



## **Supplemental Memorandum**

TO: The Whatcom County Council  
FROM: Maddie Schacht, Senior Planner  
THROUGH: Mark Personius, Director  
DATE: May 11, 2026  
SUBJECT: Chapter 2 - **Siting Criteria for "Crisis Facilities"**

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### Summary:

As part of the periodic update, Planning and Development Services (PDS) has been presenting proposed amendments to Whatcom County Code [Title 20](#) (Zoning) to comply with updated State regulations adopted under the Growth Management Act (RCW [36.70A](#)).

At the April 9, 2026 meeting, the Planning Commission reviewed proposed code amendments relating to Essential Public Facilities, including locational criteria for "[Substance Abuse Crisis Facilities](#)" and "[Mental Health Crisis Facilities](#)" which are prescribed under [Policy 2WW-13\(2\) in Chapter 2 \(Land Use\)](#) of the Whatcom County Comprehensive Plan and as cited below:

### Policy 2WW-13:

*2. Within unincorporated Whatcom County, substance abuse crisis facilities and mental health crisis facilities will not be located within 600' from any of the following:*

- *Public schools*
- *Private schools*
- *School bus stops*
- *Licensed day care*
- *Licensed preschool facilities*
- *Public parks*
- *Publicly dedicated trails*
- *Sports fields*
- *Playgrounds*
- *Recreational and community centers*
- *Public libraries*
- *Public and private youth camps*

The Planning Commission raised concerns about the siting criteria and asked PDS to conduct further research into the origin of the standards and to seek input from Whatcom County Health and Community Services.

PDS found that the siting criteria were established on March 9, 2004, over 22 years ago, under Policy Number 2XX-13 of Ordinance Number ORD2004-014; see attached. The rationale was included in the Ordinance on page 20.

In addition, as Health noted in its correspondence, crisis care can be offered in a variety of settings, including as part of other mental health and substance use disorder treatment facilities; please see the attached information from Health.

Comprehensive Plan "Policy 2WW-13" was originally proposed to be amended as follows to address changes under the Growth Management Act relating to:

- **Update of the term "Substance Abuse Facilities" to "Substance Use Disorder Treatment Facilities";** and
- **Addition of "Opioid Treatment Programs" as a new Essential Public Facility;** [see pages 2-125 and 2-126 of AB2026-186](#).

Based on further research and input from Whatcom County Health and Community Services, PDS agrees that re-evaluation of the siting criteria for **"crisis facilities" is warranted because the term does not align with State** definitions and does not reflect how crisis care is now offered in conjunction with other mental health facilities. Lastly, not all siting criteria are available in the current GIS data, making compliance review infeasible.

**The Whatcom County Code (WCC) classifies "Substance abuse facilities that provide crisis care" and "Opiate Substitution Treatment Clinics" as "Conditional" uses**, which is a Type 3 permit process. This process requires public notice, including mailed notice to surrounding property owners, and review at a public hearing, which is facilitated by the Whatcom County Hearing Examiner pursuant to WCC [22.05](#).

Conditional use permits must meet the approval criteria in WCC [22.05.026](#)(3). After public testimony and PDS input, the Hearing Examiner will make a final determination on the land use application and apply any conditions as they see appropriate and in accordance with the law.

As such, conditions can be applied to eliminate or mitigate any negative impacts that may result from the use. As such, PDS does not believe that the specific siting criteria for these uses in Chapter 2 of the Comprehensive Plan, within the Essential Public Facilities section, are necessary to protect the health, safety, and welfare of the public, as protections are already in place as codified in the approval criteria for CUP applications.

Updated Recommendation:

Based on this information, PDS requests that the County Council:

1. Remove **the siting criteria for "crisis care facilities"** by eliminating proposed amended Policy 2YY-13, as seen in the [4-28-26 version of proposed Chapter 2](#) on page 2-138, and shown below in green, and
2. Amend Policy 2XX-4, as seen in the [4-28-26 version of proposed Chapter 2](#) on page 2-131, in order to correct EPF siting criteria without the requirement to convene a Committee.

~~Policy 2~~VV~~XX-4: If significant amendments to the essential public facility siting process are proposed in the future, an essential public facilities committee consisting of ~~citizen~~ community members, business, health care, and government representatives, as appropriate, ~~may~~ **(PDS Proposed)** ~~will~~ be appointed by the County Executive, and confirmed by the County Council, (#73) to make recommendations relating to the proposed amendments.~~

~~Policy 2~~WW~~YY-13: Substance use disorder treatment ~~abuse~~ facilities, mental health facilities, and group homes have been constructed at various locations around Whatcom County.~~

1. ~~In compliance with RCW 36.70A.410, Whatcom County will not treat a residential structure occupied by persons with disabilities (#102) ~~handicaps~~ differently than a similar residential structure occupied by a family or other unrelated persons. **"Handicaps" are defined in the federal fair housing amendments act of 1988.**~~

~~2. Within unincorporated Whatcom County, substance use disorder treatment abuse crisis facilities, and mental health crisis facilities and opioid treatment programs (including both mobile and fixed site medication units, recovery residences, and harm reduction programs excluding safe injection sites) will not be located within '600' from any of the following:~~

- ~~• Public schools;~~
  - ~~• Private schools;~~
  - ~~• School bus stops;~~
  - ~~• Licensed day care;~~
  - ~~• Licensed preschool facilities;~~
  - ~~• Public parks;~~
  - ~~• Publicly dedicated trails;~~
  - ~~• Sports fields;~~
  - ~~• Playgrounds;~~
  - ~~• Recreational and community centers;~~
  - ~~• Public libraries; and~~
  - ~~• Public and private youth camps.~~
- (PDS Proposed)**

Thank you for your consideration of this matter. We look forward to discussing it with you.

## Maddie Schacht

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**To:** Hannah Fisk; Stephanie Kraft; Malora Christensen  
**Subject:** RE: Qs on Crisis Care Facilities

**From:** Hannah Fisk <HFisk@co.whatcom.wa.us>

**Sent:** Monday, April 20, 2026 11:19 AM

**To:** Stephanie Kraft <SKraft@co.whatcom.wa.us>; Malora Christensen <MChriste@co.whatcom.wa.us>; Maddie Schacht <MSchacht@co.whatcom.wa.us>

**Subject:** RE: Qs on Crisis Care Facilities

Here's my attempt:

### Questions:

1. Functionally, what differentiates a substance abuse/mental health facility that provides crisis care from one that does not? E.g., hours of operation, traffic, noise, patient capacity?
  - a. Crisis facilities can be completely outpatient or they are inpatient but have shorter stays (usually in the 3 to 7 day range but can go a little longer). The other treatment facilities can go up to 180 days but typically (because of reimbursement models) tend to be more 30 to 90 days. These (crisis and other treatment facilities) can have very similar capacity size due to the IMD rule if they are both inpatient. Outpatient crisis facilities will be able to serve more people in a given day- increasing traffic- as people come and go but they aren't staying overnight if that's the type of license. If both are inpatient, a crisis facility may serve more different people over the same length of time which may drive up traffic.
  - b. In short, it depends on the type of license within those sub-categories. I'm happy to meet to talk about it more if that's helpful.
2. Do you know of any facilities that offer "crisis care" in the unincorporated county (outside the cities)? If so, can you provide a list or link?
  - a. Based on the definition you are working from below (and my interpretation of your definition), I do not but that doesn't mean it isn't happening. TouchStone received funding for and created a 23 hour crisis facility for minors in Everson a few years ago but I am not aware if they were ever able to secure a license to run it as such. There are facilities that are real close to the definition or fit into it but I don't think it's what you are actually intending it to cover that I can think of though.
3. The Planning Commission is considering eliminating the specific locational criteria listed above. Does Health have any thoughts on this?
  - a. My brief response is the facilities you are referencing below can be vary greatly so I would think it would be best to discuss what the fears are of alleviating some of these restrictions and see how it applies to the different types of programming. For example, a group care facility is very different from a 28 day SUD treatment facility. This would probably be a good stakeholder in-person discussion to get a really good recommendation.
4. Do you know where these kinds of facilities are governed in the RCW or WAC? I found RCW [71.24.916](#), which governs "23-hour Crisis Relief Centers".
  - a. If we are just talking about the crisis facilities these would be good ones to look at:
    - i. WAC 246-341-1140 Crisis Stabilization Unit
    - ii. WAC 246-341-0725 Mental Health Peer Respite
    - iii. WAC 246-341-1100 Withdrawal Management
    - iv. WAC 245-341-0903 Crisis Relief Center
  - b. Not to be confusing but you could have a hospital, partial hospitalization, SWMS, Evaluation and Treatment (E&T's), etc. fall under "crisis" or "treatment" facility as they can do both.

- c. And then longer inpatient treatment facilities have their own codes.
- 5. As part of the periodic update, we are proposing to update the term “Substance Abuse Facilities” to “Substance Use Disorder Treatment Facilities” to align with the updated wording in WAC [365-196-550](#).
  - a. Is there a more relevant/correct term or phrase, referenced in actual law or policy, that should be used instead of “crisis facility,” which seems to be a bit vague to me.
    - i. I agree. Based on the definition, crisis facility is a very broad term. I don’t have a recommendation without a reduction in the definition based in Law or Policy.

I hope that is helpful!

Hannah

Hannah Fisk, MSW, LICSW  
Special Projects Manager  
Whatcom County Health And Community Services  
(360) 820-7212



CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: Matt W. Aamot	WAA	8-18-03	<b>RECEIVED</b> SEP 02 2003 WHATCOM COUNTY COUNCIL	9-9-03	Introduction
Division Head: Sylvia Goodwin	HGH	8-18-03		9-23-03	Public Works & Capital Projects Committee / COUNCIL
Dept. Head: Hal Hart	HGH	8-18-03		12/9/03	COUNCIL
Prosecutor: Karen Frakes	KRF	8-19-03		1/13/04	PW / COUNCIL
Purchasing/Budget:				1/27/04	COUNCIL
Executive: Pete Kremen	PKR	9/2/03		2/10/04	PW / COUNCIL
<b>SUBJECT:</b> Ordinance adopting amendments to the Whatcom County Comprehensive Plan and Zoning Ordinance relating to essential public facilities.				2/24/04	PW / COUNCIL
				3/9/04	PUBLIC HEARING

**ATTACHMENTS:**

- (1) Proposed ordinance
- (2) Planning Commission Findings of Fact & Reasons for Action, Conclusions, and Recommendations
- (3) Planning Commission minutes

Note: Background materials are available for review at the County Council office.

SEPA review required? ( x ) Yes ( ) NO  
 SEPA review completed? ( x ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( x ) NO  
 Requested Date:  
<sup>1</sup> A hearing must be held if the Council changes the Planning Commission recommendation (WCC 20.10.110).

**SUMMARY STATEMENT:** State law requires counties and cities to provide for the siting of essential public facilities, which are land uses that are important to the community or region but are typically difficult to site because of neighborhood opposition, environmental issues, etc. The proposed essential public facility rules address the siting of airports, state education facilities, state and regional transportation facilities, correction facilities, solid waste handling facilities, substance abuse facilities, mental health facilities, group homes, secure community transition facilities for sex offenders, water treatment plants, water storage facilities, sewer treatment plants and telecommunication towers.

Note: The subject proposal is one of a number of comprehensive plan amendments initiated this year. These amendments must be considered concurrently by the County Council so that the cumulative effect of the various proposals can be evaluated (RCW 36.70A.130). Additionally, pursuant to the review schedule established in WCC 20.10.120, final Council action on these amendments should occur on or about November 30.

**COUNCIL ACTION TAKEN:**

2003 - 75 B 9/9/2003: introduced  
 9/23/03: Discussed in Public Works Committee  
 12/9/2003: Held/Council  
 1/13/2004: Held/Council  
 1/27/2004: Held in committee to 2/10/04  
 2/10/2004: Held in committee to 2/24/04  
 3/9/2004: Amended and adopted 6-0, Nelson absent, Ord. #2004-014  
 2/24/2004: Held - Hearing to be held 3/9/2004

**Distribution Request**

Indicate those who should receive a copy after Council action. List specific names to the right.

ADS Facilities Management	
ADS Finance	
ADS Human Resources	
ADS Info Services	
Assessor	Keith Willnauer
Auditor	
Cooperative Extension	
District Court	
Executive	
Health	
Hearing Examiner	
Jail	
Juvenile	
Parks	
Planning	Hal Hart
Prosecutor	
Public Works	
Sheriff	
Superior Court	
Treasurer	
Other	

R

Related File Numbers: AB2001-162 and AB2003-075

Ordinance or Resolution Number (this item): **ORD.# 2004-014**

SPONSORED BY: Consent  
PROPOSED BY: Planning  
INTRODUCTION DATE: 9/9/03

ORDINANCE # 2004-014

AMENDING THE ESSENTIAL PUBLIC FACILITY PROVISIONS OF  
THE WHATCOM COUNTY COMPREHENSIVE PLAN  
AND ZONING ORDINANCE

**WHEREAS,** The Growth Management Act requires counties and cities to review and, if needed, revise comprehensive plans to ensure continued compliance with the GMA (RCW 36.70A.130); and

**WHEREAS,** The Essential Public Facilities Advisory Committee issued recommendations to amend the Comprehensive Plan and zoning regulations; and

**WHEREAS,** Legal notice was published in the Bellingham Herald; and

**WHEREAS,** The Planning Commission held a public hearing on the proposal; and

**WHEREAS,** The Planning Commission has evaluated the proposed amendments and made certain modifications;

**WHEREAS,** The County Council has considered the Planning Commission’s Findings of Fact & Reasons for Action, Conclusions, and Recommendations.

The Council makes the following findings of fact and conclusions:

FINDINGS OF FACT

1. The state Growth Management Act requires that local comprehensive plans contain provisions relating to essential public facilities (RCW 36.70A.200).
2. The Whatcom County Comprehensive Plan, adopted in 1997, contained a provision to “Establish an Essential Public Facility Advisory Committee to develop a site selection criteria, approval and appeals process for essential public facilities” (Chapter 2, Action Plan item # 49).
3. The County Council created this advisory committee on May 15, 2001, when it passed Resolution No. 2001-022.

4. The committee, which was composed of citizen, business, mental health and government representatives, held its first meeting on December 4, 2001 and met 23 times over the following year. The committee finished its work and issued final recommendations on December 5, 2002.
5. The Planning Commission held work sessions on January 9, February 27, March 13, April 10, and May 8, 2003 in an educational process to learn about the Essential Public Facilities Advisory Committee's recommendations.
6. Notice of a Planning Commission hearing for the subject amendment was published in the Bellingham Herald on May 29, 2003.
7. The Planning Commission held a public hearing on the subject amendments on June 12, 2003.
8. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on August 18, 2003.
9. The Growth Management Act requires that local comprehensive plans must contain a process for identifying and siting essential public facilities (RCW 36.70A.200(1)).
10. The initial process for identifying essential public facilities included review by the Advisory Committee and the Planning Commission, which held a public hearing on the proposal. This process led to the addition of several land use activities to the list of essential public facilities. The subject amendment also contains a process for identifying essential public facilities in the future. Specifically, Policy 2WW-3 indicates that land use activities can be added to the adopted list of essential public facilities through the comprehensive plan amendment process.
11. The Growth Management Act requires that development regulations must provide for the siting of secure community transition facilities for sex offenders (RCW 36.70A.200(2)).
12. The subject proposal amends the Official Whatcom County Zoning Ordinance to allow secure community transition facilities in certain zoning districts in Whatcom County. Such facilities would be subject to restrictions around: Public schools, private schools, school bus stops, licensed day care, licensed pre-school facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, and youth camps.
13. The Growth Management Act requires that comprehensive plans and development regulations can not preclude the siting of essential public facilities (RCW 36.70A.200(5)).
14. Comprehensive Plan policy 2ZZ-2 indicates that the County will not preclude the siting of essential public facilities in designated zoning districts. The proposed zoning regulations specifically allow each type of essential public facility in appropriate zoning districts.

15. The Growth Management Act requires that:

No county or city that plans or elects to plan under this chapter may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 . . . (RCW 36.70A.410).

16. Proposed policy 2XX-13 reiterates the Growth Management Act provisions relating to fair housing (RCW 36.70A.410). Additionally, the proposed zoning amendments allow homes for the handicapped, which include mental health and substance abuse residential treatment facilities, as a permitted use when they are similar in size to other residential structures permitted in the zone.

17. The Growth Management Act contains 13 planning goals to guide development of comprehensive plans and development regulations (RCW 36.70A.020). Planning Goal # 1 is to "Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner."

18. Whatcom County Comprehensive Plan Goal 2CC is to "Retain the rural character and lifestyle of Whatcom County."

19. Rural and Residential Rural zoning districts are located in both Urban Growth Area and various rural Comprehensive Plan designations. The proposed regulations require that substance abuse, mental health and group home facilities that are larger than other residential structures allowed in the Rural and Residential Rural zoning districts should be located within the short term planning area of the Urban Growth Area if possible. This will direct larger facilities to areas with adequate services and help to retain the rural character. Additionally, it would be consistent with the existing zoning code, which treats comparable land uses in this manner.

20. County-Wide Planning Policy K-6 states: "Essential public facilities will not be precluded from consideration within Whatcom County as required by GMA. A process consistent with GMA and the County-wide Planning Policies will be developed to address the siting of essential public facilities."

21. The existing Comprehensive Plan goals relating to essential public facilities include:  
  
GOAL 2WW: Establish a process for siting essential public facilities.  
  
GOAL 2XX: Establish siting criteria for essential public facilities.  
  
GOAL 2YY: Provide for broad participation in the siting process by affected agencies, citizens and any other interested parties.  
  
GOAL 2ZZ: Establish a clear review or appeal procedure to resolve differences of opinion regarding facility site selection.
22. County-Wide Planning Policy K-6, Goal 2WW, and Goal 2XX were addressed by the recommendations of the Essential Public Facilities Advisory Committee, which allow each type of essential public facility somewhere within unincorporated Whatcom County, as required by state law. Additionally, the Advisory Committee developed a process and siting criteria for essential public facilities.
23. With regard to Goal 2YY, there were citizen, business, mental health and public agency representatives on the committee, and citizens will also be able to comment on the proposed recommendations through the Planning Commission review process. Many of the essential public facilities require a conditional use permit, which will require public notice prior to the hearing.
24. Relating to Goal 2ZZ, the committee decided that the essential public facilities should be subject to the same appeal process as other land use matters in Whatcom County. Administrative decisions are appealed to the hearing examiner, hearing examiner decisions are appealed to the County Council, and County Council decisions are appealed to court.

## CONCLUSIONS

1. The subject amendments are consistent with Growth Management Act, County Wide Planning Policies, and Whatcom County Comprehensive Plan.
2. The subject amendments comply with the approval criteria for comprehensive plan amendments of WCC 20.10.080.

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

Section 1. The Whatcom County Comprehensive Plan is hereby amended as shown on Exhibit A.

Section 2. The Official Whatcom County Zoning Ordinance is hereby amended as shown on Exhibit A.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this 9 day of March, 2004

ATTEST:



Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

Dan McShane, Chairperson

APPROVED as to form:

Approved     Denied

Karen R. Frakes  
Civil Deputy Prosecutor

Pete Kremen, Executive

Date: 3-19-04

# Essential Public Facilities - EXHIBIT A

## *Whatcom County Council Approved Version 3/9/04*

### Notes:

1. *The County Council adopted all new text that is shown with underlines (single or bold double underlines). Deleted text is shown with strikethroughs.*
2. *For informational purposes only, text specifically added by the Whatcom County Council after Planning Commission review is shown with **bold double underlining**. Original text deleted by the Council after Planning Commission review is shown with **~~bold strikethroughs~~**.*
3. *The rationale statements and appendices are for informational purposes only and will not appear in the Comp Plan.*

## **COMP PLAN AMENDMENTS**

*Amend chapter 2 of the Whatcom County Comprehensive Plan as follows (new language is shown with underlining and language proposed to be deleted is shown with strike-throughs):*

### **ESSENTIAL PUBLIC FACILITIES - INTRODUCTION**

Essential public facilities are those capital facilities "typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, ~~and~~ group homes, and secure community transition facilities as defined in RCW 71.09.020" (RCW 36.70A.200, Siting of essential public facilities). The county has also designated telecommunication towers, water treatment plants, sewer treatment plants, and water storage facilities as essential public facilities ~~and the cities may designate, or be requested by state or federal authorities to designate, additional facilities essential to Whatcom County residents or other public agencies.~~

### Rationale for recommended modifications:

1. *"Capital facilities" are defined in Chapter 4 of the comprehensive plan as County-owned facilities. Private entities may own essential public facilities.*
2. *A 1998 amendment to the Growth Management Act (GMA), in a bill relating to transportation, inserted the reference to RCW 47.06.140 into the definition of essential public facilities. RCW 47.06.140 defines transportation facilities and services of statewide significance.*

3. *A 2001 amendment to the GMA, in a bill relating to sex offenders, inserted the reference to secure community transition facilities (3ESSB 6151). RCW 71.09.020 defines secure community transition facility as “ . . . a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services . . . ”*
4. *The Essential Public Facilities Advisory Committee recommended adding telecommunication towers, water treatment plants, sewer treatment plants and water storage facilities to the list of essential public facilities. It was determined by the committee that these facilities are typically difficult to site, are provided by government or subject to public service obligations, and there is a local public need for such facilities (see RCW 36.70A.200 and WAC 365-195-210, 340, & 840).*

### **Purpose**

This section of the Land Use chapter outlines a recommended process for identifying essential public facilities, defining locational criteria for such facilities, selecting sites for them, and establishing an appeal mechanism as required by the RCW. The suggested process emphasizes avoidance of process duplication, considers the long- and short-term impacts of such siting, provides for effective public review and participation, and stresses compatibility with neighboring land uses.

### **Process**

This section was prepared with consideration of using information and procedures adopted by other jurisdictions. An Essential Public Facilities Advisory Committee composed of citizen, business, health care and government representatives met in 2001-2002 and recommended modifications to this chapter to refine the process for siting essential public facilities. ~~The process adapted for use by Whatcom County and recommended herein has been recognized as a model site selection process at the state level.~~

#### Rationale for recommended modifications:

1. *Information from other jurisdictions was reviewed but not copied.*
2. *Updates this section to recognize the work of the committee.*
3. *State Office of Community Development indicated on 8-22-01 that they do not have any model ordinance.*

## **GMA Goals, County-Wide Planning Policies and Visioning Community Value Statements**

The GMA goal of encouraging citizen participation and coordination is served by this section. This section has been prepared to satisfy that goal while also meeting the intent of the County-Wide Planning Policies (CWPPs) and the general guidelines of the Visioning Community Value Statements. The CWPPs require identification of appropriate land for public facilities, a cooperative and structured process to consider siting of public facilities of a regional, or state-wide nature. Visioning Community Value Statements underscore the importance of citizen participation. Adoption of this section ~~in its existing form~~ and implementation of its goals, and policies, and action plans, satisfies Growth Management goals, Visioning Community Value Statements, and County-Wide Planning Policies.

*Rationale for recommended modifications: The only action plan item relating to essential public facilities is to establish an advisory committee to perform its tasks. Once this is accomplished, the action item can be deleted.*

## **GMA Requirements**

RCW 36.70A.200 requires that each county include a process for identifying and siting essential public facilities. The RCW defines essential public facilities as those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities, state and local correction facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, ~~and group homes, and secure community transition facilities for sex offenders.~~ Additionally, the county has designated telecommunication towers, water treatment plants, sewer treatment plants, and water storage facilities as essential public facilities. This section meets the these requirements of the Growth Management Act.

*Rationale for recommended modifications: This change would reflect the amendments to the RCW made by the state legislature in 2001 and recommendations of the Essential Public Facilities Advisory Committee.*

## **ESSENTIAL PUBLIC FACILITIES - BACKGROUND SUMMARY**

Essential public facilities include those facilities considered difficult to site because of potential adverse effects related to size, bulk, hazardous characteristics, noise, or public health and safety. The Growth Management Act (RCW 36.70A.200) and the Washington Administrative Code (WAC 365-195-340) indicate that essential public facilities:

- Are typically difficult to site;
- Serve a public need, including a local need; and
- Are provided, substantially funded or contracted for by government or subject to public service obligations.

County-Wide Planning Policies (CWPP) stipulate that the county and cities must identify appropriate land for public facilities meeting the needs of the community ~~such as schools, libraries, recreation, transportation and utility corridors, human service facilities, airports and other Port of Bellingham facilities. The Growth Management Act also names in-patient facilities such as substance abuse facilities, mental health facilities, and group homes as exemplifying essential public facilities. These facilities are difficult to site, serve regional or state requirements, or are part of a county wide service system.~~

Adopted CWPPs require the county and cities to develop a cooperative and structured process, including public involvement at an early stage, to consider siting of public facilities of a regional, state-wide, or federal nature. ~~Solid waste disposal, correctional, transportation, education, or human service facilities, or any other locally unpopular land uses are examples of those facilities.~~ Any new facilities or major expansions of existing facilities must conform to these local siting procedures.

The CWPPs also address the desirability of shared rights-of-way when not in conflict with wildlife, technical, or public health and safety concerns.

*Rationale for recommended modifications:*

- (1) This change more clearly articulates the criteria for designating essential public facilities, which are set forth in RCW 36.70A.200 and WAC 365-195-340.*
- (2) Some of the facilities mentioned, such as recreational properties, are not essential public facilities and it may be confusing to mention recreation and other uses in the section of the Comprehensive Plan relating to essential public facilities.*
- (3) The list of essential public facilities has been mentioned previously in the Comp Plan text and it may be confusing to have several partial lists of the facilities in this text.*

## **ESSENTIAL PUBLIC FACILITIES - ISSUES, GOALS, AND POLICIES**

### **Siting Essential Public Facilities**

Essential public facility siting may not be prohibited by any local plan or regulation; the Growth Management Act, however, empowers local government to determine those plans, policies, and regulations that are most appropriate to county communities.

An equitable distribution of public facilities is important to avoid an unfair concentration of any such facilities within the county. A well-defined appeal process must be part of any siting process. Some essential public facilities, federal facilities for example, must meet multiple levels of siting and permitting approval; coordination is important to avoid unnecessary and costly delays brought about by redundant processes.

**GOAL 2WW:** Utilize the ~~E~~established a process for siting essential public facilities.

Policy 2WW-1: Adhere to the process for essential public facility site selection as outlined in the comprehensive plan and zoning ordinance Action Plans section of this chapter. This process is summarized as follows:

- An applicant for an essential public facility should consult with the Whatcom County Planning & Development Services Department very early in the process of developing a proposal to determine the siting criteria and County permit requirements for the proposed facility.
- Essential public facilities that are allowed as a permitted use are processed administratively by the Planning & Development Services Department.
- Essential public facilities that require a conditional use permit require a public hearing before the hearing examiner. Notice in the newspaper, notice posted on the site and notice mailed to all property owners within 300' of the subject site must be accomplished.
- Siting criteria in the comprehensive plan and zoning ordinance will be applied when deciding where to site essential public facilities.

*Rationale for recommended modifications: The Growth Management Act (GMA) requires a process to site essential public facilities. The Essential Public Facilities Advisory Committee is recommending multiple policies and regulations that guide this siting process. The above policy is intended to give a brief overview of the siting process. This process will replace the action plan (which is to establish a committee and formulate a process).*

Policy 2WW-2: Where possible, use essential public facilities sites jointly for public benefit; trails or open space, for example, could share a corridor or site used primarily for transportation a utility corridor.

*Rationale for recommended modifications: Example should include a reference to an essential public facility (i.e. transportation).*

Policy 2WW-3: ~~Identify and classify essential public facilities of state-wide, regional, county-wide, and local significance, and public facilities typically difficult to site without protection and/or mitigation such as mental health facilities.~~ The Growth Management Act identifies certain essential public facilities and the County Council has taken

legislative action, with the assistance of an essential public facilities advisory committee, to identify additional essential public facilities. A proponent or government agency shall apply for a comprehensive plan amendment to add a particular land use to the adopted list of essential public facilities. In order to be added to the list of essential public facilities, the applicant must demonstrate that the facility:

- Is typically difficult to site;
- Serves a public need, which may be a local need; and
- Is provided, substantially funded or contracted for by government or subject to public service obligations.

*Rationale for recommended modifications: The Growth Management Act (GMA) requires a process to identify essential public facilities. The Essential Public Facilities Advisory is recommending that several land uses (water & sewage treatment plants, water storage facilities, and telecommunication towers) should be added to the list of essential public facilities specifically identified by the GMA. However, future proposals may arise to identify other land uses as essential public facilities. Any such future proposals should proceed through the comprehensive plan amendment process to officially add new uses to the list of essential public facilities.*

Policy 2WW-4: If significant amendments to the essential public facility siting process are proposed in the future, an essential public facilities committee consisting of citizen, business, health care, and government representatives, as appropriate, will be appointed by the County Executive to make recommendations relating to the proposed amendments.

*Rationale for recommended modifications: The essential public facilities advisory committee thought it was important to have a new advisory committee consider any future changes to the siting process and siting criteria. Policy 2WW-4 addresses changes to the siting process. Policy 2XX-15 addresses changes to the siting criteria.*

**GOAL 2XX: Utilize the Established siting criteria for essential public facilities.**

Policy 2XX-1: Locate essential public facilities that generate traffic equal to or greater than similar-sized residential or commercial development near major transportation corridors.

Policy 2XX-2: Do not site essential public facilities where they would have a probable significant adverse impact on lands designated as environmentally sensitive areas or resource lands.

Policy 2XX-3 Site essential public facilities on property where needed expansion of the facility, based upon population forecasts, level of service standards or projected facility needs, can be accommodated within a 20-year planning period.

Policy 2XX-4 State and regional highways in unincorporated Whatcom County that have been designated as essential state or regional transportation facilities are I-5, State Route 539 (the Guide Meridian), State Route 546/9 (Badger/Garrison from the Guide to Sumas), and State Route 20 to eastern Washington. Other transportation facilities in unincorporated Whatcom County that have been designated as essential public facilities are Amtrak Cascades passenger rail service, the Burlington Northern Santa Fe railroad tracks, and the Cherry Point marine port facilities. Such facilities in the City of Bellingham include Fairhaven Station (intercity passenger rail terminal), Bellingham Cruise Terminal (Alaska Ferry), and the Port of Bellingham (marine port). Additionally, State Route 543 (the truck route at the Blaine border) is an essential public facility located within the city limits of Blaine.

Widening of existing state highways or railroad tracks (including construction of sidings) and siting new state highways or railroad tracks should be planned in the Washington Highway System Plan, Amtrak Cascades Plan and the Freight Rail Plan. The state will invite the Regional Transportation Planning Organization and the County to participate in planning studies, review design plans, and provide comments when siting new or expanded state highways or railroad tracks.

Highways and railroad tracks that qualify as essential public facilities should be sited in accordance with all of the following principles. These facilities should be located:

- (a) In a manner that minimizes or mitigates noise impacts to surrounding residential areas.
- (b) Outside of the Lake Whatcom Watershed, unless there are no viable alternatives.
- (c) In a manner that allows continued fish passage beyond the road or railroad tracks or restores blocked passage.
- (d) In a manner that avoids or mitigates wetland impacts.
- (e) In a manner that minimizes impacts of additional impervious surfaces by treating stormwater runoff.
- (f) In a manner that encourages a vibrant economy by facilitating the efficient movement of people and freight.

(g) In a manner that accommodates pedestrians, bicycles, and transit.

Major passenger intermodal terminals should be located in General Commercial, Tourist Commercial, Airport Operations, Urban Residential-Medium Density or industrial zones.

Freight railroad switching yards and terminals should be located in industrial zones.

Marine port facilities should be located within the Heavy Impact Industrial zone of the Cherry Point Major/Port Industrial Urban Growth Area.

Rationale for recommended modifications:

1. *State law provides that the State Department of Transportation has the responsibility to plan for adequate state highways. However, this responsibility is to be closely coordinated with local governments.*
2. *Specifically, RCW 47.06.140 indicates “. . . The (state) department (of transportation), in cooperation with regional transportation planning organizations, counties, (and others) . . . shall plan for improvements to transportation facilities and services of state-wide significance in the state-wide multimodal plan. Improvements to facilities and services of state-wide significance identified in the state-wide multimodal plan are essential state public facilities. . .” (RCW 47.06.140).*
3. *RCW 47.06.040 indicates that state planning must be consistent with local comprehensive plans. However, RCW 36.70A.200 states that local comprehensive plans can not preclude the siting of essential transportation facilities.*
4. *The proposed policies provide guidance for state officials when they are considering proposed transportation improvements.*
5. *Lake Whatcom is the source of drinking water for approximately 88,000 people in Whatcom County. Major linear transportation facilities should be located outside of this watershed if at all possible to avoid water quality impacts.*

Policy 2XX-5: Airports in Whatcom County are the Bellingham International Airport, the Lynden Municipal Airport and the Blaine Municipal Airport. Bellingham International Airport, which is in unincorporated Whatcom County, serves both general aviation traffic and commercial airline traffic. Lynden and Blaine airports, which are within the city limits of these respective cities, serve general aviation traffic. There is also a sea plane base called

Floathaven on Lake Whatcom and a sea plane base called the Port of Bellingham Sea Plane Base on Bellingham Bay.

Within unincorporated Whatcom County, general aviation and commercial airports will be sited in the Airport Operations District. Compatibility of surrounding land use, including evaluation of height hazards, safety based upon aircraft accident data, and noise impacts, will be evaluated when a new Airport Operations District or an expansion of an existing Airport Operation District is proposed, as follows:

- (a) Height hazards – Towers and other objects that penetrate the imaginary surfaces established in 14 CFR Part 77 Objects Affecting Navigable Airspace, shall be identified and mapped by the applicant. The applicant shall demonstrate to the County that existing objects that penetrate the imaginary surfaces as defined in 14 CFR Part 77 will not create a hazard to operation of the proposed airport. The applicant shall also demonstrate to the County that objects that could be allowed by zoning to penetrate the imaginary surfaces as defined in 14 CFR Part 77 will not create a hazard to operation of the proposed airport.
- (b) Safety – Aircraft accident data shall be evaluated in the context of the densities and types of existing land uses and land uses allowed by zoning that are in proximity to the proposed airport. Specifically, for general aviation airports or commercial airports that also serve general aviation traffic, existing land uses and zoning around the proposed Airport Operations District shall be compared to **the Safety Compatibility Zone Examples, Basic Safety Compatibility Qualities, and Safety Compatibility Criteria Guidelines in the California Airport Land Use Planning Handbook (Shutt Moen Associates, January 2002, pp. 9-38 to 9-40, 9-44, 9-45, and 9-47).** Special attention shall be given to whether or not the proponent has purchased the land in safety **compatibility** zone 1 as identified in **the California Airport Land Use Planning Handbook (Shutt Moen Associates, January 2002, pp. 9-38 to 9-40).**
- (c) Noise – The applicant shall map the projected 55, 60 and 65 DNL noise contours. The County shall evaluate noise impacts to existing land uses and land uses allowed by zoning within the mapped 55, 60 and 65 DNL noise contours.
- (d) The County shall consult with and consider the comments of the Federal Aviation Administration and the Washington Department of Transportation – Aviation Division.
- (e) Mitigation, such as removing objects that create height hazards, will be encouraged to achieve compatibility with surrounding land uses.

Rationale for recommended modifications: *There are three critical issues that affect the compatibility of airports with adjacent land uses: Height hazards, safety relating potential for aircraft accidents, and noise (Airports and Compatible Land Use, Volume I, Washington State Department of Transportation Aviation Division (WSDOT), February 1999, p. 16). The proposed Comprehensive Plan policy incorporates these three issues into siting criteria applicable to establishing or expanding Airport Operation zones. **The WSDOT Aviation Division recently indicated that the safety compatibility zones outlined in the California Airport Land Use Planning Handbook constitute the best available information. Therefore, the reference to the 1999 WSDOT study should be replaced by the 2002 California study.***

Policy 2XX-6: State education facilities in Whatcom County are Western Washington University, Whatcom Community College and Bellingham Technical College and related facilities. The main campuses of these state education facilities are located within the city limits of Bellingham. It is anticipated that they will remain within Bellingham over the planning period. However, research, recreational, satellite educational and other facilities associated with these institutions may be located outside of Bellingham within unincorporated Whatcom County.

State education facilities should generally be located in commercial, rural, residential, light impact industrial, or general manufacturing areas. They should only be allowed in the Airport Operations zone if related to airport operations training. They should not be located on resource lands, except that educational facilities related to forestry should be allowed in the forestry designations **and educational facilities relating to agricultural operation training should be allowed in the agriculture designation.**

Rationale for recommended modifications:

1. *The State of Washington's Ten-Year Capital Plan lists the construction projects that are anticipated at Western Washington University (WWU), Whatcom Community College (WCC) and Bellingham Technical College (BTC) over the next ten years.*
2. *Representatives from WWU indicated that they have three properties outside of the city limits: The Lakewood facility at 2035 Lake Whatcom Blvd., the adjacent Byron Tract, and Canyon Lake Creek Community Forest (co-owned with the County). The Lakewood property is primarily a recreation/athletic facility and the Canyon Lake Creek Community Forest is primarily a research facility that is largely in its natural state. There may be minor improvements to these properties, but no other facilities outside the city limits are currently proposed on the State's Ten-Year Capital Plan.*

3. *Representatives from WCC and BTC indicated that their facilities are entirely within the city limits and there are no plans to construct facilities outside of the city limits.*

Policy 2XX-7      Correctional facilities in Whatcom County are the Public Safety Building (County Jail), the alternative corrections building, and the juvenile detention facility in the County Courthouse. These three facilities are adjacent to one another in downtown Bellingham. The County also contracts with a private company located in the City of Bellingham for work release beds.

Within unincorporated Whatcom County, new correction facilities should be sited in accordance with all of the following principles. New facilities should be located:

- (a) With convenient access to major transportation corridors;
- (b) With convenient access to **frequent** transit service;
- (c) In areas that will not create excessive traffic, noise, or glare impacts on surrounding residential properties;
- (d) In areas that have access to adequate utilities and infrastructure;
- (e) In areas where there is convenient access to the courts, the sheriff's office, law offices, medical services, fire protection services, and community & social services.
- (f) Outside the 100-year floodplain;
- (g) Outside seismic hazard areas. If no suitable sites are available outside of seismic hazard areas, correction facilities may be located within such areas if adequate mitigation measures are undertaken;
- (h) Outside of landslide hazard areas;
- (i) Outside of mine hazard areas;
- (j) Outside of alluvial fans;
- (k) Outside the 65 DNL noise contour of airports;
- (l) At least 500' from gas pipelines with a maximum operating pressure 500 or greater pounds/square inch gage (psig);
- (m) At least 100' from gas pipelines with a maximum operating pressure between 251 – 499 psig;
- (n) **At least one mile from public and private schools.**

Rationale for recommended modifications:

1. *Concepts expressed in an e-mail of 6-26-02 from Whatcom County Corrections Chief Wendy Jones, which reflect discussions of the Law and Justice Council and information from the National Institute of Corrections Planning of New Institutions workshop, are incorporated into the above policy as they relate to siting a new facility.*

2. *Location outside of the 65 DNL noise contour associated with airports was inserted because noise is one of the main factors in achieving compatibility between airports and adjacent land uses (Airports and Compatible Land Use, Volume 1, WSDOT Aviation Division, Revised February 1999).*
3. *WAC 480-93-020 provides that gas pipelines should not be located within 500' of a building intended for human occupancy when the pressure is greater than 500 psig. Additionally, WAC 480-93-030 states that gas pipelines should not be located within 100' of a building intended for human occupancy when the pressure is between 251 and 499 psig. These thresholds have been incorporated into Comprehensive Plan Policy 5N-7 for critical facilities, including jails. Therefore, they should be specifically referenced in the siting process for new correction facilities.*
4. *The Critical Areas Ordinance (CAO) states that seismic hazard areas are areas subject to a severe risk of earthquake damage as a result of seismically induced ground shaking, differential settlement, or soil liquefaction. This includes areas where surface deposits of manmade fill or partially decomposed organic material average at least five feet in depth, filled wetlands, and areas of alluvial deposits subject to liquefaction (WCC 16.16.320).*

*The best policy is to avoid seismic hazard areas whenever possible. However, relatively large areas of the County are designated as seismic hazard areas. If after careful investigation, it is determined that no suitable sites for correction facilities can be identified outside of the seismic hazard areas, sites within these areas can be considered. The County's geologist indicated that it is conceivable (although potentially expensive) to mitigate the impacts associated with building in such areas. In fact, the CAO states that:*

- *No critical facilities [including jails] shall be constructed or located in geologically hazard areas without fully mitigating the hazard (WCC 16.16.350(A)).*
- *Projects shall be engineered and/or constructed to fully mitigate the hazard, and protect the building and occupants from the hazard (WCC 16.16.350(C)).*

*However, construction within seismic hazard areas should only be considered after it is determined that no suitable sites are available outside of such hazard areas.*

Policy 2XX-8: Solid waste handling facilities in Whatcom County currently include two transfer stations, a construction & demolition debris landfill, a "clean-green" yard waste site, and a variety of recycling and other facilities. The two transfer stations are located within the City of Ferndale. Municipal solid waste is transported to locations outside of Whatcom County from these sites. The construction &

demolition debris landfill is located on Hemmi Rd. in unincorporated Whatcom County. The “clean-green” yard waste facility is located within the City of Bellingham, and is jointly maintained by the City of Bellingham and Whatcom County.

Within unincorporated Whatcom County, solid waste handling facilities will be sited in accordance with all of the following principles.

(a) Type III solid waste handling facilities as defined by WCC 20.97.429 (but excluding uses set forth in subsection (b)) will be located:

- Within industrial and forestry zones. They may be located within a rural zone only when the site has been identified for such a solid waste facility in the adopted subarea plan;
- At least 1,500’ from all zoning district boundaries, except **commercial** forestry and industrial zones;
- At least 1,500’ from public parks, public recreation areas, or publicly owned wildlife areas;
- At least 1,500’ from archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- At least 1,500’ from shorelines that are within the jurisdiction of the Shoreline Management Program;
- At least 1,500’ from rivers, streams or creeks that contain documented threatened or endangered fish species;
- Outside the 10-year time of travel boundary of a public water system’s delineated wellhead protection area;
- Outside the Lake Whatcom watershed;
- Outside the 100-year floodplain;
- In accordance with *Hazardous Wildlife Attractants on or Near Airports* (Federal Aviation Administration Advisory Circular 150/5200-33), solid waste facilities and sites that handle putrescible waste will be located :

At least 10,000’ from airports serving turbine-powered aircraft (Bellingham International Airport);

At least 5,000’ from airports serving piston-powered aircraft (Blaine Municipal and Lynden Municipal Airports).

(b) Inert material landfills will be located:

- Within industrial and forestry zones. They may be located within a rural zone only when the site has been identified for such a solid waste facility in the adopted subarea plan;
- At least 500' from all zoning district boundaries, except **commercial** forestry and industrial zones;
- At least 500' from public parks, public recreation areas, or publicly owned wildlife areas;
- At least 500' from archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- At least 500' from shorelines that are within the jurisdiction of the Shoreline Management Program;
- At least 500' from rivers, streams or creeks that contain documented threatened or endangered fish species;
- Outside the 10-year time of travel boundary of a public water system's delineated wellhead protection area;
- Outside the Lake Whatcom watershed;
- Outside the 100-year floodplain.

Commercial composting facilities are solid waste handling facilities, but do not qualify for essential public facility status.

Rationale for recommended modifications:

1. *Land use: Currently, the zoning code allows solid waste facilities such as landfills, incinerators, and transfer stations only in industrial and forestry zones (and the rural zone, when identified in the subarea plan as a suitable location for a solid waste facility). The Comprehensive Plan should be consistent and specifically designate these areas as appropriate for solid waste handling facilities.*
2. *Buffers: Buffers of 500' to 1,000' from certain types of solid waste sites to residential & rural areas, parks, etc. already exist in most of the zoning districts. The Essential Public Facilities Committee recommends increasing this buffer from 1,000' to 1,500' for municipal landfills, incinerators, etc. These buffers would also be applied to streams utilized by threatened or endangered fish species, due to the recent listings of chinook salmon and bull trout.*
3. *Wellhead Protection zones: A Washington State Department of Health publication called Inventory of Potential Contaminant Sources in Washington's Wellhead Protection Areas (1993) identifies landfills, open dumps and incinerators as sources of potential pollutants (pp. 4 and 5). Additionally, a U.S. Environmental Protection Agency publication called Partial List of Potential Sources of Contamination Found in Wellhead Protection Areas and in*

*Watersheds (1998) has a similar listing for landfills. The Whatcom County Critical Areas Ordinance lists solid waste disposal as a source of groundwater contamination (Appendix B).*

*The federal Safe Drinking Water Act requires each state to develop a wellhead protection program. Washington State regulations (WAC 246-290) require Group A water systems, that have 15 or more connections, to develop a wellhead protection program. The public water system must delineate the five and ten year time of travel boundaries for their wellhead protection areas and identify potential contaminant sources. The purpose is to prevent contamination of ground water used by these public water systems. (Washington State Department of Health, Wellhead Protection Program Guidance Document, April 1995, pp. 1, 7 and 11). However, the wellhead protection program does not, in itself, have the ability to limit land uses around the well. Therefore, wellhead protection areas should be added to the siting criteria for solid waste disposal sites.*

4. *Lake Whatcom Watershed: Lake Whatcom is the drinking water source for the City of Bellingham and several water districts. The Water Resource Protection Overlay District, which applies to Lake Whatcom, already prohibits solid waste disposal, including landfills and incinerators (WCC 20.71.212). The siting criteria in the Comprehensive Plan should incorporate this prohibition.*
5. *100-year floodplain: Several of the zoning districts that allow landfills, incinerators, etc. already prohibit them in the 100-year flood-plain (i.e. WCC 20.42.160). The Comprehensive Plan should incorporate this prohibition.*
6. *Limitations around airports: The 5,000' to 10,000' buffer around airports would be added to the siting criteria to recognize recommendations of the Federal Aviation Administration relating to siting municipal solid waste landfills and other solid waste operations that handle putrescible waste near airports to minimize bird strike hazards.*
7. *The policy clarifies that commercial composting is not an essential public facility because:*
  - a. *WAC 365-195-340 indicates that essential public facilities are those facilities provided by government, substantially funded by government, contracted for by government or provided by private entities subject to public service obligation.*
  - b. *On 9/3/02, staff asked a representative of Municipal Research & Services Center of Washington (MRSC) to research whether commercial composting facilities would be considered an essential public facility and, specifically, whether they would be subject to public service obligations.*

- c. *On 9/10/02, the MRSC representative stated his opinion that commercial composting facilities are not the type of use that would constitute an essential public facility or be subject to public service obligations.*

Policy 2XX-9: Personal wireless communication facilities and broadcast towers have been constructed at various locations around Whatcom County.

Personal wireless communication facilities, such as cell phone towers, shall be sited in accordance with Whatcom County Code 20.13.

Broadcast towers, such as TV and radio towers, are allowed with a conditional use permit in all zoning districts.

Proximity to airports and potential hazards to aviation will be considered when siting new towers or increasing height of existing towers.

Rationale for recommended modifications:

1. *In 2000, the County Council adopted siting criteria for personal wireless communication facilities under ordinance 2000-006, now codified as WCC 20.13.*
2. *Airports and Compatible Land Use, Volume I (Washington State Department of Transportation Aviation Division, February 1999) identifies height hazards, such as towers, as an issue that should be addressed to maintain the safety and efficient operation of airports.*
3. *The Essential Public Facilities Advisory Committee does not recommend any other special siting criteria for communication towers.*

Policy 2XX-10: Sewage treatment plants in Whatcom County currently serve cities, water & sewer districts, the Lummi Nation, and a state park.

Within unincorporated Whatcom County, sewage treatment plants will be sited in accordance with all of the following principles:

- (a) New sewage treatment plants will be located outside of the 100-year floodplain, unless the applicant demonstrates that alternative sites are not feasible;
- (b) New sewage treatment plants will be located outside the 10-year time of travel boundary of a public water system's delineated wellhead protection area;

- (c) New sewage treatment plants will be located, in accordance with *Hazardous Wildlife Attractants on or Near Airports* (Federal Aviation Administration Advisory Circular 150/5200-33), as follows:
- At least 10,000' from airports serving turbine-powered aircraft (Bellingham International Airport);
  - At least 5,000' from airports serving piston-powered aircraft (Blaine Municipal and Lynden Municipal Airports);
- (d) New sewage treatment plants will be buffered from existing high-density residential land uses. Expansion of existing sewage treatment plants will provide buffering from existing high-density residential land uses to the extent possible;
- (e) New sewage treatment plants and expansion of existing sewage treatment plants will be constructed in a manner to shield light and glare from surrounding land uses.

Rationale for recommended modifications:

1. *Mark Henderson of the State Department of Ecology discussed impacts of sewage treatment plants with the Essential Public Facilities Advisory Committee on 11-7-02. Mr. Henderson recommended keeping sewage treatment plants out of the 100-year flood plain if possible.*
2. *Mr. Henderson also indicated that there can be leaks or overflows at these plants. Therefore, wellhead protection areas should be avoided.*
3. *The Federal Aviation Administration (FAA) issued an advisory circular in 1997 entitled "Hazardous Wildlife Attractants on or Near Airports." This document indicates "... During the past century, wildlife-aircraft strikes have resulted in the loss of hundreds of lives world-wide, as well as billions of dollars worth of aircraft damage ... " It recommends siting criteria applicable to sewer treatment plants, which can attract wildlife. The criteria recommend a separation of 5,000' between these "wildlife attractants" and airports serving piston-powered aircraft. A 10,000' separation is recommended for airports serving turbine-powered aircraft.*
4. *Buffering from residential areas is proposed because of the possibility for chlorine leaks, aesthetic impacts and odors (although, with modern technology, odors are largely mitigated).*
5. *Lighting should be shielded to protect surrounding areas.*

Policy 2XX-11: Water treatment plants in Whatcom County are currently operated by cities, water & sewer districts, water associations and other public water system operators such as industries at Cherry Point.

Within unincorporated Whatcom County, water treatment plants will be sited in accordance with all of the following principles:

- (a) New water treatment plants will be located outside of the 100-year floodplain, unless the applicant demonstrates that alternative sites are not feasible;
- (b) New water treatment plants and expansion of existing water treatment plants will be constructed in a manner to shield light and glare from surrounding land uses.
- (c) New water treatment plants will be located:
  - At least 500' from natural gas pipelines with a maximum operating pressure of 500 or greater pounds/square inch gage (psig).
  - At least 100' from natural gas pipelines with a maximum operating pressure between 250 and 499 psig;
  - At least 500' from pipelines that carry liquid gas, oil or other petroleum products.

Rationale for recommended modifications:

1. *John Thielemann of the State Department of Health discussed impacts of water treatment plants with the Essential Public Facilities Advisory Committee on 11-7-02. Mr. Thielemann recommended keeping water treatment plants out of the 100-year floodplain if possible. When a community is trying to deal with flooding, it just makes things worse if they also have to deal with a water treatment plant that has been rendered inoperable because it flooded.*
2. *Lighting should be shielded to protect surrounding areas.*
3. *Whatcom County Comprehensive Plan Policy 5N-7 states:*

*For natural gas transmission pipelines, encourage siting of critical facilities and high occupancy facilities pursuant to the regulations of WAC 480-93-020, and 480-93-030 (not closer than 500' from a 500 psi pressure or greater pipeline, not closer than 100' from a pipeline with a pressure between 250 and 499 psi) and as hereafter amended.*

4. *There is no similar policy for liquid gas pipelines. However, a 500' buffer has been proposed to provide spacing between water treatment plants and pipelines that carry liquid gas, oil or other petroleum products. Both Emergency Management and the Whatcom County Fire Marshal have reviewed this buffer. With regard to the proposed buffer, the Fire Marshal stated in an e-mail message of 12/15/03 that "After review and comment from Emergency Management it looks good. . ."*

Policy 2XX-12      Water storage facilities owned and operated by a public water utility for the sole purpose of providing required fire flow are a permitted use in all zoning districts provided:

- Volume does not exceed 50,000 gallons; and
- Height does not exceed 12 feet above the ground level measured within 20 feet in all directions of the tank.

Other water storage facilities for potable water and/or fire flow owned and operated by a public utility are allowed with a conditional use permit in all zoning districts.

Rationale for recommended modifications:

1. *The above language reiterates existing zoning ordinance requirements (WCC 20.82.023 and WCC 82.030(5)).*
2. *The Essential Public Facilities Advisory Committee does not recommend any special siting criteria for water storage tanks.*

Policy 2XX-13:      Substance abuse facilities, mental health facilities, and group homes have been constructed at various locations around Whatcom County.

(a) In compliance with RCW 36.70A.410, Whatcom County will not treat a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. "Handicaps" are as defined in the federal fair housing amendments act of 1988.

**(b) Within unincorporated Whatcom County, substance abuse crisis facilities and mental health crisis facilities will not be located within 600' from any of the following:**

- **Public schools;**
- **Private schools;**
- **School bus stops,**
- **Licensed day care**
- **Licensed pre-school facilities;**

- Public parks;
- Publicly dedicated trails;
- Sports fields;
- Playgrounds;
- Recreational and community centers;
- Public libraries; and
- Public and private youth camps.

Rationale for recommended modifications:

1. *Residential facilities - The Growth Management Act, at RCW 36.70A.410, requires that residences for "handicapped" persons be treated the same as other similar residences. Handicapped is defined by the federal Fair Housing Act:*

*"Handicap" means, with respect to a person -*

- (a) a physical or mental impairment which substantially limits one or more of such person's major life activities,*
- (b) a record of having such an impairment, or*
- (c) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of title 21).*

2. *Crisis facilities - A crisis facility could have public safety implications for the neighborhood it is located in, as people who are in crisis because of drugs or alcohol and people who are suicidal or homicidal could come to the facility (Summary of Essential Public Facilities Advisory Committee Meeting of 9/3/02). Therefore, it is appropriate to establish buffers around sensitive uses, especially places where young people tend to congregate.*

Policy 2XX-14: There are currently no secure community transition facilities for sex offenders located in Whatcom County.

Within unincorporated Whatcom County, secure community transition facilities for sex offenders will be sited in accordance with all of the following:

- (a) Secure community transition facilities shall not be located adjacent to, immediately across the street or parking lot from, or within the line of sight of existing risk potential facilities, which are:
  - Public schools;
  - Private schools;
  - School bus stops,
  - Licensed day care
  - Licensed pre-school facilities;

- Public parks;
- Publicly dedicated trails;
- Sports fields;
- Playgrounds;
- Recreational and community centers;
- Churches, synagogues, temples or mosques;
- Public libraries;
- Public and private youth camps; and
- Other uses identified by the State Department of Social and Health Services pursuant to RCW 71.09.020(11).

“Within the line of sight” shall mean that it is possible to reasonably visually distinguish and recognize individuals. An unobstructed visual distance of 600’ shall be considered to be within the line of sight. Line of sight may be considered to be less than 600’ if the applicant can demonstrate that visual barriers exist or would be created that would visually screen the risk potential facility from the secure community transition facility.

- (b) No more than one secure community transition facility, with a maximum of three people (other than staff), shall be located within Whatcom County.
- (c) The average response time of emergency services to a proposed secure community transition facility will be balanced against the proximity of the proposed secure community transition facility to the above risk potential facilities. Great weight will be given to sites that are farthest removed from the risk potential facilities listed above.
- (d) In identifying potential sites within a county for the location of a secure community transition facility, the State Department of Social and Health Services shall work with local governments to provide for the equitable distribution of such facilities. In coordinating and deciding upon the siting of secure community transition facilities, great weight shall be given by the county and cities within the county to:
  - The number and location of existing residential facility beds operated by the department of corrections or the mental health division of the department of social and health services in each jurisdiction in the county; and

- The number of registered sex offenders classified as level II or level III and the number of sex offenders registered as homeless residing in each jurisdiction in the county.

"Equitable distribution" means siting or locating secure community transition facilities in a manner that will not cause a disproportionate grouping of similar facilities either in any one county, or in any one jurisdiction or community within a county, as relevant.

- (e) Whatcom County should seek a financial mitigation agreement from the Department of Social and Health Services for costs associated with law enforcement training, emergency procedure training and other expenses identified under RCW 71.09.344.

Rationale for recommended modifications:

1. *RCW 71.09.341 states that local governments may adopt zoning regulations relating to secure community transition facilities for sex offenders, but that these regulations can not be more restrictive than the requirements of RCW 71.09.285 through RCW 71.09.340.*
2. *RCW 71.09.285(2) indicates that secure community transition facilities for sex offenders can not be located adjacent to, immediately across a street or parking lot from, or within the line of sight of a "risk potential activity or facility." Risk potential facility is defined by RCW 71.09.020 to include public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, and public libraries.*
3. *"Within the line of sight" of a risk potential facilities is defined by RCW 71.09.285(2) to mean that it is possible to reasonably visually distinguish and recognize individuals. DSHS recommends that an unobstructed distance of 600' is within the line of sight, unless screening is provided. Spokane County adopted this 600' standard (see Spokane County Resolution 02-0812).*
8. *RCW 71.09.250(6)(a) requires the Department of Social and Health Services to "Identify the minimum and maximum number of secure community transition facility beds . . . that may be necessary for the period of May 2004 through May 2007 and provide notice of these numbers to all counties by August 31, 2001." The Department of Social and Health Services, in a letter of August 31, 2001,*

*indicated that the projected maximum number of beds needed in Whatcom County by May of 2007 would be three.*

9. *RCW 71.09.285(1) states that average response times for emergency services to the area of a proposed secure community transition facility are to be balanced against the proximity of the site to "risk potential activities."*
10. *RCW 71.09.285(3) indicates that great weight will be given to sites that are farthest removed from risk potential activities.*
11. *The remaining sections of RCW 71.09.285 through .340 address issues such as security systems, staffing at the facility, escorts for offenders when they leave the facility and offender violations. State law requires the State Department of Social and Health Services (DSHS) to address these issues.*
12. *RCW 71.09.250(8) incorporates requirements for the state and County to consider certain factors, such as the number of existing DSHS or DOC beds in the County, to ensure there is an "equitable distribution" of facilities (so that one jurisdiction does not have to accommodate more than its share of facilities).*
13. *Financial mitigation is provided for under RCW 71.09.344. Under this state law, the state may reimburse the County for items such as training for law enforcement personnel.*

Policy 2XX-15: If significant amendments to the essential public facility siting criteria are proposed in the future, an essential public facilities committee consisting of citizen, business, health care, and government representatives, as appropriate, will be appointed by the County Executive to make recommendations relating to the proposed amendments.

**GOAL 2YY:** **Provide for broad participation in the siting process by affected agencies, citizens and any other interested parties.**

Policy 2YY-1: Assure that any specific procedure for siting facilities considered as regional or essential is consistent with county comprehensive plans and County-Wide Planning Policies.

**GOAL 2ZZ:** **Utilize the Eestablished a-clear review or appeal procedure to resolve differences of opinion regarding facility site selection.**

Policy 2ZZ-1: Appeals relating to essential public facility siting shall be decided by the Hearing Examiner and/or County Council, in accordance with the zoning ordinance, prior to proceeding with any appeals to Superior Court. Establish a specific procedure and review body to hear appeals of site selections for essential public facilities.

Policy 2ZZ-2: County regulations will not preclude ~~should not prohibit~~ the siting of essential public facilities in designated zoning districts.

Rationale recommended modifications:

1. Policy 2ZZ-1 will clarify which authorities will decide appeals.
2. Policy 2ZZ-2 will clarify that, in accordance with the Growth Management Act, essential public facilities must be allowed to locate somewhere in the County. However, they do not have to be allowed in each and every zoning district.

~~Essential Public Facilities~~

- ~~49. Establish an Essential Public Facility Advisory Committee to develop a site selection criteria, approval and appeals process for essential public facilities.~~

Rationale for recommended modifications: An Essential Public Facility Advisory Committee has been formed and issued recommendations. Therefore, this action item can be deleted.

*Amend Whatcom County Comprehensive Plan Appendix A – Glossary as follows:*

“Essential State or Regional Transportation Facilities” mean the interstate highway system, interregional state principal arterials including ferry connections that serve state-wide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger intermodal terminals excluding all airport facilities and services, the freight railroad system, marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and high-capacity transportation systems serving regions as defined in RCW 81.104.015.

*Note: The Growth Management Act references this definition (the part about the Columbia/Snake navigable river system was deleted because it is not applicable to Whatcom County).*

“General aviation airport” means a facility where airplanes can take off and land that is publicly owned or privately owned but used by the public. It can include a terminal, hangers and refueling facilities and other accessory uses. Aircraft landing areas used solely for personal use, agricultural use, forest management, or to serve the Eliza Island community are not general aviation airports. Airports used solely for commercial service or military use are not general aviation airports.

“Group home” – means a residence that is licensed by the state as either a boarding home or an adult family home.

*Note: This definition was formulated after consulting the definition of “group home” in WAC 388-820-090.*

“In-patient facilities” mean buildings and accessory uses primarily utilized to provide health care service or medical attention, care or treatment that requires at least one overnight stay.

*Note: Based upon dictionary definitions of “in-patient,” “patient,” and “health care.”*

## **ZONING AMENDMENTS**

*Amend the Official Whatcom County Zoning Ordinance (Title 20) as follows:*

### **A. TRANSPORTATION:**

*Urban Residential Medium Density – Conditional uses (WCC 20.22.150):*

.180 Major passenger intermodal terminals.

*General Commercial – Permitted Uses (WCC 20.62.050):*

.080 Major passenger intermodal terminals.

*Tourist Commercial – Permitted Uses (WCC 20.63.050):*

.080 Major passenger intermodal terminals.

*Gateway Industrial – Permitted uses (WCC 20.65.050):*

.081 Freight railroad switching yards & terminals.

*Gateway Industrial – Conditional uses (WCC 20.65.150):*

20.65.150 Conditional Uses

.180 Major passenger intermodal terminals.

*Light Impact Industrial – Permitted uses (WCC 20.66.050):*

.081 Freight railroad switching yards & terminals.

*Light Impact Industrial – Conditional uses (WCC 20.66.150):*

.180 Major passenger intermodal terminals.

*General Manufacturing – Permitted uses (WCC 20.67.050):*

.081 Freight railroad switching yards & terminals.

*General Manufacturing - Conditional uses (WCC 20.67.150):*

.180 Major passenger intermodal terminals.

*Heavy Impact Industrial – Permitted uses (WCC 20.68.050):*

.081 Freight railroad switching yards & terminals.

.082 Marine port facilities.

*Heavy Impact Industrial – Conditional uses (WCC 20.68.150):*

.180 Major passenger intermodal terminals.

*Airport Operations – Permitted uses (WCC 20.70.050):*

.056 Terminals (including eating and drinking establishments), but excluding freight railroad switching yards & terminals.

.080 Major passenger intermodal terminals.

*Water Resource Protection District – Prohibited uses (WCC 20.71.200)*

.217 Major passenger intermodal terminals.

.218 Freight railroad switching yards & terminals.

***Public Utilities – Intent (WCC 20.82.010)***

The provisions of this chapter shall not be construed to limit or interfere with the installation, maintenance and operation of public utility lines, pipelines for oil and gas, railroads ~~(but not including switching yards or round houses)~~, or maintenance facilities. The provisions of the Official Whatcom County Zoning Ordinance (Title 20) shall not apply to the installation, maintenance and operation of railroads and related facilities when subject to preemption under federal law.

*Rationale for recommended modifications:*

1. *Major passenger terminals should be allowed in the following zones for the following reasons:*

- *Urban Residential Medium Density zone - Because this zone allows relatively high density housing (6 to 18 units per acre) that could potentially be served by such terminals.*
  - *General Commercial – Such passenger terminals are already allowed in this zone and there is no reason to change this.*
  - *Tourist Commercial – The purpose of this zone is to “. . .allow land use activities which serve the traveling public. . .” (WCC 20.63.010). Passenger terminals are compatible with this purpose.*
  - *Industrial zones – Major passenger terminals are compatible with industrial areas, would not negatively affect such areas, and could aid employee transportation.*
  - *Airport Operations – Allows potential connection between airplanes and other modes of travel.*
2. *Freight railroad switching yards & terminals should be allowed for the following reasons:*
- *Industrial zones – These facilities are generally compatible with and serve industrial areas. The zoning currently allows them in most industrial zones.*
3. *Marine port facilities should be allowed for the following reasons:*
- *Heavy Impact Industrial – Cherry Point has been designated as a marine port of state-wide significance in Washington’s Transportation Plan 2003-2022 (p. D-9) and existing port facilities are present.*

**B. AIRPORTS:**

The Essential Public Facilities Committee recommends maintaining the existing zoning regulations with no changes. The existing zoning regulations allow airports in the Airport Operations Zone. Aircraft landing areas for agricultural use, forestry use or personal use are allowed in several other zoning districts. However, these landing strips do not qualify as essential public facilities. While the zoning regulations governing where airports are allowed would not be modified, the notice requirements for informing neighbors of a proposal to rezone property to Airport Operations (and notice provisions for other rezones) would be codified as shown below.

*Add a new section to Whatcom County Code 20.90 as follows:*

**20.90.045 Notice for Quasi-Judicial Rezones**

**Notice of quasi-judicial hearings conducted by the Planning Commission for zoning map amendments shall be issued in accordance with all of the following provisions:**

- 1. Notice shall be published once in the official county newspaper at least 10 days prior to the hearing. The County shall prepare the notice and the applicant shall pay for the notice.**

2. Notice shall be mailed to property owners as follows:
  - a. For zoning map amendments within existing urban growth areas: At least 10 days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelope with a typed address for each of the above referenced property owners.
  - b. For zoning map amendments outside existing urban growth areas: At least 10 days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelope with a typed address for each of the above referenced property owners.
  - c. For zoning map amendments that involve rezoning property to an Airport Operations District: At least 10 days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,500 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelope with a typed address for each of the above referenced property owners.
3. The County shall prepare and the applicant shall post signs giving notice of the hearing in conspicuous locations on the property at least 10 days prior to the hearing.
4. The County shall send notice to the appropriate city, when the proposed rezone is within or would expand the urban growth area, and to agencies, school districts, and tribes that will potentially be affected by the proposed rezone at least 10 days prior to the hearing.
5. All notices shall specify the date, time, location, and purpose of the hearing and provide a description and the location of the proposed rezone. The public shall be invited to submit written comments and attend the hearing to provide oral comments.

*Rationale for proposed amendment:*

1. *The Planning Enabling Act requires notice in the newspaper at least 10 days prior to the hearing on a rezone application (RCW 36.70.590).*

2. *WCC 2.33.060 requires mailed notice for permit applications in urban growth areas to property owners within 300' (see ordinance 2003-039). Notice for rezone hearings should be consistent.*
3. *WCC 2.33.060 requires mailed notice for permit applications outside growth areas to property owners within 1,000' (see ordinance 2003-039). Notice for rezone hearings should be consistent.*
4. *In Yanisch v. Lewis County (Dec. 2002), the Western Washington Growth Management Hearings Board (GMHB) stated that Lewis County must: "Ensure notification of applications for general aviation facilities to members of the public living beyond 1,000 feet of the facility." Notice for airport rezones would be given to property owners within 1,500'. The County's Prosecuting Attorney's office reviewed the proposed language and, in an e-mail message of 10/10/03, stated the proposal does not conflict with the GMHB ruling.*
5. *County Council Resolution No. 90-57 requires posting a sign on the property when a rezone is proposed. The proposed language would maintain the spirit and intent of this resolution.*

**C. STATE EDUCATION FACILITIES:**

*Urban Residential – Conditional Use (WCC 20.20.150):*

.183 State education facilities.

*Urban Residential Medium Density – Conditional Use (WCC 20.22.150):*

.183 State education facilities.

*Urban Residential – Mixed – Conditional Use (WCC 20.24.150):*

.183 State education facilities.

*Residential Rural – Conditional Use (WCC 20.32.150):*

.183 State education facilities.

*Rural Residential- Island – Conditional Use (WCC 20.34.150):*

.183 State education facilities.

*Rural – Conditional Use (WCC 20.36.150):*

.183 State education facilities.

*Point Roberts Transitional Zone – Conditional Use (WCC 20.37.150):*

.183 State education facilities.

**Agriculture – Conditional Use (WCC 20.40.150):**

**.183 State education facilities that are related to agricultural operation training.**

**Neighborhood Commercial Center – Conditional Use (WCC 20.60.150):**

**.183 State education facilities.**

**Small Town Commercial – Conditional Use (WCC 20.61.200):**

**.283 State education facilities.**

**General Commercial – Conditional Use (WCC 20.62.150):**

**.183 State education facilities.**

*Resort Commercial – Conditional Use (WCC 20.64.150):*

.183 State education facilities.

*Gateway Industrial – Permitted Use (WCC 20.65.050):*

.058 Public uses which because of locational requirements are necessary in the Gateway Industrial District, excluding state education facilities.

*Light Impact Industrial – Permitted Use (WCC 20.66.050):*

.077 Public uses and community facilities including police and fire stations, libraries, community centers, recreation facilities and other similar noncommercial uses, excluding state education facilities.

*Light Impact Industrial – Conditional Use (WCC 20.66.150):*

.183 State education facilities when located outside of the Cherry Point Major/Port Industrial Urban Growth Area.

*General Manufacturing – Permitted Use (WCC 20.67.050):*

.073 Public uses and community facilities including police and fire stations, libraries, community centers, recreation facilities and other similar noncommercial uses, excluding state education facilities.

*General Manufacturing – Conditional Use (WCC 20.67.150):*

~~.151 University sponsored vocational, educational and scientific research facilities and related activities.~~

.183 State education facilities.

*Heavy Impact Industrial – Permitted Uses (WCC 20.68.150):*

.062 Public uses and community facilities including police and fire stations, libraries, community centers, recreation facilities and other similar noncommercial uses, excluding state education facilities.

*Airport Operations – Permitted Use (WCC 20.70.050):*

.063 Public and community facilities including police and fire stations, and other similar noncommercial uses, excluding state education facilities.

**Airport Operations – Conditional Use (WCC 20.70.150):**

**.183 State education facilities that are related to airport operation training.**

Rationale for recommended modifications:

1. *In residential, rural, & commercial zones – The existing zoning code allows educational facilities in most of these zones and there is no reason to exclude state education facilities from most of these areas.*

2. *Industrial zones – In order to preserve industrial land supply and maintain compatibility between different land uses in the industrial zone, state education facilities should be:*
  - ✓ *Prohibited in Gateway Industrial;*
  - ✓ *Allowed only with a conditional use permit in the Light Impact Industrial and General Manufacturing zones; and*
  - ✓ *Prohibited in the Heavy Impact Industrial and Cherry Point area.*
3. *Airport Operations – Only those state education facilities related to airport operation training should be allowed, as noise and other airport impacts could adversely impact state education facilities.*

#### **D. CORRECTION FACILITIES:**

*Urban Residential – Conditional Use (WCC 20.20.150):*

.151 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses, excluding correction facilities other than those listed in .184. These uses shall not be permitted outside of short term planning areas, small towns, crossroads commercial areas, and resort recreational subdivisions designated on the Comprehensive Plan map unless the applicant can demonstrate that there is a need to locate outside those areas in order to comply with legal requirements or standards; or that the proposed location is the most efficient place for the proposed use with respect to providing needed services to the public.

.184 Transitional correction facilities for juveniles and adults with 10 or less residents. These facilities include "juvenile rehabilitation administration" (JRA) facilities run by the state and residential adult work release facilities.

*Urban Residential Medium Density – Conditional Use (20.22.150):*

.151 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses, excluding correction facilities other than those listed in .184.\*

.184 Transitional correction facilities for juveniles and adults with 10 or less residents. These facilities include "juvenile rehabilitation administration" (JRA) facilities run by the state and residential adult work release facilities.

*Urban Residential Mixed – Conditional Use (WCC 20.24.150):*

.151 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses outside of centers as provided in WCC 20.24.132(6), excluding correction facilities **other than those listed in .184.**

.184 Transitional correction facilities for juveniles and adults with 10 or less residents. These facilities include "juvenile rehabilitation administration" (JRA) facilities run by the state and residential adult work release facilities.

*Residential Rural – Conditional Use (WCC 20.32.150):*

.151 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses, **excluding correction facilities.** \*

*Rural Residential – Island – Conditional Use (WCC 20.34.150):*

.151 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses, excluding correction facilities.

*Rural – Conditional Uses (WCC 20.36.150):*

.151 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses, **excluding correction facilities.** \*

*Point Roberts Transitional Zone – Conditional Use (WCC 20.37.150):*

.184 **Minor** state and local correction facilities **with 10 or less beds.**

*Rationale for proposed amendment: At the October 7 Public Works & Capital Projects committee meeting, the committee asked staff to develop language to ensure that only minor correction facilities would be allowed in Point Roberts.*

*Neighborhood Commercial Center – Permitted Use (WCC 20.60.050):*

.060 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities, and other similar noncommercial uses, excluding correction facilities.

*Small Town Commercial – Permitted Use (WCC 20.61.050):*

.063 Public and community facilities including police and fire stations, libraries, community centers, museums, public parks and recreational facilities, tourist information offices and other similar noncommercial uses, excluding correction facilities.

*Small Town Commercial – Conditional Use (WCC 20.61.200):*

.234 State and local correction facilities.

**General Commercial zone – Conditional Use (WCC 20.62.150):**

**.184 State and local correction facilities.**

*Resort Commercial zone – Conditional Use (WCC 20.64.150):*

.161 Public and community facilities including police and fire stations, libraries, community centers, recreation facilities and other similar noncommercial uses, excluding correction facilities.

*Gateway Industrial – Permitted Use (WCC 20.65.050):*

.058 Public uses which because of locational requirements are necessary in the Gateway Industrial District, excluding correction facilities.

**Light Impact Industrial – Conditional Use (WCC 20.66.150):**

**.184 State and local correction facilities when located outside of the Cherry Point Major/Port Industrial Urban Growth Area.**

*General Manufacturing – Permitted Use (WCC 20.67.050):*

.073 Public uses and community facilities including police and fire stations, libraries, community centers, recreation facilities and other similar noncommercial uses, excluding correction facilities.

*Heavy Impact Industrial – Permitted Uses (WCC 20.68.050)*

.062 Public uses and community facilities including police and fire stations, libraries, community centers, recreation facilities and other similar noncommercial uses, excluding correction facilities.

*Airport Operations – Permitted Uses (WCC 20.70.050)*

.063 Public and community facilities including police and fire stations, and other similar noncommercial uses, excluding correction facilities.

*Airport Operations – Prohibited Uses (WCC 20.70.200)*

.205 Correction facilities.

*Rationale for recommended modifications:*

1. *Major correction facilities should be prohibited in the County's higher density residential zones because they would not be compatible with residential use, would place additional demands on infrastructure such as roads, and could take up a portion of the residential land base for non-residential uses. However, transitional facilities with 10 or less residents should be allowed with a conditional use permit in residential zones, as such facilities have fewer impacts.*
2. *Certain commercial zones may be appropriate for correction facilities. General Commercial – In other places, correction facilities are not uncommon in general commercial areas and should be allowed in these zones. Small Town Commercial – The potential for satellite facilities makes this zone a possible location for correction facilities.*
3. *Correction facilities should be prohibited in Heavy Impact Industrial, Airport Operations and Rural Residential-Island Districts. In the Heavy Impact Industrial zone, industrial emissions and the associated potential for more frequent inmate evacuations are concerns that make correction facilities incompatible with the zone. In the Airport Operations zone, noise and aircraft accident issues are concerns that make correction facilities inappropriate. In the Rural Residential-Island district (which applies only to Lummi Island), access to courts, law enforcement and community services are concerns.*

**E. SOLID WASTE FACILITIES:**

*Urban Residential – Conditional Use (WCC 20.20.150):*

.185 Type I Solid Waste Handling Facilities.

*Urban Residential Medium-Density – Conditional Use (WCC 20.22.150):*

.185 Type I Solid Waste Handling Facilities.

*Urban Residential – Mixed - Conditional Use (WCC 20.24.150):*

.185 Type I Solid Waste Handling Facilities.

.186 Type II Solid Waste Handling Facilities.

*Residential Rural - Conditional Use (WCC 20.32.150):*

.185 Type I Solid Waste Handling Facilities.

.186 Type II Solid Waste Handling Facilities.

*Rural Residential Island - Conditional Use (WCC 20.34.150):*

.185 Type I Solid Waste Handling Facilities.

.186 Type II Solid Waste Handling Facilities.

*Eliza Island District - Conditional Use (WCC 20.35.150):*

.185 Type I Solid Waste Handling Facilities.

*Rural zone – Conditional Use (WCC 20.36.150):*

.185 Type I Solid Waste Handling Facilities. ~~.164 Transitory solid waste facilities for treatment, storage, or collection, including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations.~~

.186 Type II Solid Waste Handling Facilities.

.187 Type III Solid Waste Handling Facilities ~~.163 Solid waste disposal facilities and sites only in those areas specified as suitable for solid waste sites in the applicable subarea Comprehensive Plan, except for sewage sludge when a utilization permit is issued by the Whateom County department of health and human services in accordance with WAC 173-304-300.~~

*Point Roberts Transitional Zone - Conditional Use (WCC 20.37.150):*

.185 Type I Solid Waste Handling Facilities.

.186 Type II Solid Waste Handling Facilities.

*Agriculture zone – Conditional Use (WCC 20.40.150):*

~~.185 Type I Solid Waste Handling Facilities. .159 Transitory solid waste facilities for treatment, storage, or collection, including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial or commercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations.~~

*Rural Forestry zone – Conditional Use (WCC 20.42.150):*

~~.185 Type I Solid Waste Handling Facilities. .161 Transitory solid waste facilities for treatment, storage, or collection, including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; nonecommercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations.~~

.186 Type II Solid Waste Handling Facilities.

~~**.160 Solid waste disposal facilities and sites of a permanent nature including, but not limited to, landfills, incinerators, and transfer stations, excluding sewage sludge permitted by the Whatcom County department of public health in accordance with WAC 173-304-300; provided that the hearing examiner determines that the proposed facility or site meets the following conditions; provided that in the Lake Whatcom Watershed the only conditional use allowed under this section will be transfer stations.**~~

~~**(1) The facility or site will not be located within any area identified in an adopted critical areas ordinance or 100-year floodplain unless outside of the floodplain and at least three feet in elevation higher than the floodway elevation;**~~

~~**(2) Filling or excavation, structures, or nonmobile machinery for all facilities except inert, demolition, and wood waste landfills will not be located within 1,000 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage**~~

~~areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;~~

~~(3) Inert, demolition, and wood waste landfills will not have any filling or excavation areas, structures, or machinery located within 500 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;~~

~~(4) The facility or site will not result in filling or excavation, location of structures or buildings, driveways or machinery use except for vegetation maintenance within 100 feet of any property line and except for driveways within 150 feet of any county or state road right-of-way;~~

~~(5) The facility or site will have vehicular approaches designed to minimize conflict between automobile and truck traffic, will maintain the carrying capacity of county roads, and will be located on a road classified as all weather, except where use is shown to be intermittent and easily delayed until emergency conditions have passed;~~

~~(6) The facility or site has complied with the provisions of WCC 20.84.200 and all other ordinances and laws regulating solid waste facilities and sites, such as but not limited to the Whatcom County SEPA Ordinance, as well as state and federal regulations concerning solid waste facilities and sites;~~

~~(7) All landfills have a final closure plan meeting the requirements of WCC Title 24 and of Chapter 173-304 WAC, and the closure plan includes:~~

~~(a) Reclamation in two to 10-acre increments, as appropriately responsive to the size and intensity of the particular activity, with seeding to be accomplished annually but no later than September 30th;~~

~~(b) Permanent vegetative cover that will maintain in healthy growing condition with the level of maintenance that is covered through the financial assurance for post-closure activities; and (c) Final topography that is consistent with the surrounding area;~~

~~(8) The buffer areas and visual screening shall include a minimum of 50 feet wide of landscaping meeting the requirements of WCC 20.80.300 (Landscaping);~~

~~(9) Internal building or structure lighting and lighting for security purposes shall be designed and installed to prevent the illumination of adjacent properties during nonoperating hours;~~

~~(10) Signs shall not exceed one nonilluminated freestanding sign, visible from a road, and not exceeding six feet in height and on additional nonilluminated sign attached to a building, but not extending above the lowest portion of the roof, for a maximum total signage of 16 square feet; however, signs giving unacceptable materials, alternate disposal locations, recycling options, or any other information required by other regulations, shall not be included as part of this 16-square-foot allowance but shall be visible only from areas within the parcel unless required by other regulations to be visible to the street and then shall be designed to be compatible with a residential neighborhood including appropriate landscaping;~~

~~(11) In addition, the Whatcom County hearing examiner may impose conditions of approval which may be necessary to protect the value and enjoyment of existing adjacent uses.~~

*Commercial Forestry zone – Conditional Use (WCC 20.43.150):*

~~.185 Type I Solid Waste Handling Facilities. .161 Transitory solid waste facilities for treatment, storage, or collection including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations.~~

~~.186 Type II Solid Waste Handling Facilities.~~

~~.187 Type III Solid Waste Handling Facilities, provided that: .160 Solid waste disposal facilities and sites of a permanent nature including, but not limited to, landfills, incinerators, and transfer stations, excluding sewage sludge permitted by the Whatcom County department of public health in accordance with WAC 173-304-300; provided that the hearing examiner determines that the proposed facility or site meets the following conditions:~~

~~(1) The facility or site will not be located within the 100-year floodplain or the Lake Whatcom watershed. The facility or site will not be located within any area identified in an adopted critical areas ordinance or 100-year floodplain unless outside of the floodplain and at least three feet in elevation higher than the floodway elevation;~~

~~(2) Solid waste handling facilities shall be located at least 1,500' from the following:~~

- ~~• All zoning district boundaries, except **commercial** forestry and industrial zones ;~~
- ~~• Public parks, public recreation areas, or publicly owned wildlife areas;~~
- ~~• Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;~~
- ~~• Shorelines that are within the jurisdiction of the Shoreline Management Program;~~

- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 1,500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater;
- Inert landfills.

(2) Filling or excavation, structures, or nonmobile machinery for all facilities except inert, demolition, and wood waste landfills will not be located within 1,000 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months' duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(3) Inert landfills shall be located at least 500' from the following:

- All zoning district boundaries, except **commercial** forestry and industrial zones ;
- Public parks, public recreation areas, or publicly owned wildlife areas;
- Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- Shorelines that are within the jurisdiction of the Shoreline Management Program;
- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater.

(3) Inert, demolition, and wood waste landfills will not have any filling or excavation areas, structures, or machinery located within 500 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months' duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(4) The facility or site will not result in filling or excavation, location of structures or buildings, driveways or machinery use except for vegetation maintenance within 100 feet

of any property line and except for driveways within 150 feet of any county or state road right-of-way;

(5) The facility or site will have vehicular approaches designed to minimize conflict between automobile and truck traffic, will maintain the carrying capacity of county roads, and will be located on a road classified as all weather, except where use is shown to be intermittent and easily delayed until emergency conditions have passed;

(6) The facility or site has complied with the provisions of WCC 20.84.200 and all other ordinances and laws regulating solid waste facilities and sites, such as but not limited to the Whatcom County SEPA Ordinance, as well as state and federal regulations concerning solid waste facilities and sites;

(7) All landfills have a final closure plan meeting the requirements of WCC Title 24 and of Chapter ~~173-350~~ 173-304 WAC, and the closure plan includes:

(a) Reclamation in two to 10 acre increments, as appropriately responsive to the size and intensity of the particular activity, with seeding to be accomplished annually but no later than September 30th;

(b) Permanent vegetative cover that will maintain in healthy growing condition with the level of maintenance that is covered through the financial assurance for post-closure activities; and

(c) Final topography that is consistent with the surrounding area;

(8) The buffer areas and visual screening shall include a minimum of 50 feet wide of landscaping meeting the requirements of WCC 20.80.300 (Landscaping);

(9) ~~Internal building or structure lighting and lighting for security purposes~~ All lighting shall be designed and installed to prevent the illumination of adjacent properties during nonoperating hours;

(10) Signs shall not exceed one nonilluminated freestanding sign, visible from a road, and not exceeding six feet in height and on additional nonilluminated sign attached to a building, but not extending above the lowest portion of the roof, for a maximum total signage of 16 square feet; however, signs giving unacceptable materials, alternate disposal locations, recycling options, or any other information required by other regulations, shall not be included as part of this 16-square-foot allowance but shall be visible only from areas within the parcel unless required by other regulations to be visible to the street and then shall be designed to be compatible with a residential neighborhood including appropriate landscaping;

(11) Solid waste facilities or sites shall be located outside the 10-year time of travel boundary of a public water system's delineated wellhead protection area;

(12) Solid waste facilities or sites that handle putrescible waste will be located at least 10,000' from airports serving turbine-powered aircraft and at least 5,000' from airports serving piston-powered aircraft. These buffers shall be measured from the boundary of

the Airport Operations zone or, if the airport is not within an Airport Operations zone, from the boundary of the airport property;

(1344) In addition, the Whatcom County hearing examiner may impose conditions of approval which may be necessary to protect the value and enjoyment of existing adjacent uses.

*Neighborhood Commercial Center - Conditional Use (WCC 20.60.150):*

.185 Type I Solid Waste Handling Facilities.

*Small Town Commercial - Conditional Use (WCC 20.61.200):*

.235 Type I Solid Waste Handling Facilities.

*General Commercial - Conditional Use (WCC 20.62.150):*

.185 Type I Solid Waste Handling Facilities.

.186 Type II Solid Waste Handling Facilities.

*Tourist Commercial - Conditional Use (WCC 20.63.150):*

.185 Type I Solid Waste Handling Facilities.

*Resort Commercial - Conditional Use (WCC 20.64.150):*

.185 Type I Solid Waste Handling Facilities.

*Gateway Industrial - Conditional Use (WCC 20.65.150):*

.185 Type I Solid Waste Handling Facilities.

*Light Impact Industrial (LII) - Permitted Use (WCC 20.66.050):*

.085 Type I Solid Waste Handling Facilities, when located within the Cherry Point Major/Port Industrial Urban Growth Area.

.086 Type II Solid Waste Handling Facilities, when located within the Cherry Point Major/Port Industrial Urban Growth Area.

*Light Impact Industrial (LII) – Conditional Use (WCC 20.66.150):*

.185 Type I Solid Waste Handling Facilities, when located outside of the Cherry Point Major/Port Industrial Urban Growth Area. ~~.155 Transitory solid waste facilities for treatment, storage, or collection, including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations.~~

.186 Type II Solid Waste Handling Facilities, when located outside of the Cherry Point Major/Port Industrial Urban Growth Area.

.187 Type III Solid Waste Handling Facilities, provided that: ~~.154 Solid waste disposal facilities and sites of a permanent nature including, but not limited to, landfills, incinerators, and transfer stations, excluding sewage sludge permitted by the Whatcom County department of public health in accordance with WAC 173-304-300; provided that the hearing examiner determines that the proposed facility or site meets the following conditions:~~

(1) The facility or site will not be located within the 100-year floodplain or the Lake Whatcom watershed. The facility or site will not be located within any area identified in an adopted critical areas ordinance or 100-year floodplain unless outside of the floodplain and at least three feet in elevation higher than the floodway elevation;

(2) Solid waste handling facilities shall be located at least 1,500' from the following:

- All zoning district boundaries, except **commercial** forestry and industrial zones ;
- Public parks, public recreation areas, or publicly owned wildlife areas;
- Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- Shorelines that are within the jurisdiction of the Shoreline Management Program;
- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 1,500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater;
- Inert landfills.

(2) ~~Filling or excavation, structures, or nonmobile machinery for all facilities except inert, demolition, and wood waste landfills will not be located within 1,000 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district~~

setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(3) Inert landfills shall be located at least 500' from the following:

- All zoning district boundaries, except **commercial** forestry and industrial zones ;
- Public parks, public recreation areas, or publicly owned wildlife areas;
- Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- Shorelines that are within the jurisdiction of the Shoreline Management Program;
- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater.

(3) Inert, demolition, and wood waste landfills will not have any filling or excavation areas, structures, or machinery located within 500 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(4) The facility or site will not result in filling or excavation, location of structures or buildings, driveways or machinery use except for vegetation maintenance within 100 feet of any property line and except for driveways within 150 feet of any county or state road right-of-way;

(5) The facility or site will have vehicular approaches designed to minimize conflict between automobile and truck traffic, will maintain the carrying capacity of county roads, and will be located on a road classified as all weather, except where use is shown to be intermittent and easily delayed until emergency conditions have passed;

(6) The facility or site has complied with the provisions of WCC 20.84.200 and all other ordinances and laws regulating solid waste facilities and sites, such as but not limited to WCC Title 24, the Whatcom County SEPA Ordinance, as well as state and federal regulations concerning solid waste facilities and sites; and

(7) All landfills have a final closure plan meeting the requirements of WCC Title 24 and of Chapter 173-350 ~~173-304~~ WAC, and the closure plan includes:

- (a) Reclamation in two to 10 acre increments, as appropriately responsive to the

size and intensity of the particular activity, with seeding to be accomplished annually but no later than September 30th; and  
(b) Permanent vegetative cover that will maintain in healthy growing condition with the level of maintenance that is covered through the financial assurance for post-closure activities.

(8) The buffer areas and visual screening shall include a minimum of 50 feet wide of landscaping meeting the requirements of WCC 20.80.300 (Landscaping);

(9) Solid waste facilities or sites shall be located outside the 10-year time of travel boundary of a public water system's delineated wellhead protection area;

(10) Solid waste facilities or sites that handle putrescible waste will be located at least 10,000' from airports serving turbine-powered aircraft and at least 5,000' from airports serving piston-powered aircraft. These buffers shall be measured from the boundary of the Airport Operations zone or, if the airport is not within an Airport Operations zone, from the boundary of the airport property;

(119) In addition, the Whatcom County hearing examiner may impose conditions of approval which may be necessary to protect the value and enjoyment of existing adjacent uses.

*General Manufacturing (GM) – Conditional Use (WCC 20.67.150):*

~~.185 Type I Solid Waste Handling Facilities. .153 Transitory solid waste facilities for treatment, storage, or collection including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations. (Ord. 91-013, 1991; Ord. 88-76, 1988; Ord. 88-52, 1988).~~

.186 Type II Solid Waste Handling Facilities.

.187 Type III Solid Waste Handling Facilities, provided that: .152 Solid waste disposal facilities and sites of a permanent nature including, but not limited to, landfills, incinerators, and transfer stations, excluding sewage sludge permitted by the Whatcom County department of public health in accordance with WAC 173-304-300; provided that the hearing examiner determines that the proposed facility or site meets the following conditions:

(1) The facility or site will not be located within the 100-year floodplain or the Lake Whatcom watershed. The facility or site will not be located within any area identified in an adopted critical areas ordinance or 100-year floodplain unless outside of the floodplain and at least three feet in elevation higher than the floodway elevation;

(2) Solid waste handling facilities shall be located at least 1,500' from the following:

- All zoning district boundaries, except **commercial** forestry and industrial zones ;
- Public parks, public recreation areas, or publicly owned wildlife areas;
- Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- Shorelines that are within the jurisdiction of the Shoreline Management Program;
- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 1,500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater;
- Inert landfills.

(2) Filling or excavation, structures, or nonmobile machinery for all facilities except inert, demolition, and wood waste landfills will not be located within 1,000 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(3) Inert landfills shall be located at least 500' from the following:

- All zoning district boundaries, except **commercial** forestry and industrial zones ;
- Public parks, public recreation areas, or publicly owned wildlife areas;
- Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- Shorelines that are within the jurisdiction of the Shoreline Management Program;
- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater;

(3) Inert, demolition, and wood waste landfills will not have any filling or excavation areas, structures, or machinery located within 500 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife

refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(4) The facility or site will not result in filling or excavation, location of structures or buildings, driveways or machinery use except for vegetation maintenance within 100 feet of any property line and except for driveways within 150 feet of any county or state road right-of-way;

(5) The facility or site will have vehicular approaches designed to minimize conflict between automobile and truck traffic, will maintain the carrying capacity of county roads, and will be located on a road classified as all weather, except where use is shown to be intermittent and easily delayed until emergency conditions have passed;

(6) The facility or site has complied with the provisions of WCC 20.84.200 and all other ordinances and laws regulating solid waste facilities and sites, such as but not limited to WCC Title 24, the Whatcom County SEPA Ordinance, as well as state and federal regulations concerning solid waste facilities and sites; and

(7) All landfills have a final closure plan meeting the requirements of WCC Title 24 and of Chapter 173-350 ~~173-304~~ WAC, and the closure plan includes:

(a) Reclamation in two to 10 acre increments, as appropriately responsive to the size and intensity of the particular activity, with seeding to be accomplished annually but no later than September 30th; and

(b) Permanent vegetative cover that will maintain in healthy growing condition with the level of maintenance that is covered through the financial assurance for post-closure activities.

(8) The buffer areas and visual screening shall include a minimum of 50 feet wide of landscaping meeting the requirements of WCC 20.80.300 Landscaping;

(9) Solid waste facilities or sites shall be located outside the 10-year time of travel boundary of a public water system's delineated wellhead protection area;

(10) Solid waste facilities or sites that handle putrescible waste will be located at least 10,000' from airports serving turbine-powered aircraft and at least 5,000' from airports serving piston-powered aircraft. These buffers shall be measured from the boundary of the Airport Operations zone or, if the airport is not within an Airport Operations zone, from the boundary of the airport property;

(119) In addition, the Whatcom County hearing examiner may impose conditions of approval which may be necessary to protect the value and enjoyment of existing adjacent uses.

*Heavy Impact Industrial (III) – Permitted Uses (WCC 20.68.050):*

.085 Type I Solid Waste Handling Facilities.

.086 Type II Solid Waste Handling Facilities.

*Heavy Impact Industrial (III) – Conditional Uses (WCC 20.68.150):*

.187 Type III Solid Waste Handling Facilities, provided that: .151 Solid waste disposal facilities and sites of a permanent nature including, but not limited to, landfills, incinerators, and transfer stations, excluding sewage sludge permitted by the Whatcom County department of public health in accordance with WAC 173-304-300; provided, that the hearing examiner determines that the proposed facility or site meets the following conditions:

(1) The facility or site will not be located within the 100-year floodplain or the Lake Whatcom watershed. The facility or site will not be located within any area identified in an adopted critical areas ordinance or 100-year floodplain unless outside of the floodplain and at least three feet in elevation higher than the floodway elevation;

(2) Solid waste handling facilities shall be located at least 1,500' from the following:

- All zoning district boundaries, except **commercial** forestry and industrial zones ;
- Public parks, public recreation areas, or publicly owned wildlife areas;
- Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- Shorelines that are within the jurisdiction of the Shoreline Management Program;
- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 1,500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater;
- Inert landfills.

(2) Filling or excavation, structures, or nonmobile machinery for all facilities except inert, demolition, and wood waste landfills will not be located within 1,000 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district

setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(3) Inert landfills shall be located at least 500' from the following:

- All zoning district boundaries, except **commercial** forestry and industrial zones ;
- Public parks, public recreation areas, or publicly owned wildlife areas;
- Archeological and historical sites that are registered with the State Office of Archeology & Historic Preservation;
- Shorelines that are within the jurisdiction of the Shoreline Management Program;
- Rivers, streams or creeks that contain documented threatened or endangered fish species.

This 500' buffer does not apply to:

- Structures used for offices, storage areas for equipment, and weigh scales. These facilities shall be setback from the property line 100' or the standard zoning district setback, whichever is greater.

(3) Inert, demolition, and wood waste landfills will not have any filling or excavation areas, structures, or machinery located within 500 feet of any zone district other than Agriculture or Industrial Zoning Districts, nor any public park, recreation area, wildlife refuge, archaeological and historic areas, shoreline under the jurisdiction of the Shoreline Management Program, unless temporary and of less than 12 months duration; structures used for offices, storage areas for equipment, and weigh scales may be located within 1,000 feet, but no closer than 100 feet or the district setbacks, whichever is greater, if impacts on the adjoining use are shown to be in keeping with the existing and permitted uses in the area;

(4) The facility or site will not result in filling or excavation, location of structures or buildings, driveways or machinery use except for vegetation maintenance within 100 feet of any property line and except for driveways within 150 feet of any county or state road right-of-way;

(5) The facility or site will have vehicular approaches designed to minimize conflict between automobile and truck traffic, will maintain the carrying capacity of county roads, and will be located on a road classified as all weather, except where use is shown to be intermittent and easily delayed until emergency conditions have passed;

(6) The facility or site has complied with the provisions of WCC 20.84.200 and all other ordinances and laws regulating solid waste facilities and sites, such as but not limited to WCC Title 24, the Whatcom County SEPA Ordinance, as well as state and federal regulations concerning solid waste facilities and sites;

(7) All landfills have a final closure plan meeting the requirements of WCC Title 24 and of Chapter 173-350 ~~173-304~~ WAC, and the closure plan includes:

- (a) Reclamation in two to 10 acre increments, as appropriately responsive to the size and intensity of the particular activity, with seeding to be accomplished annually but no later than September 30th; and
- (b) Permanent vegetative cover that will maintain in healthy growing condition with the level of maintenance that is covered through the financial assurance for post-closure activities.

(8) The buffer areas and visual screening shall include a minimum of 50 feet wide of landscaping meeting the requirements of WCC 20.80.300 (Landscaping);

(9) Solid waste facilities or sites shall be located outside the 10-year time of travel boundary of a public water system's delineated wellhead protection area;

(10) Solid waste facilities or sites that handle putrescible waste will be located at least 10,000' from airports serving turbine-powered aircraft and at least 5,000' from airports serving piston-powered aircraft. These buffers shall be measured from the boundary of the Airport Operations zone or, if the airport is not within an Airport Operations zone, from the boundary of the airport property;

(119) In addition, the Whatcom County hearing examiner may impose conditions of approval which may be necessary to protect the value and enjoyment of existing adjacent uses.

~~.153 Transitory solid waste facilities for treatment, storage, or collection including, but not limited to: recycle centers and drop boxes for household materials excluding large items such as automobiles or major appliances; noncommercial composting and mulching facilities; and including but not limited to the type of facilities operated by neighborhood or public service organizations.~~

*Airport Operations (AO) – Permitted Use (WCC 20.70.050):*

.085 Type I Solid Waste Handling Facilities, except for operations that handle putrescible waste.

*Airport Operations (AO) – Conditional Use (WCC 20.70.150):*

.155 Any use allowed as a conditional use in the LII chapter, WCC 20.66.150, except those uses in WCC 20.70.200~~201~~ and 20.70.202 of this chapter; provided that such use does not conflict with the performance standards of this chapter. (Ord. 91-074, 1991).

*Airport Operations (AO) – Prohibited Use (WCC 20.70.200):*

.206 Type I Solid Waste Handling Facilities that handle putrescible waste.

.207 Type II Solid Waste Handling Facilities.

.208 Type III Solid Waste Handling Facilities.

*Water Resource Protection Overlay (Lake Whatcom & Lake Samish) – Conditional Use (WCC 20.71.150):*

.185 Type I Solid Waste Handling Facilities, except:

- a) Moderate risk waste facilities; and
- b) Facilities in the Recreation and Open Space District.

~~152 In the Rural, Rural Forestry and Commercial Forestry zone districts only, transitory solid waste facilities for storage or collection, including: recycle centers, drop boxes, and transfer stations for household materials excluding large items such as automobiles or major appliances, and including the type of facilities operated by neighborhood or public service organizations. Transfer stations shall be subject to the provisions established under WCC 20.42.160.~~

*Water Resource Protection Overlay (Lake Whatcom & Lake Samish) – Prohibited Use (WCC 20.71.200):*

~~.211 Type I Solid Waste Handling Facilities, except those specified in WCC 20.71.185. Commercial composting and mulching facilities.~~

~~.212 Type II and Type III Solid Waste Handling Facilities. Solid waste disposal or treatment facilities and sites of a permanent nature, including landfills and incinerators.~~

*Rationale for recommended modifications:*

1. *The changes would incorporate the proposed new comprehensive plan concepts of avoiding streams utilized by threatened & endangered fish species, wellhead protection areas, and airports (to reduce the threat of airplanes striking birds that come to a solid waste facility).*
2. *The Essential Public Facilities Advisory Committee recommended increasing the buffer from other zoning districts, parks, etc. from 1,000' to 1,500' to minimize impacts associated with solid waste facilities such as municipal landfills and incinerators (the existing 500' buffer would be retained for inert landfills). The committee found that the existing buffer language is confusing and determined that it should be re-written in a more readable manner.*
3. *The amendments would eliminate the possibility of allowing temporary solid waste facilities near parks, shorelines, etc., as temporary facilities could also adversely impact these uses and natural features.*

4. *Sewage sludge is no longer considered a solid waste under state regulations. Land application of sewage sludge is regulated by the Department of Ecology, with assistance from the Whatcom County Health Department.*

#### **F. TELECOMMUNICATION TOWERS:**

*Public Utilities – Conditional Uses (WCC 20.82.030):*

(4) Electronic communications structures and telecommunication towers including associated maintenance and operations structures, provided this section shall not apply to any structures associated with wireless communications facilities.

*General Commercial - Permitted uses (WCC 20.62.050):*

.061 Public utilities except broadcast towers, which require a conditional use permit pursuant to WCC 20.82.030(4).

*Light Impact Industrial - Permitted uses (WCC 20.66.050):*

.065 Communications including telephone exchanges, and radio and television broadcasting stations and transmitting towers. Broadcast towers require a conditional use permit pursuant to WCC 20.82.030(4).

*Rationale for recommended modifications:*

1. *Currently, there is a conflict in the zoning ordinance. WCC 20.82.030(4) requires a conditional use permit for broadcast towers, but the General Commercial and Light Impact Industrial zones allow them as a permitted use.*
2. *The Essential Public Facilities Advisory Committee recommends requiring a conditional use in all zoning districts.*

#### **G. WATER & SEWER TREATMENT PLANTS:**

*Public Utilities – Conditional Uses (WCC 20.82.030):*

(7) Sewer and water treatment plants, except that sewer treatment plants are prohibited in the Airport Operations zone.

*General Commercial – Permitted Uses (WCC 20.62.050):*

.061 Public utilities, except water & sewer treatment plants, which require a conditional use permit pursuant to WCC 20.82.030(7).

*Airport Operations (AO) – Prohibited Use (WCC 20.70.200):*

.208 Sewer treatment plants.

*Rationale for recommended modifications: The FAA has indicated that sewer treatment plants can attract birds, which can cause bird-strike hazards for airplanes. Therefore, such plants should not be located in the Airport Operations zone.*

#### **H. WATER STORAGE FACILITIES:**

The Essential Public Facilities Advisory committee is not recommending any changes to existing zoning regulations. These regulations allow water storage tanks owned by a public utility for fire flow, that do not exceed 50,000 gallons and are not more than 12' in height, as a permitted use under WCC 20.82.023. All other water storage reservoirs owned by a public utility require a conditional use permit under WCC 20.82.030(5).

#### **I. SUBSTANCE ABUSE, MENTAL HEALTH & GROUP HOMES:**

*Urban Residential (UR) – Permitted Uses (WCC 20.20.050):*

.088 .058 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Urban Residential (UR) – Conditional Use (WCC 20.20.150):*

.154 Retirement, ~~boarding~~ and convalescent homes; social and health rehabilitation centers; day care centers; mini-day care centers and adult care centers not in a family dwelling; and other health-related services consistent with the purpose of the district.

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

*Urban Residential (UR) – Prohibited Uses (WCC 20.20.200):*

**.203 Mental health facilities that provide crisis care.**

**.204 Substance abuse facilities that provide crisis care.**

**.205 Outpatient mental health facilities.**

**.206 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Urban Residential Medium Density – Permitted Uses (WCC 20.22.050):*

.088 .056 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Urban Residential Medium Density – Conditional Use (WCC 20.22.150):*

.154 Retirement, boarding and convalescent homes; social and health rehabilitation centers; day care centers; mini-day care centers and adult care centers not in a family dwelling; and other health-related services consistent with the purpose of the district.\*

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

*Urban Residential Medium Density (URM) – Prohibited Uses (WCC 20.22.200):*

**.203 Mental health facilities that provide crisis care.**

**.204 Substance abuse facilities that provide crisis care.**

**.205 Outpatient mental health facilities.**

**.206 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Urban Residential Mixed – Permitted Uses (WCC 20.24.050):*

.088 .056 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Urban Residential Mixed – Conditional Use (WCC 20.24.150):*

.154 Retirement, boarding and convalescent homes; social and health rehabilitation centers; day care centers; mini-day care centers and adult care centers not in a family dwelling; and other health-related services consistent with the purpose of the district.

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

*Urban Residential Mixed (UR-MX) – Prohibited Uses (WCC 20.24.200):*

**.203 Mental health facilities that provide crisis care.**

**.204 Substance abuse facilities that provide crisis care.**

**.205 Outpatient mental health facilities.**

**.206 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Residential Rural – Permitted Uses (WCC 20.32.050):*

.088 .058 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Residential Rural – Conditional Use (WCC 20.32.150):*

Items indicated by an “\*” are not allowed outside short term planning areas unless the applicant can demonstrate that there is a need to locate outside those areas in order to comply with legal requirements or standards; or that the proposed location is the most efficient place for the proposed use with respect to providing needed services to the public.

.154 Retirement, ~~boarding~~ and convalescent homes; social and health rehabilitation centers; day care centers; mini-day care centers and adult care centers not in a family dwelling; and other health-related services consistent with the purpose of the district.\*

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.\*

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.\*

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.\*

*Residential Rural(RR) – Prohibited Uses (WCC 20.32.200):*

**.203 Mental health facilities that provide crisis care.**

**.204 Substance abuse facilities that provide crisis care.**

**.205 Outpatient mental health facilities.**

**.206 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Rural Residential Island District – Permitted Uses (WCC 20.34.050):*

.088 ~~.056~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Rural Residential Island District – Conditional Use (WCC 20.34.150):*

.154 Retirement, ~~boarding~~ and convalescent homes; social and health rehabilitation centers; day care centers; mini-day care centers and adult care centers not in a family dwelling; and other health-related services consistent with the purpose of the district.

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

*Rural Residential Island District – Prohibited Uses (WCC 20.34.200):*

**.203 Mental health facilities that provide crisis care.**

**.204 Substance abuse facilities that provide crisis care.**

**.205 Outpatient mental health facilities.**

**.206 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Eliza Island District – Permitted Uses (WCC 20.35.050):*

.088 ~~.058~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Rural – Permitted Uses (WCC 20.36.050):*

.088 ~~.062~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Rural – Conditional Use (WCC 20.36.150):*

Items indicated by an “\*” are not allowed outside short term planning areas unless the applicant can demonstrate that there is a need to locate outside those areas in order to comply with legal requirements or standards; or that the proposed location is the most efficient place for the proposed use with respect to providing needed services to the public.

.154 Retirement, ~~boarding~~ and convalescent homes; social and health rehabilitation centers; day care centers; mini-day care centers and adult care centers not in a family dwelling; and other health-related services consistent with the purpose of the district.\*

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.\*

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.\*

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.\*

.192 Mental health facilities that provide crisis care.\*

.193 Substance abuse facilities that provide crisis care.\*

**.194 Outpatient mental health facilities.\***

**.195 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.\***

*Point Roberts Transitional Zone – Permitted Uses (WCC 20.37.050):*

.088 ~~.055~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Point Roberts Transitional Zone – Conditional Uses (WCC 20.37.150):*

.154 Retirement, ~~boarding~~ and convalescent homes; social and health rehabilitation centers; day care centers; mini-day care centers and adult care centers not in a family dwelling; and other health-related services consistent with the purpose of the district.\*

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.192 Mental health facilities that provide crisis care.

.193 Substance abuse facilities that provide crisis care.

**.194 Outpatient mental health facilities.**

**.195 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Agriculture – Permitted Uses (WCC 20.40.050):*

.088 .056 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Agriculture – Conditional Use (WCC 20.40.150):*

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district, provided that the primary use of the parcel remains agriculture and the patients are working the land on the operating farm.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district, provided that the primary use of the parcel remains agriculture and the patients are working the land on the operating farm.

*Rural Forestry – Permitted Uses (WCC 20.42.050):*

.088 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Neighborhood Commercial Center – Permitted Uses (WCC 20.60.050):*

.059 Adult care centers, ~~adult family homes as defined in Chapter 70.138 RCW~~, and child care facilities; provided, that a child care facility in a family dwelling shall conform to the definition of home occupation, WCC 20.97.180.

.088 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Small Town Commercial – Permitted Uses (WCC 20.61.050):*

.088 ~~.065~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Small Town Commercial – Conditional Use (WCC 20.61.200):*

.239 Boarding homes that are larger than other residential structures permitted in the zoning district.

.240 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.241 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.242 Mental health facilities that provide crisis care.

.243 Substance abuse facilities that provide crisis care.

**.244 Outpatient mental health facilities.**

**.245 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*General Commercial – Permitted Uses (WCC 20.62.050):*

.088 ~~.068~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*General Commercial – Conditional Use (WCC 20.62.150):*

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.192 Mental health facilities that provide crisis care.

.193 Substance abuse facilities that provide crisis care.

**.194 Outpatient mental health facilities.**

**.195 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Tourist Commercial – Permitted Uses (WCC 20.63.050):*

.088 ~~.064~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Resort Commercial – Permitted Uses (WCC 20.64.050):*

.088 ~~.068~~ Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

*Resort Commercial – Conditional Use (WCC 20.64.150):*

.164 Retirement, ~~boarding~~ and convalescent homes; social and health rehabilitation centers; children and adult care centers in a building not used as a residence; and other health-related services consistent with the purpose of the district.

.189 Boarding homes that are larger than other residential structures permitted in the zoning district.

.190 Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

.191 Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.

*Resort Commercial – Prohibited Uses (WCC 20.64.200):*

**.203 Mental health facilities that provide crisis care.**

**.204 Substance abuse facilities that provide crisis care.**

**.205 Outpatient mental health facilities.**

**.206 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Light Impact Industrial – Conditional Use (WCC 20.66.150):*

.192 Mental health facilities that provide crisis care.

.193 Substance abuse facilities that provide crisis care.

**.194 Outpatient mental health facilities.**

**.195 Outpatient substance abuse treatment facilities, including opiate substitution treatment clinics.**

*Amend the Nonconforming Uses and Parcels chapter of the Official Whatcom County Zoning Ordinance as follows:*

**20.83.010 Continuation.**

Except as otherwise provided in this chapter, the lawful use of any building, land or premises, existing on the effective date of adoption or amendment of this ordinance, may be continued although such use does not conform to the provisions hereof. If such nonconforming use is discontinued for a period of 12 months or more, any future use of said building, land or premises shall be consistent with the provisions of this ordinance.

A structure occupied by a nonconforming residential use may be converted to any of the following uses:

- (1) An adult family home that is similar in size, facilities and occupancy to the nonconforming residential use.
- (2) A boarding home that is similar in size, facilities and occupancy to the nonconforming residential use.
- (3) A mental health facility that:
  - (a) Provides residential treatment; and
  - (b) Is similar in size, facilities and occupancy to the nonconforming residential use.
- (4) A substance abuse facility that:
  - (a) Provides residential treatment; and
  - (b) Is similar in size, facilities and occupancy to the nonconforming residential use.

Rationale for recommended modifications:

1. *The Growth Management Act, at RCW 36.70A.410, requires that residences for handicapped persons must be treated the same as residences for other people.*
2. *A representative of the County's Prosecuting Attorney's Office indicated that handicapped persons under the Fair Housing Act include people who are in residential treatment for mental health issues or substance abuse. The federal and state statutes basically indicate that local government can not discriminate and treat facilities for these people differently than similar residential structures for other people.*
3. *Additionally, RCW 70.128.175 requires that adult family homes must be a permitted use in all areas zoned for residential or commercial purposes.*
4. *Therefore, in accordance with the County Prosecuting Attorney's advice, the Essential Public Facilities Committee recommends that the following uses should be permitted where residential uses are permitted:*
  - ❖ *Adult family homes.*
  - ❖ *Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.*
  - ❖ *Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.*
  - ❖ *Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.*
5. *The County's Prosecuting Attorney advised that the County must allow nonconforming residential structures to be utilized for adult family homes, boarding homes, and mental health & substance abuse residential treatment facilities under the federal Fair Housing Act and RCW 36.70A.410.*

**J. SECURE COMMUNITY TRANSITION FACILITIES:**

*Urban Residential – Prohibited Uses (WCC 20.20.200)*

.210 Secure community transition facilities for sex offenders.

*Urban Residential Medium Density – Prohibited Uses (WCC 20.22.200)*

.210 Secure community transition facilities for sex offenders.

*Urban Residential Mixed – Prohibited Uses (WCC 20.24.200)*

.210 Secure community transition facilities for sex offenders.

*Residential Rural – Prohibited Uses (WCC 20.32.200)*

**.210 Secure community transition facilities for sex offenders.**

*Rural Residential Island – Prohibited Uses (WCC 20.34.200)*

.210 Secure community transition facilities for sex offenders.

*Rural – Prohibited Uses (WCC 20.36.200)*

**.210 Secure community transition facilities for sex offenders.**

*Point Roberts Transitional Zone – Prohibited Uses (WCC 20.37.200)*

**.210 Secure community transition facilities for sex offenders.**

*Small Town Commercial – Conditional Uses (WCC 20.61.200)*

.244 A secure community transition facility for sex offenders.

(a) A secure community transition facility shall not be located adjacent to, immediately across the street or parking lot from, or within the line of sight of existing risk potential facilities, which are:

- Public schools;
- Private schools;
- School bus stops,
- Licensed day care;
- Licensed pre-school facilities;
- Public parks;
- Publicly dedicated trails;
- Sports fields;
- Playgrounds;
- Recreational and community centers;
- Churches, synagogues, temples or mosques;
- Public libraries;
- Public and private youth camps; and

- Other uses identified by the State Department of Social and Health Services pursuant to RCW 71.09.020(11).

“Within the line of sight” shall mean that it is possible to reasonably visually distinguish and recognize individuals. An unobstructed visual distance of 600’ shall be considered to be within the line of sight. Line of sight may be considered to be less than 600’ if the applicant can demonstrate that visual barriers exist or would be created that would visually screen the risk potential facility from the secure community transition facility.

- (b) No more than one secure community transition facility, with a maximum of three people (other than staff), shall be located within Whatcom County.

*General Commercial – Permitted Uses (WCC 20.62.050)*

.094 A secure community transition facility for sex offenders.

- (a) A secure community transition facility shall not be located adjacent to, immediately across the street or parking lot from, or within the line of sight of existing risk potential facilities, which are:

- Public schools;
- Private schools;
- School bus stops;
- Licensed day care;
- Licensed pre-school facilities;
- Public parks;
- Publicly dedicated trails;
- Sports fields;
- Playgrounds;
- Recreational and community centers;
- Churches, synagogues, temples or mosques;
- Public libraries;
- Public and private youth camps; and
- Other uses identified by the State Department of Social and Health Services pursuant to RCW 71.09.020(11).

“Within the line of sight” shall mean that it is possible to reasonably visually distinguish and recognize individuals. An unobstructed visual distance of 600’ shall be considered to be within the line of sight. Line of sight may be considered to be less than 600’ if the applicant can demonstrate that visual barriers exist or would be created that would visually screen the risk potential facility from the secure community transition facility.

- (b) No more than one secure community transition facility, with a maximum of three people (other than staff), shall be located within Whatcom County.

*Resort Commercial – Prohibited Uses (WCC 20.64.200)*

.210 Secure community transition facilities for sex offenders.

*Light Impact Industrial – Permitted Uses (WCC 20.66.050)*

.094 A secure community transition facility for sex offenders, when located outside of the Cherry Point Major/Port Industrial Urban Growth Area.

(a) A secure community transition facility shall not be located adjacent to, immediately across the street or parking lot from, or within the line of sight of existing risk potential facilities, which are:

- Public schools;
- Private schools;
- School bus stops,
- Licensed day care;
- Licensed pre-school facilities;
- Public parks;
- Publicly dedicated trails;
- Sports fields;
- Playgrounds;
- Recreational and community centers;
- Churches, synagogues, temples or mosques;
- Public libraries;
- Public and private youth camps; and
- Other uses identified by the State Department of Social and Health Services pursuant to RCW 71.09.020(11).

“Within the line of sight” shall mean that it is possible to reasonably visually distinguish and recognize individuals. An unobstructed visual distance of 600’ shall be considered to be within the line of sight. Line of sight may be considered to be less than 600’ if the applicant can demonstrate that visual barriers exist or would be created that would visually screen the risk potential facility from the secure community transition facility.

(b) No more than one secure community transition facility, with a maximum of three people (other than staff), shall be located within Whatcom County.

*Rationale for recommended modifications:*

1. *The State Growth Management Act indicates that local government must plan for Secure Community Transition Facilities for sex offenders and can not preclude such facilities from locating in the community (RCW 36.70A.200).*
2. *Secure community transition facilities are a specific type of facility for sex offenders who have served their prison sentences, but have been "civilly committed" by a court because they have been determined likely to re-offend and have a mental abnormality. These facilities are intended to provide mental health treatment and partial reintegration of the offender into the community, while maintaining a high level of security for community safety.*
3. *The State Department of Social and Health Services (DSHS) is responsible for these sex-offenders that have been civilly committed.*
4. *The vast majority of sex offenders released from prison each year are not civilly committed. These other offenders may be under community supervision (parole) by the State Department of Corrections, but are not candidates to occupy "secure community transition facilities."*
5. *According to DSHS, the secure community transition facility program "offers 24-hour intensive staffing and line-of-sight supervision by trained escorts when residents leave the facility" (Frequently Asked Questions, DSHS, April 2002, p. 1). Therefore, sex offenders that occupy secure community transition facilities will be under supervision 24-hours a day.*
6. *In recommending the zoning districts where secure community transition facilities could be allowed, the committee sought to provide potential locations relatively close to services, jobs, educational facilities and transportation facilities.*
7. *Secure community transition facilities should be prohibited in high-density residential areas where there are generally more children present.*

**K. APPEAL PROCESS:**

**20.92.210 Final decisions.**

The hearing examiner shall conduct open record hearings and prepare a record thereof, and make a final decision upon the following matters:

- (1) Appeals from any orders, requirements, permits, decisions or determinations made by an administrative official or committee in the administration of this title or WCC Title 21, Land Division Regulations.
- (2) Appeals from a decision of the administrator of the Shoreline Management Program.

- (3) Applications for zoning ordinance conditional use permits.
- (4) Applications for variances from the terms of the zoning ordinance.
- (5) Applications for shoreline management substantial development permits not accompanied by a major project permit when an open record hearing is required.
- (6) Applications for variances from the terms of the Whatcom County Shoreline Management Program.
- (7) Applications for Shoreline Management Program conditional use permits.
- (8) Applications for flood damage prevention variances.
- (9) Appeals from SEPA determinations of significance, determinations of nonsignificance, and mitigated determinations of nonsignificance.
- (10) Preliminary subdivisions and subdivision variances.
- (11) Preliminary binding site plan proposals.
- (12) Application for variances from the provisions of WCC Title 22.
- (13) Revocation proceedings involving previously approved zoning conditional use permits, shoreline management substantial project permits and shoreline conditional use permits.
- (14) Applications to continue operations of nonconforming adult businesses pursuant to WCC 20.83.015.
- (15) Appeals of decisions relating to water service issues under section 9.2 of the Coordinated Water System Plan.
- (16) Appeals from any orders, requirements, permits, decisions or determinations made by an administrative official relating to essential public facilities.

*Rationale for recommended modifications: The amendment would clarify that decisions by administrative staff relating to essential public facilities would be appealed to the Hearing Examiner. Section 20.92.610 of the existing zoning code indicates that Hearing Examiner decisions can be appealed to the County Council. Additionally, section 20.92.840 of the existing zoning code indicates that County Council decisions can be appealed to Superior Court.*

## **L. ZONING ORDINANCE DEFINITIONS:**

### **20.97.009 Adult Family Home**

"Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

*Note: This definition is taken from RCW 70.128.010.*

### **20.97.012 Airport**

“Airport” means a facility where aircraft can take off and land that is publicly owned or privately owned but used by the public. It can include a terminal, hangers, refueling facilities, maintenance facilities and other accessory uses. Aircraft landing areas used solely for personal use, agricultural use, forest management, or to serve the Eliza Island community are not considered to be airports.

### **20.97.032 Boarding home.**

“Boarding home” means any home or other institution, however named, which provides board and domiciliary care to three or more children in the custody of the state, aged persons or infirm persons not related by blood or marriage to the operator and is licensed by the state as a boarding home under RCW 18.20.050. For the purpose of this definition, an aged or infirm person means a person of the age of 65 years or more, or a person less than 65 years who by reason of infirmity or disability requires domiciliary care.

“Infirmity” means a disability that materially limits normal activity without requiring inpatient medical or nursing care. An infirmity may be based on conditions, including but not limited to physical handicap, mental illness, developmental disability, mental confusion, disability or disturbance.

*Note: This definition was revised after consulting the definition of “group home” in WAC 388-820-090, and the definitions of “boarding home,” “aged person,” and “infirmity” in WAC 388-78A-010.*

### **20.97.087 Correction facility**

“Correction facility” means a facility and accessory uses operated by government, or under contract with government, that is primarily designed, staffed and used for housing juvenile or adult persons for the purposes of pre-trial custody, punishment, correction and/or rehabilitation following conviction of a criminal offense. Correction facilities include prisons, jails, work release centers and juvenile detention facilities.

*Note: This definition was formulated after consulting the definition of “correctional facility” from WAC 289-02-020 relating to the Corrections Standards Board. Additionally, it takes into account “State of Washington Department of Corrections and Department of Social and Health Services v. City of Tacoma,” Central Puget Sound Growth Management Hearings Board case # 00-3-0007, that indicates juvenile facilities and work release facilities are essential public facilities.*

Renumber existing 20.97.087.

### 20.97.091 Crisis Care.

Crisis care facilities are facilities for the evaluation and emergency treatment of individuals exhibiting signs of some type of behavioral disorder. This may include mental illness, developmental disabilities, substance abuse, emotional disorders, and/or physical illness, either alone or in combination. Facilities are designed to assess the underlying cause of the behavior, assess the severity and/or risk to the individual and the community and provide residential treatment to stabilize the crisis when appropriate and no higher level of care is required.

*Rationale for proposed amendment:*

- 1. The Council's Public Works & Capital Projects Committee requested a definition of "crisis care" facilities that would be utilized for the mental health crisis care and substance abuse crisis care facilities. Staff worked with the mental health and the jail representatives from the Essential Public Facilities Advisory Committee to formulate this definition. A representative of the State Department of Social and Health Services also reviewed the proposed definition.*

### 20.97.232 Mental health facilities

"Mental health facilities" mean buildings and accessory uses primarily utilized to provide, through public or private agencies, emergency evaluation and treatment, **outpatient care**, residential care, and inpatient care to persons suffering from a mental disorder. Mental health facilities are certified or operated by the state department of social and health services.

*Note: This definition was formulated after consulting the definition of "evaluation and treatment facility" from RCW 71.05.020 relating to mental illnesses.*

### 20.97.329.1 Public utility.

"Public utility" means a use owned or operated by a public or publicly licensed or franchised agency which provides vital essential public services such as telephone exchanges, electric substations, radio and television stations, wireless communications services, gas and water regulation stations and other facilities of this nature.

*Note: Not all public utilities are essential public facilities. The proposed change would lessen potential confusion relating to this issue.*

**20.97.361 Secure community transition facility.**

"Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under RCW 71.09. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facilities established pursuant to RCW 71.09.250 and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary. Pursuant to RCW 71.09.300, a secure community transition facility shall maintain a minimum staffing ratio of one staff per resident during normal waking hours and two awake staff per three residents during normal sleeping hours. In no case shall the staffing ratio permit less than two staff in a secure community transition facility.

*Note: The Growth Management Act references this definition (see RCW 36.70A.200 and RCW 71.09.020). The Planning Commission added language reiterating requirements of state law that a secure community transition facility must have 24-hour supervision.*

**20.97.429 Solid waste ~~handling disposal~~ facilities ~~or sites~~.**

*"Solid waste handling facilities" means any facilities for the collection, transfer, treatment, recycling or ultimate disposal of solid waste. There are four types of solid waste handling facilities.*

- (1) Type I Solid Waste Handling Facilities, which are:
  - Drop box facilities used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities normally serve the general public with loose loads and receive waste from off-site.
  - Indoor recycling centers.
  - Clean-green and yard-waste facilities for transfer elsewhere.
  - Moderate risk waste facilities for transfer elsewhere or recycling.
- (2) Type II Solid Waste Handling Facilities, which are:
  - Outdoor recycling yards where materials, other than organic materials, are stored in containers.
- (3) Type III Solid Waste Handling Facilities, which are:
  - Municipal solid waste landfills.
  - Incinerators.
  - Transfer stations that serve as a collection point for solid waste from large areas of the County or multiple local areas.
  - Limited purpose landfills and inert waste landfills as defined in WAC 173-350-100.

- Piles used for storage or treatment.
- Surface impoundments.
- Biomedical waste operations.
- All other solid waste facilities **that are not specifically listed as Type I, II, or IV solid waste facilities.**

(4) Type IV Solid Waste Handling Facilities, which are:

- Composting and mushroom composting facilities.

~~“Solid waste disposal facilities or sites” means the location where any final treatment, utilization, processing, or deposition of solid waste occurs. For the purposes of this ordinance, “interim solid waste handling sites” of the following types are included: transfer stations, baling and compaction sites, source separation centers, and treatment sites. Drop boxes which provide the general public with containers to collect materials to be recycled and household hazardous waste collection stations for transfer elsewhere are excluded, but are defined as transitory solid waste facilities. For the purposes of this ordinance, three types of solid waste disposal facilities or sites are defined:~~

~~(1) Demolition landfills, inert landfills, and wood waste landfills. Demolition and inert wastes as defined in WCC 24.08.040; and wood waste as defined in WAC 173-304-015 (includes only those wood products untreated with chemical preservatives).~~

~~(2) Sewage sludge when a utilization permit is issued by the Whatcom County department of public health in accordance with WAC 173-304-300, and any application site for compost which comes under Whatcom County health department regulation and has received the appropriate permits.~~

~~(3) All other solid waste disposal facilities and sites of a permanent nature including, but not limited to, landfills, incinerators, and transfer stations. (Ord. 91-013, 1991).~~

Rationale for recommended modifications:

1. *The essential public facilities advisory committee found the existing definition of “solid waste disposal facilities or sites” in the zoning ordinance to be confusing.*
2. *The first sentence of the new definition incorporates language from state agency rules implementing the Growth Management Act (WAC 365-195-210).*
3. *Four types of solid waste facilities have been proposed, as certain solid waste facilities do not have as great of impacts as other solid waste facilities and, therefore, should be regulated differently.*
4. *The Whatcom County Health & Human Services Department stated that, in 1998, the State Department of Ecology adopted the State's Biosolids Management*

*Regulation (WAC 173-308). This regulation recognizes and establishes that biosolids, also known as sewage sludge, are no longer solid waste or subject to solid waste regulation. The authority to issue permits is maintained by the Department of Ecology. Whatcom County Health & Human Services reviews land application plans and public notices, holds public hearings, responds to public comments, inspects and monitors sites, reviews annual reports, reviews permit applications and makes recommendations to Ecology for permit issuance. In 1999, Whatcom County revised our local solid waste rules (WCC 24.06) and removed all references to sewage sludge. Therefore, sewage sludge has also been removed from the definition of solid waste in the zoning ordinance.*

#### *Drop Boxes*

5. *New Washington Administrative Codes became effective in February 2003, after the Essential Public Facilities Advisory Committee finished its work. WAC Chapter 173-350 WAC Solid Waste Handling Standards provides a specific definition of "drop box" facilities. The Health Department is now recommending that the definition in the County zoning code should be consistent with the state definition.*

#### *Composting*

6. *Composting facilities, including non-commercial composting, are being considered by the County in a separate process that is currently under review by staff. This review process was set in motion by ordinances 2003-027 & 2003-050, which indicate that the Planning Commission will address composting issues in the next few months.*
7. *The essential public facility recommendations include regulations governing Type I, II, and III facilities. Type IV facilities will be regulated under the composting rules that will soon be brought forward to the Council. Therefore, to avoid overlap and confusion between the essential public facility recommendations and the composting recommendations, all composting facilities are being segregated out and treated as Type IV facilities.*

#### *Transfer Stations*

8. *The Essential Public Facilities Advisory Committee split transfer stations into the following categories:*

*Type II Facilities - Transfer stations that serve as a collection point for solid waste from a local area.*

*Type III Facilities - Transfer stations that serve as a collection point for solid waste from large areas of the County or multiple local areas.*

9. *The basis for this split was to recognize that smaller operations, such as the Nooksack Valley Disposal site on Birch Bay-Lynden Rd., shouldn't be subject to the same restrictive siting criteria as larger (Type III) operations.*
10. *However, staff now understands that the Nooksack Valley Disposal type operations are actually drop boxes that serve the general public (Type I facilities), and are not "transfer stations" that typically serve commercial haulers.*
11. *The Health Department has reviewed the situation and indicated there are no "transfer stations" in Whatcom County that would fit in the Type II category.*
12. *Planning staff reviewed this situation with the Health Department, and we believe that the regulations would be more difficult to administer and interpret if we have both Type II and Type III transfer stations.*
13. *Therefore, in light of the above, we think transfer stations should be deleted from the Type II category (The result would be that we would have drop boxes as Type I facilities and all transfer stations as Type III facilities).*

#### *Landfill*

14. *The Health Department indicated in an e-mail message of 11/25/03 that they will be adopting WAC 173-350 Solid Waste Handling Standards by reference. In doing so, they are proposing to repeal WCC 24.08 Demolition and Inert Landfills, as this regulation is less stringent and inconsistent with WAC 173-350. Under WAC 173-350 demolition and woodwaste landfills are defined as limited purpose landfills.*

#### *"Catch-all" categories*

15. *Type I, II and III solid waste facilities have "catch-all" categories for unspecified solid waste facilities. Type I includes any unspecified facilities that are conducted in a building. Type II includes any unspecified facilities that are on sites less than one acre. Type III includes "all other solid waste facilities." It may be confusing to have three "catch-all categories" and, after consulting with the Health Department, staff believes that there should simply be one catch-all category under Type III facilities. That would mean that any unspecified solid waste activity, that is not specifically listed as Type I, II, or IV would come under Type III, which has restrictive siting criteria.*

#### 20.97.430 State education facilities

"State education facilities" mean Western Washington University, Whatcom Community College, Bellingham Technical College, and related **classroom, research and recreational** facilities. They also include any other education facilities on the state's ten-

year capital plan. Storage, office, and similar uses that are not co-located with classroom, research or recreational facilities and that are specifically allowed by the zoning ordinance are not regulated as state education facilities. State education facilities do not include K-12 education facilities.

*Rationale for proposed amendment: At the October 7 Public Works & Capital Projects committee meeting, the committee asked staff to develop language to ensure that storage and office space associated with state education facilities can be allowed in zoning districts where commercial storage and office space are permitted.*

#### **20.97.433 Substance abuse facilities.**

"Substance abuse facilities" mean buildings and accessory uses primarily utilized to provide services to persons addicted to alcohol and/or other drugs, persons incapacitated by alcohol and/or drugs, and intoxicated persons. These services include detoxification, outpatient care, residential, and in-patient services.

*Note: This definition was formulated after consulting the definition of "treatment" from RCW 70.96A.02 relating to treatment for alcoholism, intoxication and drug addiction.*

Renumber existing 20.97.433

#### **M. Conditional Use Permit Criteria**

20.84.220 Criteria.

Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use district defining the conditional use are fulfilled, and shall find adequate evidence showing that the proposed conditional use at the proposed location:

- (1) Will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan and zoning regulations.
- (2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- (3) Will not be hazardous or disturbing to existing or future neighboring uses.
- (4) Will be serviced adequately by **necessary essential** public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

(5) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

(6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

(7) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

(8) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.

*Rationale for proposed amendment: The proposal is intended to avoid confusing "essential public facilities" as defined by the Growth Management Act (GMA) and the types of public facilities specifically referenced in the conditional use criteria. For example, drainage structures are a public facility referenced in the conditional use criteria, but are not an essential public facility as defined by the GMA.*

### **Section III: APPENDICES**

Appendix A – Transportation Matrix

Appendix B – Land Use Matrix

Appendix C – In-patient Matrix

<b>APPENDIX A</b> Transportation Matrix	Major passenger intermodal terminals	Freight railroad system - switching yards & terminals	Marine port facilities
<b>RESOURCE LANDS</b>			
Agriculture	No	No	No
Rural Forestry	No	No	No
Commercial Forestry	No	No	No
Mineral Resource Lands	n/a	n/a	n/a
<b>RURAL LANDS</b>			
Rural	No	No	No
Residential Rural	No	No	No
Rural Residential – Island	No	No	No
<b>COMMERCIAL</b>			
General Commercial	P	No	No
Small Town Commercial	No	No	No
Neighborhood Commercial Center	No	No	No
Tourist Commercial	P	No	No
Resort Commercial	No	No	No
<b>INDUSTRIAL</b>			
Gateway Industrial	Cu	P	No
Light Impact Industrial	Cu	P	No
General Manufacturing	Cu	P	No
Heavy Impact Industrial	Cu	P	P
Cherry Point Industrial	Cu	P	P
<b>RESIDENTIAL</b>			
Urban Residential	No	No	No
Urban Residential Medium- Density	Cu	No	No
Urban Residential – Mixed	No	No	No
<b>OTHER</b>			
Airport Operations	P	No	No
Eliza Island	No	No	No
Recreation/Open Space	No	No	No
Water Resource Protection Dist	No	No	n/a
Point Roberts Transitional zone	No	No	No

## KEY TO ABBREVIATIONS

P = Permitted Use

CU = Conditional Use Permit

NO = Prohibited Use

N/A = Not applicable (the zoning district doesn't address the location of these facilities)

RCW 36.70A.200, RCW47.06.140, and Washington's Transportation Plan 2003-2022, when read together, specify the seven basic types of transportation essential public facilities:

1. Interstate Highway System/State Principal Arterials – In Whatcom County, the following have been designated as essential public facilities:
  - ✓ Interstate 5
  - ✓ State Route 543 (Truck Route at Blaine border)
  - ✓ State Route 539 (Guide Meridian)
  - ✓ State Route 9/546 (Badger Rd./Garrison Rd. from Guide Meridian to Sumas)
  - ✓ State Route 20 (to eastern Washington)

A map of these roads (along with others in the state) can be viewed at [www.wsdot.wa.gov/ppsc/hsp/hss.htm](http://www.wsdot.wa.gov/ppsc/hsp/hss.htm) and clicking on "Statewide Map." Using the "magnifying glass" in the toolbar, you can zoom in on Whatcom County.

*Essential Public Facilities Advisory Committee Recommendation:* Siting of these linear facilities is addressed in proposed Comprehensive Plan Policy 2XX-4. Siting of these linear facilities is not addressed in individual zoning districts.

2. Intercity passenger rail services – In Whatcom County, the following have been designated as essential public facilities:
  - ✓ Amtrak Cascades

*Essential Public Facilities Advisory Committee Recommendation:* Siting of these linear facilities is addressed in proposed Comprehensive Plan Policy 2XX-4. Siting of these linear facilities is not addressed in individual zoning districts.

3. Intercity High-Speed Ground Transportation. (These are train facilities that operate at greater than 125 MPH).
- There are currently none in Whatcom County.

*Essential Public Facilities Advisory Committee Recommendation:* N/A - No such facilities are planned in Whatcom County over the next 20 years – per WSDOT e-mail of 8-7-02.

4. Major passenger intermodal terminals - In Whatcom County, the following have been designated as essential public facilities:
- ✓ Fairhaven Station (passenger rail)
  - ✓ Bellingham Cruise Terminal (Alaska Ferry)

*Essential Public Facilities Advisory Committee Recommendation:* Siting recommendations for these facilities in each zoning district are shown in the matrix above.

5. Freight railroad system - In Whatcom County, the following have been designated as essential public facilities:
- ✓ Burlington Northern Santa Fe tracks. (There are two main corridors in Whatcom County: one up the I-5 corridor through Blaine and one up the Highway 9 corridor through Sumas. Spur lines go to Cherry Point & Lynden). See <http://www.wsdot.wa.gov/Rail/information/railsys.pdf> for a map.

*Essential Public Facilities Advisory Committee Recommendation:* Siting of linear freight railroad facilities is addressed in proposed Comprehensive Plan Policy 2XX-4. Siting recommendations for non-linear freight railroad facilities (terminals and switching yards) in each zoning district are shown in the matrix above.

6. Marine Port Facilities and Services - In Whatcom County, the following have been designated as essential public facilities:
- ✓ Cherry Point
  - ✓ Port of Bellingham

*Essential Public Facilities Advisory Committee Recommendation:* Siting recommendations for these facilities in each zoning district are shown in the matrix above.

7. High Capacity Transportation Systems. (These include public transportation services, such as express bus service or light rail that operate primarily on exclusive rights of way, including HOV lanes).
- There are currently none in Whatcom County.

*Essential Public Facilities Advisory Committee Recommendation:* N/A - No such facilities are planned in Whatcom County over the next 20 years – per WSDOT e-mail of 7-23-02.

<b>APPENDIX B</b> Land Use Matrix	Airports	State education facilities	Correction facilities	Solid waste Facilities Type I/II/III	Telecomm. Towers <sup>10</sup>	Water & sewer treatment plants	Water storage facilities (potable water & fire flow)
<b>RESOURCE LANDS</b>							
Agriculture	No	<b>Cu</b> <sup>1</sup>	No	cu/no/no	Cu	Cu	P/Cu <sup>12</sup>
Rural Forestry	No	<b>Cu</b> <sup>2</sup>	No	cu/cu/ <b>no</b>	Cu	Cu	P/Cu
Commercial Forestry	No	<b>Cu</b> <sup>2</sup>	No	cu/cu/cu	Cu	Cu	P/Cu
Mineral Resource Lands	n/a	N/a	No	n/a	Cu	Cu	P/Cu
<b>RURAL LANDS</b>							
Rural	No	Cu	<b>No</b>	cu/cu/cu <sup>6</sup>	Cu	Cu	P/Cu
Residential Rural	No	Cu	<b>No</b>	cu/cu/no	Cu	Cu	P/Cu
Rural Residential – Island	No	Cu	No	cu/cu/no	Cu	Cu	P/Cu
<b>COMMERCIAL</b>							
General Commercial	No	<b>Cu</b>	<b>Cu</b>	cu/cu/no	Cu	Cu	P/Cu
Small Town Commercial	No	<b>Cu</b>	Cu	cu/no/no	Cu	Cu	P/Cu
Neighborhood Commercial Center	No	<b>Cu</b>	No	cu/no/no	Cu	Cu	P/Cu
Tourist Commercial	No	No	No	cu/no/no	Cu	Cu	P/Cu
Resort Commercial	No	Cu	No	cu/no/no	Cu	Cu	P/Cu
<b>INDUSTRIAL</b>							
Gateway Industrial	No	No	No	cu/no/no	Cu	Cu	P/Cu
Light Impact Industrial	No	Cu	<b>Cu</b>	cu/cu/cu <sup>7</sup>	Cu	Cu	P/Cu
General Manufacturing	No	Cu	No	cu/cu/cu	Cu	Cu	P/Cu
Heavy Impact Industrial	No	No	No	p/p/cu	Cu	Cu	P/Cu
Cherry Point Industrial	No	No	No	p/p/cu	Cu	Cu	P/Cu
<b>RESIDENTIAL</b>							
Urban Residential	No	Cu	Cu <sup>4</sup>	cu/no/no	Cu	Cu	P/Cu
Urban Residential Medium-Density	No	Cu	Cu <sup>4</sup>	cu/no/no	Cu	Cu	P/Cu
Urban Residential – Mixed	No	Cu	Cu <sup>4</sup>	cu/cu/no	Cu	Cu	P/Cu
<b>OTHER</b>							
Airport Operations	P	<b>Cu</b> <sup>3</sup>	No	P/no/no <sup>8</sup>	Cu	Cu/no <sup>11</sup>	P/Cu
Eliza Island	No	No	No	cu/no/no	Cu	Cu	P/Cu
Recreation/Open Space	No	No	No	no/no/no	Cu	Cu	P/Cu
Water Resource Protection Dist	No	n/a	n/a	cu/no/no <sup>9</sup>	Cu	Cu	P/Cu
Point Roberts Transitional zone	No	Cu	<b>Cu</b> <sup>5</sup>	cu/cu/no	Cu	Cu	P/Cu

## KEY TO ABBREVIATIONS

P = Permitted Use

CU = Conditional Use Permit

NO = Prohibited Use

N/A = Not applicable (the overlay zoning district doesn't address this issue)

### Footnotes

1. Only state education facilities that are related to agriculture operation training would be allowed in the Agriculture zone.
2. Only education facilities related to forestry are allowed as a conditional use in the Rural Forestry and Commercial Forestry zones (WCC 20.42.155 and 20.43.155).
3. Only state education facilities related to airport operation training would be allowed in the Airport Operations zone.
4. The Essential Public Facilities Committee recommends that correction facilities should be prohibited in these three residential zones, except that transitional correction facilities for juveniles and adults with 10 or less residents should be allowed with a conditional use permit in residential zones. These facilities would include "juvenile rehabilitation administration" (JRA) facilities run by the state and residential adult work release facilities.
5. In the Point Roberts Transitional zone, correction facilities would be limited to 10 beds or less.
6. Type III solid waste facilities are only allowed in the Rural zoning district as a conditional use in those areas specified as suitable for solid waste sites in the applicable subarea comprehensive plan.
7. Type I and Type II solid waste facilities are permitted in the Light Impact Industrial zone within the Cherry Point Major/Port Industrial Urban Growth Area. Type I and Type II solid waste facilities require a conditional use permit in all other Light Impact Industrial zones.
8. Type I solid waste facilities are permitted in the Airport Operations, except for operations that handle putrescible waste (as they may attract birds, thereby creating a hazard for aircraft).
9. Type I solid waste facilities are allowed as a conditional use in the Water Resource Protection District, except for moderate risk waste facilities (i.e. those that receive gas, oil, and other similar waste products).

10. Telecommunication towers – There are two general categories of telecommunication towers: Personal wireless and broadcast towers.

Personal wireless towers, including cell phone towers, are regulated under Whatcom County Code 20.13. New personal wireless towers require a conditional use permit, except when they are co-located with other approved towers, in which case they require administrative approval.

Broadcast towers, including TV and radio towers, are allowed as a conditional use in all zoning districts under WCC 20.82.030 as “electronic communications towers.” However, broadcast towers are currently permitted outright in the Light Impact Industrial zone and Airport Operations zone under WCC 20.66.065 and WCC 20.70.051 (as modified by WCC 20.70.708). “Public Utilities” are currently permitted in the General Commercial zone under WCC 20.62.061. The Essential Public Facilities Advisory Committee recommended requiring a conditional use permit in all zones.

11. The Essential Public Facilities Advisory Committee recommends that water treatment plants should require a conditional use permit and sewage treatment plants should be prohibited in the Airport Operations zone (as sewage treatment plants can attract birds and increase the potential for airplanes striking birds, which can create a hazard and can damage airplanes).
12. Water storage tanks owned by a public utility for fire flow, that do not exceed 50,000 gallons and not more than 12’ in height, are permitted outright under WCC 20.82.023. All other water storage reservoirs owned by a public utility require a conditional use permit under WCC 20.82.030(5).

<b>APPENDIX C</b> In-Patient Matrix	Substance abuse & mental health – Crisis Facilities	Substance abuse & mental health (larger than residential uses) <sup>2</sup>	Group homes - Boarding Homes (larger than residential uses) <sup>4</sup>	Substance abuse, mental health & group homes (similar to residential uses) <sup>5</sup>	Secure community transition facilities (for sex offenders)	<u>Out-patient substance abuse treatment</u> <sup>6</sup>
<b>RESOURCE LANDS</b>						
Agriculture	No	Cu <sup>3</sup>	No	P	No	<u>No</u>
Rural Forestry	No	No	No	P	No	<u>No</u>
Commercial Forestry	No	No	No	No	No	<u>No</u>
Mineral Resource Lands	n/a	n/a	n/a	n/a	n/a	<u>n/a</u>
<b>RURAL LANDS</b>						
Rural	Cu <sup>1</sup>	Cu <sup>1</sup>	Cu <sup>1</sup>	P	<u>No</u>	<u>Cu<sup>1</sup></u>
Residential Rural	<u>No</u>	Cu <sup>1</sup>	Cu <sup>1</sup>	P	<u>No</u>	<u>No</u>
Rural Residential – Island	No	Cu	Cu	P	No	<u>No</u>
<b>COMMERCIAL</b>						
General Commercial	Cu	Cu	Cu	P	P	<u>Cu</u>
Small Town Commercial	Cu	Cu	Cu	P	Cu	<u>Cu</u>
Neighborhood Commercial Center	No	No	No	P	No	<u>No</u>
Tourist Commercial	No	No	No	P	No	<u>No</u>
Resort Commercial	<u>No</u>	Cu	Cu	P	No	<u>No</u>
<b>INDUSTRIAL</b>						
Gateway Industrial	No	No	No	No	No	<u>No</u>
Light Impact Industrial	Cu	No	No	No	P	<u>Cu</u>
General Manufacturing	No	No	No	No	No	<u>No</u>
Heavy Impact Industrial	No	No	No	No	No	<u>No</u>
Cherry Point Industrial	No	No	No	No	No	<u>No</u>
<b>RESIDENTIAL</b>						
Urban Residential	<u>No</u>	Cu	Cu	P	No	<u>No</u>
Urban Residential Medium-Density	<u>No</u>	Cu	Cu	P	No	<u>No</u>
Urban Residential – Mixed	<u>No</u>	Cu	Cu	P	No	<u>No</u>
<b>OTHER</b>						
Airport Operations	No	No	No	No	No	<u>No</u>
Eliza Island	No	No	No	P	No	<u>No</u>
Recreation/Open Space	No	No	No	No	No	<u>No</u>
Water Resource Protection Dist	n/a	n/a	N/a	n/a	n/a	n/a
Point Roberts Transitional zone	Cu	Cu	Cu	P	<u>No</u>	<u>Cu</u>

## KEY TO ABBREVIATIONS

P = Permitted Use

CU = Conditional Use Permit

NO = Prohibited Use

N/A = Not applicable (the overlay zoning district doesn't address this issue)

The requirements of the existing zoning code are shown in the matrix in capital letters and the committee's recommendations are inserted in small letters in parenthesis ( ).

### Footnotes

1. The Essential Public Facilities Advisory Committee recommends that certain in-patient facilities and secure community transition facilities should be allowed with a conditional use permit in the Rural, Residential Rural, and Point Roberts Transitional zones subject to the following provision, which is also placed on certain other land uses in some of these zones:

These uses are not allowed outside short term planning areas unless the applicant can demonstrate that there is a need to locate outside those areas in order to comply with legal requirements or standards; or that the proposed location is the most efficient place for the proposed use with respect to providing needed services to the public.

2. This category includes:
  - ❖ Substance abuse facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.
  - ❖ Mental health facilities that provide residential treatment and are larger than other residential structures permitted in the zoning district.
3. The Essential Public Facilities Advisory Committee recommends allowing substance abuse & mental health residential treatment facilities in the Agriculture zone, provided that the primary use of the parcel remains agriculture and the patients are working the land on the operating farm.
4. This category includes boarding homes that are larger than other residential structures permitted in the zoning district (this is one type of group home).

5. This category includes:

- ❖ Adult family homes (which are one type of group home).
- ❖ Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district (which are another type of group home).
- ❖ Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.
- ❖ Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

The reason for consolidating these uses is they must be treated the same as other residential uses under the federal Fair Housing Act and RCW 36.70A.410 *when they are similar in size to other residential uses* allowed in the zone..

**6. Out-Patient Substance Abuse Treatment includes opiate substitution treatment clinics.**