shorelines of statewide significance in  
34 unincorporated Whatcom County, as defined in RCW 90.58.030(2)(e) and identified  
35 in WCC 23.2.060-40-020. Consistent with the policy contained in RCW 90.58.020,  
36 preference shall be given to the uses that are consistent with the statewide interest  
37 in such shorelines. In the following order or preference, these are uses that:

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

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

**Commented [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 shorelines
- 7 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 protected  
11 over local interests, the County shall review all development proposals within  
12 shorelines of statewide significance for consistency with RCW 90.58.030 and the  
13 following policies:

14 Policy 11-1:A.       Redevelopment of shorelines should be encouraged where it  
15 restores or enhances shoreline ecological functions and processes  
16 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 ~~23.40.110~~~~23.90.110~~ 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 non-  
25 consuming basis and that are compatible with other appropriate  
26 uses should be given priority over uses not meeting these criteria.

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

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

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

38 Policy 11S-8:H-       Resources and ecological systems of shorelines of statewide  
39 significance should be protected. Shorelands and submerged  
40 lands should be protected to accommodate current and projected

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1 demand for economic resources of statewide importance, such as  
2 commercial shellfish beds.

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

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

6 Policy 11S-9: Erosion and sedimentation from development sites should be  
7 controlled to minimize adverse impacts on ecosystem processes.  
8 If site conditions preclude effective erosion and sediment control,  
9 excavations, land clearing, or other activities likely to result in  
10 significant erosion should be severely limited.

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

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

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

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

24 **Chapter 23.90 General Policies and Regulations**

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

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

27 **23.90.020 Land Use**

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

30 A. Policies:

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

Commented [CES20]: Moved to Shoreline Stabilization section at P/C's request, as it's a separate concept from the 1<sup>st</sup> sentence.

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- 1 [Policy 11T-2:](#) Shoreline uses that are water-dependent or water-related should  
2 be given preference (RCW 90.58.020). Such uses should be  
3 located, designed, and maintained in a manner that minimizes  
4 adverse impacts to shoreline ecological functions and/or  
5 processes. Non-water-oriented development may be allowed;  
6 provided, that existing water-dependent uses are not displaced  
7 and the future supply of sites for water-dependent or water-  
8 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 manner  
16 that prevents or mitigates adverse impacts so that the resulting  
17 ecological condition does not become worse than the current  
18 condition. This means assuring no net loss of ecological functions  
19 and processes and protecting critical areas designated in WCC  
20 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 conducted  
23 to minimize, insofar as practical, any resultant damage to the  
24 ecology and environment (RCW 90.58.020). Shoreline ecological  
25 functions that should be protected include, but are not limited to,  
26 fish and wildlife habitat, food chain support, and water  
27 temperature maintenance. Shoreline processes that should be  
28 protected include, but are not limited to, water flow; littoral drift;  
29 erosion and accretion; infiltration; ground water recharge and  
30 discharge; sediment delivery, transport, and storage; large  
31 woody debris recruitment; organic matter input; nutrient and  
32 pathogen removal; and stream channel formation/maintenance.

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

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

**Commented [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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1 Policy 11X-1: Where new developments and/or uses are proposed, native  
2 shoreline vegetation should be conserved to maintain shoreline  
3 ecological functions and/or processes and mitigate the direct,  
4 indirect and/or cumulative impacts of shoreline development,  
5 wherever feasible.

6 ~~Important functions of shoreline vegetation include, but are not limited to:~~

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

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

10 ~~Providing organic inputs necessary for aquatic life, including~~  
11 ~~providing food in the form of various insects and other benthic~~  
12 ~~macroinvertebrates.~~

13 ~~Stabilizing banks, minimizing erosion and sedimentation, and~~  
14 ~~reducing the occurrence/severity of landslides.~~

15 ~~Reducing fine sediment input into the aquatic environment by~~  
16 ~~minimizing erosion, aiding infiltration, and retaining runoff.~~

17 ~~Improving water quality through filtration and vegetative uptake~~  
18 ~~of nutrients and pollutants.~~

19 ~~Providing a source of large woody debris to moderate flows,~~  
20 ~~create hydraulic roughness, form pools, and increase aquatic~~  
21 ~~diversity for salmonids and other species.~~

22 ~~Providing habitat for wildlife, including connectivity for travel and~~  
23 ~~migration corridors.~~

Commented [MD22]: Importance of veg has been established; don't need to repeat in a policy.

24 ~~23.90.070~~ **Archaeological, Historic and Cultural Resources**

25 ~~The following policies apply to cultural resources that are (a) listed on the national,~~  
26 ~~state, or local registers of historic places; (b) recorded by the Washington State~~  
27 ~~Department of Archaeology and Historic Preservation (DAHP), a Native American~~  
28 ~~tribe, and/or a local jurisdiction; or (c) undiscovered, inadvertently uncovered , or~~  
29 ~~yet unrecorded.~~

30 ~~Archaeological sites located in (as well as outside of) shoreline jurisdiction are subject~~  
31 ~~to RCW Chapter 27.44 (Indian graves and records) and RCW Chapter 27.53~~  
32 ~~(Archaeological sites and records). Shoreline uses or development that may impact~~  
33 ~~such sites shall comply with WAC Chapter 25-48 as well as the provisions of this~~  
34 ~~Shoreline Master Program.~~

35 ~~Pursuant to RCW 27.53.070, information and documents pertaining to the location of~~  
36 ~~archaeological sites or resources are confidential and not considered public records~~  
37 ~~that require disclosure.~~

38 ~~A. Policies:~~

39 Policy 11X-1: The County should work with tribal, state, federal, and local  
40 governments as appropriate to maintain an inventory of all known

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- 1 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 ~~historic,~~  
8 cultural ~~and archaeological sites~~ resource preservation, restoration,  
9 and education with open space or recreation areas whenever  
10 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 Tribe,  
18 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 site d~~Development on sites  
27 containing cultural resources should be planned and carried out  
28 so as to prevent impacts to the resource. Impacts to neighboring  
29 properties and other shore uses should be limited to temporary  
30 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 American  
41 tribes as appropriate in implementing the cultural ~~archaeological,~~  
42 ~~and historic resources~~ goals, objectives, policies, and regulations  
43 of this ~~program SMP~~.

Commented [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.

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

24 ~~23.96.080~~ **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, and/or  
32 would impair existing legal access opportunities or rights. ~~Public~~  
33 ~~health and safety concerns should also be adequately addressed~~  
34 ~~and maintenance of shoreline ecological functions and/or~~  
35 ~~processes should be assured.~~ As required by the governing  
36 principles, all such conditions should be consistent with all  
37 relevant constitutional and other legal limitations on regulation of  
38 private property.

**Commented [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 parties  
6 including but not limited to the land-owner and the public.
- 7 [Policy 11Y-6:](#) Public access design should provide for public safety and minimize  
8 potential impacts to private property, individual privacy, and  
9 shoreline ecological functions and processes.
- 10
- 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 directs  
20 land alteration to the least sensitive portions of the site to  
21 maximize vegetation conservation; minimize impervious surfaces  
22 and runoff; protect riparian, nearshore and wetland habitats;  
23 protect wildlife and habitats; protect archaeological, historic, and  
24 cultural resources; and preserve aesthetic values. This may be  
25 accomplished by minimizing the project footprint, the use of  
26 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

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1 buildings or areas, access roads, utilities, signs, and storage of  
2 materials should be located inland away from the land/water  
3 interface and landward of water-oriented developments and/or  
4 other approved uses.

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

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

**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.

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

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

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

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

**Commented [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.*

**Commented [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 that  
4 accounts for increased sea level rise and storm surge, and the  
5 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 of  
27 the shoreline consistent with the purpose of the shoreline area  
28 designation.

29 ~~23.100.030~~ **Agriculture**

30 ~~A. Policies:~~

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

38 Policy 11BB-2: Agricultural uses and development in support of agricultural uses  
39 should be conducted in such a manner as to assure no net loss of  
40 shoreline ecological functions and processes and avoid substantial  
41 adverse impacts on other shoreline resources and 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 subsection  
17 and the regulations in of this section, WCC Chapter Title 23.100  
18 WCC; provided, that potential impacts on existing uses and  
19 shoreline ecological functions and processes should be given due  
20 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, or~~  
25 no structures are preferred over those that involve substantial  
26 floating structures. Projects that involve little or no substrate  
27 modification are preferred over those that involve substantial  
28 modification. Projects that involve little or no supplemental food  
29 sources, pesticides, herbicides, or antibiotic application are  
30 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

**Commented [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 species  
3 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 regarding  
8 potential adverse impacts. Comments of nearby residents or  
9 property owners directly affected by a proposal should be  
10 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 navigation;  
20 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 to~~  
33 ~~the following policies. Decks, moorage structures serving four or fewer single-family~~  
34 ~~residences users are only subject to the policies in Moorage Structures – Decks, Piers,~~  
35 ~~and Mooring Buoys.~~

36 ~~A. Policies:~~

37 [Policy 11DD-1:](#) Boating facilities, including marinas and launch ramps, are water-  
38 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 be  
42 identified and reserved to prevent irreversible commitment for  
43 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 should  
4 be coordinated with park and recreation plans and, where  
5 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, port  
8 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 recreational  
31 shellfish beds; mudflats, intertidal habitats with vascular plants;  
32 and areas with which priority species have a primary association.
- 33 [Policy 11DD-7:](#) Boating facilities should be located and designed to avoid adverse  
34 effects upon coastal, riverine, and nearshore processes such as  
35 erosion, littoral or riparian transport, and accretion, and should,  
36 where feasible, enhance degraded, scarce, and/or valuable shore  
37 features including accretion shoreforms.
- 38 [Policy 11DD-8:](#) Launch ramps are preferred over marinas on accretion shores  
39 because associated impacts are often reversible and such  
40 structures will not normally interfere with littoral drift and  
41 accretion unless offshore defense structures or dredging are also  
42 required.
- 43 [Policy 11DD-9:](#) Nonregulatory methods to protect, enhance, and restore  
44 shoreline ecological functions and processes and other shoreline

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

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

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

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

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

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

19 ~~23.100.060~~ **Commercial Use**

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

22 ~~A. Policies:~~

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

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

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

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

35 ~~23.100.070~~ **Dredging**

36 ~~A. Policies:~~

37 Policy 11FF-1: Dredging should be permitted for water-dependent uses of  
38 economic importance to the region and/or essential public  
39 facilities only when necessary and when alternatives are  
40 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 primarily  
16 on natural processes, and involve ~~land owners~~~~landowners~~  
17 and applicable local, state, and federal agencies and tribes, should be  
18 pursued to prevent or minimize conditions which make dredging  
19 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, including  
24 subdivision of land, that would likely require structural flood  
25 ~~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 term,  
30 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-4d:](#) 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.

~~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 the state.

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

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- 1 Existing, officially designated State Harbor Areas should be used  
2 for new port development to the maximum extent whenever  
3 possible.
- 4 [Policy 11III-4:](#) Multiple use of industrial and port facilities is encouraged to limit  
5 duplicative facilities and reduce adverse impacts. Multiple use  
6 should be implemented in the following manner:
- 7 a. Cooperative use of piers, cargo handling, storage, parking and  
8 other accessory facilities among private or public entities  
9 should be required in industrial or port facilities whenever  
10 feasible. New facilities for water-dependent uses should be  
11 allowed only after assessment of the potential for shared use  
12 of existing facilities.
- 13 b. Industrial and port developments should provide opportunities  
14 for physical and/or visual public shoreline access in  
15 accordance with the public access policies, including  
16 recreational use of undeveloped shorelines not needed for port  
17 or industry operations; provided, that such uses are safely  
18 compatible with facility operations.
- 19 [Policy 11III-5:](#) Industrial and port development in the shoreline should be  
20 located and designed to avoid significant adverse impacts to other  
21 shoreline uses, resources, and values, including shoreline  
22 geomorphic processes, water quality, fish and wildlife habitat,  
23 commercial aquaculture, and the aquatic food chain.
- 24 [Policy 11III-6:](#) Restoration of impaired shoreline ecological functions and  
25 processes should be encouraged as part of industrial and port  
26 development.

27 ~~23.100.210~~ **Cherry Point Management Area**

28 ~~A. Policies:~~

29 ~~Policy 11III-1: Purpose and Intent.~~

- 30 ~~a. The purpose of the Cherry Point management area is to~~  
31 ~~provide a regulatory framework that recognizes and balances~~  
32 ~~the special port, industrial and natural resource needs~~  
33 ~~associated with the development of this marine resource. This~~  
34 ~~subsection and WCC 23.100.21040.125 (Cherry Point~~  
35 ~~Management Area) identifies policies and regulations,~~  
36 ~~respectively, for water-dependent industrial activities that~~  
37 ~~apply in addition to specific other elements of the SMP this~~  
38 ~~program as referenced herein.~~
- 39 ~~b. Washington State natural resource agencies and Whatcom~~  
40 ~~County have identified certain portions of the Cherry Point~~  
41 ~~management area as providing herring spawning habitat and~~  
42 ~~other key habitat characteristics that warrant special~~

Commented [CES31]: These policies amended per Council's pending draft fossil fuel amendments.

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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.

**Commented [CES32]:** Moved to the Shoreline Environment Designations, CPMA section, as they address the purpose of this environment designation.

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~~c. Whatcom County should consider participation with local, state, and federal agencies, tribal governments and other stakeholders in the development of a plan to address integrated management of the uplands and public aquatic lands within the Cherry Point management area. The development of such a plan could provide a forum and process for addressing aquatic resources by all stakeholders. Elements of the plan could be adopted as future amendments to this program as appropriate.~~

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

**Commented [P/C33]:** P/C Motion to change. Passes 7-0-1-1

~~All development that is to be located within the Cherry Point Management Area, as defined identified in WCC 23.20.020(E) Chapter 23.110 WCC, shall be subject to the policies in this subsection and the regulations found in WCC 23.40.125 23.100.210. Development that is to be located within the Cherry Point Management Area this section, and shall not be subject to the General Policies of this chapter, the Shoreline Use and Modification Policies of this chapter, except for those in the Cherry Point Management Area subsection, policies and the regulations found in WCC Chapter 23.930 and WCC Chapter 23.40.23.100.010 through 23.100.160 except WCC 23.40.125, nor Chapter 23.90 WCC, unless otherwise referenced in this subsection. The policies and regulations found in this subsection are applicable only within the geographic boundaries of the Cherry Point management area and do not apply elsewhere in the County. In the event that the provisions of this subsection conflict with other applicable referenced provisions of the SMP this program, the policies and regulations that are most protective of shoreline resources shall prevail.~~

**Commented [P/C34]:** 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.

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

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

Policy 11JJ-4: Public Access.

a. Where appropriate, industrial and port development within the Cherry Point management area should provide public beach and shoreline access in a manner that does not cause

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- 1 interference with facility operations or present hazards to life  
2 and property. This may be accomplished through individual  
3 action or by joint, coordinated action with other developers  
4 and landowners, for example, by setting aside a common  
5 public access area.
- 6 b. Special emphasis should be given to providing public beach  
7 and shoreline access for recreational opportunities including  
8 but not limited to crabbing, small craft launching, surf fishing,  
9 picnicking, clamming, and beach walking.
- 10 c. Public access within the Cherry Point management area should  
11 be consistent with the Whatcom County Parks and Recreation  
12 Open Space Plan.
- 13 [Policy 11JJ-5:](#) Shoreline Ecological Functions and Processes. In recognition of  
14 the diverse and vital ecological resources in the Cherry Point  
15 management area, consideration of probable effects of all  
16 development proposals on shoreline ecological functions and  
17 processes should be assessed with the other long-term statewide  
18 interests. New port development that requires dredge and fill  
19 should not be permitted in the Cherry Point management area  
20 due to potential adverse effects on ecological functions, including  
21 fish and shellfish habitat and geohydraulic processes.
- 22 [Policy 11JJ-6:](#) Aesthetics. All development should be designed to avoid or  
23 minimize negative visual impacts on the scenic character of the  
24 area and to ensure visual compatibility with adjacent  
25 nonindustrial zoned properties.
- 26 [Policy 11JJ-7:](#) Site Development. All development should be constructed and  
27 operated in a manner that, while permitting water-dependent  
28 uses, also protects shoreline resources, their ecological functions  
29 and processes, and that incorporates the following:
- 30 a. Low impact development approaches to avoid or minimize  
31 adverse impact to topography, vegetation, water quality, fish  
32 and wildlife habitat, and other natural site conditions;
- 33 b. Adequate temporary and permanent management measures  
34 to control erosion and sediment impacts during construction  
35 and operation; and
- 36 c. Adequate stormwater management facilities.
- 37 ~~23.100.110~~ **Landfill and Excavation**
- 38 ~~A. Policies:~~
- 39 [Policy 11KK-1:](#) Landfill and excavation should only be permitted to the minimum  
40 extent necessary to accommodate an approved shoreline use or  
41 development and with assurance of no net loss of shoreline

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

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- 1 a. Fish habitat, upland habitat and water quality will not be  
2 significantly impacted; and  
3 b. The operation will not adversely affect geohydraulic processes,  
4 channel alignment, nor increase bank erosion or flood  
5 damages.

6 Policy 11LL-7: Mining operations should be located, designed, and managed so  
7 that other appropriate uses are not subjected to substantial or  
8 unnecessary adverse impacts from noise, dust, or other effects of  
9 the operation. The operator may be required to implement  
10 measures such as buffers, limited hours, or other mitigating  
11 measures for the purpose of minimizing adverse proximity  
12 impacts.

13 ~~23-100-130~~ **Moorage Structures – Docks, Piers and Mooring Buoys**

14 ~~Moorage including docks, piers and mooring buoys in shoreline areas are subject~~  
15 ~~to the following policies. Shared moorage structures serving with more than four~~  
16 ~~berths users and boat launching facilities are also subject to the policies in Boating~~  
17 ~~facilities – Marinas and Launch Ramps.~~

18 ~~A. Policies:~~

19 Policy 11MM-1: Moorage associated with a single-family residence is considered  
20 a water-dependent use; provided, that it is designed and used as  
21 a facility to access watercraft, and other moorage facilities are  
22 not available or feasible. Moorage for water-related and water-  
23 enjoyment uses or shared moorage for multifamily use should be  
24 allowed as part of a mixed use development or where it provides  
25 public access.

26 Policy 11MM-2: New moorage, excluding docks accessory to single-family  
27 residences, should be permitted only when the applicant/  
28 proponent has demonstrated that a specific need exists to  
29 support the intended water-dependent or public access use.

30 Policy 11MM-3: As an alternative to continued proliferation of individual private  
31 moorage, mooring buoys are preferred over docks or floats.  
32 Shared moorage facilities are preferred over single-user moorage  
33 where feasible, especially where water use conflicts exist or are  
34 predictable. New subdivisions of more than two lots and new  
35 multifamily development of more than two dwelling units should  
36 provide shared moorage.

37 Policy 11MM-4: Docks, piers and mooring buoys, including those accessory to  
38 single-family residences, should avoid locations where they will  
39 adversely impact shoreline ecological functions or processes,  
40 including currents and littoral drift, and critical saltwater habitat  
41 including kelp beds, eelgrass beds, spawning and holding areas  
42 for forage fish (such as herring, surf smelt and sandlance);  
43 subsistence, commercial and recreational shellfish beds;

**Commented [AP35]:** Draft revision per Scoping Document, Item #8c, "Consider ways to improve protections for salmon and forage fish habitat,"

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- 1 mudflats, intertidal habitats with vascular plants; and areas with  
2 which priority species have a primary association.
- 3 Policy 11MM-5: Moorage should be spaced and oriented in a manner that  
4 minimizes hazards and obstructions to public navigation rights  
5 and corollary rights thereto such as, but not limited to, fishing,  
6 swimming, and pleasure boating, as well as private riparian rights  
7 of adjacent land-owners.
- 8 Policy 11MM-6: Moorage should be restricted to the minimum size necessary to  
9 meet the needs of the proposed use. The length, width and  
10 heightsize of piers and docks should be no greater than that  
11 required for safety and practicality for the primary use.
- 12 Policy 11MM-7: Pile supports are preferred over fills because piles do not displace  
13 water surface and intertidal or aquatic habitat and are removable  
14 and thus more flexible in terms of long-term use patterns. Floats  
15 may be less desirable than pile structures where aquatic habitat  
16 or littoral drift are significant.
- 17 Policy 11MM-8: The use of buoys for small craft moorage is preferred over pile or  
18 float structures because of lesser long-term impact on shore  
19 features and users; moorage buoys should be placed as close to  
20 shore as possible to minimize obstruction to navigation.
- 21 Policy 11MM-9: Shoreline resources and water quality should be protected from  
22 overuse by boaters living on vessels (live boards). Boaters living  
23 on vessels are restricted to established marinas with facilities to  
24 address waste handling and other sanitary services.
- 25 Policy 11MM-10: Vessels should be restricted from extended mooring on waters of  
26 the state unless authorization is obtained from the DNR and  
27 impacts to navigation and public access are mitigated.
- 28 Policy 11MM-11: Piers and docks should be constructed of materials that will not  
29 adversely affect water quality or aquatic plants and animals in the  
30 long term.
- 31 Policy 11MM-12: New pier and dock development should be designed so as not to  
32 interfere with lawful public access to or use of shorelines.  
33 Developers of new piers and shared moorage should be  
34 encouraged to provide physical or visual public access to  
35 shorelines whenever safe and compatible with the primary use  
36 and shore features.
- 37 ~~23-100-140~~ **Recreation**
- 38 ~~A. Policies:~~
- 39 Policy 11NN-1: Shoreline recreational development should be given priority for  
40 shoreline location to the extent that the use facilitates the public's  
41 ability to reach, touch, and enjoy the water's edge, to travel on  
42 the waters of the state, and to view the water and the shoreline.

**Commented [AP36]:** 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 Where appropriate, such facilities should be dispersed along the  
2 shoreline in a manner that supports more frequent recreational  
3 access and aesthetic enjoyment of the shoreline for a substantial  
4 number of people.
- 5 Policy 11NN-2: Recreational developments should facilitate appropriate use of  
6 shoreline resources while conserving them. These resources  
7 include, but are not limited to: accretion shoreforms, wetlands,  
8 soils, ground-water, surface water, native plant and animal life,  
9 and shore processes.
- 10 ~~3. Recreational development requiring extensive structures, utilities  
11 and roads and/or substantial modifications of topography or  
12 vegetation removal should not be located or expanded in areas  
13 where damage to persons, property, and/or shoreline functions  
14 and processes is likely to occur.~~
- 15 Policy 11NN-3: Recreational developments and plans should provide the regional  
16 population a varied and balanced choice of recreation experiences  
17 in appropriate locations. Public agencies and private developers  
18 should coordinate their plans and activities to provide a wide  
19 variety of recreational opportunities without needlessly  
20 duplicating facilities.
- 21 Policy 11NN-4: Trail links between shoreline parks and public access points  
22 should be encouraged for walking, horseback or bicycle riding,  
23 and other non-motorized vehicle access where appropriate. The  
24 Whatcom County Comprehensive Park and Recreation Open  
25 Space Plan should be considered in design and approval of public  
26 trail systems.
- 27 Policy 11NN-5: Access to natural character recreational areas, including but not  
28 limited to beaches and fishing streams, should be a combination  
29 of linear shoreline trails or easements and small parking or access  
30 tracts to minimize user concentration on small portions of the  
31 shoreline.
- 32 Policy 11NN-6: Recreation facilities should incorporate public education regarding  
33 shoreline ecological functions and processes, the role of human  
34 actions on the environment, and the importance of public  
35 involvement in shorelines management. Opportunities  
36 incorporating educational and interpretive information should be  
37 pursued in design and operation of recreation facilities and nature  
38 trails.
- 39 Policy 11NN-7: Reasonable physical or visual public access to shorelines should  
40 be provided and integrated with recreational developments in  
41 accordance with WCC ~~23-90-080~~23.30.070 (Public Access).
- 42 Policy 11NN-8: Recreation development should be located only where utility and  
43 road capability ~~is~~are adequate, or may be provided without

Commented [AP37]: Captured in policy #8 below.

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- 1 significant damage to shore features commensurate with the  
2 number and concentration of anticipated users.
- 3 Policy 11NN-9: Cooperative efforts among public and private persons toward the  
4 acquisition and/or development of suitable recreation sites or  
5 facilities should be explored to assure long-term availability of  
6 sufficient public sites to meet local recreation needs.
- 7 ~~23.100.150~~ **Residential**
- 8 ~~A. Policies:~~
- 9 Policy 11OO-1: Single-family residences are designated in Chapter 90.58 RCW as  
10 a priority use in those limited instances when authorization is  
11 given for alterations of the natural condition of shorelines of the  
12 state.
- 13 Policy 11OO-2: New residential development is encouraged to cluster dwelling  
14 units together to reduce physical and visual impacts on shorelines  
15 and to reduce utility and road costs. Planned unit developments  
16 that include common open space and recreation facilities, or a  
17 variety of dwelling sizes and types, are encouraged at suitable  
18 locations as a preferable alternative to extensive single-lot  
19 subdivisions on shorelines. Planned unit developments  
20 (Chapter 20.85 WCC) may also include a limited number of  
21 neighborhood commercial business uses where consistent with  
22 the applicable zoning regulations.
- 23 Policy 11OO-3: Allowable density of new residential development should comply  
24 with applicable Comprehensive Plan goals and policies, zoning  
25 restrictions, and shoreline area designation standards. The  
26 density ~~per acre~~ of development should be appropriate to local  
27 natural and cultural features.
- 28 Policy 11OO-4: Structures or development for uses accessory to residential use  
29 should preserve shoreline open space, be visually and physically  
30 compatible with adjacent cultural and shoreline features, be  
31 reasonable in size and purpose, and result in no net loss of  
32 shoreline ecological functions and processes.
- 33 Policy 11OO-5: Buildings greater than 35 feet above average grade level that will  
34 obstruct the views of a substantial number of residences on areas  
35 adjoining such shorelines are limited by the SMA Act  
36 (RCW 90.58.320) to those cases where ~~the SMP~~this program does  
37 not prohibit such development and then only when overriding  
38 considerations of the public interest will be served. ~~The SMP~~This  
39 program provides opportunities for buildings greater than 35 feet  
40 in height in limited areas where consistent with development  
41 objectives and the goals and policies of this ~~chapter~~program.
- 42 Policy 11OO-6: New residential development should be planned and built ~~in~~  
43 ~~accordance with the policies and regulations in~~

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1 ~~WCC 23.90.030 and~~ to minimize the need for shoreline  
2 stabilization and flood hazard reduction measures.

Commented [MD38]: Deleted for brevity as already required.

3 Policy 11OO-7: Measures to conserve native vegetation along shorelines should  
4 be required for all residential development. Vegetation  
5 conservation may include avoidance or minimization of clearing  
6 or grading, restoration of areas of native vegetation, and/or  
7 control of invasive or nonnative vegetation.

8 Policy 11OO-8: Whenever possible, nonregulatory methods to protect, enhance,  
9 and restore shoreline ecological functions and other shoreline  
10 resources should be encouraged for residential development.  
11 Such methods may include resource management planning, low  
12 impact development techniques, voluntary protection and  
13 enhancement projects, education, or incentive programs.

14 Policy 11OO-9: New multiunit residential development, including subdivision of  
15 land for more than four parcels, should provide substantial shore  
16 ~~space-recreational opportunities for development~~ residents and  
17 the public, unless public access is infeasible due to incompatible  
18 uses, safety, impacts to shoreline ecology, or legal limitations.  
19 Developments of four or fewer units should provide private access  
20 to the shore for those living in the development (non-public).

Commented [CES39]: Amended, as all shoreline development is supposed to provide access, though it need not be public for small developments.

21 Policy 11OO-10: Development should provide open space corridors between  
22 structures, and along site boundaries, so as to provide space for  
23 outdoor recreation, preserve views, and minimize use conflicts.

24 Policy 11OO-11: Recreation-oriented residential development in the shoreline  
25 should be located only where substantial recreation opportunities  
26 are provided on site, and where nearby property owners and  
27 other appropriate uses will not be adversely affected.

28 ~~23.100.160~~ **Restoration and Enhancement**

29 ~~A. Policies.~~

30 Policy 11PP-1: ~~The SMP~~ This program recognizes the importance of restoration of  
31 shoreline ecological functions and processes and encourages  
32 cooperative restoration efforts and programs between local,  
33 state, and federal public agencies, tribes, nonprofit organizations,  
34 and landowners to address shorelines with impaired ecological  
35 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 biological  
40 recovery goals for early Chinook and bull trout populations, and  
41 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.

25 ~~23.100.170~~ **Shoreline Stabilization**

26 ~~Shore stabilization in shoreline areas shall be subject to the policies and regulations~~  
27 ~~of this section and Chapter 23.90 WCC.~~

28 ~~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 damage  
37 or loss caused by shoreline erosion; provided, that measures to  
38 protect single-family residences should be designed to minimize  
39 harm to the shoreline environment. After that date, all new

**Commented [CES40]:** Moved from Policy 11T-1 as it contained 2 different concepts.

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- 1 single-family residences and their appurtenant structures should  
2 be built in a manner so as to not need 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 designed  
7 to assure that future development of the created lots will not  
8 require structural shore stabilization for reasonable development  
9 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 to  
21 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 shoreline.
- 34 Policy 11QQ-8: Shore stabilization should be developed in a coordinated manner  
35 among affected property owners and public agencies for a whole  
36 drift sector (net shore-drift cell) or reach where feasible,  
37 particularly those that cross jurisdictional boundaries, to address  
38 ecological and geohydraulic processes, sediment conveyance and  
39 beach management issues. Where beach erosion threatens  
40 existing development, a comprehensive program for shoreline  
41 management should be established.
- 42 Policy 11QQ-9: In addition to conformance with the regulations in ~~this section~~the  
43 SMP, nonregulatory methods to protect, enhance, and restore  
44 shoreline ecological functions and other shoreline resources

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

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**~~23.100.180~~ Signs**

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

**Policy 11 RR-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 [SMA Act](#) and [the SMP](#) ~~this program~~ by addressing impacts to ecological functions, public safety, and visual aesthetics.

**Policy 11 RR-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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- 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  
7 b. Facilities are primarily oriented to pedestrian and non-  
8 motorized use and provide an opportunity for a substantial  
9 number of people to enjoy shoreline areas, and are consistent  
10 with [the policies and regulations for ecological protection in](#) WCC  
11 [the General Policies section of this chapter and in](#) [23.30.010 \(Ecological Protection\)](#)~~23-90-030~~, respectively.
- 12 [Policy 11SS-2:](#) Transportation facilities should be located and designed to avoid  
13 public recreation and public access areas and significant natural,  
14 historic, archaeological, or cultural sites.
- 15 [Policy 11SS-3:](#) Parking is not a preferred use in shorelines and should only be  
16 allowed to support authorized uses where no feasible alternatives  
17 exist.
- 18 [Policy 11SS-4:](#) New or expanded public transportation facility route selection and  
19 development should be coordinated with related local and state  
20 government land use and circulation planning.
- 21 [Policy 11SS-5:](#) Transportation system route planning, acquisition, and design in  
22 the shoreline should provide space wherever possible for  
23 compatible multiple uses such as utility lines, pedestrian shore  
24 access or viewpoints, or recreational trails.
- 25 [Policy 11SS-6:](#) Transportation system plans and transportation projects within  
26 shorelines should provide safe trail space for non-motorized  
27 traffic such as pedestrians, bicyclists, or equestrians. Space for  
28 such uses should be required along roads on shorelines, where  
29 appropriate, and should be considered when rights-of-way are  
30 being vacated or abandoned.
- 31 [Policy 11SS-7:](#) Public access should be provided to shorelines where safe and  
32 compatible with the primary and adjacent use, or should be  
33 replaced where transportation development substantially impairs  
34 lawful public access. Viewpoints, parking, trails, and similar  
35 improvements should be considered for transportation system  
36 projects in shoreline areas, especially where a need has been  
37 identified.
- 38 [Policy 11SS-8:](#) Public transportation routes, particularly arterial highways and  
39 railways, should be located, designed, and maintained to permit  
40 safe enjoyment of adjacent shore areas and properties by other  
41 appropriate uses such as recreation or residences. Vegetative  
42 screening or other buffering should be considered.

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~~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.

**Commented [CES41]:** 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."