

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

Chapter Eleven Shorelines

Comment [CES1]: The P/C reviewed this version at their 11.12/20 mtg but didn't quite finish with it. Does include some of their changes.

Moved to tentatively approve for public hearing at their 12/10/20 mtg. Passed 8-0-1

Comment [CES2]: Much of text was moved from either C/P Ch. 10 or Title 23, and is not shown as being new. Proposed amendments to the existing text are shown as strikeout/underline.

Introduction

The State Legislature passed the Washington State Shoreline Management Act (SMA) in June 1971. The SMA was overwhelmingly passed by public initiative in 1972. Under the SMA, each county and city was required to prepare a shoreline "master program" in accordance with the shoreline guidelines issued by the State Department of Ecology in 1972.

The Whatcom County Shoreline Management Program (SMP), ~~WCC Title 23~~, is the set of policies and regulations document that implements the goals and policies of the SMA at the local level. It was first adopted in 1976 in accordance with RCW 90.58. The goals and policies of the Whatcom County ~~Shoreline Management Program SMP~~ also constitute the shoreline component of the Whatcom County Comprehensive Plan.

The Whatcom County Shoreline Management Program jurisdiction includes:

- More than 130 miles of marine shoreline;
• More than 60 miles of lake shoreline;
• More than 220 miles of stream channels; and,
• All wetlands and floodways associated with the above shorelines, together with all upland areas within 200-feet of the Ordinary High Water Mark (OHWM).

Whatcom County and the Washington State Department of Ecology (DOE) share joint authority and responsibility for the Whatcom County SMP. Whatcom County Planning and Development Services is the primary agency responsible for its implementation ~~of the Whatcom County Shoreline Management Program~~.

Chapter Organization

This chapter is composed of an introduction and five sections organized by topic heading. The first section, entitled "Overall SMP Goals and Objectives," addresses general shoreline goals and objectives. The next provides the purposes, designation criteria, and policies for the County's various shoreline area designations. The third section contains the County's policies for Shorelines of Statewide Significance. The fourth section provides the general policies that apply to all area designations. And the fifth section provides the policies specific to the type of use proposed. Together with the regulations of WCC Title 23, the sections of this chapter provide the direction necessary to ensure and promote long-term sustainability of the shorelines in Whatcom County.

Purpose

This chapter together with WCC Title 23 comprises Whatcom County's Shoreline Management Program. This chapter contains the SMP's goals, objectives, and policies, while its regulations are found in WCC Title 23. All development proposed

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 within jurisdictional shorelines must be consistent with both the policies of this
2 chapter and the regulations of WCC Title 23.

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

8 1. The promotion of shoreline uses that are both water-oriented and
9 appropriate for the broader environmental context. Developments such as
10 single family residences, recreational areas, and water-dependent businesses
11 such as marinas are considered priority uses provided they are constructed in
12 a manner “consistent with control of pollution and prevention of damage to
13 the environment” (quote from RCW 90.58.020).

14 2. The SMA requires local governments to take an active role in protecting the
15 shoreline ecology: the water, the land, the vegetation and the wildlife. The
16 state guidelines are explicit: “Local master programs shall include regulations
17 and mitigation standards ensuring that each permitted development will not
18 cause a net loss of ecological functions of the shoreline.” (WAC 173-26-
19 186(8)(b)(i).)

20 3. The SMA also promotes public access to the shoreline by requiring protection
21 of existing public access features and requiring certain types of new
22 development to include public access.

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

28 **GMA Goals and Countywide Planning Policies**

29 First adopted in 1990, The Growth Management Act (GMA) is a series of state
30 statutes that requires fast-growing cities and counties to develop a comprehensive
31 plan to manage their population growth. It is primarily codified under Chapter
32 36.70A RCW, although it has been amended and added to in several other parts of
33 the RCW. Under RCW 36.70A.020, the GMA established a series of 13 goals that
34 should act as the basis of all comprehensive plans. In 2003, the legislature added
35 the goals and policies of the Shoreline Management Act as the fourteenth GMA goal
36 (RCW 36.70A.480). The shoreline goals may be found at RCW 90.58.020.

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

39 **~~GMA-SMA~~ Requirements**

40 Under the provisions of the SMA, all development along shorelines of the state is
41 required to comply with the provisions of local shoreline master programs. The
42 Whatcom County ~~Shoreline Management Program~~SMP works with other chapters of

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 the Whatcom County Code to protect and preserve saltwater and freshwater
2 shorelines throughout the county by managing natural resources and directing
3 development and land use suitable for the shoreline environment.

4 ~~23.10.030~~ **Governing Principles**

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

5 The following principles, along with the policy statements of RCW 90.58.020 and
6 the principles of Chapter 173-26 WAC, establish basic concepts that underpin the
7 goals, policies, and regulations of the SMPShoreline Management Plan (SMP)~~this~~
8 ~~program~~:

- 9 A. Any inconsistencies between the SMPthis program and the Shoreline
10 Management Act (SMAAct) must be resolved in accordance with the SMAAct.
- 11 B. The policies of the SMPthis program may be achieved by diverse means, one
12 of which is regulation. Other means, authorized by the SMAAct, include, but
13 are not limited to: acquisition of lands and/or easements by purchase or gift,
14 incentive programs, and implementation of capital facility and/or
15 nonstructural programs.
- 16 C. Protecting the shoreline environment is an essential statewide policy goal,
17 consistent with other policy goals. Permitted and/or exempt development,
18 actions taken prior to the SMAAct's adoption, and/or unregulated activities
19 can impair shoreline ecological processes and functions. The SMPThis
20 program protects shoreline ecology from such impairments in the following
21 ways:
 - 22 1. By using a process that identifies, inventories, and ensures meaningful
23 understanding of current and potential ecological functions provided by
24 shorelines.
 - 25 2. By including policies and regulations that require mitigation of significant
26 adverse impacts in a manner that ensures no net loss of shoreline
27 ecological functions. The required mitigation shall include avoidance,
28 minimization, and compensation of impacts in accordance with the
29 policies and regulations for mitigation sequencing in WCC 23-~~90.030~~ and
30 the Whatcom County Critical Areas Ordinance (CAO, Chapter 16.16 WCC).
31 The SMPThis program and any future amendment thereto shall ensure no
32 net loss of shoreline ecological functions and processes on a
33 programmatic basis in accordance with the baseline functions present as
34 of the date of adoption of the comprehensive SMP update~~this program~~,
35 February 27, 2007.
 - 36 3. By including policies and regulations to address cumulative impacts,
37 including ensuring that the cumulative effect of exempt development will
38 not cause a net loss of shoreline ecological functions, and by fairly
39 allocating the burden of addressing such impacts among development
40 opportunities.
 - 41 4. By including regulations and regulatory incentives designed to protect
42 shoreline ecological functions, and restore impaired ecological functions
43 where such opportunities have been identified, consistent with the

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 Shoreline Management Program Restoration Plan developed by Whatcom
- 2 County.
- 3 D. Regulation of private property to implement ~~SMP~~program goals such as
- 4 public access and protection of ecological functions and processes must be
- 5 consistent with all relevant constitutional and other legal limitations. These
- 6 include, but are not limited to, civil rights guaranteed by the U.S. and state
- 7 Constitutions, ~~recent-pertinent~~ federal and state case law, and state statutes,
- 8 such as RCW 34.05.328 and 43.21C.060 and Chapter 82.02 RCW.
- 9 E. Regulatory or administrative actions ~~contained herein~~ must be implemented
- 10 consistent with the public trust doctrine and other applicable legal principles
- 11 as appropriate and must not unconstitutionally infringe on private property
- 12 rights or result in an unconstitutional taking of private property.
- 13 F. The regulatory provisions of ~~the SMP~~this program are limited to ~~jurisdictional~~
- 14 ~~shorelines~~shorelines of the state, whereas the planning functions of ~~the~~
- 15 ~~SMP~~this program may extend beyond the designated shoreline boundaries.
- 16 G. The policies and regulations established by the ~~SMP~~program must be
- 17 integrated and coordinated with those policies and rules of the ~~Whatcom~~
- 18 ~~County~~ Comprehensive Plan and development regulations adopted under the
- 19 ~~Growth Management Act (GMA)~~ and RCW 34.05.328.
- 20 H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom
- 21 County should balance the various policy goals of ~~the SMP~~this program giving
- 22 consideration to other relevant local, state, and federal regulatory and non-
- 23 regulatory programs.

Chapter 23.20 Overall SMP Shoreline Management Program Goals and Objectives

~~23.20.005~~ Generally.

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

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

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

~~23.20.010~~ Adoption:

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

Comment [MD6]: Moved up.

~~23.20.020~~ Economic Development:

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

Goal 11A: ~~Goal. To e~~ Create and maintain an economic environment that can coexist harmoniously with the natural and human environment.

~~B.~~ Objectives:

11A-1: Encourage economic development that has minimal adverse effects and mitigates unavoidable impacts upon shoreline ecological functions and processes and the built environment.

11A-2: Encourage shoreline development that has a positive effect upon economic and social activities of value to the region.

11A-3: Encourage new water-dependent, water-related, and water-enjoyment economic development in priority order.

11A-4: Encourage economic development that is consistent with the adopted Comprehensive Economic Development Strategy (CEDS) for Whatcom County.

11A-5: Implement economic development policies contained in other chapters of the Whatcom County Comprehensive Plan in shoreline areas consistent with this chapter, WCC Title 23 program and the SMA Act.

11A-6: Encourage new economic development to locate in areas that are already developed with similar uses.

11A-7: Discourage expansion of existing development that is incompatible with the Comprehensive Plan~~this program~~, WCC Title 23, or the character of the local area, ~~or the Whatcom County Comprehensive Plan~~.

~~23.20.030~~ Public Access:

The public access element provides for public access to publicly ~~owned~~ or privately owned shoreline areas where the public is granted a right of use or access.

Goal 11B:A: ~~Goal. To i~~ Increase the general public's ability of the general public to reach, touch, and enjoy the water's

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 edge, to travel on the waters of the state, and/or to view
2 the water and the shoreline from adjacent locations;
3 provided, that private rights, ~~the~~ public safety, and
4 shoreline ecological functions and processes are
5 protected consistent with the U.S. and state
6 Constitutions, state case law, and state statutes.

7 ~~B.~~ Objectives:-

8 11B-1: Locate, design, manage, and maintain public access in a manner
9 that protects shoreline ecological functions and processes and
10 the public health and safety.

11 11B-2: Design and manage public access in a manner that ensures
12 compatibility with water-dependent uses.

13 11B-3: Where appropriate, acquire access to publicly owned tidelands
14 and shorelands. Encourage cooperation among the County,
15 landowners, developers, and other agencies and organizations
16 to enhance and increase public access to shorelines as specific
17 opportunities arise.

18 11B-4: Provide and protect visual access to shorelines and tidelands.

19 11B-5: Require physical or visual access to shorelines as a condition of
20 approval for shoreline development activities commensurate
21 with the impacts of such development and the corresponding
22 benefit to the public, and consistent with constitutional
23 limitations.

24 11B-6: Develop and manage public access to prevent adverse impacts
25 to adjacent private shoreline properties and developments.

26 ~~23-20-040 Recreation-~~

27 The recreation element provides for the preservation and expansion of water-
28 oriented recreational opportunities that facilitate the public's ability to enjoy the
29 physical and aesthetic qualities of the shoreline through parks, public access to
30 tidelands and beaches, bicycle and pedestrian paths, viewpoints, and other
31 recreational amenities.

32 ~~Goal 11C:A:~~ ~~Goal To p~~ Provide opportunities and space for diverse
33 forms of water-oriented recreation.

34 ~~B.~~ Objectives:-

35 11C-1: Locate, develop, manage, and maintain recreation areas in a
36 manner that protects shoreline ecological functions and
37 processes.

38 11C-2: Provide a balanced choice of water-oriented public recreational
39 opportunities regionally. Ensure that shoreline recreation
40 facilities serve projected County growth in accordance with the
41 level of service standards established in the ~~Whatcom County~~
42 Comprehensive Plan and related goals and policies; ~~the~~

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 Comprehensive Park and Recreation Open Space Plan, the
2 Whatcom County Bicycle Plan, and the Natural Heritage Plan.
- 3 11C-3: Acquire additional recreation areas and public access areas with
4 a high recreation value prior to demand to assure that sufficient
5 shoreline recreation opportunities are available to serve future
6 recreational needs.
- 7 11C-4: Encourage cooperation among public agencies, nonprofit
8 groups, and private landowners, and developers to increase and
9 diversify recreational opportunities through a variety of means
10 including incorporating water-oriented recreational opportunities
11 into mixed use developments and other innovative techniques.
- 12 11C-5: Recognize and protect the interest of all people of the state by
13 providing increased recreational opportunities within shorelines
14 of statewide significance and associated shorelands.
- 15 11C-6: Encourage private and public investment in recreation facilities.
- 16 11C-7: Locate, design, and operate recreational development in a
17 manner that minimizes adverse effects on adjacent properties
18 as well as other social, recreational, or economic activities.
- 19 ~~23-20-050~~ **Transportation and Essential Public Facilities:**
- 20 The transportation and essential public facilities element provides for the general
21 location and extent of existing and proposed public thoroughfares, transportation
22 routes, terminals, and other public utilities and facilities.
- 23 ~~Goal 11D:A:~~ **Goal. To provide transportation systems and essential**
24 **public facilities in shoreline areas without adverse effects**
25 **on existing shoreline use and development or shoreline**
26 **ecological functions and/or processes.**
- 27 ~~B.~~ Objectives:
- 28 11D-1: Locate, develop, manage, and maintain transportation systems
29 and essential public facilities in a manner that protects shoreline
30 ecological functions and processes. Minimize and mitigate
31 unavoidable impacts.
- 32 11D-2: Locate and design transportation systems and essential public
33 facilities to be harmonious with the existing and future economic
34 and social needs of the community.
- 35 11D-3: Discourage the development of non-water-dependent
36 transportation systems and essential public facilities unless no
37 feasible alternatives exist. Devote roads within the shoreline
38 jurisdiction to low volume local access routes and shoreline
39 public access where feasible.
- 40 11D-4: When appropriate, require adequate compensation
41 where transportation systems and essential public facilities
42 reduce the benefits people derive from their property.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | 11D-5: Provide for alternate modes of travel, encourage freedom of
2 | choice among travel modes, and provide multiple use
3 | transportation corridors where compatible in association with
4 | shoreline transportation development.
- 5 | 11D-6: Require transportation system and essential public facility
6 | development in shoreline areas to protect and enhance physical
7 | and visual shoreline public access.
- 8 | ~~23-20-060~~ **Shoreline Use:**
- 9 | The shoreline use element ~~considers~~ prioritizes the use and development of
10 | shorelines and adjacent land areas for housing, business, industry, transportation,
11 | agriculture, forestry, natural resources, recreation, education, public institutions,
12 | utilities, and other categories of public and private land use with respect to the
13 | type, general distribution, location, and extent of such uses and developments.
- 14 | **Goal 11E:A: Goal. To preserve and develop shorelines in a manner**
15 | **that allows for an orderly balance of uses.**
- 16 | ~~B.~~ Objectives:
- 17 | 11E-1: Give preference to water-dependent and single-family
18 | residential uses that are consistent with preservation of
19 | shoreline ecological functions and processes. Give secondary
20 | preference to water-related and water-enjoyment uses. Allow
21 | non-water-oriented uses only when substantial public benefit is
22 | provided with respect to the goals of the SMAAct for public
23 | access and ecological restoration.
- 24 | 11E-2: Designate and maintain appropriate areas for protecting and
25 | restoring shoreline ecological functions and processes to control
26 | pollution and prevent damage to the shoreline environment
27 | and/or public health.
- 28 | 11E-3: Ensure shoreline uses are consistent with the ~~Whatcom County~~
29 | Comprehensive Plan.
- 30 | 11E-4: Balance the location, design, and management of shoreline uses
31 | throughout the County to prevent a net loss of shoreline
32 | ecological functions and processes over time.
- 33 | 11E-5: Encourage mixed use developments that include and support
34 | water-oriented uses and provide a substantial public benefit
35 | consistent with the public access and ecological restoration
36 | goals and policies of the SMAAct.
- 37 | 11E-6: Encourage shoreline uses and development that enhance
38 | shoreline ecological functions and/or processes or employ
39 | innovative features that further the purposes of ~~the SMP~~
40 | this program.
- 41 | 11E-7: Encourage shoreline uses and development that enhance and/or
42 | increase public access to the shoreline.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

~~23-20-070~~ Conservation-

The shoreline conservation element provides for the protection of natural resources and shoreline ecological functions and processes. Resources to be conserved and protected include, but are not limited to, wetlands; riparian, nearshore, and aquatic habitats; priority fish and wildlife habitats and species; floodplains; feeder bluffs and other geological features; cultural and historic resources; as well as scenic vistas and aesthetics.

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

~~B.~~ Objectives:-

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

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

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

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

~~23-20-080~~ Archaeological, historical and Cultural Resources

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

Comment [CES7]: DAHP definition.

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

~~B.~~ Objectives:-

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | 11G-1: Protect ~~cultural resources sites~~ in collaboration with appropriate
- 2 | tribal, state, federal, and local governments.
- 3 | 11G-2 Engage in and encourage public agencies and private parties to
- 4 | cooperate in the identification, protection and management of
- 5 | cultural resources.
- 6 | 11G-3: Consult with the Washington State Department of Archaeology
- 7 | and Historic Preservation (DAHP) and affected Native American
- 8 | tribes when developing local policies and regulations for
- 9 | identifying, protecting, and preserving cultural resources.
- 10 | 11G-4: Where appropriate, restore unique resources that have cultural,
- 11 | archaeological, historic, educational, or scientific value or
- 12 | significance to further enhance the value of the shorelines.
- 13 | 11G-5: Where appropriate, provide access to cultural resources in a
- 14 | manner that is culturally sensitive and does not degrade the
- 15 | resource or impact the quality of the environment, make access
- 16 | to such sites available to parties of interest, provided, that
- 17 | access to such sites must be designed and managed in a
- 18 | manner that gives maximum protection to the resource.
- 19 | 11G-3: Provide opportunities for education related to archaeological,
- 20 | historical, and cultural features where appropriate and
- 21 | incorporated into public and private programs and development.

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

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

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

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

27 | ~~B.~~ Objectives:

28 | 11H-1: Identify and protect areas with scenic vistas and areas where
29 | the shoreline has high aesthetic value.

30 | 11H-2: Design development to minimize adverse impacts on views from
31 | public property or views enjoyed by a substantial number of
32 | residences.

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

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

39 | Goal 11I:A: ~~Goal. To~~ **Reestablish, rehabilitate and/or otherwise**
40 | **improve impaired shoreline ecological functions and/or**
41 | **processes through voluntary and incentive-based public**

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 and private programs and actions that are consistent with
2 the Shoreline Management Program Restoration Plan
3 ~~(County Resolution 2007-011)~~ and other approved
4 restoration plans.

5 ~~B.~~ Objectives:-

6 111-1: Encourage and facilitate cooperative restoration and
7 enhancement programs between local, state, and federal public
8 agencies, tribes, nonprofit organizations, and landowners to
9 address shorelines with impaired ecological functions and/or
10 processes.

11 111-2: Restore and enhance shoreline ecological functions, ~~and~~
12 processes, ~~and as well as shoreline~~ features through voluntary
13 and incentive-based public and private programs, such as the
14 Shore Friendly Program developed by the Washington State
15 Department of Fish and Wildlife, Washington State Department
16 of Natural Resources, and the Environmental Protection Agency.

17 111-3: Target restoration and enhancement towards improving habitat
18 requirements of priority and/or locally important wildlife species.

19 111-4: Ensure restoration and enhancement is consistent with and,
20 where practicable, prioritized based on the biological recovery
21 goals for early Chinook and bull trout populations and other
22 species and/or populations for which a recovery plan is
23 available.

24 111-5: Integrate restoration and enhancement with other parallel
25 natural resource management efforts such as the WRIA 1
26 Salmonid Recovery Plan, Drayton Harbor and Portage Bay
27 Shellfish Protection District Plans, WRIA 1 Watershed
28 Management Plan, ~~Whatcom County Comprehensive Plan,~~ and
29 the Puget Sound Salmon Recovery Draft Plan.

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

33 ~~23.30.022 Shoreline area designations.~~

34 ~~A.~~ A set of 10 shoreline area designations has been developed as a part of the
35 SMP ~~this program~~. The purpose of the shoreline area designations is to provide a
36 systematic, rational, and equitable basis upon which to guide and regulate
37 development within specific shoreline reaches.

38 ~~B.~~ Shoreline area designations have been determined after consideration of:

- 39 1. The ecological functions and processes that characterize the shoreline,
40 together with the degree of human alteration; ~~and~~

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

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

2. Existing development patterns together with WCC Title 20~~7~~ Zoning~~7~~ designations, the ~~County~~ Comprehensive Plan designations, and other officially adopted plans; ~~and~~
3. Federal and tribal ownership status; ~~and~~
4. The goals of Whatcom County citizens for their shorelines; ~~and~~
5. Pursuant to RCW 90.58.100(4), in designating state-owned shorelines, consideration has been given to public demand for wilderness beaches, ecological study areas, and other recreational activities; and
6. Other state policies in the ~~SMA~~Act and the ~~SMP~~Shoreline Master Program Guidelines (RCW 90.58.020 and Chapter 173-26 WAC, respectively).

~~23.30.030~~ **Urban Shoreline Area**

~~23.30.031~~ **Urban shoreline area — Purpose**

The purpose of the urban shoreline area is to provide for intensive development of water-oriented commercial, transportation, and industrial uses and accommodate mixed use developments such as those consisting of urban density residential, commercial, and industrial uses, while protecting existing shoreline ecological functions and processes and restoring shoreline ecological functions and/or processes in areas that have been previously degraded.

~~23.30.032~~ **Urban shoreline area — Designation Criteria**

The urban shoreline area is applied to shoreline areas zoned commercial, industrial, and urban density residential within urban growth areas and ~~limited~~ industrial or commercial areas in Limited Areas of More Intense Rural Development (LAMIRDs), if they:

- A. Are currently characterized by high intensity development and/or uses; are designated by the Comprehensive Plan for high intensity uses or intensive uses related to commerce, transportation or navigation; or are suitable and planned for high intensity mixed use; and
- B. Do not contain limitations to urban use such as geologic hazards, and have adequate utilities and access; and
- C. Do not provide important ecological functions that would be significantly compromised by high intensity residential, commercial, or industrial use.

~~23.30.033~~ **Urban shoreline area — Policies**

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

- ~~Policy 11J-1:A-~~ New urban character development should be directed toward already developed or developing areas where compatible.
- ~~Policy 11J-2:B-~~ First priority should be given to water-dependent uses. Second priority should be given to water-related and then water-enjoyment uses. Non-water-oriented uses should not be allowed

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 except as part of mixed use developments. Non-water-oriented
2 uses may also be allowed in limited situations where they do not
3 conflict with or limit opportunities for water-oriented uses or on
4 sites where there is no direct access to the shoreline, or where
5 the needs of existing and future water-dependent uses are met.

6 ~~23.30.040~~ **Urban Resort Shoreline Area**

7 ~~23.30.041~~ **Urban resort shoreline area — Purpose**

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

13 ~~23.30.042~~ **Urban resort shoreline area — Designation Criteria**

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

19 ~~23.30.043~~ **Urban resort shoreline area — Policies**

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

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

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

28 ~~23.30.050~~ **Urban Conservancy Shoreline Area**

29 ~~23.30.051~~ **Urban conservancy shoreline area — Purpose**

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

Comment [CES11]: Copied from Conservancy Shoreline Area, as these two are similar though intended for different areas with different levels of existing development.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

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

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

- A. They support or retain important shoreline ecological functions and/or processes, even though partially developed.
- B. They have the potential for development at an intensity and character that is compatible with preserving and restoring ecological functions. They are generally not designated for high intensity residential use, commercial use, or industrial use.
- C. They are characterized by critical areas or ~~indicate~~ the presence of other valuable or sensitive ecological resources.

~~23.30.053 Urban conservancy shoreline area~~—Policies

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

- ~~Policy 11L-1:A-~~ Primary permitted uses should consist of low intensity residential uses or other low intensity uses that preserve the natural character of the area or promote preservation of open space and critical areas.
- ~~Policy 11L-2:B-~~ Moderate to high intensity residential use may be permitted if the proposed uses and design result in substantial open space, public access and/or restoration of shoreline ecological functions and/or processes, and if compatible with surrounding uses.
- ~~Policy 11L-3:C-~~ Public access and public recreation facilities are a preferred use if they will not cause substantial ecological impacts and when restoration of ecological functions is incorporated.
- ~~Policy 11L-4:D-~~ Low intensity commercial uses may be permitted if the specific uses and design result in substantial open space, public access, and/or restoration of ecological functions, and if compatible with surrounding uses.

~~23.30.060 Shoreline Residential Area~~

~~23.30.061 Shoreline residential area~~—Purpose

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

~~23.30.062 Shoreline residential area~~—Designation Criteria

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

~~23-30-063 Shoreline residential area~~ — **Policies**

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

~~Policy 11M-1:A:~~ The scale and density of new uses and development should be compatible with, and protect or enhance, the existing residential character of the area while sustaining shoreline ecological functions and processes.

~~Policy 11M-2:B:~~ Public or private outdoor recreation facilities should be encouraged if compatible with the character of the area. Preferred uses include water-dependent and water-enjoyment recreation facilities that provide opportunities for substantial numbers of people to access and enjoy the shoreline.

~~Policy 11M-3:C:~~ Commercial development should be limited to water-oriented uses. Non-water-oriented commercial uses may be permitted as part of mixed use developments where the primary use is residential; provided, that such uses ~~should~~ provide a substantial benefit with respect to the goals and policies of ~~the SMP~~~~this program~~, such as providing public access or restoring degraded shorelines.

~~23-30-070 Rural Shoreline Area~~

~~23-30-071 Rural shoreline area~~ — **Purpose**

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

~~23-30-072 Rural shoreline area~~ — **Designation Criteria**

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

- A. Where the shoreline currently accommodates residential uses outside urban growth areas and is characterized by low density development, pasture, agriculture, woodlots, home occupations, and cottage industries. The distribution of rural land use is adjacent to agricultural, forestry, and urban land uses and often provides a transition between urban areas and commercial agriculture and forestry uses. Natural vegetative cover and topography have been altered in many rural areas, but substantial ecological functions, and/or the potential for restoration of ecological functions, are present.
- B. That are now used or potentially usable for a mix of agriculture, forestry, and residential use.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 C. Where residential development is or should be of low density, because of
- 2 | limitations by physical features, infrastructure, the presence of critical areas,
- 3 and/or lack of utilities or access.
- 4 D. That have high recreational value or unique historic or cultural resources.
- 5 E. Where low intensity outdoor recreation use or development would be
- 6 appropriate and compatible with other uses and the physical environment.
- 7 F. Where the shoreline has been developed with low intensity water-dependent
- 8 uses.

9 | ~~23.30.073 Rural shoreline area~~ — **Policies**

10 Development within rural shoreline areas shall be consistent with the following

11 policies:

12 | ~~Policy 11N-1:A-~~ Uses in rural areas should protect or enhance the rural character

13 of the shoreline and sustain the shoreline ecological functions

14 and processes by limiting building density and height, and

15 | providing effective setbacks, buffers, and open space.

16 | ~~Policy 11N-2:B-~~ Residential development consistent with the rural character of

17 the area is permitted, provided it includes measures to protect

18 ecological functions and processes. Related uses consistent with

19 the rural character of the area are permitted.

20 | ~~Policy 11N-3:C-~~ Public or private outdoor recreation facilities should be

21 encouraged if compatible with the rural character of the area

22 and developed in a manner that maintains shoreline ecological

23 functions and processes. Preferred uses include water-oriented

24 recreation facilities that do not deplete shoreline resources over

25 time, such as boating facilities, angling, wildlife viewing trails,

26 and swimming beaches.

27 | ~~Policy 11N-4:D-~~ Industrial or commercial development should be limited to

28 water-oriented commercial and industrial uses in the limited

29 locations where such uses have been established or at sites in

30 rural communities that possess appropriate shoreline conditions

31 and services sufficient to support such developments. Non-

32 | water-dependent uses should only be allowed when they

33 provide a substantial benefit with respect to the goals and

34 | policies of the SMP~~this program~~, such as providing public access

35 and/or restoring degraded shorelines.

36 | ~~Policy 11N-5:E-~~ Agriculture and forestry consistent with rural character and the

37 maintenance of shoreline ecological functions and processes

38 should be encouraged.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

~~23.30.080~~ Resource Shoreline Area

~~23.30.081~~ Resource shoreline area – Purpose

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

~~23.30.082~~ Resource shoreline area – Designation Criteria

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

~~23.30.083~~ Resource shoreline area – Policies

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

~~Policy 110-1:A-~~ Uses in resource areas should protect the economic base of those lands, limit incompatible uses, and sustain the shoreline area ecological processes and functions by limiting uses and intensity. Residential use is generally limited to one dwelling per existing parcel. The dwelling may be located within the shoreline jurisdiction, only where no other building site is feasible on the parcel.

~~Policy 110-2:B-~~ Public or private outdoor recreation facilities should be permitted if they do not displace designated resource lands and if they are developed in a manner that maintains shoreline ecological functions. Preferred uses include water-dependent and water-enjoyment recreation facilities.

~~Policy 110-3:C-~~ Industrial or commercial use and development should be limited to uses that serve resource uses. Such uses may be located within the shoreline only if they are water-dependent, water-related, or if no other feasible location exists within the contiguous property.

~~23.30.090~~ Conservancy Shoreline Area

~~23.30.091~~ Conservancy shoreline area – Purpose

The purpose of the conservancy shoreline area is to retain shoreline ecological functions in areas outside of urban growth areas and LAMIRDS where important ecological processes have not been substantially degraded by human activities. ~~Conservancy areas are designated outside of urban growth areas.~~ The primary

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 management goal is to preserve shoreline ecological functions and processes by
2 avoiding forms of development that would be incompatible with existing functions
3 and processes, as well as identify and focus restoration efforts in areas where
4 benefits to overall functions and processes can be realized. This policy should be
5 furthered by keeping overall intensity of development or use low, and by
6 maintaining most of the area’s natural character.

7 | ~~23.30.092 Conservancy shoreline area~~ — **Designation Criteria**

8 The conservancy shoreline area is applied to shoreline areas outside urban growth
9 areas and LAMIRDs that include areas:

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

26 | ~~23.30.093 Conservancy shoreline area~~ — **Policies**

27 Development within conservancy shoreline areas shall be consistent with the
28 following policies:

- 29 | ~~Policy 11P-1:A-~~ Natural ecological processes should be protected and renewable
30 resources managed so that ecological functions and the
31 resource base are maintained. Nonrenewable resources should
32 only be consumed in a manner compatible with conservation of
33 other resources and other appropriate uses.
- 34 | ~~Policy 11P-2:B-~~ Permitted uses should be limited to those compatible with each
35 other and with conservation of shoreline ecological processes
36 and resources.
- 37 | ~~Policy 11P-3:C-~~ Shorelines should be protected from ~~harmful~~ concentrations of
38 people, livestock, buildings, or structures that would adversely
39 impact shoreline ecological functions and processes.

Comment [AP13]: Revised for clarity and usability.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

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

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

6 | ~~23.30.100-Natural Shoreline Area~~

7 | ~~23.30.101 Natural shoreline area—Purpose~~

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

11 | ~~23.30.102 Natural shoreline area—Designation Criteria~~

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

14 | A. The majority of natural ecological shoreline functions and/or processes are
15 | retained, often evidenced by the shoreline configuration and the presence of
16 | native vegetation. Generally, but not necessarily, they include ecologically
17 | intact shorelines that are free of structural shoreline modifications,
18 | structures, and intensive human uses.

19 | B. Forested areas that generally include native vegetation with diverse plant
20 | communities, multiple canopy layers, and the presence of large woody debris
21 | available for recruitment to adjacent water bodies.

22 | C. Valuable functions are provided for the larger aquatic and terrestrial
23 | environments, which could be lost or significantly reduced by human
24 | development.

25 | D. Ecosystems or geologic types that are of particular scientific and educational
26 | interest are represented.

27 | E. Largely undisturbed areas of wetlands, estuaries, unstable bluffs, coastal
28 | dunes, and spits are present.

29 | F. New development, extractive uses, or physical modifications cannot be
30 | supported without significant adverse impacts to ecological functions and/or
31 | processes or risk to human safety.

32 | ~~23.30.103 Natural shoreline area—Policies~~

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

35 | ~~Policy 11Q-1:A-~~ Preservation of the area’s ecological functions, natural features
36 | and overall character must receive priority over any other
37 | potential use. Uses should not degrade shoreline ecological
38 | functions or processes or the natural character of the shoreline
39 | area. New development or significant vegetation removal that

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 would reduce the capability of the shoreline to perform a full
2 range of ecological functions or processes should not be
3 permitted.

4 | ~~Policy 11Q-2:B-~~ Private and/or public enjoyment of natural shoreline areas
5 should be encouraged and facilitated through low intensity
6 recreational, scientific, historical, cultural, and educational
7 research uses; provided, that no significant ecological impact on
8 the area will result.

9 | ~~Policy 11Q-3:C-~~ Agricultural and forestry uses of a very low intensity nature may
10 be consistent with the natural shoreline area when such use is
11 subject to appropriate limitations or conditions to assure that
12 the use does not expand or alter practices in a manner
13 inconsistent with the purpose of the designation.

14 | ~~Policy 11Q-4:D-~~ The following uses should not be permitted in the natural
15 shoreline area:
16 1. Commercial uses.
17 2. Industrial uses.
18 3. Non-water-oriented recreation.
19 4. Roads, utility corridors, and parking areas that can be
20 located outside of natural shoreline areas.

21 | ~~23.30.110 Aquatic Shoreline Area~~

22 | ~~23.30.111 Aquatic shoreline area — Purpose~~

23 The purpose of the aquatic shoreline area is to protect, restore, and manage the
24 characteristics and resources of the areas waterward of the ordinary high water
25 mark.

26 | ~~23.30.112 Aquatic shoreline area — Designation Criteria~~

27 The aquatic shoreline area is defined as the area waterward of the ordinary high
28 water mark of all streams, rivers, lakes, and marine water-bodies; ~~and lakes,~~
29 constituting shorelines of the state together with their underlying lands and their
30 water column.

31 | ~~23.30.113 Aquatic shoreline area — Policies~~

32 Development within aquatic shoreline areas shall be consistent with the following
33 policies:

34 | ~~Policy 11R-1:A-~~ New over-water structures should only be permitted for water-
35 dependent uses, public access, or ecological restoration. The
36 size of new over-water structures should be limited to the
37 minimum necessary to support the structure's intended use. In
38 order to reduce the impacts of shoreline development and
39 increase effective use of water resources, multiple use of over-
40 water facilities should be encouraged.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | ~~Policy 11R-2:B-~~ All developments and uses on navigable waters or their beds
- 2 | should be located and designed to minimize interference with
- 3 | surface navigation, to consider impacts to public views, and to
- 4 | allow for the safe, unobstructed passage of fish and wildlife,
- 5 | particularly those species dependent on migration.
- 6 | ~~Policy 11R-3:C-~~ Uses that adversely impact the ecological functions of critical
- 7 | saltwater and freshwater habitats should not be permitted
- 8 | except where necessary to achieve the objectives of RCW
- 9 | 90.58.020, and then only when all potential impacts are
- 10 | mitigated as necessary to assure maintenance of shoreline
- 11 | ecological functions and processes.
- 12 | ~~Policy 11R-4:D-~~ Shoreline uses and modifications should be designed and
- 13 | managed to prevent degradation of water quality and alteration
- 14 | of natural conditions.

15 | ~~23.30.120~~ **Cherry Point Management Area**

16 | Purpose

17 | Washington State natural resource agencies and Whatcom County have identified
18 | certain portions of the Cherry Point management area as providing herring
19 | spawning habitat and other key habitat characteristics that warrant special
20 | consideration due to their importance to regional fisheries and other elements of
21 | the aquatic environment. The purpose of the Cherry Point management area is to
22 | provide a regulatory framework that recognizes and balances the special port,
23 | industrial, and natural resource needs associated with the development of this
24 | marine resource.

Comment [P/C14]: Moved from Use & Modification section, CPMA, Policies 11TT-1 & 2, to fit the layout of other sections where in purpose is located in the Shoreline Environments section.

25 | Designation Criteria

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

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

33 | Policies

34 | ~~The p~~Policies applicable to the Cherry Point Management Area are found in the
35 | Shoreline Use and Modifications Policies section of this chapter; applicable r
36 | regulations and standards, etc., applicable to the Cherry Point management area
37 | are found in WCC Title 23.40.170, except as otherwise specified therein.

38 | **Shorelines of Statewide Significance**

39 | ~~23.40.010~~ Adoption of policy:

40 | In accordance with RCW 90.58.020, the following management and administrative
41 | policies are ~~hereby~~ adopted for all shorelines of statewide significance in
42 | unincorporated Whatcom County, as defined in RCW 90.58.030(2)(e) and identified

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 | in WCC 23.~~2.06040-020~~. Consistent with the policy contained in RCW 90.58.020,
2 | preference shall be given to the uses that are consistent with the statewide interest
3 | in such shorelines. In the following order or preference, these are uses that:

Comment [CES17]: The language of WAC 173-26-181 recognizes an order of preference

- 4 | A. Recognize and protect the statewide interest over local interest.
- 5 | B. Preserve the natural character of the shoreline.
- 6 | C. Result in long-term over short-term benefit.
- 7 | D. Protect the resources and ecology of the shoreline.
- 8 | E. Increase public access to publicly owned areas of the shoreline.
- 9 | F. Increase recreational opportunities for the public in the shoreline.
- 10 | G. Provide for any other element as defined in RCW 90.58.100 deemed
- 11 | appropriate or necessary.

12 | Uses that are not consistent with these policies should not be permitted on
13 | shorelines of statewide significance.

14 | ~~**23.40.030 Policies for Shorelines of Statewide Significance**~~

15 | The statewide interest should be recognized and protected over the local interest in
16 | shorelines of statewide significance. To ensure that statewide interests are
17 | protected over local interests, the County shall review all development proposals
18 | within shorelines of statewide significance for consistency with RCW 90.58.030 and
19 | the following policies:

20 | Policy 11-1:A. Redevelopment of shorelines should be encouraged where it
21 | restores or enhances shoreline ecological functions and
22 | processes impaired by prior development activities.

23 | ~~Policy 11S-2:B-~~ The Washington Departments of Fish and Wildlife and Ecology,
24 | the Lummi Nation, the Nooksack Tribe, and other resources
25 | agencies should be consulted for development proposals that
26 | could affect anadromous fisheries.

27 | ~~Policy 11S-3:C-~~ Where commercial timber cutting takes place pursuant to WCC
28 | ~~23.40.11023-90.110~~ and RCW 90.58.150, reforestation should
29 | take place as soon as possible.

30 | ~~Policy 11S-4:D-~~ Activities that use shoreline resources on a sustained yield or
31 | non-consuming basis and that are compatible with other
32 | appropriate uses should be given priority over uses not meeting
33 | these criteria.

34 | Policy 11S-5:E- The range of options for shoreline use should be preserved to
35 | the maximum possible extent for succeeding generations.
36 | Development that consumes valuable, scarce, sensitive, or
37 | irreplaceable natural resources should be protected to the
38 | maximum extent feasible and should not be permitted if
39 | alternative sites are available.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 | ~~Policy 11S-6:F-~~ Potential short-term economic gains or convenience should be
2 | measured against potential long-term and/or costly impairment
3 | of natural features.

4 | ~~Policy 11S-7:G-~~ Protection or enhancement of aesthetic values should be
5 | actively promoted in design review of new or expanding
6 | development.

7 | ~~Policy 11S-8:H-~~ Resources and ecological systems of shorelines of statewide
8 | significance should be protected. Shorelands and submerged
9 | lands should be protected to accommodate current and
10 | projected demand for economic resources of statewide
11 | importance, such as commercial shellfish beds.

12 | ~~1. Those limited shorelines containing unique, scarce and/or~~
13 | ~~sensitive resources should be protected to the maximum extent~~
14 | ~~feasible.~~

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

15 | ~~Policy 11S-9:J-~~ Erosion and sedimentation from development sites should be
16 | controlled to minimize adverse impacts on ecosystem processes.
17 | If site conditions preclude effective erosion and sediment
18 | control, excavations, land clearing, or other activities likely to
19 | result in significant erosion should be severely limited.

20 | ~~Policy 11S-10:K-~~ Public access development in extremely sensitive areas should
21 | be restricted or prohibited. All forms of recreation or access
22 | development should be designed to protect the resource base
23 | upon which such uses in general depend.

24 | ~~Policy 11S-11:L-~~ Public and private developments should be encouraged to
25 | provide trails, viewpoints, water access points and shoreline-
26 | related recreation opportunities whenever possible. Such
27 | development is recognized as a high priority use.

28 | ~~Policy 11S-12:M-~~ Development not requiring a ~~waterside or~~ shoreline location
29 | should be located inland so that lawful public enjoyment of
30 | shorelines is ~~enhanced~~ preserved.

31 | ~~Policy 11S-13:N-~~ Lodging and related facilities should be located inland and
32 | provide for appropriate means of access to the shoreline.

33 | ~~Chapter 23.90 General Policies and Regulations~~

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

34 | ~~The following general policies apply to all use and development activities on~~
35 | ~~shorelines.~~

36 | ~~23.90.020 Land Use~~

37 | ~~The following land use policies delineate the use preferences of the Act and this~~
38 | ~~program and are intended to support the goals and objectives of the program:~~

39 | ~~A. Policies:~~

40 | ~~Policy 11T-1:~~ Single-family residences should be given preference for location
41 | on shorelines in those limited instances when an alteration of

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

the shorelines is authorized (RCW 90.58.020). ~~Single-family residences occupied prior to January 1, 1992, and their appurtenant structures should be protected against damage or loss caused by shoreline erosion; provided, that measures to protect single-family residences should be designed to minimize harm to the shoreline environment. However, After that date, all new single-family residences permitted after January 1, 1992, and their appurtenant structures should be built in a manner so as to not need protective structures.~~

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

Policy 11T-2:

Shoreline uses that are water-dependent or water-related should be given preference (RCW 90.58.020). Such uses should be located, designed, and maintained in a manner that minimizes adverse impacts to shoreline ecological functions and/or processes. Non-water-oriented development may be allowed; provided, that existing water-dependent uses are not displaced and the future supply of sites for water-dependent or water-related uses is not compromised.

Policy 11T-3:

Adequate space should be reserved on shorelines to meet the current and projected demand for water-dependent uses, in conjunction with areas provided in cities, towns and areas under tribal jurisdiction.

~~23-90-030~~ Ecological Protection and Critical Areas

A. ~~Policies:~~

Policy 11U-1:

Shoreline use and development should be carried out in a manner that prevents or mitigates adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas designated in WCC Chapter 16.16, in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Permitted uses shall be designed and conducted to minimize, insofar as practical, any resultant damage to the ecology and environment (RCW 90.58.020). Shoreline ecological functions that should be protected include, but are not limited to, fish and wildlife habitat, food chain support, and water temperature maintenance. Shoreline processes that should be protected include, but are not limited to, water flow; littoral drift; erosion and accretion; infiltration; ground water recharge and discharge; sediment delivery, transport, and storage; large woody debris recruitment; organic matter input; nutrient and pathogen removal; and stream channel formation/maintenance.

Policy 11U-2:

In assessing the potential for net loss of ecological functions or processes, project-specific and cumulative impacts should be considered.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 | Policy 11U-3: Development standards for density, frontage, setbacks,
2 | impervious surface, shoreline stabilization, vegetation
3 | conservation, buffers, critical areas, and water quality should
4 | protect existing shoreline ecological functions and processes.
5 | During permit review, the administrator should consider the
6 | expected impacts associated with proposed shoreline
7 | development when assessing compliance with this policy.

8 | ~~23.90.040~~ **Water Quality and Quantity**

9 | ~~A. Policies-~~

10 | Policy 11V-1: The location, construction, operation, and maintenance of all
11 | shoreline uses and developments should maintain ~~or enhance~~
12 | the quantity and maintain or enhance the quality of surface and
13 | ground-water over the long term.

14 | Policy 11V-2: Shoreline use and development should minimize the need for
15 | chemical fertilizers, pesticides, or other similar chemical
16 | treatments to prevent contamination of surface and ground
17 | water and/or soils, and adverse effects on shoreline ecological
18 | functions and values.

19 | Policy 11V-3: Appropriate buffers along all wetlands, streams, lakes, and
20 | marine water bodies should be provided and maintained in a
21 | manner that avoids the need for chemical treatment.

22 | ~~23.90.050~~ **Views and Aesthetics**

23 | ~~A. Policies-~~

24 | Policy 11W-1: Shoreline use and development activities should be designed
25 | and operated to minimize obstructions of the public's visual
26 | access to the water and shoreline.

27 | Policy 11W-2: Shoreline use and development should not significantly detract
28 | from shoreline scenic and aesthetic qualities that are derived
29 | from natural or cultural features, such as shoreforms, vegetative
30 | cover and historic sites/structures.

31 | Policy 11W-3: Aesthetic objectives should be implemented through regulations
32 | and criteria for site planning, maximum height, setbacks, siting
33 | of buildings and accessories, screening, vegetation
34 | conservation, architectural standards, sign control regulations,
35 | appropriate development siting, designation of view corridors,
36 | and maintenance of natural vegetative buffers.

37 | Policy 11W-4: To protect shoreline ecological functions and aesthetics,
38 | vegetation conservation should be preferred over the creation or
39 | maintenance of views from shoreline properties. Clearing,
40 | thinning, and/or limbing for limited view corridors should only
41 | be allowed where it does not adversely impact ecological and/or
42 | aesthetic values, and/or slope stability. Vegetation conservation

Comment [CES21]: Development shouldn't enhance the quantity of surface water. We're not supposed to increase stormwater runoff.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

~~should be preferred over the creation or maintenance of views from property on the shoreline to protect shoreline ecological functions and aesthetics.~~

~~23.90.060~~ Vegetation Conservation

~~A. Policies:~~

Policy 11X-1:

Where new developments and/or uses are proposed, native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and mitigate the direct, indirect and/or cumulative impacts of shoreline development, wherever feasible. ~~Important functions of shoreline vegetation include, but are not limited to:~~

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

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

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

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

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

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

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

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

~~23.90.070~~ Archaeological, Historic and Cultural Resources

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

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

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

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

A. Policies:

Policy 11X-1: The County should work with tribal, state, federal, and local governments as appropriate to maintain an inventory of all known significant local historic, cultural and archaeological sites resources in observance of applicable state and federal laws protecting such information from general public disclosure. As appropriate, such sites should be protected, preserved and/or restored for study, education, and/or public enjoyment to the maximum possible extent.

Policy 11X-2: Site development plans should incorporate provisions for historic, cultural and archaeological sites resource preservation, restoration, and education with open space or recreation areas whenever compatible and possible.

3. Cooperation among involved private and public parties is encouraged to achieve the archaeological, historical and cultural element goals and objectives of this program.

Comment [AP23]: This is captured in policies #1 and #4 (revised to #3).

Policy 11X-3:4- Owners of property containing identified historic, cultural or archaeological sites resources are encouraged to make development plans known well in advance of application, so that appropriate agencies such as the Lummi Nation, Nooksack Tribe, Washington State Department of Archaeology and Historic Preservation, and others may have ample adequate time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.

Policy 11X-4:5- Private and public owners of historic sites should be encouraged to provide public access and educational opportunities in a manner consistent with long-term protection of both historic values and shoreline ecological functions.

Policy 11X-5:6- Historic, cultural, and archaeological site development on sites containing cultural resources should be planned and carried out so as to prevent impacts to the resource. Impacts to neighboring properties and other shore uses should be limited to temporary or reasonable levels.

Policy 11X-6:7- If development is proposed adjacent to an identified historic, cultural or archaeological sites resource, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological that sites resource.

Policy 11X-7:8- The cultural resource provisions of this program are consistent with Chapters 27.44 and 27.53 RCW and WAC 25-48-060. In

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

accordance with state law, all applicants are subject to these requirements.

Policy 11X-8: The County shall consult with DAHP and affected Native American tribes as appropriate in implementing the cultural ~~archaeological, and historic resources~~ goals, objectives, policies, and regulations of this ~~program-SMP~~.

Policy 11X-9: In reviewing development proposals, the County shall take, or cause project applicants to take, all required actions to:

1. Minimize the risk of disturbing cultural resources within Whatcom County shorelines.
2. Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Tribes and the DAHP.
3. Consult with professional archaeologists, DAHP, and affected Tribes before permitting or otherwise approving the use or development of shoreline areas containing cultural resources. This consultation shall be accomplished through the regulations and procedures provided in WCC Title 23.
4. Consult with DAHP and affected Tribes and coordinate with project archaeologists to establish site- and project-specific procedures for protection and management of cultural resources.
5. Make informed specific land use decisions based upon information provided by DAHP and Tribes.
6. Ensure the use of the best available information, technology, and techniques in identifying, protecting, preserving, and restoring cultural resources.

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

~~23.96.080~~ **Public Access**

~~A. Policies:~~

Policy 11Y-1: Use and development that provide an opportunity for substantial numbers of ~~the~~ people to enjoy the shorelines of the state are a preferred use.

Policy 11Y-2: Physical or visual access to shorelines should be incorporated in all new development when the development would either generate a demand for one or more forms of such access, and/or would impair existing legal access opportunities or rights. ~~Public health and safety concerns should also be adequately addressed and maintenance of shoreline ecological functions and/or processes should be assured.~~ As required by the governing principles, all such conditions should be consistent

Comment [MD25]: Addressed in #6 below.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 with all relevant constitutional and other legal limitations on
2 regulation of private property.
- 3 | Policy 11Y-3: Public access should be provided for water-oriented uses and
4 non-water-dependent uses and developments that increase
5 public use of the shorelines and public aquatic lands, or that
6 would impair existing, legal access opportunities.
- 7 | Policy 11Y-4: Non-water-related uses or activities located on the shoreline
8 should provide public access as a public benefit.
- 9 | Policy 11Y-5: Public access area and/or facility requirements should be
10 commensurate with the scale and character of the development
11 and should be reasonable, effective, and fair to all affected
12 parties including but not limited to the land-owner and the
13 public.
- 14 | Policy 11Y-6: Public access design should provide for public safety and
15 minimize potential impacts to private property, individual
16 privacy, and shoreline ecological functions and processes.
- 17 | Policy 11Y-7: Shoreline development by public entities, such as local
18 governments, port districts, state agencies, and public utility
19 districts, should provide public access measures as part of each
20 development project, unless such access is shown to be
21 incompatible due to reasons of safety, security, or impact to the
22 shoreline.

23 ~~23.90.090~~ **Site Planning**

24 ~~A. Policies:~~

- 25 | Policy 11Z-1: Development and use should be designed in a manner that
26 directs land alteration to the least sensitive portions of the site
27 to maximize vegetation conservation; minimize impervious
28 surfaces and runoff; protect riparian, nearshore and wetland
29 habitats; protect wildlife and habitats; protect archaeological,
30 historic, and cultural resources; and preserve aesthetic values.
31 This may be accomplished by minimizing the project footprint,
32 the use of clustering, and other appropriate design approaches.
- 33 | Policy 11Z-2: To maintain shoreline ecological functions and processes, ~~How~~
34 impact and sustainable development practices such as rain
35 gardens, and pervious surfacing methods including, but not
36 limited to, porous paving blocks, porous concrete, and other
37 similar materials, should be incorporated in developments where
38 site conditions allow ~~to maintain shoreline ecological functions~~
39 ~~and processes~~. Topographic modification, vegetation clearing,
40 use of impervious surfaces, and alteration of natural drainage or
41 other features should be limited to the minimum necessary to
42 accommodate approved uses and development. An engineering

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 geologist should be consulted prior to using infiltration practices
2 on shore bluffs.
- 3 | Policy 11Z-3: Accessory development or use that does not require a shoreline
4 location should be located outside of shoreline jurisdiction unless
5 such development is required to serve approved water-oriented
6 | uses and/or developments. When sited within shoreline
7 jurisdiction, uses and/or developments such as parking, service
8 | buildings or areas, access roads, utilities, signs, and storage of
9 materials should be located inland away from the land/water
10 interface and landward of water-oriented developments and/or
11 other approved uses.
- 12 | Policy 11Z-4: Development should be located, designed, and managed so that
13 impacts on shoreline or upland uses are minimized through bulk
14 and scale restrictions, setbacks, buffers, and control of
15 proximity impacts such as noise or light and glare.
- 16 | Policy 11Z-5: Shoreline uses should not deprive other uses of reasonable
17 access to navigable waters. Public recreation activities such as
18 fishing, clam digging, swimming, boating, ~~and~~ wading, and
19 other water-related recreation should be preserved and
20 enhanced. The rights of treaty tribes to resources within their
21 usual and accustomed areas should be accommodated.
- 22 **Climate Change/Sea Level Rise**
- 23 Policy 11AA-1: Coordinate with Tribal, Federal, State, and local agencies to
24 address issues related to climate change and sea level rise as
25 related to shoreline management.
- 26 Policy 11AA-2: Whatcom County should plan and prepare for the likely impacts
27 of climate change on County-owned facilities, infrastructure, and
28 natural resources and ensure that projects for major
29 maintenance or replacement of utilities, roads, and other public
30 infrastructure consider the impacts of sea-level rise in the
31 location, design, and operation of the projects.
- 32 Policy 11AA-3: Whatcom County should strive to increase resident and business
33 resiliency to the anticipated impacts of climate change by
34 implementing land use regulations based on best available
35 science, such as sea level rise, changes in rainfall patterns,
36 changes in flood volumes and frequencies, and changes in
37 average and extreme temperatures.
- 38 Policy 11AA-4: Habitat protection and restoration projects in shoreline
39 jurisdiction should consider implications of sea-level rise and
40 other climate change impacts to promote resiliency of habitats
41 and species. Those that promote climate change and sea-level
42 rise resiliency should be considered priority actions.

Comment [CES26]: New policies based on Scoping Document Topic #6a, *Develop and/or strengthen policies regarding climate change/sea level rise, including the incorporation and use of new data (as it becomes available), to review and revise, if warranted, shoreline use regulations.*

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 Policy 11AA-5: Whatcom County should monitor the impacts of climate change
2 on Whatcom County's shorelands, the shoreline master
3 program's ability to adapt to sea level rise and other aspects of
4 climate change at least every periodic update, and revise the
5 shoreline master program as needed. Whatcom County should
6 periodically assess the best available sea level rise projections
7 and other science related to climate change within shoreline
8 jurisdiction and incorporate them into future program updates,
9 as relevant.

Comment [P/C27]: P/C approved 9-0-0

10 Policy 11AA-6: Public infrastructure—such as transportation systems, utilities,
11 flood hazard control, and instream structures—and essential
12 public facilities in shoreline areas should be built in a manner
13 that accounts for increased sea level rise and storm surge, and
14 the flooding that may accompany it.

15 Policy 11AA-7: Whatcom County should evaluate opportunities to protect
16 shoreline investments and infrastructure from the impacts of
17 climate change, as necessary and feasible. Specifically, the
18 County should maintain shoreline protection and erosion control
19 by:
20 • Facilitating the installation and maintenance of native
21 vegetation along appropriate areas of shoreline;
22 • Revisiting development policies with the objective of
23 providing additional shoreline buffer area between developed
24 areas and the shoreline; and
25 • Only consider structural shoreline stabilization structures
26 when alternative options are unavailable.

27 ~~Chapter 23.100~~ **Shoreline Use and Modification Policies and**
28 **Regulations**

29 The following shoreline use and modification policies apply to specific development
30 activities on shorelines.

31 ~~23.100.020~~ **Shoreline Bulk Provisions – Buffers, Setbacks, Height, Open**
32 **Space and Impervious Surface Coverage**

33 Policy 11BB-1:A: Policies.—Standards for density, setbacks, height, and other
34 provisions should ensure no net loss of shoreline ecological
35 functions and/or processes and preserve the existing character
36 of the shoreline consistent with the purpose of the shoreline
37 area designation.

38 ~~23.100.030~~ **Agriculture**

39 ~~A. Policies:~~

40 Policy 11BB-1: This program~~The SMP~~ recognizes the importance of agriculture
41 in Whatcom County and supports its continued economic
42 viability. ~~The SMP~~This program ~~It~~ allows for ongoing agricultural

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 activities and should protect agricultural lands from conflicting
2 uses such as intensive or unrelated residential, industrial, or
3 commercial uses, while also maintaining shoreline ecological
4 functions and processes.

5 Policy 11BB-2: Agricultural uses and development in support of agricultural
6 uses should be conducted in such a manner as to assure no net
7 loss of shoreline ecological functions and processes and avoid
8 substantial adverse impacts on other shoreline resources and
9 values.

10 Policy 11BB-3: Conversion of agricultural uses to other uses should comply with
11 all policies and regulations for nonagricultural uses.

12 ~~23.100.040~~ **Aquaculture**

13 ~~A. Policies:~~

14 Policy 11CC-1: Aquaculture is a water-dependent use and, when consistent with
15 control of pollution, and avoidance of adverse impacts to the
16 environment, and preservation of habitat for resident native
17 species, is a preferred use of the shoreline (WAC 173-26-
18 241(3)(b)).

19 Policy 11CC-2: Potential locations for aquaculture activities are relatively
20 restricted because of specific requirements related to water
21 quality, temperature, oxygen content, currents, adjacent land
22 use, wind protection, commercial navigation, and salinity. The
23 technology associated with some forms of aquaculture is still
24 experimental and in formative states. Therefore, some latitude
25 should be given when implementing the policies of this
26 subsection and the regulations in of this section WCC
27 ChapterTitle 23.100 WCC; provided, that potential impacts on
28 existing uses and shoreline ecological functions and processes
29 should be given due consideration.

30 Policy 11CC-3: Preference should be given to those forms of aquaculture that
31 involve lesser environmental and visual impacts and lesser
32 impacts to native plant and animal species. In general, projects
33 that require ~~no structures, submerged, structures or intertidal,~~
34 or no structures are preferred over those that involve
35 substantial floating structures. Projects that involve little or no
36 substrate modification are preferred over those that involve
37 substantial modification. Projects that involve little or no
38 supplemental food sources, pesticides, herbicides, or antibiotic
39 application are preferred over those that involve such practices.

40 ~~Policy 11-4: Community restoration projects associated with aquaculture~~
41 ~~should be reviewed and permitted in a timely manner.~~

42 Policy 11CC-54: Aquaculture activities should be designed, located and operated
43 in a manner that supports long-term beneficial use of the

Comment [AP28]: Don't need, as *all* projects should be reviewed and permitted in a timely manner. Furthermore, we don't really know what a "community restoration project associated with aquaculture" is.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 shoreline and protects and maintains shoreline ecological
2 functions and processes. Aquaculture should not be permitted
3 where it would result in a net loss of shoreline ecological
4 functions; adversely affect the quality or extent of habitat for
5 | native species, including eelgrass, kelp, and other macroalgae;
6 | adversely impact other habitat conservation areas; or interfere
7 | with navigation or other water-dependent uses.

8 | Policy 11CC-65: Aquaculture that involves significant risk of cumulative adverse
9 | effects on water quality, sediment quality, benthic and pelagic
10 | organisms, and/or wild fish populations through potential
11 | contribution of antibiotic resistant bacteria, or escapement of
12 | nonnative species, or other adverse effects on ESA-listed
13 | species should not be permitted.

14 | Policy 11CC-76: The County should actively seek substantive comment on any
15 | shoreline permit application for aquaculture from all appropriate
16 | federal, state, and local agencies; the Lummi Nation, Nooksack
17 | Tribe, and other affected tribes; and the general public
18 | regarding potential adverse impacts. Comments of nearby
19 | residents or property owners directly affected by a proposal
20 | should be considered and evaluated, especially in regard to use
21 | compatibility and aesthetics.

22 | Policy 11CC-87: The rights of treaty tribes to aquatic resources within their usual
23 | and accustomed areas should be addressed through the permit
24 | review process. Direct coordination between the
25 | applicant/proponent and the tribe should be encouraged.

26 | Policy 11CC-98: Consideration should be given to both the potential beneficial
27 | impacts and potential adverse impacts that aquaculture
28 | development might have on the physical environment; on other
29 | existing and approved land and water uses, including
30 | navigation; and on the aesthetic qualities of a project area.

31 | Policy 11CC-109: Legally established aquaculture enterprises, including authorized
32 | experimental projects, should be protected from incompatible
33 | uses that may seek to locate nearby. Use or developments that
34 | have a high probability of damaging or destroying an existing
35 | aquaculture operation may be denied.

36 | Policy 11CC-110: Experimental aquaculture projects in water-bodies should be
37 | limited in scale and should be approved for a limited period of
38 | time. Experimental aquaculture means an aquaculture activity
39 | that uses methods or technologies that are unprecedented or
40 | unproven in the state of Washington.

41 | ~~23.100.050 Boating Facilities – Marinas and Launch Ramps~~
42 | ~~Boating facilities, including mMarinas and launch ramp development, are subject~~
43 | ~~to the following policies. DecksMoorage structures serving four or fewer single-~~

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

~~family residences users are only subject to the policies in Moorage Structures, Docks, Piers, and Mooring Buoys.~~

~~A. Policies:~~

Policy 11DD-1: Boating facilities, including marinas and launch ramps, are water-dependent uses and should be given priority for shoreline location. Boating facilities should also contribute to public access and enjoyment of waters of the state. Shorelines particularly suitable for marinas and launch ramps are limited, and should be identified and reserved to prevent irreversible commitment for other uses having less stringent site requirements.

Policy 11DD-2: Regional needs for marina and boat launch facilities should be carefully considered in reviewing new proposals as well as in allocating shorelines for such development. Such facilities should be coordinated with park and recreation plans and, where feasible, collocated with port or other compatible water-dependent uses. Review of such facilities should be coordinated with recreation providers, including cities, adjacent counties, port districts, the Whatcom County Parks and Recreation department, the Washington State Parks and Recreation Commission, and the Washington State Department of Natural Resources to avoid unnecessary duplication and to efficiently provide recreational resources while minimizing adverse impacts to shoreline ecological functions and processes.

Policy 11DD-3: Upland boat storage is preferred over new in-water moorage. Mooring buoys are preferred over docks and piers. Boating facilities that minimize the amount of shoreline modification are preferred.

Policy 11DD-4: Boating facilities should provide physical and visual public shoreline access and provide for multiple uses, including water-related use, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use.

Policy 11DD-5: Accessory uses at marinas or launch ramps should be limited to water-oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public.

Policy 11DD-6: New or expanding boating facilities including marinas, launch ramps, and accessory uses should only be sited where suitable environmental conditions are present and should avoid critical saltwater habitat including kelp beds, and eelgrass beds, and spawning and holding areas for forage fish (such as herring, surf smelt and sandlance); subsistence, commercial, and recreational shellfish beds; mudflats, intertidal habitats with vascular plants; and areas with which priority species have a primary association.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 11DD-7: Boating facilities should be located and designed to avoid
2 | adverse effects upon coastal, riverine, and nearshore processes
3 | such as erosion, littoral or riparian transport, and accretion, and
4 | should, where feasible, enhance degraded, scarce, and/or
5 | valuable shore features including accretion shoreforms.
- 6 | Policy 11DD-8: Launch ramps are preferred over marinas on accretion shores
7 | because associated impacts are often reversible and such
8 | structures will not normally interfere with littoral drift and
9 | accretion unless offshore defense structures or dredging are also
10 | required.
- 11 | Policy 11DD-9: Nonregulatory methods to protect, enhance, and restore
12 | shoreline ecological functions and processes and other shoreline
13 | resources should be encouraged during the design,
14 | development, and operation of boating facilities. Nonregulatory
15 | methods may include public facility and resource planning,
16 | education, voluntary protection and enhancement projects, or
17 | incentive programs.
- 18 | Policy 11DD-10: Boating facilities should be located, designed, and operated so
19 | that other appropriate water-dependent uses are not adversely
20 | affected.
- 21 | Policy 11DD-11: Location and design of boating facilities should not unduly
22 | obstruct navigable waters and should avoid adverse effects to
23 | recreational opportunities such as fishing, shellfish gathering,
24 | pleasure boating, commercial aquaculture, swimming, beach
25 | walking, picnicking, and shoreline viewing.
- 26 | Policy 11DD-12: Boating facilities should be located, designed, constructed, and
27 | maintained, and operated to avoid adverse proximity impacts
28 | such as noise, light and glare; aesthetic impacts to adjacent
29 | land uses; and impacts to public visual access to the shoreline.
- 30 | Policy 11DD-13: Live-aboards should be regulated so as to prevent adverse
31 | impacts to public health and safety.
- 32 | ~~23.100.060 Commercial Use~~
- 33 | ~~Commercial development in shoreline areas shall be subject to the policies and~~
34 | ~~regulations of this section and Chapter 23.90 WCC.~~
- 35 | ~~A. Policies:~~
- 36 | Policy 11EE-1: In securing shoreline locations for commercial uses, preference
37 | should be given first to water-dependent commercial uses, then
38 | to water-related and water-enjoyment commercial uses.
- 39 | Policy 11EE-2: Restoration of impaired shoreline ecological functions and
40 | processes should be encouraged as part of commercial
41 | development.

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 11EE-3: Commercial development should ensure visual compatibility with
- 2 | adjacent noncommercial properties.
- 3 | Policy 11EE-4: Commercial uses located in the shoreline should provide public
- 4 | access in accordance with constitutional or other legal
- 5 | limitations unless such improvements are demonstrated to be
- 6 | infeasible or present hazards to life and property.

7 | ~~23.100.070~~ **Dredging**

8 | ~~A. Policies:~~

- 9 | Policy 11FF-1: Dredging should be permitted for water-dependent uses of
- 10 | economic importance to the region and/or essential public
- 11 | facilities only when necessary and when alternatives are
- 12 | infeasible or less consistent with the SMP~~this program~~.

- 13 | Policy 11FF-2: Dredging to provide water-oriented recreation should not be
- 14 | permitted.

- 15 | Policy 11FF-3: Minor dredging as part of ecological restoration or enhancement,
- 16 | beach ~~enhancement~~nourishment, public access, or public
- 17 | recreation should be permitted if consistent with the SMP~~this~~
- 18 | ~~program~~.

- 19 | Policy 11FF-4: New development should be sited and designed to avoid or,
- 20 | where avoidance is not possible, to minimize the need for new
- 21 | maintenance dredging.

- 22 | Policy 11FF-5: Dredging of bottom materials for the primary purpose of
- 23 | obtaining material for landfill, construction, or beach
- 24 | ~~enhancement~~nourishment should not be permitted.

- 25 | Policy 11FF-6: Spoil disposal on land away from the shoreline is generally
- 26 | preferred over open water disposal.

- 27 | Policy 11FF-7: Long-term cooperative management programs that rely
- 28 | primarily on natural processes, and involve ~~land~~
- 29 | ~~owners~~landowners and applicable local, state, and federal
- 30 | agencies and tribes, should be pursued to prevent or minimize
- 31 | conditions which make dredging necessary.

32 | ~~23.100.080~~ **Flood ~~Control Works~~ Hazard Reduction and Instream Structures**

33 | ~~A. Policies:~~

34 | Policy 11GG-1: ~~Purpose and Need:~~

- 35 | ~~a.~~ New or expanding development or uses in the shoreline,
- 36 | including subdivision of land, that would likely require structural
- 37 | flood ~~hazard reduction control~~ works within a stream, channel
- 38 | migration zone, or floodway should not be allowed.

- 39 | Policy 11GG-2~~b.~~ Flood ~~hazard reduction control~~ works and instream structures
- 40 | should be planned and designed to be compatible with

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 appropriate multiple uses of stream resources over the long
 2 term, especially in shorelines of statewide significance.

3 | ~~Policy 11GG-3e:~~ Flood ~~hazard reduction control~~ works should only be allowed in
 4 the shoreline if they are necessary to protect existing
 5 development and where nonstructural flood hazard reduction
 6 measures are infeasible.

7 | ~~Policy 11GG-4e:~~ Flood ~~hazard reduction control~~ works to protect existing
 8 development should be permitted only when the primary use
 9 being protected is consistent with ~~the SMP~~this program, and the
 10 works can be developed in a manner that is compatible with
 11 multiple use of streams and associated resources for the long
 12 term, including shoreline ecological functions, fish and wildlife
 13 management, and recreation.

~~23-100-090~~ **Forest Practices**

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

16 | ~~Policy 11HH-1:~~ Forest lands should be reserved for long-term forest
 17 management and such other uses as are compatible with the
 18 ~~dominant primary~~ use. Other more intensive and incompatible
 19 uses tending to impair the ~~dominant primary~~ use should be
 20 discouraged from locating on forest lands.

21 | ~~Policy 11HH-2:~~ Forest practices should maintain high levels of water quality, as
 22 well as surface and ground-water movement patterns.

23 | ~~Policy 11HH-3:~~ Forest practices should minimize damage to wetlands, fish and
 24 wildlife species, and habitats, especially aquatic habitats.

25 | ~~4. Extreme caution must be observed whenever chemicals are to
 26 be used along shorelines; such use should be avoided altogether
 27 if possible.~~

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

28 | ~~Policy 11HH-4:5:~~ Forest practices should maintain or improve the quality of soils
 29 and minimize erosion.

30 | ~~Policy 11HH-5:6:~~ Where slopes are extremely steep or soils are subject to sliding,
 31 rapid erosion, or high water table, special practices should be
 32 employed to minimize damage to shoreland and water features,
 33 and adjacent properties.

~~23-100-100~~ **Industrial and Port Development**

~~The following policies apply to industrial and port development in shoreline areas.~~

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

37 | ~~Policy 11II-1:~~ Shoreline sites particularly suitable for development such as
 38 deep-water harbors with access to adequate rail, highway, and
 39 utility systems should be reserved for water-dependent or
 40 water-related industrial and port development.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 11III-2: In order to provide adequate shoreline for future water-
2 | dependent and water-related uses, industrial or port
3 | development at deep-water sites should be limited to those uses
4 | that produce the greatest long-term economic base. Industrial
5 | and port development that is consistent with ~~this program~~the
6 | SMP should be protected from encroachment or interference by
7 | incompatible uses with less stringent siting requirements, such
8 | as residential or commercial uses. Mixed use development,
9 | including non-water-dependent uses, should only be allowed
10 | when they include and support water-dependent uses.
- 11 | Policy 11III-3: Regional needs for port facilities should be carefully considered
12 | in reviewing new port proposals and in allocating shorelines for
13 | such development. Such reviews or allocations should be
14 | coordinated with port districts, adjacent counties and cities, and
15 | the state. Existing, officially designated State Harbor Areas
16 | should be used for new port development to the maximum
17 | extent whenever possible.
- 18 | Policy 11III-4: Multiple use of industrial and port facilities is encouraged to limit
19 | duplicative facilities and reduce adverse impacts. Multiple use
20 | should be implemented in the following manner:
- 21 | a. Cooperative use of piers, cargo handling, storage, parking
22 | and other accessory facilities among private or public entities
23 | should be required in industrial or port facilities whenever
24 | feasible. New facilities for water-dependent uses should be
25 | allowed only after assessment of the potential for shared use
26 | of existing facilities.
- 27 | b. Industrial and port developments should provide
28 | opportunities for physical and/or visual public shoreline
29 | access in accordance with the public access policies,
30 | including recreational use of undeveloped shorelines not
31 | needed for port or industry operations; provided, that such
32 | uses are safely compatible with facility operations.
- 33 | Policy 11III-5: Industrial and port development in the shoreline should be
34 | located and designed to avoid significant adverse impacts to
35 | other shoreline uses, resources, and values, including shoreline
36 | geomorphic processes, water quality, fish and wildlife habitat,
37 | commercial aquaculture, and the aquatic food chain.
- 38 | Policy 11III-6: Restoration of impaired shoreline ecological functions and
39 | processes should be encouraged as part of industrial and port
40 | development.

41 | ~~23.100.210~~ **Cherry Point Management Area**

42 | ~~A.~~ Policies:

43 | Policy 11TT-1: Purpose and Intent:

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 a. ~~The purpose of the Cherry Point management area is to~~
2 ~~provide a regulatory framework that recognizes and balances~~
3 ~~the special port, industrial and natural resource needs~~
4 ~~associated with the development of this marine resource.~~
5 ~~This subsection and WCC 23.100.21040.125 (Cherry Point~~
6 ~~Management Area) identifies policies and regulations,~~
7 ~~respectively, for water-dependent industrial activities that~~
8 ~~apply in addition to specific other elements of the SMPthis~~
9 ~~program as referenced herein.~~

10 b. ~~Washington State natural resource agencies and Whatcom~~
11 ~~County have identified certain portions of the Cherry Point~~
12 ~~management area as providing herring spawning habitat and~~
13 ~~other key habitat characteristics that warrant special~~
14 ~~consideration due to their importance to regional fisheries~~
15 ~~and other elements of the aquatic environment.~~

16 Policy 11JJ-1: Development of the Cherry Point major port/industrial urban
17 growth area will accommodate uses that require marine access
18 for marine cargo transfer, ~~including oil and other materials. For~~
19 ~~this reason, w~~

20 a. ~~Water-dependent terminal facilities are encouraged as the~~
21 ~~preferred use in the Cherry Point management area. Due to~~
22 ~~the environmental sensitivity of the area, it is the policy of~~
23 ~~Whatcom County to limit the number of piers to one pier, in~~
24 ~~addition to those in operation or approved as of January 1,~~
25 ~~1998.~~

26 b. ~~Existing legal fossil fuel refineries should be allowed to~~
27 ~~continue and maintain their operations with limited~~
28 ~~expansions subject to environmental review, greenhouse gas~~
29 ~~emission mitigation, and conformance with the Shoreline~~
30 ~~Master Program and other applicable land use designation.~~

31 c. ~~It is the policy of Whatcom County to limit the number of~~
32 ~~industrial piers at Cherry Point to the existing three piers in~~
33 ~~operation or approved as of January 1, 1998, taking into~~
34 ~~account the need to:~~

- 35 • ~~Act conservatively in land use matters at Cherry Point~~
36 ~~to prevent further harm to habitat important to the~~
37 ~~Cherry Point herring stock and Southern Resident~~
38 ~~Orcas;~~
- 39 • ~~Optimally implement the Shoreline Master Program~~
40 ~~policy regarding shorelines of statewide significance~~
41 ~~per WCC 23.40;~~
- 42 • ~~Encourage the continued County use of best available~~
43 ~~science;~~

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

- Support and remain consistent with the state Department of Natural Resources' withdrawal of Cherry Point tidelands and bedlands from the general leasing program and the species recovery goals of the Cherry Point Aquatic Reserve designation and Management Plan;
- Recognize federal actions upholding treaty rights;
- Protect traditional commercial and tribal fishing; and
- Prevent conflicts with vessel shipment operations of existing refineries that could lead to catastrophic oil or fuel spills.

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

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

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

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

Comment [P/C34]: P/C Motion to delete. Passes 8-0-1. This policy makes no sense. Other than updating the references, staff has not changed it. It basically says that any development in the CPMA only has to comply with the policies in this section of Ch. 11 and the regulations of WCC 23.40.125, and specifically says such development doesn't have to comply with any other policies or regulations. But there are many other policies and regulations that should apply, such as ecological protection, cultural resources, vegetation management, moorage facilities, etc. Staff believes this policy ought to be deleted.

Policy 11JJ-2: Water-Dependent Industrial Development. Only water-dependent facilities that serve industrial facilities should be

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 allowed in the Cherry Point management area. Industry within
2 the major port/industrial urban growth area, as designated in
3 the ~~County~~ Comprehensive Plan, which is not water-dependent
4 should locate away from shoreline jurisdiction.
- 5 | Policy 11JJ-3: Multiple Use Facilities. Facilities that allow for multiple use of
6 piers, cargo handling, storage, parking and other accessory
7 facilities are encouraged.
- 8 | Policy 11JJ-4: Public Access.
- 9 a. Where appropriate, industrial and port development within
10 the Cherry Point management area should provide public
11 beach and shoreline access in a manner that does not cause
12 interference with facility operations or present hazards to life
13 and property. This may be accomplished through individual
14 action or by joint, coordinated action with other developers
15 and landowners, for example, by setting aside a common
16 public access area.
- 17 b. Special emphasis should be given to providing public beach
18 and shoreline access for recreational opportunities including
19 but not limited to crabbing, small craft launching, surf
20 fishing, picnicking, clamming, and beach walking.
- 21 c. Public access within the Cherry Point management area
22 should be consistent with the Whatcom County Parks and
23 Recreation Open Space Plan.
- 24 | Policy 11JJ-5: Shoreline Ecological Functions and Processes. In recognition of
25 the diverse and vital ecological resources in the Cherry Point
26 management area, consideration of probable effects of all
27 development proposals on shoreline ecological functions and
28 processes should be assessed with the other long-term
29 statewide interests. New port development that requires dredge
30 and fill should not be permitted in the Cherry Point management
31 area due to potential adverse effects on ecological functions,
32 including fish and shellfish habitat and geohydraulic processes.
- 33 | Policy 11JJ-6: Aesthetics. All development should be designed to avoid or
34 minimize negative visual impacts on the scenic character of the
35 area and to ensure visual compatibility with adjacent
36 nonindustrial zoned properties.
- 37 | Policy 11JJ-7: Site Development. All development should be constructed and
38 operated in a manner that, while permitting water-dependent
39 uses, also protects shoreline resources, their ecological
40 functions and processes, and that incorporates the following:
- 41 a. Low impact development approaches to avoid or minimize
42 adverse impact to topography, vegetation, water quality, fish
43 and wildlife habitat, and other natural site conditions;

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- b. Adequate temporary and permanent management measures to control erosion and sediment impacts during construction and operation; and
- c. Adequate stormwater management facilities.

~~23.100.110~~ **Landfill and Excavation**

~~A. Policies:~~

Policy 11KK-1: Landfill and excavation should only be permitted to the minimum extent necessary to accommodate an approved shoreline use or development and with assurance of no net loss of shoreline ecological functions and processes. Enhancement and voluntary restoration of landforms and habitat are encouraged.

Policy 11KK-2: Landfill in water-bodies, floodways, and/or wetlands should not be permitted for creation of new uplands, unless it is part of an approved ecological restoration activity. Landfill should be permitted in limited instances to restore uplands where recent erosion has rapidly reduced upland area, to build beaches and protective berms for shore stabilization or recreation, to restore or enhance degraded shoreline ecological functions and processes, or to moderately elevate low uplands to make such uplands more suitable for purposes consistent with the SMP~~this program~~.

Policy 11KK-3: Fill should not be allowed where shore stabilization works would be required to maintain the materials placed.

Policy 11KK-4: Landfills and excavation should be located and developed so that water quality, hydrology~~ie.~~, and runoff patterns are not altered.

Policy 11KK-5: The predicted economic benefits of landfills and excavation should be weighed against long-term cumulative impacts on ecological processes and functions.

~~23.100.120~~ **Mining**

~~A. Policies:~~

Policy 11LL-1: Mining should not be located on shorelines where unavoidable adverse impacts on other users or resources together equal or outweigh the benefits from mining.

Policy 11LL-2: Mining should not interfere with public recreation on the shoreline.

Policy 11LL-3: Mining should be located and operated so as to provide long-term protection of water quality, fish and wildlife, and fish and wildlife habitat.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 11LL-4: Mining, particularly surface or strip mining, should provide for
2 | timely restoration of disturbed areas to a biologically productive,
3 | semi-natural, or other useful condition through a reclamation
4 | process consistent with regulations administered by the
5 | Department of Natural Resources and other applicable county
6 | standards.
- 7 | Policy 11LL-5: Mining of marine and lake shores or accretional shoreforms,
8 | such as point bars, that have a high value for recreation or as
9 | fish or wildlife habitat should generally not be permitted.
- 10 | Policy 11LL-6: Mining should only be permitted on accretion point and channel
11 | bars where appropriate studies and detailed operation plans
12 | demonstrate that:
13 | a. Fish habitat, upland habitat and water quality will not be
14 | significantly impacted; and
15 | b. The operation will not adversely affect geohydraulic
16 | processes, channel alignment, nor increase bank erosion or
17 | flood damages.
- 18 | Policy 11LL-7: Mining operations should be located, designed, and managed so
19 | that other appropriate uses are not subjected to substantial or
20 | unnecessary adverse impacts from noise, dust, or other effects
21 | of the operation. The operator may be required to implement
22 | measures such as buffers, limited hours, or other mitigating
23 | measures for the purpose of minimizing adverse proximity
24 | impacts.

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

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

~~A. – Policies:~~

- 31 | Policy 11MM-1: Moorage associated with a single-family residence is considered
32 | a water-dependent use; provided, that it is designed and used
33 | as a facility to access watercraft, and other moorage facilities
34 | are not available or feasible. Moorage for water-related and
35 | water-enjoyment uses or shared moorage for multifamily use
36 | should be allowed as part of a mixed use development or where
37 | it provides public access.
- 38 | Policy 11MM-2: New moorage, excluding docks accessory to single-family
39 | residences, should be permitted only when the applicant/
40 | proponent has demonstrated that a specific need exists to
41 | support the intended water-dependent or public access use.
- 42 | Policy 11MM-3: As an alternative to continued proliferation of individual private
43 | moorage, mooring buoys are preferred over docks or floats.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 Shared moorage facilities are preferred over single-user
2 moorage where feasible, especially where water use conflicts
3 exist or are predictable. New subdivisions of more than two lots
4 and new multifamily development of more than two dwelling
5 units should provide shared moorage.
- 6 | Policy 11MM-4: Docks, piers and mooring buoys, including those accessory to
7 single-family residences, should avoid locations where they will
8 adversely impact shoreline ecological functions or processes,
9 including currents and littoral drift, and critical saltwater habitat
10 including kelp beds, eelgrass beds, spawning and holding areas
11 for forage fish (such as herring, surf smelt and sandlance);
12 subsistence, commercial and recreational shellfish beds;
13 mudflats, intertidal habitats with vascular plants; and areas with
14 which priority species have a primary association.
- 15 | Policy 11MM-5: Moorage should be spaced and oriented in a manner that
16 minimizes hazards and obstructions to public navigation rights
17 and corollary rights thereto such as, but not limited to, fishing,
18 swimming, and pleasure boating, as well as private riparian
19 rights of adjacent land-owners.
- 20 | Policy 11MM-6: Moorage should be restricted to the minimum size necessary to
21 meet the needs of the proposed use. The length, width and
22 heightsize of piers and docks should be no greater than that
23 required for safety and practicality for the primary use.
- 24 | Policy 11MM-7: Pile supports are preferred over fills because piles do not
25 displace water surface and intertidal or aquatic habitat and are
26 removable and thus more flexible in terms of long-term use
27 patterns. Floats may be less desirable than pile structures where
28 aquatic habitat or littoral drift are significant.
- 29 | Policy 11MM-8: The use of buoys for small craft moorage is preferred over pile
30 or float structures because of lesser long-term impact on shore
31 features and users; moorage buoys should be placed as close to
32 shore as possible to minimize obstruction to navigation.
- 33 | Policy 11MM-9: Shoreline resources and water quality should be protected from
34 overuse by boaters living on vessels (live boards). Boaters living
35 on vessels are restricted to established marinas with facilities to
36 address waste handling and other sanitary services.
- 37 | Policy 11MM-10: Vessels should be restricted from extended mooring on waters
38 of the state unless authorization is obtained from the DNR and
39 impacts to navigation and public access are mitigated.
- 40 | Policy 11MM-11: Piers and docks should be constructed of materials that will not
41 adversely affect water quality or aquatic plants and animals in
42 the long term.
- 43 | Policy 11MM-12: New pier and dock development should be designed so as not to
44 interfere with lawful public access to or use of shorelines.

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

Comment [AP36]: Simplify to "size" for consistency with updated approach to dock standards, which include an overall square footage requirement, rather than prescriptive dimensional standards.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 Developers of new piers and shared moorage should be
2 encouraged to provide physical or visual public access to
3 shorelines whenever safe and compatible with the primary use
4 and shore features.

5 ~~23.100.140~~ **Recreation**

6 ~~A. Policies:~~

7 Policy 11NN-1: Shoreline recreational development should be given priority for
8 shoreline location to the extent that the use facilitates the
9 public's ability to reach, touch, and enjoy the water's edge, to
10 travel on the waters of the state, and to view the water and the
11 shoreline. Where appropriate, such facilities should be dispersed
12 along the shoreline in a manner that supports more frequent
13 recreational access and aesthetic enjoyment of the shoreline for
14 a substantial number of people.

15 Policy 11NN-2: Recreational developments should facilitate appropriate use of
16 shoreline resources while conserving them. These resources
17 include, but are not limited to: accretion shoreforms, wetlands,
18 soils, ground-water, surface water, native plant and animal life,
19 and shore processes.

20 ~~3. Recreational development requiring extensive structures,
21 utilities and roads and/or substantial modifications of
22 topography or vegetation removal should not be located or
23 expanded in areas where damage to persons, property, and/or
24 shoreline functions and processes is likely to occur.~~

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

25 Policy 11NN-3: Recreational developments and plans should provide the
26 regional population a varied and balanced choice of recreation
27 experiences in appropriate locations. Public agencies and private
28 developers should coordinate their plans and activities to
29 provide a wide variety of recreational opportunities without
30 needlessly duplicating facilities.

31 Policy 11NN-4: Trail links between shoreline parks and public access points
32 should be encouraged for walking, horseback or bicycle riding,
33 and other non-motorized vehicle access where appropriate. The
34 Whatcom County Comprehensive Park and Recreation Open
35 Space Plan should be considered in design and approval of
36 public trail systems.

37 Policy 11NN-5: Access to natural character recreational areas, including but not
38 limited to beaches and fishing streams, should be a combination
39 of linear shoreline trails or easements and small parking or
40 access tracts to minimize user concentration on small portions
41 of the shoreline.

42 Policy 11NN-6: Recreation facilities should incorporate public education
43 regarding shoreline ecological functions and processes, the role

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

1 | of human actions on the environment, and the importance of
2 | public involvement in shorelines management. Opportunities
3 | incorporating educational and interpretive information should be
4 | pursued in design and operation of recreation facilities and
5 | nature trails.

6 | Policy 11NN-7: Reasonable physical or visual public access to shorelines should
7 | be provided and integrated with recreational developments in
8 | accordance with WCC ~~23.90.080~~23.30.070 (Public Access).

9 | Policy 11NN-8: Recreation development should be located only where utility and
10 | road capability ~~is~~are adequate, or may be provided without
11 | significant damage to shore features commensurate with the
12 | number and concentration of anticipated users.

13 | Policy 11NN-9: Cooperative efforts among public and private persons toward
14 | the acquisition and/or development of suitable recreation sites
15 | or facilities should be explored to assure long-term availability
16 | of sufficient public sites to meet local recreation needs.

17 | ~~23.100.150~~ **Residential**

18 | ~~A. Policies:~~

19 | Policy 11OO-1: Single-family residences are designated in Chapter 90.58 RCW
20 | as a priority use in those limited instances when authorization is
21 | given for alterations of the natural condition of shorelines of the
22 | state.

23 | Policy 11OO-2: New residential development is encouraged to cluster dwelling
24 | units together to reduce physical and visual impacts on
25 | shorelines and to reduce utility and road costs. Planned unit
26 | developments that include common open space and recreation
27 | facilities, or a variety of dwelling sizes and types, are
28 | encouraged at suitable locations as a preferable alternative to
29 | extensive single-lot subdivisions on shorelines. Planned unit
30 | developments (Chapter 20.85 WCC) may also include a limited
31 | number of neighborhood commercial business uses where
32 | consistent with the applicable zoning regulations.

33 | Policy 11OO-3: Allowable density of new residential development should comply
34 | with applicable ~~C~~oomprehensive ~~P~~lan goals and policies, zoning
35 | restrictions, and shoreline area designation standards. The
36 | density ~~per acre~~ of development should be appropriate to local
37 | natural and cultural features.

38 | Policy 11OO-4: Structures or development for uses accessory to residential use
39 | should preserve shoreline open space, be visually and physically
40 | compatible with adjacent cultural and shoreline features, be
41 | reasonable in size and purpose, and result in no net loss of
42 | shoreline ecological functions and processes.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 1100-5: Buildings greater than 35 feet above average grade level that
2 | will obstruct the views of a substantial number of residences on
3 | areas adjoining such shorelines are limited by the SMAAet
4 | (RCW 90.58.320) to those cases where the SMPthis program
5 | does not prohibit such development and then only when
6 | overriding considerations of the public interest will be served.
7 | The SMPThis program provides opportunities for buildings
8 | greater than 35 feet in height in limited areas where consistent
9 | with development objectives and the goals and polices of this
10 | chapterprogram.
- 11 | Policy 1100-6: New residential development should be planned and built in
12 | accordance with the policies and regulations in
13 | WCC 23.90.030and to minimize the need for shoreline
14 | stabilization and flood hazard reduction measures.
- 15 | Policy 1100-7: Measures to conserve native vegetation along shorelines should
16 | be required for all residential development. Vegetation
17 | conservation may include avoidance or minimization of clearing
18 | or grading, restoration of areas of native vegetation, and/or
19 | control of invasive or nonnative vegetation.
- 20 | Policy 1100-8: Whenever possible, nonregulatory methods to protect, enhance,
21 | and restore shoreline ecological functions and other shoreline
22 | resources should be encouraged for residential development.
23 | Such methods may include resource management planning, low
24 | impact development techniques, voluntary protection and
25 | enhancement projects, education, or incentive programs.
- 26 | Policy 1100-9: New multiunit residential development, including subdivision of
27 | land for more than four parcels, should provide substantial
28 | shore space—recreational opportunities for development
29 | residents and the public, unless public access is infeasible due to
30 | incompatible uses, safety, impacts to shoreline ecology, or legal
31 | limitations. Developments of four or fewer units should provide
32 | private access to the shore for those living in the development
33 | (non-public).
- 34 | Policy 1100-10: Development should provide open space corridors between
35 | structures, and along site boundaries, so as to provide space for
36 | outdoor recreation, preserve views, and minimize use conflicts.
- 37 | Policy 1100-11: Recreation-oriented residential development in the shoreline
38 | should be located only where substantial recreation
39 | opportunities are provided on site, and where nearby property
40 | owners and other appropriate uses will not be adversely
41 | affected.

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

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

42 | **~~23.100.160~~ Restoration and Enhancement**

43 | **~~A. Policies.~~**

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 11PP-1: ~~The SMP~~This program recognizes the importance of restoration
2 | of shoreline ecological functions and processes and encourages
3 | cooperative restoration efforts and programs between local,
4 | state, and federal public agencies, tribes, nonprofit
5 | organizations, and landowners to address shorelines with
6 | impaired ecological functions and/or processes.
- 7 | Policy 11PP-2: Restoration actions should restore shoreline ecological functions
8 | and processes as well as shoreline features and should be
9 | targeted towards meeting the needs of sensitive and/or locally
10 | important plant, fish and wildlife species, ~~as well as~~ the
11 | biological recovery goals for early Chinook and bull trout
12 | populations, and other salmonid species and populations.
- 13 | Policy 11PP-3: Restoration should be integrated with other parallel natural
14 | resource management efforts such as the WRIA 1 Salmonid
15 | Recovery Plan and the WRIA 1 Watershed Management Plan.
- 16 | Policy 11PP-4: Priority should be given to restoration actions that:
17 | a. Create dynamic and sustainable ecosystems.
18 | b. Restore connectivity between stream/river channels,
19 | floodplains and hyporheic zones.
20 | c. Restore natural channel-forming geomorphologic processes.
21 | d. Mitigate peak flows and associated impacts caused by high
22 | stormwater runoff volume.
23 | e. Reduce sediment input to streams and rivers and associated
24 | impacts.
25 | f. Improve water quality.
26 | g. Restore native vegetation and natural hydrologic functions of
27 | degraded and former wetlands.
28 | h. Replant native vegetation in riparian areas to restore
29 | functions.
30 | i. Restore nearshore ecosystem processes, such as sediment
31 | transport and delivery and tidal currents that create and
32 | sustain habitat.
33 | j. Restore pocket estuaries that support salmon life histories,
34 | including feeding and growth, refuge, osmoregulation, and
35 | migration.
36 | k. Address contamination along industrial shoreline regions.

37 | ~~23-100-170~~ **Shoreline Stabilization**

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

40 | ~~A. Policies.~~

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 11QQ-1: Alternatives to structures for shore protection should be used
2 | whenever possible. Such alternatives may include no action
3 | (allow the shoreline to retreat naturally), increased building
4 | setbacks, building relocation, drainage controls, and
5 | bioengineering, including vegetative stabilization, and beach
6 | ~~enhancement~~nourishment.
- 7 | Policy 11QQ-2: Single-family residences occupied prior to January 1, 1992, and
8 | their appurtenant structures should be protected against
9 | damage or loss caused by shoreline erosion; provided, that
10 | measures to protect single-family residences should be designed
11 | to minimize harm to the shoreline environment. After that date,
12 | all new single-family residences and their appurtenant
13 | structures should be built in a manner so as to not need
14 | protective measures.
- 15 | Policy 11QQ-3: New or expanded structural shore stabilization for new primary
16 | structures should be avoided. Instead, structures should be
17 | located and designed to avoid the need for future shoreline
18 | stabilization where feasible. Land subdivisions should be
19 | designed to assure that future development of the created lots
20 | will not require structural shore stabilization for reasonable
21 | development to occur.
- 22 | Policy 11QQ-3: New or expanded structural shore stabilization should only be
23 | permitted where demonstrated to be necessary to protect an
24 | existing primary structure that is in danger of loss or substantial
25 | damage, and where mitigation of impacts would not cause a net
26 | loss of shoreline ecological functions and processes.
- 27 | Policy 11QQ-4: New or expanded structural shore stabilization for enhancement,
28 | restoration, or hazardous substance remediation projects should
29 | only be allowed when nonstructural measures, vegetation
30 | planting, or on-site drainage improvements would be insufficient
31 | to achieve enhancement, restoration, or remediation objectives.
- 32 | Policy 11QQ-5: Shore stabilization on streams should be located and designed
33 | to fit the physical character and hydraulic energy potential of a
34 | specific shoreline reach, which may differ substantially from
35 | adjacent reaches.
- 36 | Policy 11QQ-6: Shore stabilization should not be permitted to unnecessarily
37 | interfere with public access to public shorelines, nor with other
38 | appropriate shoreline uses including, but not limited to,
39 | navigation, seafood harvest, or ~~private~~ recreation.
- 40 | Policy 11QQ-7: Provisions for multiple use, restoration, and/or public shore
41 | access should be incorporated into the location, design, and
42 | maintenance of shore stabilization for public or quasi-public
43 | developments whenever safely compatible with the primary
44 | purpose. Shore stabilization on publicly owned shorelines should

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 not be allowed to decrease long-term public use of the
2 shoreline.
- 3 | Policy 11QQ-8: Shore stabilization should be developed in a coordinated manner
4 among affected property owners and public agencies for a whole
5 drift sector (net shore-drift cell) or reach where feasible,
6 particularly those that cross jurisdictional boundaries, to address
7 ecological and geohydraulic processes, sediment conveyance
8 and beach management issues. Where beach erosion threatens
9 existing development, a comprehensive program for shoreline
10 management should be established.
- 11 | Policy 11QQ-9: In addition to conformance with the regulations in ~~this~~
12 section ~~the~~ SMP, nonregulatory methods to protect, enhance,
13 and restore shoreline ecological functions and other shoreline
14 resources should be encouraged for shore stabilization.
15 Nonregulatory methods may include public facility and resource
16 planning, technical assistance, education, voluntary
17 enhancement and restoration projects, or other incentive
18 programs.
- 19 | Policy 11QQ-10: Shore stabilization should be located, designed, and maintained
20 to protect and maintain shoreline ecological functions, ongoing
21 shore processes, and the integrity of shore features. Ongoing
22 stream, lake, or marine processes and the probable effects of
23 proposed shore stabilization on other properties and shore
24 features should be considered. Shore stabilization should not be
25 developed for the purpose of filling shorelines.
- 26 | Policy 11QQ-11: Failing, harmful, unnecessary, or ineffective structures should
27 be removed, and shoreline ecological functions and processes
28 should be restored using nonstructural methods or less harmful
29 long-term stabilization measures.
- 30 | Policy 11QQ-12: Structural shoreline stabilization measures should only be used
31 when more natural, flexible, sustainable, nonstructural methods
32 such as vegetative stabilization, beach enhancement
33 nourishment, and bioengineering have been determined
34 infeasible. Alternatives for shoreline stabilization should be
35 based on the following hierarchy of preference:
- 36 a. No action (allow the shoreline to retreat naturally), increase
37 building setbacks, and relocate structures.
- 38 b. Flexible defense works constructed of natural materials
39 including soft shore protection, bioengineering, including
40 beach enhancement nourishment, protective berms, or
41 vegetative stabilization.
- 42 c. Rigid works constructed of artificial materials such as riprap
43 or concrete.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 Materials used for construction of shoreline stabilization should
2 be selected for long-term durability, ease of maintenance,
3 compatibility with local shore features, including aesthetic
4 values, and flexibility for future uses.
- 5 Policy 11QQ-13: Larger works such as jetties, breakwaters, weirs, or groin
6 systems should be permitted only for water-dependent uses
7 when the benefits to the region outweigh resource losses from
8 such works, and only where mitigated to provide no net loss of
9 shoreline ecological functions and processes.
- 10 Policy 11QQ-14: Alternative structures, including floating, portable or submerged
11 breakwater structures, or several smaller discontinuous
12 structures, should be considered where physical conditions
13 make such alternatives with less impact feasible.
- 14 ~~23-100-180~~ **Signs**
- 15 ~~A. Policies:~~
- 16 Policy 11RR-1: Whatcom County recognizes the constitutional right for property
17 owners to communicate using signs on their property. These
18 policies are intended to ensure that signage within shoreline
19 areas is consistent with the purpose and intent of the SMAAct
20 and ~~the SMPthis program~~ by addressing impacts to ecological
21 functions, public safety, and visual aesthetics.
- 22 Policy 11RR-2: Signs should be located, designed, and maintained to be visually
23 compatible with local shoreline scenery as seen from both land
24 and water, especially on shorelines of statewide significance.
- 25 Policy 11 RR-3: Sign location and design should not significantly impair shoreline
26 views.
- 27 Policy 11 RR-4: As a preferable alternative to continued proliferation of single-
28 purpose signs, communities, districts, and/or multiuse or
29 multitenant commercial developments are encouraged to erect
30 single, common use gateway signs to identify and give
31 directions to local premises and public facilities.
- 32 Policy 11 RR-5: Signs of a commercial or industrial nature should be limited to
33 those areas or premises to which the sign messages refer.
- 34 Policy 11 RR-6: Billboards and other off-premises signs are not water-
35 dependent, they reduce public enjoyment of or access to
36 shorelines, and they often lower values of nearby properties.
37 ~~Such signs should not be located on shorelines e~~ Except for
38 approved community gateway or directional signs, such signs
39 should not be located on shorelines.
- 40 Policy 11 RR-7: Signs near scenic vistas and viewpoints should be restricted in
41 number, location, and height so that enjoyment of these limited
42 and scarce areas is not impaired.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | [Policy 11 RR-8:](#) Freestanding signs should be located to avoid blocking scenic
2 | views and be located on the landward side of public
3 | transportation routes, which generally parallel the shoreline.
- 4 | [Policy 11 RR-9:](#) To minimize negative visual impacts and obstructions to
5 | shoreline access and use, low profile, on-premises wall signs are
6 | strongly preferred over freestanding signs or off-premises wall
7 | signs.
- 8 | [Policy 11 RR-10:](#) Signs should be designed mainly to identify the premises and
9 | nature of enterprise without unduly distracting uninterested
10 | passersby. Moving or flashing signs should be prohibited on
11 | shorelines.
- 12 | ~~23.100.190~~ **Transportation**
- 13 | ~~A. Policies:~~
- 14 | [Policy 11 SS-1:](#) New public or private transportation facilities should be located
15 | inland from the land/water interface, preferably out of the
16 | shoreline, unless:
 - 17 | a. Perpendicular water crossings are required for access to
18 | authorized uses consistent with ~~the SMP~~~~this program~~; or
 - 19 | b. Facilities are primarily oriented to pedestrian and non-
20 | motorized use and provide an opportunity for a substantial
21 | number of people to enjoy shoreline areas, and are
22 | consistent with ~~the~~ policies and regulations for ecological
23 | protection in ~~the General Policies section of this chapter and~~
24 | ~~in~~ WCC ~~23.30.010 (Ecological Protection)~~~~23-90-030~~,
25 | ~~respectively~~.
- 26 | [Policy 11 SS-2:](#) Transportation facilities should be located and designed to avoid
27 | public recreation and public access areas and significant natural,
28 | historic, archaeological, or cultural sites.
- 29 | [Policy 11 SS-3:](#) Parking is not a preferred use in shorelines and should only be
30 | allowed to support authorized uses where no feasible
31 | alternatives exist.
- 32 | [Policy 11 SS-4:](#) New or expanded public transportation facility route selection
33 | and development should be coordinated with related local and
34 | state government land use and circulation planning.
- 35 | [Policy 11 SS-5:](#) Transportation system route planning, acquisition, and design in
36 | the shoreline should provide space wherever possible for
37 | compatible multiple uses such as utility lines, pedestrian shore
38 | access or viewpoints, or recreational trails.
- 39 | [Policy 11 SS-6:](#) Transportation system plans and transportation projects within
40 | shorelines should provide safe trail space for non-motorized
41 | traffic such as pedestrians, bicyclists, or equestrians. Space for
42 | such uses should be required along roads on shorelines, where

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 appropriate, and should be considered when rights-of-way are
2 being vacated or abandoned.
- 3 | Policy 11SS-7: Public access should be provided to shorelines where safe and
4 compatible with the primary and adjacent use, or should be
5 replaced where transportation development substantially
6 | impairs lawful public access. Viewpoints, parking, trails, and
7 similar improvements should be considered for transportation
8 system projects in shoreline areas, especially where a need has
9 been identified.
- 10 | Policy 11SS-8: Public transportation routes, particularly arterial highways and
11 railways, should be located, designed, and maintained to permit
12 safe enjoyment of adjacent shore areas and properties by other
13 appropriate uses such as recreation or residences. Vegetative
14 screening or other buffering should be considered.
- 15
- 16 ~~23.100.200~~ **Utilities**
- 17 ~~A. Policies:~~
- 18 | Policy 11TT-1: New public or private utilities should be located inland from the
19 land/water interface, preferably out of the shoreline jurisdiction,
20 unless:
- 21 a. Perpendicular water crossings are unavoidable; or
- 22 b. Utilities are required for authorized shoreline uses consistent
23 with the SMP~~this program~~.
- 24 | Policy 11TT-2: Utilities should be located and designed to avoid public
25 recreation and public access areas and significant natural,
26 historic, archaeological, or cultural resources.
- 27 | Policy 11TT-3: Utilities should be located, designed, constructed, and operated
28 to result in no net loss of shoreline ecological functions and
29 processes with appropriate mitigation as provided in
30 23.30.010 (Ecological Protection)~~WCC-23-90-030~~.
- 31 | Policy 11TT-4: All utility development should be consistent ~~with~~—and
32 coordinated with all local government and state planning,
33 including comprehensive plans and single purpose plans to meet
34 the needs of future populations in areas planned to
35 accommodate growth. Site planning and rights-of-way for utility
36 development should provide for compatible multiple uses such
37 as shore access, trails, and recreation or other appropriate use
38 whenever possible; utility right-of-way acquisition should also
39 be coordinated with transportation and recreation planning.
- 40 | Policy 11TT-5: Utilities should be located in existing rights-of-way and corridors
41 whenever possible.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 | Policy 11TT-6: Utilities serving new development should be located
- 2 | underground, wherever possible.
- 3 | Policy 11TT-7: Development of pipelines and cables on aquatic lands and
- 4 | tidelands, particularly those running roughly parallel to the
- 5 | shoreline, and development of facilities that may require
- 6 | periodic maintenance ~~which~~that would disrupt shoreline
- 7 | ecological functions should be discouraged except where no
- 8 | other feasible alternative exists. When permitted, provisions
- 9 | shall assure that the facilities do not result in a net loss of
- 10 | shoreline ecological functions or significant impacts to other
- 11 | shoreline resources and values.
- 12 | Policy 11TT-8: Given the different scales of regional, local, and accessory
- 13 | utilities and their potential impacts, the County may establish
- 14 | different regulations regarding each.

Comment [CES41]: New policy to allow for different regulations regarding the different types of utilities in support of Scope issue #7b, "Add definitions for regional, local, and accessory utilities."