

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.

COUNTY COURTHOUSE
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038
(360) 778-5010



COUNCILMEMBERS
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

WHATCOM COUNTY COUNCIL

**COMBINED
AGENDA PACKET FOR
DECEMBER 7, 2021**

**INCLUDES INFORMATION
FOR THE FOLLOWING MEETINGS:**

**9A.M. – COMMITTEE OF THE WHOLE – EXECUTIVE SESSION
(ADJOURNS BY 9:20 A.M.)**

**9:30 A.M. – NATURAL RESOURCES COMMITTEE
(ADJOURNS BY 10 A.M.)**

**10:05 A.M. – FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
(ADJOURNS BY 12:15 P.M.)**

**1:15 P.M. – PUBLIC WORKS AND HEALTH COMMITTEE
(ADJOURNS BY 1:45 A.M.)**

**1:50 P.M. – CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
(ADJOURNS BY 2:15 P.M.)**

**2:20 P.M. – PLANNING AND DEVELOPMENT COMMITTEE
(ADJOURNS BY 3:20 P.M.; MAY BEGIN EARLY)**

**3:25 P.M. – COMMITTEE OF THE WHOLE
(ADJOURNS BY 4:45 P.M.; MAY BEGIN EARLY)**

6 P.M. – COUNCIL

PARTICIPATE IN VIRTUAL COUNCIL MEETINGS

THE COUNCIL IS CURRENTLY HOLDING ALL MEETINGS REMOTELY

**VIEW MEETING SCHEDULES, AGENDAS, MINUTES, VIDEOS, AND ARCHIVES AT
[WHATCOM.LEGISTAR.COM](https://whatcom.legistar.com)**

**FOR INSTRUCTIONS ON HOW TO WATCH OR PARTICIPATE IN COMMITTEE AND
COUNCIL MEETINGS, PLEASE VISIT
[WHATCOMCOUNTY.US/3415/PARTICIPATE-IN-VIRTUAL-COUNCIL-MEETINGS](https://whatcomcounty.us/3415/participate-in-virtual-council-meetings)
OR CONTACT THE COUNCIL OFFICE AT 360.778.5010**

COMMITTEE AGENDAS

COUNCIL COMMITTEE OF THE WHOLE – EXECUTIVE SESSSION
9:00 A.M. TUESDAY, December 7, 2021 (ADJOURNS BY 9:20 A.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council’s meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

COMMITTEE DISCUSSION

1. AB2021-726 Discussion regarding a potential property acquisition [Discussion of this item may take place in Executive Session (closed to public pursuant) to RCW 42.30.110(1)(b)]
Page 16

Items Added by Revision

Other Business

Adjournment

COUNCIL NATURAL RESOURCES COMMITTEE
9:30 A.M. TUESDAY, December 7, 2021 (ADJOURNS BY 10:00 A.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

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COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL

1. AB2021-743 Resolution eliminating the barriers to removing excess gravel from the Nooksack River
Pages 17 – 22

Items Added by Revision

Other Business

Adjournment

COUNCIL FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
10:05 A.M. TUESDAY, December 7, 2021 (ADJOURNS BY 12:15 P.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

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Special Presentation

1. AB2021-723 Update on the November 2021 Atmospheric River Flood
Page 23
2. AB2021-672 Presentation from the Sheriff's Office Division of Emergency Management regarding the Whatcom County Multi-Jurisdictional Natural Hazards Mitigation Plan Update
Page 24

Special Order of Business

1. AB2021-616 Resolution adopting the Whatcom County Natural Hazards Mitigation Plan
Pages 25 – 965
2. AB2021-675 Resolution adopting the Whatcom County Multi-jurisdictional Natural Hazards Mitigation Plan (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 966 – 969

DISCUSSION AND RECOMMENDATION TO COUNCIL

DISCUSSION AND RECOMMENDATION TO COUNCIL

Committee Discussion

1. AB2021-693 Discussion with Council regarding development of new EDI funded Workforce Housing program
Pages 970 – 982

Committee Discussion and Recommendation to Council

1. AB2021-671 Ordinance Closing Sheriff's Records Management System Project Fund 344
Pages 983 – 984
2. AB2021-673 Ordinance Establishing the Northwest Annex Redevelopment Fund and Establishing a Project Based Budget for the Northwest Annex Redevelopment Project
Pages 985 – 988
3. AB2021-679 Ordinance amending the 2021 Whatcom County Budget, request no. 18, in the amount of \$7,038,925
Pages 989 – 1005
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Pages 1006 – 1017

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15. AB2021-731 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham working through the Bellingham Fire Department for reimbursement of personnel costs associated with the hiring of up to six department lateral employees in the amount of \$364,116
Pages 1193 – 1201

16. AB2021-734 Request authorization for the County Executive to enter into an agreement between Whatcom County and Opportunity Council for providing a 5,000 square foot child care facility located in a qualified census tract in the amount of \$1,000,000
Pages 1202 – 1225
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Pages 1226 – 1250
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Pages 1306 – 1310

Council "Consent Agenda" Items

1. AB2021-685 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Catholic Community Services to provide housing case management services in the amount of \$336,678 for a total amended contract amount of \$505,017
Pages 1311 – 1317
2. AB2021-687 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide housing case management services in the amount of \$377,158 for a total amended contract amount of \$600,839
Pages 1318 – 1328
3. AB2021-688 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Youth Services to provide housing case management services in the amount of \$357,542 for a total amended contract amount of \$565,310
Pages 1329 – 1339
4. AB2021-690 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and YWCA Bellingham to provide housing case management services in the amount of \$78,565 for a total amended contract amount of \$117,498
Pages 1340 – 1345

5. AB2021-691 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide emergency housing for families in the amount of \$493,074 for a total amended contract amount of \$847,996
Pages 1346 – 1353
6. AB2021-698 Request authorization to amend and extend the Master Collective Bargaining Agreement for the period January 1, 2022 - December 31, 2022
Pages 1354 – 1358
7. AB2021-701 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to operate the Whatcom Homeless Service Center in the amount of \$1,650,248 for a total amended contract amount of \$4,158,271
Pages 1359 – 1374
8. AB2021-702 Request authorization for the County Executive to enter into a contract between Whatcom County and Mount Baker Foothills Chamber and Visitor Center for operations and tourism, in the amount of \$110,000
Pages 1375 – 1394
9. AB2021-705 Request authorization for the County Executive to enter into a contract between Whatcom County and Tune-Up Events, LLC to promote Whatcom County tourism in the amount of \$50,000
Pages 1395 – 1430
10. AB2021-706 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington Traffic Safety Commission for high visibility enforcement patrols, in the amount of \$7,800.00
Pages 1431 – 1457
11. AB2021-707 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington Traffic Safety Commission for high visibility enforcement patrols, in the amount of \$15,000.00.
Pages 1458 – 1478
12. AB2021-710 Request authorization for the County Executive to enter into an agreement between Whatcom County and Bellingham Whatcom County Tourism for operational and tourism related activities in the amount of \$290,000
Pages 1479 – 1498
13. AB2021-711 Request authorization for the County Executive to enter into an agreement between Whatcom County and Birch Bay Chamber of Commerce for operational costs associated with the visitor center in the amount of \$110,000
Pages 1499 – 1518
14. AB2021-739 Request authorization for the County Executive to enter into a three-year agreement, using the State of Washington contract, between Whatcom County and Insight Public Sector for the NeoGov Insight online recruitment software, in the amount of \$47,610.25
Pages 1519 – 1535

Items Added by Revision

Other Business

Adjournment

COUNCIL PUBLIC WORKS & HEALTH COMMITTEE
1:15 P.M. TUESDAY, December 7, 2021 (ADJOURNS BY 1:45 P.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

Special Presentation

1. AB2021-709 Report from the Public Works Department
Page 1536

Committee Discussion and Recommendation to Council

1. AB2021-713 Resolution in the matter of considering vacating an unnamed alley within the Plat of Lummi Park on Lummi Island
Pages 1537 – 1585

Items Added by Revision

Other Business

Adjournment

COUNCIL CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
1:50 P.M. TUESDAY, December 7, 2021 (ADJOURNS BY 2:15 P.M.)
Virtual Meeting

Call To Order

Roll Call

Announcements

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Committee Discussion

1. AB2021-694 Discussion and updates on the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)
Page 1586

Items Added by Revision

Other Business

Adjournment

COUNCIL PLANNING AND DEVELOPMENT COMMITTEE**2:20 P.M. TUESDAY, December 7, 2021 (ADJOURNS BY 3:20 P.M.; MAY BEGIN EARLY)****Virtual Meeting****Call To Order****Roll Call****Announcements**

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Special Presentation

1. AB2021-717 Briefing on the draft Whatcom County Review and Evaluation Program Methodology to implement provisions of the Growth Management Act
Pages 1587 – 1672

Committee Discussion

1. AB2021-605 Discussion on proposed amendments to the Whatcom County Code Title 20 (Zoning) to provide additional affordable housing options
Pages 1673 – 1695

Items Added by Revision**Other Business****Adjournment**

COUNCIL COMMITTEE OF THE WHOLE**3:25 P.M. TUESDAY, December 7, 2021 (ADJOURNS BY 4:45 P.M.; MAY BEGIN EARLY)****Virtual Meeting****Call To Order****Roll Call****Announcements**

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Special Presentation

1. AB2021-695 Presentation by the Whatcom Racial Equity Commission on project status
Page 1696

Committee Discussion

1. AB2021-714 Discussion of an ordinance granting Zayo Group, LLC, a franchise for the provision of telecommunications services
Pages 1697 – 1717

2. AB2021-395 Discussion and periodic update of the Shoreline Management Program
Pages 1718 – 1722

DISCUSSION OF MEMO FROM PDS STAFF

3. AB2021-648 Ordinance adopting amendments to WCC Title 20 (Zoning) regulating the production, processing, and retail sales of recreational marijuana in Whatcom County and repealing Ordinance No. 2021-066
Pages 1723 – 1750

DISCUSSION ONLY

Items Added by Revision

Other Business

Adjournment

COUNTY COUNCIL

REGULAR COUNCIL MEETING

6:00 P.M. TUESDAY, December 7, 2021

Virtual Meeting

CALL TO ORDER

ROLL CALL

FLAG SALUTE

ANNOUNCEMENTS

The Council is currently holding all meetings remotely. View meeting schedules, agendas, minutes, videos, and archives at www.whatcom.legistar.com. For instructions on how to watch or participate in this meeting, please visit us at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010.

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The County is accepting applications from county residents to fill vacancies on several boards, commissions, and committees spanning a wide range of important local issues. For more information, visit the Boards and Commissions vacancies webpage on the County website at www.co.whatcom.wa.us, or call the County Council Office or County Executive's Office.

COUNTY EXECUTIVE'S REPORT

MINUTES CONSENT

1. MIN2021-088 Special Council for November 17, 2021
Pages 1751 – 1754
2. MIN2021-089 Committee of the Whole Executive Session for November 23, 2021
Pages 1755 – 1758

Special Presentation

1. AB2021-699 Report on the WHAT-COMM discussions related to consolidating the Fire/EMS and Police 911 dispatch facilities
Page 1759

PUBLIC HEARINGS

To participate, please see instructions at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010. All speakers should state their name for the record and optionally include city of residence. Speakers will be given three minutes to address the Council. Council staff will keep track of time limits and inform speakers when they have thirty seconds left to conclude their comments.

1. AB2021-654 Resolution approving the Shoreline Management Program Periodic Update 2020
Pages 1760 – 2380
2. AB2021-733 Ordinance Authorizing the Levy of Taxes for Conservation Futures Purposes for 2022
Pages 2381 – 2382

OPEN SESSION (20 MINUTES)

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CONSENT AGENDA

Items under this section of the agenda may be considered in a single motion. Councilmembers have received and studied background material on all items. Committee review has taken place on these items, as indicated. Any member of the public, administrative staff, or council may ask that an item be considered separately.

(From Council Finance and Administrative Services Committee)

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Pages 1519 – 1535

OTHER ITEMS

(From Council Natural Resources Committee)

1. AB2021-743 Resolution eliminating the barriers to removing excess gravel from the Nooksack River
Pages 17 – 22

(From Finance and Administrative Services Committee)

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Pages 1306 – 1310

(From Council Public Works and Health Committee)

25. AB2021-713 Resolution in the matter of considering vacating an unnamed alley within the Plat of Lummi Park on Lummi Island
Pages 1537 – 1585

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2021-704 Request Council appointment of Eli Wainman to the Stakeholder Advisory Committee for the Justice Project
Pages 2383 – 2387

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Per Whatcom County Code 2.03.070(B), the council must confirm or reject executive appointments within 30 days of submission to the council. County code deems the appointee confirmed if council does not take action within this time.

1. AB2021-722 Request confirmation of the County Executive's appointment of Allison Hunt, M.D. to serve as Whatcom County Medical Examiner
Pages 2388 – 2389

SPECIAL COUNCIL ONLY ITEM

1. AB2021-678 Approval of standing Special County Council meeting dates for 2022
Pages 2390 – 2391
2. AB2021-745 Appointment of members to serve on pro and con statement writing committees for a proposed ballot measure to establish a Birch Bay Library Capital Facility Area
Pages 2392 – 2394

ITEMS ADDED BY REVISION

INTRODUCTION ITEMS

Council action will not be taken. The council may accept these items for introduction (no action) in a single motion. Changes, in terms of committee assignment for example, may be made at this time.

1. AB2021-606 Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning, to provide additional affordable housing options, including allowing and regulating tiny homes and allowing duplexes in planned unit developments
Pages 2395 – 2417
2. AB2021-664 Ordinance Establishing a Speed Limit on a Portion of Alderson Road
Pages 2418 – 2424
3. AB2021-715 Ordinance granting Zayo Group, LLC, a franchise for the provision of telecommunications services
Pages 2425 – 2445

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCIL MEMBER UPDATES

ADJOURN



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-726

File ID:	AB2021-726	Version:	1	Status:	Agenda Ready
File Created:	11/23/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Committee of the Whole-Executive Session	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion regarding a potential property acquisition [Discussion of this item may take place in Executive Session (closed to public pursuant) to RCW 42.30.110(1)(b)]

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion with Public Works staff regarding a potential property acquisition

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-743

File ID:	AB2021-743	Version:	2	Status:	Agenda Ready
File Created:	11/30/2021	Entered by:	JLassite@co.whatcom.wa.us		
Department:	Council Office	File Type:	Resolution		
Assigned to:	Council Natural Resources Committee			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: RBrowne@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution eliminating the barriers to removing excess gravel from the Nooksack River

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This resolution eliminates barriers to removing excess gravel from the Nooksack river by requesting the County Executive to amend the County's biennial budget to allocate \$250,000. These funds shall be used to find a pathway to allow for the removal of sediment from the Nooksack River to recommence.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Proposed Resolution, Examples of Currently dry uplands meander zone.pdf

RESOLUTION NO. _____

**ELIMINATING THE BARRIERS TO REMOVING
EXCESS GRAVEL FROM THE NOOKSACK RIVER**

WHEREAS, Whatcom County has recently experienced two significant floods, the most recent of which may be the worst in modern times, this winter wet season has just begun, and we have no reason to expect significant devastating flooding will not become a regular occurrence within our immediate future; and

WHEREAS, the Nooksack river carries an unusually high sediment load due to the presence of Mt Baker at its headwaters continuing to feed it with a considerable amount of material every year; and

WHEREAS, while the primary reason the recent floods were so devastating was the unprecedented amount of rainfall in a very short period time, the impact of future floods could be somewhat reduced if the volume of the area between the normal high watermark of the Nooksack river and the dikes could be increased, and the river could be encouraged to discharge more rapidly during period of extreme rainfall; and

WHEREAS, legitimate questions have been raised as to whether the lack of sediment removal from the Nooksack river in recent years is contributing to a reduction in storage capacity within the river's desired boundaries, whether "sediment berms" are allowing water to be slowed, and whether unnecessarily shallow waters in the summer are allowing the water temperature to exceed the ability for salmon to survive; and

WHEREAS, In response to these concerns the County Council placed proposal (PLN2019-00011) on the docket in 2019 to: *"Amend the Whatcom County Comprehensive Plan and Whatcom County Code to allow the seasonal extraction of sand and gravel from dry upland areas located within the 1,000 year meander zone of the Nooksack River, provided that such extraction has no negative impact on salmon spawning habitat. The intent is to (a) reduce the conversion of land currently used for farming, forestry and wildlife habitat into gravel pits, and (b) safely remove some of the significant sediment load that enters the Nooksack River every year in an effort to reduce flooding and the need to build higher flood prevention berms along the river as the climate continues to change."*; and

WHEREAS, the Whatcom County Comprehensive Plan goals (Goal 8Q) and policies (Policy 8Q-1 thru 8Q-9), as well as the existing Shoreline Management Plan (SMP) code, already support and offer permitting pathways to conditionally allow sand and gravel extraction within shoreline jurisdiction; and

WHEREAS, the draft 2020 SMP code amendments, which the Planning Commission voted unanimously to approve at the May 13, 2021 meeting, and the County Council is currently reviewing, will if adopted as written, continue to allow these activities, consistent with the Shoreline Conditional Use permit requirements; and

WHEREAS, while both the existing and proposed SMP code allows for sand and gravel extraction within shoreline jurisdiction, an extensive permitting/authorization process (and associated costs) at the State and Federal level continues to be the primary impediments to these activities; and

WHEREAS, the Surface Mining Advisory Committee (SMAC) at their June 26, 2019 meeting, the SMAC reviewed this matter and stated their understanding that no changes were necessary to the SMP code in order to allow for extraction of sand and gravel from dry upland areas located within shoreline jurisdiction and/or the FEMA 100 year floodplain; and

WHEREAS, the SMAC has confirmed that the lack of recent sand and gravel extraction within the Nooksack River shoreline jurisdiction/FEMA floodplain/floodway is primarily a function of the time and costs for studies associated with permitting and review at the state and federal level, compared to the economic return on investment; and

WHEREAS, the County Government recognizes the need to reduce the impact of flooding and that time and costs for studies associated with permitting and review are the primary impediment to the removal of sediment; and

NOW, THEREFORE, BE IT RESOLVED, the Whatcom County Council requests the County Executive amend the County's biennial budget to include \$250,000 to be allocated to finding a pathway to allow for the removal of sediment from the Nooksack River to recommence; and

BE IT FURTHER RESOLVED, the money be used to produce studies, examine legal remedies, to conduct negotiations at the highest levels of the Tribal, State and Federal governments and to seek legislative amendments were necessary; and

BE IT FURTHER RESOLVED, that the full participation of the Lummi and Nooksack Nations, our local gravel companies, and the county SMAC as we seek a solution that simultaneously reduces flood potential, increases salmon habitat, and promotes shared prosperity in the proceeds received from gravel that is extracted; and

BE IT FINALLY RESOLVED, that the Port of Bellingham be solicited for input and assistance to find the means of bulk transportation of Nooksack gravel to new markets capable of absorbing the amount of sediment the river produces annually.

APPROVED this _____ day of _____ 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

Examples of Currently dry uplands meander zone

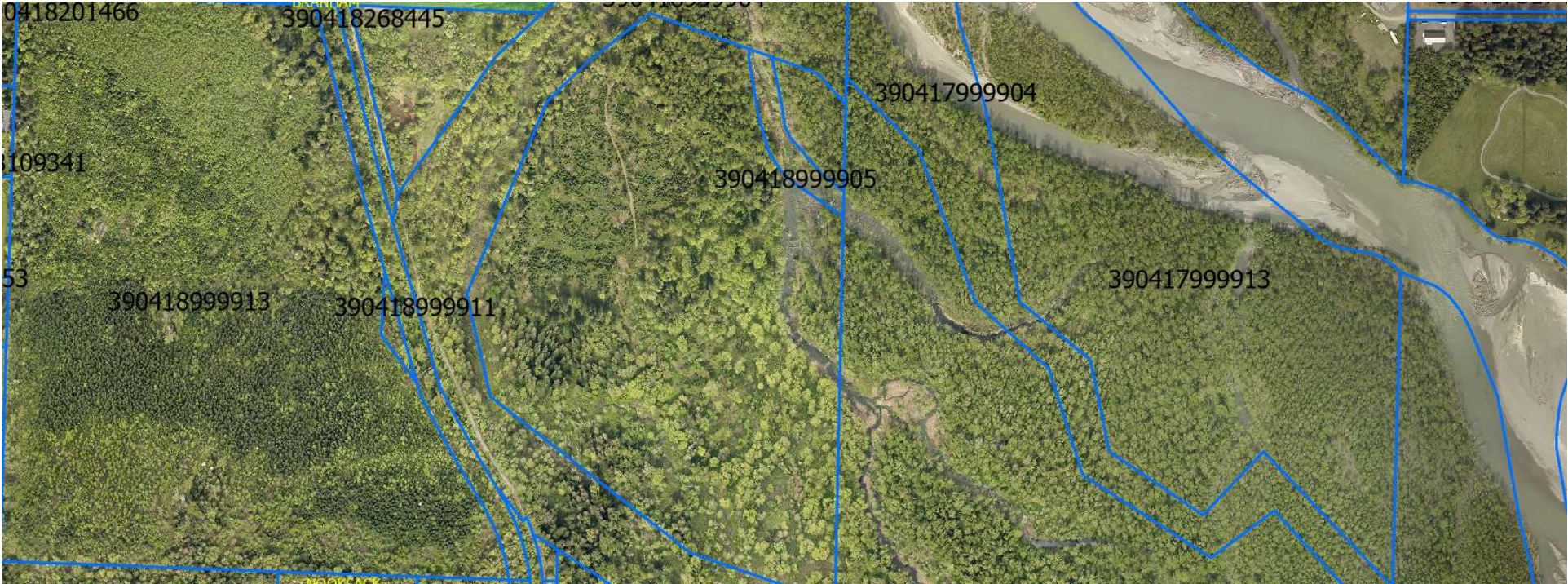
Tribal Land



Tribal land



About 500 acres with no recorded ownership just parcel numbers





Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-723

File ID:	AB2021-723	Version:	1	Status:	Agenda Ready
File Created:	11/22/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Report		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Update on the November 2021 Atmospheric River Flood

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Update on the November 2021 Atmospheric River Flood

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council Committee of the Whole	DISCUSSED AND MOTION(S) APPROVED	

Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-672

File ID:	AB2021-672	Version:	1	Status:	Agenda Ready
File Created:	11/08/2021	Entered by:	FBurkhar@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Presentation		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: jgargett@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Presentation from the Sheriff's Office Division of Emergency Management regarding the Whatcom County Multi-Jurisdictional Natural Hazards Mitigation Plan Update

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Presentation from the Sheriff's Office Division of Emergency Management regarding the Whatcom County Multi-Jurisdictional Natural Hazards Mitigation Plan Update (09/30/2021)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council Finance and Administrative Services Committee	WITHDRAWN	

Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-616

File ID:	AB2021-616	Version:	1	Status:	Agenda Ready
File Created:	10/22/2021	Entered by:	FBurkhar@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Resolution		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: jgargett@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution adopting the Whatcom County Natural Hazards Mitigation Plan

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached proposed resolution and plan

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/09/2021	Council Finance and Administrative Services Committee	FORWARDED TO COUNCIL WITH RECOMMENDED MOTION(S)	
11/09/2021	Council	HELD IN COMMITTEE	Council Finance and Administrative Services Committee
11/23/2021	Council Finance and Administrative Services Committee	WITHDRAWN	
11/23/2021	Council	WITHDRAWN	

Attachments: Proposed Resolution, Ex. A 01-Section 1, Ex. A 02-Section 2, Ex. A 03A-Bellingham-Section 3, Ex. A 03B-Blaine-Section 3, Ex. A 03C-Everson-Section 3, Ex. A 03D-Ferndale-Section 3, Ex. A 03E-WCFCZD-Section 3, Ex. A 03F-LWWSD-Section 3, Ex. A 03G-Lynden-Section 3, Ex. A 03H-MSD-Section 3, Ex. A 03I-Nooksack-Section 3, Ex. A 03J-POB-Section 3, Ex. A 03K-Sumas-Section 3, Ex. A 03L-Whatcom-Section 3, Ex. A 04-Section 4

PROPOSED BY: _____

INTRODUCED: _____

RESOLUTION NO. _____

ADOPTING THE WHATCOM COUNTY NATURAL HAZARDS MITIGATION PLAN

WHEREAS, identification of natural hazards and development of plans to reduce or eliminate the associated long term risk to human life and property results in a safer community; and

WHEREAS, the Disaster Mitigation Act of 2000 (P.L. 106-390 / 44 CFR Parts 201.6) reinforces the importance of mitigation planning and emphasizes planning for disasters before they occur; and

WHEREAS, states, communities, and special purpose districts must have an approved mitigation plan in place prior to receiving post-disaster Hazard Mitigation Grant Program (HMGP) funds; and

WHEREAS, the planning process is intended to facilitate cooperation between state and local authorities and encourages local input; and

WHEREAS, Whatcom County participated in a collaborative hazard mitigation planning and up-date process;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Whatcom County Natural Hazards Mitigation Plan, a multi-jurisdictional plan dated September 30, 2021 and attached hereto as Exhibit A, is hereby adopted.

APPROVED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Barry Buchanan, Council Chair

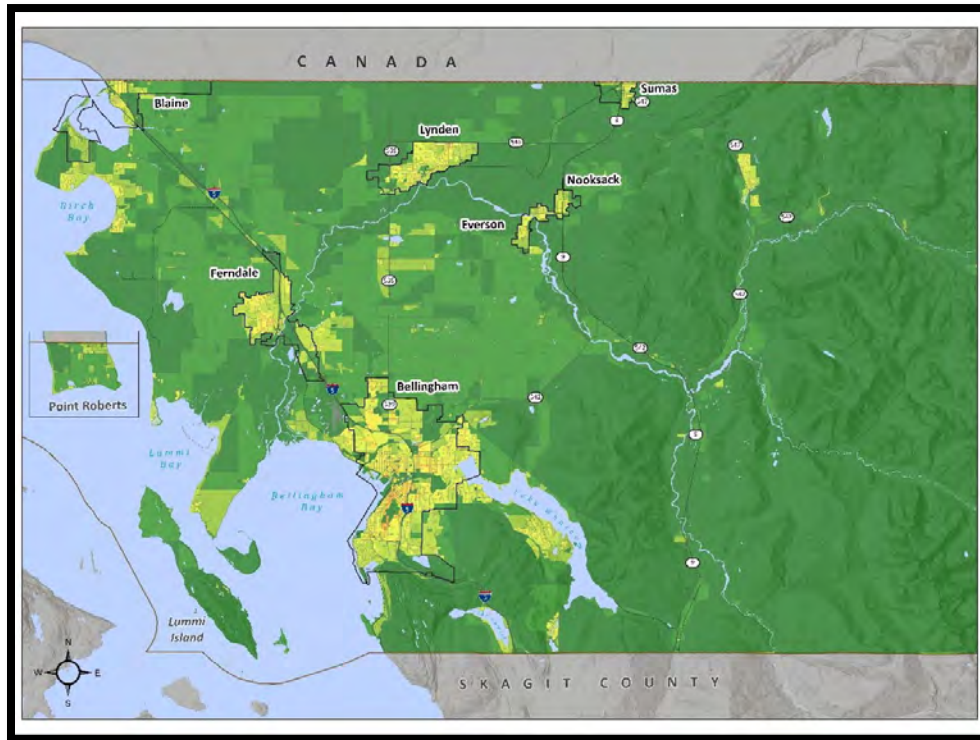
APPROVED AS TO FORM:

/s/ Brandon Waldron (via e-mail 10/22/21)/FB
Civil Deputy Prosecutor



Whatcom County

Natural Hazards Mitigation Plan



**A MULTI-HAZARD, MULTI-JURISDICTIONAL PLAN DEVELOPED FOR
THE BENEFIT OF ALL CITIZENS AND GOVERNMENTAL
JURISDICTIONS WITHIN WHATCOM COUNTY**

Prepared by:
Whatcom County Sheriff's Office Division of Emergency Management
and
The Resilience Institute of Western Washington University

September 30, 2021

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ACKNOWLEDGMENTS

Funding Acknowledgements

Whatcom County Sheriff's Office Division of Emergency Management contracted with Western Washington University's Resilience Institute to develop the 2021 Whatcom County Natural Hazards Mitigation Plan Update. Funding for this project was made possible through funding provided by the U.S. Department of Homeland Security.

Geographic Information Systems Maps

The maps for the 2021 update of the Plan were created by Western Washington University's Resilience Institute, with support from the university's Spatial Institute, unless indicated otherwise.

The datasets used in the maps in this Plan were from the following sources:

- Washington Department of Natural Resources – Wildland-Urban Interface (2019), Boulder Creek Fault Zone Seismic Scenario (2017), and Liquefaction Susceptibility (2010)
- Washington Geological Survey – Landslide Inventory (2020)
- Federal Emergency Management Agency – National Flood Hazard Layer (2019)
- Whatcom County – Tsunami Inundation (contour polygons, 2020)
- U.S. Geological Society – Mount Baker Volcano Lahar and Blast Zone Boundaries (1995)
- Whatcom County Planning and Development Services – City Limits, County Boundaries, Urban Growth Area
- Washington State Department of Transportation – Railroads, Roads, Highway
- Washington State Department of Natural Resources -- Tsunami Hazard maps for North Puget Sound (2021)

AUTHORITY

This Plan is adopted by:

Entity	Approving Authority	Date Adopted	Ordinance
City of Bellingham	Mayor Seth Fleetwood & City Council Members		
Port of Bellingham	Executive Director Rob Fix & Port Commission		
City of Blaine	Blaine City Council		
City of Everson	Mayor John Perry & City Council Members		
City of Ferndale	Mayor Greg Hansen & City Council Members		
Meridian School District	Dr. James Everett, Superintendent		
City of Lynden	Mayor Scott Korthuis & City Council Members		
City of Nooksack	Mayor Jim Ackerman & City Council Members		
City of Sumas	Chamber President Ron Fadden & City Chamber Members		
Whatcom County	County Executive Satpal Sidhu & Whatcom County Council Members		
Whatcom County Flood Control Zone District	County Executive Satpal Sidhu & Whatcom County Council Members		
Lake Whatcom Water & Sewer District	District Board of Commissioners		

INTRODUCTION

In 2021, Whatcom County Sheriff's Office, Division of Emergency Management (DEM) undertook the process of updating the *Whatcom County Natural Hazards Mitigation Plan* (cited herein as "Plan"). Natural hazards mitigation process was instigated by the Code of Federal Regulation (CFR) 201.6 (see Appendix A), enacted in October 2002 and amended in September 2004. The purpose of the Plan is to facilitate a net reduction in the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during immediate recovery from a disaster.

Section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5165, as amended by the Disaster Mitigation Act of 2000 (DMA) (P.L. 106-390), provides for States, Tribes, and local governments to undertake a risk-based approach to reducing risks to natural hazards through mitigation planning. The National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq*, reinforced the need and requirement for mitigation plans, linking flood mitigation assistance programs to State, Tribal and Local Mitigation Plans.

After a presidential major disaster declaration, mitigation funding becomes available. The amount is based on a percentage of the total federal grants awarded under the Public Assistance and Individuals and Households Programs for the entire disaster. Projects are funded with a combination of federal, state, and local funds. Information on this program and application process is disseminated at public briefings and by other means.

Section 322 of the amended Stafford Act essentially states that as a condition of receiving a disaster loan or grant:

"The state and local government(s) shall agree that natural hazards in the areas affected shall be evaluated and appropriate action taken to mitigate such hazards, including safe land-use and construction practices. For disasters declared after November 1, 2004, all potential applicants (sub-grantees) must have either their own, or be included in a regional, locally adopted and FEMA approved all hazard mitigation plan in order to be eligible to apply for mitigation grant funds."

The regulations governing the mitigation planning requirements for local mitigation plans are published under 44 CFR §201.6. Under 44 CFR §201.6, local governments must have a FEMA-approved Local Mitigation Plan in order to apply for and/or receive project grants under the following hazard mitigation assistance programs:

- **Hazard Mitigation Grant Program (HMGP).**

The Hazard Mitigation Grant Program (HMGP) provides funds to States, Territories,

Indian Tribal governments, local governments, and eligible private non-profits (PNPs) following a Presidential major disaster declaration.

- **Pre-Disaster Mitigation (PDM)**
- **Flood Mitigation Assistance (FMA)**

The Pre-Disaster Mitigation (PDM) Program and Flood Mitigation Assistance (FMA) programs provide funds annually to States, Territories, Indian Tribal governments, and local governments. Although the statutory origins of the programs differ, both share the common goal of reducing the risk of loss of life and property due to natural hazards.

Mitigation is the cornerstone of emergency management. It is an integral part of the ongoing effort to lessen the impacts disasters can have on people's lives and property through damage prevention and flood insurance. The impact on human lives and communities is lessened through measures such as building safely within the floodplain or removing homes from the floodplain altogether; engineering buildings and infrastructures to withstand earthquakes; and creating and enforcing effective building codes to protect properties from floods, hurricanes, and other natural hazards.

The mitigation plan contains a five-year action plan matrix, background on the purpose and methodology used to develop the mitigation plan, profiles of Whatcom County and participating jurisdictions, sections on the natural and technological that occur within the county, and multiple appendices.



WHATCOM COUNTY BACKGROUND

Whatcom County, the northwestern most county of Washington State, comprises an area of 2,120 square miles. It is bordered to the north by Canada and to the west by the Strait of Georgia, a deep-water ship transit, and another waterway called the Rosario Strait. The eastern half of Whatcom County is composed of the North Cascades Mountain range, which occupies roughly two-thirds of the entire County. No Whatcom County roads that originate in the western half of the County connect to the eastern half; towns in eastern Whatcom County can only be accessed by driving more than 60 miles through Skagit County to the south. An unusual characteristic of Whatcom County is that not all of its populated areas are contiguous with the mainland part of the County; these areas include Point Roberts and Lummi Island. Only 4.5% of the land area is incorporated, while the majority is unincorporated. According to the U.S. Census Bureau, the population of Whatcom County grew from an estimated 209,790 in 2015, to an estimated 228,000 in 2020, an 8% increase. Most of this growth, 70%, occurred within the incorporated areas of Whatcom County. Development has followed a similar pattern.

The Washington State Growth Management Act (GMA) was adopted by State Legislature in 1990 (Revised Code of Washington Chapter 36.70A) to address the threat that uncoordinated and unplanned growth posed to the environment, sustainable economic development, and the quality of life in Washington, including the minimizing the risks natural hazards pose to local communities. The GMA requires state and local governments to manage Washington's growth by identifying and protecting critical areas and natural resource lands, designating urban growth areas, preparing comprehensive plans and implementing them through capital investments and development regulations. According to the code, critical areas include frequently flooded areas and geologically hazardous areas, natural hazards specifically addressed in the Whatcom County Natural Hazard Mitigation Plan. The GMA regulates development in these areas and has the potential to affect hazard vulnerability and exposure at the local level. Whatcom County and its planning partners are in compliance with the provisions of the GMA and other regulations (e.g., Endangered Species Act, Clean Water Act, Shoreline Management Act, and the Washington State Building Code) that limit development in frequently flooded and geologically hazardous areas.

The Natural Hazard Mitigation Plan is constantly under review and efforts are made to reflect changes in priority. For example, in 2017 the Whatcom County Council added to its Critical Areas Chapter paragraph "16.16.350 Volcanic Hazard Areas-Standards." While not denying the construction of structures in a lahar zone, this paragraph requires deliberate evaluation of the possible lahar path and development of an emergency evacuation plan with life-saving action as the primary consideration.

The NHMP both informs and is informed by Whatcom County Planning and Development policies and regulations and other planning documents, including the Whatcom County Comprehensive Plan (November 2020; specifically, Chapter 2 Land Use and Chapter 10 Environment). While development has continued to occur within Whatcom County, the Natural Hazards Mitigation Plan has been used as one of the documents to determine the impacts that the hazard(s) may have in areas that are being developed.

An understanding of the geography, weather, industries, and characteristics of Whatcom County is critical to an ability to mitigate the natural hazards identified in this Plan. Some of these characteristics are discussed below.

A. CLIMATE

Annual precipitation varies greatly, depending on elevation, as follows:

1. Lowlands: rainfall varies from 30 to 40 inches
2. East toward the Cascade Mountains: precipitation increases
3. Near Mount Baker (elevation 10,778 feet): 140 inches, snow is possible year round

B. GEOGRAPHY

Major geographic features of Whatcom County are grouped as follows:

1. **Lowlands (West of Cascade Foothills):** These lowlands are part of the Fraser/Nooksack river-deltas system. This system runs north from the Chuckanut Mountains to the mouth of the Fraser River, where Vancouver, British Columbia (B.C.) is sited. To the south (beyond the Chuckanut Mountains, in Skagit County) is the delta of another great river, the Skagit River. These river deltas are important to Whatcom County because of their related flood, earthquake, and volcano hazards.
2. **Mount Baker Foothill Communities:** Scattered through the rural area along the Valley Highway (Highway 9) and up through the foothills along the Mount Baker Highway (State Route [SR] 542), crossing all three forks of the Nooksack River, are the Mount Baker Foothill communities of Van Zandt, Acme, Wickersham, Welcome, Kendall, Maple Falls, and Glacier.
3. **Nooksack River:** There are more than 1,325 miles of stream in the Nooksack River, its tributaries, and associated independent streams. The river originates in the mountains as three forks (North, Middle, and South) that converge near Deming. Its watershed

basin comprises most of the County's eastern lands. The river corridor links the various landscapes of Whatcom County.

4. **Coast and Islands:** There are 134 miles of seacoast in Whatcom County: 51% is steep, eroding sea bluff (such as the mountain view coast at Birch Point); 16% is rocky shoreline, which includes parts of Lummi Island; 17% is accreting (building up or extending shoreline); and 5% is estuarine shore.
5. **Lakes:** There are 245 lakes in Whatcom County: four large reservoirs inside the Federal Lands (Ross, Diablo, Gorge, and Baker Lakes) and two large natural lakes in the Chuckanut region (Lake Whatcom and Lake Samish). Seven lakes are more than 100 acres in size:
 - Whatcom (5,000 acres)
 - Samish (825 acres)
 - Terrell (440 acres)
 - Silver (185 acres)
 - Padden (150 acres)
 - Wiser (125 acres)
 - Judson (112 acres)
6. **The North Cascades Mountains:** Roughly two-thirds of eastern Whatcom County is federally managed land contained in the North Cascades Mountains, which is controlled by the U.S. Forest Service and the U.S. National Park Service. The Cascades extend from Canada's Fraser River south beyond Oregon. They shape the climate and vegetation over much of the Pacific Northwest.
 - The Mount Baker-Snoqualmie National Forest lies east of the foothills and west of the "North Unit" of North Cascades National Park.
 - The North Cascades National Park is located adjacent to the east portion of the Mount Baker-Snoqualmie National Forest.
 - East of the North Cascades National Park is the Pasayten Wilderness, administered through the Okanogan National Forest. This is a road-less area.
7. **National Forest and Parks.** There are about 460,000 acres of National Forest Lands and about 400,000 acres of National Park Lands within Whatcom County. Three roads

connect western Whatcom County with the federal lands:

- The Mount Baker Highway (SR 542) provides access to the Mount Baker Recreation Area.
- The Middle Fork Road (a secondary, more primitive entrance) leads to the hiking and camping region on the south and west sides of Mount Baker, including the Twin Sisters area.
- Highway 20 (through Skagit County) is the principal access to Baker Lake, as well as to North Cascades National Park.

Two parts of the North Cascades National Park Complex are located in Whatcom County:

- The North Unit (Picket Range) – roadless, primitive, high country .
- Ross Lake National Recreation Area – Seattle City Light with three dams on the Skagit River.

C. TRANSPORTATION

1. Major Roads

- Interstate 5 (I-5), which connects Mexico to Canada, runs north and south through Whatcom County.
- SR 9 traverses north and south, crossing the South and North Forks of the Nooksack River.
- Mount Baker Highway (SR 542), from Bellingham, intersects SR 9 and winds east to Mount Baker.
- Chuckanut Drive (SR 11), from Bellingham, south along the coast to Skagit County

2. Marinas

- In Bellingham, Squalicum Harbor is the second largest marina in Puget Sound. More than 1,800 pleasure craft, commercial boats, and fishing vessels are moored here.
- In Blaine, Drayton Harbor includes pleasure craft and a fishing fleet.

- Point Roberts is accessed by water from the Strait of Georgia or by land through Canada.
- Semiahmoo Marina contains approximately 300 slips and is located near the Canadian border.
- Private marinas are located along Bellingham Bay (including Fairhaven), Lummi Island, Gooseberry Point, Sandy Point, Birch Bay, and Eliza Island.

3. Rail

- Bellingham is on Amtrak routes from Seattle and Vancouver, B.C.
- Rail freight corridors along SR 9 and the Puget Sound shoreline (i.e., along Chuckanut Bay to Bellingham) connect freight from the south into Canada, with additional sidings that connect these two routes.
- There is rail along the I-5 corridor to Blaine and northwest to the Cherry Point vicinity.
- Rail from Cherry Point to Custer links with the I-5 rail corridor.

4. Vessel Traffic Lanes

- Deep Draft Commercial Vessels
- Barges
- Tug boats
- Commercial fishing vessels
- Recreation boats
- Federal Vessels
- Vessels accessing shipyards in Fairhaven and Bellingham Bay

5. Ferry Crossings

- The Alaska Marine Highway System Ferry departs from Bellingham to Alaska.
- The Whatcom County Ferry crosses Hales Pass from Gooseberry Point to Lummi Island (an approximately 8-minute transit time).
- Plover Passenger Ferry crosses from Blaine to Semiahmoo Spit; this ferry is open seasonally on the weekends from Memorial Day to Labor Day.
- Commercial sight-seeing ferries to the San Juan Islands and Victoria, Canada,

depart from the Bellingham Ferry Terminal.

- Canadian Ferries cross northwestern Whatcom County waterways: Tsawwassen through Strait of Georgia, to Channel Islands, and to Sidney on Vancouver Island, B.C.

6. Rivers

- The Nooksack River and many tributaries and independent streams are used by canoes, kayaks, small fishing boats, and for rafting float trips.

D. AIR TRANSPORTATION

- Bellingham International Airport: Commercial jets use a 6,700 X 150-foot asphalt runway
- Lynden Municipal Airport: 2425 X 40-foot asphalt runway
- Point Roberts Airport: 2400 X 150 turf runway
- Vancouver International Airport, an "air hub" with worldwide nonstop flights, is 45 miles north in Vancouver B.C.
- Sea-Tac International Airport is 90 miles south in Seattle, Washington

E. LAND TRANSPORTATION

- Whatcom Transportation Authority (WTA)
- Greyhound bus
- Private charters/shuttles
- Taxis
- Car rentals

F. SERVICES

1. Hospital

- Peace Health St. Joseph Medical Center, including its Outpatient Center, is the only hospital in Whatcom County.
- Several health clinics are found in Whatcom County, primarily in Bellingham.

2. Local Media

- Two television stations with out-of-state production: KVOS on Channel 12 is produced in Chicago with its primary market being lower BC and Vancouver Island. KBCB is an Illinois based Christian Television station, running only Christian programming, again mainly focused on lower mainland.
- Several companies provide television cable services
- Telephone companies:
 - Century Link Communications in Bellingham
 - Whidbey Telephone Company in Point Roberts
 - Frontier in the remainder of Whatcom County
 - Comcast (IP Service)
- Ten radio stations: AM/FM
- Emergency Alert System Station: KGMI (790 AM)
- One daily newspaper
- Seven weekly newspapers
- Two monthly publications

3. School Districts: Public Education, Kindergarten through 12th grade

- 35 elementary schools
- 11 middle schools
- Nine high schools
- Numerous private schools

4. Colleges/Universities

- Bellingham Technical College
- Northwest Indian College
- Western Washington University

- Whatcom Community College
- Washington State University Cooperative Extension – Whatcom County

5. Utilities

- Electricity: Puget Sound Energy, Public Utility District (PUD) #1, Blaine PUD, Sumas PUD, and Bonneville Power (to direct-service customers)
- Gas: Cascade Natural Gas supplies gas directly to customers; Williams Natural Gas Pipeline, Arco Natural Gas Pipeline, and Olympic Pipeline supply retailers.
- Water: approximately 350 public water systems in Whatcom County; Bellingham, Lynden, Blaine, Glacier, Nooksack, and Sumas have their own water districts; and some smaller communities rely on private wells and lakes
- Cogeneration plants: three natural gas-fired cogeneration plants are located in Whatcom County: Sumas Cogeneration Company LP in Sumas; - PSE Ferndale Generating Station in Ferndale; and Encogen Cogeneration Plant in Bellingham.

WHATCOM COUNTY PRESIDENTIAL DISASTER DECLARATIONS

When natural hazard event impacts are large, the state may request a Presidential Disaster Declaration. The table below lists the Presidential Disaster Declarations for Whatcom County from 2009 until the publication of this plan update in June 2021. Where available, dollar value represents the estimate Whatcom County public assistance per capita impacts, as established in the Preliminary Damage Assessment (PDA) Report for the event. Complete data is available through <https://www.fema.gov/disasters/disaster-declarations> database.

Year	Level of Community Impact (Estimated)	Date	Disaster Types	Federal Disaster #
2009	Whatcom County included in declaration as an amendment to the original declaration. No per capita impact available for Whatcom County at time of PDA	30-Jan-2009	Severe Winter Storm, Landslides, Mudslides, and Flooding	1817

2008	\$4.12 per capita impact	2-Mar-2009	December 2008 Severe Winter Storm and Record and Near Record Snow	1825
2010-2014	No Major Disaster Declarations			
2015	Below \$3.57 per capita threshold	15-Oct-2015	Severe Windstorm	4242
2015	\$10.50 per capita impact	20-Oct-2015	Wildfires and Mudslides	4243
2017	\$10.05 per capita impact	21-Apr-2017	Severe Winter Storms, Flooding, Landslides, and Mudslides	4309
2019	\$25.71 per capita impact		Straight-Line Winds, Flooding, Landslides, and Tornado	4418
2020	\$10.26 per capita impact	23-Apr-2020	Severe Storms, Flooding, Landslides, and Mudslides	4539
2020	No per capita impact assessed	22-Mar-2020	Covid-19 Pandemic	4481

WHATCOM COUNTY STATE DECLARATIONS AND OTHER DISASTERS

Not all events that occur reach a Presidential Declaration. Whatcom County experiences many events that do not reach the threshold of even a gubernatorial declaration. This does not mean the events are not impactful or costly. It just means the threshold levels for the State have not been reached (\$780,000 for Whatcom County, \$10,750,000 for the State). In addition, Whatcom County, and Whatcom County response agencies, do not have a standardized cost and impact documentation methodology which makes it difficult to adequately track the full scope of an event. Understanding the actual costs and impacts of all natural hazard events is a goal of Whatcom County in the 2021-2025 timeframe. However, the following list of natural hazard events did occur between 2012 and 2020:

Year	Designation	Title	Estimated COSTS
2016	2016	Winter Storm	\$250,000
2016	3207	Reese Hill Wildfire	\$350,000
2016	3764	Wind and Rain	\$200,000
2017	0971	2500 Rock Slide	\$150,000
2017	1905	June Ferndale Suspicious Oder	\$75,000
2017	4928	December Ice Storm	\$600,000 (includes utility damages)
2017		June Mudslide	\$50,000
2017	0347&0448 / FEMA 4309	Feb 2017 Storms	\$1,500,000
2017	3957	Winter Storms 2016/2017	\$750,000
2018	0439	20 Shetland Court Landslide	\$25,000

2018	4434	Flooding and Windstorm	\$575,000
2018	4615 / FEMA 4418	December Storms	\$4,750,000
2018	05	Fire and Dry Fuel Proclamation	\$25,000
2019	0410	February Severe Storms	\$675,000 (includes utility damages)
2020	0256 / FEMA 4539	Super Bowl Flood	\$3,500,000
2020	0256	January Kind Tide Event	\$150,000
2020	0265	COVID-19	\$50,000,000 (not calculated in total, on-going)
2021	1379	Mt Baker/Kelly Road Wildland Fire	\$25,000
			(Total excluding COVID-19) \$13,650,000 or \$2,730,000 per year

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SECTION 1. PLAN MISSION, GOALS, AND UPDATE PROCESS

PLAN MISSION

The mission of the *Whatcom County Natural Hazards Mitigation Plan* is to promote sound public policy designed to protect citizens, critical facilities, infrastructure, private property, and the environment from natural hazards. This can be achieved by increasing public awareness, documenting resources for risk reduction and loss-prevention, and identifying activities to guide the county towards building a safer, more sustainable/resilient community.

PLAN GOALS

The plan goals describe the overall direction Whatcom County jurisdictions, organizations, and citizens can take to work toward mitigating risk from natural hazards.

The goals represent stepping-stones between the broad direction of the mission statement and the specific recommendations outlined in the action items. Key Contributors reviewed the Plan Goals from the 2011 Whatcom County Natural Hazard Mitigation Plan and determined them to be still valid. In the current plan, however, the plan goals were expanded, providing additional detail to more clearly define and clarify those goals. The Plan goal topics are:

1. Protect Life, Property and Public Welfare.

- a. Implement activities that assist in protecting lives by making homes, businesses, infrastructure, critical facilities, and other property more resistant to losses from natural hazards.
- b. Reduce losses and repetitive damages for chronic hazard events while promoting insurance coverage for catastrophic hazards. Improve hazard assessment information to make recommendations for discouraging new development and encouraging preventive measures for existing development in areas vulnerable to natural and technological hazards.

2. Increase Public Awareness.

- a. Develop and implement education and outreach programs to increase public awareness of the risks associated with natural hazards.
- b. Provide information on tools, partnership opportunities, and funding resources to assist in implementing mitigation activities.

3. Preserve and Enhance Natural Systems.

- a. Encourage development of acquisition and management strategies to preserve open space.

4. Encourage Partnerships and Implementation.

- a. Strengthen communication and coordinate participation among and within public agencies, citizens.
- b. Engage with non-profit organizations, business, and industry to gain a vested interest in implementation.
- c. Encourage leadership within public and private sector organizations to prioritize and implement local, county, and regional hazard mitigation activities.

5. Ensure Emergency Services.

- a. Establish policy to ensure mitigation projects for critical facilities, services, and infrastructure.
- b. Strengthen emergency operations by increasing collaboration and coordination among public agencies, non-profit organizations, business, and industry.
- c. Coordinate and integrate natural and technological mitigation activities, where appropriate, with emergency operations plans and procedures.

INTEGRATION OF FEMA GUIDANCE

The mitigation plan belongs to the local community. While FEMA has the authority to approve plans in order for local governments to apply for mitigation project funding, there is no required format for the plan's organization. When developing the mitigation plan, keep the following guiding principles in mind:

- Focus on The Mitigation Strategy. The mitigation strategy is the plan's primary purpose. All other sections contribute to and inform the mitigation strategy and specific hazard mitigation actions.
- Process Is As Important As The Plan Itself. In mitigation planning, as with most other planning efforts, the plan is only as good as the process and people involved in its development. The plan should also serve as the written record, or documentation, of the planning process.
- This Is Your Community's Plan. To have value, the plan must represent the current needs and values of the community and be useful for local officials and stakeholders. Develop the mitigation plan in a way that best serves your community's purpose and people.

The suggested mitigation actions are summarized into four types: (1) Local Planning and Regulations, (2) Structure and Infrastructure Projects, (3) Natural Systems Protection, and (4) Education and Awareness Programs. Examples of activities that can be used to accomplish each mitigation goal are identified, as well as the relevant FEMA publications or resources, if applicable.

FEMA recognizes that local governance structures vary, and that the authority to implement mitigation strategies (e.g., land use planning and zoning, building code enforcement, infrastructure improvements, floodplain management, etc.) may not reside within a single governmental entity. In addition, certain FEMA hazard mitigation assistance programs accept applications from private, nonprofit organizations and other quasi-governmental entities that do not necessarily align with traditional geopolitical boundaries. To ensure these potential sub-applicants to FEMA mitigation assistance programs meet the eligibility requirements for mitigation plans under 44 CFR §201.6, FEMA has identified procedures for several of these entities.

Reference: FEMA's Local Mitigation Planning Handbook, March 2013

Federal Regulations

Federal regulations regarding the planning process and updating of multi-jurisdictional hazard mitigation plans can be found in 44 CFR 201.6. The “Planning Process” subsection (b) of 44 CFR 201.6 requires an open public involvement process to be developed and documented as part of the Plan. According to this section, the public involvement process shall include:

1. An opportunity for the public to comment on the Plan during the drafting stage and prior to Plan approval.
2. An opportunity for neighboring communities; local and regional agencies involved in hazard mitigation activities; agencies that have the authority to regulate development; and businesses, academia, and other private and non-profit interests to be involved in the planning process.
3. Review and incorporation, if appropriate, of existing plans, studies, reports, and technical information.

FEMA’s Local Mitigation Planning Handbook, March 2013

“A community must review and revise an existing plan to reflect changes in development, progress in local mitigation efforts, and changes in priorities and resubmit for approval within 5 years to continue to be eligible for FEMA mitigation project grant funding.”

REGULATION CHECKLIST Regulation (44 CFR 201.6 Local Mitigation Plans)
A1. Does the Plan document the planning process, including how it was prepared and who was involved in the process for each jurisdiction? (Requirement §201.6(c)(1))
A2. Does the Plan document an opportunity for neighboring communities, local and regional agencies involved in hazard mitigation activities, agencies that have the authority to regulate development as well as other interests to be involved in the planning process? (Requirement §201.6(c)(2))
A3. Does the Plan document how the public was involved in the planning process during the drafting stage? (Requirement §201.6(b)(1))

A4. Does the Plan describe the review and incorporation of existing plans, studies, reports, and technical information? (Requirement §201.6(b)(3))
A5. Is there discussion of how the community(ies) will continue public participation in the plan maintenance process? (Requirement §201.6(c)(4)(iii))
A6. Is there a description of the method and schedule for keeping the plan current (monitoring, evaluating and updating the mitigation plan within a 5-year cycle)? (Requirement §201.6(c)(4) (i))
B1. Does the Plan include a description of the type, location, and extent of all natural hazards that can affect each jurisdiction(s)? (Requirement §201.6(c)(2)(i))
B2. Does the Plan include information on previous occurrences of hazard events and on the probability of future hazard events for each jurisdiction? (Requirement §201.6(c)(2)(ii))
B3. Does the Plan address NFIP insured structures within the jurisdiction that have been repetitively damaged by floods? (Requirement §201.6(c)(2)(ii))
C1. Does the Plan document each jurisdiction's existing authorities, policies, programs and resources and its ability to expand on and improve these existing policies and programs? (Requirement §201.6(c)(3))

REGULATION CHECKLIST Regulation (44 CFR 201.6 Local Mitigation Plans)	
C2.	Does the Plan address each jurisdiction’s participation in the NFIP and continued compliance with NFIP requirements, as appropriate? (Requirement §201.6(c)(3))
C3.	Does the Plan include goals to reduce/avoid long-term vulnerabilities to the identified hazards? (Requirement §201.6(c)(3) (i))
C4.	Does the Plan identify and analyze a comprehensive range of specific mitigation actions and projects for each jurisdiction being considered to reduce the effects of hazards, with emphasis on new and existing buildings and infrastructure? (Requirement §201.6(c)(3) (ii))
C5.	Does the Plan contain an action plan that describes how the actions identified will be prioritized (including cost benefit review), implemented, and administered by each jurisdiction? (Requirement §201.6(c)(3) (iv)); (Requirement §201.6(c)(3) (iii))
C6.	Does the Plan describe a process by which local governments will integrate the requirements of the mitigation plan into other planning mechanisms, such as comprehensive or capital improvement plans, when appropriate? (Requirement §201.6(c)(4) (ii))
D1.	Was the Plan revised to reflect changes in development? (Requirement §201.6(d)(3))
D2.	Was the Plan revised to reflect progress in local mitigation efforts? (Requirement §201.6(d)(3))
D3.	Was the Plan revised to reflect changes in priorities? (Requirement §201.6(d)(3))
E1.	Does the Plan include documentation that the plan has been formally adopted by the governing body of the jurisdiction requesting approval? (Requirement §201.6(c)(5))
E2.	For multi-jurisdictional plans, has each jurisdiction requesting approval of the plan documented formal plan adoption? (Requirement §201.6(c)(5))

The “Plan Content” subsection (c) of 44 CFR 201.6 requires the Plan to include documentation

of the planning process including how it was prepared, who was involved, and how the public was involved. The “Plan Review” subsection (d)(3) of 44 CFR 201.6 states that jurisdictions with adopted plans are required to review, revise if appropriate, and resubmit plans for approval within 5 years to continue to be eligible for Hazard Mitigation Grant Program funding.

PLAN UPDATE PARTICIPANTS

Plan Update Participants

The Plan is intended to be multi-jurisdictional; therefore, all of the jurisdictions included in the 2021 Plan dedicated time and effort to provide jurisdiction-specific information contained throughout the 2021 Plan update.

The following jurisdictions assisted in the development of this Plan Update:

- | | | |
|----------------|----------------------------|--|
| • Bellingham | Water & Sewer | • Port of Bellingham |
| • Blaine | District | • Sumas |
| • Everson | • Lynden | • Whatcom County |
| • Ferndale | • Meridian School District | • Whatcom County Flood Control Zone District |
| • Lake Whatcom | • Nooksack | |

Key Contributors That Provided Jurisdiction-Specific Information

City of Everson

Rollin Harper (Planning Contractor)

City of Bellingham

Liz Coogan, Emergency Management

Claire Foglesong, Natural Resources Policy Manager

Chris Behee, Sr GIS Analyst-Planning & Community Development

City of Blaine	Stacie Pratschner, Community Development Director
City of Nooksack	Rollin Harper (Planning Contractor)
City of Ferndale	Jori Burnett, City Administrator
City of Lynden	Mike Martin, City Administrator
City of Sumas	Dan DeBruin, Chief of Police Rollin Harper (Planning Contractor)
Lake Whatcom Water and Sewer District	Justin Clary, General Manager Rich Munson, Safety Officer
Meridian School District	Dr. James Everett, Superintendent
Port of Bellingham	Scott McCreery, Emergency Management/Safety Officer
Whatcom County	John Gargett, Whatcom County Sheriff's Office- Division of Emergency Management, Deputy Director Wally Kost, Sheriff's Office Division of Emergency Management Paula Harris, River and Flood Manager Andy Wiser, Geohazards Specialist, Planning and Development Services Roland Middleton, Special Programs Manager, Public Works
Whatcom County FCZD	Paula Harris, River and Flood Manager

In addition to the participating jurisdictions mentioned above, smaller agencies throughout the County were invited to participate in the development and adoption of the Hazard Mitigation

Plan.

The Whatcom County Information Technology, GIS Group was responsible for locating and collecting all natural hazard-related GIS data updates from local and state sources.

In order to involve the public in the 2021 Plan update, the Whatcom County Sheriff's Office Division of Emergency Management advertised and conducted, three virtual Community disaster preparedness workshops, and maintained a 24/7 online virtual town hall meeting on their website concerning the plan update process -

(<https://www.whatcomcounty.us/3569/2021-Natural-Hazards-Mitigation-Plan>). These meetings provided opportunities for participation in the 2021 Plan update and, just as importantly, provided opportunities to solicit information and comments from the citizens of Whatcom County and to better involve them in the Plan.

In addition to the Whatcom County Sheriff's Officer Division of Emergency Management, Western Washington University's Resiliency Institute was contracted to support the 2021 Plan update.

PLAN UPDATE PROCESS

2021 Plan Update Timeline and Milestones

COVID -19 negatively impacted normal plan update processes. Aside from most emergency services focused on responding to urgent medical requirements; other government agencies were closed and directed to work from home. This in turn hindered group interaction, which is an essential part of updating the Natural Hazard Mitigation Plan. Nevertheless, Whatcom County and participating communities undertook an aggressive planning schedule to update this plan once restrictions began to be relaxed. The following timeline along with associated actions reflect the update process used by Whatcom County and participating communities:

Date	Activity
1/20/2021	Initial communication with participating communities
1/27/2021	Virtual kickoff meeting with NHMP communities
1/29/2021	Created 2021 Natural Hazard Mitigation Plan webpage for public use https://www.whatcomcounty.us/3569/2021-Natural-Hazards-Mitigation-Plan

1/29/2021	Created Natural Hazard Mitigation Plan Group SharePoint site for posting reference and planning materials and planning member interaction
2/09/2021	Conducted second NHMP planning team meeting focused on planning timeline and update responsibilities
2/11/2021	Virtual meeting with Dr. Rebekah Paci-Green from Western Washington University (WWU) Resilience Institute on NHMP criteria, and contract scope-of-work
2/24/2021	Conducted third NHMP planning team meeting; clarified timeline, responsibilities, individual community meeting with WWU contract personnel
3/01/2021	Virtual meeting between Whatcom County Planning and Development Services Geohazard Specialist Andy Wiser and WWU to update responsibilities.
3/02/2021	Virtual meeting between River and Flood Manager Paula Harris and WWU to update responsibilities.
3/4/2021	WWU email communication with Stefan Freelan from Western Washington University discussing asset geospatial analysis process.
3/05/2021	Virtual meeting between WCSO DEM and WWU regarding mapping/GIS updates
3/09/2021	Conducted fourth NHMP planning team meeting; Dr. Paci-Green updated planning team on tables to be introduced
3/09/2021	WCSO DEM and WWU coordinated with Kevin Zerbe (WA State Hazard Mitigation Officer) concerning HHMP tables (quantitative vs qualitative information)
3/15/2021	Lake Whatcom Water and Sewer District met with WWU to discuss updating their sub-section in Section 3.
3/15/2021	WCSO-Public Information Officer began publicizing MNHMP public meeting through traditional and social media sources; local communities dovetailed

	publicity on their community websites
3/17/2021	The City of Bellingham points of contact met with WWU to discuss updating their sub-section in Section 3.
3/19/2021	The City of Ferndale points of contact met with WWU to discuss updating their sub-section in Section 3.
3/22/2021	The Port of Bellingham point of contact met with WWU to discuss updating their sub-section in Section 3.
3/23/2021	Conducted first public County-Wide GoToWebinar concerning Whatcom County's Natural Hazard Mitigation Plan. Addressed all hazards, Community-POCs introduced selves, and answered questions. Meeting time 1830-2000
3/24/2021	Conducted fifth NHMP planning team meeting; Dr. Paci-Green updated planning team on community progress, Jasmine Ro provided update on mapping/GIS products which were loaded into GroupShare site for all planners to review and comment on
3/25/2021	Virtual meeting between Special Programs Manager for Public Works Roland Middleton and WWU to update responsibilities.
3/26/2021	Lynden point of contacts met with WWU to discuss updating their sub-section in Section 3.
4/5/2021	Email communication with Chris Behee discussing natural hazard map comments and updating jurisdiction and urban growth area data.
4/05/2021	WCSO-DEM put out press release concerning NHMP public workshop meeting #2 scheduled for April 13, 2021
4/06/2021	Email communication with Stefan Freelan from Western Washington University reviewing population data.
4/06/2021	Conducted sixth NHMP planning team meeting
4/06/2021	WWU shares critical facilities and wildfire map examples for critique; shares updated annual review and progress table for critique.

4/10/2021	The City of Blaine points of contact met with WWU to discuss updating their sub-section in Section 3.
4/13/2021	Coordinated with WA DNR on status of new wildland fire modeling which is slated to be released in the near future.
4/13/2021	State NFIP Coordinator David Radabaugh meet with WWU to update NFIP figures in Appendix D.
4/13/2021	Conducted second public County-Wide GoToWebinar concerning Whatcom County's Natural Hazard Mitigation Plan. Addressed all hazards, Community-POCs introduced selves, and answered questions. Meeting time 1830-2000
4/15/2021	WCSO-DEM forwarded updated Section 3 to WWU
4/16/2021	WCSO-DEM sent updated Severe Storm Section to WWU
4/16/2021	WCSO DEM sent updated Wildland Fire Section to WWU
4/19/2021	WWU sends Lynden a finalized community profile for review
4/19/2021	Point of contact for Everson, Nooksack and Suman sent updated Section 3 community profiles to WWU
4/19/2021	Email communication with Stefan Freelan from Western Washington University reviewing geospatial analysis tools.
4/20/2021	Paula Harris sends updated flood hazard section and updated NFIP material for Appendix 5 to WWU
4/20/2021	Conducted seventh NHMP planning team meeting; WWU shares updated UGA, community boundary, critical facilities, wildfire, flood, seismic and tsunami map examples for review and critique
4/20/2021	Ferndale sends updated critical facilities list to WWU
4/20/2021	Lake Whatcom Water and Sewer District sends updated Section 3 community profile to WWU

4/20/2021	Port of Bellingham District sends updated Section 3 community profile to WWU
4/21/2021	Meridian School District sends updated Section 3 community profile to WWU
4/22/2021	Andy Wiser sends updated geological hazards section to WWU
4/22/2021	Ferndale sends updated Section 3 community profile to WWU
4/23/2021	Meeting with John Gargett from Whatcom County discussing tsunami hazard data and coastal erosion data.
4/27/2021	City of Bellingham sends updated Section 3 community profile to WWU
4/27/2021	Roland Middleton sends updated Swift Creek Alluvial Fan hazard description to WWU
4/28/2021	WSDOT Avalanche Forecaster Harlan Sheppard met with WWU to update the Avalanche sub-section in Section 2.2.
4/30/2021	Email communication with Stefan Freelan from Western Washington University discussing geospatial analysis steps for percent of population in hazard area calculations.
5/11/2021	Conducted third public County-Wide GoToWebinar concerning Whatcom County's Natural Hazard Mitigation Plan. This workshop focused on aggregate updates and new GIS features to be included in the plan. Meeting time 1830-2000

PUBLIC INVOLVEMENT

Despite the high level of effort required to develop and implement mitigation strategies, it is ultimately up to the people that comprise each community and jurisdiction to determine the success of the Plan in the event of a natural hazard. Therefore, public involvement is essential in each step of the planning process. Whatcom County uses a variety of methods to provide public outreach and involvement during and following Plan development including public meetings and web-based outreach.

Public Meetings

Whatcom County Sheriff's Office Division of Emergency Management used social media, public meeting announcements, website and presentations at association meetings to jurisdictional representatives (i.e., Cities, Fire Districts, and School Districts) to advertise the meetings. The purposes of the meetings were to review the 2016 Plan, advise the public regarding the update process, and receive public feedback. Each representative in attendance was provided a checklist to complete that included specific jurisdictional and natural hazard information to be updated for the 2016 Plan. The same checklists were delivered to representatives not in attendance to ensure that similar updates were completed.

Every October, the DEM hosts an annual flood meeting to bring all of the agencies involved in responding to flood events together to review response procedures. Agencies involved in emergency response include:

- | | |
|---|---|
| • U.S. Army Corps of Engineers (USACE) | impacted by flooding |
| • National Weather Service | • Whatcom County Maintenance and Operations Division |
| • Red Cross | • British Columbia Ministry of Environment |
| • Whatcom County Sheriff's Office | • Washington State Department of Transportation (WSDOT) |
| • Police departments within cities impacted by flooding | • Local media |
| • Fire departments within cities impacted by flooding | • Water Districts |
| • Fire departments within unincorporated Whatcom County | • Tribal Jurisdictions |
| | • Parks Management |

Additional annual meetings facilitated by the DEM include a winter storm meeting, a Local Emergency Planning Committee meeting, and an Emergency Planning Council meeting. The Local Emergency Planning Committee is composed of various representatives from around the County and the annual meeting is open to the public. The Emergency Planning Council is composed of elected officials and holds annual private meetings.

WEB-BASED OUTREACH

The Whatcom County Sheriff's Office Division of Emergency Management utilizes an extensive website that is frequently updated with the most recent hazard preparation materials, hazard updates, and emergency event press releases. Hazard preparation materials published on the website include disaster planning documents, a disaster preparedness handbook,¹ and other hazard-specific information (e.g., earthquakes, fires, floods, and winter storms). Hazard updates on the site include the latest weather and road conditions and emergency road closures and restrictions. Emergency event press releases are also published on the website that follows incidents in progress or weather events of alert level concern. The website also includes links to the Washington State Emergency Management Division (EMD), the City of Bellingham Office of Emergency Management, the American Red Cross Mount Baker Chapter, and the FEMA websites. The site was used capture input on the Natural Hazard Mitigation Plan with a page that was dedicated as a "virtual town hall" on the Mitigation Plan update efforts.

¹ Available on the Whatcom County DEM website at:
http://www.co.whatcom.wa.us/dem/pdf/emergency_resources-guide.pdf

ELEMENTS NEW TO THE 2021 PLAN

Note: This *Table of Changes* documents pertinent changes made from the 2016 Whatcom County Natural Hazards Mitigation Plan (WCNHMP) to the 2021 WCNHMP Plan update.

Plan Section	Changes in the 2021 Whatcom County Natural Hazard Mitigation Plan (WCNHMP) Update
Introduction	<p>The 2021 WCNHMP retains the same integrity in the Introduction, as the 2016 WCNHMP.</p> <p>The list of natural hazard impacts was more fully described. The list of federally declared disasters was updated for 2016-2020 and the county per capita impacts, as given in the Preliminary Damage Assessment Reports, were added for all declarations from 2009 to present. Further, a list of state-level emergency declarations related to natural hazards was also added to more fully encompass natural hazard impacts to the county.</p>
Section 1: Plan Process and Development	<p>The 2021 WCNHMP retains the same integrity in Section 1, as the 2021 WCNHMP.</p> <p>The stakeholders list was updated, as was the description of public outreach and plan preparation. County planning goals for natural hazard mitigation were edited to increase clarity.</p>
Section 2: Hazard Summaries	<p>The 2021 WCNHMP retains the same integrity in Section 2, as the 2016 WCNHMP.</p> <p>Other Hazards of Concern for epidemic/disease, Hazardous Materials Release, Supply Chain Disruption, and Terrorist Attack were removed as these hazards are not classified as natural hazards and the county is not currently submitting an enhanced plan.</p>
Section 3: Community and Special District	<p>The 2021 WCNHMP retains the same integrity in Section 3, as the 2016 WCNHMP, but with improved format and significant additions to content. These changes include:</p> <ul style="list-style-type: none"> Consistent maps were created for all communities and special districts, including population density, urban growth area (where

<p>Profiles and Mitigation Strategies</p>	<p>appropriate), critical facilities, and hazard exposure maps for earthquake, tsunami, landslide, lahar, flood, and fire. A list of other planning documents the WCHMP will inform or shape.</p> <ul style="list-style-type: none"> • Three former sections -- hazard description, presence of hazards, and the hazard impacts on community – were merged into a single Presence of Hazards and their Impacts section. Furthermore, the severity of each hazard’s impacts was qualitatively assessed and the percentage of area in a community exposed to the hazard was quantitatively assessed and provided to give better context to how the hazard may impact the community or special district. • The Critical Facilities List was updated to include a qualitative assessment of the significance of each facility to community function, using a 3-point scale of moderate, high and very high. • In the 2016 plan, Critical Facilities were ranked qualitatively, based upon practitioner and expert opinion. In the 2021 update, ranking was consistently calculated across all communities and special districts by considering the significance of the facility, its exposure to eight hazards, and a 3-point scale of frequent, rare, and very rare to account for the frequency of each of these hazards. • Based upon the consistent hazard maps created for all communities, geospatial analysis was used to populate a detailed table of area and assets exposed, by hazard. • A new public outreach and education section was added to highlight the important of public awareness in natural hazard mitigation and to spur further outreach and education in the future. • In the 2016 plan, a section on Mitigation Strategies and Projects for the previous planning period (2010-2014) combined ongoing project updates and potential mitigation actions, often without distinguishing between the two. In the 2021 plan, the section has been retitled • Status of Ongoing and 2016-2020 Hazard Mitigation Actions. In
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	<p>this section ongoing, completed, and discontinued actions are listed. To increase transparency, each action includes a short description of activities during the 2016-2020 planning period, even if the action will continue as an ongoing action into the future.</p> <ul style="list-style-type: none"> • In the Hazard Mitigation Strategy 2021-2025 section, the country-wide hazard mitigation goals are reiterated to orient the reader to the focus and goals of the strategy. Readers are directed to Appendix E to see a list of potential mitigation actions options. • The Mitigation Action Prioritization section better clarifies that actions are being prioritized based upon overall feasibility and criticality of action. The county plans to move towards a more systematic identification of evaluation criteria in the next plan update. • The table of mitigation actions for 2021-2025 now includes a column for identifying which planning goal(s) each action addresses. The table also now distinguishes between ongoing actions that are continuing from the 2016-2020 planning period (italic, alpha-numeric label, and ongoing in title) and those that are new actions for 2021-2025 (numeric label). • Communities were further encouraged to provide a more detailed description of the action as it pertains to their community or special district in this 2021-2025 mitigation actions table. • The Annual Review and Progress table to be used each year has also been updated. A column for each year was added so that readers can better see how actions progress over 2021-2025. A notes column was also added to provide the updater a place to explain progress. Both ongoing and new actions are included in the table.
Section 4: Plan Maintenance	The 2021 WCNHMP retains the same integrity in Section 4, as the 2016 WCNHMP.

<p>Appendices</p>	<p>The 2021 WCNHMP retains the same integrity in Appendices, as the 2016 WCNHMP.</p> <p>In Appendix D: NFIP Participation, claims, policies, and repetitive loss structure numbers were updated for every community. The Progress Report Form (Appendix F) Contact List (Appendix G) were also updated.</p>
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PLAN ORGANIZATION

This Plan Is Organized into Four Sections and Multiple Appendices.

Section 1: Plan Process and Development

The first section contains information pertaining to the Plan development process, including:

1. Natural Hazards Mitigation Planning
 - a. Federal Regulations
 - b. Plan Update Participants
 - c. Public Involvement
2. Plan Revisions

Section 2: Hazard-Summaries

The second section contains information specific to the natural hazards present in Whatcom County. This section is broken down into:

1. Hazard-Related Definitions
2. Background Information
3. History
4. Vulnerability Assessment
5. Mitigation Strategies

Section 3: Community and Special District Profiles and Mitigation Action Plans

The third section contains jurisdiction-specific chapters, with the following information for each:

1. Contact Information
2. Approving Authority
3. Planning Process
 - a. Key Contributor List
 - b. Plan Maintenance
 - c. Public Outreach and Education
4. Overview of Hazards and Assets

- a. Geography
 - b. Growth Trends
 - c. Presence of Hazards and their Impacts
 - d. Natural Hazards Maps
 - e. Critical Facilities List and Assessment Ranking
- 5. Areas and Assets Exposed, Per Hazard
- 6. Status of 2015-2021 and Ongoing Hazard Mitigation Actions
- 7. Hazard Mitigation Strategy for 2021-2025
 - a. Whatcom County Hazard Mitigation Goals
 - b. Jurisdiction-Specific Mitigation Goals (Optional)
 - c. Mitigation Action Options
 - d. Mitigation Action Prioritization
 - e. Identified Mitigation Actions 2021-2025
 - f. Annual Review Process

Section 4: Plan Maintenance

This section ends with a description of how the Plan will be maintained in the future.

Appendices

- A. Capabilities Listing (documents, processes, and resources reviewed and added by the team)
- B. List of Acronyms and Abbreviations
- C. Whatcom County Risk Assessment and Mitigation Strategies (RAMS) Assessment (wildland-fire related)
- D. 2015 Plan Development Process
- E. National Flood Insurance Program (NFIP) Status
- F. Whatcom County Mitigation Ideas
- G. Whatcom County 2021 Contact List

This Plan is an evolving document that will eventually include additional information and discussions of additional natural hazard studies, man-made hazards such as terrorism, and

general updates as they become available.

STATE AND FEMA PLAN REVIEW PROCESS

1. Submitting the Plan.

- a. Once the planning team is confident the plan meets the required elements and includes all supporting documentation, forward the plan to your State Hazard Mitigation Officer (SHMO) or State Mitigation Planner. It is critical that all supporting documentation related to the planning process and other components of the plan are included in the initial submittal. Incomplete plan submittals can delay plan approval. The State will review the plan and work with you on any required revisions for approval.
- b. Once the State is satisfied that the plan meets the requirements, the SHMO will forward the plan to the FEMA Regional Office for review and approval. FEMA will conduct its review within 45 days, if possible, and provide a completed Local Mitigation Plan Review Tool to the State. The FEMA Regional Office and the State may contact you to discuss additional revisions to the plan to ensure that it meets the Federal regulation. Once FEMA determines the plan meets the regulation, FEMA will notify the SHMO that the plan is approvable pending adoption (APA), or approved if the community has already adopted the mitigation plan.

2. Approval Pending Adoption.

- To avoid repeated attempts to adopt the plan prior to FEMA approval, many communities obtain a notice from FEMA that the plan is APA before adopting the plan. As a time-saving measure, communities are encouraged to submit the final draft of the mitigation plan to the State and FEMA for review prior to formal adoption by the elected officials or other authorized governing body. If FEMA determines the plan is not approvable and requires revisions, the community will be able to make revisions before initiating the plan adoption process, therefore avoiding unnecessary delays in plan approval.

3. Plan Approval.

- Upon receiving the record of adoption from the State, FEMA will issue an official approval letter stating which jurisdictions have adopted and are approved and eligible for FEMA Hazard Mitigation Assistance programs. The approval letter will include the expiration date 5 years from the date of the letter. Attached to the

approval letter will be a final Local Mitigation Plan Review Tool that provides feedback on the strengths of the plan, recommendations for plan improvements during future plan updates, and suggestions for implementing the mitigation strategy.

4. Local Adoption of the Plan.

- Adoption by the local governing body demonstrates the community's commitment to implementing the mitigation strategy and authorizes responsible agencies to execute their actions. The final plan is not approved until the community adopts the plan and FEMA receives documentation of formal adoption by the governing body of the jurisdiction(s) requesting approval. The governing bodies are typically the Town Board, City Council, County Commissioners, and/ or Board of Selectmen. While plan adoption usually occurs through a formal resolution, council minutes, consent agendas, or other forms of adoption are acceptable if allowed by local law.

5. Multi-Jurisdictional Adoption.

- Each jurisdiction seeking plan approval must adopt the plan. If you choose to use the APA process, it is important to coordinate the adoptions of all the jurisdictions as soon as the plan receives APA status. The governing bodies may have different meeting schedules, which prevent all the jurisdictions from adopting at the same time. If possible, coordinate the adoptions and submit documentation to the State at the same time.
- At least one of the participating jurisdictions must adopt the plan within 1 year of FEMA's APA notice. FEMA will issue an official approval letter stating which jurisdictions have adopted the plan and are eligible for FEMA hazard mitigation assistance programs. The plan will expire 5 years from the date of FEMA's approval letter for the mitigation plan. The approval letter and date are generated with the first jurisdiction adopting the plan. The plan approval date remains the same regardless of when other participating jurisdictions adopt the plan. It is important to coordinate the adoption process to ensure that all participants are covered by the plan for the full 5 years. Plan updates follow the same adoption process.

6. Procedures for Adding Additional Jurisdictions to the HMP.

This procedure was developed by the Whatcom County Sheriff's Office Division of Emergency Management in cooperation with the Washington State Emergency

Management Division. This procedure has been incorporated into the plan as part of the 2021 plan update.

- a. A jurisdiction not included in this update and wishing to join the plan contacts the Whatcom County Sheriff's Office Division of Emergency Management with the request to become a participant of the plan.
- b. The Whatcom County Sheriff's Office Division of Emergency Management provides the jurisdiction with a copy of the planning requirements and any other pertinent data.
- c. The jurisdiction reviews the plan and develops the portions of the plan that are specific to the jurisdiction as directed by the Whatcom County Sheriff's Office Division of Emergency Management staff. The portion of the plan must meet the requirements of the current FEMA's Local Mitigation Planning Handbook, March 2013.
- d. The new jurisdiction submits its portions of the plan to the Whatcom County Sheriff's Office Division of Emergency Management and the new jurisdiction plan is forwarded to the State Hazard Mitigation Program Manager for review and compliance with current Local Multi-Hazard Mitigation Planning Guidance.
- e. The State Hazard Mitigation Program Manager reviews the new jurisdiction plan for compliance with current Local Multi-Hazard Mitigation Planning Guidance in conjunction with the Whatcom County Multi-Jurisdictional Hazard Mitigation Plan. If the new jurisdiction does not meet the required standard, the State Hazard Mitigation Program Manager will work with the jurisdiction to resolve issues until it does.
- f. The State Hazard Mitigation Program Manager forwards the new jurisdiction plan to FEMA Region X for review and comment.
- g. Upon approval from FEMA Region X, the new jurisdiction is considered part of the Whatcom County Multi-Jurisdictional Hazard Mitigation Plan and will comply with the update schedule of the plan.

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SECTION 2.1. HAZARD SUMMARIES

The following eight natural hazards were identified to be significant risks to the county, and specifically hazardous to the populated western areas of Whatcom County:

1. Earthquakes
2. Flooding
3. Coastal Flooding
4. Geologic Hazards
5. Severe Storms
6. Tsunamis
7. Volcanoes
8. Wildland Fires

The updated Hazard Identification and Vulnerability Analysis (HIVA) was received late in the plan update process and will be the basis for the next version of the all-hazards plan.

The following sections describe the seven significant natural hazards and their potential threats to Whatcom County. Much of the information collected in these hazard summaries came from local experts working in hazard assessment or hazard mitigation for a specific hazard. The summaries describe the hazards, convey the areas at potential risk from each hazard, and describe mitigation measures as implemented in the past or to be implemented in the future to manage the effects of natural disasters in Whatcom County.

Each hazard description is organized into the following parts:

Hazard	Related Definitions
Background Information	General description of the hazard relevant to Whatcom County and Washington State
Background Information	General description of the hazard relevant to Whatcom County and Washington State
History	Historical background on the presence of the hazard in Whatcom County; much of this information was obtained from agencies such as FEMA, the Washington Department of Natural Resources (WDNR), and the U.S. Geological Society (USGS)

Vulnerability Assessment	Descriptions of specific areas within the county at risk for each hazard, when this information was available
Mitigation Strategies	Recommended mitigation strategies to lessen the dangers posed by each hazard

Whatcom County's Planning and Development Services provided the hazard GIS datasets, except for the Wildland Fire data, which came from WDNR's North Region. For the current update, new hazard maps were produced by the Western Washington University GIS Department depicting specific hazards posed to municipalities throughout Whatcom County.

See sub section 2.2 for the list of Other Hazards of Concern, including:

1. Avalanches
2. Coastal Flooding/Tidal Overflow
3. Dam Failure
4. Drought

EARTHQUAKES

A. DEFINITIONS

Earthquake Sudden motion or trembling in the earth. This can be caused by the abrupt release of accumulated energy on a fault or by volcanic or magmatic activity.

Crust Outermost major layer of the Earth, ranging from about 10 to 65 km in thickness worldwide. The uppermost 15 to 35 km of crust is brittle enough to produce earthquakes.

Fault Fracture along which the blocks of crust on either side have moved relative to one another, parallel to the fracture.

Liquefaction Phenomenon in which loosely packed, saturated sediments lose intergranular strength in response to strong seismic shaking, causing major damage due to excessive ground settlement.

Lithosphere The outer solid part of the earth, including the crust and uppermost mantle. The lithosphere is about 100 km thick, although its thickness is dependent on age. The lithosphere below the crust is brittle enough at some locations to produce earthquakes by faulting, such as within a subducted oceanic plate.

Subduction zone A place where two lithospheric plates come together, one riding over the other. The process of subduction is where the oceanic lithosphere collides with and descends beneath the continental lithosphere.

B. BACKGROUND INFORMATION

For hundreds of millions of years, the forces of plate tectonics have shaped the Earth as the plates that form the Earth's surface slowly move over, under, and past one another. The speed of these plates is variable: sometimes they move gradually and at other times the plates are locked together, unable to release the accumulating energy. This energy can also be generated by a sudden dislocation of segments of the Earth's crust, by a volcanic eruption, or even by anthropogenic-caused explosions. When the accumulated energy grows strong enough, the plates break free, resulting in an earthquake. If the earthquake occurs in a populated area, it may result in injury or death, and extensive property damage. The most destructive earthquakes are caused by natural dislocations of the crust. The crust first bends, and when the

stress exceeds the strength of the rocks, breaks and "snaps" into a new position.

Geologists have discovered that earthquakes tend to occur along faults, which reflect zones of weakness in the Earth's crust. Even if a fault zone has recently experienced an earthquake, however, there is no guarantee all stress has been relieved, and another earthquake could still occur. Relieving stress along one part of a fault may also increase stress in another part, increasing the probability that an earthquake could occur nearby.

The Juan de Fuca Plate is an ocean tectonic plate that is colliding with the North American Continental Plate near the western coast of Washington State in a subduction zone called the Cascadia Subduction Zone (CSZ). The CSZ is shown in Figure 1. The CSZ extends from southern B.C. to northern California. One of the results of the colliding forces at the CSZ is the uplift that is occurring and is forming the Olympic and Cascade Mountain Range. The convergence of these two plates also creates a more immediate concern: earthquakes. Subduction zone earthquakes can be powerful and sustained for greater lengths of time than other types of earthquakes.

Geologic work along the Oregon and Washington coasts, and Puget Sound and tsunami (commonly called a tidal wave) data from Japan, indicate very large magnitude quakes occur, on average, every 550 years along the CSZ. The last major subduction quake to occur along the Washington Coast occurred in 1700 (Atwater, et al., 2015).

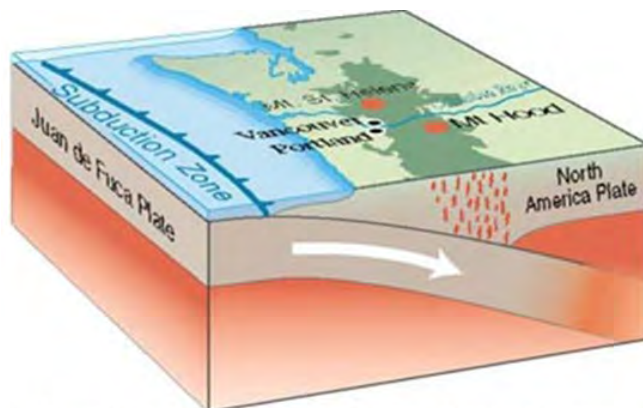
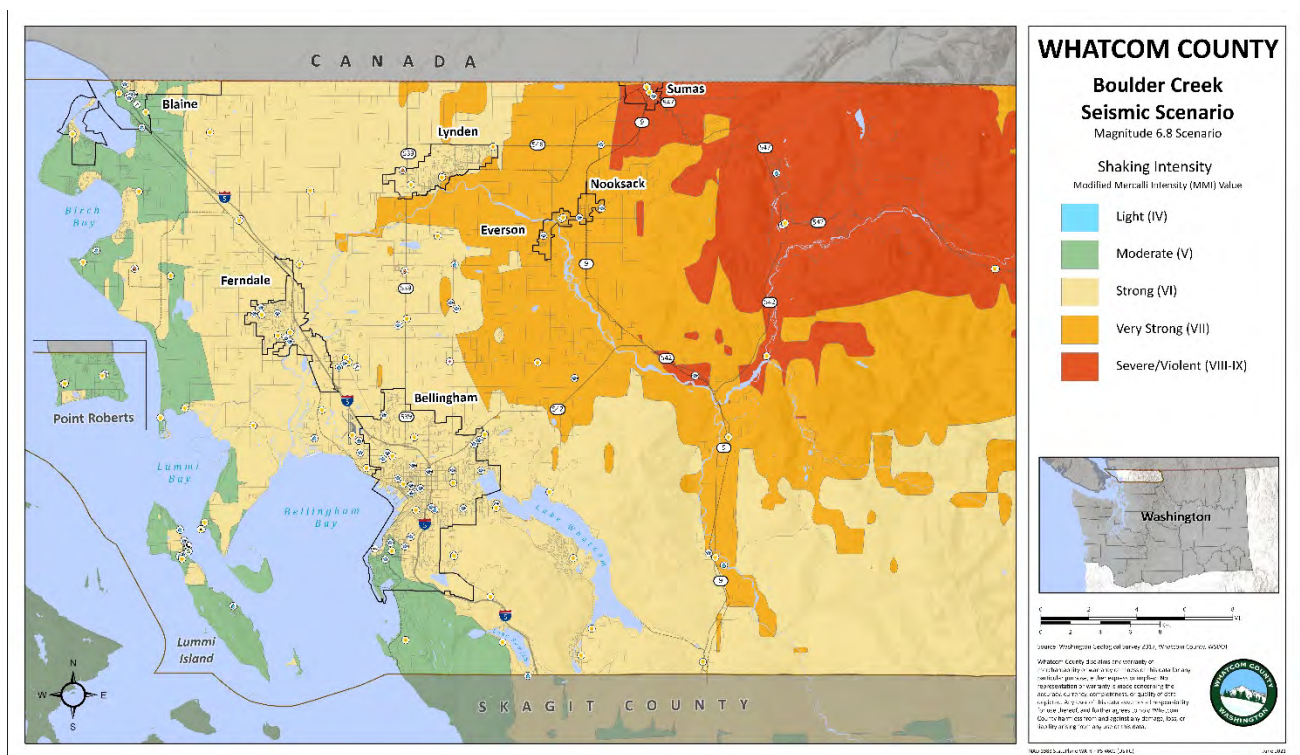


Figure 1 Courtesy of USGS Earthquake Hazards Program.

Earthquakes can also be produced by movement along faults within the North American plate (known as "intraslab" earthquakes). Recent geologic investigations have revealed a number of fault zones in the Puget Sound region of Western Washington, including several recently active faults in Whatcom County. These faults record a number of Holocene (a geologic epoch beginning 10,000 years ago) earthquakes that not only produced substantial ground movement, but also resulted in the rupturing of ground surface. The close proximity of population centers to these fault zones and the potential

for surface rupture should be considered when seismic hazard assessments and engineering designs are prepared. Local faults that have been mapped include the McCauley Creek Thrust Fault near Deming and the Boulder Creek Fault and associated Kendall Fault Scarp in the North Fork Nooksack River Valley. The Kendall Fault moved as recently as 900 years ago with an earthquake magnitude potentially larger than the magnitude 6.8 Nisqually earthquake of 2001 (Sherrod, et al, 2013). The Nisqually earthquake, an intraslab earthquake that occurred under Anderson Island, 11 miles northeast of Olympia, was felt in Bellingham, which lies 120 miles to the north. Recent published research identifies a set of northwest-trending Holocene faults capable of producing 6.0-6.5 Magnitude earthquakes beneath the communities of Sandy Point, Birch Bay and (Kelsey, et al., 2012). A Boulder Creek Fault earthquake would be extremely damaging to Whatcom County, as shown in the map below, because it is within County borders.



doors are disturbed; walls make cracking sounds. Sensations are like a heavy truck striking a building. Standing motor cars are rocked noticeably.

- *Moderate Shaking (V) Felt by nearly everyone; many awakened: Some dishes and windows are broken. Unstable objects are overturned.*
- *Strong Shaking (VI) Felt by all, and many are frightened. Some heavy furniture is moved; a few instances of fallen plaster occur. Damage is slight.*
- *Very Strong (VII) Damage is negligible in buildings of good design and construction; but slight to moderate in well-built ordinary structures; damage is considerable in poorly built or badly designed structures; some chimneys are broken.*
- *Severe-Violent (VIII-IX) From considerable damage in ordinary substantial buildings with partial collapse. Damage great in poorly built structures. Fall of chimneys, factory stacks, columns, monuments, walls. Heavy furniture overturned. In some places, damage is considerable in specially designed structures; well-designed frame structures are thrown out of plumb. Damage is great in substantial buildings, with partial collapse. Buildings are shifted off foundations. Liquefaction occurs.*

According to the USGS, Washington ranks fifth in the United States of those states at risk of earthquakes with a magnitude 3.5 or greater. As of 2016, 424 earthquakes occurring in Washington since 1974 accounted for 2.0% of all earthquakes in the United States. Additionally, according to a FEMA study, Washington ranks second in the nation (after California) of states that are susceptible to earthquake losses.

C. RECENT HISTORY IN WHATCOM COUNTY

Each year, more than 1,000 earthquakes are recorded in Washington. Of these, 15 to 20 cause ground movements strong enough to be felt. According to the USGS, recent geologic findings indicate that earthquakes generated within the CSZ pose a significant hazard to urban areas of the Pacific Northwest. Evidence gleaned from syntheses of global subduction zone attributes, as well as from local tsunami deposits, suggests that major earthquakes occurred in the Pacific Northwest perhaps as recently as 300 years ago (Atwater, et al., 2015).

The most recent earthquake to cause widespread damage in Washington occurred in 1965. Since that time, the state's population has more than doubled from roughly 3 million in 1965 to 7.7 million in 2020. Washington residents have largely forgotten the 1965 earthquake, and this has contributed to a general lack of public awareness of the state's earthquake hazards. Some scientists suggest that even larger earthquakes have occurred every several hundred or

thousand years in the Pacific Northwest. The Nisqually earthquake, although less severe than the one in 1965, occurred in 2001. This quake was centered 120 miles to the south of Whatcom County, yet was still felt in and caused damage in the area. The April 1990 Deming earthquake swarm included a magnitude 5.0 event that is one of the largest earthquakes recorded in northern Puget Sound between 1920 and 1990 (Amadi, 1992). Table 1 lists the Pacific Northwest's largest earthquakes over the last 150 years.

Table 1. Recent Pacific Northwest Earthquakes 4.5 Magnitude or Greater

Date	Depth	Magnitude	Approximate Location
December 1872	Shallow	7.3	North Cascades
October 1877	Shallow	5.3	Portland, Oregon
December 1880		?	Puget Sound
November 1891		?	Puget Sound
March 1893	Shallow	4.7	SE Washington
January 1896		5.7	Puget Sound
March 1904		5.3	Olympic Peninsula, Eastside
January 1909	Deep	6.0	Puget Sound
August 1915		5.6	North Cascades
December 1918		7.0	Vancouver Island
January 1920		5.5	Puget Sound
July 1932	Shallow	5.2	Central Cascades
July 1936	Shallow	6.4	SE Washington
November 1939	Deep	6.2	Puget Sound
April 1945		5.9	Central Cascades
February 1946		6.4	Puget Sound
June 1946	Deep	7.4	Vancouver Island
April 1949	54 km	7.1	Puget Sound
August 1949		8.1	Queen Charlotte, B.C.
August 1959	35 km	5.5	North Cascades, Eastside
November 1962	18 km	5.3	Portland, Oregon
April 1965	63 km	6.5	Puget Sound
February 1981	7 km	5.8	South Cascades
April 1990	12.6 km	5.0	Deming
March 1993		5.6	Scotts Mills, Oregon
September 1993	Varies	6.0	Klamath Falls, Oregon
January 1995	16 km	5.0	Robinson Point
May 1996	7 km	5.3	Duvall
February 2001	52 km	6.8	Nisqually – Anderson Island
June 2001	40.7 km	5.0	Satsop
April 2003	50 km	4.8	Olympic Peninsula, Eastside
July 2004	29 km	4.9	Newport, Oregon
August 18, 2004	28 km	4.7	Newport, Oregon

Date	Depth	Magnitude	Approximate Location
January 2009	58 km	4.5	Poulsbo

Note: Information obtained from the Pacific Northwest Seismograph Network (<http://www.pnsn.org>)

Most of Washington’s earthquakes occur within the Puget Sound region, between Olympia and the Canadian border, along the western side of the Cascade Mountains, and along the Washington-Oregon border. Distant earthquakes also affect Washington, such as the two Vancouver Island, B.C., quakes listed in Table 1 that were felt in Washington.

Damage caused by earthquakes is not limited to the obvious, such as architectural failure in buildings due to the heavy swaying created from an earthquake. Many deaths worldwide are the result of materials falling from buildings to sidewalks and streets below. Ground rupture along an active fault can also cause serious structural damage and disrupt transportation routes. Landslides can also be triggered by earthquakes, as can lateral spreading, which is similar to a landslide but occurs on relatively flat ground adjacent to a slope or waterbody resulting from the loss of lateral support due to seismic shaking. A potential hazard that is unique to Bellingham Bay is the potential for an earthquake-induced landslide on the face of the Nooksack River Delta. Such a landslide could generate a tsunami in Bellingham Bay and impact the Lummi Peninsula and Bellingham.

Liquefaction is another significant hazard that sometimes results from an earthquake, resulting in ground failure due to the loss of intergranular strength (bearing capacity) or liquefaction-induced settlement. Liquefaction and related phenomena have been responsible for tremendous amounts of damage in earthquakes around the world. Liquefaction occurs in saturated soils, when the pore spaces between individual soil particles are sufficiently filled with water. The shaking from an earthquake causes the pore water pressure within the soil to increase to the point where the soil particles readily move with respect to each other and the soil loses its ability to support structures. Once liquefaction has begun in an area, such as under a building, structural support to the foundation would be lost and the building would likely fail. Liquefaction is described in more detail in the “Geologic Hazards” section of this Plan.

Population-dense areas in Whatcom County could be significantly impacted by future earthquakes and their related hazards. The nature and extent of earthquake risk in Washington is determined by a variety of factors, such as estimating the level of predicted ground movement and identifying sites susceptible to ground rupture, enhanced seismic shaking, differential ground settlement from liquefaction, and tsunamis. Combining such hazard information with information concerning the distribution of population, types of building construction, and technological hazards in the County allows for assessing earthquake damage.

For this Plan, all the identified critical facilities are classified as affected by earthquakes since all of Whatcom County is at risk. Future revisions to the Plan will include each critical facility's building structure and more accurate assessments of vulnerability to earthquake danger. Seismic acceleration and response maps are periodically updated by the USGS as new research is published better defining local and regional seismic hazards, and is adopted by local building codes and incorporated in building design by structural engineers.

D. VULNERABILITY ASSESSMENT

The entire population of Whatcom County is vulnerable to the effects and impacts of an earthquake. An earthquake event in urban areas would involve especially elevated risk levels. Tall structures built on seismically-sensitive soils and fill are particularly at risk, due to the potential for liquefaction and lateral spreading. The earthquake risk in Bellingham and other coastal communities in Whatcom County is enhanced where saturated artificial fill was placed along the shoreline during the early to mid-1900's, or -where municipal garbage or wood waste was used as fill over tide flats.

Possible types of damage from an earthquake may include, but will likely not be limited to:

- a. Cracking and/or structural failure of foundations, chimneys, decorative cornices, parapet walls, and cantilevered porches or roofs
- b. Wall failure in older buildings of non-reinforced masonry construction
- c. Damage to waterfront buildings and piers built on piles and artificial fill
- d. Structural damage or failure of bridges
- e. Damage to streets and roads
- f. Damage to railways and airport facilities
- g. Broken water lines and natural gas lines
- h. Power and communication failures due to damage of electrical and telephone distribution systems
- i. Failure of 'dry-stacked' retaining walls on steep slopes in areas of residential development

Examples of potential earthquake impacts to Whatcom County are provided in the five sections below.

1. Landslide Impacts

Landslides can be triggered by earthquakes or by a combination of geologic and climatic factors. The latter are discussed in more detail under Geologic Hazards. Landslides can directly damage a structure built on the landslide or in an area where landslide debris runs out and is deposited (including the base of a hill or an alluvial fan).

Earthquake-induced landslides could impact various locations throughout the County. A lahar (a mud flow originating from a volcano) from Mount Baker could also be triggered during an earthquake. Depending on the specific area of initial failure, the lahar could flow into Baker Lake and cause damage in the Skagit River system or could flow down either the North or Middle Forks of the Nooksack River reaching as far as Sumas and Bellingham Bay. For details regarding lahars, see the “Volcanic Hazards” section of this Plan.

Examples of other locations that may experience earthquake-related landslide include: the Chuckanut Mountains and Chuckanut Drive residential areas built on steep slopes in Bellingham and Sudden Valley; development and roads on or below steep slopes, or within the run-out zone (including alluvial fans) for landslides (such as Nelson Road on the west side of the Van Zandt Dike and Slide Mountain near Kendall); the Mount Baker Highway east of Deming; State Route 9 south of Acme; unstable coastal bluffs on Lummi Island, the Lummi Peninsula, Point Roberts, Cherry Point, Point Whitehorn, Semiahmoo, and Drayton Harbor; Sehome Hill and the Western Washington University campus; and Sumas Mountain. Landslides could also occur on the steep face of the Nooksack River delta in Bellingham Bay, displacing water and sending waves across the bay. This list is intended to illustrate the range of locations where landslides could happen and is not an inclusive list of all possible locations.

The recently published *Landslide Inventory of Western Whatcom County*, produced by the Washington State Department of Natural Resource Geology and Earth Resources, provides a highly improved methodology for the identification of deep-seated landslides discernable by LIDAR image analysis. The inventory identifies both active and dormant (or relict) landslides, and enhanced shaking associated with a large magnitude seismic event has the potential to reactivate dormant deep-seated landslides as well as accelerate or further destabilize currently active deep-seated landslides. Not included in the inventory is the likely location of shallow translational landslides (generally defined as not deeper than the vegetation rooting zone). This type of slope failure does not typically produce geomorphic features discernible in LIDAR and is commonly identified through GIS-based slope stability modeling that determines slope conditions susceptible to shallow failure, and subsequent modeling to determine run-out potential. Neither products are currently available in Whatcom County. The inventory does, however, delineate the location of alluvial fans, which can serve as a proxy for the likely run-out

potential for shallow translational landslides, and these areas should be considered susceptible to earthquake-induced landslides, especially if seismic activity coincides with an extended period of wet weather resulting in saturated soil conditions. Additional information on hazards common to alluvial fans is included under 'Landslides' in the section on Geological Hazards, below.

2. Transportation Impacts

Bridges are the most vulnerable component of highway systems, such as the I-5 overpasses. Bridge foundations in liquefiable soils can move, allowing the spans they support to fail. Areas at significant risk are Roeder Avenue bridges near Georgia Pacific and over Whatcom Creek Waterway; I-5 over Whatcom Creek; the Mount Baker Highway at Cedarville and Everson; Highway 9; and Guide Meridian and Hannegan Road bridges over the Nooksack River. An additional impact is that supporting columns can buckle.

1. **Railways.** Railway bridges have performed well in earthquakes, but may be subject to liquefaction, such as those along the Bellingham waterfront. Additionally, landslides may cover the tracks.
2. **Airports.** The Bellingham Airport runway is at low to moderate susceptibility to liquefaction.
3. **Pipelines: Water, Wastewater, Liquid Fuel, Natural Gas.** Water pipelines commonly fail in earthquakes, quickly draining the water system, making water unavailable for fire suppression, drinking, toilet flushing, etc. Sewer pipelines are often gravity systems and a change in grade can impact system operation. The sewer lines relying on pumps will not work if there is no electric power. These sewer pipelines are vulnerable to flotation if the ground around them liquefies. Liquid fuel and natural gas pipelines that are constructed of steel with welded joints have performed well in earthquakes, except in extreme conditions. The high-pressure lines are made of welded steel or polyurethane plastic, which are flexible. Pipelines constructed of brittle materials are the most vulnerable. Water and older gas distribution systems contain brittle materials, such as cast iron and asbestos cement. Additionally, pipelines buried in liquefiable soils or landslide areas may fail. For example, landslide movement was a likely factor in the rupture, explosion, and fire in 1997 of a natural gas pipeline on Sumas Mountain.

E. MITIGATION STRATEGIES

Earthquakes have long been feared as one of nature's most damaging hazards. Earthquakes

occur without warning and, after only a few seconds, leave casualties and damage. Therefore, it is important that each person and community take appropriate actions to protect lives and property.

Although earthquakes cannot be prevented, current science and engineering provide tools that can be used to mitigate the damage. Scientists can now identify, with considerable accuracy, where earthquakes are likely to occur and what forces they might generate. Modern engineering has resulted in design and construction techniques that allow buildings and other structures to survive the tremendous forces of earthquakes.

In May 2021 ShakeAlert will be deployed in Washington State by the United States Geological Survey. The system allows the identification of hazardous seismic events and automatically triggers warning systems and alerts registered mobile phones. In the event of a Cascadia Subduction Zone Earthquake, centered 200+ miles west of Whatcom County, many tens of seconds warning time can be provided, allowing for individuals to evacuate or shelter in place prior to arrival of initial seismic wave. Additional mitigation can be achieved through the cessation of construction activities, transportation, industrial processes and other critical activities such as medical procedures. It is important to note that earthquakes generated on local crustal faults may produce lesser magnitude seismic events, but may be associated with more intense, although often shorter duration, ground shaking. Furthermore, early detection systems would only be capable of providing a few seconds of early warning for near-source earthquakes, which is commonly considered ineffective to deploy seismic hazard mitigation measures.

FEMA's National Earthquake Hazards Reduction Program (NEHRP) has four basic strategies related to the mitigation of hazards caused by earthquakes:

1. Promote understanding of earthquakes and their effects
2. Work to better identify earthquake risk
3. Improve earthquake-resistant design and construction techniques
4. Encourage the use of earthquake-safe policies and planning practices

Further study of earthquake behavior and better delineation of shallow crustal fault location, extent, potential earthquakes magnitude and recurrency interval will lead to improved preparation and response to earthquakes.

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FLOODING

A. DEFINITIONS

Avulsion The rapid abandonment and of a river channel and formation of a new channel.

Flood An inundation of dry land with water caused by weather phenomena and events that deliver more precipitation to a drainage basin than can be readily absorbed or stored within the basin. The NFIP defines a flood as a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties.

Floodplain The land area of a river valley that becomes inundated with water during a flood.

National Flood Insurance Program A federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. The NFIP is designed to provide insurance as an alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their content caused by floods. When a community chooses to participate in the NFIP, they agree to adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas. In exchange, the federal government agrees to make flood insurance available within the community as a financial protection against flood losses.

B. BACKGROUND INFORMATION

The natural hazard of most concern to Whatcom County, primarily due to its frequency, is flooding. Several types of flood hazards affect Whatcom County including:

- a. Overbank flooding and erosion on the Lower Nooksack River downstream of Deming
- b. Overbank flooding and erosion on the three main forks of the Nooksack River upstream of Deming (North, Middle, and South Forks)
- c. Debris flows and debris floods on alluvial fans throughout the County (see the “Geologic Hazards” section for more information)
- d. Coastal flooding (see the “Coastal Flooding” section for more information)

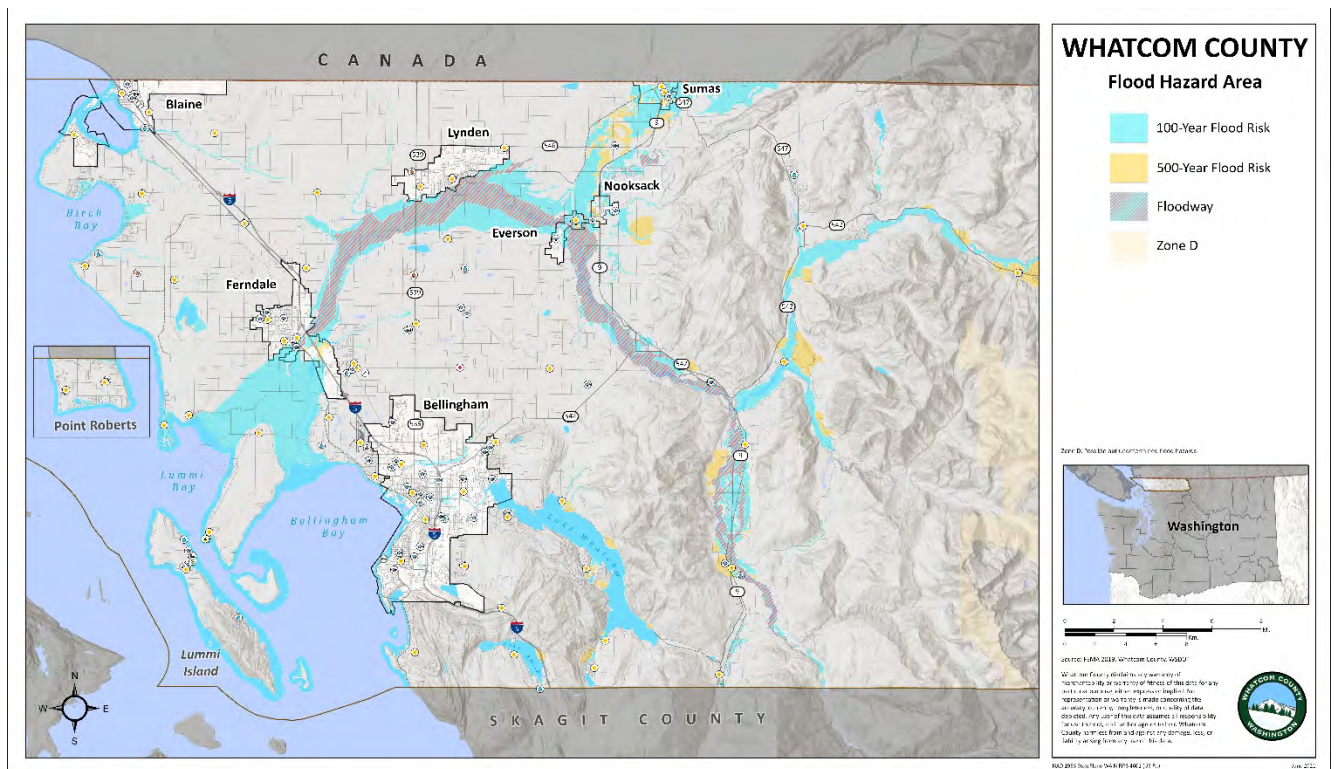
- e. Tsunamis or tidal flooding associated with earthquakes (see the “Tsunamis” section for more information)

The communities located within Whatcom County that are currently participating in the NFIP include:

- a. City of Bellingham (#530199)
- b. City of Blaine (#530273)
- c. City of Everson (#530200)
- d. City of Ferndale (#530201)
- e. City of Lynden (#530202)
- f. City of Nooksack (#530203)
- g. City of Sumas (#530204)
- h. Lummi Indian Reservation (#530331)

Whatcom County (#530198) Whatcom County contains 63.6 square miles of floodplain area, which equals 3 percent of the entire land area. Whatcom County currently holds 994 flood insurance policies and has filed 307 claims through January 31, 2020. Due to privacy concerns, annual information regarding this number is no longer provided by FEMA. FEMA maintains information on repetitive flood loss properties (RFLs) within each community participating in the NFIP. RFLs are properties for which two or more NFIP losses of at least \$1,000 each have been paid within any 10-year period since 1978. As of 2020, there were 17 RLP properties within Whatcom County and seven RPL properties that have been mitigated.

Whatcom County also participates in the NFIP Community Rating System (CRS), implemented in 1990 as a voluntary program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP standards. The CRS entry date for Whatcom County was October 1, 1996; since that time, Whatcom County has received enough points to be qualified as a credit class 6 (out of 10), meaning property owners in the floodplain receive a 20 percent discount on flood insurance premiums. Flood hazard areas in Whatcom County can be seen in the map below.



FEMA 2019 flood hazard data showing 100-year flooding, 500-year flooding, floodways, and flood zones. FEMA flood data includes both riverine and coastal flooding.

1. Lower Nooksack River

The primary flooding source affecting Whatcom County residents is the Lower Nooksack River, from Deming to Bellingham Bay. In 1999, the Whatcom County FCZD adopted the *Lower Nooksack River Comprehensive Flood Hazard Management Plan (CFHMP)*, which serves as the primary source of information for this flooding summary. This plan is currently being updated through a multi-year collaborative process integrating flood needs with the needs of salmon and floodplain land uses. The results of this new planning process will be incorporated into this plan during a subsequent update.

The Nooksack River watershed is primarily located within the Cascade foothills at the base of the Cascade Mountain Range. The Lower Nooksack River begins at the confluence of the North, South, and Middle Forks and extends down to Bellingham Bay. The watershed encompasses approximately 825 square miles over an elevation range of 10,781 feet to sea level. The Cascade foothills receive more rainfall than the flatter, western lowlands of the County. This precipitation, combined with the steep slopes of the watershed in the foothills and size of the

upper watershed, contribute to the conditions that allow floodwater to quickly reach the flat lower river reaches. The devastating and frequent flooding in 1989 and 1990 prompted Whatcom County residents and government to find solutions to perennial flood problems. Because of severe damages occurring along the Lower Nooksack River floodplain, this area was the focus of initial planning efforts and development of the CFHMP.

The Lower Nooksack River is divided by river reach in the CFHMP as described and as shown in Table 2. The five reaches begin with Reach 1 at the mouth of the Nooksack and move upstream to Reach 5.

Table 2
River Reach Descriptions

	River Mile	River Channel		100-Year Floodplain	
		Length (miles)	Gradient (ft/mile)	Area (mi ²)	Width (avg. miles)
Reach 1	0 to 6.0	6.0	1.8	13.8	2.8
Reach 2	6.0 to 15.3	9.3	2.3	8.3	1.1
Reach 3	15.3 to 23.6	8.3	4.9	12.0	1.9
Reach 4	23.6 to 26.6	13.0	21.3	7.5	1.3
Reach 5	---	13.2	4.5	21.5*	22.5**

*Notes: * Drainage Area ** Average Creek Width*

Reach 1 includes the area from the mouth of the Nooksack River to Ferndale west to Haxton Way, including a portion of the Lummi Indian Reservation. Reach 1 is physiographically diverse and includes a complex delta estuary, a broad flat plain, and two large, shallow ponds, Tennant Lake and Clay (Brennan) Pond. Both sides of the river are diked, either directly along the existing river channel or set back a short distance from the bank. The banks are heavily riprapped, especially adjacent to the levee.

Reach 2 extends from the I-5 Bridge at Ferndale to the Guide Meridian Bridge, just southwest of Lynden. The river channel is characterized by looped meanders, and relatively small gravel bars. Natural topography along the river includes discontinuous natural levees formed by sediments deposited during flooding. Constructed levees confine the river to a narrow channel along much of Reach 2. A portion of the river in and upstream of Ferndale is not diked.

Reach 3 includes the portion of the Nooksack River between the Everson Bridge and the Guide Meridian Bridge and marks the transition from the braided, unstable channel upstream to the more stable, meandering river channel and broader floodplain that are

typical downstream.

each 4 is the uppermost reach in the CFHMP study area. It extends from the Everson Bridge to the confluence of the Middle, North, and South Forks at Deming. This reach is noticeably different than the lower reaches, primarily because of the steep slope of the active channel. Not only does the channel split into multiple paths at many locations, forming a braided channel, but over time it moves laterally across the floodplain.

Reach 5 is not actually a part of the Nooksack River mainstem, but is a flood overflow corridor originating at the Nooksack River, near Everson, and flowing north to the United States/Canada border. At the City of Everson, a low divide separates the Nooksack River basin from the Sumas River basin, where waters flow northward to the Fraser River in B.C. During large floods in the Nooksack, floodwaters flow along the corridor of Johnson Creek through the City of Sumas and over the international border into Abbotsford, B.C.

Flooding Causes

Many factors combine to cause flooding along the Lower Nooksack. River gradient and weather patterns are some of the more significant factors.

River Gradient that Affects Flooding – One of the most important characteristics of the Lower Nooksack River is the change in river gradient from Deming to Bellingham Bay. As mentioned previously, Reach 4 is steep and constantly migrating within a narrow floodplain. Within Reach 4, many abandoned side channels can accommodate floodwaters. In contrast, the lower reaches are flatter with wider floodplains. Side channels in Reaches 1, 2, and 3 have largely been filled and replaced with agricultural fields. Levees have been constructed along these reaches to protect fields, farmhouses, and roadways.

Weather Patterns that Cause Flooding -Heavy fall and winter rainfall in Whatcom County results from an effect called orographic lift. This heavy rainfall, along with the large area feeding into the Nooksack River and extreme slopes, results in large amounts of runoff that quickly reach the flat floodplains along Reaches 1, 2, and 3. Rainfall varies across the watershed and is significantly greater in the mountains. During the 1990 Veterans Day flood, approximately 14 inches of rain fell in the upper reaches of the watershed over 3 days, with snow melt adding an extra 2 inches. During the same storm, Bellingham only recorded 5 inches of rain.

The worst flooding tends to occur during the “Atmospheric River” weather pattern of the fall and winter. Atmospheric river fronts bring warm, wet air into the watershed, resulting in heavy rainfall. If snow has accumulated in the mountains when the warm rains begin, snowmelt can

increase runoff to the river. As the snowpack builds through winter, it can also act as a “sponge” during intense rainfalls, storing water and attenuating flood peaks. Runoff is most severe when preceding steady rains have saturated soils within the watershed. Together, the conditions of heavy rain, early snowpack, and saturated soils create the potential for severe flooding.

2. Upper Forks of Nooksack River

The North, Middle, and South Forks of the Nooksack River comprise the upper watershed for the Lower Nooksack River. The headwaters of the North and Middle Forks originate on the flanks of Mount Baker while the South Fork drains the Twin Sisters range, resulting in steep mountainous terrain in their upper basins. The lower portions of the forks include flatter valleys as the rivers drain off the Cascade Foothills and enter into broader valleys shaped in part by past glacial activity.

The North Fork of the Nooksack River generally experiences higher snowfall amounts, which can act to absorb some runoff associated with heavy rainfall and attenuate flood peaks. The South Fork has much of its upper basin at lower elevations than the North Fork and generally responds more quickly to a storm event. During weather patterns like the atmospheric rivers all three forks can experience significant flooding.

Due to the mountainous terrain in their upper watersheds, all three forks have significant sediment sources. As the sediment is routed through the systems, significant channel migration can occur, putting public infrastructure and private property at risk.

3. Coastal Flooding

High winds off the coast combined with high tides and low atmospheric pressures can result in coastal flooding along the western edge of Whatcom County. The main coastal communities impacted by coastal flooding are Sandy Point, Birch Bay, Point Roberts, and Lummi Peninsula. Damages can include structural damage to residences and seawalls as large debris is carried by waves hitting the shoreline, inundation damage to structures, and debris accumulation and flooding of roadways. In some areas where the shoreline is a bluff, coastal erosion and/or improper drainage can threaten the structural integrity of residential structures and the stability of the bluff itself. See the Coastal Flooding Section below.

C. RECENT HISTORY IN WHATCOM COUNTY

1. Lower Nooksack River

Table 3 lists the largest recorded Lower Nooksack River floods as recorded at the Deming/Cedarville and Ferndale stream gages.

Table 3. Largest Recorded Nooksack River Flood Events

Date	Deming Flow* (cfs)	Ferndale Flow (CFS)	Overflow in Everson causing Flood Damage
1/25/1935	39,600	---	Yes
10/25/1945	38,000	41,600	Yes
11/27/1949	36,500	27,500	Yes
2/10/1951	43,200	55,000	Yes
11/03/1955	38,500	35,000	Yes
1/30/1971	---	38,100	Yes
12/3/1975	40,300	46,700	Yes
12/15/1979	---	36,400	No
1/4/1984	---	41,500	Yes
11/23/1986	---	36,000	No
11/9/1989	36,500	47,800	Yes
11/10/1990	37,900	57,000	Yes
11/24/1990	35,100	56,600	Yes
10/17/2003	50,800	39,900	No
11/24/2004	53,200	42,300	No
11/6/2006	56,300 (Cedarville)	38,100	Yes
1/9/2009	50,700 (Cedarville)**	51,700**	Yes
12/12/2010	44,500 (Cedarville)	38,200	No
1/17/2011	42,600 (Cedarville)	36,300	No
11/17/2015	40,800 (Cedarville)	27,000	No
2/1/2020	37,400*** (Cedarville)	37,000	Yes

* The Deming gage is subject to significant bed instability during flood events. Peak flows reported for Deming are prone to error. In 2005, the Deming gage was replaced with the Cedarville gage, located 5.2 miles downstream.

** Hydraulic modeling and comparison of simulated results to observed conditions suggests that the actual flow passing the Deming gage was likely closer to 63,000 cfs during the 11/10/1990 flood, illustrating the potential error in the Deming gage record.

*** USGS flow data for the 2/1/2020 flood event is provisional; hydraulic model calibration is ongoing and suggests that the flows at Cedarville may have been higher than reported.

2. Upper Forks of Nooksack River

Generally, the same weather patterns that cause flooding on the lower Nooksack River also result in flooding conditions on one or more of the three upper forks. These same weather patterns can cause landslides that can form temporary landslide dams when they enter tributaries to the forks. Floods much larger than might be expected for a stream of that size can result when the dams breach. These tributary floods may not be easily detected at a gauging station in the fork itself or downstream due to the relatively larger capacity of the fork floodplain.

D. VULNERABILITY ASSESSMENT

Understanding existing flood patterns, and the relationship between flooding and existing flood management structures, provides a basis for predicting circumstances of future flood events.

1. Lower Nooksack River

The following summary describes historic flooding patterns and problems of the Lower Nooksack River. Please note that right and left bank locations are designated facing downstream.

Reach 1 Flooding Patterns

Ferndale Area – The residential area on the right bank upstream of the Burlington Northern Railroad bridge experiences flooding during major events, as do commercial properties along Main Street on the left bank and a former golf course. Based on the results of recent modeling analyses, most of the right bank levee in Ferndale extending downstream from the Main Street bridge provides protection from floods as large as the 100-year event, except for a gap located adjacent to the two water treatment facilities operated by City of Ferndale and the PUD. Significant flood fighting efforts near the water treatment plants were necessary in 1990 to and 2009 to prevent floodwaters from overtopping Ferndale Road. The City has filled the gap in the levee with super sacks (large sand bags) as an interim measure until a more permanent solution can be implemented.

Right Bank Downstream of Ferndale – Flooding at Marine Drive and Ferndale Road is frequent, beginning with events of low magnitude. Levee breaks result in inundation of Haxton Way, cutting off access to the Lummi Peninsula and Lummi Island. Other sites of right bank flooding along the reach depend upon levee protection. Levee breaches downstream of Slater Road generally result in flooding between the Nooksack River and

Lummi (Red) River south of Slater Road.

Left Bank Downstream of Ferndale – Floodwaters overtop the left bank between Slater Road and Marine Drive annually; if overtopping is of a long enough duration, both roadways can be flooded. At slightly higher flows, as the river rises to the approximate 5-year flood level, floodwaters also overtop high ground and levees immediately downstream of Ferndale in Hovander Park. Floodwaters travel through Hovander Park toward Tennant Lake and continue south toward and over Slater Road.

Marietta – Marietta experiences the most frequent flooding of any residential area along the Nooksack River and is susceptible to tidal influences that contribute to flooding. A levee surrounds Marietta, but is low and in poor condition, making it susceptible to overtopping and breaching. In both 1990 and 2009, Marietta residences sustained significant flood damage and residents were evacuated.

Overflow to Lummi Bay – Floodwaters flowing west toward Lummi Bay are stopped by the seawall and accumulate despite the two sets of culverts that drain the seawall. Floodwaters can overwhelm the capacity of the seawall, leading to seawall breaches, and allowing saltwater to flow inland when floodwaters recede. A set of six 48-inch-diameter culverts near the Lummi (Red) River mouth draining the area south of the river were replaced with five 6-foot by 4-foot box culverts in 1998. Tide gates in the culverts prevent saltwater from flowing inland as the tide rises. Three 5-foot by 5-foot box culverts drain the area north of the river.

Reach 2 Flooding Patterns

Overflows from Reach 3 – Floodwaters enter Reach 2 from Reach 3 under the Guide Meridian through the main channel bridge and overflow bridges north and south of the river in the floodplain. Main channel and left bank overflows are constricted by high ground on the left bank and levees along River Road on the right bank. Left bank overflows encounter a short section of levee and the natural high ground close to the river bank very shortly after passing under the south overflow bridge. The levee and high ground push the left bank overflow waters back into the river and toward right bank levees. Numerous historical breaches in the River Road levee are attributed to this constriction.

Right bank overflows enter Reach 2 behind the River Road levees through the north overflow bridge. Overflows reach levees along Fishtrap Creek, which funnel floodwaters south, closer to the main river channel, and on toward Bertrand Creek. These flows can

be augmented by overflows through breaches in levees along River Road.

Fishtrap Creek – Flood overflows pass from Reach 3 to Reach 2 through the north overflow bridge under Guide Meridian. Floodwaters encounter levees along Fishtrap Creek, which extend from just below Guide Meridian approximately 1.8 miles downstream. The levees limit bank overflows, but do not contain floodwaters during large flood events. The levees along both Fishtrap and Bertrand Creeks are intended to protect agricultural lands from spring flood events, but are not meant to provide protection during large flood events.

Bertrand Creek – Floodwaters that pass Fishtrap Creek reach Bertrand Creek, which is lined with levees on both sides. The Bertrand Creek levees are approximately perpendicular to flood flows, which causes floodwater to back up onto farmlands upstream of the creek. As a result, high velocity flows cause overtopping and levee breaches during almost every flood event. In 2006, the levees along Bertrand Creek were lowered and set back to reduce the frequency of levee failures and to lower upstream flood levels.

Left Bank Overflow Corridor – Levee overtopping has historically occurred on the Vanderpol property immediately downstream of the high ground on the left bank; floodwaters follow a natural overflow corridor along the reach. Left bank levees offer varying levels of protection, and floodwaters historically have overtopped the levees at various locations. Approximately two miles upstream of the I-5 bridge, near Lattimore Road, higher topography along the left bank guides floodwaters back into the river channel. A short distance upstream, a levee on the Appel property blocks flow returning to the river and has experienced repeated overtopping and failure.

Right Bank Downstream of Bertrand Creek – Floodwaters that pass Bertrand Creek continue along the right bank corridor to approximately the I-5 corridor. Levees offer sporadic protection along the right bank for three miles downstream of Bertrand Creek, but no levees are in place for the last three miles of the reach. Random overtopping of levees and river banks is typical.

Ferndale Area – Residential and commercial urban development is encroaching into the 100-year floodplain, increasing the possibility of flood damage. Several multifamily units and a commercial building have been constructed on the west side of the rivers downstream of the Main Street Bridge. Other developments in this location includes a new Park (Star Park) and several new buildings associated with Ferndale's Water

Treatment Plant. To the west of the Main Street Bridge, several commercial buildings, including 2 fast-food restaurants have been constructed.

Reach 3 Flooding Patterns

Levees along both banks have been built and repaired over the years by a variety of public agencies and private property owners, with no coordination of design and sometimes limited maintenance, resulting in a levee system prone to unpredictable breaches and misdirection of flows from natural overflow corridors and floodwater storage areas. Roadway overtopping is common, and floodwaters often remain trapped in depressional areas long after the flood peak passes. Bank erosion has historically been a problem.

Overflows in the Upper Portion of Reach 3 – Natural overflows exist on both banks north of Nolte Road, immediately downstream of Everson. Right bank overflows travel north toward Mormon Ditch and Kamm Creek. During large floods, this flow continues downstream over Hannegan Road, past the Lynden waste water treatment plant, and through the Guide Meridian north overflow bridge. Left bank overflows travel south to Scott Ditch, then west, and return to the river through Scott Ditch or through the south overflow bridge at Guide Meridian.

Hampton/Timon Road Area – The right bank near Northwood Road is a natural overflow. Floodwaters flow north toward Mormon Ditch and Kamm Creek. Floodwaters from upstream overflow on both banks, inundating and damaging roadways in their path, including Timon Road, Slotemaker Road, and Hampton Road on the right bank; and Noon Road, Polinder Road, and Abbott Road on the left bank. Six residences located near the confluence of Kamm Creek along Hampton Road are impacted by right bank overflows as well as by backflows from the Nooksack River up Kamm Creek.

Polinder Road Area – Two farmable levees have been constructed to overtop on the left bank above Polinder Road:

- a. North of the intersection of Polinder and Thiel Road on the Bedlington property
- b. The river bend just east of Hannegan Road on the Polinder property

Floodwaters from both overflows travel southwest toward Scott Ditch and the south overflow bridge at Guide Meridian.

Scott Ditch – Scott Ditch serves as a conduit for flows leaving the Nooksack's left bank along most of Reach 3.

Lynden Wastewater Treatment Plant – The floodplain is constricted by natural

topography as well as structures built in the area west of Hannegan Road. Floodwaters that overtop Hannegan Road must flow either back into the river upstream of the treatment plant or around the north side of the treatment plant and over the plant access road. As floodwaters recede, water backed up between the treatment plant and Hannegan Road drains back to the river by way of a ditch that begins east of the plant, is conveyed through a box culvert under the plant access road, and in a 48-inch culvert through the right bank river levee. The 48-inch levee culvert is failing and is not equipped with a floodgate and water can back up through the culvert when the river rises. Efforts to replace this culvert with a new side-hinge flood gate and upstream habitat improvements are underway with construction planned for 2021.

BC Avenue Area – On the right bank downstream of the treatment plant, there was an overflow on the Stremmer property south of BC Avenue in Lynden. The levee at this overflow was restored, strengthened, and raised by the USACE to prevent future overtopping after the 1990 floods.

Bylsma Road Area – There is an overflow on the left bank between Bylsma Road and the confluence of Scott Ditch and the river. Levees on the right bank opposite this overflow historically overtop.

Guide Meridian Overflow Bridges – The Guide Meridian was supported on piles to let floodwaters pass beneath, through the Nooksack River floodplain, until around 1950. Floodwaters are now conveyed through overflow bridges that convey a significant portion of Reach 3 overflows downstream to Reach 2. As floodwaters pass through these narrow openings, flow velocity increases, potentially threatening the structural integrity of the bridges.

Reach 4 Flooding Patterns

With the relatively narrow floodplain and unstable, rapidly migrating river channel in Reach 4, the primary flood hazards are bank erosion and the threat of avulsion.

The Deming Area – At Deming, the river channel has migrated across the floodplain in the last two decades. Aerial photos show that in 1975, the river flowed on the opposite side of the floodplain from the community. By 1986, the river had moved 600 feet across the floodplain to its present location. Recent Nooksack River flooding has threatened the Mount Baker School District bus maintenance and sewage treatment facilities, along with the Walton properties along Deming Road on the right bank. At-risk properties are protected by riprap armoring. Immediately downstream of the riprap

protection, erosion occurs on the left bank from deflected flows from the right bank riprap.

Mariotta Road Area Right Bank – An overflow was created during 1990 floods in the vicinity of Mariotta Road by overtopping and eroding the right bank, resulting in bypassing of the existing river bend. Approximately one-third of the river's flow followed this new channel. Floodwaters returned to the main channel approximately 0.5 mile from Mariotta Road. After the 1990 flood, 2,000 feet of bank was restored and new riprap was placed along the right bank to prevent a similar future overflow. A bottleneck immediately downstream of the overflow creates stress on the left bank at an area known as the "Clay Banks." By preventing right bank overflows, the new riprap increases the force of floodwaters on the left bank downstream. The bottleneck created by accumulated sediment on the Sande property, on the inside of the river bend in this area (right bank), increases the force of flow on the left bank. Floodwaters that overflow the right bank between Deming and Nugent's Corner generally follow low topography and swales toward Smith Creek.

Left Bank – The left bank across from Mariotta Road is a steep hillside of silty clay soil that has been increasingly eroding. Slides from this hill have added silt, clay, and other sediment to the river. As the river undercuts the slope, the land sinks and slides. Groundwater seepage along the face of the hillside may also be destabilizing the slope. As the bluff fails, material accumulates at the base of the slope and this material acts to stabilize the slope for a period of typically 5 to 7 years. During this period, the river erodes through the accumulated material at the base of the bluff and causes the bank to become oversteepened and significant bluff failures resume. In 2006, significant bluff failures occurred, causing owners of two houses at the top of the bluff to abandon them when bank failures encroached too close to the structures. Bluff failures on February 14, 2014 and the night of February 20-21, 2014 were large enough that landslide debris temporarily blocked the Nooksack River each time. The latter event caused the downstream Cedarville stream flow gage to fall from ~2250 cfs to 400 cfs in a matter of minutes. Flows at the gage resumed a few hours later as the river reoccupied old channels along the opposite bank and cut around and through the landslide deposits.

Nugent's Corner – Flood fighting efforts in 1990 directed floodwaters around the commercial area, following a system of natural channels, but floodwaters damaged some sections of the community's residential area.

Mount Baker Highway Bridge – The Mount Baker Highway bridge at Nugent's Corner is the only bridge over the river in Reach 4. A flood in 1989 washed out the left bank

approach to this bridge. Riprap was subsequently placed on the upstream side of the left bank bridge abutment to protect it. WSDOT replaced the bridge in approximately 2000.

Nugent's Corner to Everson – The river migrates across the floodplain between Nugent's Corner and Everson more than in any other river reach. Channel migration has resulted in erosion and loss of private property, primarily agricultural lands. Bank erosion is limited on the left bank, but the right bank has been heavily impacted by bank erosion. The channel capacity and natural terrain between Nugent's Corner and just upstream of Everson is high enough that floodwaters do not overtop the right bank along most of the section. During larger flood events, however, flood waters overtop the high ground divide, separating the Nooksack River and Sumas River basins, to flow toward Sumas, and sometimes into Canada.

Riverberry-Davis-Vandellen Properties – The Riverberry property includes a farm located approximately halfway between Everson and Nugent's Corner on the right bank. The river eroded between 30 and 40 acres of this site between 1985 and 1993, and an estimated additional 300 feet since that time. The river has meandered eastward approximately 250 linear feet (LF), eroding raspberry and pasture farmland. The continued erosion was diminishing the natural overbank high ground, which was the basin divide between the Nooksack and Sumas basins, increasing the frequency of overland flow and potential for channel avulsion into the Everson–Sumas Overflow Corridor.

In 1997, Whatcom County completed a pilot project to provide fish habitat and bank stabilization on the property. The Riverberry-Davis site, approximately 2,200 LF, incorporates four rock deflectors and four dolo-rock deflectors with woody debris placed between the structures. The Vandellen site, approximately 900 LF, incorporates large organic debris and timber pilings to construct 19 deflector structures.

Everson Overflow Area – The high ground along the right bank south of Everson Road near Massey Road and upstream to the Vandellen property is the area where much of the overflow to Everson originates. The elevation of the riverbank is the first hydraulic control affecting the amount of flow that leaves the Nooksack basin. Emmerson Road serves as a secondary control as some of the flow overtops the road and flows north while the rest of the flow is channeled back to the river by the levee constructed to protect Everson after the 1990 flood. In 2006, the revetment protecting the high ground divide east of Emmerson Road was reconstructed to prevent erosion of the high ground control.

Left Bank Overflow Corridor Opposite Everson – The river has historically overtopped a left bank levee immediately upstream of Everson. Floodwaters follow the low topography through agricultural areas for approximately 1 mile prior to flowing through a large arch culvert under Everson-Goshen Road (SR 544) and returning to the river.

Reach 5 Flooding Patterns

Floodwaters leave the river channel and overflow through Everson at three locations:

1. South (upstream) of Massey Road
2. Along Emerson Road between Massey Road and Everson
3. Approximately 1,500 feet upstream of the Everson Bridge

Floodwaters from the three overflow sites combine after crossing Massey and Emerson Roads and flow northward over Main Street in Everson and into the Johnson Creek basin. A railroad embankment prevents floodwaters from entering the Sumas River until they reach the vicinity of the City of Sumas. During small overflow events, floodwaters pass over fields and enter a drainage ditch that empties into Johnson Creek just north of Lindsay Road. During major events, floodwaters fill Johnson Creek's valley floor and continue to Sumas, typically flooding the downtown area with several feet of water.

Everson – All major Nooksack River floods cause flooding in Everson. Floodwaters generally flow into Everson from the south along Washington Street and from the overflow area to the east. After the 1990 flood, a 1,000-foot levee, referred to locally as Lagerway Dike, was constructed immediately south of Everson. The levee provides some flood protection but is not high enough to prevent Everson from being flooded during a large overflow.

Sumas – During major floods, flows top the divide between the Nooksack and Sumas watersheds and flow north in the floodplain along Johnson Creek, eventually reaching the city of Sumas. Floodwaters often cross the United States/Canada border within hours of an overflow occurring in Sumas.

Sumas Prairie/Abbotsford (B.C.) – After passing through Sumas, floodwaters cross the border into the District of Abbotsford and along the Sumas River, overtopping the Sumas River's left bank. Floodwaters have historically backed up from the Whatcom Road interchange of the TransCanada Highway and ponded in the western portion of Wet Sumas Prairie, with some floodwater ponding in the Lower Sumas River, Saar Creek, and Arnold Slough. A dike prevents flooding of the reclaimed Sumas Lake Bottom, a

prime agricultural area.

Avulsion Potential at Everson – It is possible that an avulsion would redirect all or a portion of the Nooksack River from its present path to a northward path along the Johnson Creek corridor. The Johnson Creek corridor drops an average of 6 feet per mile over its 10-mile course, a slope twice as steep as the 3-foot-per-mile drop of the Nooksack River. This steeper slope enhances the tendency toward an avulsion. Geologic evidence indicates the Nooksack River previously flowed north at Everson into the Sumas River and Frasier River Basins.

A study commissioned by the B.C. Ministry of Environment, Lands, and Parks predicts the Nooksack River's right bank would have to erode 820 feet at a critical location for an avulsion to occur, and estimates the likelihood of this is 20 percent during a 100-year flood, a statistical occurrence of once every 500 years.

2. Upper Forks of Nooksack River

North Fork – The Mount Baker Highway (SR 542) runs parallel to the North Fork Nooksack River for much of its length. Channel erosion threatens the highway at several locations; WSDOT has constructed several projects to protect the highway, most recently in 2015, and is considering options to relocate the highway at several other locations with chronic bank erosion or flooding problems. The Mount Baker Highway crosses the North Fork at two locations. Portions of the highway are also subject to inundation during significant flood events, primarily near Maple Falls.

County roads that have the potential to be threatened by the North Fork include Truck Road, Rutsatz Road, and North Fork Road. Emergency projects were implemented to protect Rutsatz Road in 2016 and Truck Road in 2018. The 2020 flood caused additional damage to Truck Road. Bridges cross the river along Mosquito Lake Road and SR 9, just upstream of its confluence with the South Fork. Channel erosion and overbank flooding also affect rural residential and agricultural properties along the river.

Several tributaries to the North Fork also have the potential to flood SR 542 including Glacier, Gallup, Cornell, Canyon, Boulder, and Maple Creeks. Flooding at Boulder Creek in the mid-1980s closed the highway for days, stranding hundreds of residents and skiers east of the road closure.

Middle Fork – While the Middle Fork generally runs parallel to Mosquito Lake Road, it is far

enough away along most of its length that it does not pose a threat to the roadway. In 2004, the river eroded close enough to the road at one location upstream of Porter Creek that the roadway was undermined. Whatcom County relocated a section of roadway away from the failing slope so that access could be maintained. The County also took measures to stabilize the bridge at Mosquito Lake Road where it crosses the Middle Fork.

The City of Bellingham's diversion dam for diverting water from the Middle Fork into Lake Whatcom is also located on the Middle Fork approximately 2.5 miles upstream from the Mosquito Lake Road Bridge. Other infrastructure and property impacted by flooding and erosion on the Middle Fork is primarily private developments associated with rural residential and agricultural properties.

Porter and Canyon Lake Creeks, tributaries to the Middle Fork, have also flooded Mosquito Lake Road where it crosses the lower portion of their alluvial fans. The flooding blocked local access and caused damage to the road and to the county bridges.

South Fork – Similar to the other two forks, the South Fork flows through rural residential and agricultural properties for most of its length. The river flows through the town of Acme where overbank flow can damage residential and commercial properties. The water tank for the town's water district is located in the floodplain in Acme. A project to reduce the potential for channel erosion just upstream of Acme was implemented in 2009 to improve fish habitat and limit channel migration.

SR #9 crosses the South Fork in Acme and is inundated by floodwaters both north and south of the bridge, severely limiting access to the South Fork valley during moderate to large flood events. SR #9 also is flooded by the South Fork further downstream south of VanZandt.

Mosquito Lake Road is also flooded by the South Fork at several locations near Acme during relatively frequent flood events. In 2007, the river channel eroded to within 20 feet of the roadway, and Whatcom County in conjunction with the FCZD extended an existing revetment to protect the roadway. Other County roads impacted by the South Fork are Strand Road and Potter Roads; both roadways become impassable during significant flood events. Whatcom County recently replaced the Potter Road Bridge over the South Fork due to structural deficiencies and widened the river opening.

E. MITIGATION STRATEGIES

1. Lower Nooksack River

The Lower Nooksack River CFHMP recognizes that both the short and long term implementation of structural and nonstructural elements and activities must be implemented for the recommended plan to be fully functional. Both operational effectiveness and cost effectiveness must be periodically reviewed and adjusted throughout the life of the plan. A comprehensive and collaborative effort is underway to update the 1999 CFHMP and integrate it with the needs of salmon and floodplain land uses. The results of this effort, known as the Floodplain Integrated Planning (FLIP) process, are not yet available for this plan update.

Over the last twenty years, the FCZD has worked with the diking districts and subzones to get many of the Nooksack River levees eligible for rehabilitation in the USACE's Public Law (PL) 84-99 Program. In late 2013, the FCZD initiated the development of a System-wide Improvement Framework (SWIF) to address the deficiencies identified by the USACE during their biennial inspections of the levees in the program. This process requires establishing an interagency coordination team (ICT) to guide development of the plan, and incorporating environmental considerations to address threatened and endangered species and tribal treaty rights. The ICT developed for the SWIF includes representatives from federal, state and local resource agencies, as well as representatives from the diking districts and agricultural community. The goal of the SWIF process is to reduce flood risk and improve habitat, while keeping the levees eligible in the USACE's rehabilitation program. The plan was completed in 2017; ongoing implementation of the SWIF will keep the levees currently rated as unacceptable by the USACE eligible for repair. While the SWIF process was focused somewhat narrowly on the levee system, many on the ICT wanted to look at the floodplain more broadly. This led to the current FLIP process to update the CFHMP. The current version of the CFHMP recommends the following actions as part of the overall approach for flood hazard management:

- a. Hydraulic modeling and alternatives analysis
- b. Engineering and design of capital improvement projects
- c. Meander limit identification and adoption
- d. Sediment management strategy development
- e. Floodplain mapping and land use management in the floodplain
- f. Land and easement acquisition program development

g. Flood preparedness and emergency response

Since adoption of the CFHMP, significant work has been completed in all of these program areas. These efforts are summarized below; for additional information, contact Whatcom County Public Works, River and Flood Division.

Hydraulic Modeling and Alternatives Analysis - A detailed hydraulic model has been developed and calibrated, and initial alternatives analysis of many of the specific projects identified in the CFHMP has been completed. The model has recently been updated to include 2006 bathymetric and Light Detection and Ranging (LiDAR) data and the updated model has been calibrated to the 2004, 2006, and 2009 floods. The model is currently being used to update the FEMA floodplain maps. A new two-dimensional model based on 2015 bathymetry and 2013 LiDAR is currently being calibrated to more recent events in 2015, 2017, 2018 and 2020. The updated model is being used in the FLIP process and in detailed project design.

Engineering and Design of Capital Improvement Projects - The hydraulic model has been used to perform preliminary hydraulic analysis and design for many of the projects identified in the CFHMP as described below. Some projects, like lowering the Bertrand Creek levees have already been constructed, and others are still in the planning or detailed design phases.

Meander Limit Identification and Adoption - Mapping of historic channel locations, erosion hazard zones, and avulsion hazards has been completed for the entire Lower Nooksack River. Identification of meander limits must be completed in conjunction with design of the flood control system through the hydraulic modeling and alternatives analysis. Some of this work has been initiated for upper Reach 4, between Deming and Nugents Corner as part of the SWIF planning process and for the rest of the lower mainstem as part of the FLIP process.

Sediment Management Strategy Development - A proposed approach for development of a sediment management strategy was developed and distributed to the agencies involved in permitting gravel removal from the river. Feedback from the agencies indicated that existing data was insufficient to support an analysis that would have a small enough error to allow them to support a gravel removal request. In 2006, a detailed bathymetric survey of the river was performed to provide baseline data for future comparisons to estimate the amount of aggradation that may be occurring throughout the river. A preliminary sediment budget using available data suggests aggradation rates that would enable measurement and quantification in a period of 10 to 20 years.

A cooperative study to evaluate the potential impacts of ongoing sedimentation was completed by the US Geological Survey in 2019. The report shows that local channel bed elevations at the USGS streamflow gages vary over time in the range of 1-3 feet. The gage data show long-term

trends in bed elevation changes on the order of 1 foot per decade that persist years to decades. These trends in persistent aggradation and incision appear to originate in the North Fork and translate downstream over decades. The pattern of incision and aggradation in the North Fork correlates with the regional climate, where persistent incision follows extended cold and wet periods, and persistent aggradation follows extended warm and dry periods (USGS, 2019).

Floodplain Mapping and Land Use Management in the Floodplain - New floodplain mapping has been developed through FEMA's Cooperating Technical Partners (CTP) program for most of the rivers and streams in the County. The study included detailed mapping for the South Fork Nooksack River, and approximate methods and remapping flood elevations on more recent topography for the North and Middle Forks and many of the smaller streams throughout the. This new mapping was officially adopted by FEMA for use in the NFIP in 2019. Much work was done on the Lower Nooksack River as part of the mapping study, though a change in how FEMA treats levees delayed completion of the mapping for the Lower Nooksack. In 2020 FEMA shared draft work maps for the lower Nooksack River with the affected communities and is working to refine the mapping to try to address community concerns before releasing the preliminary maps to the public.

Land and Easement Acquisition Program Development - A program for land acquisition as a component of flood hazard management was adopted by the FCZD Board of Supervisors in 2000. Numerous acquisitions have been completed under this program as hazard mitigation or other funding becomes available and opportunities with willing land owners arise. Areas targeted for acquisition include Marietta, and the high hazard portions of the alluvial fans associated with Canyon Creek and Jones Creek. Additional lands have been acquired for capital project implementation, wetland mitigation and floodplain preservation.

Flood Preparedness and Emergency Response - Annual flood preparedness activities continue to be performed by the various agencies involved in emergency response with overall coordination by Whatcom County DEM. These activities include annual flood meetings, training of sector observers, sandbag training, and sandbag pre-deployment throughout the County.

The CFHMP also outlines recommended projects and programs to implement along the various reaches of the Lower Nooksack River. Below are recommended mitigation strategies for the five reaches of the Lower Nooksack. While many of these recommendations have only been developed to a conceptual level and more detailed hydraulic analysis and design are needed before they can be fully implemented, others have been fully implemented. For more details on these projects, refer to the CFHMP, available from Whatcom County's River and Flood Division, Public Works Department.

Mitigation for Reach 1

Lummi River – The recommended improvement for the Lummi River (Red River) is not to increase flows to the river but to rehabilitate existing culverts at the diversion from the Nooksack River, including a gate or similar flow control structure and modifying downstream structures, if necessary. While this project would do little to reduce flooding, significant habitat benefit could be provided.

The property where the Lummi River diversion is located was recently acquired by the FCZD; restoration alternatives will be evaluated as part of the FLIP process.

Between the Bridges in Ferndale – The recommended improvement is to designate the properties on the right bank for flood proofing and/or property buyouts, and maintain open space at Vander Yacht Park and the golf course on the left bank. Implementation of this recommendation should include defining and stabilizing the overflow path, which could potentially overtop I-5.

The FLIP process will include a cumulative impacts analysis of future planned development within the Nooksack River floodplain in the City of Ferndale.

Left Bank Downstream of Ferndale – The CFHMP recommendation for this area is to maintain the overflows in Hovander Park and maintain the existing natural overflow corridor along the left bank. With this approach, agricultural levees downstream from the overflow area that are not continuous now could be made continuous as maintenance and reconstruction is called for. The rebuilt levees' crest elevations should be the same as those of right bank agricultural levees downstream of Ferndale, and they should be built to withstand overtopping. Computer modeling of this recommendation will be required.

Since the adoption of the CFHMP, the properties in the left overbank floodplain between Slater Road and Marine Drive have been acquired by the Washington Department of Fish and Wildlife (WDFW). The levee on the WDFW property is continuous and its crest is at a lower elevation than the right bank levee, but it does provide some flood protection to Slater Road, Marine Drive, and Marietta during smaller, more frequent flood events. Damage to the crest and backslope of the levee was repaired in 2009 and 2018 to maintain this level of protection as an interim measure until other recommended mitigation measures can be implemented for these areas. Significant flooding during the 2020 flood resulted in more damage to the levee and another repair project is being developed for implementation in 2022.

Slater Road Bridge Approach – The initial CFHMP recommendation for this area is to

maintain Slater Road at its current elevation to allow overtopping and temporary road closures during floods. Eliminating overtopping of Slater Road on the left bank during large floods would be of little benefit at times when overtopping on the right bank during large floods inundates the road on the other side of the river. This recommendation should be reconsidered as traffic demands change with time and if special financing were to become available.

Since the adoption of the CFHMP, the Lummi Nation has pursued mitigation grant funding to raise the left approach to the Slater Road bridge to provide access during a 100-year event. Whatcom County and Lummi Nation initiated a project using Pre-Disaster Mitigation grant funding, but the project has been delayed due to increased costs for construction.

Marietta Area – The recommended improvement for the Marietta area is to designate all flood-prone properties in the community for buyout, so that owners would have the option to sell and relocate should federal purchase funds be made available after a future flood. In the interim, property owners are encouraged to flood proof their structures.

Since the CFHMP was adopted, the Whatcom County FCZD has acquired numerous properties within Marietta using a combination of local, state, and federal funds. The 2009 flood event caused extensive damage to residential properties, and a number of these acquisitions were completed after that flood event. Currently, over to half of the properties within Marietta are in public ownership and three additional properties were recently purchased under the Hazard Mitigation Grant Program.

Right Bank Downstream of Ferndale – The recommended improvement is a setback levee to provide 100-year flood protection and manage overflows to Lummi Bay. This improvement will require discussions with affected property owners. Existing agricultural levees along the right bank will remain overtoppable, but a right-bank overflow corridor will be in place, necessitating flood easements, flood proofing, and/or property buyouts in the corridor. Haxton Way will not have to be raised and the Lummi Seawall will not have to be rehabilitated.

Several alternative levee alignments were evaluated during the SWIF planning process and additional work is being performed under the FLIP process to try to determine a preferred alignment.

Treatment Plant and Ferndale, South of the Bridges – This improvement is to provide 100-year flood protection along the right bank downstream of Main Street by raising the

existing levee and Ferndale Road, and to connect the Ferndale Road levee to the recommended new levee downstream. This project will resolve several levee deficiencies noted during the USACE inspections and was identified as a high priority for implementation in the SWIF plan.

Funding for detailed design is underway using grant funding through DOE's Floodplains by Design (FbD) Program.

Marine Drive Bridge Approach – The bridge approach will be maintained at its current elevation to allow overtopping and temporary road closure during floods. Lowering the roadway will not be necessary with the recommended setback levee on the right bank to manage overflows to Lummi Bay.

Haxton Way – Implementation of the recommended right bank setback levee would minimize the occurrence of Haxton Way inundation, making the general raising of Haxton Way unnecessary. However, until the right bank cutoff levee recommendation is accepted and fully implemented, levee overtopping and levee breaches will likely continue. Under these circumstances, the raising of the lowest sections of Haxton Way as an interim action is considered appropriate.

Since the CFHMP was adopted, Diking District #1 has widened and added material to the backslope of much of the levee so it is less prone to failure during overtopping events. In addition, the hydraulic model indicates that most of the levee is high enough to prevent overtopping for events as large as the 100-year flood. These factors reduce the need for interim actions at Haxton Way.

Lummi Bay Seawall – The right bank setback levee will minimize inundation of the Lummi Bay seawall, so no significant capital improvements are recommended for the seawall. Continued maintenance of the existing structure and culverts and tidegates is recommended.

Mitigation for Reach 2

Ferndale Urban Area – Flood dynamics in the Ferndale urban area should be analyzed in detail, including an evaluation of the relationship between urbanization, flood storage and conveyance, and the potential for I-5 overtopping. Evaluation of an overflow path in the event of I-5 overtopping should also be included.

This work is being completed as part of the ongoing FLIP process.

River Road Area – A right-bank overflow area should be designated and the remaining

levee along River Road should be strengthened.

Fishtrap Creek – The possibility of lowering a segment of the levees to provide a wider flow path for overflows from the Nooksack River should be explored with local property owners. This approach will also require regular sediment removal from the creek in order to maintain channel capacity and/or reduction of sediment inflow from the creek's upper watershed.

Bertrand Creek – New levee profiles should be established along the creek and the levees should be designed to be overtoppable. Since adoption of the CFHMP, the levees along Bertrand Creek were lowered and set back from the creek along most of the length within the Nooksack River floodplain. Flood and conservation easements were acquired over the lands between the old and new levee alignments. While these levees typically failed during every significant flood, during the January 2009 flood event, the levees overtopped for a long duration with only minimal damage to the levee system.

Guide Meridian & I-5 – A left bank overflow corridor should be designated between Guide Meridian and I-5.

Mitigation for Reach 3

Detailed Hydraulic Analysis – A program is recommended that includes strategically linking the river channel with the agricultural floodplain. The goal is to limit random bank/levee overtopping, random levee failure, and sudden development of off channel flood flow paths. This would be accomplished by distributing those flows that exceed channel capacity over the floodplain, thereby reducing levee and bank stress. Seven overflow locations would be analyzed under this program, as follows:

1. Right bank south of Slotemaker Road
2. Left bank near the west end of Nolte Road
3. Bend in the right bank south of Northwood Road
4. Left bank near the intersection of Polinder and Thiel Roads
5. Left bank in the bend upstream of the Polinder/Hannegan intersection
6. Right bank downstream of the Lynden treatment plant
7. Left bank northwest of Bylsma Road, upstream of where Scott Ditch enters the river

Since adoption of the CFHMP, initial hydraulic modeling and alternatives analysis has

been performed. This work suggests that creating an overflow at the last site near Blysmas Road may not be necessary, because it may reduce the effectiveness of the other overflows and redistribute flows between the overflow corridors. Additional analysis will be conducted with the updated hydraulic model during the FLIP process update to optimize the overflow locations, lengths, and elevations.

Strengthening of Roadway Sections – Strengthening of roadway sections should be performed along overflow corridors, as appropriate. Designating overflow locations will maintain the historical pattern of overtopping some roadways in the floodplain. The designated roadway areas are as follows:

- Slotemaker Road
- Timon Road
- Hampton Road
- Noon Road
- Thiel Road
- Polinder Road
- Hannegan Road

Guide Meridian Overflow Bridges – This improvement, in the short term, is to provide protection against erosion and scour through armoring. If the roadway is rebuilt in the future, opportunities for lengthening the bridges and/or creating additional openings should be investigated at that time.

Since the CFHMP was developed, WSDOT completed a widening project for the Guide Meridian that included the segment that crosses the Nooksack River floodplain. Whatcom County staff worked with WSDOT to refine the design of the overflow corridor openings to ensure no rise in flood elevations and provide additional capacity to accommodate overflows identified in the CFHMP. As a result, the newly constructed overflow bridges are of greater capacity and box culverts were added in each overflow corridor.

Mitigation for Reach 4

Limiting of Channel Migration – Reasonable limits for channel migration and the prevention of a right bank avulsion are recommended with three levels of priority:

1. Immediate action to move the channel away from limits mapped as part of the CFHMP
2. Future action when the channel is moving toward the meander limits
3. Long-term, ongoing future action to move the channel toward the middle of the corridor along Reach

This action is called for at the following sites:

- In Deming near the Mount Baker High School
- Southwest of Williams Road, downstream from Deming
- West of Mariotta Road
- The property west of Hopewell Road
- The property just south of Massey Road and west of Cole Road

Deming Right Bank Areas at High Risk of Avulsion -- The adopted CFHMP identifies three projects, for this portion of the reach as discussed below. Through the SWIF planning process, several alternative levee alignments were evaluated; additional work is needed during the FLIP process and the relevance of these projects will be revisited in that work.

1. New protection should be added downstream of Deming and the existing protection at the high school should be shortened
2. Existing bank protection south of Williams Road should be ensured to provide avulsion protection
3. New protection should be added between the protection projects already in place on the Sande property and west of Marietta Road

Mariotta Road – At Mariotta Road, 300 feet should be removed from the downstream end of the existing riprap protection, the remaining riprap should be tied into the right bank, and gravel should be removed from the bar on the right bank of Sande property. The remaining riprap should be retrofitted to reduce vulnerability to scour and increased fish habitat should be considered. Additional work on the left bank downstream of the clay banks may be warranted.

Nugent's Corner – Low levees should be constructed on the upstream and downstream

sides of the Mount Baker Highway Bridge. This improvement to Nugent's Corner should be given a lower priority than projects to prevent avulsion elsewhere in Reach 4.

Levees near Nugent's Corner – The existing overtopping levee upstream of Everson (on the left bank) should be maintained and strengthened, if necessary.

Several recent repairs to this levee (known as the Twin View Levee) have been completed in the past five years.

Mitigation for Reach 5

Everson Bridge – The stand of timber at the upstream end of the overflow on the river's right bank, approximately 1 mile upstream from the Everson Bridge, should be maintained. Additionally, an overtopping levee on the left bank in the same area should be retrofitted and maintained.

Nooksack River and Johnson Creek Watersheds – Maintenance of the divide between the Nooksack and Johnson Creek watershed involves structurally maintaining the divide with an aggressive alternative, a rock trench, as well as discussions with property owners to ensure local farming activities do not involve fields along the divide and changing ground elevation. The second measure is to provide continuous hard protection along the entire length of the overflow from the Nooksack River to the Johnson Creek corridor.

Since the CFHMP was adopted, 1,200 feet of the revetment along the riverbank at the Everson overflow near Massey Road was reconstructed. Prior to this project, the high ground divide was being eroded by the river. Emergency projects were constructed in 2003, 2005, and 2006 to curb this erosion until a more extensive project could be constructed in the summer of 2006.

Recent flooding including during the 2020 flood has caused bank instability damage downstream of the Trans Mountain pipeline crossing. Efforts are underway to develop a project to address this new damage.

2. Upper Forks of Nooksack River

Comprehensive flood hazard management plans have not been developed for any of the three upper forks. The FLIP process will include recommendations to address flood issues for the upper forks as part of the final plan. Some studies to support development of comprehensive

flood plans have been performed including the following:

- a. Mapping of historic channel locations, erosion hazard zones, and avulsion hazards for all three forks
- b. Development of a detailed hydraulic model for the South Fork Nooksack River
- c. Detailed floodplain studies to develop new floodplain mapping for the South Fork Nooksack River
- d. Updated approximate floodplain mapping for the North and Middle Forks using updated topographic data and historic channel migration mapping

While the FLIP process is underway, ongoing mitigation efforts will primarily consist of repair of existing flood control structures to protect existing infrastructure and implementation of the County's emergency preparedness, NFIP, and early flood warning programs.

3. Other Areas

Areas other than Nooksack River floodplains have been vulnerable to floods or isolation by flood waters in the past. This often relates to the presence of alluvial fans or smaller streams that can cause localized flooding, including in urban areas. Examples include the following areas:

- Austin Creek and Sudden Valley
- Smith Creek and North Shore Road
- Hillside Road
- Blue Canyon
- Iowa Heights
- Henderson Road
- Mount Baker Highway Communities, as discussed above
- Whatcom Creek and Iowa Street
- Squalicum Creek and Meridian Street and Roeder Avenue
- Double Ditch Creek and Double Ditch Road at Lynden

Residents of Whatcom County should understand the flood potential of areas in which they elect to live. It is important to remember that dangers associated with flooding do not end

when the rain stops. Electrocution, structural collapse, hazardous materials leaks, and fire are secondary hazards associated with flooding and flood cleanup.

COSTAL FLOODING (Including Storm Surge)

A. DEFINITIONS

Coastal Flooding An inundation of dry land with water caused by weather phenomena and events that push coastal waters onto the shore at levels that are above Mean High High Water due to the effects of wind, surge and atmospheric pressure. As coastal flood is generally a temporary condition that recedes when the tide begins to ebb.

Coastal Floodplain The land area of a coastal area that becomes inundated with water during coastal flooding.

National Flood Insurance Program A federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. The NFIP is designed to provide insurance as an alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their content caused by floods. When a community chooses to participate in the NFIP, they agree to adopt and enforce a floodplain management ordinance to reduce future flood risks to new construction in Special Flood Hazard Areas. In exchange, the federal government agrees to make flood insurance available within the community as a financial protection against flood losses.

B. BACKGROUND INFORMATION

A **coastal flood**, or the inundation of land areas along the coast, is caused by higher than average high tide and worsened by heavy rainfall and onshore winds. **Storm surge** is an abnormal rise in water level in coastal areas, over and above the regular astronomical tide, caused by forces generated from a severe storm's wind, waves, and low atmospheric pressure. Storm surge is dangerous, because it is capable of flooding large coastal areas. Extreme flooding can occur in coastal areas particularly when storm surge coincides with normal high tide.

High winds off the coast combined with high tides and low atmospheric pressures can result in coastal flooding along the western edge of Whatcom County. The main coastal communities impacted by coastal flooding are Sandy Point, Birch Bay, Point Roberts, and Lummi Peninsula. Damages can include structural damage to residences and seawalls as large debris is carried by waves hitting the shoreline, inundation damage to structures, and debris accumulation and flooding of roadways. In some areas where the shoreline is a bluff, coastal erosion and/or

improper drainage can threaten the structural integrity of residential structures and the stability of the bluff itself.

In Whatcom County many areas are subject to coastal flooding, principally Sandy Point, Birch Bay, Point Roberts, Lummi Island and the Lummi Peninsula.

C. RECENT HISTORY IN WHATCOM COUNTY

Recent significant coastal flooding events are summarized as follows:

**October 12, 1962
(Columbus Day)** The inclusion of the infamous “Columbus Day Storm” is primarily due to it being the wind storm for which virtually all other Pacific Northwest wind storms are compared. Although actual tidal information is not available, extreme low pressure and south/southeasterly winds of nearly 100 miles per hour likely created significantly higher than predicted sea levels and waves large enough to result in some coastal flooding. However, reports of the timing of the strongest winds during the storm indicate that they coincided closely with a low tide in the area. Further, any coastal flooding would have been moderated by the fact that the predicted high tides were at least 1 foot lower than high tides generally predicted during mid-winter months. The largely undeveloped state of southerly and southeasterly shores of Sandy Point, Birch Bay Village area, Point Roberts, Lummi Island, Lummi Peninsula, Eliza Island, etc. would have also minimized any property damage due to coastal flooding. Newspaper articles about the storm largely focused on damage and problems on land and water due to the wind with no mention of coastal flooding.

**March 30, 1975
(Easter Sunday)** Extremely strong northwesterly wind coincided with a predicted 6:21 a.m. high tide of 8.98 feet mean lower low water (MLLW), causing coastal flooding, especially along the west shore of Sandy Point. The northwesterly/westerly facing shoreline of Birch Bay was also likely impacted. Many homes and property along Sucia Drive suffered damage of varying degrees.

December 16, 1982 Strong westerly and southwesterly wind coincided with low pressure to create a record high tide of 12.93 feet MLLW (Cherry Point) that was 2.90

feet above the predicted level of 10.03 feet MLLW. Significant coastal flooding and damage, including low-lying inland areas, occurred in the Birch Bay, Sandy Point, and Gooseberry Point areas. Legoe Bay Road on Lummi Island and roads and property along the south shore of Point Roberts were also flooded.

December 4, 1993 Strong westerly wind of 45 to 50 miles per hour (mph) with gusts to 68 mph reportedly coincided with high tide and low pressure to create coastal flooding along the westerly facing shorelines of Sandy Point and Birch Bay. Newspaper accounts reported minor damage to homes as well as water and debris on Sucia Drive and Birch Bay Drive. Actual tidal levels are not available, but at Cherry Point high tide was predicted at 9:36 a.m. to be 9.97 feet MLLW; the actual height was likely significantly higher.

December 15, 2000 Reported 70 mph northwesterly winds caused coastal flooding along the westerly shores of Sandy Point and Birch Bay as a rising tide approached a predicted 9:21 a.m. high tide (Cherry Point) of 10.64 feet MLLW. Several dozen homes and property along Sucia Drive were especially hard hit, suffering damage of varying degrees. Most of the damage occurred as much as two or more hours prior to the predicted high tide when the winds were strongest out of the northwest and the tide level was rising between the 8 to 10 foot MLLW range. The wind had eased and shifted to northeast (off-shore) by the time of high tide.

December 14, 2001 Almost exactly one year after the December 15, 2000 event, very similar coastal flooding and damage occurred at Sandy Point and Birch Bay. Strong northwesterly winds closely coincided with an observed 6:12 a.m. Cherry Point high tide of 10.58 feet MLLW. The observed tidal levels were 0.5 to 1 foot higher than predicted during the period of strongest winds due to low pressure. Damages were less extensive than the previous year because the County's Division of Emergency Management contacted homeowners prior to the event to warn them of the upcoming potential for coastal flooding. Property owners were able to take protective measures to reduce property damage.

February 4, 2006 Strong southeasterly wind coincided with extreme low pressure to create a 9:06 a.m. high tide of 12.34 feet MLLW that was 2.44 feet higher than the predicted 9.90 feet. Significant coastal flooding occurred in virtually all vulnerable coastal areas, including Sandy Point, Gooseberry Point, along the northerly shore of Birch Bay, the southeasterly shore of the Lummi Peninsula (Lummi Shore Road area), and the southerly shore and the Maple Beach/Bay View Drive areas of Point Roberts.

December 17, 2012 Strong westerly winds coincided with a low pressure system (+/-980 mb), resulting in a 9:00 am high tide of 11.94 feet (MLLW) that was 1.4 feet higher than the predicted 10.53 feet (MLLW) at Cherry Point. Moderate flooding and damage occurred along westerly facing shorelines, primarily at Birch Bay, Neptune Beach/Sandy Point, and Gooseberry Point areas. Water overtopped and deposited woody debris and seaweed along much of Birch Bay Drive resulting in temporary closure of much of the road from the State Park to the Cottonwood Beach area. Flooding occurred around and in many homes in the area with damage largely limited to water issues, although some structural damage likely occurred to buildings along the shoreline that were exposed to waves and large woody debris. Sucia Drive and several homes were also flooded in the vicinity of 4783 Sucia Drive. It is noteworthy that much of the flooding/damage occurred as much as 2 hours prior to high tide when the Cherry Point water level was only at about 10-11 feet (MLLW) due to strong northwest/westerly wind and resulting waves that had subsided significantly by the time of highest tide at 9:00 am.

December 2019 Strong westerly winds coincided with a low-pressure system (+/-980 mb), resulting in a 1300 high tide of 13.4 feet (MLLW) that was 2.5 feet higher than the predicted 10.9 feet (MLLW) at Cherry Point. Significant flooding and damage occurred along westerly facing shorelines, primarily in Birch Bay, Blaine and Point Roberts. Water overtopped and deposited woody debris and seaweed along much of Birch Bay Drive resulting in temporary closure of much of the road from the State Park to the Cottonwood Beach area. This flooding also largely undercut and destroyed the southbound lanes of Birch Bay Drive resulting in a nearly one-year closure of the road

to one lane. Flooding occurred around and in many homes in the area with damage largely limited to water issues, although some structural damage likely occurred to buildings along the shoreline that were exposed to waves and large woody debris. It is noteworthy that much of the flooding/damage occurred as much as 2 hours prior to high tide when the Cherry Point water level was only at about 10-11 feet (MLLW) due to strong northwest/westerly wind and resulting waves that had subsided significantly by the time of highest tide at 1500.

D. VULNERABILITY ASSESSMENT

Sandy Point – Virtually the entire Sandy Point area, including the shoreline in the Neptune Beach area, is subject to coastal flooding, primarily due to a combination of high tidal levels and wind-driven waves from east through northwest. Homes and property along the shoreline are especially vulnerable to damage from wind-driven water and large debris. Homes and property on the interior of the peninsula are generally only subject to water damage due to flooding from high tide levels and wash over the shoreline properties. Virtually all roads within the peninsula, including the main access roads of Sucia Drive and Saltspring Drive, are subject to flooding. The Sandy Point Fire Hall on the east side of Sucia Drive south of Thetis Way is also subject to flooding.

Birch Bay – Virtually the entire non-bluff shoreline area of Birch Bay is subject to extensive coastal flooding, primarily due to a combination of high tidal levels and wind-driven waves from southwest through northwest. Homes and other residential structures, businesses, and properties in low areas along and near the shoreline are especially vulnerable to damage from wind-driven water and large debris. For the most part, residential structures and properties in low areas landward of shoreline properties in the Birch Bay Village development and along and including Birch Bay Drive and Birch Point Road are only subject to water damage due to flooding from high tide levels and wash over the shoreline roads and properties. Flood waters between Alderson Road and the low area of the Sea Links development can extend almost 1 mile inland to Blaine Road. High tidal levels, waves, and storm surge can also restrict the outflow of Terrell Creek, resulting in flooding of residential structures, properties, and roads in low areas adjacent to or in the vicinity of Terrell Creek, such as the Birch Bay Park and Leisure Park development areas. Land and structures along the shoreline and in the low areas of Birch Bay State Park along Terrell Creek are also subject to coastal flooding. Most of the bluff areas along the shoreline are subject to slope instability due to erosion from high tidal levels and wind-driven waves.

Point Roberts – The entire shoreline area of Point Roberts is subject to coastal flooding, especially in the non-bluff areas, primarily due to a combination of high tidal levels and wind-driven waves from the northwest through northeast. Residential and business structures and properties along low-lying shoreline areas along the westerly, southerly, and easterly shore are especially vulnerable to damage from wind-driven water and large debris. Generally, residential structures, properties, and roads in low areas landward of shoreline properties along Marine Drive and Edwards Drive are not prone to significant flooding due to the Point Roberts Dike (Point Roberts Diking District is non-active) and detention of upland drainage in the canal in the vicinity of and around the Point Roberts Marina. However, residential structures, businesses, and properties adjacent to and along Bay View Drive in the Maple Beach area are vulnerable to damage from wind-driven waves, splash, and debris over the seawall. Structures and properties in low areas landward of the properties fronting Bay View Drive are generally only subject to water damage from coastal flooding. A portion of Whatcom County's Lighthouse Marine Park is subject to coastal flooding. Most of the bluff areas along the shoreline are subject to slope instability due to erosion from high tidal levels and wind-driven waves.

Lummi Peninsula – The entire shoreline area of the Lummi Peninsula is subject to coastal flooding, especially in the non-bluff areas, primarily due to a combination of high tidal levels and wind-driven waves from the northwest through southeast. Low-lying residential and business structures and properties along the shoreline in the Gooseberry Point area are especially vulnerable to damage from wind-driven water and large debris. For the most part, residential structures, properties, and roads in low areas landward of shoreline properties in the Gooseberry Point and Hermosa Beach areas, including Haxton Way, Lummi View Drive, and Lummi Shore Road, are only subject to water damage due to flooding from high tide levels and wash over the shoreline roads and properties. Most of the bluff areas along the shoreline are subject to slope instability due to erosion from high tidal levels and wind-driven waves.

Lummi Island – The two low areas on Lummi Island that are particularly vulnerable to damage from coastal flooding are Lummi Point and the Legoe Bay Road area immediately east of Village Point. Virtually the entire low area of Lummi Point has many residential structures and properties that are subject to flooding and damage from a combination of high tidal levels and waves from a southerly or northerly direction. The Legoe Bay Road area has residential and other structures and properties that are subject to flooding due to high tidal levels in combination with wind-driven waves from a southerly direction. The portion of Legoe Bay Road close to the shoreline in the low area is vulnerable to debris deposition and damage from erosion. Most of the non-rocky bluff areas along the westerly and easterly shorelines of Lummi Island shoreline are subject to slope instability due to erosion from high tidal levels and wind-driven waves.

E. MITIGATION STRATEGIES

In recent years, the level of development activity in areas prone to coastal flooding increased significantly. Whatcom County initiated a study to develop new floodplain mapping for several coastal areas in 2000. In 2004 and 2007, new mapping developed by the County with assistance from FEMA's CTP program was finalized for Sandy Point and Birch Bay. FEMA has developed new County-wide coastal floodplain maps. Other mitigation options for coastal areas could include working with homeowners to elevate and/or flood-proof structures or voluntary acquisition if these approaches are cost-effective and funding becomes available.

In 2019 and 2020 the Birch Bay Drive and Pedestrian Facility was installed along a 1 ½ mile stretch of Birch Bay Drive, which effectively created a 14' elevated berm and cost approximately \$12 million. This area was heavily impacted in previous storms. These types of structures could be considered for other shoreline areas in Whatcom County.

GEOLOGIC HAZARDS

A. DEFINITIONS

- Alluvial Fans** Lobate, or fan-shaped, gently sloping deposits of stream-deposited sediment (alluvium) located where a steep-gradient stream or canyon issues onto a broader, low-gradient valley floor, plain, or lake. The term alluvial fan encompasses debris flow fans, composite fans, and fan deltas.
- Landslide** A term that includes a wide range of ground movement, such as rock falls, deep-seated failure of slopes, and shallow debris avalanches and flows.
- Liquefaction** The loss of intergranular strength in saturated, loosely-packed sediment due to elevated pore pressures typically generated by seismic shaking during large magnitude earthquakes. Liquefaction can result in a loss of foundation bearing support and significant building damage, as well as lateral spreading, sand boils, and excessive ground settlement with associated disruption of utilities, roadway systems, and infrastructure.
- Seismic Hazard** Refers to areas subject to severe risk of earthquake damage, such as those areas underlain by sediments susceptible to liquefaction. Almost all of the lower Nooksack River floodplain is categorized as seismically hazardous, as are areas underlain by peat soils (see the “Earthquakes” section for more information regarding seismic hazards).

B. BACKGROUND INFORMATION

Due to their presence in Whatcom County, as well as data availability, three geologic hazards were identified and analyzed as part of this Plan:

1. Alluvial Fans – All alluvial fan areas were classified as hazardous.
2. Coal Mines – Any areas on top of a historical coal mine were determined to be hazardous.
3. Landslides – Risk areas were determined based on slope gradient (specifically slope gradients greater than 15 degrees), underlying geology and soil saturation potential. Although slope gradients not a complete predictor of stability, it was a primary for determination, recognizing shallow rapid landslides tend to be triggered in the 33-35% plus range.

1. Alluvial Fans

Alluvial fans form where there is a sharp decrease in stream gradient and a loss of channel confinement, which results in decreased stream velocity and rapid sediment deposition; generally, where a stream or canyon issues onto a valley floor, plain, or lake. Active mass wasting processes in upland areas, including landslides and erosion, function as the primary catalyst for the natural introduction of fine to coarse grained sediment, soil material, and woody debris to stream channels in the Pacific Northwest. Sediment and debris generated by mass wasting are introduced to stream channels, which may then be routed, either en masse by channelized landslide processes such as debris flows or floods, or incrementally via fluvial sediment transport processes. Stream bed aggradation on the alluvial fan surface due to fluvial, as well as episodic debris flow/flood deposition on low-gradient fan surfaces results in a continued potential for avulsion, or channel-switching, which, over long periods of time, creates the lobate, or fan-shaped morphology commonly observed in plan view for alluvial fans. These processes function continually on the small-scale, but extreme events occur episodically and contribute significantly to alluvial fan formation, as well as pose significant hazards to proximal development.

The majority of alluvial fans have been mapped in Whatcom County by the Washington Geological Survey. Alluvial fans can be expected to be present wherever a stream exits a steeper hillside or mountain and enters a broader valley floor such as the Nooksack River valley or a body of water such as Lake Whatcom, Lake Samish, Silver Lake, or Reed and Cain Lakes. The alluvial fans in Whatcom County are formed both by ongoing transport of fine- to coarse-grained sediment and woody debris by normal stream flow as well as periodic sediment-laden floods and debris flows. These latter two are generally triggered by landslides that enter the channel from the adjoining hillside. The landslide deposits then either continue moving down the channel, bulking with water to create a debris flow, or form a temporary landslide dam. A landslide dam can block stream flow and then fail catastrophically, releasing compounded sediment and water. Both sediment-laden floods and debris flows consist of a mixture of water, sediment, and debris that is routed through the steep stream channel during an event. The location and extent of alluvial fans in Whatcom County was greatly improved by the publication of the Whatcom County Landslide Inventory by the Washington State DNR Geological Survey in 2019. In addition to mapping deep-seated landslides, the inventory identified nearly 2,500 alluvial fans in Whatcom County using bare-earth imagery derived from high-resolution lidar data obtained in 2017.

Debris flows contain a higher proportion of sediment relative to water and can be particularly damaging due to the ability to scour and grow in size as sediment and woody debris stored in

the channel is incorporated. This can produce a sediment volume at the fan that is many orders of magnitude larger than the initial landslide that triggered the event. When a debris flow reaches an alluvial fan, the debris may be quickly deposited within the existing stream channel leading to a channel avulsion, the sudden changing of stream course to a new channel. Both sediment-laden flood and debris flow material may run-out some distance from the head of the alluvial fan before fully depositing and may not follow a defined channel when doing so. In some instances, run-out has exceeded the previously mapped alluvial fan extent, which may, in part, be due to land clearing practices prevalent in river valleys. Examples of this are the debris flows that initiated on the west face of the Van Zandt Dike during the January 2009 flood event that ran out more than 600 feet from the base of the hillside, crossing private land and a county road before entering the South Fork floodplain. Potential run-out is not included on county geological hazard maps, which are primarily based on a coarse-scale geologic mapping efforts that did not specifically address alluvial fan hazards, and could be greatly improved by detailed assessment conducted by a qualified professional. In early 2021 the Washington State Legislature passed and funded Washington State Bill “SB5088-Landslide Hazard Mapping and Inventory”, that will improve understanding of landslide and other geological hazards in Whatcom County. As noted above, the Washington Geological Survey published an updated deep-seated landslide and alluvial fan mapping product in 2020 (WGS Report of Investigations 42, February 2020).

2. Coal Mines

According to the *NW Source*, William H. Prattle, one of Bellingham's earliest settlers, responded to Native American tales of local coal outcroppings by opening a marginally successful coal mine in the settlement called Unionville in 1853. The same year, San Francisco investors opened the Sehome Mine, adjacent to the Whatcom settlement, and it became one of the two largest employers in the area until the mine was flooded in 1878. Coal mining ceased until the Bellingham Bay Company opened the largest mine in the state in the city's north end in 1918; it operated until 1951, when decreased demand led to its closure. Refer to Figure 2 for locations of the Bellingham area's primary historical mines.



Figure 2 shows the Bellingham area's historic mine locations.

In a January 2003 report titled "Preliminary Assessment of Bellingham Mines," the U.S. Environmental Protection Agency (EPA) assessed possible environmental problems related to 11 mines in and around Bellingham. Two other mines were inventoried, but not assessed, because their exact location was unknown. This report showed that hazardous substances were potentially present and could pose a threat to public health or the environment.

Along with the potential for toxic contamination from these historical mines, these sites pose a risk for ground failure and subsidence in downtown Bellingham and in the Birchwood neighborhood.

3. Landslides

Landslides occur along the hillsides and shorelines of Washington due to the area's steep mountainous terrain, miles of coastal bluffs, complex geology, high precipitation rate, both as rain and snow, abundance of unconsolidated glacial sediments, and tectonically active setting

astride the Cascadia Subduction Zone. Unstable landforms and landslide failure mechanisms have been recognized for decades, but that information has not always been widely known or used outside the geologic community. As the population of Washington grows, increasing pressures to develop in landslide-prone areas, or in landslide run-out zones, make basic knowledge about landslide hazards on the part of the general public more important.

A number of factors control landslide type and initiation. These include topography, underlying geology, soils, weather patterns and individual storms, surface- and groundwater, wave action, and human actions including rerouting of drainage by development, de-vegetation, and modification of existing topography. Typically, a landslide occurs when several factors converge and the forces allowing the hill to stay put are overcome by those influencing a move downhill driven by gravity. The following map shows the existing landslide hazards in Whatcom County.

A simplistic view of landslides divides them into two categories: shallow landslides where the depth of failure corresponds roughly to the rooting depth of mature forest vegetation; and deep-seated landslides where the failure plane may be 10's to 100's of feet deep. For shallow landslides, the presence of a healthy root network can effectively increase the forces holding the slope in place, while root strength is not an important factor for deep-seated landslides. Many slides on Puget Sound occur in a geologic setting that places permeable sand and gravel above less permeable layers of silt and clay, or bedrock. Water seeps downward through the upper materials and accumulates on the top of the underlying units, forming a zone of elevated pore pressure, which effectively acts to counter the normal force resisting slope failure. Gravity works more effectively on steeper slopes, such as the bluffs that surround Puget Sound, but more gradual slopes may also be vulnerable. Most slides in northwest Washington occur during or immediately after heavy rains. Shallow landslides often result from individual storms that provide significant precipitation over a matter of days. Deep-seated slides often respond to prolonged wet periods from January through March, and in some cases to multi-year climatic trends. This may correspond to an elevation of the water table. As water tables rise, slopes become less stable. In addition, wave action can erode the beach or the toe of a bluff, cutting into the slope, triggering or setting the stage for future slides. Human actions, most notably those that affect drainage patterns or groundwater, can trigger landslides. Clearing vegetation, poor drainage practices, and onsite septic systems can all add to the potential for landslides.

C. RECENT HISTORY IN WHATCOM COUNTY

1. Alluvial Fans

The last several decades have seen meteorological conditions and land use activities combine to produce increasingly frequent and severe consequences from debris and flooding events associated with streams in Whatcom County, due to increased platting and building on alluvial fans. This has also resulted in an increased awareness of the risks associated with alluvial fans, and several measures have been taken by the County to address the problem. Several studies have been prepared that examine the risks associated with a number of alluvial fans. These studies focus on fans with recent damage or with significant development and document the history of the alluvial fan assessed and the associated risks to human life and property and public infrastructure located on that fan. However, they do not provide an inclusive examination of all fans that are present on the landscape. Such an inventory is challenging because the fans can range from hundreds of acres in size to less than one acre. Many of those small fans have a single home on them so while the relative risk may be less, it is no less consequential to the current or future owners.

A study was conducted in 1983 in response to a storm in January of that year, where a number of debris flow events generated from failed forest roads and concave hillsides on the slopes of Stewart and Lookout Mountains caused major damage to property, roads, and bridges on alluvial fans in Lake Whatcom, the South Fork Nooksack River Valley¹ and the Austin Creek alluvial fan at Sudden Valley. The resulting report summarized the causes of these events, recommended mitigation measures, and designated hazards zones surrounding the streams that were examined.

Another report, *Alluvial Fan Hazard Areas*, issued by Whatcom County's Planning and Development Services Department in August 1992, presents an inventory and compilation of the major alluvial areas recognized at that time. Although this was an extensive study, many smaller alluvial fans were not assessed. The Washington Geological Survey completed a comprehensive inventory of Whatcom County alluvial fans using lidar imagery in 2020. The GIS shapefiles with alluvial fan locations were downloaded to the County GIS system and are available to county departments for their use and are available to the public through WDNR/WGS.

⁶ Weden and Associates, 1983. Alluvial Fans and Deltas Flood Hazard Areas. Report prepared for Whatcom County, 98 pages.

In January 2009, significant rainfall amounts combined with frozen ground conditions and snowmelt resulted in debris flows and landslides in several alluvial fan areas including Stewart Mountain into Lake Whatcom and South Fork Valley, the Van Zandt Dike, Sumas Mountain, Slide Mountain, Red Mountain, and Lake Samish Mountains. The debris flows generated by this storm impacted homes, farms, and public roadways. No injuries were reported, but some homes were rendered uninhabitable. Early reports indicated that more than 100 landslides were triggered by this landslide event in Whatcom County alone, with many more landslides likely to be found pending further investigation and coordinated reporting. The slides generated by this storm event were documented by Washington Department of Natural Resources geologists in a series of 9 site reports and a summary report (Powell et al. January 2010, Reconnaissance Study of Landslides Related to the January 2009 Storm in the Acme Watershed).

Smith and McCauley Creeks, located near Deming within Reach 4 of the Nooksack River floodplain (refer to the “Flooding” section Background Information or Mitigation Strategies), are other examples of relatively small alluvial fan areas. The Smith and McCauley Creek alluvial fans are shaped by both fluvial (stream flow driven) and debris flow events; this is typical of alluvial fans in Whatcom County. Stream avulsions, a sudden shift in channel location as one channel is abandoned and the stream shifts to a new path, have occurred during past events and are a fundamental mechanism responsible for creating the alluvial fan landform. Any residences and farm buildings on the alluvial fan are at risk. The McCauley Creek Flood Control District has constructed sediment traps on both these systems to try to reduce the risk to downstream properties.

The Whatcom County Flood Control District has performed detailed studies on four additional fans; a brief history of flooding on these fans follows.

Canyon Creek – A large debris flood event occurred on Canyon Creek in November 1989, destroying one residence. Two smaller debris flood events in November 1990 destroyed three additional residences and several hundred feet of Canyon View Drive, a County road within the Glacier Springs development. The deposits from each event indicate that sediment transport likely ranged from clearwater flood, to sediment laden flood, to true debris flow during the course of each storm event; these are referred to here as debris flood events for simplicity. Bank armor was installed along the west bank adjacent to the Glacier Springs development in summer 1990; this was destroyed or buried by the November 1990 events. A levee and flow deflection structures were constructed using FEMA funding in 1994; in November 1995, a predominantly clearwater flood damaged the recently-constructed project. Since 2000, acquisition of most of the highest risk properties on the fan has proceeded to reduce the risk to

life and property (see the “Mitigation” section). The acquisitions have allowed the County to remove the old levee and replace it with an 1850 feet long setback revetment that reconnects the creek to its floodplain where 23 engineered log jams have been installed to slow bank erosion and restore critical habitats for salmon, steelhead, and bulltrout.

Jones Creek – Significant debris flows occurred on the Jones Creek fan during January 1983 and January 2009. The 1983 debris flow destroyed a private log bridge at Galbraith Road and flattened approximately 4 acres of mature trees. The Turkington Road Bridge is a constriction that gets blocked by debris and sediment on top of the bridge deck and in the channel upstream. Debris depositing in the channel between Galbraith and Turkington Roads reduces channel capacity and results in water and sediment overflowing the right bank (looking downstream) and flowing down slope towards the town of Acme. This occurred during the 1983, 1990, and 2009 events. A small debris flow also occurred in 2004, but the event was not big enough to fill in the channel and cause overland flow. An active deep-seated landslide, the “Darrington Slide”, located approximately 4000’ upstream from Turkington Road constricts the Jones Creek channel and creates a partial dam and small impoundment of water upstream of the slide. The USGS installed a stream stage gage at Turkington Road to detect sudden drops in streamflow if the Darrington Slide were to move rapidly, form a larger landslide dam, and cut off streamflow temporarily while the dammed area fills with water and increases the potential for a landslide dam failure. The gage sends a warning to the Acme Fire District who then sends responders to check the creek at Turkington Road and to the landslide area to verify if landslide dam conditions are present so that an appropriate response can be instituted to protect the community members living in Acme if necessary. The County is working on a debris flow mitigation project to reduce risk through a combination of acquisition of high risk properties and construction of a berm designed to redirect debris flows and other events to an unpopulated portion of the alluvial fan.

Swift Creek – A significant debris flow event occurred in 1971 on Swift Creek. A large volume (estimated at 100,000 to 150,000 cubic yards) of sediment was delivered to the fan causing significant aggradation of the channel. Swift Creek flowed out of its bank to the north across South Pass Road towards Breckinridge Creek. Since then, Swift Creek has experienced extensive ongoing sedimentation of the stream channel originating from a very large, deep-seated landslide upstream on Sumas Mountain. This has resulted in the streambed becoming perched above adjacent properties in some locations. The County is currently working with state and federal agencies on a plan to manage on-going and future sedimentation on the Swift Creek alluvial fan and downstream reaches. This work is complicated by the presence of naturally occurring asbestos in the sediment originating from the landslide which necessitates additional precautions.

Glacier-Gallop Creeks- The Glacier Creek and Gallop Creek alluvial fans merge into a combined alluvial fan at the community of Glacier. A number of reports have been prepared over the years that document flood or debris flood impacts dating back as far as the 1930's. Several large floods of note have occurred including large ones in 1962 and 1963 and in 1989 and 1990 which threatened or caused damage to the highway bridge and other structures. A west bank levee on Glacier Creek was installed following the 1962 event to protect the west SR 542 abutment and the community of Glacier. This same levee was breached/overtopped during the November 1989 event sending Glacier Creek flow into the community where it combined with Gallop Creek floodwaters. State highway crews dug sediment from under both the Gallup and Glacier Creek bridges during the 1989 even to maintain flow under the bridge even as water raised high enough to splash onto the Glacier Bridge deck. Roads and homes in the Mt. Baker Rim development during were damaged during the 1989 and 1990 floods. The Glacier left (west) bank levee which was damaged again by several high water events over the past decade.

This brief history only provides examples of recent alluvial fan activity and is not meant to be exhaustive.

2. Coal Mines

The City of Bellingham abandoned underground mines that stretch from State Street to Sehome Hill and from Connecticut Street northwest to McLeod Road present significant hazards, mostly related to mine subsidence and collapse. Subsidence refers to a relatively slow settling of the overlying ground. Collapse of a mine roof can cause a sinkhole to form, creating a hazard. The Sehome mine workings under downtown Bellingham are relatively shallow and are thought to pose a greater sinkhole hazard than the Birchwood mine farther to the northwest, although a small sinkhole formed in the Birchwood neighborhood in the late 1980's or early 1990's.

3. Landslides

The susceptibility of Whatcom County to landslides is apparent from the examples provided by the numerous landslides listed in Table 4.

Table 4. Major Whatcom County Landslides Beginning With the Great Depression

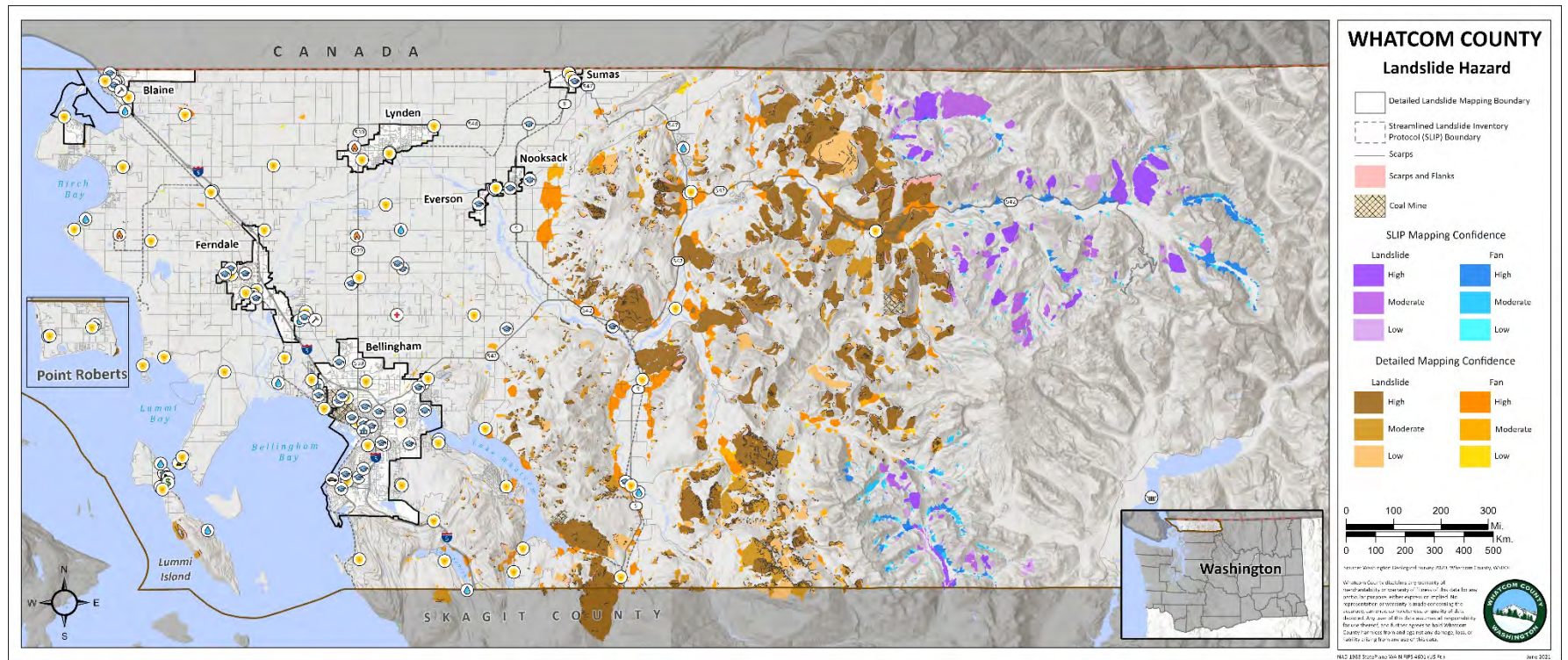
Dates	Description
Great Depression Era	Cutting trees caused a very large Sehome Hill landslide toward Western Washington University.
October 1975	Following a heavy downpour, the State Street Boulevard hillside turned into wet mud and swept two cars over the 25-foot bank. 100 yards of mud slid onto the boulevard.
January 1983	A debris flood accompanied by landslides into Lake Whatcom took homes, cars, people, and pets into the lake and caused major flooding.
January 1983	A huge boulder rolled onto railroad tracks near Larrabee State Park, derailed 12 cars of a 66-car northbound Burlington Northern freight train, and tumbled the lead engine into the Bay.
1996	Landslides at Point Roberts destroyed several beachside vacation homes.
February 1997	Ground movement on Sumas Mountain resulted in the rupture of a 26-inch natural gas pipeline that subsequently exploded.
January 2009	In the storm-related Racehorse Creek Slide, a large rock avalanche in Chuckanut Formation moved approximately 650,000 cubic yards down Slide Mountain into Racehorse Creek.
January 2009	More than 100 storm-related landslides, primarily shallow, were triggered by a rain-on-snow event on top of potentially frozen ground.
May 31, 2013	A landslide off the north valley wall near the terminus of the Easton Glacier on Mount Baker initiated a debris flow that traveled ~3.5 miles down the Middle Fork Nooksack River. Fine grained sediment from this and 2 smaller events in June 2013 raised turbidity in the river to levels that required downstream municipal water intakes be shut down to avoid damage to the water treatment systems.
Ongoing; exacerbated	Continued landslide activity in glacial deposits at the “Clay Bank” on the south side of the Nooksack River 1.75 miles upstream from the SR

Dates	Description
activity January & February 2014, reactivation of 2006 slide area	542 Bridge at Cedarville temporarily dammed the river. Erosion of the slide deposits increased downstream turbidity. The 2014 landslides shifted the main flow towards the opposite bank where the main flow is now entrained along the levee. This has contributed to a reactivation and retreat of the 2006 slide area.
Ongoing	Rock slides occur onto I-5, south of Bellingham.
Ongoing	123,000 cubic yards of dirt and rock is carried from Sumas Mountain each year and deposited into Swift Creek. This debris and dirt are threatening several hundred acres of farmland near Everson and impacts multiple county roads.

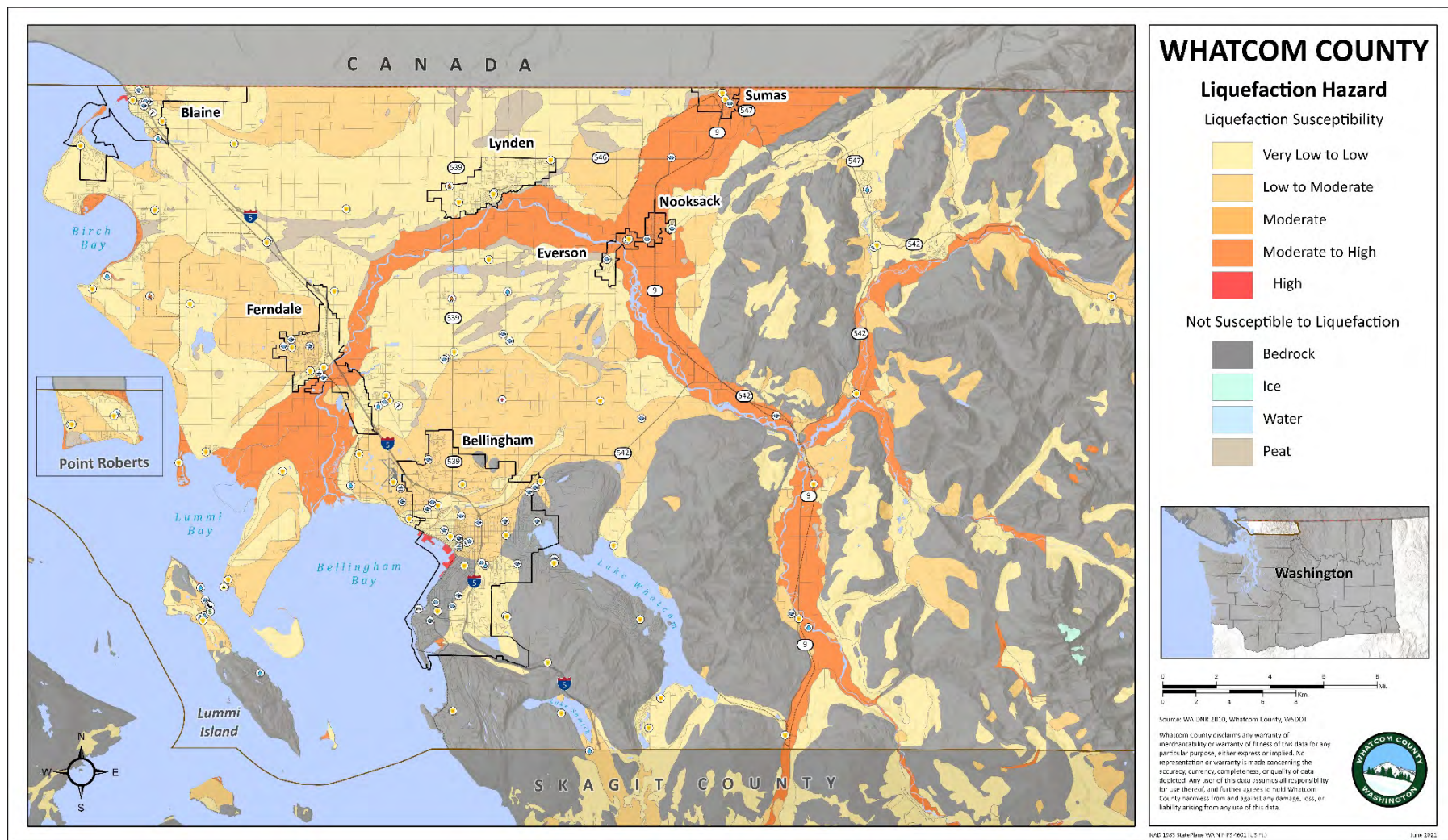
Hundreds of landslides have also been mapped in the forested upper watershed during watershed analysis and watershed restoration planning. Most of these landslides originated in forest land, but many routed to and deposited on lands where development, infrastructure, or agriculture occur. The location of deep-seated landslides in Whatcom County was greatly improved by the publication of the Whatcom County Landslide Inventory by the Washington State DNR Geological Survey in 2019. The Washington Geological Survey has recently completed mapping of large, deep-seated landslides throughout Whatcom County (WGS 2020) which expands on the existing mapping and is available through GIS.

4. Seismic Hazards

A history of seismic hazards is described in further detail in the “Earthquakes” section of this Plan.



Washington Geological Survey (WGS) 2020 Washington landslide inventory data compiled following streamline landslide mapping protocol (SLIP). SLIP was developed by the WGS's Landslide Hazards Program to help geologists rapidly map landslide landforms from lidar. This data shows both detailed mapping and SLIP landslide data. Landslides and alluvial fans are most prevalent in the Cascade foothills of eastern Whatcom County, on Lummi Island, and the southern end of Lake Whatcom. Coal mine areas, also shown on the map, are present in northwest Bellingham and south of Glacier.



Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.

D. VULNERABILITY ASSESSMENT

1. Alluvial Fans

Detailed studies have examined specific alluvial fans in Whatcom County. The 1992 report, *Alluvial Fan Hazard Areas*, inventoried many of the alluvial fans that pose a risk to human life or property. It should be noted, characteristics of alluvial fan hazards identified in the report apply to all alluvial fans in Whatcom County whether or not the fan is mapped. More extensive alluvial fan mapping was done by Washington Geological Survey (2020) which captures the fans reported on in 1992 plus many smaller or less developed fans. The degree of risk depends on the specifics of an individual fan including the potential for upstream landslides to trigger and route through the stream channel to the fan and the nature and extent of development on the alluvial fan. An individual risk assessment should be performed by a qualified professional in the absence of specific information that has been prepared, to current risk assessment standards. Table 5 lists alluvial fans identified in the 1992 report (table also updated in 2010), as well as developments at risk.

Table 5. Alluvial Fan Inventory in Whatcom County

Alluvial Fan	Size	Developments/Structures at Risk
Lake Whatcom Watershed		
Austin Creek Fan	150 acres	Sudden Valley golf course, homes, private and County roads
Lake Louise 2 Fan	approximately 5 acres	Approximately 20 houses, driveways, three development roads, a path around the lake, and Lake Whatcom Boulevard
Albrecht's Fan	2.5 acres	County Rd., Lake Whatcom Blvd., the private bridge to the Albrecht residence, and the older buildings on the property
Wildwood Fan	16 acres	Wildwood has a very high population density during the summer months and provides trailer and boat storage during the rest of the year; at least 40 trailers, a general store, cabins, and Lake Whatcom Boulevard are at risk
South Blue Canyon Creek Fan	Data not available	The Blue Canyon Complex and approximately 11 homes; future development is planned, which will eliminate existing trees and further increase the risk in this area
Middle Blue Canyon Creek Fan	Data not available	Limited residences and a picnic area
North Blue Canyon Creek Fan	Data not available	Limited residences

Alluvial Fan	Size	Developments/Structures at Risk
Smith Creek Fan	107 acres	Residences and a bridge, which is located at the apex of the fan
Olsen Creek Fan	137 acres	30 homes
Carpenter Creek Fan	16.5 acres	15 buildings, including the local fire hall, and two County roads
Samish River and Lake Samish Watershed		
Barnes Creek Fan	Data not available	Residences and four roads: Interstate 5, East Lake Samish Rd., Old State Route 99, and Manley Rd.
Kinney Creek Fan	74 acres	Multiple residences on north shore of Lake Samish; fan impacted by January 2009 storm event, which damaged and closed North Lake Samish Drive
Reed Lake 2 Reed Lake 3 Reed Lake 4	620 acres	Approximately 30 homes, a clubhouse, and numerous roads in the Reed Lake development
North Fork, Nooksack River		
Glacier Creek Fan	Data not available	Town of Glacier, the Mount Baker Rim Development, a U.S. Forest Service Ranger Station, multiple restaurants, lodgings, approximately 45 houses and outbuildings, and Mount Baker Highway (SR 542)
Gallop Creek Fan	Data not available	Town of Glacier, 25 houses, restaurants, lodgings, the Glacier post office, county road/logging access road and bridge, and Mount Baker Highway; note that WSDOT has removed a lodge and cabins as part of a risk reduction project at Gallop Creek bridge
Cornell Creek Fan	90 acres	Approximately five houses, Mount Baker Highway, Cornell Creek Road, and a large wetland that may be salmon habitat
Canyon Creek Fan	210 acres	Glacier Springs Development and Mount Baker Highway. Note that acquisitions have removed development potential on ~30 lots and the former Logs Resort all in high alluvial fan risk zones. The 1994 levee that was at risk has been removed and replaced by a setback structure.
Boulder Creek Fan	126 acres	25 buildings of the Baptist camp, three roads, and Mount Baker Highway
Coal Creek Fan	Data not available	Small community located at the mouth of Coal Creek and Mount Baker Highway
Racehorse Creek Fan	246 acres	Five residences, several barns, a county road, a private access road, and a county bridge, all near Welcome, Washington
Bell Creek Fan	Data not available	Agricultural lands, Mount Baker Highway, eight residences, and two secondary roads
Middle Fork, Nooksack River		
Canyon Lake Creek	312 acres	Multiple residences, Mosquito Lake Road, Canyon Lake

Alluvial Fan	Size	Developments/Structures at Risk
Fan		Road, and three private roads; note that Kenney Creek fan is largely in the North Fork Nooksack River but there is overflow from Canyon Lake to Kenney during floods
Kenney Creek Fan	188 acres	
Filbert Creek Fan	49 acres	
Porter Creek	95 acres	Residences, Mosquito Lake Road, the bridge at Porter Creek, and a private road
South Fork Nooksack River		
Falls/Todd Creek	Data not available	Multiple residences, Hillside Drive, and agricultural lands
Terhorst Creek	94 acres	Residences, Hillside Drive, a county road, outbuildings
Sygitowicz Creek Fan	163 acres	Residences, a county bridge, and a county road
Radonski Creek Fan	Data not available	Two farms, residences, and Hillside Drive
Hardscrabble Creek Fan	45 acres	Residences, several barns and outbuildings, a County road, and a County bridge (New bridge placed fall 2009 and repaired in winter 2009/2010)
McCarty Creek Fan	162 acres	Turkington Road county bridge and agricultural land
Jones Creek Fan	376 acres	Town of Acme, Turkington Road, State Highway 9, elementary school, fire hall, and church
Middle Nooksack River (Flood Reach 4)		
Smith Creek Fan	Data not available	Residences, True Log Homes, Smith Creek Hydro projects, Mount Baker Vineyards, Mount Baker Highway, and Burlington Northern Railway
McCauley Creek Fan	Data not available	Residences, farm buildings, and Mount Baker Highway
Sumas River		
Swift Creek	Data not available	Residences, Great Western Lumber & Mill, and Mount Baker Mushroom Farm

Note: Information obtained from "Alluvial Fan Hazard Areas", Whatcom County PDS

2. Coal Mines

Infrastructure constructed over abandoned shallow underground coal mines is highly susceptible to collapse. Risk of collapse decreases with depth of mine workings below ground surface, particularly during seismic events. These mines stretch from State Street to Sehome Hill and from Connecticut Street northwest to McLeod Road. Ground failure and subsidence in downtown Bellingham could result in damage to infrastructure and possibly injury and death.

3. Landslides

As population density increases and houses and roads are built below or on steeper slopes and mountainsides to obtain marketable views, landslide hazards become an increasingly serious

threat to life and property. Residential development along slopes such as Chuckanut Mountain, Stewart Mountain, Lookout Mountain, and other hillsides throughout the County are subject to slides. These slides take lives, destroy homes and businesses, undermine bridges, derail railroad cars, cover fish habitat and oyster beds, interrupt transportation infrastructure, and damage utilities. Forest fires, clear-cutting of trees, land clearing for housing developments, rearrangement of drainage patterns by roadside ditches and cross drains, lack of proper cross drain spacing, sizing, construction, maintenance, and non-road related stormwater runoff can all contribute to or trigger landslides.

Due to the many factors that contribute to landslide potential widespread identification of all hazard areas is not possible. However, slope stability assessment methodologies are well established and can accurately assess landslide potential for an individual building site or development. This type of assessment should be used to inform land-use decisions, direct project siting, and establish criteria for structural designs to mitigate landslide risk, all of which is mandated by the Whatcom County Critical Areas Ordinance.

Examples of possible landslide areas and possible damages in Whatcom County include the following:

- Chuckanut Mountain and Chuckanut Drive; residential areas on steep slopes such as Sudden Valley; and along the foot of Stewart, Sumas, and Red Mountains and the Van Zandt Dike; near Lake Samish and Cain and Reed Lakes; eastern Mount Baker Highway; and parts of Highway 9
- Unstable bluffs on Lummi Island, Lummi Peninsula, Point Roberts, Cherry Point, Point Whitehorn, and Birch Bay
- Western Washington University below Sehome Hill; The Sehome Hill Arboretum has had slides in the past – the growth of some tree trunks shows evidence of slow movement downhill above the university
- Slopes overlooking Hale Passage, Bellingham Bay, Boundary Bay, and Strait of Georgia
- Eldridge Avenue and Edgemoor homes overlooking Bellingham Bay
- Mount Baker – Landslides may be caused by melting snow, or steam resulting in a lahar (mudflow off a volcano); a lahar could possibly cause floods of the Nooksack River and massive mudslides into Baker Lake which could over-top, or break, Baker Lake Dam (see previous discussion in the “Earthquake” Section); glacier retreat removes support for unconsolidated sediment which can landslide and route as debris flows, similar to, but smaller than, lahars.

- Sumas Mountain and the Swift Creek landslide the deposits, which imperil County roads and private property and which increase flooding and distribution of asbestos-containing sediment

E. MITIGATION STRATEGIES

For alluvial fans and landslides, mitigation measures recommended by various studies are listed below. In general, the following steps should be implemented to reduce risk of the four geologic hazards—alluvial fans, coal mines, landslides, and seismic hazards—affecting Whatcom County:

1. Limit, and if possible, eliminate new development in high-risk areas. If possible, direct new development to portions of the subject parcel beyond the area of potential affect.
2. If new development is to be permitted, a qualified professional should assess the risks and recommend how to mitigate new construction to address the specific geological hazard.
3. Educate existing property owners at risk to help minimize the risk of the local hazards.
4. If cost effective, buyout high risk properties.
5. As a last-case resort, consider engineering solutions to manage the specific geologic hazard, if proven effective.

1. Alluvial Fans

To help reduce the impact of debris events, the *Alluvial Fan Hazard Areas* report mentioned above, outlines preliminary mitigation actions to be considered when developing on or near an active fan. Mitigation alternatives are also identified in both the *Canyon Creek and Jones Creek Alluvial Fan Risk Assessments*. Those recommendations are based on detailed analysis specific to those fans, but offer risk mitigation alternatives that can be applicable to most alluvial fans. Specific mitigations should be developed by a qualified professional and presented in a manner that is structured, reproducible, and defensible and should utilize all available alluvial fan mapping when considering a specific site.

1. Limit, and if possible, eliminate new development in high-risk areas.
2. If new development is to be permitted, a qualified professional should assess the risks and recommend how to mitigate new construction to address the specific geological hazard.

3. Educate existing property owners at risk to help minimize the risk of the local hazards.
4. If cost effective, buyout high risk properties.
5. As a last resort, consider engineering solutions to manage the specific geologic hazard, if proven effective.
6. Avoid road crossings that obstruct debris passages in debris flow source areas, in the stream network that routes material to an alluvial fan, or on an alluvial fan itself.
7. Locate and orient roads carefully- Road beds can act as levees or potential avulsion channels depending on their locations and orientation, especially those roads oriented parallel to flow.

The report also details primary and secondary measures to consider in alluvial fan mitigation strategies:

Primary Measures

Mapping and avoidance – The impact zone of debris flows and sediment laden floods must first be delineated by careful hazard mapping. In general, areas of historic or prehistoric flows, scoured channels and headwaters, and initiation points of landslides or debris flows constitute debris flow hazard zones. Appropriate zoning regulations or building restrictions can limit development in these areas. Low intensity development land use, such as agriculture or park lands, may be appropriate.

Precipitation thresholds – Precipitation thresholds are often suggested as a method to predict debris flow occurrence. Antecedent rainfall and snow melt must be factored in to increase the accuracy of event prediction. Church and Miles (1987) state that simple precipitation thresholds cannot be used to predict debris flow events. However, by analyzing approaching storm events and tying this to the characteristics (geology, soil type and thickness, vegetative cover, hydrologic maturity, slope and landform) for areas of known debris flow activity, warnings for potential debris flows may be issued. This would assist those monitoring hazardous areas during storm events. The Washington Geological Survey has a coarse scale shallow landslide warning tool that incorporates a precipitation threshold model in use and available through their website at: <https://www.dnr.wa.gov/slhfsm>. Ideally this model would be further refined as more detailed input data are made available specific to Whatcom County. The USGS maintains a monitoring network in the Seattle area to evaluate landslide potential at: https://www.usgs.gov/natural-hazards/landslide-hazards/science/seattle-area-washington?qt-science_center_objects=0#qt-science_center_objects. This information can be used as a general guide to potential Whatcom County conditions.

Warning systems – Warning systems should include advance warning measures, warnings of an event in progress or of an event that has just passed. Existing warning systems that have proven valuable are those used on highways and railways to warn of coming debris flow such as a trip wire and transmitter located in a debris flow path upstream of the infrastructure. The problem with these systems is false alarms could be frequent because these systems are easily damaged. Whatcom County collaborates with USGS in using a landslide dam warning system on Jones Creek which uses rapid drops in stream stage at Turkington Road to issue a warning to the fire district. Once warned, district personnel are dispatched to check on the status of an existing landslide dam upstream or for other channel obstructions.

Secondary Measures

Forest practices –Poor forest practices can initiate landslides by destabilizing soils on slopes from the loss of root strength after the trees are cut, by road placement that destabilize a slope, and by increasing the average pore water pressure in soils through changes in slope hydrology caused by roads, cross drains, landings, and skid trails. State of Washington Forest Practice Rules have been dramatically revised since the mid-1980's to address these issues and reduce the potential for forest practices to increase landslide potential on forest lands. In addition, road maintenance and abandonment plans are required for forest landowners and guide how roads are maintained while active and how they are abandoned once they are no longer needed.

Slope modifications – Slopes in potential sediment source areas can be stabilized to reduce their failure potential. Slope height can be limited, the slope angle decreased, drainage installed, and fill compacted. Drainage systems for the slopes must have culverts sized large enough to carry debris and water.

Do not develop on areas subject to sediment laden flooding, debris flow routing, or run out such as on an alluvial fan.

Specific mitigation measures were identified for the three fans studied in detail, as described below.

Mitigation Strategy for Canyon Creek

The following measures were recommended to reduce the risk associated with the Canyon Creek fan:

1. Advise property owners and residents on the fan of the hazard and the study results
2. Distribute the alluvial fan risk assessment study to other agencies involved in natural resources management

3. Proceed with acquisition of highest risk properties on the fan
4. Implement site-specific land use regulations using the detailed risk mapping included in the report
5. Consider removing the lower two-thirds of the levee constructed in 1994 (which would route any overflow behind the levee away from the creek) and using the riprap to reinforce the right bank adjacent to Canyon View Drive
6. Consider other mitigation options identified in the report with referral to appropriate agencies; these options include regulation of future logging, event warning system, regional advance warning system, and monitoring of the landslides in the upper basin and the Canyon Creek channel

Since completion of the study, the following progress has been made in implementing some of these recommendations:

1. Several community meetings have been held to increase public awareness of the hazard and to involve the community in the development of mitigation measures. In addition, the report was provided to the Glacier Springs Community Association, who has it available for download on their website.
2. The report was distributed to the other agencies involved in resource management. Extensive coordination has occurred with WSDOT as it relates to protection of Mt. Baker Highway.
3. Three residences and 26 undeveloped lots along the active fan margin, and The Logs Resort were acquired through an integrated hazard mitigation and salmon recovery project by the FCZD and the Whatcom Land Trust.
4. The detailed mapping in the report is now being used for administering the County's critical areas ordinance related to new development on the fan.
5. A portion of the lower levee was removed and the ground surface in the fan was re-graded in 2009 to direct any overflow that might get behind the levee back towards Canyon Creek rather than towards Mount Baker Highway. The riprap removed from the levee face was stockpiled in an area near the highway to enable future use.
6. 1850' of the 2000' of levee remaining after the 2009 project was removed in 2013 and an 1800' armored setback structure was constructed 200' to the west along Canyon View Drive and paralleling the historic floodplain area to the south. The historic floodplain was recreated and a total of 23 engineered log jams were installed in 2013 and 2014 to reduce bank erosion and to provide instream and riparian habitat

restoration. Since 2014 vegetation planted post-construction has become increasingly well-established along the right bank and flood plain and will provide increased protection to the downstream residences in the future.

7. Coordination with the National Weather Service and WDNR continues to occur regarding development of a regional hydroclimatic threshold for an advance warning system for the Puget Sound Region.

Mitigation Strategy for Jones Creek

The following measures were recommended to reduce the risk associated with the Jones Creek fan:

1. Advise property owners and residents on the fan of the hazard and the study results
2. Distribute the debris flow study to other agencies involved in natural resources management
3. Consider acquisition of all properties within Zone 1, the highest risk area, and possibly within Zone 2, the next at-risk area
4. Consider constructing a deflection berm extending from the fan apex to below Turkington Road
5. In conjunction with the deflection berm, consider a channel realignment that diverts the creek to the north
6. Consider implementation of other measures identified in the report with referral to appropriate agencies; these measures include:
 - Improved regulation of land use and logging activities
 - Landslide monitoring
 - Creek channel inspections
 - Removal of the berm along the creek downstream of Turkington Road
 - Abandonment of the Turkington Road bridge and upgrade of the Hudson Road and railway; an alternative to road relocation is to increase the capacity of the Turkington Road bridge at its current location

Since completion of the study, the following progress has been made in implementing some of these recommendations:

1. Significant public outreach has occurred in the Acme community. The small debris flow

in 2004 prompted the County to host several community meetings to inform residents on the fan of the hazard and the types of conditions that could trigger an event. Additional meetings have been hosted by the Acme/Van Zandt Fire District (#16) since fall 2008.

2. The report was distributed to natural resource agencies as well as to the Acme Fire District. The Fire District initiated development of a detailed emergency response plan to address debris flows on Jones Creek late in 2008. They were able to implement portions of the draft plan in January 2009. Since then they have conducted additional planning and drills to improve their response.
3. Two residential properties in hazard Zone 1 near Turkington Road have been acquired by the FCZD.
4. Preliminary design work to evaluate alternative alignments and a planning-level cost estimate for a deflection berm has been completed.
5. Evaluation of alternative access routes for Turkington Road were evaluated .
6. Detailed design of deflection is currently underway
7. Acquisition of additional properties needed to construct a deflection berm is currently underway
8. The detailed mapping in the report is now being used for administering the County's critical areas ordinance related to new development on the fan.
9. The local community members and Fire District representatives have been informally monitoring the landslide and the creek since the January 2009 event.
10. In 2014 Fire District #16 and the Mt. Baker School District have conducted Landslide evacuation/ shelter in place drills.
11. Annual Winter Storm/ Disaster Readiness Town Hall meetings were started in 2014 with County Public Works, Whatcom County Sheriff's Office Division of Emergency Management and Fire District #16.
12. In 2012 four members of Fire District #16, were trained by Whatcom County Sheriff's Office Division of Emergency Management to use the reverse 911 messaging system for the Acme area.

Mitigation Strategy for Swift Creek

In addition to the types of hazards most often associated with alluvial fans, the sediment within Swift Creek contains elevated levels of naturally occurring asbestos and heavy metals. This has

added additional health and safety issues and added to the complexity of dealing with sedimentation problems along Swift Creek. The following measures are completed to reduce the risk associated with the Swift Creek fan:

- a. February 15, 2013 Whatcom County published the Draft Environmental Impact Statement for the Swift Creek Sediment Management Action Plan (SCSMAP).
- b. June 12, 2013 Whatcom County published the Final Environmental Impact Statement for the SCSMAP.
- c. July 23, 2013 the Whatcom County Council adopted the SCSMAP by resolution #2013-026. The following chapters are included in the SCSMAP:
 1. Chapter 1 includes a description of the Swift Creek setting and background, as well as a description of Whatcom County's approach and response to Swift Creek management to date. This chapter also includes goals and objectives that informed development of active (project) and passive (program) strategies recommended in the Plan.
 2. Chapter 2 outlines relevant laws, regulations, rules, plans, and policies that provide the framework for Swift Creek management. The regulatory outline provides general applicability; specifics as to regulatory approach would be developed in conjunction with implementation of recommended strategies. The approach included in the SCSMAP is intended to encourage cooperative and consistent Swift Creek sediment management among agencies and jurisdictions involved in the Swift Creek problem.
 3. Chapter 3 describes the watershed in detail and includes conditions assessments for each identified watershed issue. An overall list of problems that result from watershed conditions is provided. This problem list, which identifies areas of high risk for overbank flooding, avulsion, and sediment accumulation, provides the basis for future direction and management strategies.
 4. Chapter 4 includes active and passive management strategies identified as feasible in development of the SCSMAP. Strategies were developed to target high risk areas and protect public health and welfare, public infrastructure, and the environment. Some identified strategies meet the goals of the plan through direct application of public works projects (active management strategies), while others include development of programs (passive management strategies) to address the major Swift Creek issues.
 5. Chapter 5 provides the final recommendations identified and discussed in the

SCSMAP.

6. Chapter 6 addresses the costs of implementing the strategies identified in Chapter 4. Costs are provided as planning level estimates only. Active strategy planning level cost estimates include the estimated cost for on-site development. Passive strategy estimates are based on the project number of full time equivalents in terms of Whatcom County staff to develop and implement an identified program.
 7. Chapter 7 provides a set of guidelines for project-level plan implementation, along with a prioritization protocol. The prioritization protocol developed for this plan will be utilized for all projects developed under the umbrella strategies included in Chapter 4.
- d. December 6, 2019 the Washington State Department of Ecology and Whatcom County (together with the Whatcom County Flood Control District) entered into a Consent Decree. The mutual objective of the Consent Decree is to implement a cooperative program of actions to limit potential future impacts on human health and the environment from naturally occurring asbestos (NOA)-bearing material generated from the Sumas Mountain landslide, both as that material exists today in the Swift Creek/Sumas River floodplain and as it will continue to be generated and transported as sediment from the landslide toward the floodplain in the future.
 - e. Since 2019 Whatcom County has completed several elements of the plan, including:
 - i. Purchasing properties for the construction of the debris flow levee, sediment traps, sediment basins, first repository and wetland mitigation site.
 - ii. Completed designs for the debris flow levee, sediment traps, and repository (including the wetland mitigation site).
 - iii. Completed the design and construction of the Oat Coles setback levee and access road improvements and setback levee mitigation in the form of wetland mitigation.
 - iv. Continued monitoring, dredging, and armoring the lower reach section of the stream to prevent the sediment material from entering and destroying adjacent valuable habitat.
 - v. Completed scoping the Supplemental EIS for the repository site.
 - f. Future projects include:
 - i. Completion of the Draft and Final Supplemental EIS for the repository site.

- ii. Development of the repository site.
- iii. Construction of the debris flow levee.
- iv. Construction of the sediment traps.
- v. Williams Pipeline crossing control structures.
- vi. Development and construction of the sediment basins.
- vii. Development and construction of the wetland mitigation site.
- viii. Continued monitoring, dredging, and armoring the lower reach.

Mitigation Strategy for Glacier-Gallup Creeks

The SWIF process included recommendations to address the deficiencies on the Glacier Levee on the left bank of Glacier Creek. The SWIF plan recommends working in collaboration with WSDOT to implement their preferred alternative to address the chronic environmental deficiencies associated with sedimentation at their bridges over SR 542. WSDOT's preferred alternative includes constructing a bridge with openings that span across both creeks and the channel migration zone in between them. They acquired the Glacier Creek Motel that was between the creeks downstream of the highway and constructed a new Gallup Creek bridge in 2010.

While WSDOT still has plans to construct the additional spans east of Gallup Creek, the timing of funding for project implementation is uncertain. Once the bridge project is complete, the Glacier Creek Levee will be in the middle of the channel migration zone and no longer needed to protect the roadway. The FCZD recently initiated a project to better assess the hazards associated with the creeks and evaluate options to relocate the Glacier Creek Levee to enable restoration of alluvial fan processes while mitigating hazards in the town of Glacier.

2. Coal Mines

Coal mines in Whatcom County are not considered a major concern.

3. Landslides

Washington is one of seven states listed by FEMA as being especially vulnerable to severe land stability problems. An increasing population and demand for "view" property, with the concomitant removal of trees to attain the view, increases the risk of landslides in residential areas. Buildings on steep slopes and bluffs are at risk in seasons of heavy rains or prolonged wet spells.

Landslide, mudflow and debris flow problems are often complicated by land management decisions. By studying the effects of landslides in slide-prone regions, plans for the future can be made and the public may be educated to prevent development in vulnerable areas. Applying established ordinances where geological hazards have been identified will prevent some landslide losses. However, Whatcom County already has many areas above or below unstable slopes with established houses and businesses. Prevention of landslide damage is best achieved through careful identification and avoidance of unstable landforms and landslide run-out zones. For areas where development may occur near unstable slopes an appropriate mitigation plan prepared by a qualified professional and that is tailored to the site conditions and the type or types of mass wasting that may occur is necessary to manage landslide risks.

The primary mitigation strategy to employ in areas at danger of landslides or landslide run-out is to limit or eliminate development in any high risk areas. Employing public buyouts of especially high risk areas should be considered. If new development is to occur, the Washington State Department of Ecology has outlined the following recommendations and information to improve public preparedness. This information was developed for coastal bluffs, but provides good guidance for many situations where the stability of a slope may be an issue.

1. Do research – Learn about the geology and the history of your property. Talk to local officials, your neighbors, or visit the local library. Review geologic or slope stability maps of your area.
2. Get advice – Talk with a licensed geologist or geological engineer before buying a potentially unstable site or building your home. Although waterfront lots can be attractive sites, they often have severe natural limitations. They may also be subject to strict environmental and safety regulations.
3. Leave a safe setback – Build a prudent distance from the top or bottom of steep slopes. Avoid sites that are too small to allow a safe setback from the slope. Allow adequate room for drainfields and driveways. Local setback requirements should be viewed as absolute minimums. Consider how far landslide material may run out once it reaches the bottom of the hill or the alluvial fan. Resist the urge to trade safety for a view.
4. Keep plants – Maintain existing mature vegetation, above, on, and below steep slopes. Trees, especially native conifers, shrubs, and groundcovers help anchor soils and absorb excess water. Get expert advice identifying and removing weeds.
5. Maintain drainage – Collect runoff from roofs and improved areas and convey water away from the steep slope or to the beach in a carefully designed pipe system. Regularly inspect and maintain drainage systems.

SEVERE STORMS

A. DEFINITIONS

Blizzard A blizzard means that the following conditions are expected to prevail for a period of 3 hours or longer:

- Sustained wind or frequent gusts to 35 miles an hour or greater; and
- Considerable falling and/or blowing snow (i.e., reducing visibility frequently to less than $\frac{1}{4}$ mile)

Freezing Rain Rain that falls as a liquid but freezes into glaze upon contact with the ground.

Funnel Cloud A condensation funnel extending from the base of a towering cumulus or cumulonimbus, associated with a rotating column of air that is not in contact with the ground (and hence different from a tornado). A condensation funnel is a tornado, not a funnel cloud, if either a) it is in contact with the ground or b) a debris cloud of dust whirl is visible beneath it.

Gale An extratropical low or an area of sustained surface winds of 34 (39 mph) to 47 knots (54 mph).

High Wind Sustained wind speeds of 40 mph or greater lasting for 1 hour or longer, or winds of 58 mph or greater for any duration.

Severe Local Storm A convective storm that usually covers a relatively small geographic area, or moves in a narrow path, and is sufficiently intense to threaten life and/or property. Examples include severe thunderstorms with large hail, damaging wind, or tornadoes. Although cloud-to-ground lightning is not a criteria for severe local storms, it is acknowledged to be highly dangerous and a leading cause of deaths, injuries, and damage from thunderstorms. A thunderstorm need not be severe to generate frequent cloud-to-ground lightning. Additionally, excessive localized convective rains are not classified as severe storms but often are the product of severe local storms. Such rainfall may result in related phenomena (flash floods) that threaten life and property.

Storm Surge An abnormal rise in sea level accompanying a hurricane or other intense storm, whose height is the difference between the observed level of the sea surface and the level that would have occurred in the absence of the cyclone. Storm surge is usually estimated by subtracting the normal or

astronomic tide from the observed storm tide.

Flooding Any high flow, overflow, or inundation by water which causes or threatens damage

Thunderstorm A local storm produced by a cumulonimbus cloud and accompanied by lightning and thunder.

Tornado A violently rotating column of air, usually pendant to a cumulonimbus, with circulation reaching the ground. It nearly always starts as a funnel cloud and may be accompanied by a loud roaring noise. On a local scale, it is the most destructive of all atmospheric phenomena.

Waterspout In general, a tornado occurring over water. Specifically, it normally refers to a small, relatively weak rotating column of air over water beneath a Cumulonimbus or towering cumulus cloud. Waterspouts are most common over tropical or subtropical waters.

NOTE: All definitions taken from National Weather Service Glossary accessed by internet @ <https://w1.weather.gov/glossary/>

B. BACKGROUND INFORMATION

Severe storm weather comes in many forms, the most common for Whatcom County being heavy rain and wind during the winter months. Several wind storms have occurred in late summer with trees still retaining their full complement of leaves resulting in toppled trees and broken branches interrupting power to tens of thousands. Whatcom County experiences blizzards periodically, though not as commonly as unfrozen or partially frozen precipitation. Two types of winds primarily affect Western Washington: westerlies and easterlies. Westerly wind storms originate from the Pacific Ocean and are caused by pressure differences between deep oceanic storms and adjacent upland areas. This wind pattern is typical for fall and winter.



Westerly winds in Washington figure courtesy of <http://www.islandnet.com>

Easterly winds are caused by high pressure systems in eastern Washington, causing strong winds to form west of the Cascade mountain range that occur in late summer and early fall.



Easterly winds in Washington figure courtesy of <http://www.pep-c.org>

C. RECENT HISTORY IN WHATCOM COUNTY

Recent severe storm events in Whatcom County include the following:

- February 2020** Significant rain led to Nooksack River overtopping bank in numerous locations. Beginning with overtopping the bank in Everson, water flowed north through Everson and Nooksack continuing north along the Sumas River and Johnson Creek damaging numerous homes and businesses in Sumas. Farther downstream, Marietta residents were evacuated due to rising water.
- December 2018** Strong wind storm brought significant waves to Birch Bay and Point Robert resulting in downed trees and powerlines and significant erosion to Birch Bay Drive. Additionally, several businesses were impacted by high water level and surge.
- December 2017** Ice storm knocked out power in Sumas and surrounding area for days after accumulated ice snapped numerous power poles blocking roads and preventing power crews from completing rapid repairs.
- December 2008** Heavy rainfall over most of Western Washington, causing record levels and flooding for five major rivers including the Nooksack.
- December 2000** The Sandy Point storm that caused severe damage to Sandy Point beachfront homes (\$750,000) was a combination of gale force northwest winds, extreme high tides, and low pressure.
- Winter 1998-1999** Record snowfall, up to 1,140 inches of snow fell on Mount Baker Ski Area, the most ever recorded in the United States.
- Winter 1996-1997** Up to 3 feet of snow dropped by a holiday storm. Wind, snow, flooding, and freezing resulted in landslides, avalanches, road closures, and power outages throughout Whatcom County.
- Winter 1990-1991** Six major storms (two floods, two Arctic windstorms, and two heavy snowstorms, along with bouts of freezing rain and silver thaw) across Whatcom County resulted in power losses to nearly 100,000 residents. The Lummi Island ferry service was cut off. Damages to Whatcom County were up to \$30 million, not including private property damage and economic losses.
- November 1989** Severe storm resulting in a wind-chill factor estimated at between 50 and 70 degrees below zero with wind gusts up to 104 miles per hour.

Up to 16,000 residents lost power, resulting in school closure, damaged crops, and frozen milk in pumping equipment at local dairies.

January 1969 Severe storm froze stretches of the Nooksack River. Snow blocked portions of the Guide Meridian with a snowdrift on Pangborn Road measuring up to 25 feet high and 300 feet wide.

October 12, 1962 The famous Columbus Day storm brought winds up to 98 miles per hour.

March 1951 Severe storm dumped 23 inches of snow over 4 days. Temperatures plunged down to 10 degrees.

January 1950 Repeated snow storms hit Whatcom County for more than 1 month beginning on New Year's Day. Temperatures hit zero with winds of up to 75 miles per hour. Winds destroyed five planes and damaged 29 others at Bellingham International Airport.

February 1916 Seventeen inches of snow fell in Bellingham for the first week, followed by 42 inches of rain over a 2-week stretch. Snowdrifts up to 30 feet in height were found throughout the County.

February 1893 A blizzard consisting of snow and hail hit Whatcom County with up to 80 mile per hour winds and temperatures hitting 13 degrees below zero.

D. VULNERABILITY ASSESSMENT

Whatcom County is highly vulnerable to severe storms. According to the Washington State Emergency Management Division, Whatcom County lies in an area of Washington vulnerable to high winds.² The Washington State Hazard Mitigation Plan identifies Western Washington to be most susceptible to inclement weather during the following time periods³:

- Primary flood season – November through February

² Accessed on July 9, 2014 on the Emergency Management Department website at:

<http://www.emd.wa.gov/plans/documents/SevereStormNov2007Tab5.7.pdf>

³ Washington Military Department Emergency Management Division, 2014. *Washington State Hazard Mitigation Plan*. Approved by the Federal Emergency Management Agency Region 10 Office 2014.

- Windstorm season – October through March
- Snow season – November through mid-March

Severe storms can result in costly hazards, due primarily to their frequent occurrence and ability to disrupt lifelines such as arteries of transportation and above-ground electric lines. Because the worst storms typically occur during winter, loss of power/heating can be dangerous, especially for homes with children or elderly residents. Severe weather also poses additional risks resulting from tree fall to both structures and humans.

Whatcom County's location and geography leave it susceptible to heavy storm activity. Coastal systems move in relatively easily and release most of their moisture, being blocked by the Cascade Mountain Range. Multiple marinas along the shoreline of Whatcom County are vulnerable to storm action and represent a high loss potential for the area. The County's limited routes of transportation mean that inclement or severe weather can slow both intrastate and interstate commerce. Additionally, Fraser outflows from north of the border bring very cold temperatures and strong northeast winds. This cold air frequently clashes with the warmer moist flowing north leading to freezing rain, significant snowfall and in some cases, blizzard conditions.

Additionally, Fraser outflows from north of the border bring very cold temperatures and strong northeast winds. This cold air frequently clashes with the warmer moist flowing north leading to freezing rain, significant snowfall and in some cases, blizzard conditions.

E. MITIGATION STRATEGIES

The National Weather Service continues to refine weather forecasting. In addition, when significant weather systems are forecast for Washington and Whatcom County, weather forecasters conduct daily virtual briefings to ensure the most current conditions are promulgated to response agencies. The Whatcom County Sheriff's Office Division of Emergency Management website contains real-time data for severe storm events and other hazards and can be accessed at <https://www.whatcomcounty.us/201/Emergency-Management> . The website also contains educational tools to inform residents of potential hazards, such as severe storms, and how to prepare for them.

Whatcom County has been awarded the "Storm Ready Certification" by the by the National Oceanic and Atmospheric Administration National Weather Service for its, monitoring, communication, and warning efforts.

TSUNAMIS

A. DEFINITIONS

Tsunami A series of traveling waves of extremely long length generated by earthquakes occurring below or near the ocean floor. Underwater volcanic eruptions and landslides can also generate tsunamis.

B. BACKGROUND INFORMATION

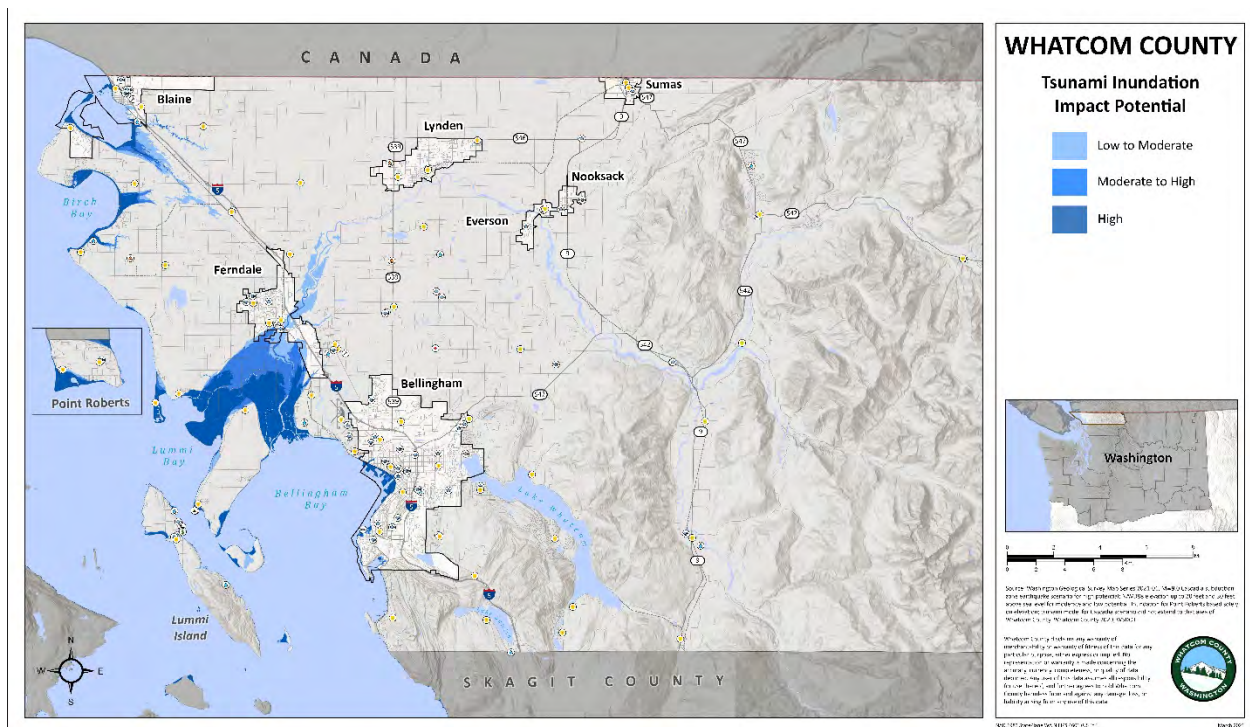
Sudden movement of the Earth's crust during an earthquake may displace water and generate an energy wave called a tsunami. In the deep ocean, a tsunami's length from wave crest to wave crest may be 100 miles or more but with a visible wave height of only a few feet or less. They may not be felt aboard ships nor can they be seen from the air in the open ocean. Large Pacific Ocean tsunamis typically have wave crest-to-crest distances of 60 miles and can travel about 600 miles per hour in the open ocean. A tsunami can traverse the entire 12,000 to 14,000 miles of the Pacific Ocean in 10 to 25 hours, striking any land in its way with great force. Tsunamis can cause great destruction and loss of life within minutes of origination. For example, the first tsunami waves from the 2004 Indian Ocean Earthquake reached Sumatra's shores within 15 minutes of the earthquake and those of Somalia seven hours later.

On the Pacific Coast, from southern British Columbia to northern California, people and property are at varied risks both from distantly and locally generated tsunamis. Recent studies indicate about a dozen very large earthquakes (with magnitudes of 8 or more) have occurred in the CSZ west of Washington. Computer models indicate that tsunami waves generated by these local events might range from 5 to 55 feet in height and could affect the entire coastal region.

In April 2021, the Washington State Department of Natural Resources (DNR) completed new tsunami inundation maps for the state, including a new tsunami inundation map for North Puget Sound and parts of the Strait of Georgia. The new tsunami inundation map for the North Puget Sound shows postulated inundation areas and modeled inundation depth from a Mw 9.0 Cascadia subduction zone megathrust earthquake scenario. Inundation depths vary, based not only on the tsunami wave height but how these waves may "stack up" or "funnel" into bays, rivers, and stream estuaries. The bay on the north side of Portage Island is expected to experience about 14.5 feet of inundation, with higher levels of inundation at the mouth of the Nooksack River. If this tsunami inundation occurs during high tide, it could create inundation of over 20 feet above mean sea level (NAVD88) in some locations of the Whatcom county.

Notably, the DNR tsunami inundation map is for a single scenario event and does not fully model all coastline inundation. DNR only infers, but does not fully model, inundation along much of Whatcom County's coastline and does not model any inundation for the Point Roberts area. Furthermore, other scenarios may pose a tsunami or seiche risk to Whatcom county. These include earthquake-triggered collapses of the Fraser River mouth or tidal flats at the mouth of the Nooksack River. Earthquakes or other events could cause large-scale landslides along the marine headlands of Lummi Island, displacing water in Bellingham Bay and potentially causing a local seiche with little warning time before it inundates shorelines in Bellingham Bay. Smaller earthquakes may also occur on crustal faults in Whatcom County and these faults may extend out into coastal waters. Little or no research has been completed on these scenarios and whether they may produce tsunami inundation larger than the Cascadia subduction zone scenario.

Given the incomplete nature of tsunami modeling in Whatcom County, this Natural Hazards Plan takes a conservative approach, as shown in the Tsunami Inundation Hazard map below. In addition to planning for the Cascadia subduction scenario, shown as high tsunami inundation impact potential in the map, the map also shows areas outside of this scenario inundation but under 30 feet above mean sea level (NAVD88). Areas up to 20 feet above mean sea level (NAVD88) are shown in medium blue and labeled as moderate to high tsunami inundation impact potential. Areas up to 30 feet above sea level are shown in light blue and labeled as low to moderate tsunami inundation impact potential. (Areas above 40 feet of elevation should be considered as completely above tsunami inundation impact.) These areas outside of the DNR model, but labeled as having some potential for tsunami inundation impact are meant to help address the lack of complete tsunami modeling in the county. They are also meant to help address secondary impacts, such as debris pushed ahead of tsunami inundation, ground subsidence, or even debris fires that can ignite in and near tsunami inundation areas. Future changes to coastal morphology and continued sea level rise may also lead to tsunami inundation impacts in areas outside of the DNR modeling of the Cascadia subduction zone earthquake inundation in the future.



Map of Whatcom County tsunami inundation impact potential. The high impact potential zone is based upon Washington Geological Survey Map Series 2021-01, Mw9.0 Cascadia subduction zone earthquake scenario occurring at mean high tide. The moderate to high and the low to moderate impact potential areas are based upon elevation of up to 20 feet and 30 feet, respectively, above mean sea level (NAVD88). Inundation for Point Roberts is based solely on elevation; tsunami model for the Cascadia subduction zone scenario did not extend to Point Roberts.

C. RECENT HISTORY IN WHATCOM COUNTY

Recent research on subduction zone earthquakes off the Washington, Oregon, and northern California coastlines and resulting tsunamis (Atwater 1992; Atwater et al. 1995) has led to concern that locally generated tsunamis will leave little time for response. Numerous workers have found geologic evidence of tsunami deposits attributed to the CSZ in at least 59 localities from northern California to southern Vancouver Island (Peters et al. 2003). While most of these are on the outer coast, inferred tsunami deposits have been identified as far east as Discovery Bay, just west of Port Townsend (Williams et al. 2002) on the west shore of Whidbey Island (Williams and Hutchison 2000). Heaton and Snively (1985) report Makah stories may reflect a tsunami washing through Waatch Prairie near Cape Flattery, Washington, and Ludwin (2002) has found additional stories from native peoples up and down the coast that appear to

corroborate this and also include apparent references to associated strong ground shaking. Additionally, correlation of the timing of the last CSZ earthquake by high-resolution dendrochronology (Jacoby et al. 1997; Yamaguchi et al. 1997) to Japanese historical records of a distant-sourced tsunami (Satake et al. 1996) demonstrate that it almost certainly came from the CSZ. This tsunami may have lasted as much as 20 hours in Japan and caused a shipwreck about 100 km north Tokyo in A.D. 1700 (Atwater and Satake 2003). The frequency of occurrence of CSZ earthquakes ranges from a few centuries to a millennium, averaging about 600 years (Atwater and Hemphill-Haley 1997). It is believed the last earthquake on the CSZ was about magnitude (M) 9 (Satake et al. 1996, 2003). It is not known, however, if that is a characteristic magnitude for this fault. Evidence gleaned from syntheses of global subduction zone attributes and local tsunami deposits suggests that great earthquakes have occurred in the Pacific Northwest perhaps as recently as 300 years ago.

Tsunamis may also be generated by movement on faults located within Puget Sound. This is discussed in further detail under the Vulnerability Assessment portion of this section.

Tsunamis are a threat to life and property and to anyone living near the ocean. In 1995, in response to tsunami threat, Congress directed NOAA to develop a plan to protect the West Coast from locally generated tsunamis. A panel of representatives from NOAA, FEMA, the USGS, and the five Pacific coast states wrote the plan and submitted it to Congress, which created the National Tsunami Hazard Mitigation Program (NTHMP) in October 1996. The NTHMP was designed to reduce the impact of tsunamis through warning guidance, hazard assessment, and mitigation. A key component of the hazard assessment for tsunamis is delineation of areas subject to tsunami inundation. Since local tsunami waves may reach nearby coastal communities within minutes of the earthquake, there will be little or no time to issue formal warnings; evacuation areas and routes will need to be planned well in advance.

Spatial data used to assess tsunami hazards in Whatcom County was developed by the Center for the Tsunami Inundation Mapping Efforts (TIME) at NOAA's Pacific Marine Environmental Laboratory in Seattle. The data and maps were produced using computer models of earthquake-generated tsunamis from nearby seismic sources, and analyzed to determine the risks of a CSZ earthquake.

TIME's tsunami inundation maps are based on a computer model of waves generated by a scenario earthquake. The earthquake scenario adopted for that study was developed by Priest et al. (1997) and designated Scenario 1A (also see Myers et al. 1999). It was one of a number of scenarios they compared to paleoseismic data and found to be the best fit for the A.D. 1700 event. This scenario has been the basis for tsunami inundation modeling for the other maps produced by the NTHMP in both Oregon and Washington based on a CSZ event. The land

surface along the coast is modeled to subside during ground shaking by about 1.0 to 2.0 meters (Fig. 1), which is consistent with some paleoseismologic investigations and also matches thermal constraints of Hyndman and Wang (1993). This earthquake is a magnitude 9.1 event, with a rupture length of 1,050 km and a rupture width of 70 km. Satake et al. (2003) have recently calculated a very similar magnitude and rupture dimension from an inversion of tsunami wave data from the 1700 event. The model used is the finite difference model of Titov and Synolakis (1998), also known as the Method of Splitting Tsunami (MOST) model (Titov and González 1997). It uses a grid of topographic and bathymetric elevations and calculates a wave elevation and velocity at each grid point at specified time intervals to simulate the generation, propagation, and inundation of tsunamis down the Strait of Juan de Fuca and into the Bellingham Bay area.

Based on new seismic research demonstrating the potential for increased seafloor displacement during a subduction zone earthquake with a recurrence interval of ~2500 years, the Washington Geological Survey published updated tsunami hazard modeling in June 2018 (Eungard, 2018). The model demonstrates the potential for increased inundation depth and current velocities to impact the shoreline and other low-lying areas of Whatcom County. Increased inundation depths of 5 to 18 feet above mean high water are possible, as are current velocities exceeding 20 knots. Due to the low recurrence interval of the defined seismic event the results of the model are intended to inform the design of critical infrastructure and are not currently being used in the regulation of residential or commercial development.

D. VULNERABILITY ASSESSMENT

TIME Results – The computed tsunami inundation model emphasized three depth ranges: 0 to 0.5 m, 0.5 to 2 m, and greater than 2 m. These depth ranges were chosen because they are approximately knee-high or less, knee-high to head-high, and more than head-high and so approximately represent the degree of hazard for life safety. The greatest amount of tsunami flooding is expected to occur in the floodplain of the Lummi (Red) and Nooksack Rivers up to their confluence near Ferndale and then be confined to the relatively narrow floodplain of the Nooksack. Sandy Point Shores is expected to be flooded to a depth of a few feet. Elsewhere, tsunami flooding is expected only in the immediate vicinity of the shoreline where evacuation to higher ground would be an easy matter if sufficient warning is given.

The inundation data also emphasized current velocities:

1. Less than 1.5 m/s (approximately 3 mph), which is the current speed at which it would be difficult to stand
2. Between 1.5 and 5 m/s

3. Greater than 5 m/s which is a modest running pace; within zones with this designation, computed velocities locally exceed 20 m/s (approximately 40 mph) in confined channels

Tide gauge records at five locations in the bay show fluctuations of water surface elevation and also the time history of the waves. The initial water disturbance is a trough of about 1 meter at 2 hours after the earthquake followed by a crest at between 2.5 and 3 hours after the earthquake. At around 4 hours after the earthquake, a deeper trough occurs and reaches about 3 meters near the Port of Bellingham. A trough this large, if it occurred at low tide, could cause a significant grounding hazard for ships in the harbor. This is visually displayed in Figure 3, which shows an animation of the tsunami troughs and crests in and around Bellingham Bay.

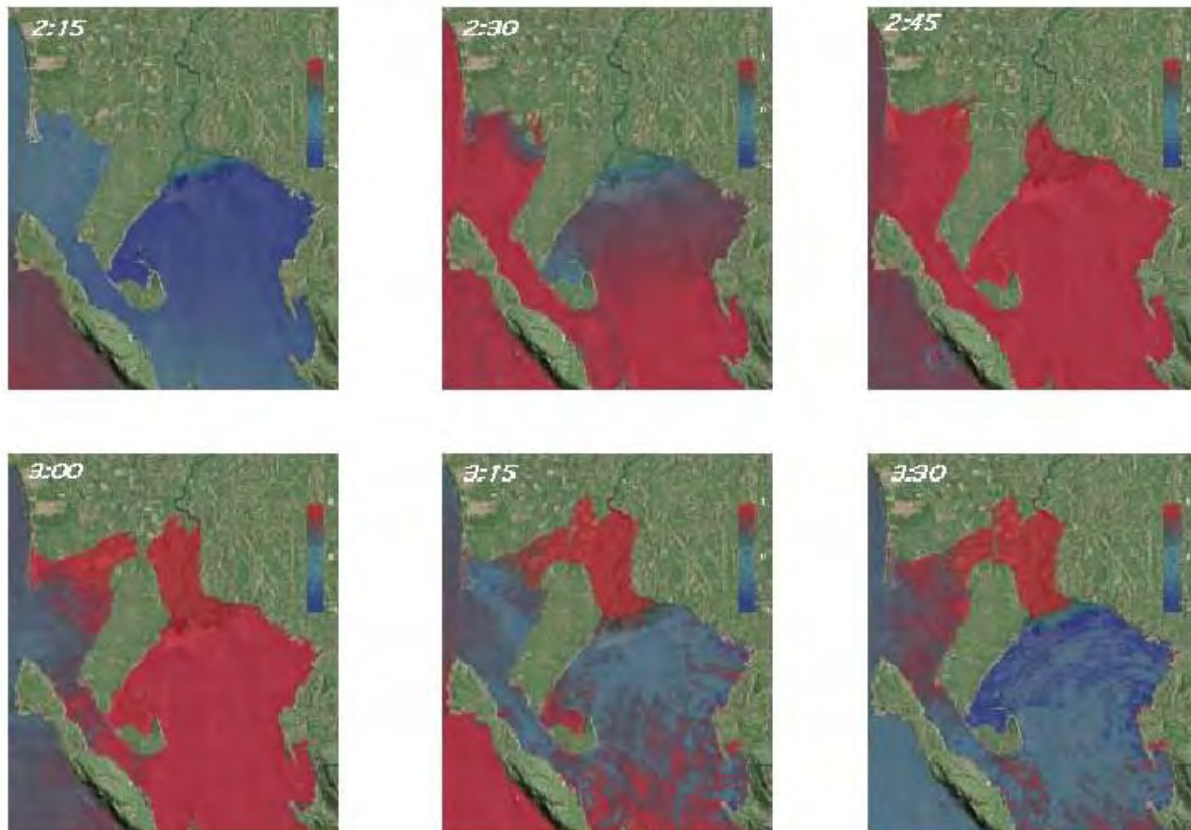


Figure 3 – Screen shots of animation of a tsunami arriving in Bellingham area, lasting about 3:30 hours. Red areas are *crests*, blue are *troughs*. (Picture obtained from the NOAA T.I.M.E. Center)

These models do not include potential tsunamis from landslides, including failure of the Nooksack River delta front, or nearby crustal faults, which are generally not well enough understood to be modeled. Apparently locally generated tsunami deposits have been found on Whidbey Island (Williams and Hutchinson 2000; Atwater and Moore 1992); in Discovery Bay, southwest of Port Townsend (Williams et al. 2002); in the Snohomish delta near Everett

(Bourgeois and Johnson 2001): and at West Point near Seattle (Atwater and Moore 1992). Gonzalez (2003) summarizes the evidence for tsunamis generated within the Puget Lowland by local earthquakes and landslides and estimates their probabilities.

When an earthquake that might generate a Pacific Coast tsunami is detected, the Alaska Tsunami Warning Center calculates the danger to the northeast Pacific Coast and notifies the communities at risk. Those warnings may give people a few hours to prepare and evacuate (depending on the distance to the earthquake).

If the earthquake occurs off our coast, however, there may be no time to send out hazard warnings. The first waves could arrive within minutes of the earthquake. The only tsunami warning might be the earthquake itself.

E. MITIGATION STRATEGIES

In order to plan for hazards, citizens need to know what to expect. In the last few years, there have been significant advances in understanding the earthquakes that have occurred on the CSZ and the tsunamis that struck the Pacific Coast. This information is the foundation for planning efforts. Because tsunami events provide little warning, one of the keys to mitigating tsunamis to effectively educate the population at risk about the hazards they face:



1. Hold public meetings to educate the public about the hazard they face. Provide handouts, evacuation maps, and a description of the warning system (typically the Emergency Alert System) that will be used to warn residents. Distribute hazard and evacuation maps to all interested parties, such as public safety agencies, citizen groups, etc.
2. Establish evacuation plans for all affected communities to effectively remove all people from the hazard area in the event of a tsunami warning. This includes identifying all facilities that may need extra assistance in evacuating (nursing homes, day cares, etc.). The evacuation plan should also address the timeline for a full evacuation, as well as a division of labor to identify which agencies will do which actions.
3. Establish requirements that existing critical facilities must be reviewed for susceptibility to tsunamis. These facilities should be reviewed to determine what kind of mitigation action should be taken for each facility.
4. Post Tsunami signs that show the existence of the hazard area, and the way to the

nearest evacuation route.

5. New critical facilities constructed in the tsunami hazard zone must be elevated above the hazard area, armored in place, or built outside the hazard area if at all possible. The 2018 model, demonstrating increased inundation potential, published by the Washington Geologic Survey, should be used to inform the siting and mitigation measures employed during permitting of critical facilities.
6. Early warning systems should be evaluated to see if an automated system can be put into place to provide automated early warning in the event a tsunami occurs.
7. Develop Tsunami Resistant Communities, according to NOAA's Strategic Implementation Plan for Tsunami Mitigation Projects. These communities would be outfitted with the knowledge and tools outlined above to deal with a tsunami event.



Five All Hazard Alert Broadcast (AHAB) Warning Systems have been added to the five already placed along the shoreline to provide warning of tsunami waves. New locations include:

- Birch Bay Park
- Blaine (Water Treatment Plant)
- Port of Bellingham (South Harbor Loop)
- Birch Bay Village Marina
- Fairhaven (Port of Bellingham)

Three additional AHAB systems are planned for 2021

- Lummi Nation
- Birch Bay State Park
- Semiahmoo Marina

These sirens are being added due to population growth in these areas and increased tsunami risk. Also in 2020, Whatcom County started the TsunamiReady certification process with NOAA and also started the process of evaluating the risk areas and evacuation routes that had been identified in 2015 as newer modeling suggests that the identified evacuation routes will likely not survive even a moderate earthquake due to liquefaction. In 2019, Whatcom County completed and issued the Whatcom County Tsunami Action Plan which details response actions. Whatcom County is also now part of the State of Washington Inner Coast Working

Group.

-Whatcom County will continue to explore options for defining conservative estimates of tsunami inundation potential in areas not currently addressed by available tsunami modeling. When new modeling data becomes available from the Washington State Geological Survey addressing tsunami potential for the entire County, this information can be used to refine or replace conservative estimates. The identification of safe evacuation areas is critical to the development of preparedness plans for individual and communities. Access to safe evacuation areas should be served by multiple evacuation routes in the event that secondary seismic impacts such as landslides, liquefaction, or lateral spreading damage or destroy one or more options for accessing high ground.

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VOLCANOES

A. DEFINITIONS

- Blast Zone** The area immediately surrounding a volcano, up to several tens of kilometers, that is destroyed by a volcano's blast.
- Lava Flow** A stream of molten rock that pours or oozes from an erupting vent.
- Lahar** A mudflow or debris flow that originates from the slope of a volcano; pyroclastic flows can generate lahars by rapidly melting snow and ice.
- Pyroclastic Flows** High-density mixtures of hot, dry rock fragments and hot gases that move away from the vent that erupted them at high speeds.
- Tephra** General term for fragments of volcanic material, regardless of size, that are blasted into the air by explosions or carried up upward by hot gases in eruption columns or lava fountains.
- Volcano** A vent in the earth's crust through which magma (molten rock), rock fragments, associated gases, and ashes erupt, and also the cone built by effusive and explosive eruptions.

B. BACKGROUND INFORMATION

The Cascade Range (Cascades) extends more than 1,000 miles, forming an arc-shaped band extending from Southern B.C. to Northern California. The Cascades roughly parallels the Pacific coastline, and at least 17 major volcanic centers. Whatcom County's eastern boundary follows the crest of the Cascade Range.

The central and southern Cascades are made up of a band of thousands of much older, smaller, short-lived volcanoes that have built a platform of lava and volcanic debris. Rising above this volcanic platform are a few large younger volcanoes that dominate the landscape. The North Cascades, including Whatcom County, present younger (Quaternary) volcanoes overlying much older metamorphosed basement rock.

The Cascades volcanoes define the Pacific Northwest section of the "Ring of Fire," a fiery array of volcanoes that rim the Pacific Ocean. These volcanoes can be seen to the left in figure 4. Many of these volcanoes have erupted in the recent past and will most likely be active again in the future. Given an average rate of two eruptions per century during the past 12,000 years,

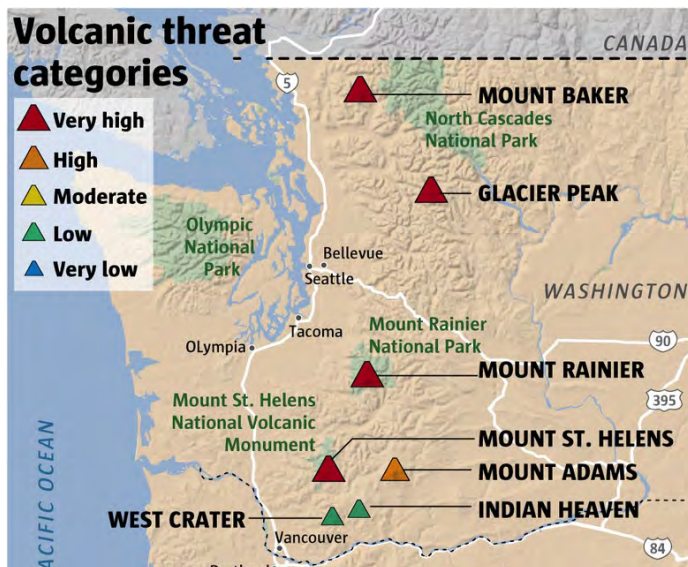


Figure 4. Washington Volcanoes and threat showing Mt. Baker as a major volcanic threat in Whatcom County. (Source: ESRI, USGS; created by Mark Nowlin/Seattle Times)

these disasters are not part of our everyday experience. The largest of the volcanoes in Washington State are Mount Baker, Glacier Peak, Mount Rainier, Mount Saint Helens, and Mount Adams. Eruptions from Mount Baker, located in the central portion of Whatcom County, and Glacier Peak, in Snohomish County, would severely impact Whatcom County. Mount Baker and Glacier Peak have erupted in the historic past and will likely erupt again in the foreseeable future. Due to the topography of the region and the location of drainage basins and river

systems, eruptions on Mount Baker could severely impact large portions of Whatcom County. A Mount Baker eruption would generate lahars, pyroclastic flows, tephra or ash fall, and lava flows that would decimate affected areas, as shown in the map below. Glacier Peak, which is in Snohomish County, is of concern due to its geographic proximity to the County. Ash fall from an eruption at Glacier Peak could significantly impact Whatcom County.



Photo of Mt. Baker in Whatcom County

Mount Baker, seen to the left, (3,285 meters; 10,778 feet) is an ice-clad volcano in the North Cascades of Washington State about 50 kilometers (31 miles) due east of the city of Bellingham. After Mount Rainier, it is the most heavily glaciated of the Cascades volcanoes: the volume of snow and ice on Mount Baker (about 1.8 cubic kilometers; 0.43 cubic miles) is greater than that of all the

other Cascades volcanoes (except Rainier) combined. Isolated ridges of lava and hydrothermally altered rock, especially in the area of Sherman Crater, are exposed between glaciers on the upper flanks of the volcano; the lower flanks are steep and heavily vegetated. The volcano rests on a foundation of non-volcanic rocks in a region that is largely non-volcanic in origin.

C. RECENT HISTORY IN WHATCOM COUNTY

Eruptions in the Cascades have occurred at an average rate of 1 to 2 per Qwest during the past 4,000 years, and future eruptions are certain. Seven volcanoes in the Cascades have erupted within the past 225 years (see Table 6).

Table 6. History of Major Volcanic Eruptions in the Cascade Mountain Range in the Past 225 Years

Volcano	Eruption Type	Eruptions in the Past 225 Years	Recent Activity
Mount Baker	Ash, lava	1?	1792, 1843 to 1865, 1870?, 1880, and 1975 steam emission
Glacier Peak	Ash	1+?	Before 1800 (1750?)
Mount Rainier	Ash, lava	1?	Tephra between 1830 and 1854
Mount St. Helens	Ash, lava, Dome	2 eruptive periods	1980 to present
Indian Heaven Volcanic Field	Lava, scoria	None	8,000 years ago?
Mount Adams	Lava, ash	None	3,500 years ago
Mount Hood, Oregon	Ash, dome	2+?	1865, major eruption in the late 1700s

Note: Information obtained from WDNR

Four of the eruptions listed in Table 6 would have caused considerable property damage and loss of life if they had occurred post-development of Whatcom County without warning and the next eruption in the Cascades could affect hundreds of thousands of people. The most recent volcanic eruptions within the Cascade Range occurred at Mount Saint Helens in Washington (1980 to 1986; 2004 to 2008) and at Lassen Peak in California (1914 to 1917).

We know from geological evidence that Mount Baker has produced numerous volcanic events in the past that, were they to occur today, would place Whatcom County communities at considerable risk. Volcanic hazards from Mount Baker result from a variety of different eruptive phenomena such as lahars, ash fall, tephra fall, and pyroclastic flows. Figure 5 displays a model of the inner workings and hazards associated with volcanoes.

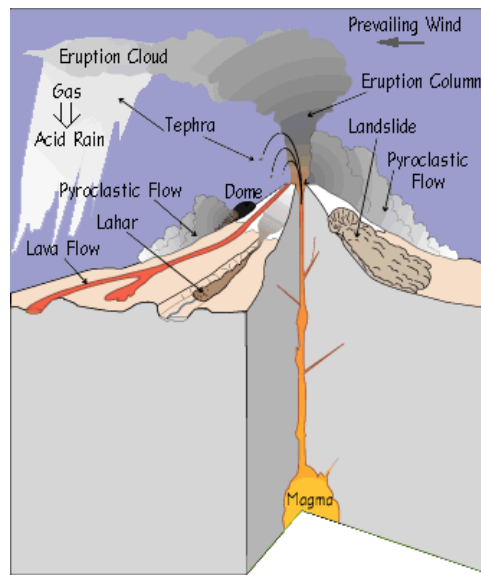


Figure 5 – Effects of a Volcano Eruption
(Diagram courtesy of USGS Cascade Volcano Observatory)

Geologic evidence in the Mount Baker area reveals a flank collapse near the summit on the west flank of the mountain that transformed into a lahar, estimated to have been approximately 300 feet deep in the upper reaches of the Middle Fork of the Nooksack River and up to 25 feet deep 30 miles downstream. This lahar may have reached Bellingham Bay. A hydrovolcanic (water coming into contact with magma) explosion occurred near the site of present-day Sherman Crater, triggering a second collapse of the flank just east of the Roman Wall. This collapse also became a lahar that spilled into tributaries of the Baker River.

Finally, an eruption cloud deposited several inches of ash as far as 20 miles downwind to the northeast. Geologic evidence shows lahars large enough to reach Baker Lake have occurred at various times in the past. Historical activity at Mount Baker includes several explosions during the mid-19th century, which were witnessed from the Bellingham area.

Sherman Crater (located just south of the summit) probably originated with a large hydrovolcanic explosion. In 1843, explorers reported a widespread layer of newly fallen rock fragments and several rivers south of the volcano were clogged with ash. A short time later, two collapses of the east side of Sherman Crater produced two lahars, the first and larger of which flowed into the natural Baker Lake, raising its water level at least 10 feet.

In 1975, increased fumarolic activity in the Sherman Crater area caused concern an eruption might be imminent. Additional monitoring equipment was installed and several geophysical surveys were conducted to try to detect the movement of magma. The level of the present-day

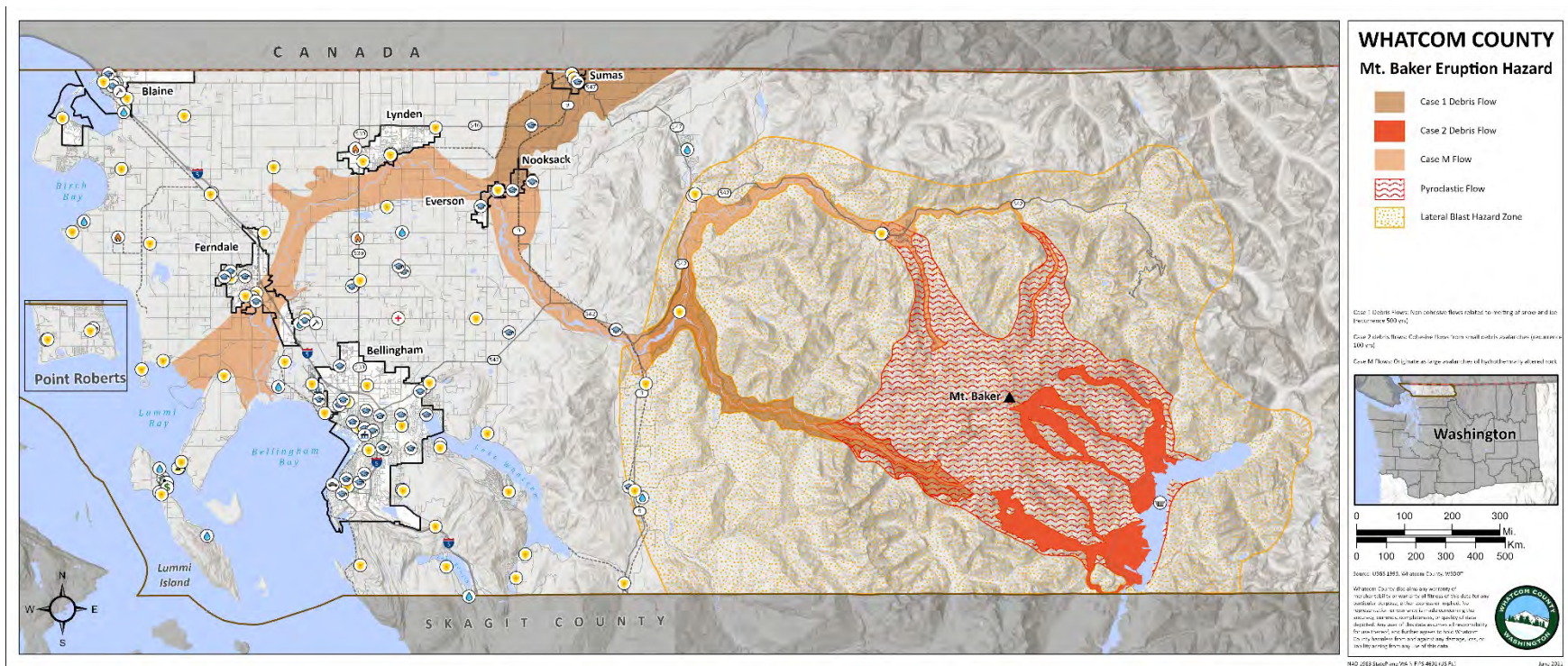
Baker Lake reservoir (located to the east and south of the mountain) was lowered and people were restricted from the area due to concerns that an eruption-induced debris avalanche or debris flow might enter Baker Lake and displace enough water to either cause a wave to overtop the Upper Baker Dam or cause complete failure of the dam. However, few anomalies other than the increased heat flow were recorded during the surveys nor were any other precursory activities observed to indicate magma was moving up into the volcano. This volcanic activity gradually declined over the next 2 years but stabilized at a higher level than before 1975. Several small lahars formed from material ejected onto the surrounding glaciers and acidic water was discharged into Baker Lake for many months.

D. VULNERABILITY ASSESSMENT

Lahars are the primary threat from volcanic activity at Mount Baker. Originating from melted snow and ice, lahars could create torrents of ash, rock, and water. Flank collapses may also create volcanic landslides that may form into lahars. Lahars resulting from flank collapses can also be triggered by earthquakes, gravity, or increases in hydrovolcanic activity. Debris flows can remain hazardous for many years if the deposited material remobilizes from heavy rains.

Most cohesive debris flows will be small to moderate in volume and will originate as debris avalanches of altered volcanic rock, most likely from the Sherman Crater, Avalanche Gorge, or the Dorr Fumarole area. Small volume debris flows will pose little risk to most people, but moderate volume debris flows could travel beyond the flanks of the volcano.

The probability of either Mount Baker erupting, collapsing, or causing slides is low. However, volcanic activity from either mountain could result in massive destruction of property and probable loss of lives in or near the floods, lahars, earthquakes, landslides, and ash fall.



Hazards from Future Activity of Mount Baker, WA (1995) data shows different volcanic flows. Case M flows originate as large avalanches of hydrothermally altered rock. Case 1 debris flows are non-cohesive flows related to melting of snow and ice, with a recurrence of 500 years. Case 2 debris flows are cohesive flows from small debris avalanches, with a recurrence of 100 years.

Examples of hazards and “worst-case scenarios” in Whatcom County, including adjacent counties and Canadian Provinces, as follows:

1. Small to moderate collapse in the area of Sherman Crater may produce lahars flowing into Baker Lake and result in the following:
 - Raised level of Baker Lake
 - Baker Lake Dam failure
 - Flooding of the entire Skagit floodplain to Puget Sound
2. Large flank collapses or pyroclastic flows could result in the following:
 - Inundation of Skagit River Valley by displacement of water in reservoirs by lahars
 - North Fork, Middle Fork, and Nooksack River to Bellingham Bay could be inundated, and enough debris flow could be deposited in the stretch of river between Lynden and Everson to raise the riverbed enough to spill into the Sumas River or to divert the Nooksack River into the Sumas River Basin (such an event is considered high consequence but low probability)
 - Floodwaters could extend from Sumas into Huntingdon and Abbotsford, B.C.
 - Flooding all the way to Bellingham Bay
3. Hospitals: Bellingham’s Saint Joseph Hospital and the Outpatient Center would be isolated from other communities
4. Transportation Routes: I-5 flooded at Nooksack and/or Skagit Rivers; Highway 9 flooded at Deming and Sedro Woolley (Skagit County); Mount Baker Highway (SR 542) flooded
5. Ash fall: will depend on direction of the wind (prevailing winds are toward the East); the ash may cause reduced visibility or darkness; air filters and oil filters in automobiles and emergency vehicles become clogged
6. Airports: All local airports may be impacted by ash fall
7. Railroad tracks, power lines, radio towers, highways, campgrounds, natural gas pipelines, and water supplies in these more remote areas may be inundated
8. Forest fires from ash and volcanic eruption may be expected

9. Earthquakes may occur
10. Lightning and thunderstorms often accompany volcanic eruptions
11. City of Bellingham's Middle Fork water supply diversion dam, tunnel, and pipeline to Lake Whatcom possibly buried and/or destroyed
12. Large numbers of farm animals, people, fish, and wildlife may be required to be relocated (temporarily or permanently), injured, or, if warning and guidance are not followed, killed. Those most vulnerable initially would be those nearest the pyroclastic, lahar, and lava flows, or heavy ash and rock fall during the eruption. Those people in this recreational area of forests and wildlife may be impossible to locate and rescue. Baker Lake and its dams are vulnerable and, if impacted, could cause extensive loss of property and lives downstream in Skagit County.



Photo of a lahar and damaged buildings.

Lahars flowing down and flooding the Nooksack, Baker, and Skagit Rivers may provide very little warning for evacuation to nearby populations. The potential destruction of a town is shown in the image above. Earthquakes accompanying an eruption may cause bridge or road damage and trigger landslides. Fine ash fall, even if only an inch thick, may make asphalt road surfaces slippery, causing traffic congestion on steep slopes or

accidents at corners and junctions. Even a minor eruption or large flank collapse

of Mount Baker could impact some populations physically, psychologically, and economically.

Secondary Volcanic Hazards

1. Flooding:
 - a. Baker Lake and Lake Shannon – possibly dams destroyed
 - b. Nooksack River from origins to Bellingham Bay
 - c. Skagit River from Baker River junction throughout Skagit River Valley to Puget Sound
2. Transportation: severe disruption

3. Water lines, water reservoirs: contaminated or broken and depleted
4. Communication: landlines down, wireless phones overwhelmed
5. Electric power: some or all power lost from Mount Vernon to Lynden and possibly further in all directions
6. Gas and fuel pipelines: possibly broken
7. Toxic waste, sewer, and household chemicals in flood areas

E. MITIGATION STRATEGIES

Generally, technology and tell-tale signs of eruptions from volcanoes allow experts to predict volcanic activity, such as the predictions of the 1980 Mount Saint Helen's eruption that saved many lives. However, the magnitude and timing of volcanic activities cannot be precisely predicted, giving the public little to no warning to prepare for a volcano emergency. Because of this, the best way to mitigate against volcanoes is to educate and raise awareness of affected citizens. In 2013 Whatcom Division of Emergency Management, United States Geological Survey, and the Washington State Emergency Management Division participated in the US/ Columbia Volcanic Exchange. Best practices concepts were brought back from the participants, and a focused effort led to a completion of a public information campaign for the Northern Cascade volcanos.

The original hazard publication for Mt. Baker was published by the United States Geological Survey in 1997. An updated hazard publication is currently being produced by the USGS and will provide improved estimates of potential hazards. Estimates of lahar inundation depth, extent, and velocity will be modeled using modern techniques and will allow the development of improved evacuation routes and volcanic hazard management plans. Upon publication by the USGS, all existing volcanic emergency response plans should be updated to reflect the improved understanding of potential hazards.

In 2018 the Whatcom County Department of Emergency Management conducted the Mount Baker Volcano Exercise. This 5-day exercise was designed to simulate the likely sequence of events to be experienced during a multi-month volcanic event at Mount Baker, culminating in an eruption, emergency response, and post-event recovery. Representatives from the USGS Cascades Volcano Observatory devised the scenario as a likely analog to probable events at Mount Baker, and multiple agencies participated in a coordinated response. The purpose of the exercise was to test the ability of the current volcanic emergency plan to respond to the simulated event by evaluating the participants responses to the following six functional areas:

Small Communities, Interagency Response and Coordination, Elected Officials, Command, Control, Coordination & Communication, Search and Rescue, and Recovery. Lessons learned from the exercise have been or will be incorporated in future iterations of the Whatcom County DEM volcanic emergency response plan.

WILDLAND FIRES

A. DEFINITIONS

Structure Fire A fire of natural or human-caused origin that results in the uncontrolled destruction of homes, businesses, and other structures in populated, urban or suburban areas.

Wildland fire Fire of natural or human-caused origin that results in the uncontrolled destruction of forests, field crops and grasslands.

Wildland Urban interface A fire of natural or human-caused origin that occurs in, or near, forest or grassland areas, where isolated homes, subdivisions, and small communities are also located.

B. BACKGROUND INFORMATION

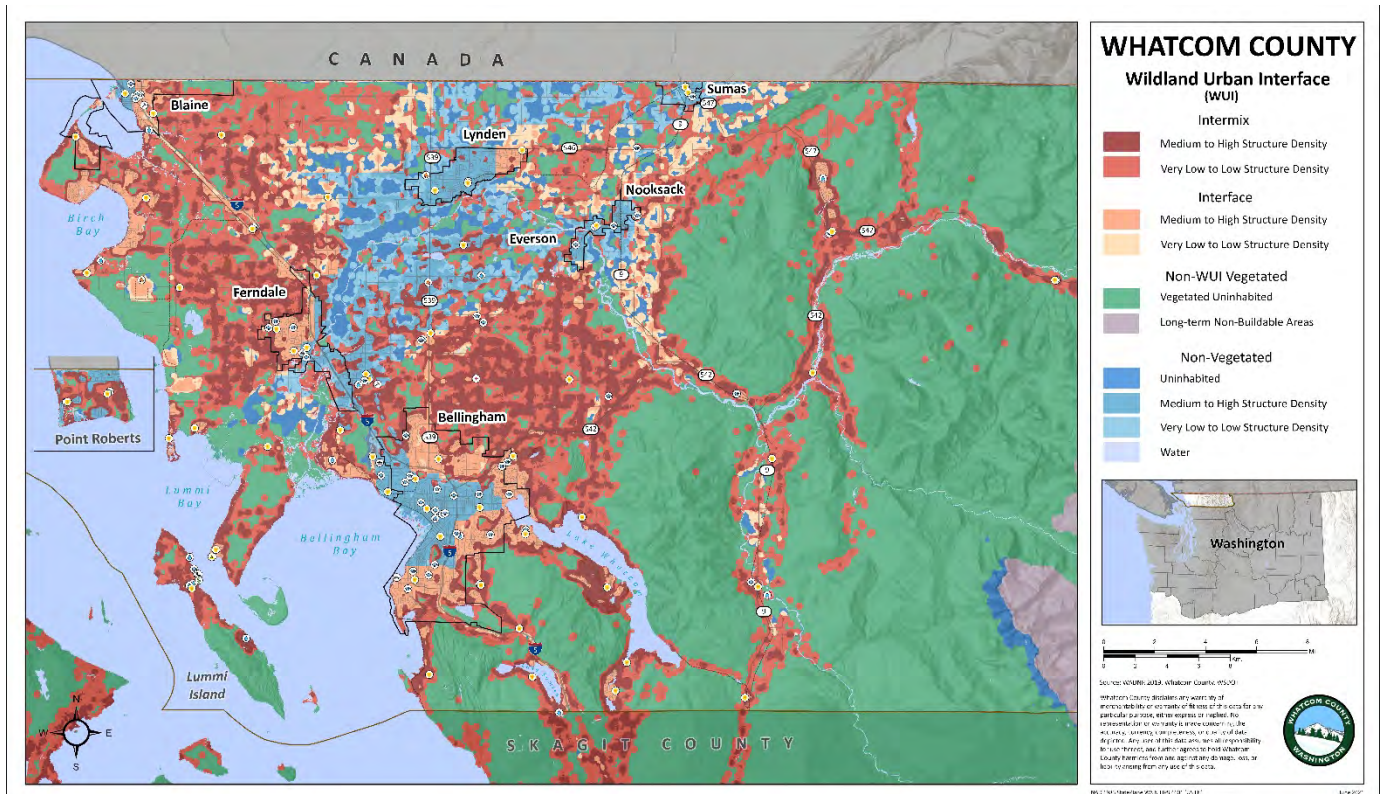
Wildland fire is a serious and growing hazard over much of the United States, posing a great threat to life and property, particularly when it moves from forest or rangeland into developed areas. An image of a wildland fire can be seen to the left. However, wildland fire is also a natural process, and its suppression is now recognized to have created a larger fire hazard, as live and dead vegetation accumulates in areas where fire has been excluded. In addition, the absence of fire has altered or disrupted the cycle of natural plant succession and wildlife habitat in many areas. Consequently, United States land management agencies are committed to finding ways, such as prescribed burning, to reintroduce fire into natural ecosystems, while recognizing that firefighting and suppression are still important. USGS conducts fire-related research to meet the varied needs of the fire management community and to understand the role of fire in the landscape; this research includes fire management support, studies of post-fire effects, and a wide range of studies on fire history and ecology. Whatcom County's evolution over the years has resulted in greater numbers of residents either living in or immediately adjacent to wildlands.

Whatcom County's population has grown from 81,293 in 1970 to over 229,000 in 2019. While most of the growth has occurred in Whatcom County's cities, a significant number of homes



Image of a Wildland Fire.

and businesses have been built in a wildland interface or intermix fashion. The following Wildland-Urban Interface map demonstrates the density of these population centers. Large tracts of forest either abut or surround communities increasing the risk that an uncontrolled wildland fire will result in significant or even catastrophic loss. With few roads for ingress or egress, certain areas could be cutoff rather quickly.



C. RECENT HISTORY IN WHATCOM COUNTY

In terms of acres burned, 2020 ranked second to the record-setting 2015 fire season when over one million acres of land burned in Washington. In 2020, over seven hundred thousand acres of Washington land was charred by wildfire. During this same period, Whatcom County experienced several wildfires, the most notable one being the Goodell Fire in 2015. This fire started on August 10th by lightning and burned for the next several weeks consuming over 8,000 acres of timber and brush in rocky, mountainous terrain. Transmission lines from several hydroelectric power plants running alongside the Skagit River were threatened and evacuation of Seattle City Light staff were evacuated from Diablo and Newhalem. Campers in the area

were also evacuated and the North Cascades National Park was closed as was a 90 mile stretch of Highway 20 connecting several communities on the east and west side of the Cascades. In April 2020, an 80-acre fire (Porter Creek Fire) burned for several days near Deming. A number of smaller wildfires have also burned in Whatcom County and threatened homes and other structures.

In some cases, two or more fires merged together, overwhelming resources and creating fires so large and complex that some were not fully extinguished until cooler, damp autumn weather moved into the region.

Changing Conditions

Changing weather patterns are creating conditions that leave western Washington's environment more conducive to wildfire. Figure 6 is a graphic showing these condition changes. Increasing temperatures, less rain falling in the summer, and earlier snow melt are resulting in drier fuels and forests in our area. Drought conditions lead to dry and dead fuels which mean our forests are becoming increasingly more flammable and homes in the wildland-urban areas are more at risk.

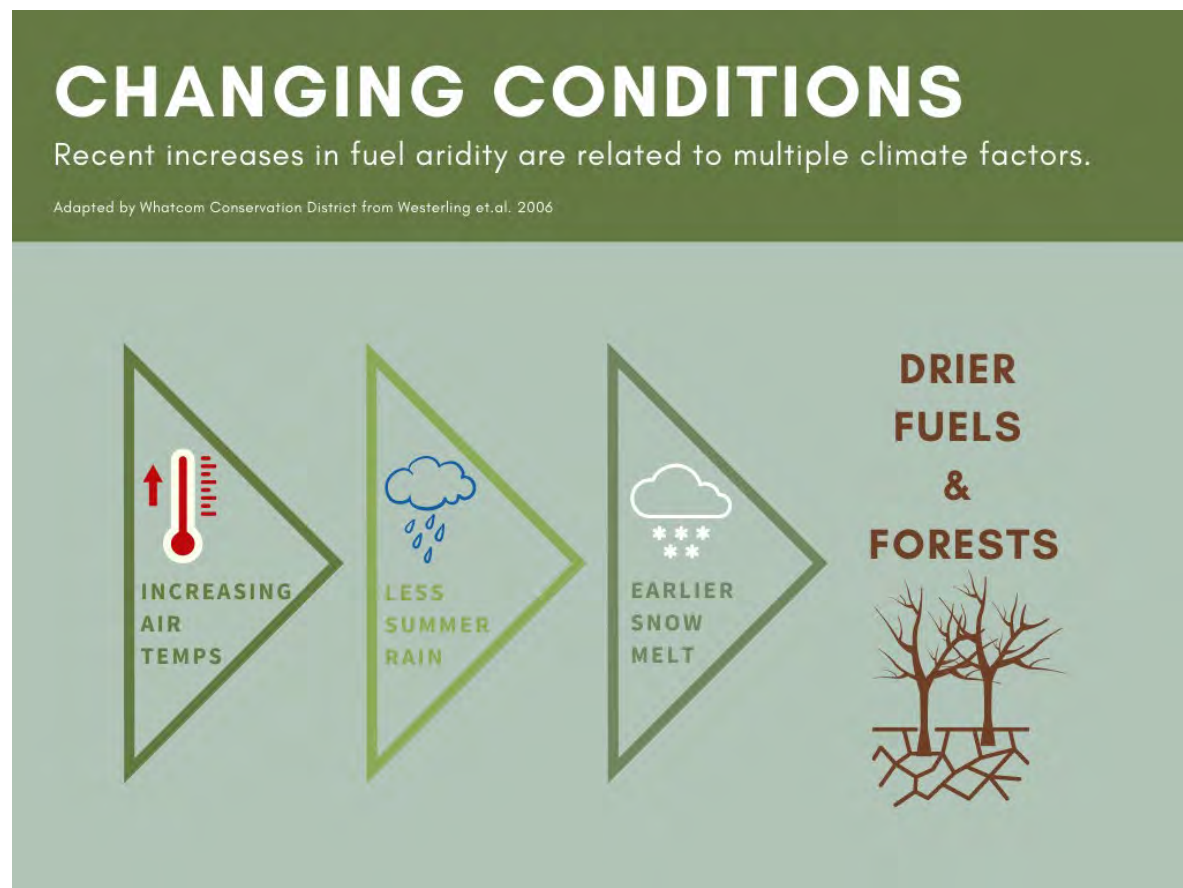


Figure 6 showing how changing yearly weather conditions leads to an increased risk of fire.

D. VULNERABILITY ASSESSMENT

The Washington Department of Natural Resources no longer uses the “Risk Assessment and Mitigation Strategies” tool which aided development of this wildfire section. The new modeling software-“Wildfire Prevention Spatial Assessment and Planning Strategies (WPSAPS)-is currently being developed by the Interagency Workgroup but has not yet been finalized or available for release in a draft form. Whatcom County will revisit and update this section during the annual review process when the new model is released. The revised section will be forwarded to the Washington State Hazard Mitigation Officer and FEMA at that time. In the meantime, the Risk Assessment and Mitigation Strategies (RAMS) remains the most authoritative source for developing wildfire hazard and associated mitigation strategies for Whatcom County.

Should a large wildland or wildland-urban interface fire occur in Whatcom County, the effects of such an event would not be limited to loss of property, valuable timber, wildlife and habitat, or recreational areas. The loss of large amounts of timber on steep slopes would increase the risk of landslides and mudslides during the winter months and the depositing of large amounts of mud and debris in streams and river channels could threaten valuable fish habitat for many years. In addition, the loss of timber would severely impact the watershed of the Skagit River and could drastically increase the vulnerability to flooding for many years.

WDNR, Northwest Region, has conducted a region-wide wildland fire hazard assessment utilizing the following method:

1. Risk Assessment and Mitigation Strategies (RAMS) was developed for fire managers to be an all-inclusive approach to analyzing wildland fire and related risks. It considers the effects of fire on unit ecosystems by taking a coordinated approach to planning at a landscape level. The steps involved in this process include the following:
 - a. Identification of spatial compartments for assessment purposes:
 - i. Whatcom County (county # 37) was subdivided into three risk assessment compartments based on Industrial Fire Precaution Level (IFPL) Shutdown Zones. Zone 653 represents the islands and tidal lowlands; Zone 656 represents the interior lowlands (roughly the Interstate 5 corridor); and Zone 658 represents the uplands to the Cascade Crest (roughly 1,500 feet elevation and above). Whatcom County risk assessment compartments are numbered using the county number (37) combined with the shutdown zone number. Using this scheme, the three risk assessment compartments within Whatcom County are numbered 37653, 37656 and

37658.

- b. Assessment of significant issues within each compartment, which are related to:
 - i. Fuels Hazards – The assessment of fuel hazards deals with identifying areas of like fire behavior based on fuel and topography. Given a normal fire season, how intense (as measured by flame length) would a fire burn? Under average fire season conditions, fire intensity is largely a product of fuel and topography.
 - ii. Protection Capability – Determining fire protection capability for the purpose of this assessment involves estimating the actual response times for initial attack forces and how complex the actual suppression action may be once they arrive because of access, fuel profile, existence of natural or human-made barriers to fire spread, presence of structures, and predicted fire behavior.
 - 1. Initial Attack Capability – actual time of first suppression resource
 - 2. Suppression Complexity – access, fuel conditions, structure density, and so forth
 - iii. Ignition Risk – Ignition risk evaluation will be completed for each compartment. Ignition risks are defined as those human activities or natural events which have the potential to result in an ignition. Wherever there are concentrations of people or activity, the potential for a human-caused ignition exists. After assessing the risks within an area, it is helpful to look at historical fires to validate the risk assessment. Historical fires alone, however, are not an accurate reflection of the risks within a given area. The objective of this effort is to determine the degree of risk within given areas.
 - 1. Compartment Ignition Risk is based on:
 - a. Population Density
 - b. Power Lines – distribution as well as transmission
Industrial Operations – timber sale, construction project, fire use, mining, and so forth
Recreation – dispersed, developed, OHV, hunting, fishing
Flammables Other – fireworks, children, shooting, incendiary, cultural, power equipment
Railroads

- c. Transportation Systems – state, federal, public access
 - d. Commercial Development – camps, resorts, businesses, schools
- iv. Fire History – Fire history will be completed for each compartment to reflect:
 - 1. Fire location
 - 2. Cause
 - 3. Average annual acres burned
 - 4. Average annual number of fire by cause
- v. Catastrophic Fire Potential – An evaluation of fire history reflects the potential for an event to occur. An example is if large damaging fires occur every 20 years and it has been 18 years since the last occurrence, this would reflect a priority for fire prevention management actions.
 - 1. Evaluate large fire history
 - 2. What are the odds of a stand replacement type fire occurrence in that compartment? Unlikely Possible Likely
- vi. Values – Values are defined as natural or developed areas where loss or destruction by fire would be unacceptable. The value elements include:
 - Recreation – undeveloped/developed
 - Administrative sites
 - Wildlife/Fisheries – habitat existing
 - Range Use
 - Watershed
 - Timber/Woodland
 - Plantations
 - Private Property
 - Cultural Resources
 - Special Interest Areas
 - Visual Resources

- Threatened and Endangered Species
- Soils
- Airshed
- Other Necessary Elements

This evaluation process provides the basis for determining the *Whatcom County Wildland-Urban Interface Fire Risk Assessment Compartments* map. Additional information regarding the results of this process can be found in Appendix D, which contains excerpts from the RAMS Assessment.

RAMS risk assessment compartments were further broken down to identify Wildland-Urban Interface Hazards. Using 2010 Census data, individual areas were identified in the Wildland-Urban Interface and assessed using the National Fire Protection Association (NFPA) 299, Wildfire Hazard Assessment. The results of this assessment are depicted in the *Whatcom County Wildland-Urban Interface: Fire Risk Assessment* map, below. RAMS risk assessment is currently being updated, but new maps have not yet been released.

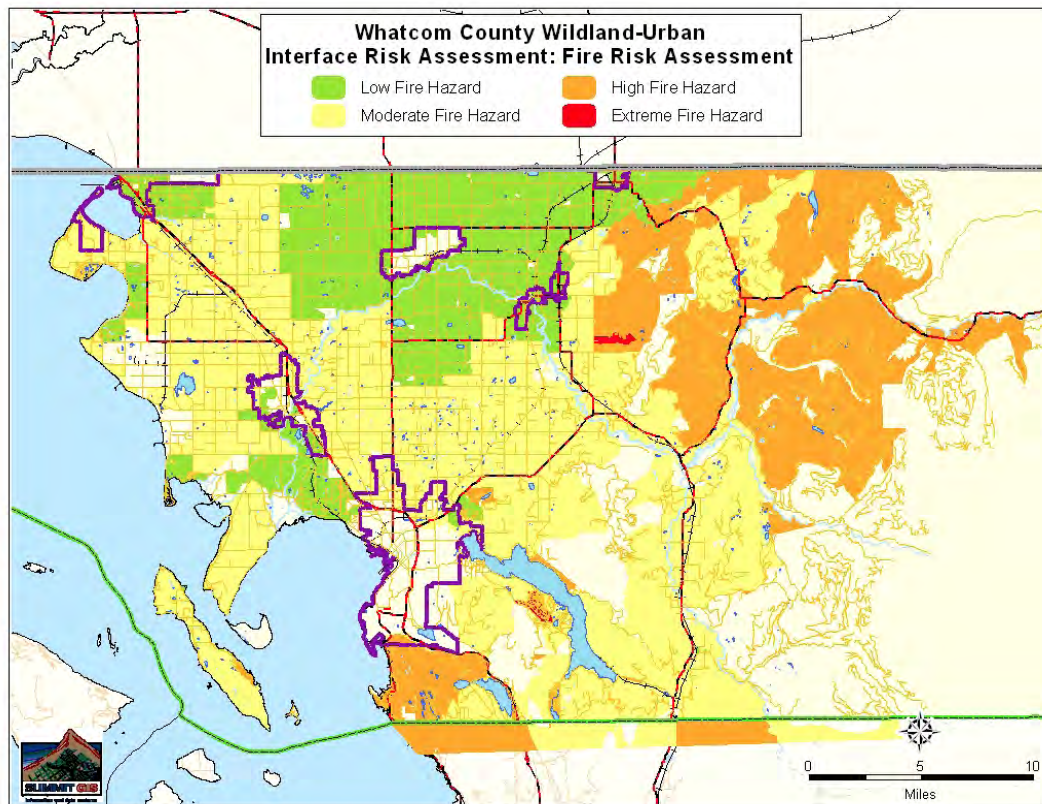


Figure 7. Interface Risk Assessment- Fire Risk Assessment map shows areas of the county at most risk of wildfire,

including the Chuckanut Mountains, and east County near Everson, Nooksack, Kendall and Glacier.

The NFPA 299 was further refined, to reflect Whatcom County Fire Manager's input, producing a map that reflects Landscapes of Like Risk (Communities at Risk). Areas that received a high to extreme risk ranking were grouped into landscapes and named. The result is depicted in the following map. These areas of Whatcom County are at highest risk of catastrophic loss to a Wildland fire.

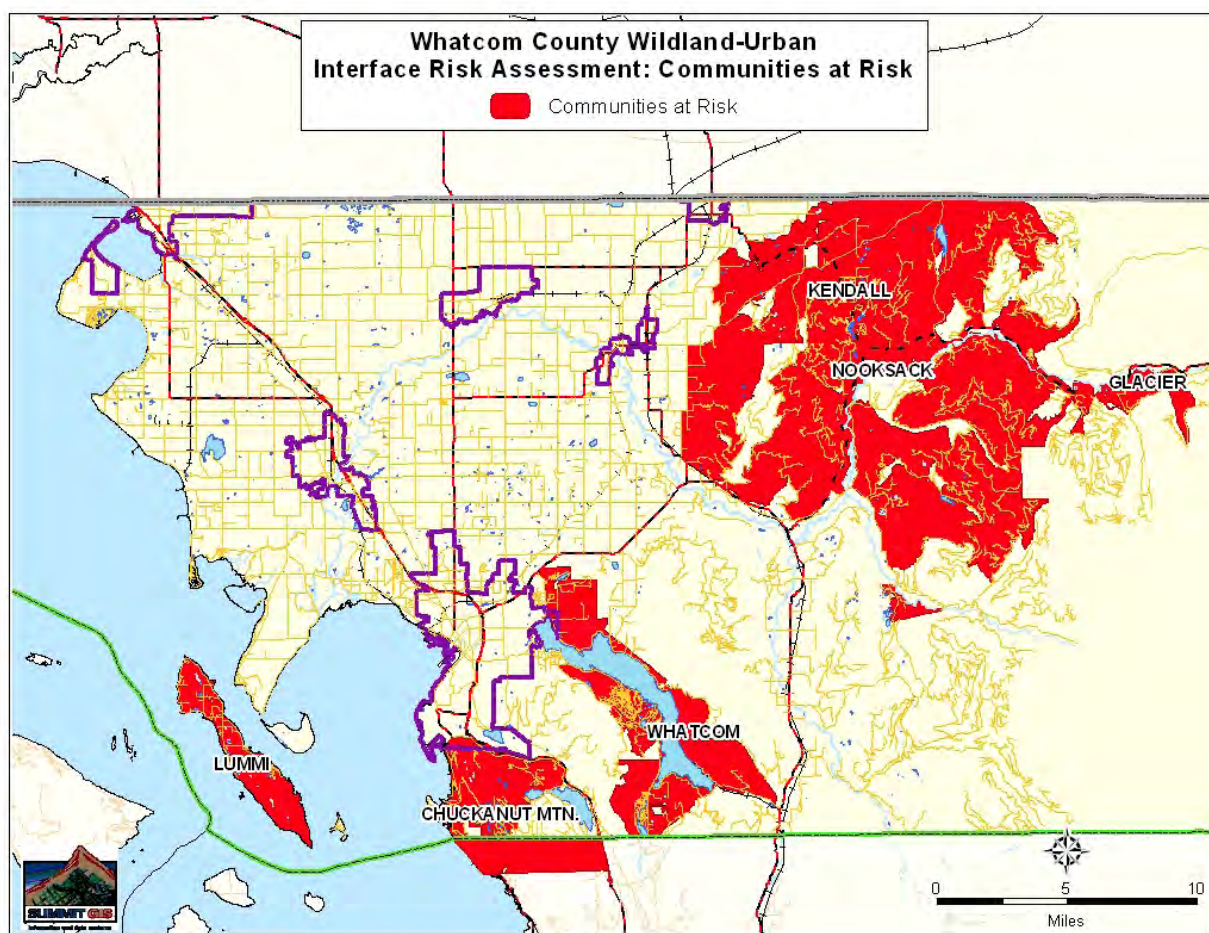


Figure 8. Interface Risk Assessment- Communities at Risk map shows communities most at risk of fire, including Lummi Island, communities around Lake Whatcom and in the Chuckanut Mountains, and the Kendall, Nooksack, and Glacier communities in east Whatcom County.

E. MITIGATION STRATEGIES

In cooperation with fire managers from WADNR, NW Region, three mitigation strategies were

developed to address Whatcom County's fire hazards. Each is discussed below.

Inter-Agency Cooperation & Partnerships

Inter-agency cooperation and successful partnerships are the key to a successful wildland fire mitigation strategy. In the case of wildland fire risk mitigation, continued development and enhancement of support between fire protection agencies will be emphasized. Working with local, state, and regional partners that are working in fire adaptation to share a unified message about wildland fire preparedness is a priority and includes participation in the NW Region Wildland Fire Local Coordinating Group and supporting Local Coordination group activities.

Support of actions proclaimed by the governor's office and the Whatcom County Executive's Office in relation to wildland fire prevention and preparedness, such as Wildfire Awareness Month and Community Wildfire Preparedness Day, should be made a priority. In addition, it is essential to support Whatcom County-----based community wildland fire preparedness programs such as Whatcom Conservation District's Wildfire Risk Reduction Program that provide a direct service to residents of Whatcom County.

County-Wide Wildland Fire Prevention

In the RAMS Compartments, where the wildland fire risk has been assessed at moderate, multi-agency cooperative fire prevention activities will occur during the summer months addressing the following:

- Public awareness of current fire danger
- Press releases
- Media opportunities for fire prevention news articles
- Radio and TV spots, as needed
- Use of burn restrictions, including bans, if necessary, during periods of high fire danger
- Use of Smokey Bear fire prevention programs targeting age-specific audiences during periods of extreme fire danger, or during significant wildland fire events
- Consideration of mobilizing Washington State Inter-agency fire prevention teams
- Use of other fire prevention tactics and strategies, as needed, and as conditions warrant

Wildland/Urban Interface (WUI) Communities at Risk Preparedness

As a result of efforts conducted by WADNR, the following list of Landscapes of Like Risk were

established.

1. Lake Whatcom watershed
 - a. Sudden Valley
 - b. Northshore
 - c. Homes/neighborhoods adjacent to City acquisition lands
2. Nooksack
3. Glacier
4. Lummi Island – Lummi Island Scenic Estates, a community on Lummi Island, has received national recognition for their mitigation activities under NFPA’s Firewise USA program. Lummi Island as a whole is part of the Washington State Fire Adapted Communities Learning Network and is recognized as a community working to become more fire adapted
5. Columbia Valley/Kendall – Peaceful Valley Community is working toward becoming a nationally recognized Firewise USA site.
6. Chuckanut Mountain – Chuckanut Crest is actively working on community wildfire planning and preparedness

Communities located in the Landscapes of Like Risk should consider the following actions:

- Participation in the NFPA Firewise USA Program (www.firewise.org)
- Host wildfire preparedness workshops
- Increase homeowner awareness
- Facilitate community involvement and support
- Facilitate media involvement
- Sign up for individual wildfire home evaluations
- Use the NFPA Firewise USA program to:
 - Bring neighbors together to address shared risk
 - Provide a framework for community mitigation
 - Nationally recognize achievement
 - Receive access to grant funds for wildfire risk reduction projects

The Whatcom Conservation District can provide assistance to homeowners and communities in their understanding of wildfire, NFPA Firewise program efforts, and on-the-ground mitigation efforts. Services like free wildfire home evaluations and neighborhood wildfire risk assessments are provided through the [Community Wildfire Risk Reduction Program](#) at the Conservation District.

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SECTION 2.2 OTHER HAZARDS OF CONCERN

AVALANCHES

A. DEFINITIONS

Avalanche Masses of snow ice which move in swift motion down a mountainside or over a precipice. During the avalanche, earth, rock or other material such as trees may also be picked up. Avalanches can grow to be large, although they are not defined by their size, and depending on the situation even small avalanches can be dangerous.

B. BACKGROUND INFORMATION

Whatcom County has remote mountainous sections which receive high levels of snowfall during winter months. The maritime snowpack is traditionally deep, dense and prone to avalanches. Whatcom County is also a popular destination for winter recreationalists increasing the population exposure to avalanche.

In the future, WSDOT would like to build a new weather station in the Diablo Gorge area. This will help teams better anticipate avalanches and protect people using the mountain areas. The Northwest Avalanche Center (NWAC) offers a space for people to report observations of potentially dangerous avalanche conditions. Receiving input from the community is valuable to those who seek to keep residents and visitors safe from the risk avalanches present. You can submit a “field observation” here. You can also see observations submitted by other users here. By participating in NWAC’s field observations, you can keep yourself and your community members safe. Also located on the NWAC website you can see avalanche forecasts by mountain zone and a snow depth chart, so you can plan your travels more safely.

D. RECENT HISTORY IN WHATCOM COUNTY

- 2020** One skier in a party of three triggered and was caught and carried by a slab avalanche that released on a SE aspect around 5500' in an area of Mt. Herman known as East Gully above Bagley Lakes. The skier was carried up to 100' downhill before hitting and being pinned against a tree. He was able to free his left arm and immediately cleared his airway. His partners helped extract him. The skier suffered minor injuries but was fortunate enough to recover all of his gear and ski down unassisted.
- 2020** A skier was fully buried in an avalanche that occurred adjacent to the Mt. Baker Ski Area. The avalanche was triggered by a traveler from a different party. Mt. Baker Ski Patrol was on the scene immediately, located the victim quickly, dug them out, and cleared their airway. The individual survived and reported no injuries. The slab avalanche was 1 ft deep and at its widest point broke 500 feet across the slope.
- 2018** A single snowmobiler triggered and was caught, carried and killed in a large slab avalanche on Park Butte in the Mt. Baker National Recreation Area. The avalanche (HS-AMu-R3-D3-O) was triggered just below the summit on a NE aspect near 5400'. The victim was carried 1000' through a gully and sparse trees. The avalanche was 200 ft (60 m) wide and averaged 4' deep (1.2m). It failed on a 2 cm thick layer of facets above a firm rain crust.
- 2017** Widespread 1-2 ft storm slabs and larger 3-5 ft wind slabs were reported in the backcountry near Mt Baker on Saturday, March 4th. An incident occurred on Mt Herman when a large wind slab on an east aspect was triggered from a party above, partially burying two and completely burying one in a separate party at the base of the slide path. The impacted party was transitioning back to climbing skins when they were caught in the avalanche.
- 2017** The lead skier in a party of four triggered a D1.5 storm slab descending the north aspect of Table Mt. at 5000'. Skier was caught and carried a few hundred feet down slope and sustained minor injuries. The other members of the party were able to assist skier off slope and back to ski area boundary.
- 2016** Two skiers caught, 1 seriously injured and 1 killed by a wet slab (glide) avalanche in the Mt. Baker area.
- 2014** Two skiers in party, one caught by a natural avalanche while ascending on

foot and carried several thousand feet, one fatality.

- 2009** One skier caught and partially buried with broken leg on Table Mountain near Mt. Baker Ski Resort. Helicopter lift off mountain.
- 2009** Mt. Baker Hwy. closed due to avalanche activity near town of Glacier.
- 2008** Five snowmobilers caught, three buried, two die near Church Mountain.
- 2006** Skier caught, buried and killed near Mt. Herman.
- 2005** Two snowboarders caught, buried and revived after 15 minutes.
- 2004** Six burials, three deaths in 2004 season, all within 5 miles of Mt. Baker Ski Resort.

C. VULNERABILITY ASSESSMENT

Avalanche incidents are primarily isolated to specific backcountry user groups. Mountainous roads, however, are susceptible to avalanches, in particular Hwy 542 (Mt. Baker Hwy) and Hwy 20. Hwy 20 is closed during most of the avalanche season; however, a large avalanche obstructing Hwy 542 has the potential to isolate hundreds to thousands at the Mt. Baker Ski Resort with limited services. Multi-agency networking, particularly between NWAC and WSDOT, allows for road crews to work proactively to reduce vulnerability to avalanches. With avalanche forecasting, which utilizes NWAC forecasting, Geographic Information Systems (GIS), and historical events (magnitude and return interval), road crews are able to close roadways and remotely trigger an avalanche using controlled detonations before they harm people. Even a small avalanche can be deadly to a person outside of their vehicle, which is why an abundance of caution and proactive action is necessary.

As most of Whatcom County is below the seasonal snowline, risk of avalanche incident is mainly limited to winter recreationalists. The threat to life from avalanches is extreme and Whatcom County traditionally will average at least one fatality a year due to avalanches. Actions are being taken to reduce the fatalities. WSDOT hosts an annual avalanche search and rescue training for operators avalanche prone areas. Furthermore, WSDOT is aiming to provide avalanche rescue gear to as many operator vehicles in avalanche prone areas, as possible in the coming years, along with quick reference cards so that these operators know how to safely work in an avalanche zone. Furthermore, plans for new avalanche retaining walls, like those seen on I-90, are being discussed.

DAM FAILURE

A. DEFINITIONS

Dam Failure The uncontrolled release of impounded water resulting in downstream flooding, which can affect life and property.

B. BACKGROUND INFORMATION

There are many dams for many different purposes throughout Whatcom County: Nooksack Diversion Dam which shunts water to Lake Whatcom from the South Fork of the Nooksack River⁴; dams for waste water reservoirs; flood-control dams; lakes dammed for recreational purposes; and hydroelectric projects on the Baker and Skagit Rivers. Dam failures can be caused by flooding, earthquakes, volcanic eruption, blockages, landslides, lack of maintenance, improper operation, poor construction, vandalism, or terrorism.

In 2020, the Middle Fork Nooksack Dam was removed. This removal was done safely with controlled detonations.

D. RECENT HISTORY IN WHATCOM COUNTY

There are no known occurrences of dam failures in Whatcom County.

C. VULNERABILITY ASSESSMENT

A failure of a dam can have many effects such as loss of life and damage to structures, roads, utilities, crops, and the environment. Economic losses also can result from a lowered tax base and interruption of electrical power production.

With regular dam inspection, maintenance, and repair, the risk of dam failure is low. However, if a geologic or terrorist event precipitated a failure, the effects could be dire on the

⁴ Not to be confused with the recently removed diversion dam on the Middle Fork of the Nooksack.

downstream residents in addition to the loss of critical infrastructure.

A comprehensive analysis was performed in 2016 of dam failure modes and dam safety program. The tests showed the dams were safe.

DROUGHT

A. DEFINITIONS

Drought An extended period of months or years when a region notes a deficiency in its water supply. Generally, this occurs when a region receives consistently below average precipitation.

B. BACKGROUND INFORMATION

Droughts can be difficult to identify due to their typical long length. A drought's impact may not materialize for several years of less than average precipitation, or sudden droughts can have quick impacts if there is an extremely dry year or season. Near the beginning of a drought the agricultural sector is usually the first to be impacted. Although Whatcom County is traditionally a wet maritime climate there is potential and history of dry periods.

D. RECENT HISTORY IN WHATCOM COUNTY

2019 Washington State governor declares Whatcom County and 26 other counties as drought emergency.

2010 Mandatory water restrictions imposed across the City of Bellingham.

2001 Governor Gary Locke declares statewide drought emergency. First time in history for a state in the Pacific Northwest.

1997 Severe drought conditions existed statewide, lowest precipitation, snowpack and stream flows recorded.

1934-1935 Longest drought period recorded in Western Washington history.

C. VULNERABILITY ASSESSMENT

Droughts can have impacts on nearly everyone in a community. A lack of water reduces irrigation capabilities of farmers limiting the crop yield for the season/year and, critically, may reduce the availability of drinking water in the Lake Whatcom reservoir. Low water may also

affect fishers, both recreational and commercial, as several native species require cooler waters to survive. Electricity prices can increase during a drought event due to the lack of hydroelectric capabilities of dams. Droughts can also increase vulnerability to other hazards such as fires and ecological epidemics.

Severe drought in Whatcom County could have long-reaching effects due to the large amounts of agriculture and fishery as well as usage of hydro-electric power, though the County's typically wet climate prevents impacts from being as severe as they would be in drier counties.

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SECTION 2.3 WHATCOM COUNTY STORM EVENTS DATABASE

The following events, all found within NOAA's National Centers for Environmental Information Storm Events Database, are events that occurred between 2010 and 2020. While the database contains 164 events for this time period, below are the events that have a non-zero record of deaths, injuries, or recorded damage value. Only 26 events met these criteria.

EVENT_ID	214457
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	04/02/2010 1304 PST-8 / 04/02/2010 1800 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$50000/ \$0)
WFO	SEW
SOURCE	ASOS
EVENT_NARRATIVE	Bellingham (KBLI) recorded a 61-mph peak gust. Sandy Pt. Shores measured 38g58 mph at 231 PM and 236 PM. About 5,000 customers lost power.
EPISODE_NARRATIVE	A deep low passed just NW of Tatoosh Island. High wind was recorded on the coast and in a few inland zones. Strong wind was reported in other inland zones.

EVENT_ID	260893
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	11/15/2010 2024 PST-8 / 11/15/2010 2224 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES	(0/0)

(Direct/Indirect)	
DAMAGE (Property/Crops)	(\$40000/ \$0)
WFO	SEW
SOURCE	Mesonet
EVENT_NARRATIVE	Both Sandy Point and Cherry Point recorded sustained wind in excess of 40 mph 824 PM to 854 PM. A tree fell on a home and another on a car in the Bellingham area.
EPISODE_NARRATIVE	South winds of 20 to 30 mph and gusts to 45 mph occurred on the evening of November 15 in parts of western Washington and then after the cold front passed, strong onshore flow brought marginal high wind to a few zones, mainly near the Strait of Juan de Fuca.

EVENT_ID	273698
CZ_NAME_STR	WHATCOM CO.
BEGIN LOCATION	DIABLO
BEGIN/END DATE & TIME	12/12/2010 600 PST-8 / 12/13/2010 300 PST-8
EVENT_TYPE	Flood
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$100000/ \$0)
WFO	SEW
SOURCE	Newspaper
EVENT_NARRATIVE	Parts of Highway 20 between Newhalem and Diablo were washed away by heavy rain and flooding.
EPISODE_NARRATIVE	The Stillaguamish River reached record level. There were several roads washed out in Kitsap County. 2 homes were damaged from mudslides.

EVENT_ID	347687
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	09/26/2011 1200 PST-8 / 09/26/2011 1600 PST-8
EVENT_TYPE	Strong Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$10000/ \$0)
WFO	SEW
SOURCE	Newspaper
EVENT_NARRATIVE	Scattered power outages were reported in the Bellingham area. A car was damaged by fallen tree limbs. Several other trees fell over roadways.
EPISODE_NARRATIVE	Strong southerly winds brought high wind to the north coast and to the area around Lake Lawrence in the southwest interior. The central coast had about 9000 lose power, and the Bellingham area had scattered power outages and a car damaged by tree limbs.

EVENT_ID	350649
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	11/21/2011 2330 PST-8 / 11/22/2011 400 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$5000/ \$0)

WFO	SEW
SOURCE	ASOS
EVENT_NARRATIVE	Bellingham, Cherry Point, and Ferndale all recorded high wind category winds of 40 mph sustained and/or gust 58 mph. In Birch Bay, the strong winds blew part of the roof off a manufactured home.
EPISODE_NARRATIVE	High wind occurred over the coast and northwest interior.

EVENT_ID	350662
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	11/27/2011 041 PST-8 / 11/27/2011 412 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$1000/ \$0)
WFO	SEW
SOURCE	Mesonet
EVENT_NARRATIVE	Cherry Point recorded 40 mph sustained wind. Ferndale had a 62-mph gust. A building which was in its framing stages was blown down near of Squalicum High School.
EPISODE_NARRATIVE	High wind occurred over the northwest interior.

EVENT_ID	396151
CZ_NAME_STR	WHATCOM CO.
BEGIN LOCATION	DEMING
BEGIN/END DATE & TIME	06/23/2012 1415 PST-8 / 06/23/2012 1415 PST-8
EVENT_TYPE	Thunderstorm Wind
DEATHS	(0/0)

(Direct/Indirect)	
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$1000/ \$0)
WFO	SEW
SOURCE	NWS Storm Survey
EVENT_NARRATIVE	Damage survey indicated strong thunderstorm wind damage. A number of tree limbs and a few trees blown down. One power line was down near the junction of state route 9 and state route 542 east of Deming.
EPISODE_NARRATIVE	Thunderstorm wind caused minor damage.

EVENT_ID	396153
CZ_NAME_STR	WHATCOM CO.
BEGIN LOCATION	CLIPPER
BEGIN/END DATE & TIME	06/23/2012 1504 PST-8 / 06/23/2012 1504 PST-8
EVENT_TYPE	Thunderstorm Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$1000/ \$0)
WFO	SEW
SOURCE	Trained Spotter
EVENT_NARRATIVE	Observer reports limbs of 8 to 10 inches diameter blown off trees as the storm went through. Also received half an inch of rainfall and one-eighth inch hail.
EPISODE_NARRATIVE	Thunderstorm wind caused minor damage.

EVENT_ID	423211
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	

BEGIN/END DATE & TIME	12/17/2012 700 PST-8 / 12/17/2012 1300 PST-8
EVENT_TYPE	Coastal Flood
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$100000/ \$0)
WFO	SEW
SOURCE	Newspaper
EVENT_NARRATIVE	Birch Bay Cafe and Bistro suffered damage as waves pushed a large log through the large bay facing window. A nearby consignment shop was also damaged. About 15 homes and properties were also affected near Terrell Creek. In some cases, the water only got into the front yard, but in others it flooded garages and homes. Flooding closed about 4 miles about Birch Bay Drive.
EPISODE_NARRATIVE	High astronomical tides coincided with low pressure to cause record high tide levels throughout Puget Sound. Many homes and yards along the shoreline were flooded.

EVENT_ID	429156
CZ_NAME_STR	WHATCOM CO.
BEGIN LOCATION	BLAINE
BEGIN/END DATE & TIME	01/08/2013 2100 PST-8 / 01/08/2013 2200 PST-8
EVENT_TYPE	Debris Flow
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$5000/ \$0)
WFO	SEW
SOURCE	Newspaper
EVENT_NARRATIVE	Heavy rain caused a mudslide near Semiahmoo Bay.
EPISODE_NARRATIVE	Two mudslides between Jan 8th and 9th caused minor damage in King and Whatcom counties.

EVENT_ID	433529
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	02/25/2013 654 PST-8 / 02/25/2013 854 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$10000/ \$0)
WFO	SEW
SOURCE	Mesonet
EVENT_NARRATIVE	Sandy Point Shores reported sustained wind of 40+ mph, with gusts as high as 62 mph, for a few hours. A power line was downed in southern Whatcom County.
EPISODE_NARRATIVE	There were a few hours of high wind in three of four northwest interior zones.

EVENT_ID	492737
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	01/03/2013 700 PST-8 / 01/03/2013 900 PST-8
EVENT_TYPE	Coastal Flood
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$1000/ \$0)
WFO	SEW
SOURCE	Emergency Manager
EVENT_NARRATIVE	Near Birch Bay, minor coastal flooding damaged some outdoor furniture.
EPISODE_NARRATIVE	Near Birch Bay, minor coastal flooding damaged some outdoor furniture.

EVENT_ID	540612
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	10/21/2014 2224 PST-8 / 10/22/2014 206 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(1/0)
DAMAGE (Property/Crops)	(\$80000/ \$0)
WFO	SEW
SOURCE	Mesonet
EVENT_NARRATIVE	Several sites--Sandy Point Shores, Cherry Point, and Ferndale--recorded sustained wind of 40-42 mph with gusts up to 62 mph. Blaine homeowners Charley and Donna Robbins, who are both in their 70s, said a horrendous windstorm swept through town on Wednesday, knocking several trees into their house. The couple was able to get out of the way as one tree crashed through their roof, though Charley suffered a rib injury. They say the estimate to fix their house is \$80,000.
EPISODE_NARRATIVE	High wind affected the north coast, San Juans, and western Whatcom County during the night of October 21-22.

EVENT_ID	542363
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	11/06/2014 833 PST-8 / 11/06/2014 1754 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE	(\$200000/ \$0)

(Property/Crops)	
WFO	SEW
SOURCE	C-MAN Station
EVENT_NARRATIVE	<p>Ferndale had gusts 58-60 mph from 833 Am to 1210 PM. Bellingham had 40 mph sustained wind at 952 AM. Sandy Point Shores had 40-41 mph sustained wind 444 PM to 514 PM. Cherry Point had sustained wind 40 mph 454 PM to 554 PM. About 10,000 customers lost power.</p>
EPISODE_NARRATIVE	<p>A deep but filling low moved northeast across central Vancouver Island. The KPDX-KBLI gradient reached about +10 with the KOLM-KBLI portion about 2/3 of that. There was brief high wind in several zones. At the storm's peak, more than 14,000 Puget Sound Energy customers were without electricity, with the worst outages in Whatcom, Skagit and Island counties. On Thursday evening, more than 3,000 Seattle City Light customers were without power, most from an outage in Shoreline caused by a downed tree. From a Seattle Times article: A storm with high winds Thursday caused power outages across the Puget Sound region and downed power lines and trees, including one that injured a semitruck driver in Snohomish County and another that trapped a man in North Seattle. Gusts of more than 40 mph were reported in the Seattle area, with a peak of 44 mph recorded about three miles west of Des Moines, according to the National Weather Service. The strongest winds were recorded in the northern interior and North Coast from a pretty vigorous system that came in from the Pacific Ocean, meteorologist Johnny Burg said. The weather service issued a high-wind warning for the area. Destruction Island, off the North Coast, reported gusts of 63 mph, while Paine Field in Everett had a peak of 51 mph and a sustained wind of 39 mph. A tree fell on a semi on Highway 530 near Oso on Thursday afternoon and trapped the driver inside, according to the State Patrol. The man was airlifted to Harborview Medical Center with critical injuries. Highway 530 just west of 310th Street Northeast was blocked in both directions for about an hour before it opened to alternating</p>

	<p>traffic around 5 p.m. Firefighters in Seattle's Bitter Lake neighborhood rescued a man trapped by a downed tree there. The man was taken to Harborview in stable condition with no visible injuries, according to the Seattle Fire Department.</p> <p> Fallen trees were reported from Bellevue to Bainbridge Island to Sedro-Woolley and were responsible for many of the Seattle City Light and Puget Sound Energy outages throughout the day.</p> <p> At the storm's peak, more than 14,000 Puget Sound Energy customers were without electricity, with the worst outages in Whatcom, Skagit and Island counties. On Thursday evening, more than 3,000 Seattle City Light customers were without power, most from an outage in Shoreline caused by a downed tree. Washington State Ferries canceled two afternoon runs between Port Townsend and Coupeville because of high winds.</p>
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EVENT_ID	593403
CZ_NAME_STR	WESTERN WHATCOM (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	08/29/2015 1043 PST-8 / 08/29/2015 1243 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/2)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$250000/ \$0)
WFO	SEW
SOURCE	Newspaper
EVENT_NARRATIVE	Two elderly people died in their home near Everson after inhaling a generator's exhaust fumes during the weekend power outage.
EPISODE_NARRATIVE	High wind struck parts of Western Washington beginning around mid-morning on Saturday August 29th and continued into the afternoon hours. Widespread tree damage and power outages occurred, about 450,000 in total. Storm force winds developed over the coastal waters and Northern Inland waters.

	<p>Solid Gale force winds occurred on the remaining waters. Ferry service between Port Townsend and Coupeville was suspended because of the windstorm. A tree fell on an automobile in Gig Harbor resulting in 1 death. At least 23 car collisions reported around Puget Sound by news media, possibly weather related. Highway 99 closed for a few hours through downtown Seattle was weather-related according to media and Seattle Police. Numerous reports of trees or branches on roadways. Widespread power outages. Power outages examples: 161,000 Puget Sound Energy and 58,000 Seattle City light customers. A 10-year-old girl was killed in SeaTac when a falling tree branch hit and killed her. Two elderly people died in their home near Everson after inhaling a generator's exhaust fumes during the weekend power outage.</p>
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EVENT_ID	603539
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	11/17/2015 1124 PST-8 / 11/17/2015 1324 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$250000/ \$0)
WFO	SEW
SOURCE	COOP Observer
EVENT_NARRATIVE	Lynden had 62 mph at 1124 AM. Some Puget Sound Energy customers lost power.
EPISODE_NARRATIVE	Windy conditions lasted for several hours over most of western Washington. There were about 370,000 power outages reported throughout western Washington.

EVENT_ID	608906
CZ_NAME_STR	CASCADES OF WHATCOM AND SKAGIT COUNTIES (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	42393 1230 PST-8 / 42393 1230 PST-8
EVENT_TYPE	Avalanche
DEATHS (Direct/Indirect)	(1/0)
INJURIES (Direct/Indirect)	(1/0)
DAMAGE (Property/Crops)	(\$0/ \$0)
WFO	SEW
SOURCE	Newspaper
EVENT_NARRATIVE	Mark Panthen, 36, of Bellingham, died Sunday afternoon after two avalanches on the north slope of the mountain, next to the Mount Baker Ski Resort. A man who was skiing with Panthen called an employee of the resort from a cellphone around 12:45 p.m., saying Panthen was injured and needed help. There were two avalanches within 15 minutes. The avalanches were at 4,200 feet. Using a helicopter, emergency responders confirmed Panthen died around 2:20 p.m., authorities said. They provided aid to the other skier, who suffered a head injury.
EPISODE_NARRATIVE	Mark Panthen, 36, of Bellingham, died Sunday afternoon after two avalanches on the north slope of the mountain, next to the Mount Baker Ski Resort. A man who was skiing with Panthen called an employee of the resort from a cellphone around 12:45 p.m., saying Panthen was injured and needed help.

EVENT_ID	615026
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	03/10/2016 002 PST-8 / 03/10/2016 913 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES	(0/1)

(Direct/Indirect)	
DAMAGE (Property/Crops)	(\$350000/ \$0)
WFO	SEW
SOURCE	ASOS
EVENT_NARRATIVE	The Bellingham ASOS had 41g67 mph for several hours. A CWOP west of Bellingham recorded 41 mph before failing. Sandy Point Shores had 40g58 mph for several hours. A spotter 6 miles northeast of Bellingham reported an 80-mph gust. A Home Depot building in Bellingham was damaged. Three fishermen were rescued by the U.S. Coast Guard early Thursday, when their commercial fishing boat broke free from its moorage in a windstorm. The boat had been moored near Bellingham Cold Storage. One fisherman injured his foot after he had to jump in the water.
EPISODE_NARRATIVE	High wind occurred for several hours on the coast and over the north interior. Power out to about 50000 customers. Hood Canal bridge closed for 2 hours. Ferry service suspended. A 75-year-old fishing boat was destroyed when it broke free from its moorage and was pounded against some rocks.

EVENT_ID	615033
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	03/13/2016 1434 PST-8 / 03/13/2016 1914 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$90000/ \$0)
WFO	SEW
SOURCE	ASOS
EVENT_NARRATIVE	The Bellingham ASOS reported 36g58 mph. A CWOP west of Bellingham measured 50g67 mph over several hours. Sandy

	Point Shores recorded 44g68 mph over nearly five hours.
EPISODE_NARRATIVE	About 250,000 people lost power. A 42-year-old man died when his car was hit by a tree in Seattle's Seward Park. Several homes were damaged. Scaffolding at the UW was reduced to a pile of rubble by the winds. The Hwy 520 bridge and Hood Canal Bridge were closed for several hours, as was parts of I-405. There was minor damage to the 520 bridge draw span. A semi-truck was toppled on the Tacoma Narrows bridge, halting traffic. Downed trees blocked two lanes of southbound 405 in Snohomish County. Washington State Ferries canceled or delayed several routes.

EVENT_ID	673026
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	01/04/2017 204 PST-8 / 01/04/2017 404 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$153000/ \$0)
WFO	SEW
SOURCE	Mesonet
EVENT_NARRATIVE	Sandy Point Shores recorded a gust of 58 mph. Puget Sound Energy responded to a number of power outages.
EPISODE_NARRATIVE	Brief high wind occurred at Sandy Point Shores.

EVENT_ID	666304
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	01/10/2017 1014 PST-8 / 01/11/2017 234 PST-8
EVENT_TYPE	High Wind

DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$208000/ \$0)
WFO	SEW
SOURCE	Mesonet
EVENT_NARRATIVE	An unusually large number of sites recorded high wind. These include Sandy Point Shores, 38g67 mph; Ferndale, 21g60 mph; Lynden, 41g54 mph; Maple Falls, 60 mph gust; Lummi Island, 70 mph gust; and Everson, 65 mph gust. Puget Sound Energy responded to a number of power outages in the area.
EPISODE_NARRATIVE	In a strong Fraser River outflow pattern, high wind occurred in western Whatcom County and the San Juan Islands.

EVENT_ID	677905
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	02/08/2017 1400 PST-8 / 02/09/2017 1600 PST-8
EVENT_TYPE	Ice Storm
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$700000/ \$0)
WFO	SEW
SOURCE	Official NWS Observations
EVENT_NARRATIVE	A multitude of observational sources (NWS spotters, CoCoRaHS, etc) show that 1 to 3 inches of snow fell across Western Whatcom County followed immediately by heavy freezing rain, resulting an ice sheet up to a half inch thick on top of new and older snow. The result was treacherous road conditions, power outages, and closures of businesses and schools.
EPISODE_NARRATIVE	A Pacific frontal system combined with sub-freezing easterly flow

	across the Cascades passes and Fraser outflow brought a major episode of snow and freezing rain to the Cascades and Western Whatcom County. All three Washington Cascades passes (Stevens Pass, Snoqualmie Pass, and White Pass) were closed to traffic in both directions for almost 24 hours due to snow and accumulating ice, avalanche danger, and slides of snow and trees. In Western Whatcom County snow became covered with a sheet of ice as thick as a half inch as precipitation changed to freezing rain.
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EVENT_ID	706935
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	08/01/2017 2000 PST-8 / 08/10/2017 600 PST-8
EVENT_TYPE	Heat
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(5/0)
DAMAGE (Property/Crops)	(\$0/ \$0)
WFO	SEW
SOURCE	Newspaper
EVENT_NARRATIVE	The heat wave resulted in 1 fatality due to heat-related causes, plus five other berry pickers treated for dehydration.
EPISODE_NARRATIVE	An extended period of unseasonably hot weather impacted Western Washington from the 1st through the 10th of the month. A male berry picker at a farm 1 mile east of Sumas in Whatcom County fell ill on the 3rd and later died. At least 5 other pickers were treated for dehydration.

EVENT_ID	721279
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)

BEGIN LOCATION	
BEGIN/END DATE & TIME	10/18/2017 1015 PST-8 / 10/18/2017 1415 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$8000000/ \$0)
WFO	SEW
SOURCE	ASOS
EVENT_NARRATIVE	KBLI had sustained wind 30 mph or greater from 1015 AM to 215 PM. Highest sustained wind was 33 mph with a peak gust of 53 mph. This verifies the high wind warning for this first event of the season, when lower criteria for high wind are in effect.
EPISODE_NARRATIVE	High wind was forecast over the two coast zones and four northwest interior zones. Since this was the first event of the season, wind speeds somewhat less than typical high winds were forecast, but impacts were expected to be similar to what higher winds would cause later in the season.

EVENT_ID	723713
CZ_NAME_STR	WESTERN WHATCOM COUNTY (ZONE)
BEGIN LOCATION	
BEGIN/END DATE & TIME	11/13/2017 1413 PST-8 / 11/13/2017 1723 PST-8
EVENT_TYPE	High Wind
DEATHS (Direct/Indirect)	(0/0)
INJURIES (Direct/Indirect)	(0/0)
DAMAGE (Property/Crops)	(\$250000/ \$0)
WFO	SEW
SOURCE	Mesonet
EVENT_NARRATIVE	Ferndale recorded a 69-mph gust. Lynden recorded a 61-mph gust. Sandy Point Shores recorded 41 mph sustained wind, gusting to 59 mph. KBLI recorded a peak gust of 58 mph. A CWOP near Bellingham recorded 40 mph sustained wind, gusting to 58 mph.
EPISODE_NARRATIVE	A strong Pacific weather system moved through Western Washington and produced wind gusts up to 70 mph in many parts of the region. The strong winds blew down some trees, knocked power out to as many as 200,000 through the area, delayed or cancelled ferry service, and produced heavy rain amounts that produced some local urban flooding. The peak of the wind event occurred between 2 and 7 PM, adversely impacting the afternoon and evening commute. A tree fell on a vehicle in Renton, killing the 32-year-old female driver and seriously injured a passenger. Another tree fell onto a mobile home in Port Orchard, seriously injuring a 15-year-old girl. Power restoration cost just over \$7 million.

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SECTION 3. JURISDICTION PROFILES AND MITIGATION ACTION PLANS

The following section chapters provide profiles and future mitigation actions for the participating jurisdictions in this Plan. Each chapter is organized into the following sections:

1. **Contact Information** – the person involved with providing information for the Plan from the jurisdiction.
2. **Approving Authority** – the person or persons who will approve the final version of the Plan.
3. **Planning Process** – describes how the jurisdiction updated the Plan.
4. **Key Contributor List** – lists both the individuals who contributed to the Plan update and lists other documents that are, or will be, informed by the updated Plan.
5. **Plan Maintenance** – explains how the Plan will be maintained and how its contents will be communicated to the public.
6. **Geography** – provides Census Bureau population information and area, as well as a jurisdiction map.
7. **Growth Trends** – areas designated as an Urban Growth Area (UGA), under Washington State’s Growth Management Act (GMA).
8. **Presence of Hazards and their Impacts** – provides a table of major hazards, the area exposed to the hazards, a qualitative assessment of the severity of impacts anticipated, and a brief description of each hazard and its potential impacts.
9. **Natural Hazard Maps** – provides seismic, wildland-urban interface, liquefaction, flood, landslide, volcano, and tsunami hazard maps for the jurisdiction. Please note the hazard maps may display only those facilities within municipality limits, so facilities outside these limits may not be displayed. Refer to the map in the Whatcom County section for facilities located outside of a jurisdiction’s city limits. Most recent natural hazard datasets available were used for the maps. Data used includes: Federal Emergency Management Agency (FEMA) 2019 flood risk, Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility, WA DNR 2017 Boulder Creek Fault Zone seismic, WA DNR 2019 wildland-urban interface, Washington Geological Survey (WGS) 2020 landslide inventory data, United States Geological Survey Mount Baker Future Activity (1995), and Whatcom County 2020 tsunami inundation data. All

data projected to NAD 1983 StatePlane Washington North FIPS 4601 (US Feet) coordinate system. No data used was changed, only symbology was edited.

10. **Critical Facilities List** – list of critical facilities for each jurisdiction’s area. These facilities were provided by each jurisdiction and include the facility name, type of facility, location information, and qualitative assessment of the significance of each facility. The section also includes a critical facilities map.
11. **Areas and Assets Exposed, Per Hazard** – geospatial analysis was performed to calculate the percent of area, population, parcels, and critical facilities exposed to different levels of seismic, liquefaction, landslide, volcano, tsunami, flood, and wildfire risk. Areas and assets exposed to hazards were calculated using Whatcom County parcel data, jurisdiction boundaries and critical facilities, natural hazard data, and Washington State Office of Financial Management (OFM) 2020 population and housing estimates for census blocks. The percent of area and parcels were calculated in ArcGIS Pro using the tabulate intersect tool, which calculates the intersection of two feature classes. For the parcel geospatial analysis, only parcels 45% or greater in a hazard were considered for the asset table. The percent of critical facilities in each hazard was found using the overlay layers tool. This tool takes multiple layers and outputs one single layer, keeping each layers’ attributes. Percent of population was calculated only using 2020 population data. Since the population data is in census blocks, in order to calculate percent of population, population was allocated. This assumes population is evenly distributed among the census block, although this is generally not the case, the assumption is made to calculate the estimates. The census block population data was intersected with each natural hazard data layer to join only census blocks that overlapped with a hazard. The area of the new census block (that overlaps with the hazard) were calculated. The area of the new census block was then divided by the original census block, multiplied by the original census block’s 2020 population to estimate how many people were in a hazard zone.
12. **Public Outreach and Education** – each jurisdiction identified the programs engaged public outreach and education, including those programs administered by non-profit organizations, through the local government, through schools, or public-private partnerships. StormReady and Firewise certification was also assessed.
13. **Status of 2015—2020 and Ongoing Hazard Mitigation Actions** – each jurisdiction reviewed and provided an update to actions proposed in the 2016 Plan, such as indicating whether the action was completed, deferred, or ongoing. Those that had not

been started or completed were considered for 2021-2025.

14. **Proposed Hazard Mitigation Strategy for 2021-2025** – lists jurisdiction-specific actions put together by each jurisdiction. This information is a detailed jurisdiction-specific extension of each hazard summary and assessment of past proposed actions. A review was conducted internally by each jurisdiction to determine priority for the mitigation actions and maximize anticipated benefits.
15. **Hazard Specific Action Items 2021-2025 Annual Review and Progress Reporting** – provides a framework for tracking 2021-2025 mitigation actions and annual progress reporting.

Overall Exposure of Whatcom County Assets

Below is the overall assessment of how much exposure the county has to key natural hazards. It analyzes exposure by area, population, parcels and critical facilities and includes both unincorporated and incorporated sections of the county. The results show that the entire county is exposed to earthquake hazard and about two thirds of the county is exposed to some flood risk, although only about 4% is in the designated 100-year and 500-year flood plain; due to good natural hazards planning, only 8% of the population levels in these flood risk areas. A third of the county area is exposed to liquefaction risk, though a majority of residents live in this area. About a third of the county is exposed to volcanic hazard, with only a very small portion of the population in these areas. About 15% of the county is in the WUI, exposed to wildfire, but over half of the population lives in these areas.

Whatcom County Exposure to Natural Hazards						
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological	Earthquake, Shaking Intensity					
	<i>MMI IV</i>	8.9%	-	0.03%	-	-
	<i>MMI V</i>	36.7%	10.7%	15.7%	17.5%	\$722 ¹
	<i>MMI VI</i>	34.3%	77.4%	66.8%	62.3%	\$2235 ¹
	<i>MMI VII</i>	13.5%	8.1%	8.4%	14.6%	\$97 ¹
	<i>MMI VIII - IX</i>	6.6%	3.7%	7.4%	5.4%	\$76
	TOTAL	100%	99.9%	98.3%	99.8%	\$3130
	Liquefaction					
	<i>Very Low to Low</i>	16.9%	41.2%	41.8%	39.2%	\$942 ¹
	<i>Low to Moderate</i>	7.5%	29.8%	27.5%	20.3%	\$1506 ¹

	<i>Moderate</i>	-	-	-	-	-
	<i>Moderate to High</i>	4.9%	5.8%	8.5%	16.3%	\$140 ¹
	<i>High</i>	0.02%	0.04%	0.04%	2%	\$249 ¹
	TOTAL	29.32%	76.84%	77.84%	77.8%	\$2837
	Landslide					
	<i>Landslide Low</i>	0.8%	0.1%	0.25	-	-
	<i>Landslide Moderate</i>	1.2%	0.09%	0.1%	-	-
	<i>Landslide High</i>	3.2%	0.5%	1.9%	0.6%	-
	<i>Fan Low</i>	0.1%	0.04%	0.06%	-	\$0.3
	<i>Fan Moderate</i>	0.4%	0.1%	0.2%	-	-
	<i>Fan High</i>	0.9%	1%	1.9%	1.4%	\$3 ¹
	<i>Mine Hazard</i>	0.1%	2.6%	2.1%	0.8%	\$19 ¹
	TOTAL	6.7%	4.43%	6.51%	2.8%	\$22.3
	Volcanic Eruption					
	<i>Case 1 Debris Flows</i>	1.8%	1.9%	2.1%	6.2% ³	\$74 ^{1/3}
	<i>Case 2 Debris Flows</i>	1.1%	0%	-	-	-
	<i>Case M Flows</i>	3.3%	4.3%	6.3%	11% ³	\$111 ^{1/3}
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>					
		6.8 %	0.1%	0.6%	0.8% ³	\$0.3 ³

	<i>Lateral Blast Hazard Zone</i>	26.2%	0.1%	5.5%	3.1% ³	\$21 ^{1/3}
	TOTAL	39.2%	6.4%	14.5%	21.1%	\$206.3
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	0.3%	1.4%	1.1%	3.7%	\$24 ¹
	<i>Moderate to High Inundation Potential</i>	0.3%	2.4%	0.5%	5.4%	-
	<i>High Inundation Potential</i>	0.7%	0.5%	4.9%	6.2%	\$335 ¹
	TOTAL	1.3%	4.4%	6.5%	15.3%	\$359
Hydrological	Flooding					
	<i>100-year Flood</i>	3.9%	4.9%	8%	31.8%	\$119 ¹
	<i>500-year Flood</i>	0.5%	1.6%	3.4%	16.9%	\$164 ¹
	<i>Floodway</i>	0.9%	1%	-	0.8%	\$34 ²
	<i>Undetermined (Zone D)</i>	60.4%	0.04%	0.05%	0.6%	\$9
	TOTAL	65.7%	7.54%	11.45%	50.1%	\$326
Meteorological	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	1%	1.03%	7.7%	2%	\$27
	<i>Interface Medium-High Structure Density</i>	1.6%	31.2%	26.9%	27.9%	\$1851 ¹
	<i>Intermix Very Low-Low Structure Density</i>	6.9%	8.4%	1.6%	12.1%	\$118 ¹

	<i>Intermix Medium-High Structure Density</i>	4.7%	18.4%	30.4%	22.8%	\$86 ¹
	<i>TOTAL</i>	14.2%	59.03%	66.6%	64.8%	\$2082

¹This value shows the total of 2020 Whatcom County parcel data appraised total value and community's critical facility assessed dollar value (found in the community's critical facilities list). The critical facility's assessed dollar value was used instead of the appraised total value when available.

²Shows the assessed dollar value when provided by the community in their critical facilities list. Does not include the appraised total value.

³Some critical facilities located in multiple hazard zones.

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CITY OF BELLINGHAM

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Mayor Seth Fleetwood and City Council Members

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Bellingham, WA 98225
360 778 8000

Planning Process

The City of Bellingham’s process for the 2021 update of the Whatcom County Hazard Mitigation Plan began in January of 2021 when the City’s Emergency Manager attended a “Kickoff” meeting hosted by the Whatcom County Sheriff’s Division of Emergency Management. This was the first of five planning meetings hosted by DEM staff. During the next several months the City’s Emergency Manager and the Environmental Policy Manager met with staff from multiple City departments including Planning, Public Works, Parks, Police and Fire to solicit input on sections of the 2016 NHMP that needed updates and new goals and actions for the 2021 revision. The City’s Planning Senior GIS Analyst also reviewed the plan and provided key updates to the Critical Facilities list and the plan maps. In addition to the planning meetings and outreach to City staff, a news release describing the planning process and soliciting public input was issued on March 2, 2021. The news release also included social media posts on the City’s

and Fire Department's Facebook pages. The Emergency Manager also created a webpage for the plan update that directed the public to the County's website to review and comment on the plan in the public comment portal that DEM created. The City Council was provided an update on the process on March 22 which was followed by a public meeting hosted by DEM on March 23. In preparation for the public meeting the Emergency Manager also created a meeting announcement that was sent out to the City's list serve and it was posted on the Fire Department's Facebook page. Subsequent public meetings were advertised in a similar fashion.

The 2021 update of the NHMP received substantial assistance from Dr. Paci-Green, Director of the Resilience Institute, and two masters level students at Western Washington University as they revised the format of the Countywide NHMP, developed content, and provided consultation to City of Bellingham staff working on the update.

Key Contributor List

- Liz Coogan, Emergency Manager, City of Bellingham
- Clare Fogelsong, Environmental Resource Manager, City of Bellingham
- Chris Behee, Planning Senior GIS Analyst, City of Bellingham

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting City of Bellingham will be used as a tool when the City updates other plans and programs, such as the following:

- Comprehensive Plan required by the Growth Management Act (GMA)
- Development regulations required by the GMA
- Critical Areas Ordinance
- Capital Improvement Program
- Capital facilities planning
- Water Resource Inventory Area planning
- Shoreline Master Program
- Climate Adaptation Plan

- Habitat Restoration Plans
- Wildfire Risk Reduction Programs
- Neighborhood plans

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

- Coastal Storm Modeling Systems, CoSMoS, will provide additional information on Sea Level Rise/Storm Surge impacts on the waterfront lands of Bellingham Bay. Expected to be available by June of 2021.
- Sea Level Rise Vulnerability Assessment and Risk Analysis for Bellingham Bay. Expected to be completed in June of 2022.

Plan Maintenance for the City of Bellingham

The City of Bellingham Office of Emergency Management cultivates awareness of local hazards, disaster preparedness, and resiliency in the community through a variety of education and outreach activities.

Presentations on hazard awareness and preparedness are delivered to the public in person and via videoconferencing. Information about local hazards and emergency preparedness guides are made available to the public in print and electronic forms. Outreach efforts are amplified by regular contact with twenty-five neighborhood associations which maintain close ties with households in their respective areas. Public engagement and input are encouraged through the neighborhood associations and in all interactions with this office.

The Office of Emergency Management coordinates grassroots disaster planning and resiliency at the neighborhood level by providing support and coordination for an ongoing Map Your Neighborhood program that is conducted by and for neighborhood households. The Office of Emergency Management coordinates and participates in local safety fairs and other relevant community connection programs when available.

A volunteer Auxiliary Communications Service (ACS) unit is also supported and coordinated as an opportunity for higher levels of public involvement and a resource for the Fire Department. This office also maintains open channels for ad hoc questions and comments from the public, including social media accounts, email, telephone, and text, with a representative assigned to interface with the public.

Public Outreach and Education

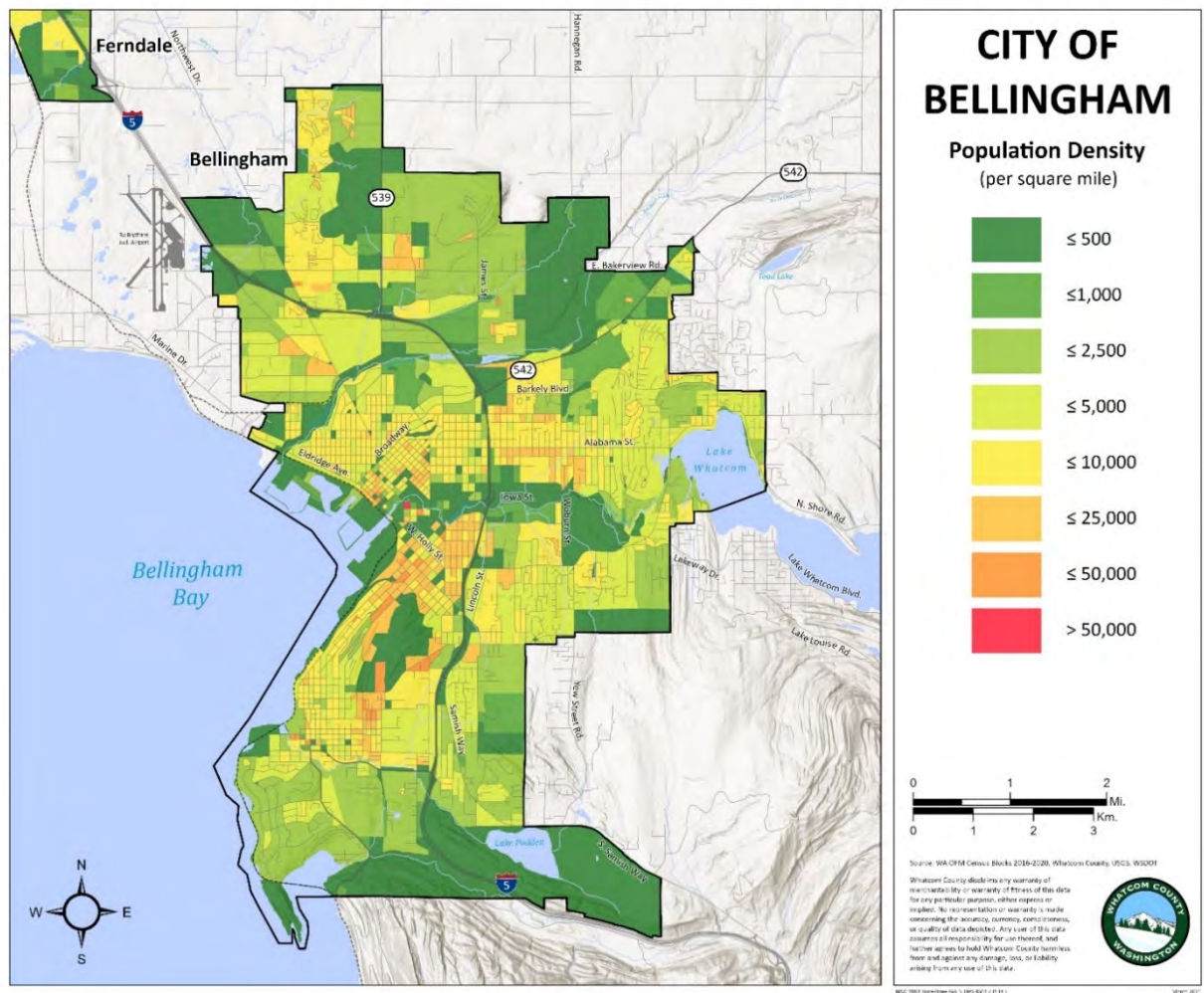
Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local resident groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	Yes, 1999	Map Your Neighborhood has been in use by Bellingham since 1999. This network allows for residents to prepare to help their neighbors before help can arrive following a disaster, which will save lives.
	Yes, 1999	CERT: Community Emergency Response Training prepares residents to safely and efficiently assist others in their neighborhood or workplace following an event when professional responders are not immediately available to help.
	Yes, 2019	Bellingham Auxiliary Communication Service was initiated in 2019 to provide amateur radio communication support for City public service agencies and authorized volunteer emergency response units.
Ongoing public education or information programs	Yes, 2019	Public outreach events were delivered on tsunami

		awareness in 2019 and will resume post-COVID
School-related programs for natural hazard safety	Yes	Partnering with Red Cross for disaster awareness education in classrooms. Bellingham School District participates in the state-wide Great ShakeOut drill each October.
StormReady certification	Yes, 2003	Whatcom County is one of 14 counties in Washington State to be certified StormReady. StormReady uses a grassroots approach to help communities develop plans to handle all types of extreme weather.
Firewise Community certification	Yes, 2019	Clark's Point is a Firewise site as of November 1 st , 2019.

Overview of Bellingham, Hazards, and Assets

Geography of the City of Bellingham

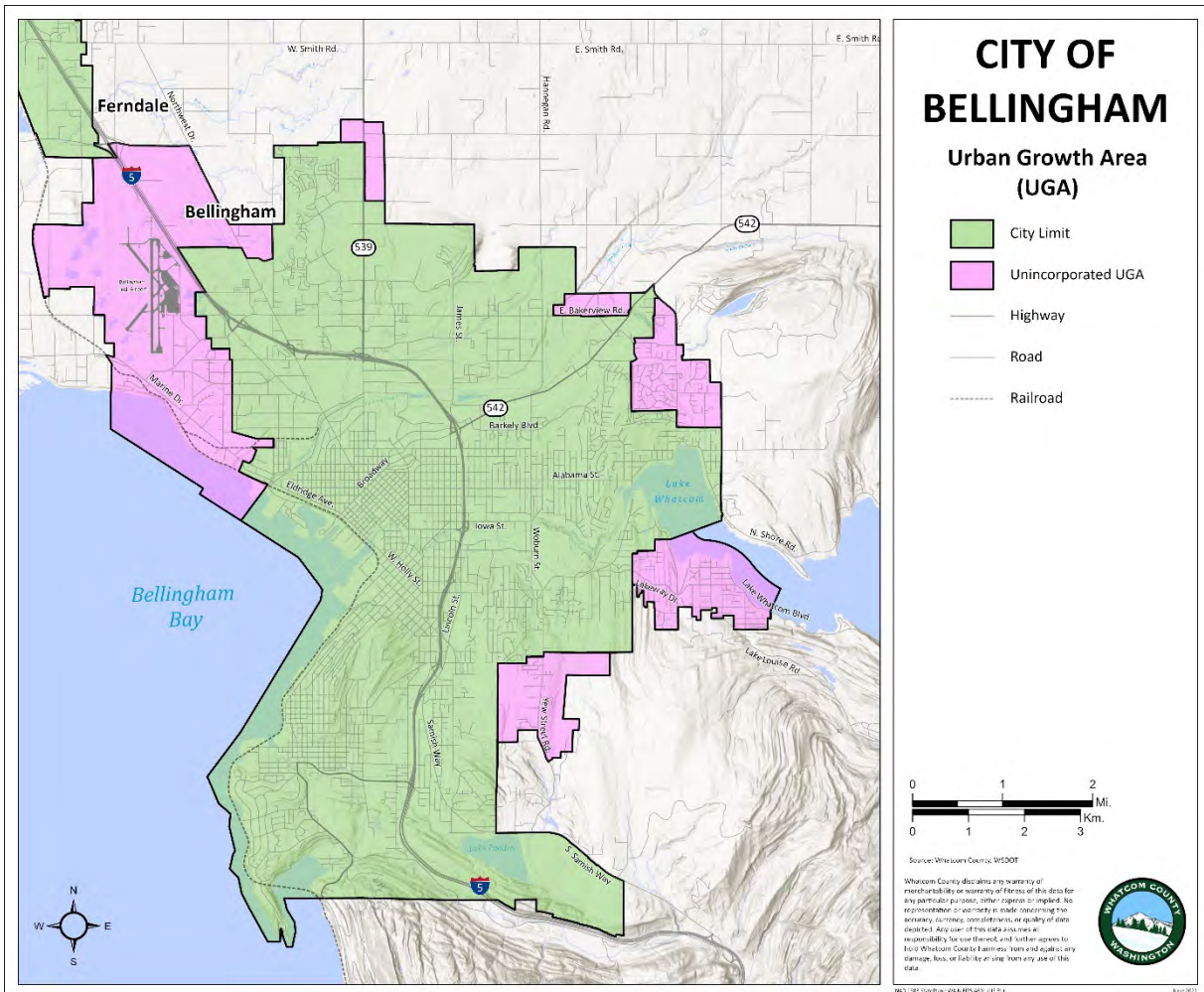
Bellingham Population	91,610 (2020 estimate)
Total area	28 sq. mi. (within city limits)



Washington State Office of Financial Management (OFM) 2020 population and housing estimates for 2010-2020 census block data. This map uses the 2016-2020 average population to show population density per square mile.

Growth Trends

This map displays the UGA for the City of Bellingham, as designated by the Whatcom County Comprehensive Plan.



Presence of Hazards and their Impacts in the City of Bellingham

Natural hazards that could occur in the City of Bellingham would be related to flood events, landslides, wildfires, and earthquakes/tsunamis, as well as the effects of sea level rise and storm surge on additional flood events and marine bluff destabilization.

Since the adoption of the 2016 NHMP, Bellingham has grown by roughly 6000 people. Most City growth has occurred outside flood and landslide areas, in accordance with the City's Critical Areas Ordinance, which regulates development in these areas. In partnership with the Port of Bellingham, the City has begun development on the Waterfront Subarea, portions of which would be at risk of tsunami inundation. This risk is being mitigated by the installation of tsunami sirens, the development of a countywide tsunami action plan, the creation of tsunami evacuation route maps, and building design and construction that accounts for tsunami forces. More information on where development in Bellingham is allowed can be seen in Bellingham Municipal Code below.

The Bellingham Municipal Code (BMC) has regulations related to flooding, landslides and sea level rise.

BMC 16.55.390, .400. Addresses development in frequently flooded areas. Generally, these rules prohibit development in the FEMA floodway and severely limit development in the FEMA Floodplain (limited infrastructure). The City has also mapped frequently flooded areas NOT recognized by FEMA that could - if allowed to develop - experience impacts and damage to property as well as present a risk to life safety and welfare - not to mention additional impacts to floodplain function. The floodplain rules are more effective at determining WHERE development occurs.

BMC 16.55.450 and .460. Development in geologically hazardous areas (landslide and seismic) requires additional geo-technical analysis by a qualified professional to certify that if a landslide or earthquake occurred structures would not be compromised, inhabitants would remain safe and abutting property owners would not incur damage from failed structures. These rules don't necessarily limit WHERE development can occur but rather, the FORM that it takes in order to be safe.

BMC 16.30 EXHIBIT A – Section B 1-7. Development in areas expected to be impacted by Sea Level Rise. As part of construction of on-site infrastructure, site grades shall be raised to accommodate potential long-term sea level rise and tsunami conditions, appropriate to the design lifetime of the project, as determined using the higher end of the range predicted using best available science. The range of Sea Level Rise encoded in Bellingham regulations is found in the Waterfront District sub-area plan: "Sea Level Rise. The Waterfront District infrastructure

and development will be constructed to accommodate potential long[1]term sea level rise and tsunami conditions. Development in the Waterfront District shall be constructed in accordance with the best available sea level rise science at the time the development occurs. Recent climate change studies have projected sea level to rise 15" to 50" over the next 100 years.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Bellingham's total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

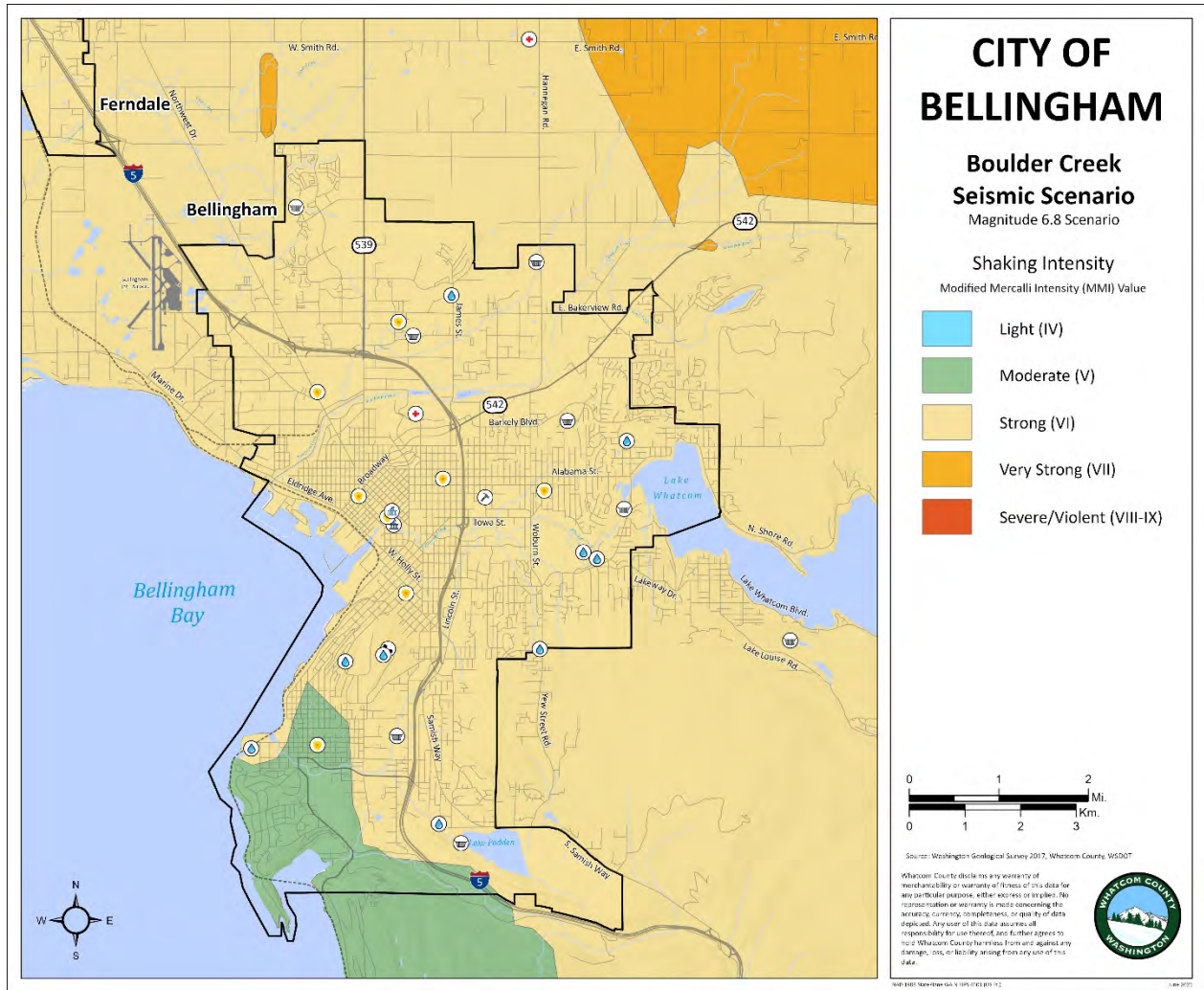
	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	95.2%	High	An earthquake of a magnitude predicted in the Cascadia Rising exercise would have citywide impacts as well as regional impacts of multi month duration. There is the potential for damage to roads, utilities, water supply infrastructure, communication, buildings of all types and the marine waterfront. Disruption of food and fuel delivery as well as interjurisdictional aid is also likely. Damage to the Lake Whatcom control dam would be an added flooding hazard.
	Liquefaction	64.4%	Mod	Destabilization of soils in waterfront areas built on fill would damage buildings, utilities, roads, and parks in those areas.
	Landslide	0.13%	Low	<p>Landslides due to soil destabilization from precipitation saturation could be limited to geologically vulnerable areas identified by the Critical Area Ordinance development process.</p> <p>Landslides from bluff erosion due to sea level rise would be limited to marine bluffs i.e. Edgemore, Eldridge, Marine Drive.</p> <p>Landslides that result from earthquakes could be more widespread, impacts would be to residences, some commercial buildings, and utilities.</p>
	Volcano	0%	Low	In addition to the potential ashfall within the City, the Middle Fork Diversion Facility would be impacted by lahar flows in the river.
	Tsunami	3.1%	Mod	A severe tsunami resulting from a large earthquake would significantly impact the shoreline of Bellingham Bay. Roads,

				buildings, marinas, parks, fish and wildlife habitat, and utilities could be damaged.
	Mine Hazards	4.5%	Mod	Limited to two areas of the city, Birchwood neighborhood and the downtown business district, that include critical infrastructure, residences, and commercial buildings.
Hydro-logical	Flooding	9.67%	Low	<p>Multiple creeks systems (Chuckanut, Padden, Silver/Bear, Squalicum, and Whatcom that pass through the city are subject to flooding. In heavy rains these creeks can exceed their banks.</p> <p>Near term impact of flooding due to storm surge disrupts passability of Roeder Avenue. Long term impacts of sea level rise may be severe unless anticipated and mitigated.</p>
Meteorological	Wildfire	57.7%	Mod	Mostly limited to the urban/rural edge and damage to residences, parks and some commercial buildings. Wildland-urban interface areas adjacent to large parks and natural areas will increase risk in a warming climate. Regional fires degrade air quality.

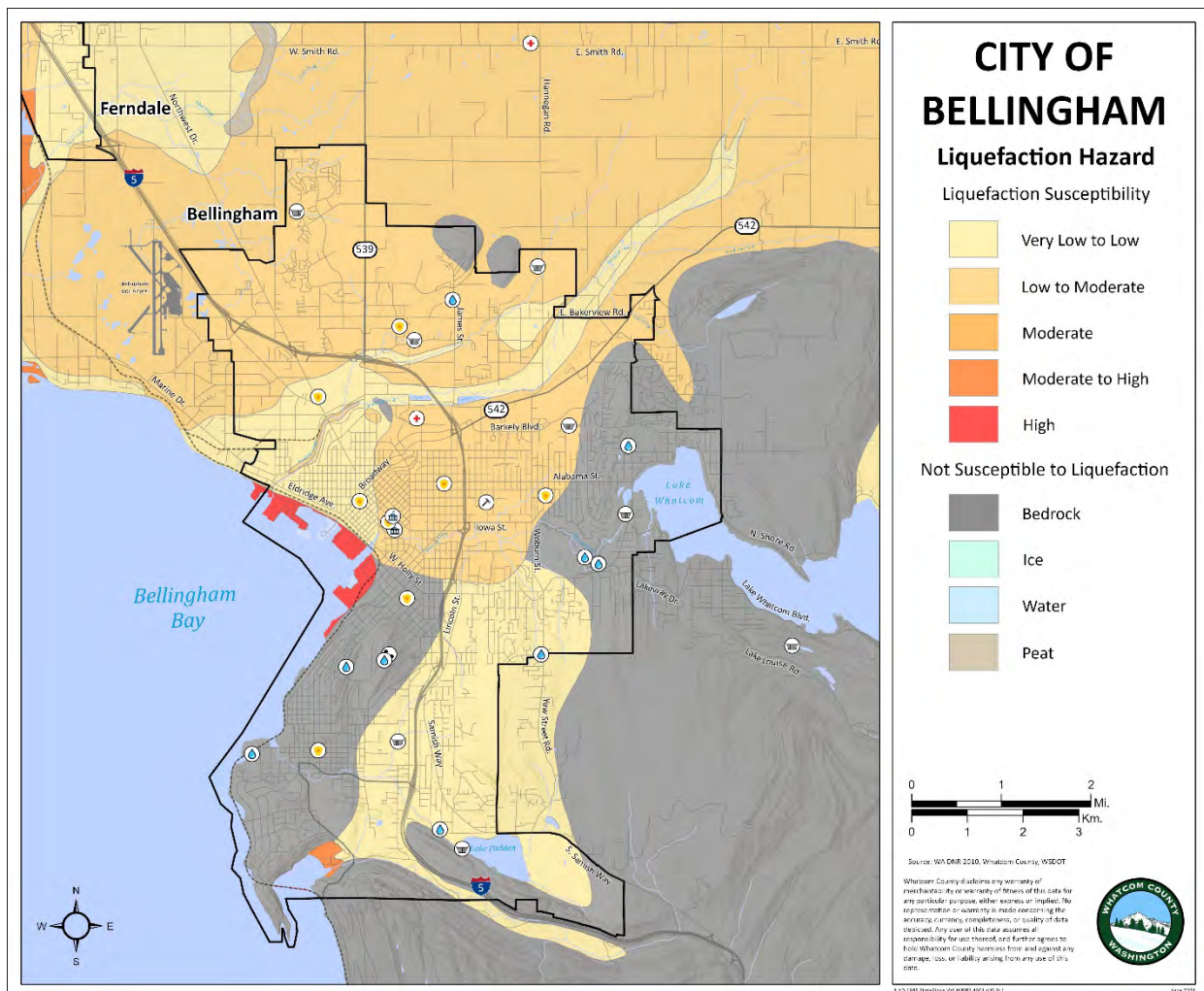
Severity Scale: **None** = no impact to community function
Low = minor degradation of community functions, not widespread
Moderate = moderate degradation over multiple weeks or widespread
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

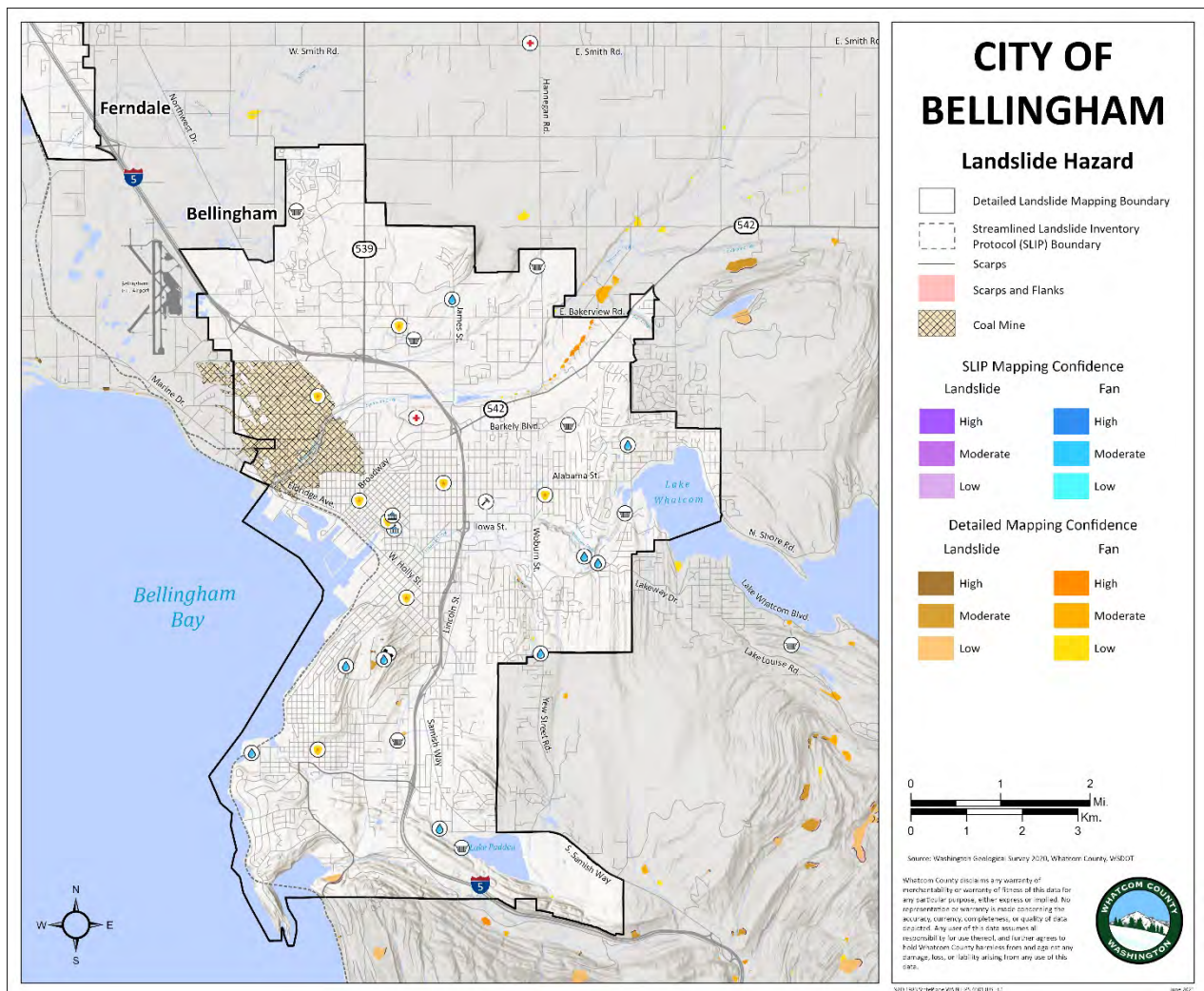
The following figures depict the natural hazards present within the jurisdiction.



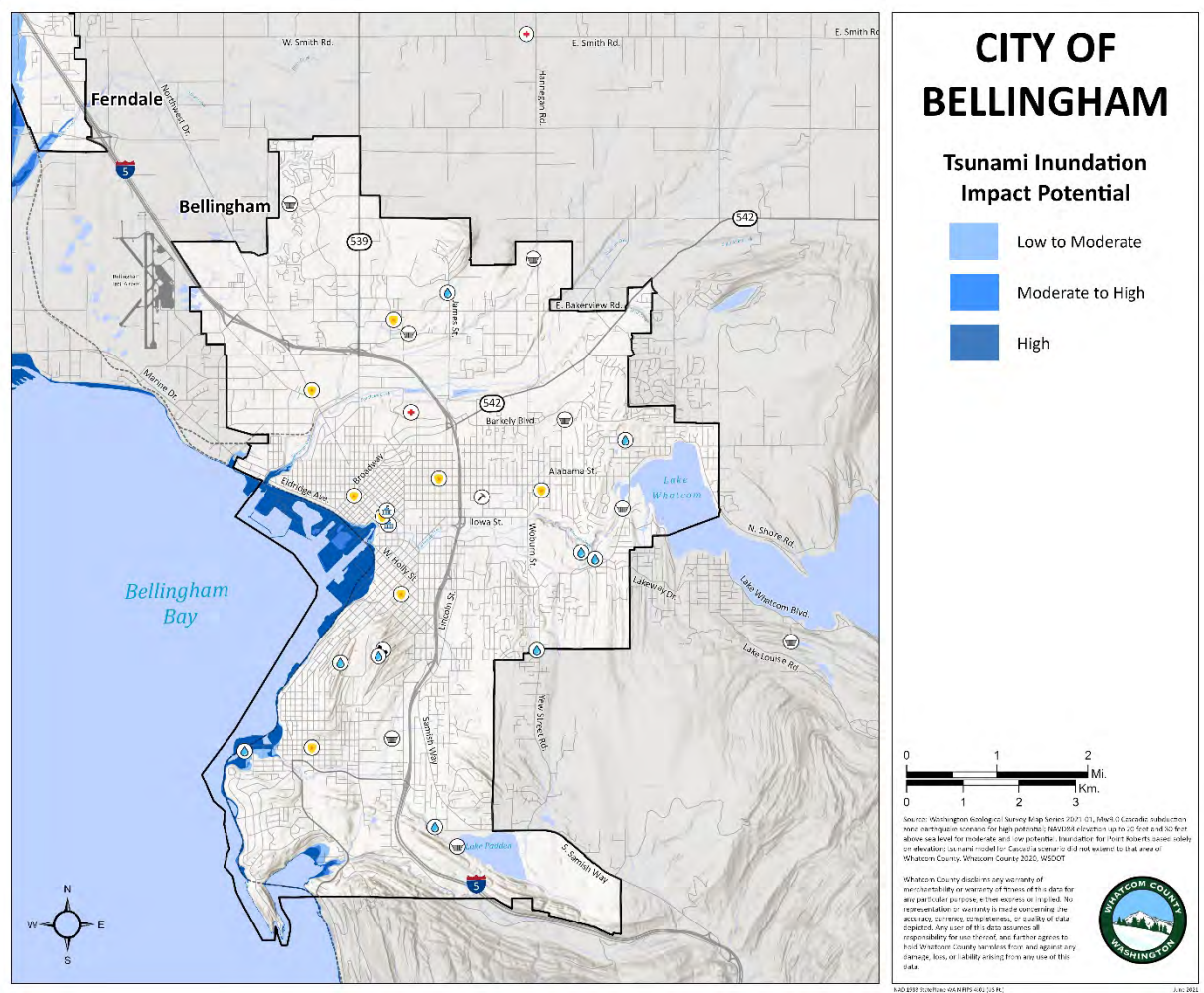
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



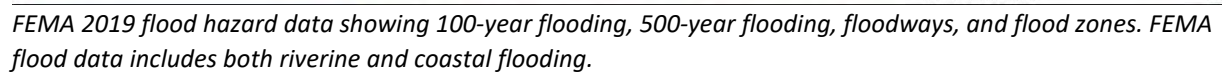
Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.

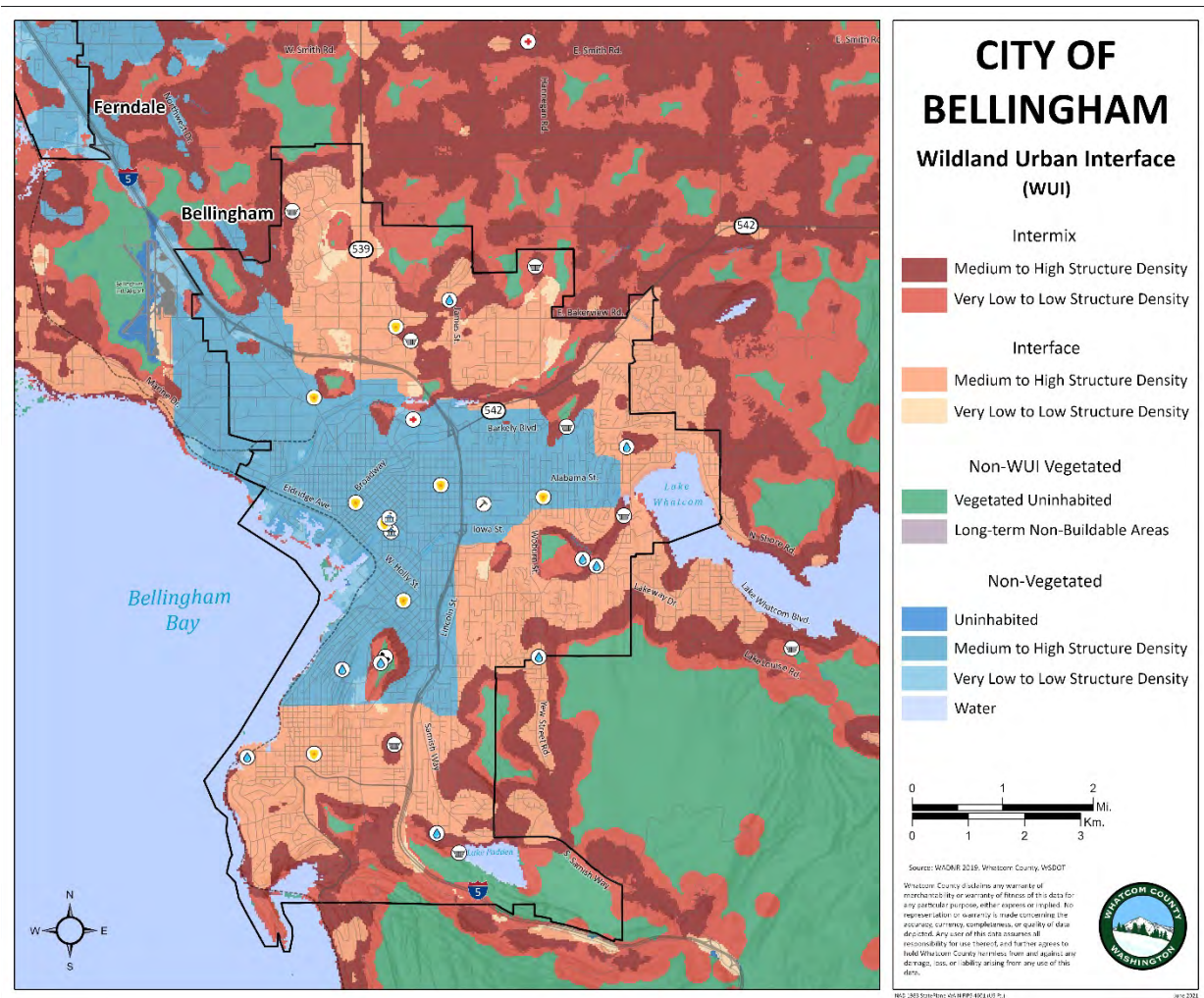


Washington Geological Survey (WGS) 2020 Washington landslide inventory data compiled following streamline landslide mapping protocol (SLIP). SLIP was developed by the WGS's Landslide Hazards Program to help geologists rapidly map landslide landforms from lidar. This data shows both detailed mapping and SLIP landslide data.



Map of Bellingham tsunami inundation impact potential. The high impact potential zone is based upon Washington Geological Survey Map Series 2021-01, Mw9.0 Cascadia subduction zone earthquake scenario occurring at mean high tide. The moderate to high and the low to moderate impact potential areas are based upon elevation of up to 20 feet and 30 feet, respectively, above mean sea level (NAVD88). Inundation for Point Roberts is based solely on elevation; tsunami model for the Cascadia subduction zone scenario did not extend to Point Roberts.





Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.

City of Bellingham's Critical Facility List

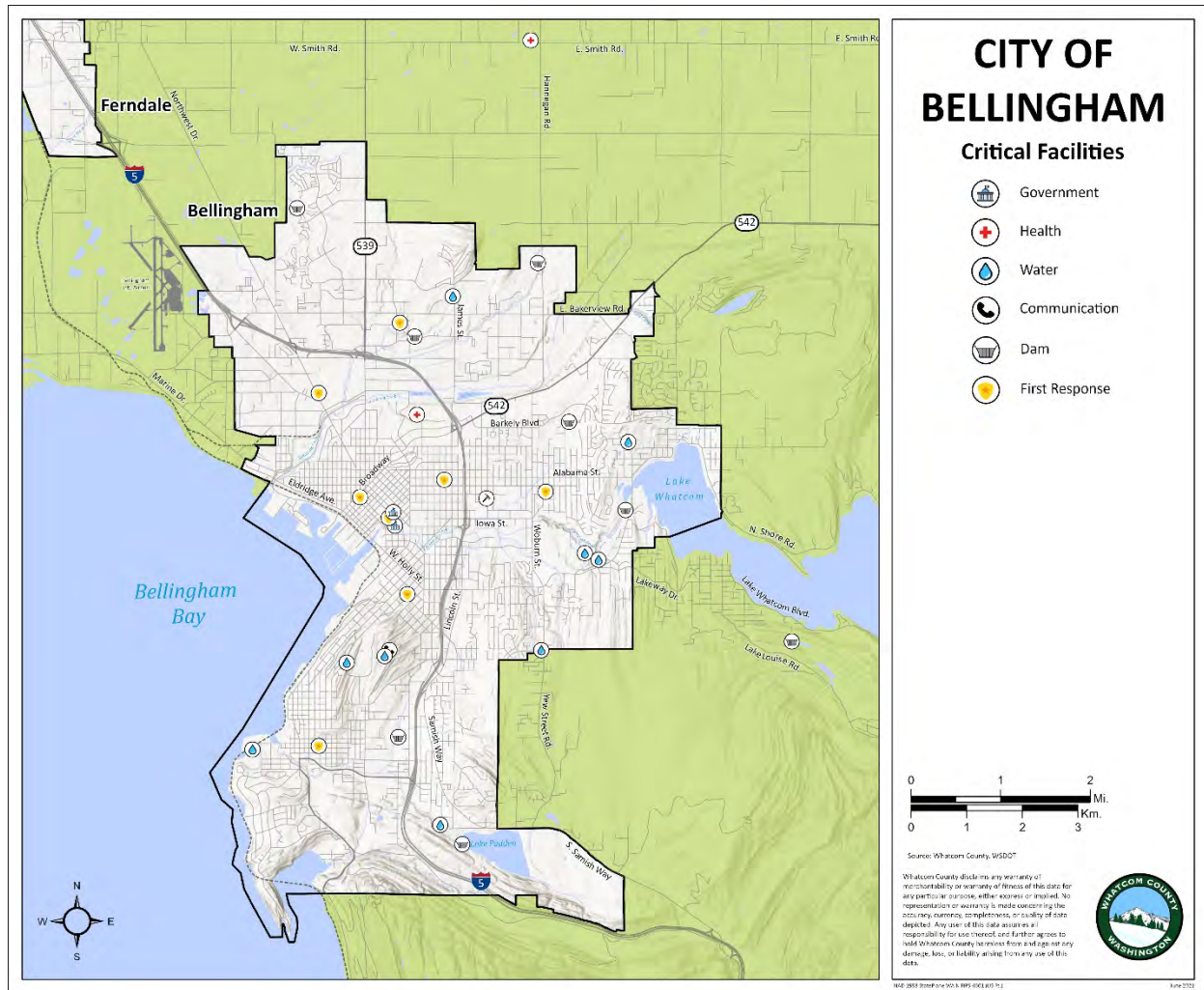
Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Bellingham City Hall	EF	2	210 Lottie Street	\$33,962,612	Government offices
Police Headquarters	EF	3	505 Grand Avenue	\$13,251,745	
What-Comm dispatch	EF	3	620 Alabama Street	\$6,717,415	911 dispatch
Fire Station 1	EF	3	1800 Broadway	\$7,286,642	
Fire Station 2	EF	3	1590 Harris Avenue	\$2,396,622	
Fire Station 3	EF	3	1111 Billie Frank Junior Street	\$2,516,048	
Fire Station 4	EF	3	2306 Yew Street	\$1,993,010	
Fire Station 5	EF	3	3314 Northwest Avenue	\$2,101,186	
Fire Station 6	EF	3	4060 Deemer Road	\$2,396,622	
Smith Rd Medic Sta.	EF	3	858 East Smith Road	\$ 384,208	
WUECC	EF	3	3888 Sound Way		Shared City/County/Port facility
Municipal Court Bldg	EF	2	2014 C Street	\$10,492,727	
Sehome Communications Tower	LUS	3	Sehome Hill	\$1,742,009	
Post Point Plant	LUS/H MF	3	200 McKenzie Avenue	\$4,622,186	

Public Works Central Operations Campus	EF	3	2221 Pacific Street	\$13,820,928	
Middle Fork NR Diversion Facility	HPL	1	Lat N48 46 15.7 Long W122 04 21.4	\$10,000,000	
Lake Whatcom Control Dam	HPL	3	Electric Avenue between 2107 and 2109	\$3,000,000	
Lake Padden Control Dam	EF	1	West Lake Padden outlet to Padden Creek	\$500,000	
Geneva Dam	EF	1	2647 Strawberry Shore Dr	\$500,000	
Hannegan Road Detention Dam	EF	1	Section SE1/4 08 Township 38N Range 03E	\$500,000	
Happy Valley Detention Dam	EF	1	Section 06 Township 3 7 Range 03	\$500,000	
Telegraph Detention Dam	EF	1	Section 18 Township 38N Range 03E	\$500,000	
St Clair Detention Dam	EF	1	Section 29W Township 38N Range 03E	\$500,000	
Horton Road Detention Dam	EF	1	Section 01 Township 38N Range 02E	\$500,000	
Water Treatment Plant	HMF	3	3201 Arbor Court	\$20,000,000	
Water Supply Storage Reservoirs	LUS	3	2500 Yew Street Road 231 Highland Drive Balsam Lane, near Big	\$2,000,000 \$2,000,000 \$2,000,000	

			Rock Garden 4185 James Street 3820 Broad Street 3201 Arbor Way Sehome Hill Arboretum, E Ivy Street	\$2,000,000 \$2,000,000 \$2,000,000 \$2,000,000	
PeaceHealth St Joseph Medical Center	EF/HP L	3	2901 Squalicum Way		Essential facilities not owned or maintained by the City
Bellingham School District	HPL	2	14 Elementary 4 Middle Schools 4 High schools		Essential facilities not owned or maintained by the City

Facility Type: EF = Essential Facility; HMF = Hazardous Materials Facility; HPL = High Potential Loss; LUS = Lifeline Utility System

Significance to community function: 1=Moderate; 2= High; 3 =Very High



Map of critical facilities identified by the City of Bellingham. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all judications identified or included critical facilities in each category.

Critical Facility Rankings for the City of Bellingham

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Bellingham City Hall	EF	2	1	1	0	0	0	0	0	0	0.33
Police Headquarters	EF	3	1	1	0	0	0	0	0	0	0.5
What-Comm dispatch	EF	3	1	1	0	0	0	0	0	0	0.5
Fire Station 1	EF	3	1	1	0	0	0	0	0	0	0.5
Fire Station 2	EF	3	1	0	0	0	0	0	0	1	0.5
Fire Station 3	EF	3	1	0	0	0	0	0	0	0	0.25
Fire Station 4	EF	3	1	1	0	0	0	0	0	0	0.5
Fire Station 5	EF	3	1	1	1	0	0	0	0	0	0.75
Fire Station 6	EF	3	1	1	0	0	0	0	0	1	0.75
Smith Rd Medic Sta.	EF	2	1	1	0	0	0	0	0	1	0.5
WUECC	EF	3	1	1	0	0	0	0	0	0	0.5
Municipal Court Bldg	EF	2	1	1	0	0	0	0	0	0	0.33
Sehome Communications Tower	LUS	3	1	0	0	0	0	0	0	0	0.25
Post Point Plant	HMF	3	1	0	0	1	0	0	0	1	1
Public Works Central Operations Campus	EF	3	1	1	0	0	0	0	0	0	0.5
Middle Fork NR Diversion Facility	HPL	1	1	0	0	0	0	0	0	0	0.08
Lake Whatcom Control Dam	HPL	3	1	0	0	0	0	1	0	1	0.66
Lake Padden Control Dam	EF	1	1	1	0	0	0	0	0	1	0.25
Geneva Dam	EF	1	1	0	0	0	0	0	0	0	0.08
Hannegan Road Detention Dam	EF	1	1	1	0	0	0	0	0	1	0.25
Happy Valley Detention Dam	EF	1	1	1	0	0	0	1	0	1	0.31

Telegraph Detention Dam	EF	1	1	1	0	0	0	0	0	1	0.25
St Clair Detention Dam	EF	1	1	1	0	0	0	0	0	1	0.25
Horton Road Detention Dam	EF	1	1	1	0	0	0	0	0	1	0.25
Water Treatment Plant	HMF	3	1	0	0	0	0	0	0	1	0.5
Water Supply Storage Reservoirs	LUS	3	1	1	0	0	0	0	0	1	0.75
PeaceHealth St Joseph Medical Center	EF/LUS/HPL	3	1	1	0	0	0	0	0	0	0.5
Bellingham School District schools (22)	HPL	2	1	1	0	0	0	0	0	0	0.33

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

	City of Bellingham Exposure to Natural Hazards					
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity					
	<i>MMI V</i>	9.1%	6.8%	8.4%	3.1%	\$2 ²
	<i>MMI VI</i>	86.1%	93.2%	91.4%	93.8%	\$249 ¹
	<i>MMI VII</i>	-	-	-	3.1%	\$10
	<i>MMI VIII - IX</i>	-	-	-	-	-
	TOTAL	95.2%	100%	99.8%	100%	\$261
	Liquefaction					
	<i>Very Low to Low</i>	26.3%	26.7%	27.8%	18.8%	\$5 ²
	<i>Low to Moderate</i>	36.5%	39.4%	39.3%	43.8%	\$183 ¹
	<i>Moderate</i>	-	-	-	-	-
	<i>Moderate to High</i>	0.3%	0.1%	0.2%	-	-
	<i>High</i>	1.3%	0.1%	0.1%	-	-
	TOTAL	64.4%	66.3%	67.4%	62.6%	\$188
	Landslide					
	<i>Landslide Low</i>	0.04%	.04%	0.02%	-	-
	<i>Landslide Moderate</i>	0.02%	-	-	-	-

	<i>Landslide High</i>	-	-	-	-	-
	<i>Fan Low</i>	-	-	-	-	-
	<i>Fan Moderate</i>	0.02%	0.01%	-	-	-
	<i>Fan High</i>	0.05%	0.01%	-	-	-
	<i>Mine Hazard</i>	4.4%	6.2%	7.06%	3.1%	\$0.2 ²
	TOTAL	4.53%	6.26%	7.08%	3.1%	\$0.2
	Volcanic Eruption					
	<i>Case 1 Debris Flows</i>	-	-	-	3.1% ³	\$10 ^{2/3}
	<i>Case 2 Debris Flows</i>	-	-	-	-	-
	<i>Case M Flows</i>	-	-	-	3.1% ³	\$10 ^{2/3}
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	-	-	-	3.1% ³	\$10 ^{2/3}
	TOTAL				9.3%	\$30
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	0.4%	0.3%	0.2%	-	-
	<i>Moderate to High Inundation Potential</i>	0.3%	2.7%	0.03%	-	-
	<i>High Inundation Potential</i>	2.5%	-	0.7%	3.1%	\$5 ²
	TOTAL	3.2%	3%	0.93%	3.1%	\$5

Hydrological Hazards	Flooding					
	<i>100-year Flood</i>	8.9%	1.4%	1%	9.4%	\$4 ²
	<i>500-year Flood</i>	0.07%	0.1%	0.1%	-	-
	<i>Floodway</i>	0.7%	0.3%	0.1%	-	-
	<i>Undetermined (Zone D)</i>	-	-	-	-	-
	TOTAL	9.67%	1.8%	1.2%	9.4%	\$4
Meteorological Hazards	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	1.2%	0.4%	0.2%	-	-
	<i>Interface Medium-High Structure Density</i>	33.2%	39%	44.7%	18.8%	\$15 ²
	<i>Intermix Very Low-Low Structure Density</i>	8.9%	1.9%	1%	3.1%	\$2 ²
	<i>Intermix Medium-High Structure Density</i>	14.3%	8.5%	7.7%	28.1%	\$28 ²
	TOTAL	57.6%	49.8%	53.6%	50%	\$45

¹This value shows the total of 2020 Whatcom County parcel data appraised total value and community's critical facility assessed dollar value (found in the community's critical facilities list). The critical facility's assessed dollar value was used instead of the appraised total value when available.

²Shows the total assessed dollar value provided by the community in their critical facilities list. Does not include the appraised total values.

³Some critical facilities located in multiple hazard zones.

Status of Bellingham's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

1	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
5	Funding Source:	Local; State; FEMA; Private; Other
6	Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

General: All Hazards

G-a. Emergency preparedness education programs for schools

Bellingham Fire Department (BFD) conducted October fire and earthquake safety presentations in public and private school 2nd grade classrooms 2016-2019 (partnered with American Red Cross 2016-2018 on this program until they were no longer able to provide staffing). 2nd grade presentations were suspended in 2020 due to COVID-19 pandemic.

Lead Agency	School Districts/Office of Emergency Management (OEM)/Western Washington University (WWU)/Police/Fire
Funding Source	Local/Grants
Current Status	Ongoing

G-b. Drills, exercises in homes, workplaces, classrooms

Reassigned to Bellingham Fire Department Office of Emergency Management (OEM) promotes participation in the annual international ShakeOut drill to practice taking proper actions to save lives and reduce the risk of injury during an earthquake.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

G-c. Public service announcements

Lead Agency	OEM /Police/Fire
Funding Source	Local
Current Status	Ongoing

G-d. Hazard "safety fairs"

OEM sponsored "GearUp!" an emergency preparedness fair in 2017 that offered community members the opportunity to learn about steps they can take to prepare for a future disaster by utilizing resources already at their disposal.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

G-e. Hazard conferences, seminars

OEM staff attend and host conferences and seminars as time and resources allow to learn and share lessons to enhance community preparedness.

Lead Agency	OEM
Funding Source	Local/State/Private/Other
Current Status	Ongoing

G-f. Hazard awareness weeks

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

G-g. Preparedness handbooks, brochures. Distribution of severe weather guides, homeowner's retrofit guide, etc.

In cooperation with Whatcom County, OEM makes available to the public throughout the year an all-hazards emergency preparedness guide, a variety of age-appropriate preparedness and awareness publications (activity books, comic books), and a graphic "two weeks ready" guide. Most recently, OEM developed and delivered tsunami awareness guides that feature evacuation routes and related details for shoreline inundation zones.

Lead Agency	OEM
Funding Source	Local/State/FEMA/Private

Current Status	Ongoing
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G-i. Annual correspondence with residents reminding them of the need to be hazard prepared.

The Public Works Department offers education programs to inform city workers to prepare 72-hour emergency prep kits. OEM issues annual reminders about fireworks safety and regulations in the City of Bellingham and contributes reminders to staff and community newsletters as resources allow.

Lead Agency	OEM /Public Works
Funding Source	Local
Current Status	Ongoing

Drought/heat wave

D-a. Assess Vulnerability to Drought Risk

The City's Water Shortage Contingency Plan includes recognition of drought risk as established by an assessment of regional climate conditions. The WSCP defines the levels of response to a range of drought conditions.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

D-b. Monitor Water Supply

The City maintains a water supply model of the City's water supply source, the Lake Whatcom Reservoir. Model data parameters include lake levels, annual precipitation, estimated evapotranspiration, water use trends.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

D-c. Plan for Drought

The City's Water Shortage Contingency Plan describes actions to be taken by the public in response to defined thresholds of reservoir capacity coupled with weather forecasts. The actions range from low water level alerts to a series of curtailment measures.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

D-d. Require Water Conservation During Drought Conditions

The Water Shortage Contingency Plan requires different levels of water use restrictions in response to various reservoir levels, precipitation and weather forecasts.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

D-e. Retrofit Water Supply Systems

Since 2016 the water meter program has successfully completed retrofit metering of 22,743 residential customers. Now all buildings within the City of Bellingham and most customers outside of the City are metered.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Completed

D-f. Enhance Landscaping and Design Measures to include drought tolerant native plants

Environmental restoration and park restoration projects include a mix of native plants some of which are drought tolerant. These programs are ongoing with multiple projects each year. Recent completion of The Native Plant Material Selection Guidelines includes a thorough discussion of plant stress due to climate change and options for maintaining resilient local plant communities in the face of climate challenges. Options include different approaches to assisted migration.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

D-g. Educate Residents on Water Saving Techniques

The City of Bellingham's Water Use Efficiency program provides education about water saving techniques to youth, households and businesses through a variety of programs and offerings, including property assessments, in-school education and community education campaigns.

Focus is placed on both indoor and outdoor water conservation techniques.

- Provides youth education through our 5th grade Water School program.
- Contracts education to K-12 in a partnership with ReSources, a local non-profit.
- Contracts with Community Energy Challenge to provide water assessments at homes, multifamily and commercial properties and to provide rebates for a fixture retrofit program.
- Provide outdoor summer watering education through advertising campaigns and an online pledge that provides customers with free tools to help with outdoor water conservation, such as hose-timers, efficient spray nozzles and moisture meters.
- Participate in the county-wide Whatcom Water Alliance which has a goal to coordinate water conservation practices and outreach throughout the county.
- Education materials accompany City sponsored events such as annual planning and participation in World Water Week events.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

Earthquake

EQ-a Adopt and Enforce Building Codes that increase earthquake resilience

The City has adopted the 2018 International Building Code with State and Local amendments. Each code cycle strengthens earthquake resilience as new studies, new technology, and new construction methods are devised. Fire enforces these codes through the new construction permitting process (average of 1,250 construction inspections per year) and performing approximately 500 inspections per year on existing buildings throughout the City. Planning and Community Development Services provides structural inspections for code compliance.

Lead Agency	Planning, Fire
Funding Source	Local
Current Status	Ongoing

EQ-c. Map and Assess Community Vulnerability to Seismic Hazards

A map of seismic vulnerable areas has been completed, is included in this report and is

available to the public.

Lead Agency	OEM /Public Works
Funding Source	Local
Current Status	Ongoing

EQ-d Conduct Inspections of Building Safety

Fire conducts an average of 1,250 new construction inspections per year and performing approximately 500 inspections per year on existing buildings (code enforcement inspections) throughout the City. Community Development Services conducts inspections of building structural compliance with earthquake codes.

Lead Agency	Planning, Fire
Funding Source	Local
Current Status	Ongoing

EQ-e. Protect Critical Facilities and Infrastructure

The City conducts routine assessment and maintenance of critical facilities and infrastructure to ensure they remain in good repair. The Sehome Hill Communications Tower, a critical facility was replaced in 2020.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

EQ-f. Implement Structural Mitigation Techniques

City buildings are earthquake retrofitted as funding allows.

Lead Agency	Planning/Public Works
Funding Source	Local
Current Status	Ongoing

EQ-g. Increase Earthquake Risk Awareness

Multiple City departments participate in state and local exercises, including Cascadia Rising exercise planning and execution of the exercise. Increased earthquake awareness and public participation has been facilitated by the CERT program.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

EQ-h. Conduct Outreach to Builders, Architects, Engineers, and Inspectors

Outreach to the development community is conducted through Pre-Application Conferences (average 100 conferences per year) and one-on-one meetings, emails, and telephone calls. Technical Advisory Bulletins with code updates are sent to builders and other members of the development community several times a year.

Lead Agency	Planning
Funding Source	Local
Current Status	Ongoing

Extreme Temperature

ET-a. Reduce Urban Heat Island Effect – Increase tree canopy in neighborhoods

Development and Critical Areas regulations require certain tree retention, and replacement during design and construction.

Lead Agency	Planning/Public Works
Funding Source	Local
Current Status	Ongoing

ET-b. Increase Awareness of Extreme Temperature Risk and Safety

Shelters for vulnerable populations have increased community awareness of extreme temperature risk and safety.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

ET-c. Assist Vulnerable Populations.

The City partners with and/or provides funding to several organizations that provide emergency overnight shelter, day center accommodations and safe camping for vulnerable populations.

The Bellingham Fire Department (BFD) responds to all types of medical emergency calls (fires, medical, public service, etc.) per year within the City limits. The City's Planning Department and BFD's Life Safety Division are involved in the review, approval, and inspection of homeless shelters, emergency shelters, and encampments.

Lead Agency	OEM /Planning/Police/Fire/Private
Funding Source	Local
Current Status	Ongoing

ET-d. Educate Property Owners About Freezing Pipes

Lead Agency	OEM /Fire/PW
Funding Source	Local
Current Status	Ongoing

Hail

HA-a. Increase Hail Risk Awareness

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

Flooding

F-a. Incorporate Flood Mitigation in Local Planning

The Bellingham Municipal Code and the Surface and Stormwater Comprehensive Plan address flood hazards, development standards and mitigation strategies.

Lead Agency	OEM /Public Works
Funding Source	Local/State/FEMA
Current Status	Ongoing

F-b. Form Partnerships to Support Floodplain Management

Bellingham Municipal Code for floodplain management is included in sections administered by both the Public Works Department and the Planning and Community Development Department. Interjurisdiction floodplain management is coordinated between the City of Bellingham, Whatcom County and the Washington State Department of Ecology.

Lead Agency	OEM /Public Works
Funding Source	Local
Current Status	Ongoing

F-c. Adopt and Enforce Building Codes and Development Standards

The Bellingham Municipal Code and the Surface and Stormwater Comprehensive Plan address flood hazards, development standards and mitigation strategies. Building codes and development standards meet FEMA standards. Planning and Community Development Department administers the Critical Areas Ordinance that includes frequently flooded areas which are areas that have an increased risk of flooding and that are an expansion of FEMA designated flood areas.

Lead Agency	Planning/Police/Fire
Funding Source	Local
Current Status	Ongoing

F-d. Improve Stormwater Management Planning

The Surface and Stormwater Comprehensive Plan was updated in 2020. Improvements to mapping and facility maintenance are part of the plan. Near-term sea-level rise impact analysis, funding obligations and needs, prioritization, conveyance capacity analysis, and a capital improvement plan are also included.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

F-e. Adopt Policies to Reduce Stormwater Runoff

The Surface and Stormwater Comprehensive Plan conditions all new buildings to minimize or be stormwater runoff neutral. A residence focused program in the Lake Whatcom watershed incentivizes actions that reduce stormwater runoff from individual parcels. Bellingham

Municipal Code includes sections on stormwater management. The 2017 Municipal Code update made Low Impact Development techniques required if feasible on a site.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

F-f. Improve Flood Risk Assessment

Hydrology model data are used to assess the impacts of new development, re-development and stream restoration projects on flood control and carrying capacity. Bellingham is a National Flood Insurance Program participating community. The Operations and Maintenance Plans and Emergency Action Plans for seven flood control dams are updated every 5-years. Ecology Dam Safety office performs inspections and receives records from the City every 5-years.

Lead Agency	Public Works/OEM
Funding Source	Local/Grants
Current Status	Ongoing

F-g. Improve Stormwater Drainage System Capacity

The Comprehensive Surface and Stormwater Plan includes analysis of stormwater infrastructure needs and projects. Projects are selected by committee based on needs analysis that considers risks, areas of growth, age of infrastructure, road projects, opportunities and other issues identified by stormwater staff.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

F-h. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures

The City's stormwater conveyance system is regularly maintained to clear debris and replace failing infrastructure to ensure it is fully functional. Stormwater crews perform routine maintenance and repair activities on all City owned drainage structures and conveyance pipes. Work crews video-inspect 267 total miles of mains, 15,066 drainage structures, and clean structures as required. The City meets or exceeds the requirements in our Western Washington Phase II Municipal Stormwater Permit. Additional inspections and maintenance is

also conducted on all flow control and bioretention facilities which includes nearly 150 rain gardens, 190 ponds and bioswales, and 5 regional detention facilities. City staff also assist in performing private facility inspections.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

F-i. Elevate or Retrofit Structures and Utilities

Utility facilities are sited with consideration of potential flooding impacts. Recent development of models that predict potential flooding due to sea level rise are also being used as guidance for utility planning in waterfront areas. Utilities located within either City or Federal designation with a flood potential are retrofitted, designed, and contracted to minimize the possibility of floodwaters from entering the system.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

F-j. Protect Infrastructure

Utilities located within either City or Federal designation with a flood potential are retrofitted, designed, and constructed to minimize the possibility of floodwaters from entering the system.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

F-k. Protect Critical Facilities

Critical facilities that are located within either City or Federal designation with a flood potential are retrofitted, designed, and constructed to minimize the possibility of floodwaters from entering the facility and damage caused by flooding.

Lead Agency	Planning/PW/Police/Fire
Funding Source	Local/Grants
Current Status	Ongoing

F-l. Construct Flood Control Measures

The City's flood control infrastructure includes 150 rain gardens, 190 ponds and bioswales, and 7 regional detention facilities throughout the city to capture and retain stormwater runoff. The combined stormwater facilities work in concert to lessen the impacts of localized and regional storm events. Flood control berm along the lower portions of Whatcom Creek. All new and redevelopment projects are subject to stormwater flow control requirements.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

F-m. Protect and Restore Natural Flood Mitigation Features

Seven stormwater regional detention facilities are built in natural floodways to increase the flood storage capacity of the natural system. These sites are regulated by the Critical Areas Ordinance and are included in wetland and riparian restoration and mitigation plans projects.

Lead Agency	Parks/Public Works/Planning
Funding Source	Local/Grants
Current Status	Ongoing

F-n. Preserve Floodplains as Open Space

Accomplished through the City's Critical Areas Ordinance, Frequently Flooded Areas section.

Lead Agency	Parks/Planning
Funding Source	Local/Grants
Current Status	Ongoing

F-o. Increase Awareness of Flood Risk and Safety

The City is a National Flood Insurance Program participating community.

Lead Agency	OEM/Parks/Public Works
Funding Source	Local
Current Status	Ongoing

F-p. Educate Property Owners about Flood Mitigation Techniques

The City is a National Flood Insurance Program participating community.

Lead Agency	Parks/ Public Works/OEM
Funding Source	Local
Current Status	Ongoing

Landslide/Erosion

ER-a. Map and Assess Vulnerability to Landslides and Erosion

The Critical Areas Ordinance defines and maps landslide hazard areas. No additional action has occurred.

Lead Agency	Planning
Funding Source	Local
Current Status	Ongoing

ER-b. Manage Development in Landslide and Erosion Hazard Areas

The Critical Areas Ordinance conditions development in Landslide and Erosion Hazard areas.

Lead Agency	Planning
Funding Source	Local
Current Status	Ongoing

ER-c. Promote or Require Site and Building Design Standards to Minimize Erosion Risk

The Critical Areas Ordinance and Subdivision Ordinance together require site designs to consider building with existing contours and minimizing recontouring. No new action taken.

Lead Agency	Planning
Funding Source	Local
Current Status	Ongoing

ER-d. Stabilize Erosion Hazard Areas

Public Works Natural Resources includes elements to stabilize banks and reduce erosion in all habitat restoration projects. The Parks & Recreation Department also designs park uplands and nearshore areas to withstand sea level rise and floodwaters to protect critical habitat areas that might otherwise be lost or eliminated during a natural disaster. Boulevard Park and Waypoint Park beach enhancement projects were designed for the upper end of predicted sea level rise,

including king tides and storm surges. These projects mitigate flood damage and erosion to uplands by providing natural nearshore environments capable of sustaining large storm events.

Lead Agency	Public Works/Parks
Funding Source	Local/Grants
Current Status	No action taken

ER-e. Increase Awareness of Erosion Hazards

A map of geological hazards is available to the public on the City's website and can be ordered.

Lead Agency	Public Works/OEM
Funding Source	Local
Current Status	Ongoing

Land Subsidence

SU-a. Map and Assess Vulnerability to Subsidence

A map of land areas at risk of subsidence events is a layer in City IQ, the City's publicly accessible property mapping database.

Lead Agency	Public Works
Funding Source	Local/Grants
Current Status	Ongoing

SU-b. Manage Development in High-Risk Areas

City zoning, building regulations, critical areas restrictions and the Comprehensive Plan manage development in all hazard areas.

Lead Agency	Planning
Funding Source	Local
Current Status	Ongoing

SU-c. Consider Subsidence in Building Design

Building codes regulate building foundation in light of the potential for stress from events such as subsidence.

Lead Agency	Planning
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Funding Source	Local
Current Status	Ongoing

SU-d. Monitor Subsidence Risk Factors

Changes in land elevations, slumps, street integrity, or other signs of subsidence are reported to City staff.

Lead Agency	Public Works
Funding Source	Local
Current Status	Ongoing

Lightning

L-a. Protect Critical Facilities and Equipment

Critical facilities and equipment receive ongoing maintenance.

Lead Agency	Public Works/Private/Planning
Funding Source	Local
Current Status	Ongoing

Severe Storm

SS-a. Increase Severe Storm Preparedness

The City participates in the annual severe storm preparedness meeting conducted by the Whatcom County Sheriff's Office Division of Emergency Management.

Severe Wind

SW-a. Adopt and Enforce Building Codes

Building codes require wind studies and engineered designs in response to wind analysis for development in designated high wind zones.

Lead Agency	Planning
Funding Source	Local
Current Status	Ongoing

SW-b. Promote or Require Site and Building Design Standards to Minimize Wind Damage

Building codes require site specific analysis of land clearing proposals in high wind designated areas, to determine impacts on trees and structures in the immediate area. Temporary tent permits require prescribed amount of ballasting to prevent blow-over or damage from wind. Fire issues temporary tent permits and performs inspections on roughly 15 temporary tents per year.

Lead Agency	Planning/Fire
Funding Source	Local
Current Status	Ongoing

Tornadoes

No actions ongoing, discontinued, or completed for this hazard.

Tsunami

TSU-a. Map and Assess Vulnerability to Tsunami

The City of Bellingham participates in the Washington State Department of Emergency Management's Inner Coast Tsunami Workgroup that publishes tsunami inundation and current velocity maps that show the expected depth of water and the speed of the currents from an earthquake-generated tsunami, as well as tsunami pedestrian evacuation walk maps.

Lead Agency	OEM
Funding Source	Local/Grants
Current Status	Ongoing

TSU-b. Manage Development in Tsunami Hazard Areas

The City's Shoreline Master Program regulates development in Tsunami Hazard Areas.

Lead Agency	Planning
Funding Source	Local
Current Status	Ongoing

TSU-c. Increase Public Awareness of Tsunami Hazard

The City of Bellingham is a key stakeholder in Whatcom County Sheriff's Office Tsunami Action Plan and will actively prepare for, respond and participate in recovery from any tsunami threat. Public outreach events were delivered on tsunami awareness in 2019 and will resume post-COVID.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

Wildfire

WF-a. Map and Assess Vulnerability to Wildfire

City's Wildland-Urban Interface mapping is being performed in 2nd quarter 2021 by consultant as part of City's Urban Forest Management Plan. State DNR is also in the process of mapping and performing risk assessment in each county.

Lead Agency	Fire
Funding Source	Local
Current Status	Ongoing

WF-b. Create Defensible Space Around Structures and Infrastructure

Awaiting results of Wildland-Urban Interface mapping/risk assessment in order to target highest risk areas of City.

Lead Agency	OEM/Fire
Funding Source	Local
Current Status	Ongoing

WF-c. Participate in Firewise Program

Partnered with Conservation District's Wildfire Risk Reduction Program staff to identify vulnerable areas. Provided education materials to property owners in target area. Clark's Point is a Firewise site as of November 1st, 2019.

Lead Agency	Fire
Funding Source	Local
Current Status	Ongoing

WF-d. Educate Property Owners about Wildfire Mitigation Techniques

Property owner education included in Wildfire Risk Reduction and Firewise programs.

Lead Agency	Fire
Funding Source	Local
Current Status	Ongoing

Winter storms/Freezes**WW-a. Adopt and Enforce Building Codes**

International and State Building Codes adopted by the City include snow load calculations and requirements for roofs.

Lead Agency	Planning/Fire
Funding Source	Local
Current Status	Ongoing

WW-b. Protect Buildings and Infrastructure

Public Work Facilities maintains all city government buildings to avoid weather incurred damage. Fire-Operations responds to all types of hazardous conditions and emergencies

Lead Agency	Public Works/Fire
Funding Source	Local
Current Status	Ongoing

WW-c. Reduce Impacts to Roadways

City Public Works applies icing prevention compounds to main city streets ahead of predicted winter snow storms, and freezing rain events.

Lead Agency	Public Works/DOT
Funding Source	Local/Grants
Current Status	Ongoing

WW-d Conduct Winter Weather Risk Awareness Activities

Efforts to provide shelters for vulnerable populations have increased community awareness of winter weather risks.

Lead Agency	OEM
Funding Source	Local/Grants
Current Status	Ongoing

WW-e. Assist Vulnerable Populations

Shelters have been provided for vulnerable populations.

Lead Agency	OEM/Police/Fire/Private
Funding Source	Local/Grants
Current Status	Ongoing

Multiple Hazards

MU-a. Assess Community Risk

City departments continue to reassess the most current information when planning response to hazard risks.

Lead Agency	OEM /Public Works
Funding Source	Local
Current Status	Ongoing

MU-b. Map Community Risk.

The City maintains maps of hazardous areas and conditions that are available to the public on the City website and hardcopy.

Lead Agency	OEM /Public Works
Funding Source	Local
Current Status	Ongoing

MU-c. Update Policies, Codes, Standards, Regulations, and Plans for all hazards included in this plan as needed

Lead Agency	Planning/Fire
Funding Source	Local
Current Status	Ongoing

MU-d. Adopt Development Regulations in Hazard Areas

Development in hazard areas is regulated by the Critical Areas Ordinance.

Lead Agency	Planning
Funding Source	Local
Current Status	Completed

MU-e. Limit Density in Hazard Areas

Comprehensive Plan updates may include evaluation of zoning including hazard conditions analysis for any contemplated zoning changes.

Lead Agency	Planning
Funding Source	Local
Current Status	No action taken

MU-f. Integrate Mitigation into Local Planning

The information and related data contained in the Natural Hazards Mitigation Plan regarding hazards, risks, vulnerability and potential mitigation potentially impacting City of Bellingham will be used as a tool when the City updates other plans and programs.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

MU-g. Strengthen Land Use Regulations

Washington State and Bellingham are national leaders in development and land use regulations.

Lead Agency	Planning/Public Works
Funding Source	Local
Current Status	Ongoing

MU-h. Adopt and Enforce Building Codes

State and City of Bellingham adopted the 2015 body of International Code Council (ICC) codes on July 1, 2016, including local Bellingham Municipal Code (BMC) amendments; then adopted 2018 ICC Codes with implementation date of February 1, 2021 (also with BMC amendments). Each code cycle strengthens resilience as new studies, new technology, and new construction methods are devised. Fire enforces these codes through the new construction permitting process (average of 1,250 construction inspections per year) and performing approximately 500 inspections per year on existing buildings throughout the City.

Lead Agency	Planning/Fire/Police
Funding Source	Local
Current Status	Ongoing

MU-i. Protect Infrastructure and Critical Facilities

Critical infrastructure and facilities are maintained regularly.

Lead Agency	Police/Fire
Funding Source	Local/Grants
Current Status	Ongoing

MU-j. Increase Hazard Education and Risk Awareness

Map Your Neighborhood has been in use by Bellingham since 1999. This network allows for residents to prepare to help their neighbors before help can arrive following a disaster, which will save lives.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

MU-k. Improve Household Disaster Preparedness

Map Your Neighborhood has been in use by Bellingham since 1999. This network allows for residents to prepare to help their neighbors before help can arrive following a disaster, which will save lives.

Lead Agency	OEM
Funding Source	Local
Current Status	Ongoing

Bellingham Hazard Mitigation Strategy 2021-2025

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

City of Bellingham-Specific Hazard Mitigation Goals

Bellingham adds to these county-wide goals, the following community-specific mitigation planning goals:

- **Goal BELL-1.** Reduce the possibility of damages and losses due to coastal flooding caused by Sea Level Rise.
- **Goal BELL-2.** Reduce disproportionate natural hazard impact on vulnerable populations (e.g. elderly, low-income residents, disabled, health-compromised, rural/urban, and similar).
- **Goal BELL-3.** Collaborate with partners to create a countywide public safety radio system available to all public safety agencies for daily operations as well as emergency and disaster response.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. The City of Bellingham considered mitigation options related to earthquakes, tsunamis, and severe storms, especially those related to coastal flooding, because these hazards have the

potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Bellingham. Some options have already been implemented or are ongoing in Bellingham, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that the City of Bellingham has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial, and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property, and public welfare. Blaine is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority:	H (High); M (Medium); L (Low)
4	Timeline:	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years); Ongoing
5	Funding Source:	Local; State; FEMA; Private; Other

Bellingham Identified Mitigation Actions 2021-2025

CITY OF BELLINGHAM IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Multiple Hazards	MU-1 Assess Community Risk - For all hazards included in this Plan	G6	OEM	M	O	Local	Staff
	MU-2 Map Community Risk – For all hazards included in this plan	G6	OEM	M	O	Local	Staff
	MU-3 Update Policies, Codes, Standards, Regulations, and Plans for all hazards included in this plan as needed	G1 G5	Planning/Fire	M	O	Local	Staff

	MU-4 Enforce Codes, Standards, or Regulations for all hazards included in this Plan.	G1	Planning/Fire/Police	M	O	Local	Staff
	MU-5 Protect Infrastructure and Critical Facilities	G1 G5	Fire/Police/PW	H	O	Local	Staff + Capital Project Cost
	MU-6 Update Natural Hazard Early Warning Systems	G1 G2 B1 B2	OEM	M	O	Local	Staff
	MU-7 Create Local Funding Mechanisms for Hazard Mitigation	G1	Administration	L	M	Local	Staff
Education and Outreach all hazards	EO-1 Support Map Your Neighborhood, Community Emergency Response Training (CERT), and other community preparedness initiatives.	G1, G2, B2	Various, see notes	L	O	Local	\$50,000
	EO-2 Provide emergency preparedness education programs for schools, and community groups.	G2, B2	OEM	L	O	Local	\$50,000
	EO-3 Conduct drills, exercises in homes, workplaces, classrooms	G2, B2	OEM	L	O	Local	\$50,000

	EO-4 Deliver Public Service Announcements to the community	G2, B2	OEM	L	O	Local	\$125,000
	EO-5 Host or attend hazard safety fairs, conferences, seminars.	G2, B2	OEM	L	O	Local	\$15,000
	EO-6 Sponsor hazard awareness weeks	G2, B2	OEM	L	O	Local	\$15,000
	EO-7 Distribute risk awareness and emergency preparedness handbooks, brochures, severe weather guides, homeowner's retrofit guide, etc.to the community.	G2, B2	OEM	L	O	Local	\$50,000
	EO-8 Provide information for regular newspaper articles	G2	OEM	L	O	Local	Staff +\$1,000
	EO-9 Provide annual correspondence with residents reminding them of the need to be hazard prepared.	G2, B2	OEM	L	O	Local	\$20,000
Dam/Levee Failures	DL-1 Update early warning notification list as needed.	G1	Public Works/OEM	M	O	Local	Staff
Drought	D-1 Monitor Water Supply	G6	Public Works	M	O	Local	Staff
	D-2 Implement Drought Contingency Plan when needed	G1	Public Works	L	O	Local	Staff

	D-3 Develop/Implement plant resiliency plan	G3	PWNR, Parks	L	O	Local	Staff +\$10,000
	D-4 Ongoing -- Educate Residents on Water Saving Techniques	G2	Public Works	L	O	Local	Staff +\$10,000
Earthquake	EQ-1 Provide Information on Structural and Non-Structural Retrofitting	G1 G2	Planning	L	M	Local	Staff +\$10,000
	EQ-2 Implement Structural Mitigation Techniques, building retrofits.	G1 G2	Planning	L	M	Local	Staff +\$10,000
Extreme Temperatures	ET-1 Reduce heat impacts, increase shade	G1 G4 B2	Plan PW	L	S	Local	\$20,000
	ET-2 Assist Vulnerable Populations, provide shelters and access to shade	G2, B2	OEM/Fire/Police/PW	L	O	Local	\$1,000,000
Flooding	FL-1 Consider policy response to Sea Level Rise	G1, B1	Planning	L	M	Local	Staff
	FL-2 Implement projects of the Surface and Stormwater Comprehensive Plan	G1 G3	PWNR	M	O	Local Grants	\$1,500,000
	FL-3 Maintain Partnerships to Support Floodplain Management	G4	Public Works	L	O	Local	Staff

Landslides/ Erosion	LE-1 Assess impacts of Sea Level Rise on marine bluff stability	G1	Planning	L	O	Local	Staff +\$12,000
Land Subsidence	LS-1 Monitor Subsidence Risk Factors	G1	Public Works	M	O	Local	Staff
Lightning	L-1 Protect Critical Facilities and Equipment	G1	Planning	M	O	Local	Staff +Capital Project Cost
Severe Wind	SW-1 Retrofit Residential Buildings	G1	BHA	L	M	Local	Staff +Project Cost
	SW-2 Retrofit Public Buildings and Critical Facilities	G1	Public Works	L	M	Local	Staff + Project Cost
Tsunami	TSU-1 Include Sea Level Rise in Tsunami Risk Assessment	G2	PWNR	L	S	Local	Staff
	WF-1 Participate in Firewise program	G1 G2 G4	Fire	M	O	Local	\$100,000

Wildfires	WF-2 Create Defensible Space Around Structures and Infrastructure	G1	Fire	M	S	Local	Staff + Project Cost
Winter Weather	WW-1 Reduce Impacts to Roadways	G1, G5	Public Works	L	O	Local	Staff
	WW-2 Assist Vulnerable Populations	B2	Various	M	O	Local	Staff + \$1,500,000

Bellingham Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

City of Bellingham						
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
MULTIPLE HAZARDS						
MU-1. Assess Community Risk - for all hazards included in this Plan						
MU-2. Map Community Risk – For all hazards included in this plan						
MU-3. Update Policies, Codes, Standards, Regulations, and Plans for all hazards included in this plan as needed						
MU-4. Enforce Codes, Standards, or Regulations for all hazards included in this Plan.						
MU-5 Protect Infrastructure and Critical Facilities						
MU-6 Update Natural Hazard Early Warning Systems						
MU-7 Create Local Funding Mechanisms for Hazard Mitigation						
<i>Add Addition Actions as Needed</i>						
EDUCATION AND OUTREACH ALL HAZARDS						
EO-1 Support Map Your Neighborhood, Community Emergency Response Training (CERT), and other community preparedness initiatives.						

EO-2 Provide Emergency preparedness education programs for schools, and community groups.						
EO-3 Conduct drills, exercises in homes, workplaces, classrooms.						
EO-4 Deliver public service announcements to the community.						
EO-5 Host or attend hazard safety fairs, conferences, seminars.						
EO-6 Sponsor hazard awareness weeks.						
EO-7 Distribute risk awareness and preparedness handbooks, brochures, severe weather guides, homeowner's retrofit guide, etc.to the community.						
EO-8 Provide information for regular newspaper articles						
EO-9 Provide annual correspondence with residents reminding them of the need to be hazard prepared.						
<i>Add Addition Actions as Needed</i>						
DAM/LEEVE FAILURES						
DL-1 Update early warning notification list as needed.						
<i>Add Addition Actions as Needed</i>						
DROUGHTS/HEAT WAVES						
D-1 Monitor Water Supply						
D-2 Implement Drought Contingency Plan when needed						
D-3 Develop/Implement plant resiliency plan						
D-4 Ongoing -- Educate Residents on Water Saving Techniques						

Add Addition Actions as Needed						
EARTHQUAKES						
EQ-1 Provide Information on Structural and Non-Structural Retrofitting						
EQ-2 Implement Structural Mitigation Techniques, building retrofits.						
Add Addition Actions as Needed						
EXTREME TEMPERATURE						
ET-1 Reduce heat impacts, increase shade						
ET-2 Assist Vulnerable Populations, provide shelters and access to shade						
Add Addition Actions as Needed						
FLOODING						
FL-1 Consider policy response to Sea Level Rise						
FL-2 Implement projects of the Surface and Stormwater Comprehensive Plan						
FL-3 Maintain Partnerships to Support Floodplain Management						
Add Addition Actions as Needed						
LANDSLIDES/EROSION						
LE-1 Assess impacts of Sea Level Rise on marine bluff stability						
LAND SUBSIDENCE						
LS-1 Monitor Subsidence Risk Factors						
Add Addition Actions as Needed						

LIGHTNING						
L-1 Protect Critical Facilities and Equipment						
<i>Add Addition Actions as Needed</i>						
SEVERE WIND						
SW-1 Retrofit Residential Buildings						
SW-2 Retrofit Public Buildings and Critical Facilities						
<i>Add Addition Actions as Needed</i>						
TSUNAMI						
TSU-1 Include Sea Level Rise in Tsunami Risk Assessment						
<i>Add Addition Actions as Needed</i>						
WILDFIRES						
WF-1 Participate in Firewise program						
WF-2 Create Defensible Space Around Structures and Infrastructure						
<i>Add Addition Actions as Needed</i>						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
WW-1 Reduce Impacts to Roadways						
WW-2 Assist Vulnerable Populations						
<i>Add Addition Actions as Needed</i>						

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CITY OF BLAINE

Contact Information

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Community Development Services Director
435 Martin St.
Blaine, WA 98230
(360) 332-8311

Approving Authority

Blaine City Council
435 Martin St., Ste 3000, Blaine, WA 98230
(360) 332-8311

Planning Process

Beginning in late February 2021, City of Blaine staff began reviewing the content within their section of the plan. Regular meetings were attended with the county and other cities to ensure the revision and updating process was on schedule. Staff revisions and updates were put into a new template provided by Dr. Rebekah Paci-Green. The City provided opportunity for public input on the edits, and kept the community apprised of the process through regular postings on social media and in the local newspaper.

Key Contributor List

- Stacie Pratschner, Community Development Services Director
- Stacy Clauson, Community Planner II
- Michael Jones, City Manager

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability, and potential mitigation is based on the best available science and technology currently available. The City of Blaine is a community fully planning under the Growth Management Act, and this information and related data on natural hazards potentially impacting the City will be used as a tool when the City updates other plans and programs, such as the following:

- Blaine Comprehensive Plan
- Blaine Municipal Code:
 - Critical Areas Ordinance
 - Zoning bulk and dimensional standards
- Capital Improvement Plan
- Transportation Improvement Plan

- Water Resource Inventory Area planning
- General Sewer Systems Plan

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for Blaine

The City of Blaine's communication strategy concerning hazards includes social media postings; partnerships with the Chamber of Commerce and other community groups; and coordination with partner agencies to provide information and provide a platform for concerns.

Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.		<p>Whatcom Unified Emergency Operations Center participates in the CERT program.</p> <p>Blaine residents are part of the Mt Baker chapter of Red Cross.</p>
Ongoing public education or information programs	Yes,	<p>Blaine is a part of the Whatcom Water Alliance which educates residents about outdoor water conservation.</p> <p>Blaine participates in the Great Shakeout (Earthquake preparedness drill) on an every-other-year basis.</p>
School-related programs for natural hazard safety	No	Blaine School District practices routine drills in the classroom.
StormReady certification	No	Whatcom County is a StormReady certified county.
Firewise Community certification	No	Blaine does not have any Firewise sites.
Public-Private Partnership initiatives addressing disaster-related issues	No	
Other		

This map displays the UGA for the City of Blaine, as designated by the Whatcom County Comprehensive Plan.



Presence of Hazards and their Impacts in Blaine

The City of Blaine has grown by roughly 700 people since the 2016 plan was first released. This growth is seen mainly in the Semiahmoo Uplands and East Blaine.

Since the last NHMP update, the City of Blaine has experienced impacts (and in some cases loss) of public infrastructure due to winter storm events. This includes the damage to the road on Semiahmoo Spit; and, damages to the shoreline at Marine Park.

Blaine takes the hazard areas described in this plan into consideration when making development permit decisions. The City, as a community fully planning pursuant to the Growth Management Act, employs best available science in the application of critical areas regulations; stormwater management; and, adopts by reference the most recent versions of the International Building Code.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Blaine’s total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	65.6%	High	Moderate to high risk. Strong shaking expected on Semiahmoo Spit and Drayton Harbor Rd, as well as near the Hwy 543 US-Canada border crossing. Moderate shaking expected in the higher density residential neighborhoods of Blaine west of I5.
	Liquefaction	65.1%	Unknown	Seismically-sensitive soils present.
	Landslide	0.07%	Moderate	
	Volcano	0%	Low	The area is at risk of ash fall, with potential damage or disruptions to buildings, transportation, air quality, and water and wastewater.
	Tsunami	7.2%	High	Some areas within the city limits are subject to Tsunami inundation. The Semiahmoo Spit development, the Wharf District (Port of Bellingham Marina, Milholin Drive and Marine Drive), and some residential areas west of Peace Portal Drive are within hazard areas. Dakota Creek presents inundation risks as the Tsunami water can travel back up the creek channel.
	Mine Hazards	0%		N/A
Hydro-logical	100-Year Flood	20.4%	Low	Dakota Creek presents a flooding hazard. Areas within the city limits are subject to tidal flooding.
	500-Year Flood	0%		

Meteorological	Wildfire	45.1%	Moderate	Outlying homes in the East Blaine and Semiahmoo neighborhoods are in wooded areas, which can be at risk to seasonal wildland fire danger.
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Severity Scale: **None** = no impact to community function

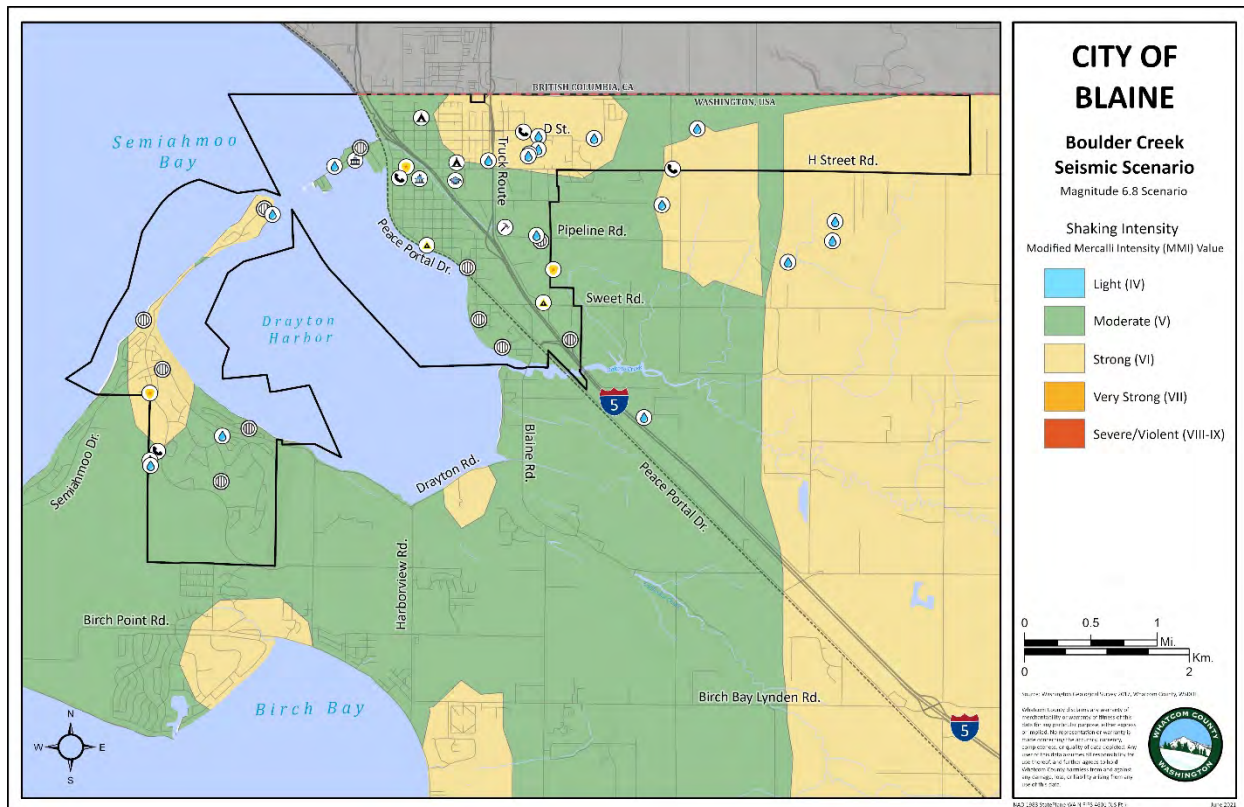
Low = minor degradation of community functions, not widespread

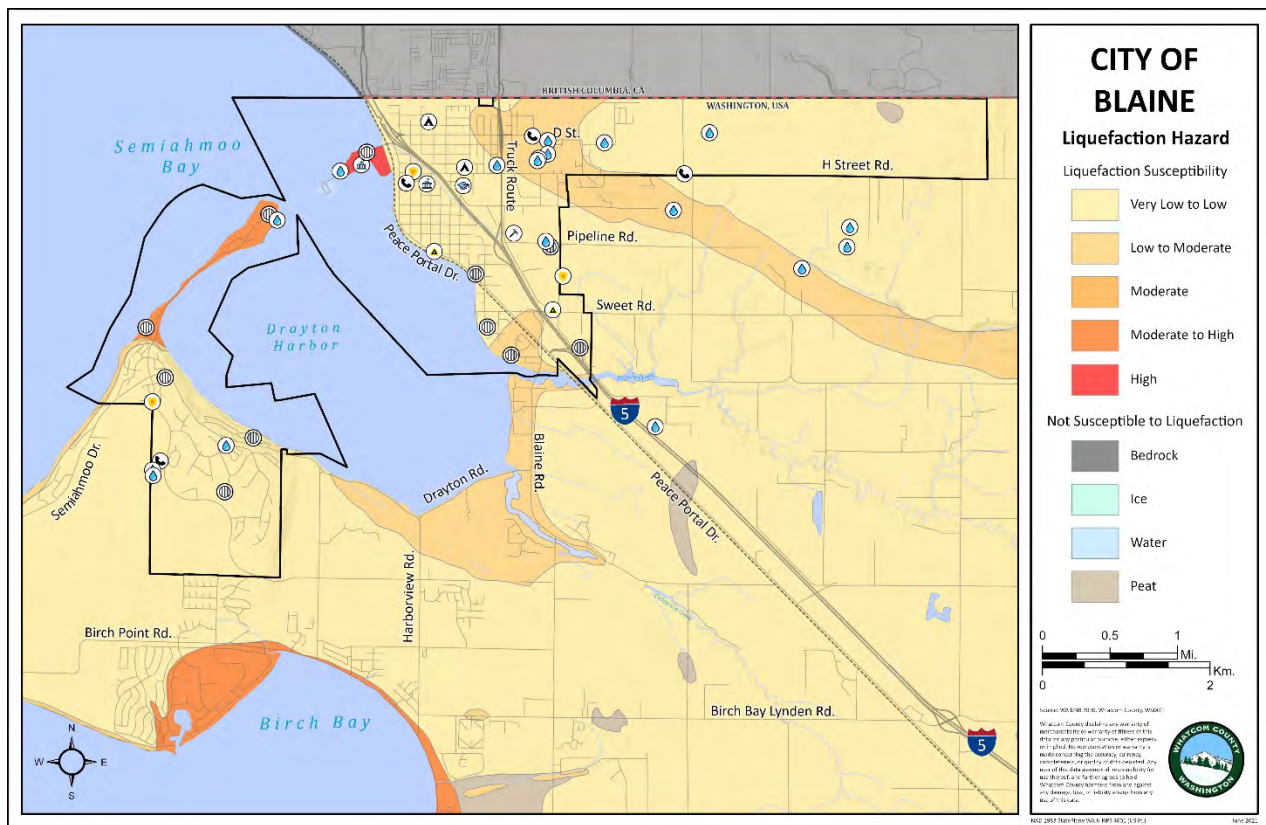
Moderate = moderate degradation over multiple weeks or widespread

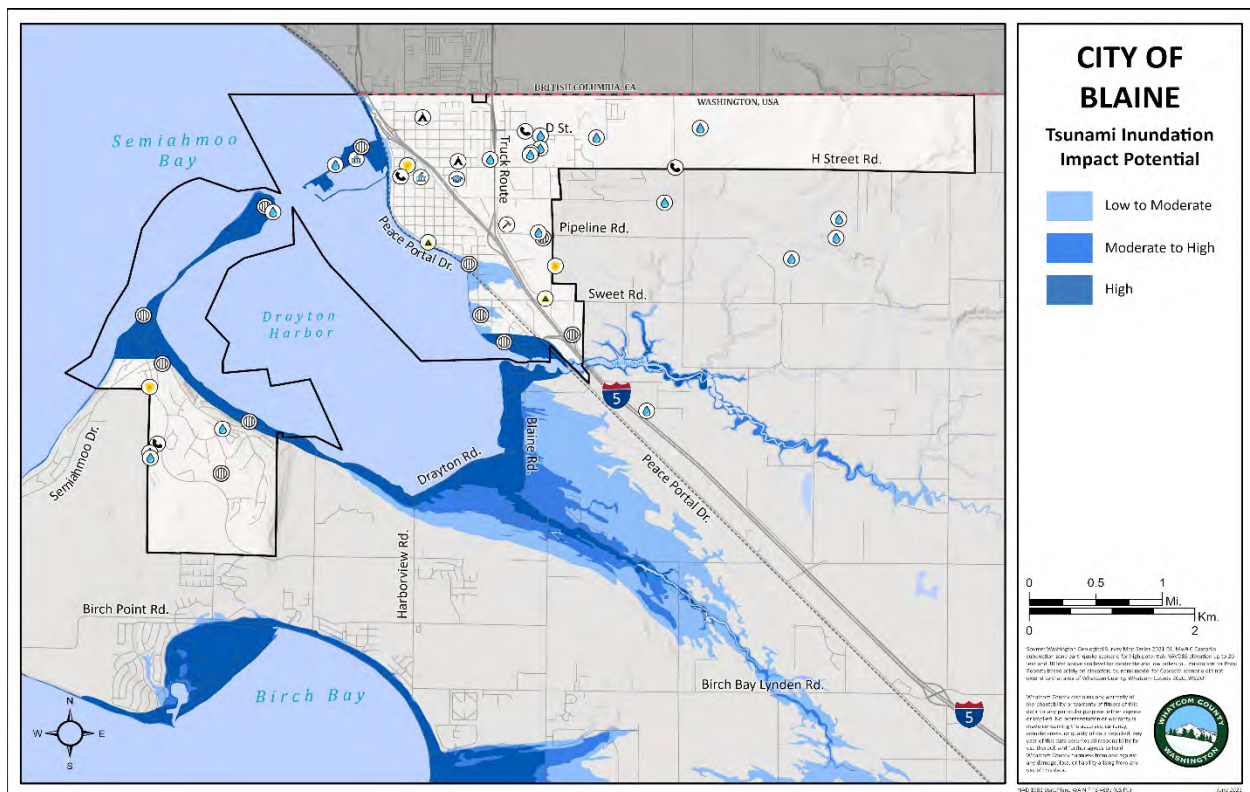
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

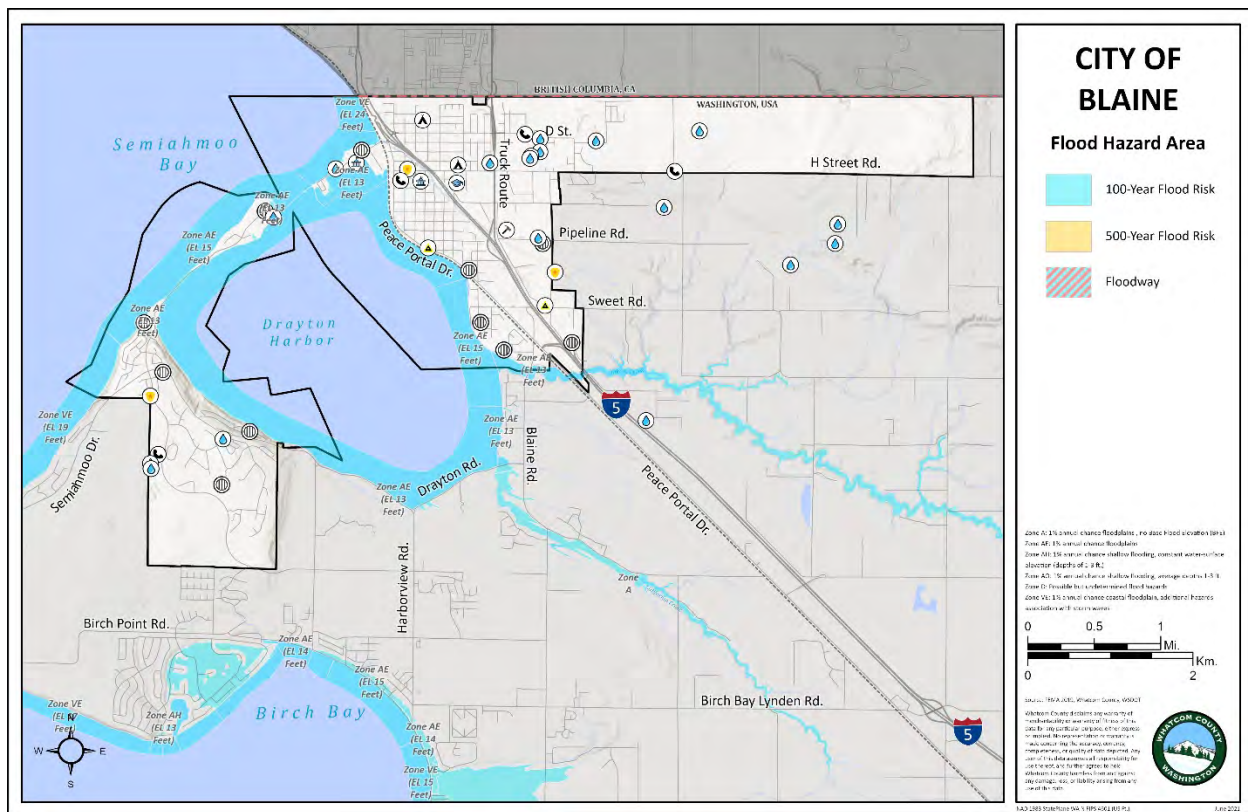
The following figures depict the natural hazards present within the jurisdiction.

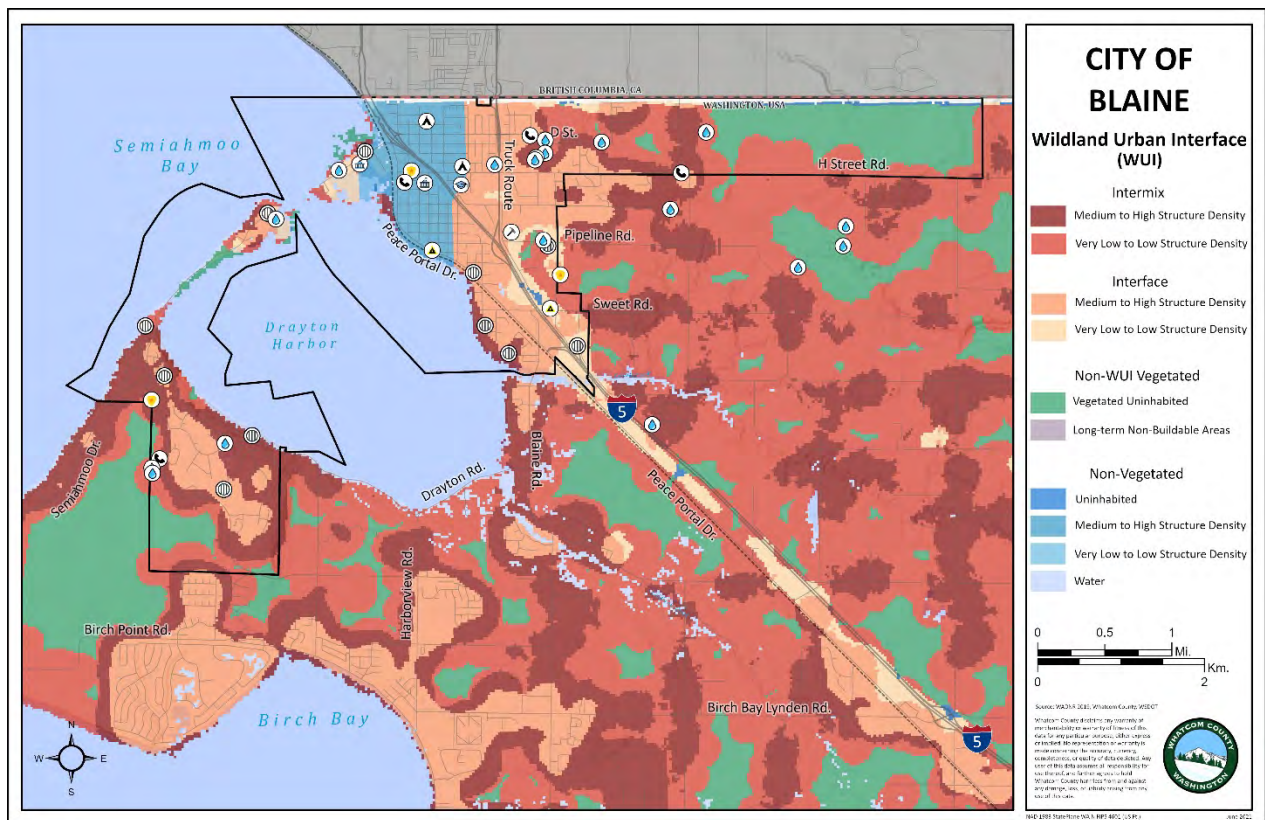






Map of Blaine tsunami inundation impact potential. The high impact potential zone is based upon Washington Geological Survey Map Series 2021-01, Mw9.0 Cascadia subduction zone earthquake scenario occurring at mean high tide. The moderate to high and the low to moderate impact potential areas are based upon elevation of up to 20 feet and 30 feet, respectively, above mean sea level (NAVD88). Inundation for Point Roberts is based solely on elevation; tsunami model for the Cascadia subduction zone scenario did not extend to Point Roberts.





Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.

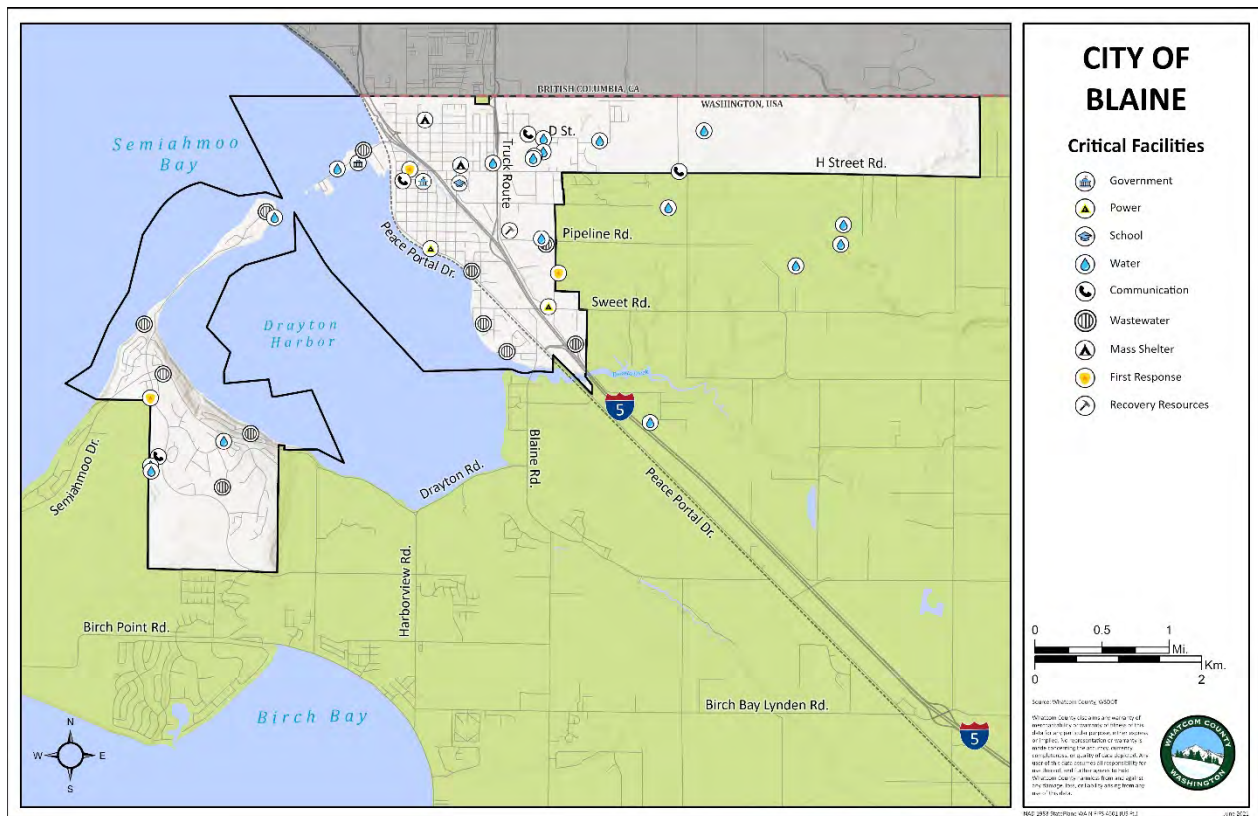
City of Blaine Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
AT&T (US/Canada fiber optic vault)	LUS	2	1715 D Street		Communications
Blaine City Hall	EF	1	435 Martin		Government
Blaine Community Center	EF	1	763 G Street		EOC
Blaine Lighthouse Point Water Reclamation Facility	LUS	2	272 Marine Drive		Water
Blaine Police Department	EF	3	322 H Street		Law Enforcement
Blaine Public Works	EF	3	1200 Yew Street		Emergency Services
Cascade Natural Gas Facility	LUS	2	1400 blk. Peace Portal Way		Utilities-Power
Elementary School - Dist. 503	EF	1	Refer to WC GIS Data Layer		Evacuation Center
Good Samaritan Rest Home	EF	1	456 C Street		Evacuation Center
Lift Stations	LUS	2	9 Lift Stations Total		Sewer
Nextel/AT&T Wireless	LUS	2	8800 Blk Semiahmoo Parkway		Communications
Nextel/FARS Repeater	LUS	2	9800 blk Harvey Road		Communications
Port of Bellingham	EF	3	250 Marine Drive		Government
Puget Power	LUS	2	Sweet Road & W. of Odell Road		Power
Pump Station	LUS	2	4 Pump Stations		Sewer

			Total		
Reservoir Tanks	LUS	2	5 Reservoirs Total		Water
Verizon Central Office	LUS	2	259 Martin Street		Communications
Well Head	LUS	2	7 Well Heads Total		Water
Whatcom County Fire District 21	EF	3	1510 Odell Road		Fire Station
Whatcom County Fire District 21	EF	3	9001 Semiahmoo Parkway		First Station

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



Map of critical facilities identified by the City of Blaine. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all judications identified or included critical facilities in each category.

Critical Facility Rankings for the City of Blaine

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
AT&T (US/Canada fiber optic vault)	LUS	2	1	1	0	0	0	0	0	1	0.4
Blaine City Hall	EF	1	1	0	0	0	0	0	0	0	0.07
Blaine Community Center	EF	1	1	1	0	0	0	0	0	0	0.13
Blaine Lighthouse Point Water Reclamation Facility	LUS	2	1	1	0	1	0	0	0	1	0.67
Blaine Police Department	EF	3	1	0	0	0	0	0	0	0	0.2
Blaine Public Works	EF	3	1	1	0	0	0	0	0	1	0.6
Cascade Natural Gas Facility	LUS	2	1	1	0	0	0	0	0	0	0.27
Elementary School - Dist. 503	EF	1	1	1	0	0	0	0	0	0	0.13
Good Samaritan Rest Home	EF	1	1	0	0	0	0	0	0	0	0.07
Lift Stations	LUS	2	1	1	0	1	0	0	0	1	0.67
Nextel/AT&T Wireless	LUS	2	1	1	0	0	0	0	0	1	0.4
Nextel/FARS Repeater	LUS	2	1	1	0	0	0	0	0	1	0.4
Port of Bellingham	EF	3	1	1	0	1	0	0	0	1	1
Puget Power	LUS	2	1	1	0	0	0	0	0	1	0.4
Pump Station	LUS	2	1	1	0	1	0	0	0	1	0.67
Reservoir Tanks	LUS	2	1	1	0	0	0	0	0	0	0.27
Verizon Central Office	LUS	2	1	1	0	0	0	0	0	0	0.27
Well Head	LUS	2	1	1	0	0	0	0	0	1	0.4
Whatcom County Fire District 21	EF	3	1	0	0	0	0	0	0	1	0.4

Whatcom County Fire District 21	EF	3	1	0	0	0	0	0	0	1	0.4
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Notes: **EQ** = Earthquake; **LQ** =Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

	City of Blaine Exposure to Natural Hazards					
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity					
	MMI V	40.8%	66.2%	66.9%	61.4%	\$90
	MMI VI	24.8%	33.1%	32.8%	38.6%	\$5
	MMI VII	-	-	-	-	-
	MMI VIII - IX	-	-	-	-	-
	TOTAL	65.6%	99.3%	99.7	100%	\$95
	Liquefaction					
	Very Low to Low	55.3%	81.5%	79.6%	68.2%	\$48
	Low to Moderate	7.2%	15.9%	15.4%	18.2%	\$3
	Moderate	-	-	-	-	-
	Moderate to High	1.9%	1.5%	4.5%	6.8%	-
	High	0.7%	0.6%	0.3%	6.8%	\$44
	TOTAL	65.1%	99.5%	99.8%	100%	\$95
	Landslide					
	Landslide Low	-	0.2%	-	-	-
	Landslide Moderate	-	-	-	-	-
	Landslide High	0.06%	-	-	-	-
	Fan Low	0.01%	0.01%	-	-	-
	Fan Moderate	-	-	-	-	-

	<i>Fan High</i>	-	-	-	-	-
	<i>Mine Hazard</i>	-	-	-	-	-
	TOTAL	0.07%	0.21%	-	-	-
	Volcanic Eruption					
	<i>Case 1 Debris Flows</i>	-	-	-	-	-
	<i>Case 2 Debris Flows</i>	-	-	-	-	-
	<i>Case M Flows</i>	-	-	-	-	-
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	-	-	-	-	-
	TOTAL	-	-	-	-	-
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	1.4%	0.9%	3.7%	4.5%	-
	<i>Moderate to High Inundation Potential</i>	0.2%	1.9%	0.1%	-	-
	<i>High Inundation Potential</i>	5.6%	8.8%	10.5%	18.2%	\$44
	TOTAL	7.2%	11.6%	14.3%	22.7%	\$44
Hydrological Hazards	Flooding					
	<i>100-year Flood</i>	20.4%	1.3%	-	-	-
	<i>500-year Flood</i>	0%	-	0.9%	-	-
	<i>Floodway</i>	-	-	-	-	-
	<i>Undetermined (Zone D)</i>	-	-	-	-	-
	TOTAL	20.4%	1.3%	0.9%	-	-
Me	Wildfire Zones					

	<i>Interface Very Low-Low Structure Density</i>	3.6%	1.1%	1.5%	9.1%	\$25
	<i>Interface Medium-High Structure Density</i>	17.6%	40.7%	40.4%	20.5%	\$2
	<i>Intermix Very Low-Low Structure Density</i>	11.5%	3.1%	4%	22.7%	\$4
	<i>Intermix Medium-High Structure Density</i>	12.4%	14.5%	21.2%	22.7%	\$3
	TOTAL	45.1%	59.4%	67.1%	75%	\$34

Status of Blaine's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

1	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
2	Funding Source:	Local; State; FEMA; Private; Other
3	Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

Education and Outreach

EO-a. Ongoing County-wide Education and Awareness Activities.

Blaine, and other jurisdictions within Whatcom, engage in a range of public awareness activities at public events, in the schools and through media channels.

Action Item	Lead Responsibility	Funding	Estimated Cost
Emergency preparedness education programs for schools.	Whatcom County Sheriff's Office Division of Emergency Management (WCDEM)	State/Local	\$15,000
Drills, exercises in homes, workplaces, classrooms, etc.	WCDEM	State/Local	\$4,000
Hazard "safety fairs."	WCDEM	State/Local	\$4,000

Hazard conferences, seminars.	WCDEM	State/Local	\$15,000
Hazard awareness weeks.	WCDEM	State/Local	\$15,000
Preparedness handbooks, brochures. Distribution of severe weather guides, homeowner's retrofit guide, etc.	WCDEM	State/Local	\$20,000
Newspaper articles.	City of Blaine Administrative Services	Local	\$2,000
Direct Mailings	City of Blaine Administrative Services	Local	\$12,000
Utility Bill Inserts	City of Blaine Finance / Administrative Services	Local	\$6,000
Annual correspondence with residents reminding them of the need to be hazard prepared.	Whatcom County Sheriff's Office Division of Emergency Management	State/Local	\$2,000

EO-b. Public Service Announcements The city of Blaine has a robust online presence on Facebook and Twitter.

Lead Agency	City of Blaine Public Safety
Funding Source	State/ Federal
Current Status	Ongoing

Drought/heat wave

D-a. Educate Residents on Water Saving Techniques –

Yearly medial and sign postings about water conservation, especially with lawn watering in the summer.

Lead Agency	City of Blaine Public Works
Funding Source	State/Local
Current Status	Action Ongoing

Earthquake

EQ-a. Acquire Sufficient Power-generating Capacity to Serve Critical Sites During Extended Power Loss

There are several sewer lift stations, water well pumps stations, designated emergency shelters, EOC, and Public Works facilities that require backup power generation capacity in the event of a severe storm or other emergency causing widespread extended disruption of power supplies. Sufficient regenerative capacity does not currently exist, and should be purchased, installed, and maintained to provide this capacity.

The City's capital facilities planning anticipates infrastructure projects over a 6-year planning horizon. Yearly work is done on utilities to maintain them. We anticipate a Water System Comprehensive Plan Update to be adopted this year, and extensive sewer repairs in East Blaine beginning in 2022.

Lead Agency	City of Blaine
Funding Source:	Local sources, and state and federal grants and loans
Timeline:	Moderate term (estimate 1 to 3 years after funding)
Current Status	Ongoing

EQ-b. Adopt and enforce building codes–

The City adopts by reference the most updated versions of the ICC suite. Building permits are reviewed pursuant to the IRC/IBC.

Lead Agency	City of Blaine Community Development Services/Public Safety
Funding Source	State/Local
Current Status	Completed, updates when applicable

EQ-c. Incorporate Earthquake Mitigation into Local Planning –

The City has an adopted critical areas ordinance.

Lead Agency	City of Blaine Community Development Services/Public Safety
Funding Source	State/Local
Current Status	Completed, updates when applicable

EQ-d. Conduct Inspections of Building Safety –

As required by the Fire District.

Lead Agency	Fire District 21
Funding Source	State/Local
Current Status	Completed, updates when applicable

EQ-e. Conduct Outreach to Builders, Architects, Engineers, and Inspectors –

The Building Official is a member of WABO and engages with other local officials in outreach.

Lead Agency	City of Blaine Community Development Services
Funding Source	State/Local
Current Status	Action Ongoing

EQ-f. Provide Information on Structural and Non-Structural Retrofitting –

Application of currently adopted building codes to permit applications.

Lead Agency	City of Blaine CDS
Funding Source	State/Local
Current Status	Action Ongoing

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

FL-a. Incorporate Flood Mitigation in Local Planning –

Adopted in Chapter 17.86 of Blaine Municipal Code (BMC).

Lead Agency	City of Blaine Community Development Services
Funding Source	State/Local
Current Status	Completed

FL-b. Form Partnerships to Support Floodplain Management –

Coordination with the Port of Bellingham and the Semiahmoo Resort Association.

Lead Agency	City of Blaine Community Development Services/Public Works
Funding Source	State/Local
Current Status	Ongoing

FL-c. Limit or Restrict Development in Floodplain Areas –

Development in the Floodplain (mostly the Wharf District and Semiahmoo Spit) is subject to the performance standards in Chapter 17.86 BMC.

Lead Agency	City of Blaine Community Development Services/Public Works
Funding Source	State/Local
Current Status	Ongoing

FL-d. Manage the Floodplain Beyond Minimum Requirements –

The City goes beyond the minimum requirements pursuant to application of Chapter 17.86 BMC.

Lead Agency	City of Blaine Public Safety
Funding Source	Local
Current Status	Action Complete

FL-e. Improve Storm water Drainage System Capacity –

Existing Blaine stormwater facilities will meet the needs of our forecasted population projections of approximately 10,000 people by 2036 (see 2016 Comp Plan, 2021 Budget ORD) pursuant to following the most current version of the ECY Stormwater Management Manual. The City is not considered NPDES Phase II by Ecology, but the City exceeds minimum requirements by adopting the most current version of the Manual to manage all development projects.

Lead Agency	City of Blaine Public Works
Funding Source	State/Local
Current Status	Action Complete, Updating as applicable

FL-f. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures –

Lead Agency	City of Blaine Public Works
Funding Source	Federal
Current Status	Action Ongoing

FL-g. Educate Property Owners about Flood Mitigation Techniques –

City of Blaine Admin: ongoing through education through Facebook, the Northern Light, etc

Lead Agency	City of Blaine City Manager/City Clerk
Funding Source	State/Local
Current Status	Action Ongoing

Landslide/erosion

ER-a. Map and Assess Vulnerability to Erosion –

Maintenance of GIS shapefiles.

Lead Agency	City of Blaine Public Works
Funding Source	State/Local
Current Status	Action Ongoing

ER-b. Manage Development in Erosion Hazard Areas –

Application of Chapters 13.01 (stormwater), 17.82 (CAO) and 15 (Building) of the BMC.

Lead Agency	City of Blaine Community Development Services
Funding Source	State/Local
Current Status	Action Complete, update when applicable.

ER-c. Promote or Require Site and Building Design Standards to Minimize Erosion Risk –

Lead Agency	City of Blaine Community Development Services / Public Works
Funding Source	State/Local
Current Status	Action Complete, update when applicable.

Landslide Subsidence

No actions ongoing, discontinued, or completed for this hazard.

Lightning

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

No actions ongoing, discontinued, or completed for this hazard.

Tornadoes

No actions ongoing, discontinued, or completed for this hazard.

Tsunami

TSU-a. Earthquake/Tsunami Warning System –

Blaine has more than 10 miles of shoreline, and significant lowland exposures to Puget Sound coastline. Valuable properties, infrastructure, and populated areas could be at risk in the event of a tsunami. Installation of an appropriately sited All Hazards Alert Broadcast tower has been installed.

Lead Agency	City of Blaine
Funding Source	Local sources, and state and federal grants and loans
Current Status	Action Completed, 2017

Wildfire

No actions ongoing, discontinued, or completed for this hazard.

Winter storms/Freezes

WW-a. Protect Power Lines –

Public Works crews keep utilities and travel corridors working and clear throughout the winter.

Lead Agency	Fire District 21/City of Blaine Public Works
Funding Source	Local/ State
Current Status	Ongoing

Multiple Hazards

MU-a. Community Early Warning System –

A community-wide warning system to help provide broad community notice for evacuation in the event of tsunami, large scale hazardous material spills involving rail or truck lines, or Weapon of Mass Effect incidents involving the international border. Such an early warning system typically involve a series of sirens that are triggered in the event the city needs to be evacuated.

Lead Agency	City of Blaine
Funding Source	Local sources, and state and federal grants and loans
Current Status	Action Completed, 2017

Blaine 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Blaine-Specific Hazard Mitigation Goals

Blaine supports the above county-wide goals. No additional community-specific mitigation planning goals have been identified at this time.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Blaine considered mitigation options related to earthquakes, tsunamis, and severe storms, especially those related to coastal flooding, because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Blaine. Some options have already been implemented or are ongoing in Blaine, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Blaine has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial, and political considerations, 2) The Criticality of the action, based upon a

consideration of which actions had the greatest potential to protect life, property, and public welfare. Blaine is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority:	H (High); M (Medium); L (Low)
4	Timeline:	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source:	Local; State; FEMA; Private; Other
6	Estimated Cost:	Actual; Estimated

Blaine Identified Mitigation Actions 2021-2025

CITY OF BLAINE IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Education and Outreach Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	<i>EO-a Ongoing -- Ongoing County-Wide Education and Awareness Activities</i>	2	WCDEM	M	O	State/Local	\$95,000
	<i>EO-b Ongoing – Public Service Announcements</i>	2	City of Blaine Public Safety	M	O	State/Federal	Staff
	G-1 Partner with neighboring jurisdictions and public and private entities to ensure adequate emergency shelter capacity and utility infrastructure during severe storms and other natural disasters.	4,5	City of Blaine		S	Local sources, and state and federal grants and loans	Staff
Hazard Specific (Reference: Whatcom County Mitigation Ideas)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						
Dam/Levee							

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Failures (See: Flooding)							
Droughts/Heat Waves	<i>D-a Ongoing – Educate Residents on Water Saving Techniques</i>	2,3	Public Works	M	O	State/Local	Staff
	D-1 Assess Vulnerability to Drought Risk	1,2	City of Blaine Public Works	M	M	Federal	
	D-2 Plan for Drought	1,3	City of Blaine Public Works/ Public Safety	L	M	Federal	
Earthquakes	<i>EQ-a Ongoing -- Acquire Sufficient Power-generating Capacity to Serve Critical Sites During Extended Power Loss</i>	1, 5	City of Blaine	M	O	Local, State, Federal	
	<i>EQ-e Ongoing – Conduct Outreach to Builders, Architects, Engineers, and Inspectors</i>	1	Community Development Services	M	O	State, Local	
	<i>EQ-f Ongoing – Provide Information on Structural and Non-Structural Retrofitting</i>	1	Community Development Services	M	O	State, Local	
	EQ-1 Police Station	1,5	City of Blaine		L	Local sources, and state and	

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Studies have repeatedly indicated that the police service bays would suffer significant damage and casualties in the event of an earthquake. These facilities should be retrofitted, replaced, or relocated so that they can survive a 6.0 magnitude or greater earthquake event. The City is tentatively planning to demolish the Old City Hall, but leave a portion to provide room for Police storage.					federal grants and loans	
	<p>EQ-2 Semiahmoo Spit Commercial and Marina Areas</p> <p>The Semiahmoo Marina, Inn at Semiahmoo, several condominium developments, a Whatcom County Park, and Blaine's former wastewater treatment plant site constitute several tens of millions of dollars in buildings with a daily occupancy and use rate in the hundreds, year-round. It is served by a single point of ingress/egress along the lowland spit northward from Drayton Harbor Road.</p>	1	City of Blaine		S	Local sources, and state and federal grants	

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<p>Significant storm driven tidal action can, and does, compromise the Semiahmoo Parkway roadway along this spit on occasion. Storm winds place the marina facilities at increased risk. A natural event such as earthquake, tsunami, or wind driven tidal surge could damage property and strand civilians in the spit area and deny access to emergency responders. A plan needs to be developed and provisioned to provide prompt notification to people along Semiahmoo spit, and to provide alternative means for their escape from the area if the roadway is compromised or if quick evacuation is essential. The plan should include contingency planning should a blocked roadway prevent access by emergency vehicles.</p>					and loans	
	<p>EQ-3 Map and Assess Community Vulnerability to Seismic Hazards</p> <p>Use of GIS mapping can help inform city</p>	1,2	Public Works	L	S	State/Local	

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	decisions and protect the welfare of residents and critical infrastructure.						
Extreme Temperatures	No current ongoing or future planned actions for extreme temperatures.						
Flooding	<i>FL-b Ongoing – Form Partnerships to Support Floodplain Management</i>	1	Community Development Services/Public Works	M	O	State/Local	
	<i>FL-c Ongoing – Limit or Restrict Development in Floodplain Areas</i>	1	Community Development Services/Public Works	M	O	State/Local	
	<i>FL-f Ongoing -- Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>	1	Public Works	M	O	Federal	
	<i>FL-g. Ongoing -- Educate Property Owners about Flood Mitigation Techniques</i>	2	City Manager/City Clerk	M	O	State/Local	
	FL-1 Improve Flood Risk Assessment	1,3	City of Blaine Public Works	M	S	State/Local	Existing staff time and

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Critical Areas Ordinance update scheduled for 2022		CDS				capacity.
	FL-2 Elevate or Retrofit Structures and Utilities Includes the Resort, and some pump stations.	1,5	City of Blaine Public Works	L	L	Federal	\$2,000,000
	FL-3 Protect and Restore Natural Flood Mitigation Features – Coastal berms and dunes.	3	City of Blaine Public Works	L	L	Federal	\$10,000,000
	FL-4 Increase Awareness of Flood Risk and Safety	2	City of Blaine Public Safety	L	M	Federal	Consultant
Landslide/Erosion	<i>ER-a Ongoing -- Map and Assess Vulnerability to Erosion</i>	1	City of Blaine Public Works	M	O	State/Local	Staff
	ER-1 Stabilize Erosion Hazard Areas Stabilize Semiahmoo spit and road/utility corridor. Continued work to stabilize the Marine Shoreline.	1,5	City of Blaine Public Works	M	M	Federal	\$5,000,000
	ER-2 Increase Awareness of Erosion	2	City of Blaine	L	L	Federal	Consultant

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Hazards		Community Development Services				
Land Subsidence	No current ongoing or future planned actions for Land Subsidence. No known risk of land subsidence within Blaine						
Lightning	No current ongoing or future planned actions for Land Subsidence. Whatcom County has County-wide mitigation actions in place.						
Severe Storms	SS-1 Community-wide Education and Preparation A plan should be developed to work with community faith-based, educational, and public services to educate the residents of Blaine about the weather-related events that place them at risk, and provide planning tools that they can use to	2	City of Blaine		M	Local sources, and state and federal grants and loans	

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	mitigate those risks in their homes and businesses. A similar planning and preparation procedure should be adopted within the departments of city government.						
Severe Wind	SW-1 Assess Vulnerability to Severe Wind	1	City of Blaine Public Works	M	M	Federal	\$4,000
Tornadoes	No current ongoing or future actions for tornadoes.						
Tsunami	TSU-1 Manage Development in Tsunami Hazard Areas Critical areas updates scheduled for 2022	1	City of Blaine Community Development Services	L	L	State/Local	Existing staff capacity and time
	TSU-2 Build Tsunami Shelters	1	City of Blaine Public Safety	L	L	Federal	\$6,000,000
Wildfires	WF-1 Map and Assess Vulnerability to Wildfire	1	Fire District 21/City of Blaine Public Safety	L	M	Federal	Existing staff capacity and time
	WF-2 Incorporate Wildfire Mitigation in the Comprehensive Plan	1,4	Fire District 21 / City of Blaine	L	L	State/Local	Existing staff capacity and

CITY OF BLAINE IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Comprehensive Plan update in 2025		Public Safety				time
	WF-3 Reduce Risk through Land Use Planning Application of vegetative buffers pursuant to the BMC.	1,3	City of Blaine Community Development Services	L	L	State/Local	Existing staff capacity and time
	WF-4 Require or Encourage Fire-Resistant Construction Techniques	1,2	Fire District 21 / City of Blaine Community Development Services	L	L	Federal	\$165,500
	WF-5 Retrofit At-Risk Structures with Ignition-Resistant Materials	1	Fire District 21 and City of Blaine Community Development Services	L	L	Federal	\$865,500
	WF-6 Create Defensible Space Around Structures and Infrastructure	1	Fire District 21 / City of Blaine Community Development Services	L	L	Federal	\$500,500

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	WF-7 Conduct Maintenance to Reduce Risk	5	Public Works	L	L	State/Local	\$250k
Winter Storms/ Freezes (Severe Winter Weather)	WW-a. Protect Power Lines	1	Fire District 21/Public Works	M	O	State/Local	
	WW-1 Develop Plan to Assist Vulnerable Populations	1	City of Blaine Public Safety/ Fire District 21	M	L	City of Blaine	\$100,000
Multiple Hazards	All future actions are focused on mitigating specific hazards.						
Advanced Mitigation Projects (Dream List)	Marine Drive Commercial and Marina Areas Emergency Plan A natural event such as earthquake, tsunami, or derailment would strand civilians in the harbor and deny access to emergency responders. A plan needs to be developed and provisioned to provide prompt notification to people in the harbor area, and to provide alternative means for their escape from the area if Marine Drive is closed. The plan should	1,2,5	City of Blaine		L	Local sources, and state and federal grants and loans	

CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	include contingency planning should a blocked roadway prevent access by emergency vehicles.						
	Earthquake Early Warning System These systems are envisioned to warn residents of an impending earthquake. Technology does not currently exist for early detection with sufficient accuracy, but will likely be available in the future.	1,2	City of Blaine		L	Local sources, and state and federal grants and loans	
	Retrofit Residential Buildings For severe wind and other hazards.	1	City of Blaine Community Development Services		L	Federal	\$4,000,000
	Retrofit Public Buildings and Critical Facilities For severe wind and other hazards.	1,5	City of Blaine Community Development Services/ Public Works		L	Federal	\$8,000,000

**CITY OF BLAINE
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Install sufficient regenerative power capacity for critical sites-Power Generating Capacity	5	City of Blaine Public Works	M	O	State/ Local funding	TBD
	Well field Backup Power	5	City of Blaine Public Works	M	O	State/ Local funding	\$500,000.00
	Natural Hazard Early Warning Systems	1,2	City of Blaine Public Safety/ Public Works	L	O	State/ Local funding	\$155,000.00
	Tone Radio Based Early Warning System Natural Hazard Early Warning Systems	1,2	City of Blaine Public Safety/ Public Works	L	O	State/ Local funding	\$75,000.00

Blaine Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

City of Blaine Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Education and Outreach						
<i>EO-a. Ongoing County-wide Education and Awareness Activities.</i>						
<i>EO-b. Public Service Announcements.</i>						
G-1 Partner with neighboring jurisdictions and public and private entities to ensure adequate emergency shelter capacity and utility infrastructure during severe storms and other natural disasters						
<i>Add New Action Items if Applicable</i>						
DAM/LEVEE FAILURES						
<i>Add New Action Items if Applicable</i>						
DROUGHTS/HEAT WAVES						
<i>D-a. Educate Residents on Water Saving Techniques</i>						
D-1 Assess Vulnerability to Drought Risk						
D-2 Plan for Drought						
<i>Add New Action Items if Applicable</i>						
EARTHQUAKES						
<i>EQ-a. Acquire Sufficient Power-generating Capacity to Serve Critical Sites During Extended Power Loss</i>						

City of Blaine Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>EQ-b. Adopt and enforce building codes</i>						
<i>EQ-c. Incorporate Earthquake Mitigation into Local Planning</i>						
<i>EQ-d. Conduct Inspections of Building Safety</i>						
<i>EQ-e. Conduct Outreach to Builders, Architects, Engineers, and Inspectors</i>						
<i>EQ-f. Provide Information on Structural and Non-Structural Retrofitting</i>						
EQ-1 Police Station						
EQ-2 Semiahmoo Spit Commercial and Marina Areas						
EQ-3 Map and Assess Community Vulnerability to Seismic Hazards						
Add New Action Items if Applicable						
FLOODING						
<i>FL-a. Incorporate Flood Mitigation in Local Planning</i>						
<i>FL-b. Form Partnerships to Support Floodplain Management</i>						
<i>FL-c. Limit or Restrict Development in Floodplain Areas</i>						
<i>FL-d. Manage the Floodplain Beyond Minimum Requirements</i>						
<i>FL-e. Improve Storm water Drainage System Capacity</i>						
<i>FL-f. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>						
<i>FL-g. Educate Property Owners about Flood Mitigation Techniques</i>						

City of Blaine Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
FL-1 Improve Flood Risk Assessment						
FL-2 Elevate or Retrofit Structures and Utilities						
FL-3 Protect and Restore Natural Flood Mitigation Features – Coastal berms and dunes.						
FL-4 Increase Awareness of Flood Risk and Safety						
Add New Action Items if Applicable						
LANDSLIDES/EROSION						
ER-a. Map and Assess Vulnerability to Erosion						
ER-b. Manage Development in Erosion Hazard Areas						
ER-c. Promote or Require Site and Building Design Standards to Minimize Erosion Risk						
ER-1 Stabilize Erosion Hazard Areas						
ER-2 Increase Awareness of Erosion Hazards						
Add New Action Items if Applicable						
LAND SUBSIDENCE						
Add New Action Items if Applicable						
TORNADOES						
Add New Action Items if Applicable						
TSUNAMI						
TSU-a. Earthquake/Tsunami Warning System						

City of Blaine Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
TSU-1 Manage Development in Tsunami Hazard Areas						
TSU-2 Build Tsunami Shelters						
Add New Action Items if Applicable						
WILDFIRES						
WF-1 Map and Assess Vulnerability to Wildfire						
WF-2 Incorporate Wildfire Mitigation in the Comprehensive Plan						
WF-3 Reduce Risk through Land Use Planning						
WF-4 Require or Encourage Fire-Resistant Construction Techniques						
WF-5 Retrofit At-Risk Structures with Ignition-Resistant Materials						
WF-6 Create Defensible Space Around Structures and Infrastructure						
WF-7 Conduct Maintenance to Reduce Risk						
Add New Action Items if Applicable						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
WW-a. Protect Power Lines						
WW-1 Develop Plan to Assist Vulnerable Populations						
Add New Action Items if Applicable						
SEVERE STORMS						

City of Blaine Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
SS-1 Community-wide Education and Preparation						
<i>Add New Action Items if Applicable</i>						
EXTREME TEMPERATURES						
<i>Add New Action Items if Applicable</i>						
LANDSLIDE						
<i>Add New Action Items if Applicable</i>						
LIGHTNING						
<i>Add New Action Items if Applicable</i>						
SEVERE WIND						
SW-1 Assess Vulnerability to Severe Wind						
<i>Add New Action Items if Applicable</i>						
MULTIPLE HAZARDS						
MU-a. Community Early Warning System						
<i>Add New Action Items if Applicable</i>						

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CITY OF EVERSON

Contact Information

Dan MacPhee
Police Chief
P.O. Box 315 Everson, WA 98247
(360) 966-4212

Approving Authority

Mayor John Perry & City Council Members
P.O. Box 315 Everson, WA 98247
(360) 966-3411

Planning Process

The City of Everson process of reviewing, updating, and adopting the 2021 update of the Whatcom County Natural Hazards Mitigation Plan (NHMP or Plan) included review by multiple City departments and formal adoption by the City Council. Review of the prior plan began in early 2021. The City Planner reviewed the previous plan and met with the Public Works Director and Chief of Police to identify portion of the plan that might need to be updated. From February through April of 2021 the City Planner attended a series of coordination meetings hosted by the County Division of Emergency Management (DEM). Initial guidance was received from DEM regarding the update schedule and the main areas to focus on as part of the update.

In early March 2021, the City provided public notice in the Lynden Tribune regarding the planned update of the NHMP and posted information regarding the update on the City website. Information regarding opportunities to provide public comment was also posted to the City website. During March and April of 2021, the City Planner prepared draft revisions to the NHMP and met with the Public Works Director and the Chief of Police to review the draft revisions and receive additional input. During the same time period, City staff participated in two virtual public meetings hosted by DEM where the public was invited to receive information and ask questions regarding the 2021 update of the NHMP.

The draft revisions to the NHMP addressing the city of Everson, incorporating input received from the Public Works Director, Mayor and Chief of Police, were submitted to DEM in late April 2021. In May of 2021, DEM notified the public regarding the availability of draft revisions to the full Plan and hosted a third virtual public meeting to receive comments from the public. Following review by the City Council in May 2021, the City Council passed a motion supporting the updates contained in the Everson section of draft NHMP. Prior to the Plan being submitted to the Federal Emergency Management Agency for review, the City Council expects to formally adopted the draft Plan in summer 2021. It is anticipated that formal adoption by ordinance will follow approval from FEMA.

Key Contributor List

- Rollin Harper, City Planner
- Dave Schoonover, Public Works Director
- Police Chief Dan MacPhee
- Mayor John Perry

Meeting Dates and Attendees

- February 23, 2021 – Harper, Schoonover and MacPhee
- April 15, 2021 – Harper, Schoonover and MacPhee
- April 30, 2021 – Harper and Schoonover

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability, and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting Everson will be used as a tool when the City updates other plans and programs, such as the following:

- Comprehensive plan required by the Growth Management Act (GMA);
- Development regulations required by the GMA;
 - Critical areas ordinance;
 - Capital improvement program;
 - Capital facilities planning; and
 - Water Resource Inventory Area planning.

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for the City of Everson

The City of Everson will maintain and update the Natural Hazards Mitigation Plan as needed to respond to changed circumstances, to incorporate best available science and to address changing community priorities. The Plan update process will include community engagement through public meetings and opportunities for public comment. Formal updates of the Plan will be reviewed by the City Council prior to adoption.

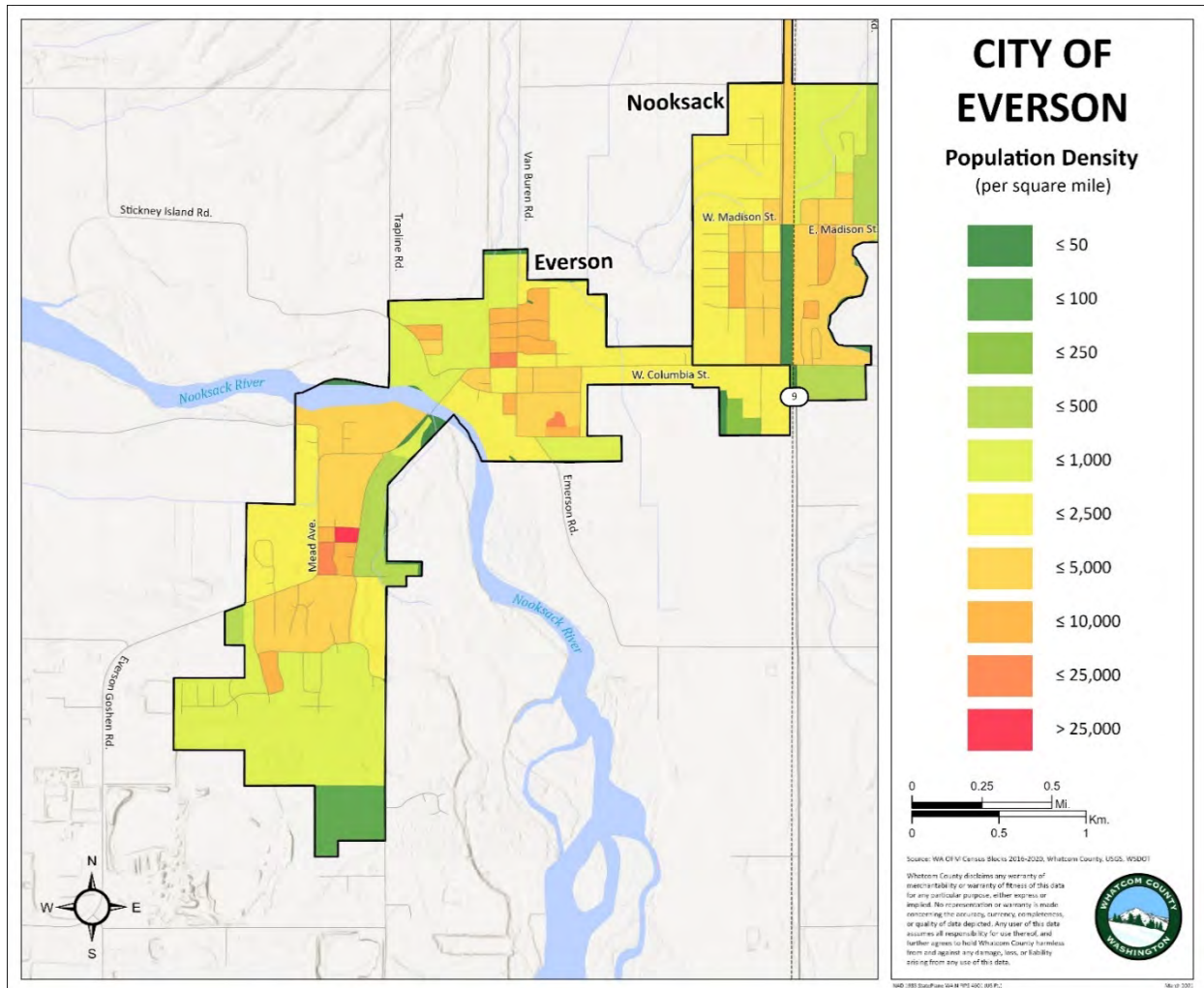
Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	No	
Ongoing public education or information programs	Yes 2008-CRS mailings 2010-Newsletters 2018-City website postings	Repetitive loss information Floodplain preparedness and water conservation information
School-related programs for natural hazard safety	Yes 2005	Semi-annual in-school drills regarding responses to natural disasters
Public education or information program	Yes 2008-CRS mailings 2010-Newsletters 2018-City website postings	Repetitive loss information Floodplain preparedness and water conservation information
StormReady certification	No	Whatcom County is StormReady certified.
Firewise Community certification	No	N/A
Public-Private Partnership initiatives addressing disaster-related issues	No	
Other		

Overview of Everson, Hazards, and Assets

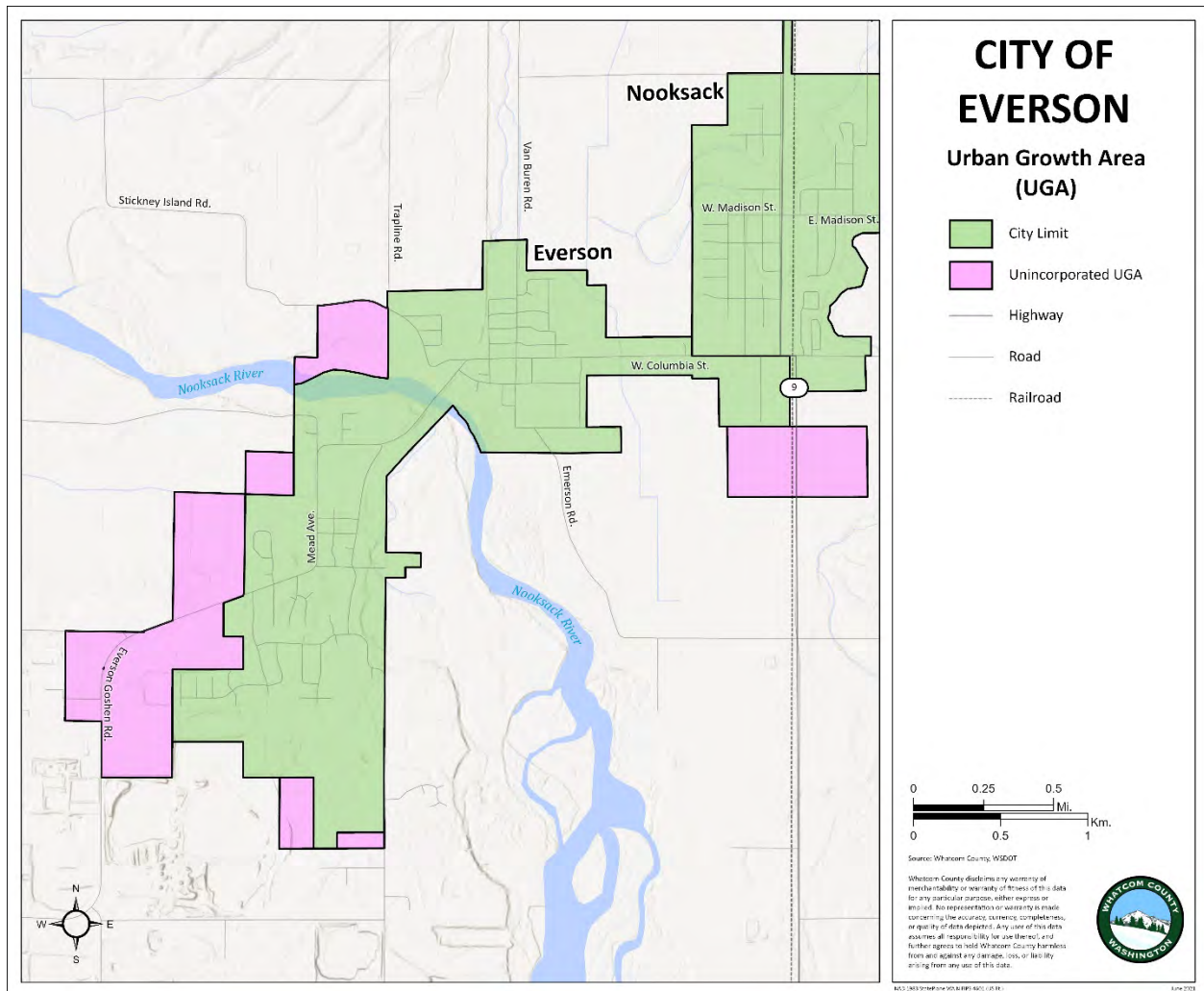
Geography of Everson

Everson Population	2,860 (2020 estimate)
Total area	1.36 sq. mi. (within city limits)



Washington State Office of Financial Management (OFM) 2020 population and housing estimates for 2010-2020 census block data. This map uses the 2016-2020 average population to show population density per square mile.

This map displays the UGA for the City of Everson, as designated by the Whatcom County Comprehensive Plan.



Presence of Hazards and their Impacts in Everson

Flooding from the Nooksack River is the most significant hazard that affects the City of Everson, with moderate to major events occurring every five to ten years. The most recent event occurred in February 2020 when the Nooksack River overflowed its banks to the south of Everson and flowed away from the river and into the “Nooksack Overflow Corridor,” which carries floodwaters to the north, through rural Whatcom County, the City of Sumas and into Canada. The flowing of floodwaters through the Overflow Corridor resulted in closure of E. Main Street (State Route 9), which is the main connecting route between the cities of Everson and neighboring Nooksack. This closure temporarily interrupted access police, fire and other emergency services to the eastern portions of Everson and the City of Nooksack that are located on the east side of the Overflow Corridor.

Since the 2016 NHMP was adopted, the City of Everson has grown by roughly 260 people. Nearly all of this growth occurred in the southern half of Everson, south of the Nooksack River and outside the 100-year floodplain. The Everson City Council has adopted increased densities in select non-floodplain areas, and the City is in the process of annexing an over 100-acre area that is entirely outside the floodplain. The local fire district is currently planning to relocate its Everson fire station from its current downtown location within the floodplain to a new location within the pending annexation area. In addition, over the past several years the City has completed projects to elevate critical facilities one to three feet above the elevation of the floodplain.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Everson’s total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

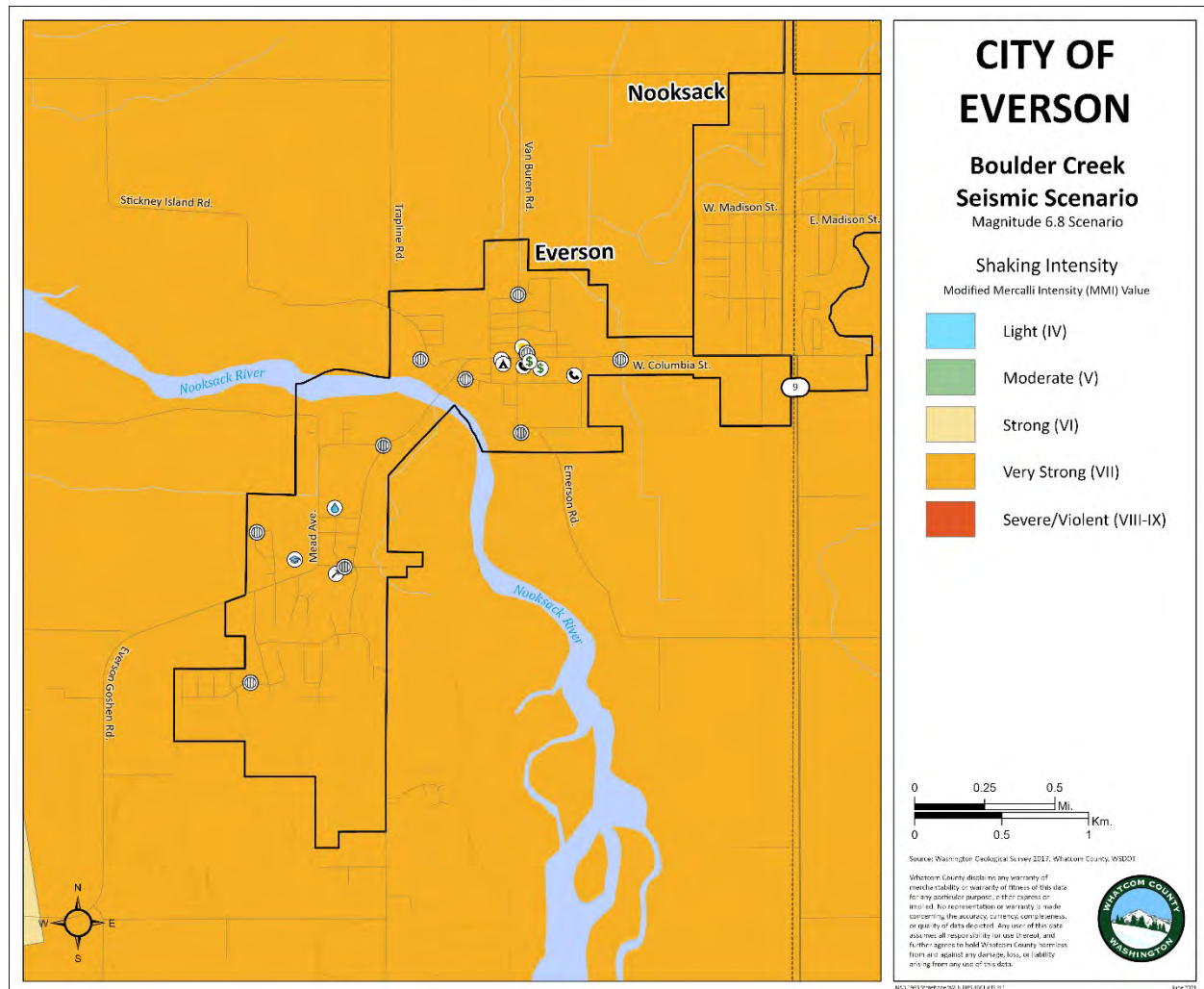
	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	100%	Moderate	The City of Everson is subject to earthquakes. Seismically sensitive soils present.
	Liquefaction	95.8%	Low	Part of the city, east of Strandel Road, has known clay soil called phixatropic. Phixatropic liquefies when moved, causing landslides and flow.
	Landslide	0%	None	N/A
	Volcano	53.7%	Low	All of the downtown area, adjacent to the Nooksack River, and north and east to the City Limits are vulnerable to a Mount Baker lahar.
	Tsunami	0%	None	N/A
	Mine Hazards	0%	None	N/A
Hydro-logical	Flooding	42.1%	High	Hazard presents a frequent and severe risk due to isolated areas. Major flooding occurred in 1989, 1990, and 1995. Flooding begins on the west side of the City and moves east and north up Highway 9 toward Sumas. A 1991 dike was extended with money from mitigation. A dike runs parallel to the river on the west side, and ends on Emerson Road, which prevents water from going to Washington Street and on through to Main Street. This dike diverts Nooksack River overflow to the floodway. The Sumas River can flood east of the city, but does not cause severe problems.

Meteorologica I	Wildfire	22.7%	Low	Various residential homes at risk. The city has multiple 1970s apartments and duplexes and two senior living facilities. Two mobile home parks are present with a total of 71 units.
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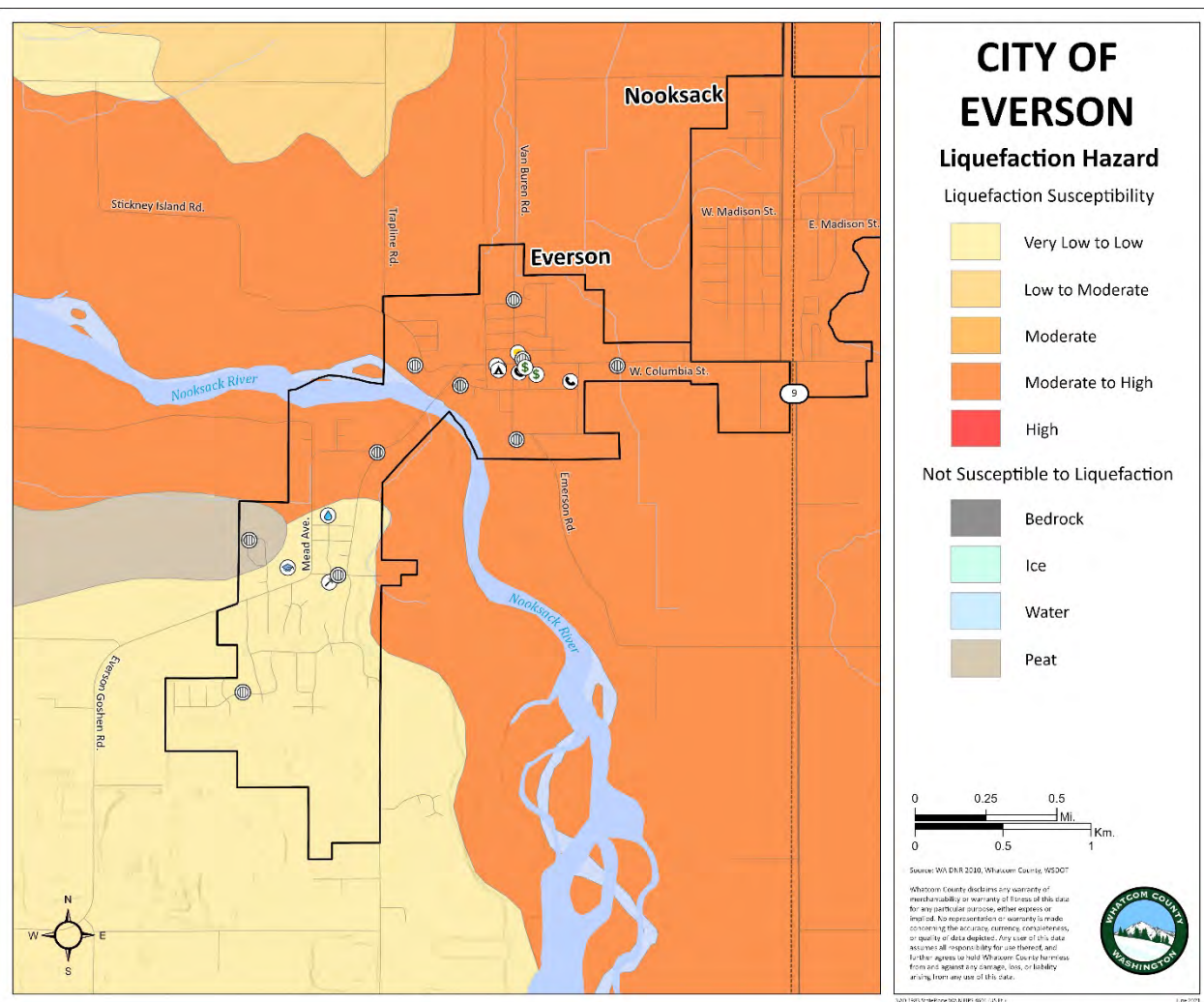
Severity Scale: **None** = no impact to community function
Low = minor degradation of community functions, not widespread
Moderate = moderate degradation over multiple weeks or widespread
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

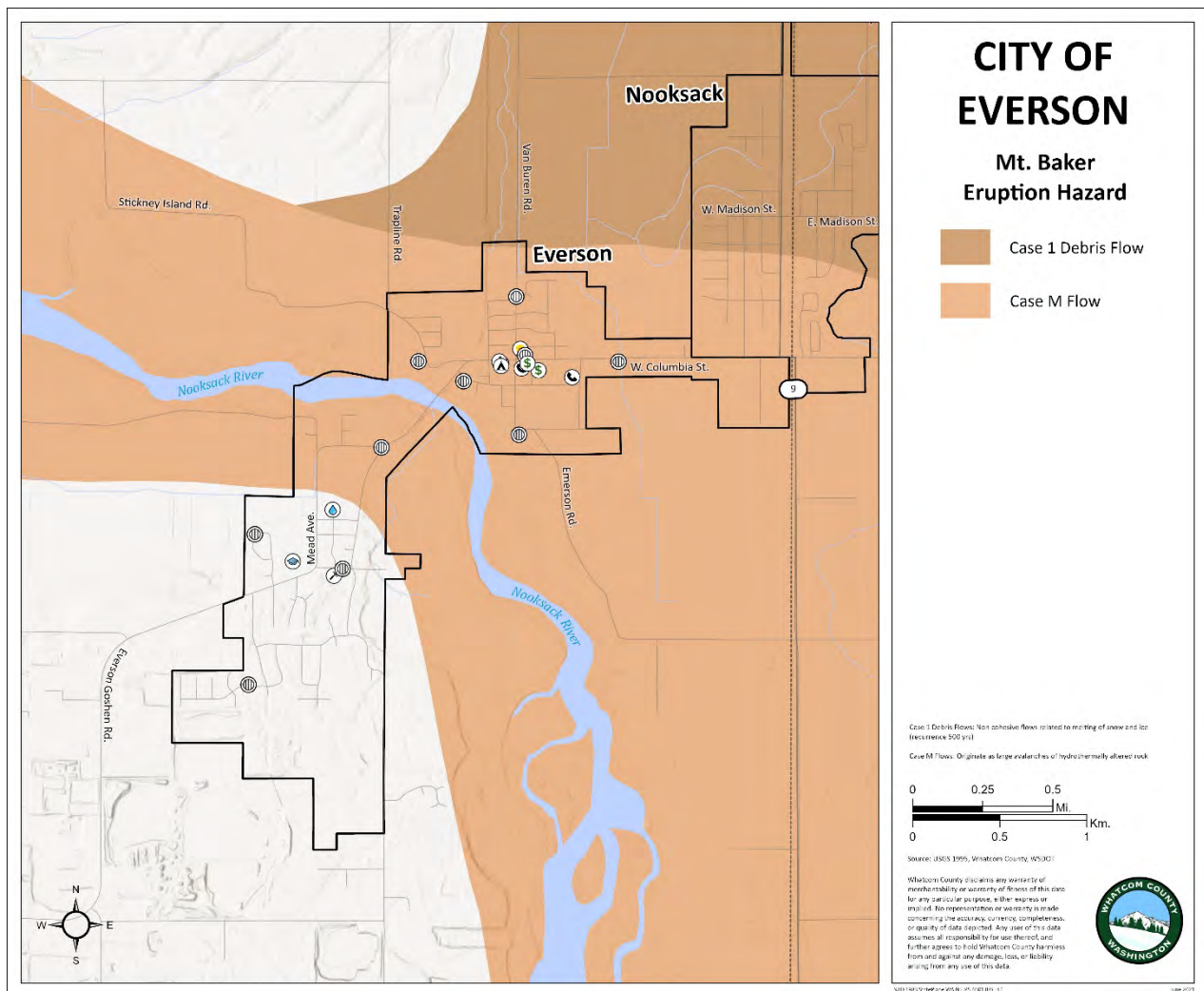
The following figures depict the natural hazards present within the jurisdiction.



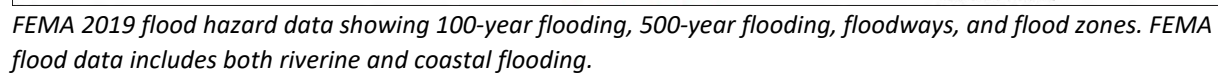
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.

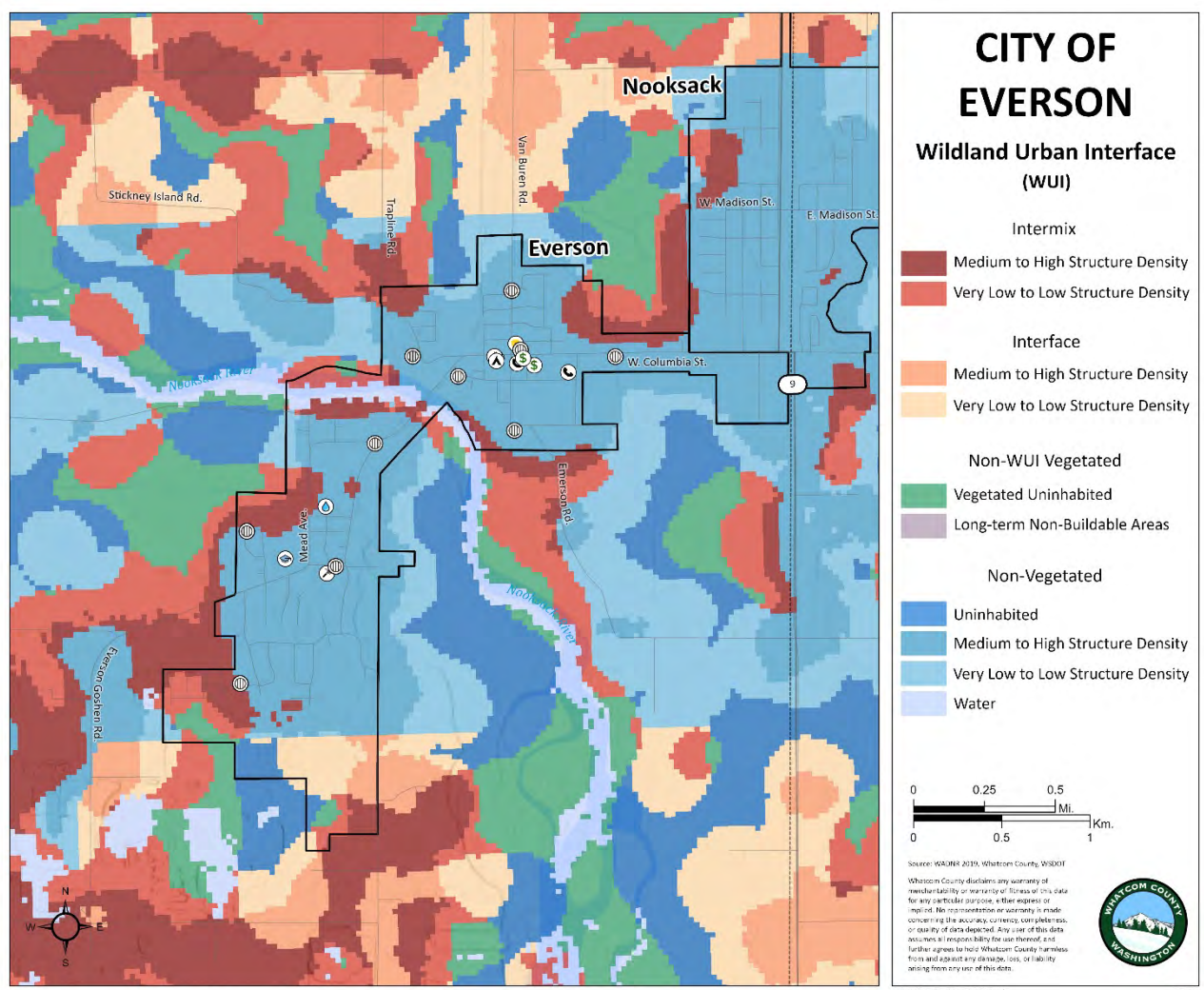


Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.



USGS Hazards from Future Activity of Mount Baker, WA (1995) data shows different volcanic flows. Case M flows originate as large avalanches of hydrothermally altered rock. Case 1 debris flows are non-cohesive flows related to melting of snow and ice, with a recurrence of 500 years. Case 2 debris flows are cohesive flows from small debris avalanches, with a recurrence of 100 years.





Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities

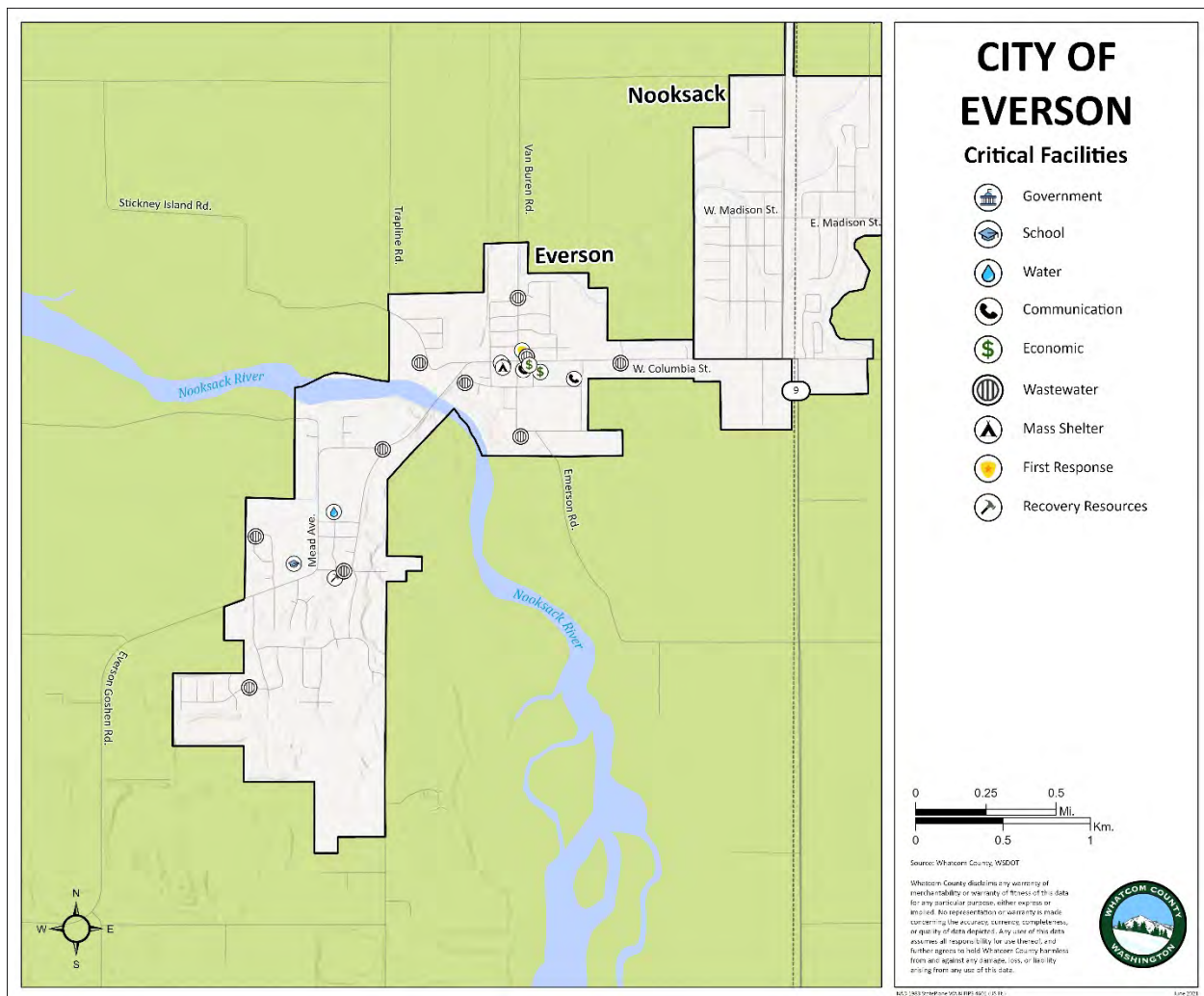
Everson Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Elementary School - Dist. 506	EF	2	216 Everson-Goshen Road		Evacuation Center
Everson City Hall	EF	3	111 W. Main Street		Government
Everson Police Dept.	EF	3	109 W. Main Street		Law Enforcement
Everson Community Center	EF	1	111 W. Main Street		Evacuation Center
Everson Water Production Facility	LUS	3	610 Freda Street		Utility: Water
People's Bank	EF	1	200 E. Main Street		Economic
Post Office	EF	2	108 Blair Drive		Mail
Public Works Strandell Shop	EF	1	603 Robinson Street		Public Works
Pump Station #11	LUS	2	716 Red Maple Loop		Utility: Sewer
Pump-Station - Evergreen	LUS	2	116 Evergreen Way		Utility: Sewer
Pump-Station #10	LUS	2	605 Robinson Street		Utility: Sewer
Pump-Station #4 (Interceptor)	LUS	3	506 E. Main Street		Utility: Sewer
Pump-Station #5	LUS	2	103 E. Main Street		Utility: Sewer
Pump-Station #6	LUS	2	208 Everson Road		Utility: Sewer
Pump-Station #7	LUS	2	401 Lincoln Street		Utility: Sewer
Pump-Station #8	LUS	2	102 Reeds Lane		Utility: Sewer
Pump-Station #13	LUS	2	1117 Cashmere Lane		Utility: Sewer
Verizon Communications	LUS	1	107 S. Washington Street		Utility: Communication
Waste Water Treatment Plant	HMF	3	101 Park Drive		Utility: Sewer
Whatcom County Fire District 1	EF	3	101 E. Main Street		Fire Station

Whatcom Educational Credit Union	EF	1	106 E. Main Street		Economic
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Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



Map of critical facilities identified by the City of Everson. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all judications identified or included critical facilities in each category.

Critical Facility Rankings for the City of Everson

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Elementary School - Dist. 506	EF	2	1	1	0	0	0	0	0	0	0.29
Everson City Hall	EF	3	1	1	0	0	1	1	0	0	1
Everson Police Dept.	EF	3	1	1	0	0	1	1	0	0	1
Everson Community Center	EF	1	1	1	0	0	1	1	0	0	0.33
Everson Water Production Facility	LUS	3	1	1	0	0	0	0	0	0	0.43
People's Bank	EF	1	1	1	0	0	1	1	0	0	0.33
Post Office	EF	2	1	1	0	0	1	1	0	0	0.66
Public Works Strandell Shop	EF	1	1	1	0	0	0	0	0	0	0.14
Pump Station #11	LUS	2	1	0	0	0	0	0	0	0	0.14
Pump-Station - Evergreen	LUS	2	1	1	0	0	1	1	0	0	0.66
Pump-Station #10	LUS	2	1	1	0	0	0	0	0	0	0.29
Pump-Station #4 (Interceptor)	LUS	3	1	1	0	0	1	1	0	0	1
Pump-Station #5	LUS	2	1	1	0	0	1	1	0	0	0.66
Pump-Station #6	LUS	2	1	1	0	0	1	1	0	0	0.66

Pump-Station #7	LUS	2	1	1	0	0	1	1	0	0	0.66
Pump-Station #8	LUS	2	1	1	0	0	1	1	0	0	0.66
Pump-Station #13	LUS	2	1	1	0	0	0	0	0	0	0.29
Verizon Communications	LUS	1	1	1	0	0	1	1	0	0	0.33
Waste Water Treatment Plant	HMF	3	1	1	0	0	1	1	0	0	1
Whatcom County Fire District 1	EF	3	1	1	0	0	1	1	0	0	1
Whatcom Educational Credit Union	EF	1	1	1	0	0	1	1	0	0	0.33

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = T0sunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

	City of Everson Exposure to Natural Hazards					
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity					
	MMI V	-	-	-	-	-
	MMI VI	-	-	0.1%	-	-
	MMI VII	100%	100%	99.8%	100%	\$12
	MMI VIII - IX	-	-	-	-	-
	TOTAL	100%	100%	99.9%	100%	\$12
	Liquefaction					
	Very Low to Low	42.9%	38.6%	44.4%	23.8%	\$6
	Low to Moderate	-	-	-	-	-
	Moderate	-	-	-	-	-
	Moderate to High	52.9%	59.5%	50.9%	71.4%	\$6
	High	-	-	-	-	-
	TOTAL	95.8%	98.1%	95.3%	95.2%	\$12
	Landslide					
	Landslide Low	-	-	-	-	-
	Landslide Moderate	-	-	-	-	-

Hydrological Hazards	<i>Landslide High</i>	-	-	-	-	-
	<i>Fan Low</i>	-	-	-	-	-
	<i>Fan Moderate</i>	-	-	-	-	-
	<i>Fan High</i>	-	-	-	-	-
	<i>Mine Hazard</i>	-	-	-	-	-
	TOTAL	-	-	-	-	-
	Volcanic Eruption					
	<i>Case 1 Debris Flows</i>	0.2%	0.01%	-	-	-
	<i>Case 2 Debris Flows</i>	-	-	-	-	-
	<i>Case M Flows</i>	53.5%	58.9%	49.8%	71.4%	\$6
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	-	-	-	-	-
	TOTAL	53.7%	58.91%	49.8%	71.4%	\$6
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	-	-	-	-	-
	<i>Moderate to High Inundation Potential</i>	-	-	-	-	-
	<i>High Inundation Potential</i>	-	-	-	-	-
	TOTAL	-	-	-	-	-
	Flooding					
	<i>100-year Flood</i>	33.9%	35.9%	33.9%	9.5%	\$3
	<i>500-year Flood</i>	7.5%	14.1%	13.2%	38.1%	\$3

	<i>Floodway</i>	0.7%	6.3%	2.2%	4.8%	-
	<i>Undetermined (Zone D)</i>	-	-	-	-	-
	TOTAL	42.1	56.3%	49.3%	52.4%	\$6
Meteorological Hazards	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	3.9%	1.6%	1%	-	-
	<i>Interface Medium-High Structure Density</i>	1.4%	0.5%	0.5%	-	-
	<i>Intermix Very Low-Low Structure Density</i>	5.5%	2.3%	3.9%	-	-
	<i>Intermix Medium-High Structure Density</i>	11.9%	9%	10.2%	-	-
	TOTAL	22.7	13.4%	15.6%	-	-

Status of Everson's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

General: All Hazards

G-a. Adopt and enforce building codes. This applies to earthquakes, flooding, winter storms/freezes, and severe winds. The City Planning, Building and Public Works Departments continue to adopt and enforce building codes and development regulations that address natural hazards mitigation.

Lead Agency	Everson Planning, Building and Public Works Department
Funding Source	Local
Current Status	Ongoing

Drought/heat wave

D-a. Assess Vulnerability to Drought Risk. The City Planning Department continues to assess risks related to drought, including as part of the 2016 update to the City's critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

D-b. Monitor Drought Conditions. The City Public Works Department continues to monitor

drought conditions on annual basis and implements water-related mitigation strategies as appropriate.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

D-c. Monitor Water Supply. The City Public Works Department continues to monitor the public water supply and implement water conservation strategies as appropriate.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

D-d. Plan for Drought. The City Planning Department continues to plan for droughts, including as part of the 2016 update of the city comprehensive land use plan.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

D-e. Require Water Conservation During Drought Conditions. The City Public Works Department continues to monitor drought conditions and implement water conservation measures as appropriate.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

D-f. Educate Residents on Water Saving Techniques. The City Administration continues to support education of residents regarding water conservation efforts, including through information provided with quarterly newsletters.

Lead Agency	City Administration
Funding Source	Local
Current Status	Ongoing

Earthquake

EQ-a. Incorporate Earthquake Mitigation into Local Planning. The City Planning Department continues to incorporate planning related to earthquakes, including as part of the 2016 update

to the city comprehensive plan.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

EQ-b. Map and Assess Community Vulnerability to Seismic Hazards. The City Planning Department continues to map and assess vulnerability to seismic hazards, including as part of the 2016 update of the city critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

EQ-c. Conduct Inspections of Building Safety. The City Building Department continues to conduct inspections related to building safety as required by City building codes.

Lead Agency	City Building Dept.
Funding Source	Local
Current Status	Ongoing

EQ-d. Protect Critical Facilities and Infrastructure. The City Building and Public Works Departments continue to protect critical facilities and infrastructure, including elevating wastewater treatment plant control systems, operational buildings and back-up power generation systems three feet above the FEMA base flood elevation.

Lead Agency	City Building and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

FL-a. Incorporate Flood Mitigation in Local Planning. The City Planning Department continues to incorporate flood mitigation into local planning, including as part of the 2016 update of the city critical areas ordinance, the 2019 adoption of new FEMA flood insurance rate maps, and updates to the County comprehensive flood hazard management plan currently underway.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

FL-b. Form Partnerships to Support Floodplain Management. The City Planning and Public Works Departments continue to work to form partnerships that support floodplain management, including working closely with County long-range and current planning divisions and the County Public Works River and Flood Division.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

FL-c. Limit or Restrict Development in Floodplain Areas. The City Planning, Building and Public Works Departments continue to limit development in floodplain areas through amendment and enforcement of City critical areas ordinance regulations, flood damage prevention regulations, and city building codes.

Lead Agency	City Planning, Building and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

FL-d. Improve Stormwater Management Planning. The City Planning Department continues to improve planning, regulation and enforcement related to stormwater management, including through 2016 updates to the City comprehensive plan and the 2016 adoption of the state stormwater management manual for Western Washington.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

FL-e. Improve Flood Risk Assessment. The City Public Works Department continues to assess risks related to flooding, including through participation in the federal CRS Program and RISK Map assessment efforts.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

FL-f. Join or Improve Compliance with NFIP. The City continues to participate in the National Flood Insurance Program (NFIP). The City Planning, Building and Public Works Departments continue to work to improve compliance with the NFIP, including through adoption of 2019 amendments to the City’s flood damage prevention ordinance that included updated flood insurance rate maps.

Lead Agency	City Planning, Building and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

FL-g. Manage the Floodplain Beyond Minimum Requirements. The City Planning and Building Departments continue to manage floodplains beyond minimum requirements, including through amendment of critical areas and floodplain management regulations that require extra elevation of critical facilities and prohibit the placement of fill within floodplains except under certain conditions.

Lead Agency	City Planning and Building Depts.
Funding Source	Local
Current Status	Ongoing

FL-h. Establish Local Funding Mechanisms for Flood Mitigation. The County Flood Control Zone District continues to make locally generated district funds available for local projects, including the purchase of open space areas located in designated floodways within Everson.

Lead Agency	County Flood Control Zone District
Funding Source	County
Current Status	Ongoing

FL-i. Improve Stormwater Drainage System Capacity. The City Public Works Department continues to work to improve stormwater drainage system capacity through annual system upgrades and maintenance projects.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

FL-j. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures. The City Public Works Department continues to work to improve stormwater drainage system

capacity through annual maintenance projects, such as inspection and clearing of stormwater conveyance systems.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

FL-k. Preserve Floodplains as Open Space. The City Planning Department continues to work to preserve floodplains as open space, including through the recording of restrictive covenants required in conjunction with approved subdivisions.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing; Bi-annual

FL-l. Mitigate Riverside Park from flooding. Riverside Park is located at the west city limits, and adjacent to the Nooksack River and Everson Wastewater Treatment Plant. When flooded, this site is littered with debris from the floodwaters.

Lead Agency	City Public Works Dept.
Funding Source	Local/State/Federal
Current Status	Discontinued

Landslide/erosion

No actions ongoing, discontinued, or completed for this hazard.

Landslide Subsidence

SU-a. Map and Assess Vulnerability to Subsidence. The City Planning Department continues to map and assess vulnerability to subsidence, including through 2016 updates to the City critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

SU-b. Manage Development in High-Risk Areas. The City Building Department continues to manage development in high risk areas, including through required geologically hazardous area site assessment reports.

Lead Agency	City Building Dept.
Funding Source	Local
Current Status	Ongoing

Lightning

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

SW-a. Protect Power Lines and Infrastructure. The City Public Works Department continues to work to protect power lines and infrastructure through as-needed inspections following major wind events and coordination with Puget Sound Energy.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

SW-b. Retrofit Public Buildings and Critical Facilities. The City Public Works Department continues work to protect public buildings and infrastructure, including through undergrounding of power lines and provision of back-up power generation at critical facilities.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

Tornadoes

No actions ongoing, discontinued, or completed for this hazard.

Tsunami

No actions ongoing, discontinued, or completed for this hazard.

Wildfire

No actions ongoing, discontinued, or completed for this hazard.

Winter storms/Freezes

WW-a. Protect Buildings and Infrastructure. The City Public Works Department continues to work to protect public buildings and infrastructure from severe winter storms, including through replacing and upgrading all City water meters to increase system resiliency.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

WW-b. Protect Power Lines. The City Public Works Department continues to work to protect power lines through as-needed inspections following major winter storm events and coordination with Puget Sound Energy.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

WW-c. Reduce Impacts to Roadways. The City Public Works Department continues to work to reduce impacts to roadways, including through implementation of road closures during major freeze/thaw events.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

Multiple Hazards

MU-a. Assess Community Risk. The City Planning and Public Works Departments continue to assess risks to the public from natural hazards, including through review of repetitive loss properties and review and adoption of updated hazard maps.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

MU-b. Map Community Risk. The City Planning Department continues to work to map natural hazard areas and assess the risks associated with such areas, including through the 2016 update of the City's critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-c. Prevent Development in Hazard Areas. The City Building and Planning Departments continue to prevent development in hazard areas, including through enforcement of floodway, steep slopes and erosion hazard area regulations.

Lead Agency	City Building and Planning Depts.
Funding Source	Local
Current Status	Ongoing

MU-d. Adopt Development Regulations in Hazard Areas. The City Building and Planning Departments continue to work to adopt regulations addressing hazard areas, including through the 2016 update to the City's critical areas ordinance and the 2019 adoption of updated FEMA flood insurance rate maps and Flood Damage Prevention ordinance.

Lead Agency	City Building and Planning Depts.
Funding Source	Local
Current Status	Ongoing

MU-e. Limit Density in Hazard Areas. The City Planning Department continues to work to limit density in hazard areas, including through adoption of floodway regulations and establishment of low-density zones in hazard areas, such as Agriculture and Recreational Open Space.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-f. Integrate Mitigation into Local Planning. The City Planning Department continues to integrate mitigation into local planning, including through establishment and enforcement of mitigation requirements under the City's critical areas regulations.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-g. Strengthen Land Use Regulations. The City Planning Department continues to work to strengthen local land use regulations, including through the 2016 update of the City's critical areas ordinance and 2019 updates to the City's Flood Damage Prevention ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-h. Monitor Mitigation Plan Implementation. The City Planning and Public Works Departments continue to monitor implementation of the Natural Hazards Mitigation Plan through the required annual review process.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

MU-i. Protect Structures. The City Building and Public Works Departments continue to work to protect structures within the City through enforcement of local building codes and critical areas regulations.

Lead Agency	City Building and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

MU-j. Protect Infrastructure and Critical Facilities. The City Public Works Department continues to work to protect infrastructure and critical facilities, including through regular inspections, annual maintenance projects and capital improvement projects, such as elevating critical facilities above minimum standards.

Lead Agency	Public Works Dept.
Funding Source	Local
Current Status	Ongoing

MU-k. Increase Hazard Education and Risk Awareness. The City Public Works Department continues to work to increase hazard education and risk awareness, including through informational materials included in quarterly newsletters and posted on the City website.

Lead Agency	Public Works Dept.
Funding Source	Local
Current Status	Ongoing

Everson 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Everson-Specific Hazard Mitigation Goals

Everson supports the above county-wide goals. No additional community-specific mitigation planning goals have been identified at this time.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Everson considered mitigation options related to earthquakes, drought, land subsidence, winter storms, severe wind, and erosion; and especially those related to flooding because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Everson. Some options have already been implemented or are ongoing in Everson, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Everson has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial, and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property, and public

welfare. Everson is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority:	H (High); M (Medium); L (Low)
4	Timeline:	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source:	Local; State; FEMA; Private; Other
6	Estimated Cost:	Actual; Estimated

Everson Hazard Mitigation Strategy 2021-2025

CITY OF EVERSON IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
GENERAL: ALL HAZARDS Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	<i>G-a Ongoing – Adopt and Enforce Building Codes</i>	1	Everson Planning, Building, and Public Works Department	M	O	Local	Staff
Hazard Specific (Reference: Whatcom County Mitigation Ideas)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						
Dam/Levee Failures	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
(See: Flooding)							
Droughts/Heat Waves	<i>D-a Ongoing – Assess Vulnerability to Drought Risk</i>	1, 5	Planning	M	O	Local	Staff
	<i>D-b Ongoing – Monitor Drought Conditions</i>	1	Public Works	M	O	Local	Staff
	<i>D-c Ongoing – Monitor Water Supply</i>	1	Public Works	M	O	Local	Staff
	<i>D-d Ongoing – Plan for Drought</i>	1, 5	Planning	M	O	Local	Staff
	<i>D-e Ongoing – Require Water Conservation During Drought Conditions</i>	1, 3	Public Works	M	O	Local	Staff
	<i>D-f Ongoing – Educate Residents on Water Saving Techniques</i>	2	City Administration	M	O	Local	Staff
Volcano	VOL-1 Lahar Early Warning System The USGS has designed a number of systems that automatically detect lahars as they descend neighboring valleys. These systems then automatically trigger various types of early warning systems, such as sirens or telephone-based warning systems.	1, 2, 5	Whatcom County Fire District 1, Everson Police Department, Whatcom County Department of Emergency Management,	L	L	Local sources, and state and federal grants	Unknown

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Whatcom County Public Works				
Earthquakes	<i>EQ-a Ongoing – Incorporate Earthquake Mitigation into Local Planning</i>	1	Planning	M	O	Local	Staff
	<i>EQ-2 Ongoing – Map and Assess Community Vulnerability to Seismic Hazards</i>	1	Planning	M	O	Local	Staff
	<i>EQ-c Ongoing – Conduct Inspections for Building Safety</i>	1	City Building Department	M	O	Local	Staff
	<i>EQ-d Ongoing – Protect Critical Facilities and Infrastructure</i>	1	City Building and Public Works	M	O	Local	Staff
	EQ-1 Retrofit or Relocate City Hall, Police Station and Fire District Station The Everson City Hall, Police Station and Whatcom County Fire District 1's station would suffer significant damage in the event of an earthquake. These facilities should be retrofitted, replaced, or relocated so that they can survive a 6.0 magnitude or greater earthquake event.	1, 5	Everson City Councils, Whatcom County Building Department, Whatcom County Fire District 1 Commissioners	H	M	Local sources, and state and federal grants	\$7 Million

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Extreme Temperatures	ET-1 No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Flooding	<i>FL-a Ongoing – Incorporate Flood Mitigation into Local Planning</i>	1, 3	Planning	M	O	Local	Staff
	<i>FL-b Ongoing -- Form Partnerships to Support Floodplain Management</i>	1, 5	Planning and Public Works	M	O	Local	Staff
	<i>FL-c Ongoing -- Limit or Restrict Development in Floodplain Areas</i>	1, 3	City Planning, Building and Public Works Depts.	M	O	Local	Staff
	<i>FL-d Ongoing – Improve Stormwater Management Planning</i>	1, 3	City Planning	M	O	Local	Staff
	<i>FL-e Ongoing -- Improve Flood Risk Assessment</i>	1	Public Works	M	O	Local	Staff
	<i>FL-f Ongoing -- Join or Improve Compliance with NFIP</i>	1	City Planning, Building and Public Works Depts.	M	O	Local	Staff
	<i>FL-g Ongoing -- Manage the Floodplain Beyond</i>	1, 3	City Planning	M	O	Local	Staff

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>Minimum Requirements</i>		and Building Depts				
	<i>FL-h Ongoing -- Establish Local Funding Mechanisms for Flood Mitigation</i>	1, 3	County Flood Control Zone District	M	O	County	Staff
	<i>FL-i Ongoing -- Improve Stormwater Drainage System Capacity</i>	1, 3	Public Works	M	O	Local	Staff
	<i>FL-j Ongoing -- Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>	1, 3	Public Works	M	O	Local	Staff
	<i>FL-k Ongoing -- Preserve Floodplains as Open Space</i>	1, 2, 4	Planning	M	O	Local	Staff
	FL-1 Mitigate critical facilities in the 100-year floodplain. The Everson City Hall, Police Station and Whatcom County Fire District 1's station are located in the 100-year floodplain. These should be mitigated in place or moved out of the floodplain.	1, 5	Everson City Councils Whatcom County Public Works Department, Whatcom County Fire District 1	H	M	Local sources, and state and federal grants	\$7 Million

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Commissioners				
	FL-2 Purchase Repetitive Loss Properties in the Floodplain There are several properties in the floodplain that have been repeatedly damaged by past flood events. Most of these repetitive loss properties were in Whatcom County's jurisdiction and were purchased by the County.	1, 2, 3, 4	Whatcom County, Everson City Council	M	L	Local sources, and state and federal grants	\$2 Million
Landslide/Erosion/Land Subsidence	<i>SU-a Ongoing -- Map and Assess Vulnerability to Subsidence</i>	1	Planning	M	O	Local	Staff
	<i>SU-b Ongoing -- Manage Development in High-Risk Areas</i>	1	Building Department	M	O	Local	Staff
Lightning	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or						

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	complete.						
Severe Storms	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Severe Wind	<i>SW-a Ongoing -- Protect Power Lines and Infrastructure</i>	1	City Public Works Department	M	O	Local	Staff
	<i>SW-b Ongoing -- Retrofit Public Buildings and Critical Facilities</i>	1	City Public Works Dept	M	O	Local	Staff
Tornadoes	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Tsunami	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Wildfires	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Winter Storms/	<i>WW-a Ongoing -- Protect Buildings and Infrastructure</i>	1	Public Works	M	O	Local	Staff

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Freezes (Severe Winter Weather)	<i>WW-b Ongoing -- Protect Power Lines</i>	1	Public Works	M	O	Local	Staff
	<i>WW-c Ongoing -- Reduce Impacts to Roadways</i>	1	Public Works	M	O	Local	Staff
Multiple Hazards	<i>MU-a Ongoing -- Assess Community Risk</i>	1	Public Works/Planning	M	O	Local	Staff
	<i>MU-b Ongoing -- Map Community Risk</i>	1	Planning	M	O	Local	Staff
	<i>MU-c Ongoing -- Prevent Development in Hazard Areas</i>	1, 3	Planning and Building Depts.	M	O	Local	Staff
	<i>MU-d Ongoing -- Adopt Development Regulations in Hazard Areas</i>	1	Planning and Building Depts	M	O	Local	Staff
	<i>MU-e Ongoing -- Limit Density in Hazard Areas</i>	1	Planning and Building Depts	M	O	Local	Staff
	<i>MU-f Ongoing -- Integrate Mitigation into Local Planning</i>	1	Planning	M	O	Local	Staff
	<i>MU-g Ongoing -- Strengthen Land Use Regulations</i>	1	Planning	M	O	Local	Staff
	<i>MU-h Ongoing -- Monitor Mitigation Plan Implementation</i>	1	Planning and Public Works	M	O	Local	Staff
	<i>MU-i Ongoing -- Protect Structures</i>	1	Building and	M	O	Local	Staff

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Public Works Depts				
	MU-j Ongoing -- Protect Infrastructure and Critical Facilities	1	Public Works	M	O	Local	Staff
	MU-k Ongoing -- Increase Hazard Education and Risk Awareness	1	Public Works	M	O	Local	Staff
	MU-1 Mitigate the wastewater treatment plant from hazards. Construct a ring dike, flood wall or otherwise mitigate the wastewater treatment plant against a 100-year flood event or volcanic lahars.	1	Everson Public Works Department	H	S	Local, State, and Federal	\$250,000
	MU-2 Community Early Warning System The City of Everson has an outdated civil defense siren that has not been in service or activated in several years. A new audible warning system located in Everson downtown, Strandell neighborhood, and also the City of Nooksack needs to be constructed. Such an early warning system would typically be a series of sirens that could be triggered in the event the Cities needed to be evacuated, or	1, 2, 5	Whatcom County Fire District 1, Everson Police Department, Everson/Nooksack Public Works	M	L	Local sources, and state and federal grants	\$150,000

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	emergency information disseminated.						
	MU-3 Tone Radio Based Early Warning System Tone Radios turn on when triggered by a central transmitter and then information or instructions are announced over the radio. Such a system is currently used for various types of weather radios, for tornados and severe storms hazard areas. A similar system could be put into place for warning of flooding, lahars, and other related natural hazards.	1, 2, 5	Whatcom County Department of Emergency Management, NOAA Radio		L	Local sources, and state and federal grants	
Advanced Mitigation Projects (Dream List)	Earthquake Early Warning System Such a system could warn residence of an impending earthquake. Technology doesn't currently exist for such a system, but will likely be possible in the future.	1, 2, 5	Federal, State, County, and local entities	L	L	Local sources, and state and federal grants	Unknown
	Cell Phone-Based Early Warning System. A computerized early warning system that automatically dials each landline telephone number within a specified area, and play a recorded message when the phone is answered is currently provided to the City by the Whatcom County Sheriff's Office Division of	1, 2, 5	WCDEM/LFD	M	M	Local sources, and state and federal grants	Unknown

**CITY OF EVERSON
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Emergency Management. A larger capacity system that can also contact cell phones through the use of a federally licensed COG would help to address a variety of natural and manmade problems.						
	Purchase Repetitive Loss Properties	1, 2, 4	Whatcom County, Everson City Council	M	L	Local sources and state and federal grants	\$2 Million
	Mitigate City Hall, Police Station and Fire Station against 100-year flood event or volcanic lahar	1, 5	Everson City Councils, Whatcom County Building Department, Whatcom County Fire District 1 Commissioners	H	M	Local sources, and state and federal grants	\$7 Million

Everson Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

City of Everson
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress

Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
GENERAL: ALL HAZARDS						
<i>G-a. Adopt and enforce building codes.</i>						
Add New Action Items if Applicable						
DAM/LEVEE FAILURES						
Add New Action Items if Applicable						
DROUGHTS/HEAT WAVES						
<i>D-a. Assess Vulnerability to Drought Risk.</i>						
<i>D-b. Monitor Drought Conditions.</i>						
<i>D-c. Monitor Water Supply.</i>						
<i>D-d. Plan for Drought.</i>						
<i>D-e. Require Water Conservation During Drought Conditions.</i>						
<i>D-f. Educate Residents on Water Saving Techniques.</i>						
EARTHQUAKES						
<i>EQ-a. Incorporate Earthquake Mitigation into Local Planning.</i>						
<i>EQ-b. Map and Assess Community Vulnerability to Seismic Hazards.</i>						
<i>EQ-c. Conduct Inspections of Building Safety.</i>						
<i>EQ-d. Protect Critical Facilities and Infrastructure.</i>						
EQ-1 Retrofit City Hall						
Add New Action Items if Applicable						
VOLCANO						

City of Everson
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress

Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
VOL-1 Lahar Early Warning System						
<i>Add New Action Items if Applicable</i>						
FLOODING						
<i>FL-a. Incorporate Flood Mitigation in Local Planning.</i>						
<i>FL-b. Form Partnerships to Support Floodplain Management.</i>						
<i>FL-c. Limit or Restrict Development in Floodplain Areas.</i>						
<i>FL-d. Improve Stormwater Management Planning.</i>						
<i>FL-e. Improve Flood Risk Assessment.</i>						
<i>FL-f. Join or Improve Compliance with NFIP.</i>						
<i>FL-g. Manage the Floodplain Beyond Minimum Requirements.</i>						
<i>FL-h. Establish Local Funding Mechanisms for Flood Mitigation.</i>						
<i>FL-i. Improve Stormwater Drainage System Capacity</i>						
<i>FL-j. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures.</i>						
<i>FL-k. Preserve Floodplains as Open Space.</i>						
<i>FL-l. Mitigate Riverside Park from flooding.</i>						
FL-1 Mitigate critical facilities in the 100-year floodplain.						
FL-2 Purchase Repetitive Loss Properties in the Floodplain						
<i>Add New Action Items if Applicable</i>						

City of Everson
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress

Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
LANDSLIDES/EROSION						
<i>Add New Action Items if Applicable</i>						
LAND SUBSIDENCE						
<i>SU-a. Map and Assess Vulnerability to Subsidence.</i>						
<i>SU-b. Manage Development in High-Risk Areas.</i>						
<i>Add New Action Items if Applicable</i>						
TORNADOES						
<i>Add New Action Items if Applicable</i>						
TSUNAMI						
<i>Add New Action Items if Applicable</i>						
WILDFIRES						
<i>Add New Action Items if Applicable</i>						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
<i>WW-a. Protect Buildings and Infrastructure.</i>						
<i>WW-b. Protect Power Lines.</i>						
<i>WW-c. Reduce Impacts to Roadways.</i>						
<i>Add New Action Items if Applicable</i>						
EXTREME TEMPERATURES						
<i>Add New Action Items if Applicable</i>						
LANDSLIDE						
<i>Add New Action Items if Applicable</i>						

City of Everson
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress

Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
LIGHTNING						
<i>Add New Action Items if Applicable</i>						
SEVERE WIND						
<i>SW-a. Protect Power Lines and Infrastructure.</i>						
<i>SW-b. Retrofit Public Buildings and Critical Facilities.</i>						
<i>Add New Action Items if Applicable</i>						
MULTIPLE HAZARDS						
<i>MU-a. Assess Community Risk.</i>						
<i>MU-b. Map Community Risk.</i>						
<i>MU-c. Prevent Development in Hazard Areas.</i>						
<i>MU-d. Adopt Development Regulations in Hazard Areas.</i>						
<i>MU-e. Limit Density in Hazard Areas.</i>						
<i>MU-f. Integrate Mitigation into Local Planning.</i>						
<i>MU-g. Strengthen Land Use Regulations.</i>						
<i>MU-h. Monitor Mitigation Plan Implementation.</i>						
<i>MU-i. Protect Structures.</i>						
<i>MU-j. Protect Infrastructure and Critical Facilities.</i>						
<i>MU-k. Increase Hazard Education and Risk Awareness.</i>						
MU-1 Mitigate the wastewater treatment plant from hazards.						
MU-2 Community Early Warning System						
MU-3 Tone Radio Based Early Warning System						

City of Everson Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Add New Action Items if Applicable						

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CITY OF FERNDALE

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Planning Process

The City of Ferndale process of reviewing, updating, and adopting the 2021 update of the Whatcom County Natural Hazard Mitigation Plan (NHMP or Plan) included review by the Public Information Officer, the Ferndale Police Department, and the City Administrator, in addition to consultation with other relevant City personnel. The City Administrator audited Ferndale's existing emergency planning material relating to Natural Hazard Mitigation and sought feedback from other City resources prior to adoption.

Ferndale always seeks to use the best possible information when planning for capital facilities, growth management and emergency planning. The material provided in the NHMP can be used as part of the decision-making process to ensure that our public facilities, city residents and private businesses are as safe as possible, and the public is aware of potential impacts of natural hazards.

Key Contributor List

- Jori Burnett, City Administrator
- Tim Orsino, Public Works and Community Development Department Clerk

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability, and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting the City of Ferndale will be used as a tool when the City updates other plans and programs, such as the following:

- Comprehensive Plan;
- Critical areas ordinance;
- Comprehensive Stormwater Plan;
- Comprehensive Emergency Management Plan (CEMP)
- Geographic Information Systems (GIS) mapping
- City Facility Planning

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for City of Ferndale

The City of Ferndale will continue to engage with the public to update and improve their Natural Hazard Mitigation Plan. The City has organized a volunteer citizen group, the Ferndale Emergency Response Network (FERN) that meets on a regular basis to receive training and provide feedback on our emergency hazard response.

The City also engages with the public through social media network where one in every four Ferndale residents is following the City's updates. The City regularly distributes emergency preparedness information through these channels and have been recognized by neighboring jurisdictions as a model for the distribution of electronic information in real time.

The feedback the City receives through its volunteer groups and engagement on social media will be used to update and maintain the Natural Hazard Mitigation Plan.

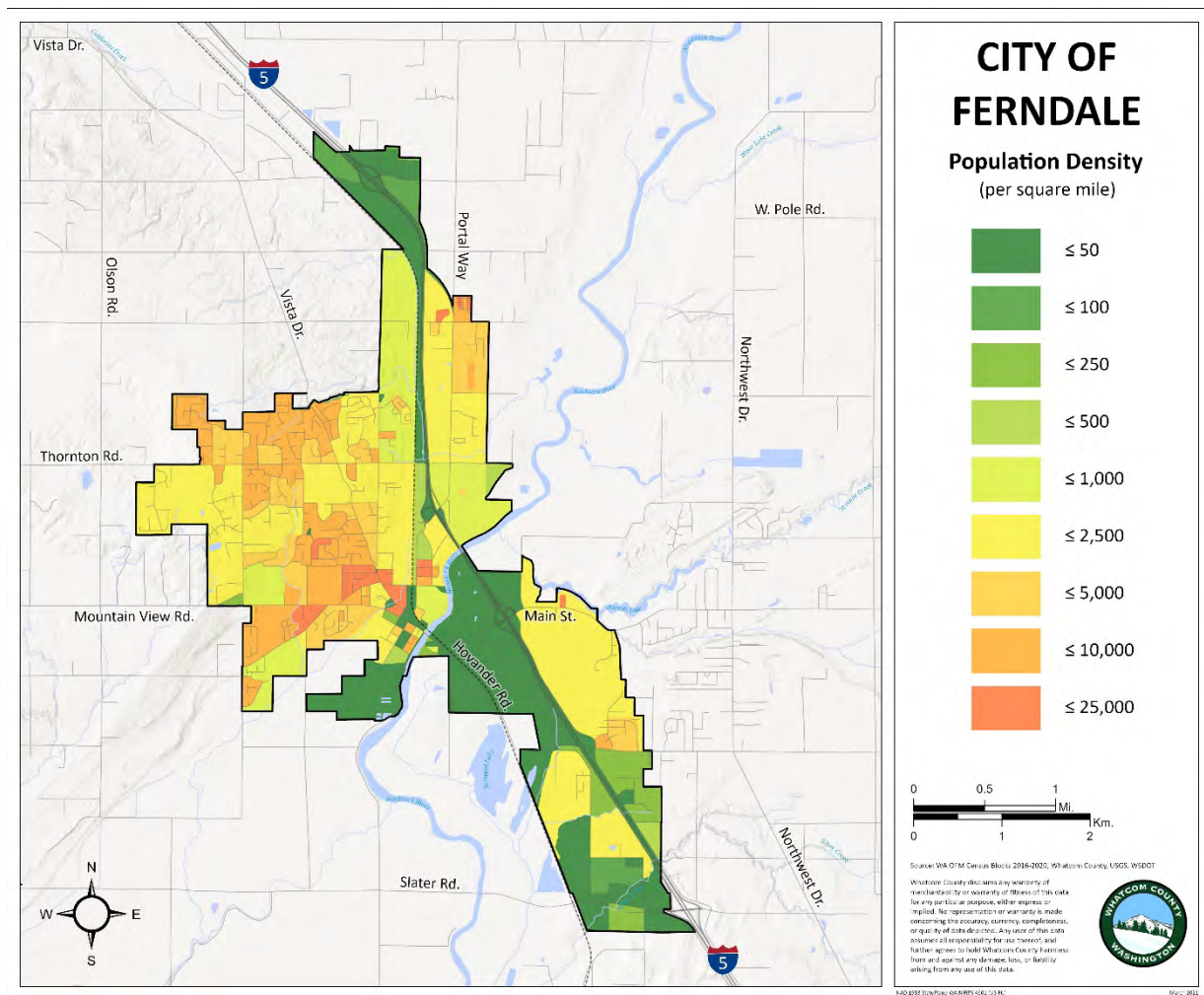
Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	Yes	FERN (Ferndale Emergency Response Network) is a group of community members focused on community emergency response and training.
Ongoing public education or information programs	Yes	Educate property owners about flood mitigation techniques. The City produces educational videos on a regular basis and distributes them online via social media and the City's website.
School-related programs for natural hazard safety		
Public education or information program	Yes	The City provides seasonal videos, utility bill inserts, and social media campaigns associated with natural hazards such as flood, snow, etc.
StormReady certification	No	
Firewise Community certification	No	
Public-Private Partnership initiatives addressing disaster-related issues	No	
Other		

Overview of Ferndale, Hazards, and Assets

Geography of the City of Ferndale

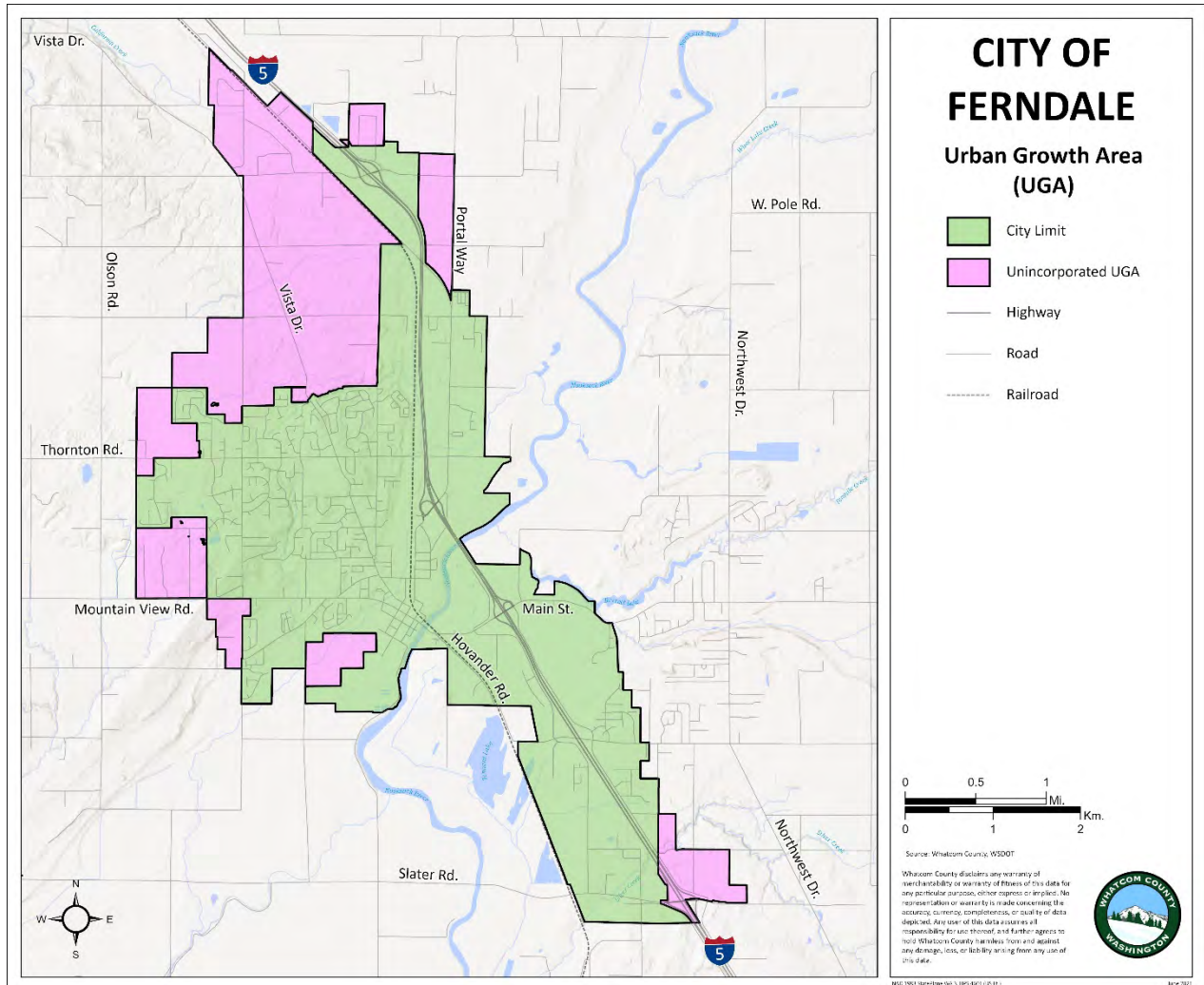
Ferndale Population	14,600 (2020 estimate)
Total area	7.1 sq. mi. (within city limits)



Washington State Office of Financial Management (OFM) 2020 population and housing estimates for 2010-2020 census block data. This map uses the 2016-2020 average population to show population density per square mile.

Growth Trends

This map displays the UGA for the City of Ferndale, as designated by the Whatcom County Comprehensive Plan.



Presence of Hazards and their Impacts in the City of Ferndale

The City of Ferndale continues to grow at a rapid rate, gaining nearly 2,000 residents in the last five years. While much of this growth continues to follow historic trends of single-family residential development in the northwestern portion of the City, significant increases in both single family and multifamily construction along Portal Way, LaBounty Drive, and surrounding the Downtown core have also contributed to this growth.

From a hazards planning perspective, this increased density makes some hazard mitigation easier, as emergency services have easier access to larger populations, and multifamily development near the city core means that City services are accessible by foot or mass transit in the event of a large-scale weather event.

As the community moves forward, the Hazard Mitigation plan will be considered in land use decisions to better-ensure that the City's population is adequately protected from, and has the means to escape, natural hazards.

In the table below is a list of the major hazards that affect Whatcom County. The second column provides the percentage of Ferndale's total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	100%	Moderate	The majority of the City of Ferndale is expected to experience strong shaking intensity during an earthquake. Properties within the historic stream channel of the Nooksack River may experience additional damage due to the nature of soils in the area (see liquefaction, below), and there is the potential that hillside properties may experience localized landslides due to topography and high clay content in soils. However, the relatively low profile of existing buildings in these areas, combined with higher earthquake protection standards for new, taller buildings, is expected to limit overall damage as compared to high density areas with a significant stock of tall, older (brick and masonry) structures.
	Liquefaction	99.3%	Moderate	The Nooksack River valley (the historic stream channel of the Nooksack River) includes deposits of soils that are considered seismically sensitive and are conducive to liquefaction in a significant seismic event. While liquefaction may be mitigated through various design approaches, the brick and masonry construction of the City's downtown makes these structures more-susceptible to liquefaction, as compared to wood-frame construction or deep-foundation/pier foundation construction, which provides additional flexibility during a seismic event, and/or is anchored to deeper, stable soils and rock. The low-profile construction of the City's downtown significantly (but does not totally) mitigates the overall risk of liquefaction, though individual structures may be highly susceptible.
	Landslide	0.08%	Low	Localized landslides are possible during significant rain events and seismic activity, but will generally be limited to portions of individual properties adjacent to steep slopes.

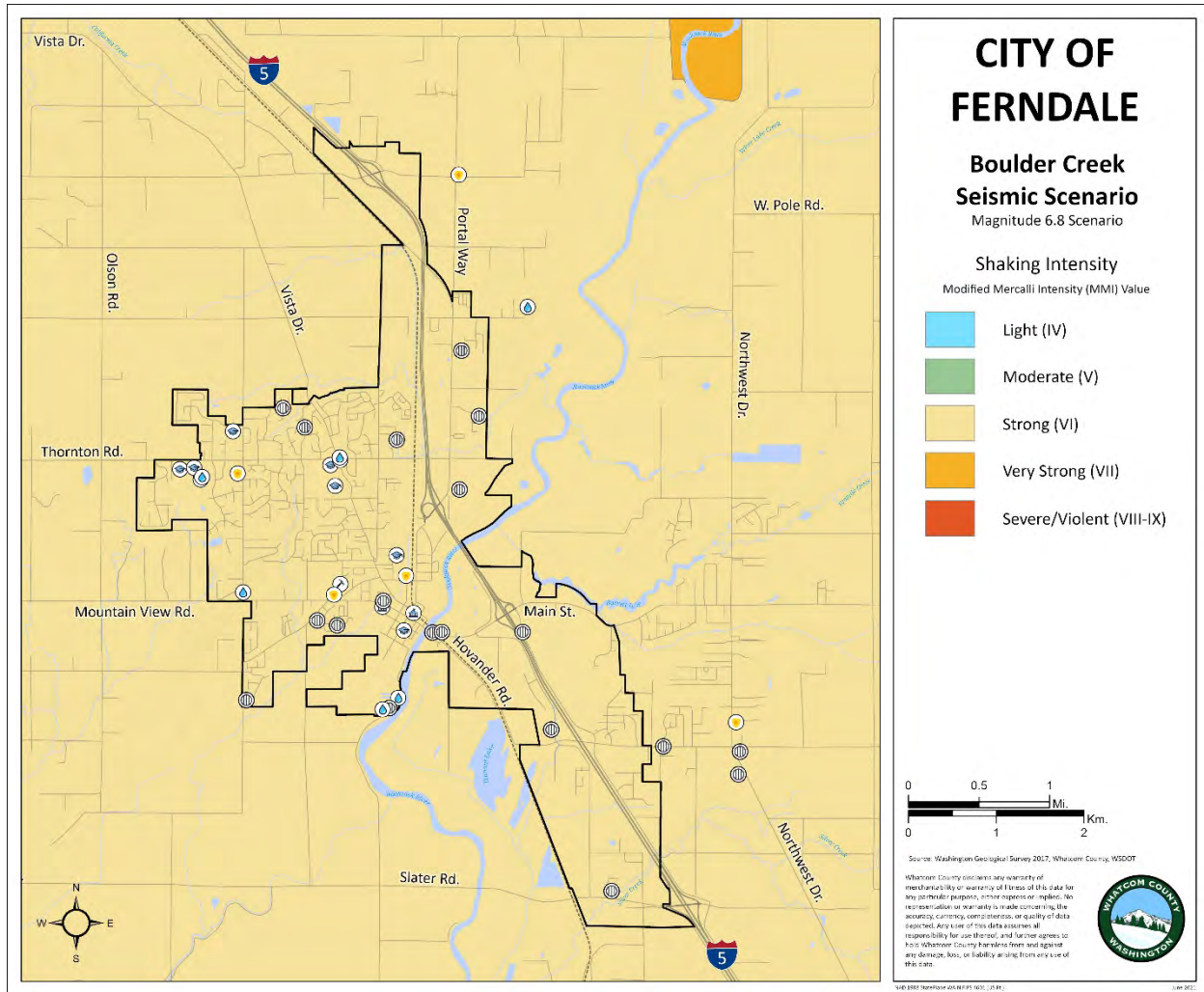
	Volcano	27.5%	High	Low-lying areas adjacent to the Nooksack River are at risk from a Mount Baker lahar. While such an event is expected to be exceedingly rare, it also has the potential to be extraordinarily impactful on a regional level. Direct impacts to the City of Ferndale will likely occur at or around the Nooksack River as a result of a lahar. However, additional impacts to transportation networks, emergency services, weather, climate, and tourism may all have an impact on Ferndale and surrounding areas.
	Tsunami	13.6%	Low	The southern portion of Ferndale, outside the city limits, is subject to tsunami risk. Tsunamis in this region are exceedingly rare but could be extraordinarily damaging. A major tsunami may impact low-lying areas to the south and west of Ferndale and may disrupt transportation networks. Further, the City may be asked to provide temporary shelter for displaced persons from affected areas.
	Mine Hazards	0%	None	There are no historic mine locations within the City limits.
Hydro-logical	Flooding	19.9%	High	Portions of the City are subject to Nooksack River floods, causing temporary and limited disruptions on an annual or near-annual basis. Moderate flood events causing limited but not necessarily repetitive private property damage have occurred approximately four times from 1990-2021, and have the potential to occur multiple times in one flood season. More-significant (modeled 50-year or higher) flood events will cause major transportation disruptions and moderate damage to private property. 100-year or higher flood events have the potential to cause major transportation disruptions and potential damage to

				<p>transportation corridors, as well as widespread damage within the modeled floodplain, generally impacting the Main Street corridor, Downtown Ferndale, the southern portion of the Griffintown Neighborhood, Smith Road, and other localized areas. The near-annual closure of Slater Road for flood-related reasons has a significant impact on Ferndale traffic as well as the mainline of Interstate Five, though these detours are usually temporary in nature.</p> <p>Coastal flooding or storm surges will not impact the City of Ferndale, although displaced persons from these events may choose to shelter in Ferndale.</p>
Meteorological	Wildfire	63.1%	Low	Residential homes are at moderate risk of wildfires.

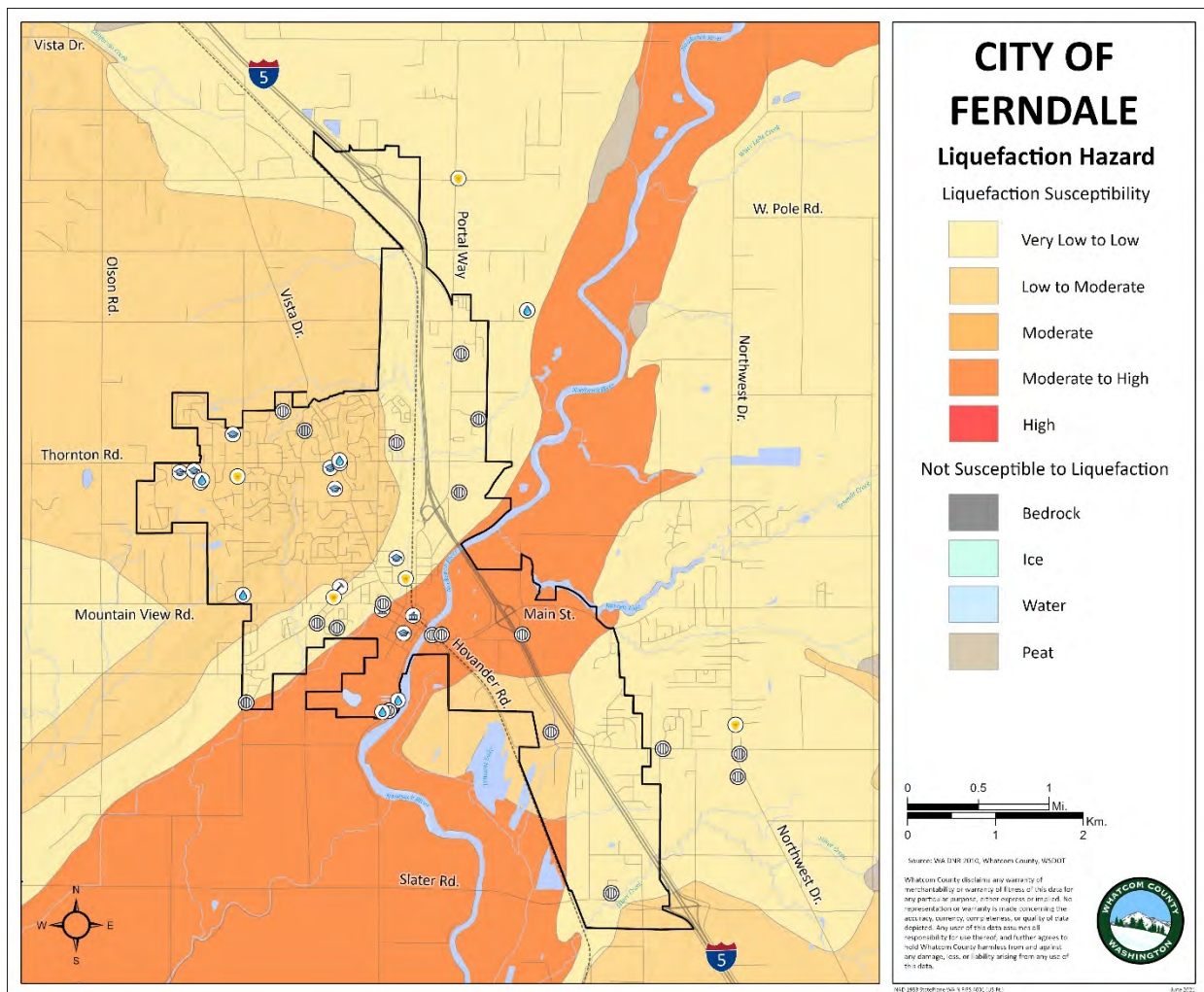
Severity Scale: **None** = no impact to community function
Low = minor degradation of community functions, not widespread
Moderate = moderate degradation over multiple weeks or widespread
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

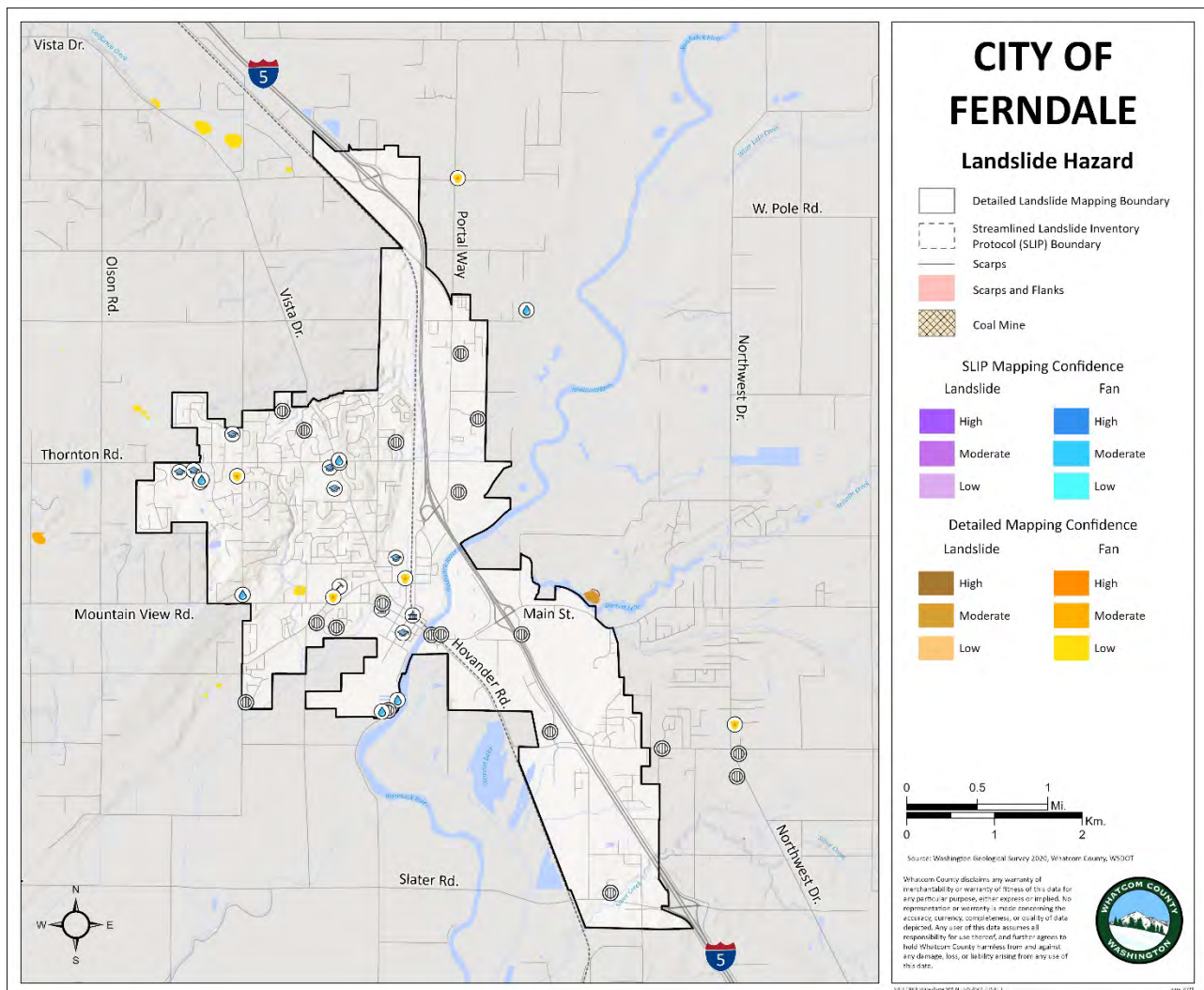
The following figures depict the natural hazards present within the jurisdiction.



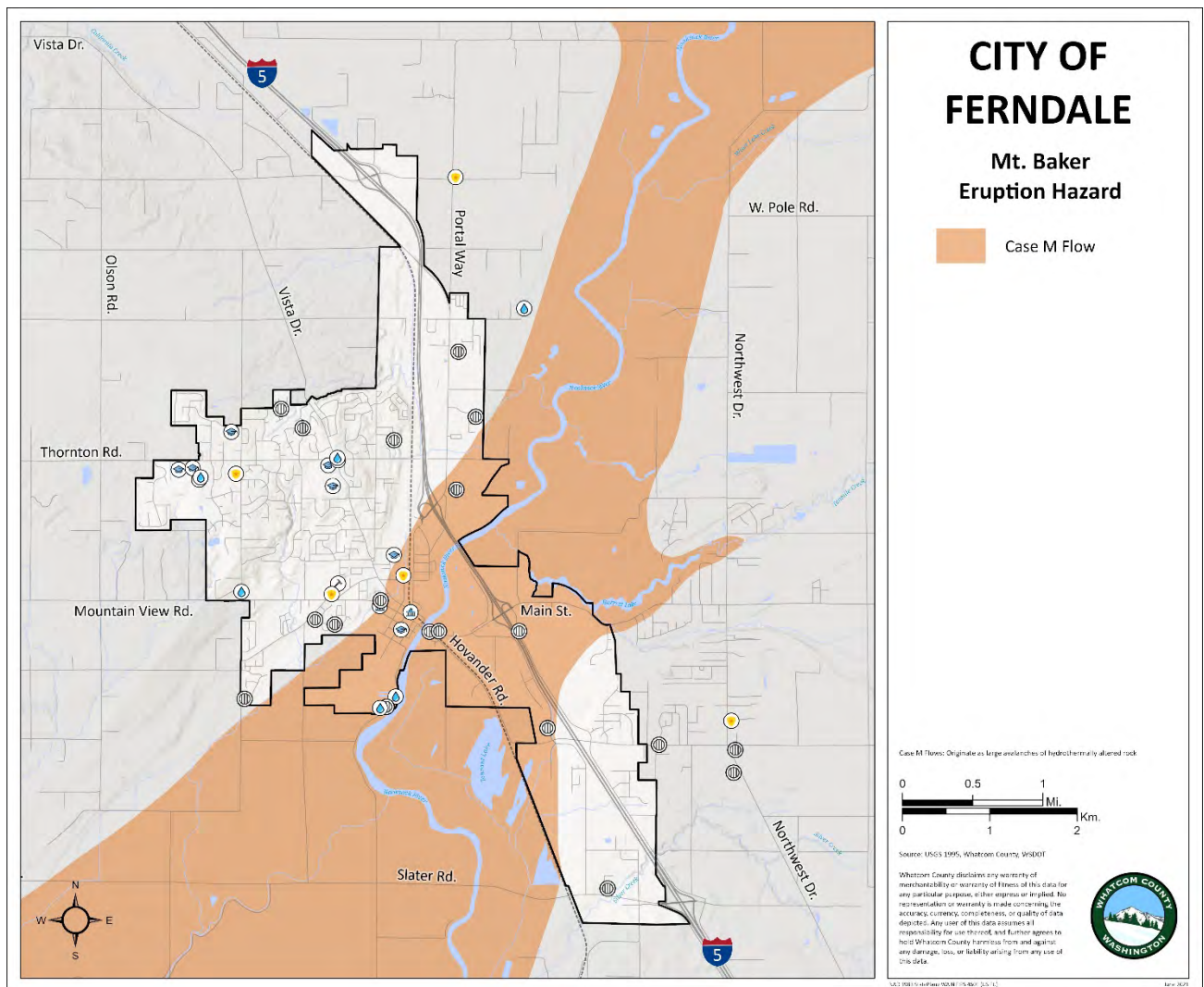
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



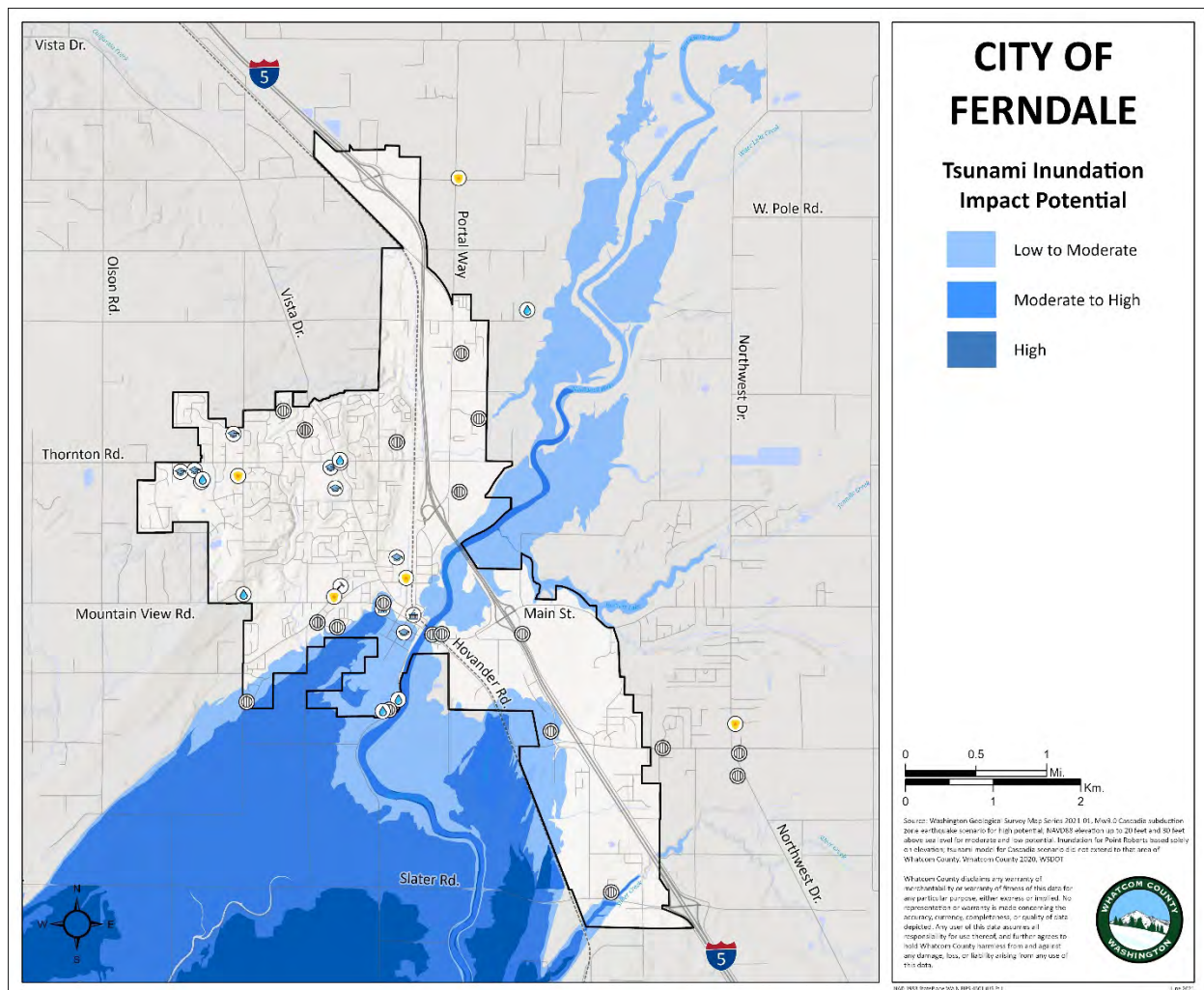
Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.



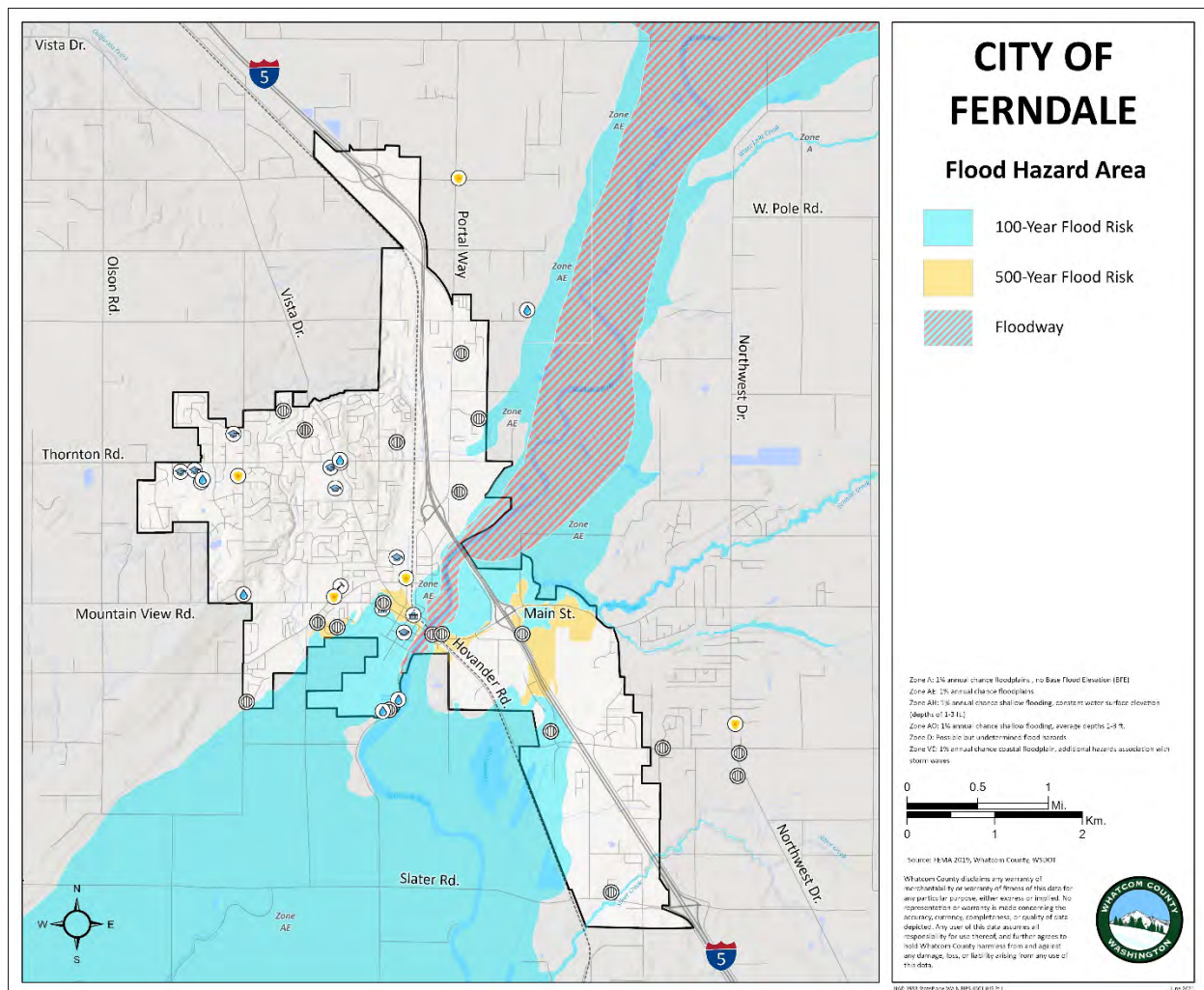
Washington Geological Survey (WGS) 2020 Washington landslide inventory data compiled following streamline landslide mapping protocol (SLIP). SLIP was developed by the WGS's Landslide Hazards Program to help geologists rapidly map landslide landforms from lidar. This data shows both detailed mapping and SLIP landslide data.



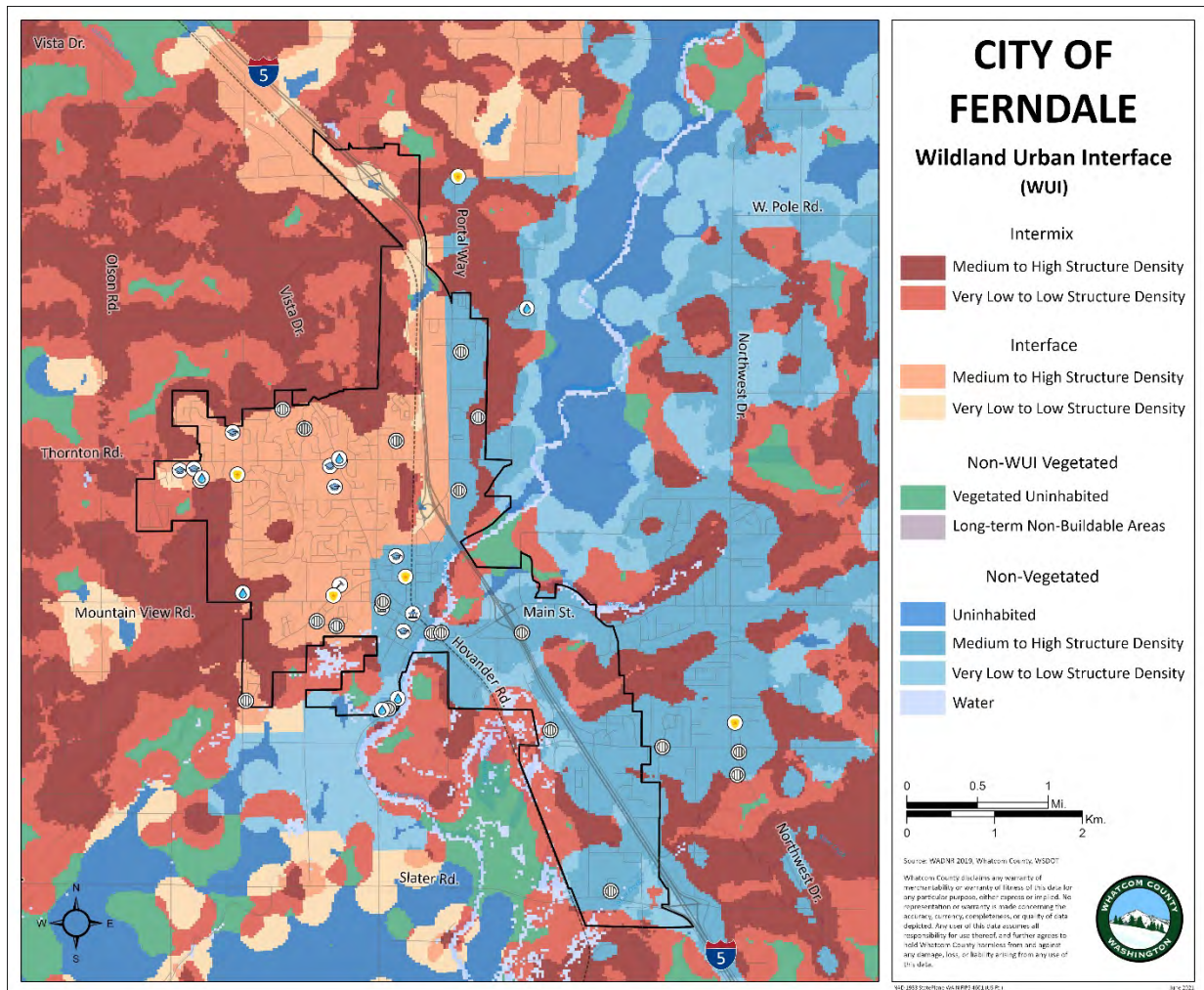
USGS Hazards from Future Activity of Mount Baker, WA (1995) data shows different volcanic flows. Case M flows originate as large avalanches of hydrothermally altered rock. Case 1 debris flows are non-cohesive flows related to melting of snow and ice, with a recurrence of 500 years. Case 2 debris flows are cohesive flows from small debris avalanches, with a recurrence of 100 years.



Map of Ferndale tsunami inundation impact potential. The high impact potential zone is based upon Washington Geological Survey Map Series 2021-01, Mw9.0 Cascadia subduction zone earthquake scenario occurring at mean high tide. The moderate to high and the low to moderate impact potential areas are based upon elevation of up to 20 feet and 30 feet, respectively, above mean sea level (NAVD88). Inundation for Point Roberts is based solely on elevation; tsunami model for the Cascadia subduction zone scenario did not extend to Point Roberts.



FEMA 2019 flood hazard data showing 100-year flooding, 500-year flooding, floodways, and flood zones. FEMA flood data includes both riverine and coastal flooding.



Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.

The City of Ferndale's Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Phillips 66 Refinery	HPL	3	3901 Unick Road		The Phillips 66 Refinery is located to the west of the City of Ferndale and is one of the major west coast refineries, producing gasoline and diesel fuels for distribution across the Pacific Northwest and beyond. The facility is also one of the major sources of employment in Northwest Washington. Damage or destruction of the facility has the potential for impacts to the environment, the local economy, and the regional economy, should the production of fuel be interrupted or significantly reduced for an extended period of time. The machinery and equipment is considered of very high dollar value.
Ferndale City Hall	EF	2	2095 Main Street		With the exception of police and Municipal Court services, City Hall is the location for the operational control of all other City functions for the City of Ferndale, including undigitized current records storage. With sufficient advance notice, all or most City Hall functions may be performed remotely for an extended period of time.
Ferndale City Shop	LUS	3	5735 Legoe Avenue		Acts as the location for City maintenance crews, maintenance fleet, and maintenance supplies. The maintenance fleet and equipment itself are considered high value. Damage or destruction of the

					facility and the fleet would significantly limit the City's ability to respond to infrastructure maintenance, including repairs caused by natural disasters.
City Hall Annex	EF	2	5694 Second Avenue		The City Hall Annex/ Ferndale Municipal Court/ City Council Chambers serves as the location for a variety of City and community functions. The space acts as the location for the Ferndale Municipal Court and jury trials, is utilized by the City Council and other boards and commissions for meetings and hearings, and provides space for the Community Service Cooperative. The Annex is also used for long-term storage of City records.
Ferndale Police Station	EF	3	2220 Main Street		The Ferndale Police Station is the location for the City's law enforcement services, including police vehicles, records storage, municipal court offices and storage, and the City's Emergency Operations Center. The police department fleet is considered to be of high value. Damage or destruction to the facility, particularly the EOC, would limit the City's ability to operate an EOC.
PUD #1 Water Plant #2	LUS	3	1705 Trigg Road		Between its two water plants, the Public Utilities District provides industrial grade (non-potable) water to the Cherry Point Industrial Area as well as irrigation water to approximately 50 customers. The PUD also provides potable water and fire protection to large light-industrial users at

					<p>Grandview Road and Interstate Five. In total the PUD treats and delivers approximately 5.4 billion gallons of water per year. Disruption to the PUD's treatment facilities as the result of a natural disaster would have a direct and immediate impact on its customers, with the most significant impact occurring at Cherry Point. Additionally, disruption to the PUD's conveyance system as a result of a major disaster could have a similar impact.</p>
PUD #2 Water Plant #1	LUS	3	5431 Ferndale Road		<p>Between its two water plants, the Public Utilities District provides industrial grade (non-potable) water to the Cherry Point Industrial Area as well as irrigation water to approximately 50 customers. The PUD also provides potable water and fire protection to large light-industrial users at Grandview Road and Interstate Five. In total the PUD treats and delivers approximately 5.4 billion gallons of water per year. Disruption to the PUD's treatment facilities as the result of a natural disaster would have a direct and immediate impact on its customers, with the most significant impact occurring at Cherry Point. Additionally, disruption to the PUD's conveyance system as a result of a major disaster could have a similar impact.</p>
Ferndale High School	EF	2	5830 Golden Eagle Drive		<p>Largest school in Whatcom County</p>

			PO Box 428 Ferndale WA 98248		Grades 9-12
Horizon Middle School	EF	2	2671 Thornton Road PO Box 1769 Ferndale WA 98248		Grades 6-8
Vista Middle School	EF	2	6051 Vista Drive PO Box 1328 Ferndale WA 98248		Grades 6-8
Beach Elementary School	EF	2	3786 Centerview Road, Lummi Island, WA 98262		Outside of Ferndale's city limits.
Cascadia Elementary School	EF	2	6175 Church Road PO Box 2009 Ferndale WA 98248		
Central Elementary School	EF	2	5610 Second Avenue PO Box 187 Ferndale WA 98248		Within the 100-year floodplain.
Custer Elementary School	EF	2	7660 Custer School Road Custer WA 98240		Outside of Ferndale's city limits.
North Bellingham Elementary	EF	2	5275 Northwest Dr, Bellingham, WA 98226		Outside of Ferndale's city limits.
Eagleridge Elementary School	EF	2	2651 Thornton Road PO Box 1127 Ferndale WA 98248		
Skyline Elementary School	EF	2	2225 Thornton Road PO Box 905 Ferndale WA 98248		
Sewer Pump Station #21	LUS	2	(Ariel Court)		The pump station facilitates the conveyance of wastewater (sewer) from low lying areas in the southwestern portion of the City to the City's wastewater treatment plant

					on Ferndale Road.
Sewer Pump Station #10	LUS	2	NW Corner of Aquarius & Apollo Drive		The pump station facilitates the conveyance of wastewater (sewer) from residential neighborhoods west of the hillside summit in north-central Ferndale to the City's wastewater treatment plant on Ferndale Road.
Sewer Pump Station #11	LUS	2	6156 Unrein Drive		The pump station facilitates the conveyance of wastewater (sewer) from low lying residential and commercial/industrial areas north of Thornton Street to the City's wastewater treatment plant on Ferndale Road.
Sewer Pump Station #12	LUS	2	5217 Northwest Drive		The pump station facilitates the conveyance of wastewater (sewer) from unincorporated areas east of the City limits to the City's wastewater treatment plant on Ferndale Road. The City's extension of utilities to this area serves public (Whatcom County) uses and is not intended for the use of additional private customers, consistent with the Growth Management Act (GMA).
Sewer Pump Station #15	LUS	2	Smith Road & Bellaire		The pump station facilitates the conveyance of wastewater (sewer) from unincorporated areas east of the City limits to the City's wastewater treatment plant on Ferndale Road. The City's extension of utilities to this area serves public (Whatcom County) uses and is not intended for the use of additional private customers, consistent with the Growth Management Act (GMA).

Sewer Pump Station #16	LUS	2	6006 Portal Way		The pump station facilitates the conveyance of wastewater (sewer) from areas east of Portal Way that are below the elevation of the sewer mainline within Portal Way.
Sewer Pump Station #17	LUS	2	1350 Slater Road		The pump station facilitates the conveyance of wastewater (sewer) from commercial and industrial properties on Slater Road.
Sewer Pump Station #18	LUS	2	Nicholas Drive		The pump station facilitates the conveyance of wastewater (sewer) from residential properties in low-lying areas north of Thornton Street.
Sewer Pump Station #2	LUS	3	N. of 1951 Main Street & Nooksack River		The pump station facilitates the conveyance of wastewater (sewer) from Main Street properties east of the Nooksack River. In a flood event, Pump Station #2 also serves to pump water from the immediate vicinity for the purpose of preserving Main Street as a navigable roadway during a flood event.
Sewer Pump Station #3	LUS	2	N. of 5610 Barrett Road		The pump station facilitates the conveyance of wastewater (sewer) from commercial and industrial properties along Barrett Road.
Sewer Pump Station #4	LUS	2	5345 LaBounty Drive		The pump station facilitates the conveyance of wastewater (sewer) from commercial and industrial properties on LaBounty Drive.
Sewer Pump Station #5	LUS	2	5280 Northwest Road		The pump station facilitates the conveyance of wastewater (sewer) from unincorporated areas east of the City limits to the City's wastewater treatment plant on Ferndale Road. The City's extension of utilities to this area serves public (Whatcom County) uses

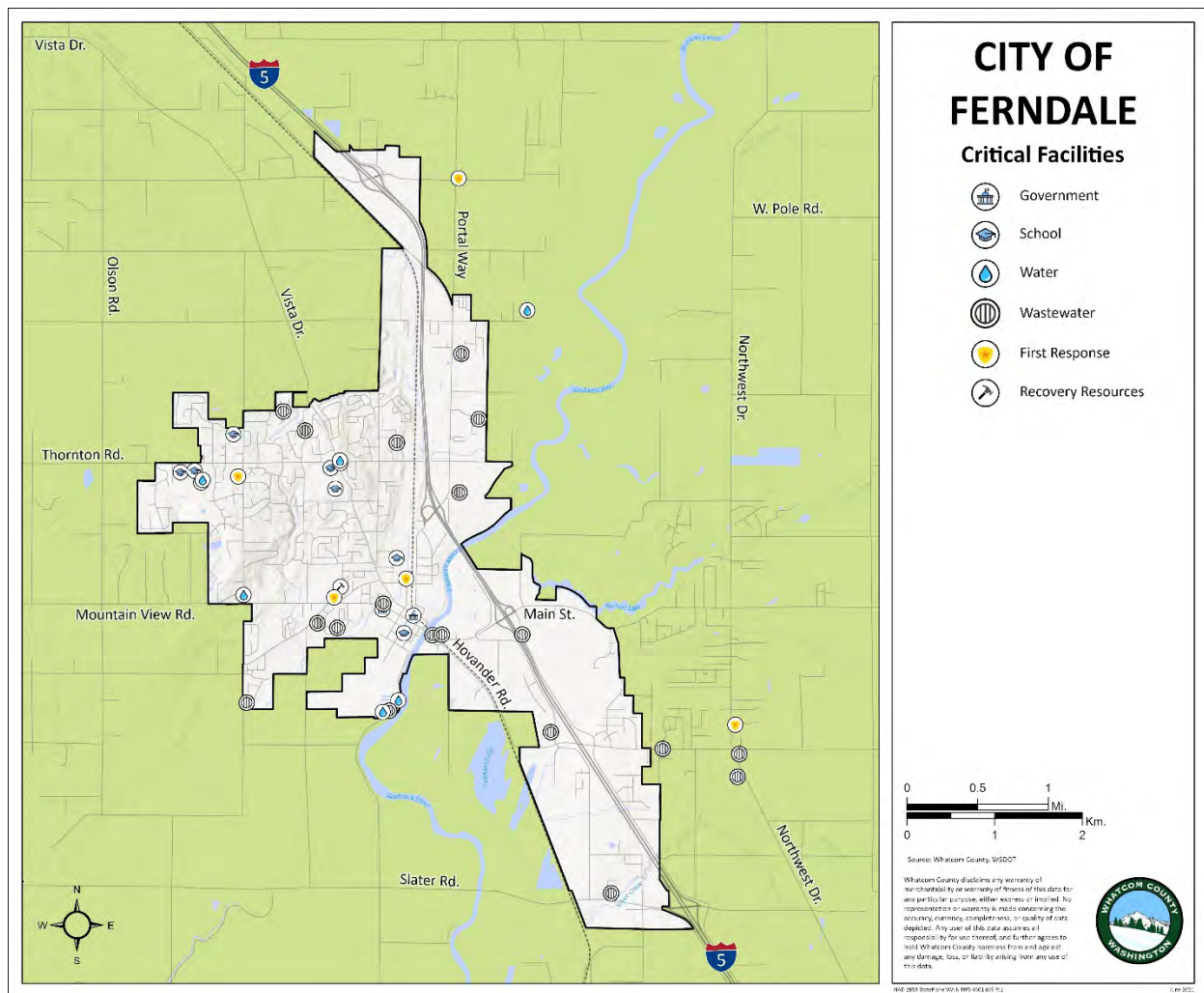
					and is not intended for the use of additional private customers, consistent with the Growth Management Act (GMA).
Sewer Pump Station #6	LUS	2	5336 Poplar Drive		The pump station facilitates the conveyance of wastewater (sewer) from low-lying residential properties in a residential neighborhood.
Sewer Pump Station #7	LUS	2	2090 Main Street		The pump station facilitates the conveyance of wastewater (sewer) from low-lying commercial properties on Main Street.
Storm Sewer Pump Station #8	LUS	2	1920 Main Street		The pump station facilitates the conveyance of wastewater (sewer) from commercial and industrial properties on LaBounty Drive.
Sewer Pump Station #20	LUS	2	1820-1821 McKinley Court		The pump station facilitates the conveyance of wastewater (sewer) from residential properties east of Portal Way
Sewer Pump Station # 9	LUS	2	6400 Portal Way		The pump station facilitates the conveyance of wastewater (sewer) from residential and commercial properties east of Portal Way
Tenaska Cogeneration Plant	LUS	2	5105 Lake Terrell Road		The facility, located adjacent to the Phillips 66 Refinery, utilizes natural gas-power turbines as well as a steam-driven turbine generating power from the steam exhaust resulting from the gas-powered turbines. The resulting power is then distributed through Puget Sound Energy's distribution system.
Petro Gas	LUS	2	4100 Unick Road		The Ferndale Terminal including a deep water dock serves as a storage and distribution facility for bulk shipments of LPG by railcar,

					tank truck, pipeline, and ship.
Waste Water Treatment Plant	LUS	3	5389 Ferndale Road		<p>The City's wastewater (sewer) treatment plant is located west of the Nooksack River and was significantly expanded 2020-2022. The treatment plant serves all City utility customers and has the capacity to serve planned growth within the twenty-year period. The plant is located adjacent to the Nooksack River, and treated wastewater is discharged to the river. The plant is within the 100-year floodplain of the Nooksack River and is susceptible to flood events. The redesign and expansion of the plant has raised the interior of structures above the Base Flood Elevation, but settling ponds and other equipment remain below the Base Flood Elevation. This means that the plant is susceptible to flood damage and that there is the potential for impacts to the environment as a result of flooding, and an interruption of service. For these reasons, the City's wastewater and water treatment plants are considered the highest priority for City facilities, especially in response to hazards originating from the Nooksack River.</p>
City's Water Treatment Plant	LUS	3	5389 Ferndale Road		<p>The City's Water Treatment Plant is located adjacent/on the same property as the aforementioned Waste Water Treatment Plant.</p>
Water Pump Station #1	LUS	2	2195 Thornton Street		<p>The pump station facilitates the conveyance of wastewater (sewer) from residential and</p>

					school district properties in the vicinity of Thornton Street and Vista Drive
Water Pump Station #2	LUS	2	2601 Thornton Street		The pump station facilitates the conveyance of wastewater (sewer) from residential properties in the vicinity of Church Street and Thornton Street
Water Pump Station #3	LUS	2	5727 Church Street		The pump station facilitates the conveyance of wastewater (sewer) from residential and school district properties in the vicinity of Church Street
Water Tank #1	LUS	2	Vista Drive & Thornton Street		Water Tank 1 provides potable water to the surrounding community at a strategic location owned by the City, utilizing gravity to feed nearby water consumers.
Water Tank #2	LUS	2	2601 Thornton Street		Water Tank 2 provides potable water to the surrounding community at a strategic location owned by the City, utilizing gravity to feed nearby water consumers.
WCFD 7 St. 1 Ferndale	EF	3	2020 Washington Street		
WCFD7 St. 2 Whitehorn	EF	3	4047 Brown Road		
WCFD7 St. 3 N. Bellingham	EF	3	5368 Northwest Road		
WCFD7 St. 4 Kohen Road	EF	3	5491 Grandview Road		
WCFD7 St. 5 Enterprise	EF	3	1886 Grandview Road		
WCFD7 St. 6 Church Road	EF	3	6081 Church Road		

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



Map of critical facilities identified by the City of Ferndale. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all jurisdictions identified or included critical facilities in each category.

Critical Facility Rankings for the City of Ferndale

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Phillips 66 Refinery	HPL	3	1	1	0	0	0	0	0	1	0.39
Ferndale City Hall	EF	2	1	1	0	1	0	1	0	0	0.41
Ferndale City Shop	LUS	3	1	1	0	0	0	0	0	1	0.39
City Hall Annex	EF	2	1	1	0	0	0	0	0	0	0.17
Ferndale Police Station	EF	3	1	1	0	0	0	0	0	1	0.39
PUD #1 Water Plant #2	LUS	3	1	1	0	0	0	0	0	0	0.26
PUD #2 Water Plant #1	LUS	3	1	1	0	1	1	1	0	0	0.86
Ferndale High School	EF	2	1	1	0	0	0	0	0	0	0.17
Horizon Middle School	EF	2	1	1	0	0	0	0	0	1	0.26
Vista Middle School	EF	2	1	1	0	0	0	0	0	1	0.26
Beach Elementary School	EF	2	1	1	0	0	0	0	0	1	0.26
Cascadia Elementary School	EF	2	1	1	0	0	0	0	0	1	0.26
Central Elementary School	EF	2	1	1	0	1	1	1	0	0	0.58
Custer Elementary School	EF	2	1	1	0	0	0	0	0	1	0.26
North Bellingham Elementary	EF	2	1	1	0	0	0	0	0	0	0.17
Eagleridge Elementary School	EF	2	1	1	0	0	0	0	0	1	0.26
Skyline Elementary School	EF	2	1	1	0	0	0	0	0	1	0.26
Sewer Pump Station #21	LUS	2	1	1	0	0	0	0	0	1	0.26

Sewer Pump Station #10	LUS	2	1	1	0	0	0	0	0	1	0.26
Sewer Pump Station #11	LUS	2	1	1	0	0	0	0	0	1	0.26
Sewer Pump Station #12	LUS	2	1	1	0	0	0	0	0	0	0.17
Sewer Pump Station #15	LUS	2	1	1	0	0	0	0	0	0	0.17
Sewer Pump Station #16	LUS	2	1	1	0	0	1	0	0	0	0.35
Sewer Pump Station #17	LUS	2	1	1	0	1	0	0	0	0	0.35
Sewer Pump Station #18	LUS	2	1	1	0	0	0	0	0	1	0.26
Sewer Pump Station #2	LUS	3	1	1	0	1	1	1	0	1	1
Sewer Pump Station #3	LUS	2	1	1	0	1	1	1	0	1	0.66
Sewer Pump Station #4	LUS	2	1	1	0	1	1	1	0	0	0.58
Sewer Pump Station #5	LUS	2	1	1	0	0	0	0	0	0	0.17
Sewer Pump Station #6	LUS	2	1	1	0	1	0	1	0	1	0.49
Sewer Pump Station #7	LUS	2	1	1	0	1	0	1	0	0	0.41
Storm Sewer Pump Station #8	LUS	2	1	1	0	1	1	1	0	0	0.58
Sewer Pump Station #20	LUS	2	1	1	0	1	0	0	0	1	0.43
Sewer Pump Station #9	LUS	2	1	1	0	0	0	0	0	0	0.17
Tenaska Cogeneration Plant	LUS	2	1	1	0	0	0	0	0	1	0.26
Petro Gas	LUS	2	1	1	0	0	0	0	0	1	0.26
Waste Water Treatment Plant	LUS	3	1	1	0	1	1	1	0	0	0.87
Water Pump Station #1	LUS	2	1	1	0	0	0	0	0	1	0.26
Water Pump Station #2	LUS	2	1	1	0	0	0	0	0	0	0.17

Water Pump Station #3	LUS	2	1	1	0	0	0	0	0	0	0.17
Water Tank #1	LUS	2	1	1	0	0	0	0	0	1	0.26
Water Tank #2	LUS	2	1	1	0	0	0	0	0	0	0.17
WCFD7 St. 1 Ferndale	EF	3	1	1	0	0	1	0	0	0	0.52
WCFD7 St. 2 Whitehorn	EF	3	1	1	0	0	0	0	0	1	0.39
WCFD7 St. 3 N. Bellingham	EF	3	1	1	0	0	0	0	0	0	0.26
WCFD7 St. 4 Kohen Road	EF	3	1	1	0	0	0	0	0	1	0.39
WCFD7 St. 5 Enterprise	EF	3	1	1	0	0	0	0	0	1	0.39
WCFD7 St. 6 Church Road	EF	3	1	1	0	0	0	0	0	1	0.39

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

	City of Ferndale Exposure to Natural Hazards					
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards						
	MMI V	-	-	-	12.2%	\$455
	MMI VI	100%	100%	100%	87.8%	\$131
	MMI VII	-	-	-	-	-
	MMI VIII - IX	-	-	-	-	-
	TOTAL	100%	100%	100%	100%	\$586
	Very Low to Low	46.4%	40.3%	38.5%	46.9%	\$478
	Low to Moderate	35.8%	53.5%	54.1%	34.7%	\$73
	Moderate	-	-	-	-	-
	Moderate to High	17.1%	6.2%	7.4%	18.4%	\$35
	High	-	-	-	-	-
	TOTAL	99.3%	100%	100%	100%	\$586
	Landslide Low	-	-	-	-	-
	Landslide Moderate	-	-	-	-	-
	Landslide High	-	-	-	-	-

	<i>Fan Low</i>	0.08%	0.3%	0.02%	-	-
	<i>Fan Moderate</i>		-	-	-	-
	<i>Fan High</i>	-	-	-	-	-
	<i>Mine Hazard</i>	-	-	-	-	-
	TOTAL	0.08%	0.3%	0.02%	-	-
	<i>Case 1 Debris Flows</i>	-	-	-	-	-
	<i>Case 2 Debris Flows</i>	-	-	-	-	-
	<i>Case M Flows</i>	27.5%	11.6%	11.4%	22.4%	\$35
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	-	-	-	-	-
	TOTAL	27.5%	11.6%	11.4%	22.4%	\$35
	<i>Low to Moderate Inundation Potential</i>	11.6%	5.9%	5.6%	14.3%	\$22
	<i>Moderate to High Inundation Potential</i>	2.1%	4.5%	0.3%	-	-
	<i>High Inundation Potential</i>	-	-	-	-	-
	TOTAL	13.7%	10.4%	5.9%	14.3%	\$22
Hydrological Hazards						
	<i>100-year Flood</i>	13.6%	5.1%	6.3%	16.4%	\$35
	<i>500-year Flood</i>	4%	3.4%	3.7%	8.2%	\$0.4
	<i>Floodway</i>	2.3%	0.6%	0.2%	-	-
	<i>Undetermined (Zone D)</i>	-	-	-	-	-

	<i>TOTAL</i>	19.9%	9.1%	10.2%	24.5%	\$35.4
Meteoro-logical	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	2.9%	0.6%	0.8%	4.1%	\$2
	<i>Interface Medium-High Structure Density</i>	32.1%	59.6%	54.1%	46.9%	\$530
	<i>Intermix Very Low-Low Structure Density</i>	11.5%	0.4%	3.3%	-	-
	<i>Intermix Medium-High Structure Density</i>	16.6%	1.8%	16.2%	6.1%	\$0.6
	<i>TOTAL</i>	63.1%	62.4%	74.4%	57.1%	\$532.6

Status of Ferndale's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

1	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
5	Funding Source:	Local; State; FEMA; Private; Other
6	Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

Education and Outreach

EO-a. The City strives to continuously improve the safety of its citizens and level of protection for public infrastructure. The City has committed to expand and maintain its first responder capabilities and has sought to upgrade equipment and infrastructure necessary to respond to emergency events. The City has also sought to make use of all available forms of communication in order to distribute information quickly and accurately.

Lead Agency	Ferndale City Council
Funding Source	Local sources, and state and federal grants
Current Status	Ongoing

EO-b. Continue to identify ways the city can improve the protection of public infrastructure. The City has updated and will continue to update its long-range infrastructure plans and considers natural and human-caused impacts to this infrastructure. The City also seeks to identify modifications or improvements to infrastructure that will avoid or mitigate impacts from natural hazards.

Lead Agency	Ferndale City Council
Funding Source	Local sources, and state and federal grants
Current Status	Ongoing

EO-c. Telephone based early warning system. A computerized early warning system that automatically dials each landline telephone number within a specified area, and plays a recorded message when the phone is answered is currently provided to the City by the

Whatcom County Sheriff's Office, Division of Emergency Management. A larger capacity system that can also contact cell phones through the use of a federally licensed COG would help address a variety of natural and manmade problems.

Lead Agency	City of Ferndale/ Whatcom County Sheriff's Office Division of Emergency Management
Funding Source	Local sources, and state and federal grants
Current Status	Complete

EO-d. Utility bill inserts. The City routinely includes information in bi-monthly utility bill inserts related to natural hazards and potential avoidance/mitigation measures. The City has also established a quarterly newsletter (established 2020) that is delivered to all utility customers. This newsletter typically includes at least one natural/environmental topic. The City will be transitioning to online utility bill payment 6/1/2021 and expects to be able to utilize this platform for additional communication efforts.

Lead Agency	City of Ferndale Communications Officer
Funding Source	Local
Current Status	Ongoing

EO-e. Adopt and enforce building codes. The City is required to, and does, adopt and enforce the International Building Codes. The City has committed to continue to fully staff these functions.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local
Current Status	Ongoing

Drought/heat wave

D-a. Water Conservation Schedules. During the summer months, the City has a permanent mandatory water conservation schedule. Information relating to water conservation is distributed as part of a coordinated campaign in late spring/early summer each year.

Lead Agency	Ferndale Communications
Funding Source	Local
Current Status	Ongoing

Earthquake

EQ-a. Conduct inspections of building safety.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local
Current Status	Ongoing

Volcano

Vol-a. Lahar warning through IPAWS alerting.

Lead Agency	WCDEM
Funding Source	FEMA
Current Status	Completed

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

F-a. Extension of Riverside Dike Reinforcement. The City, working with Whatcom County River and Flood, anticipate that a project to modify the existing levee system north of the treatment plant may provide some flooding benefits. This project would not extend as far as what is described here, but would potentially be close.

Lead Agency	Public Works
Funding Source	Local sources, and state and federal grants
Current Status	Ongoing

F-b. Preparedness handbooks, brochures. Distribution of severe weather guides, homeowner's retrofit guide, etc. The City maintains an inventory of FEMA handbook, brochures, flood-related weather guides, and homeowner's retrofit guides that are available to the public at no cost. The City also provides links to equivalent materials online. The Ferndale Public Library also maintains a collection of these documents that are available to the public.

Lead Agency	WCDEM
Funding Source	Local sources
Current Status	Ongoing

F-c. Incorporate flood mitigation in local planning. Per City Code (FMC 15.24), any development activity within the 100-year floodplain must seek to mitigate flood impacts.

Lead Agency	Ferndale Community Development, Planning Department, and Public Works
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Funding Source	Local sources
Current Status	Ongoing

F-d. Form partnerships to support floodplain management. The City, working with the Whatcom County Department of River and Flood and other regional partners frequently participates in planning efforts to address potential flood impacts, floodplain modeling, and more. In 2020 the City worked with River and Flood to produce a video documenting flood characteristics in Ferndale.

Lead Agency	Ferndale Community Development, Planning Department, WCDEM, and Public Works
Funding Source	Local sources
Current Status	Ongoing

F-e. Limit or restrict development in floodway areas. Per the City's Municipal Code a Floodway Zone has been established consistent with FEMA-designated floodways, prohibiting or restricting development within these areas.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

F-f. Improve stormwater management planning. The City is required to maintain compliance with stormwater manuals established by the Washington State Department of Ecology. In 2021 the City initiated major updates to its Stormwater Comprehensive Plan. The City has augmented the staffing associated with stormwater and has expanded stormwater education throughout Public Works and Community Development Department staff.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

F-g. Adopt policies to reduce stormwater runoff. The City is required to comply with the most recent edition of the Western Washington Stormwater Manual issued by the Washington State Department of Ecology, which seeks to reduce stormwater runoff.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

F-h. Improve flood risk assessment. City staff undertake annual floodplain training. In the future the City anticipates enrolling at least one staff member in a comprehensive flood risk assessment course.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

F-i. Join or improve compliance with NFIP. Ferndale is compliant with NFIP.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Complete

F-j. Participate in the CRS. The City has maintained participation in CRS since 2016; the City anticipates maintaining this affiliation and to expand its compliance over time.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

F-k. Improve stormwater drainage system capacity. Through its update to the Stormwater Comprehensive Plan (initiated 2021), the City anticipates the completion of an analysis of overall stormwater drainage system capacity and projects necessary to achieve this goal. The plan is expected to be completed at the end of 2022.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

F-l. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures. The City is obligated to periodically inspect and maintain its various drainage systems and flood control structures, including stormwater and storm drains associated with the City's transportation network. In addition, the City seeks to ensure that private properties and homeowner's associations meet their responsibilities for inspection and maintenance of private structures. The City is fully staffed to accomplish these goals.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

F-m. Protect infrastructure. The City is obligated to protect and maintain its infrastructure. In addition to these standard responsibilities, the City in 2021 initiated an Asset Management program to better track infrastructure maintenance, including recurring maintenance obligations that could be indicative of broader challenges. This will enable the City to proactively identify additional steps or projects necessary to maintain the system.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

F-n. Protect critical facilities. The City continues to evaluate the condition of all of its critical facilities and anticipates constructing new City Hall/ Municipal Court facilities by the end of the decade that will represent an improvement and be better-protected than the current facilities.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

F-o. Preserve pre-designated undeveloped floodways as open space.

Lead Agency	Ferndale Community Development and Planning
Funding Source	Local sources
Current Status	Complete

F-p. Increase awareness of flood risk and safety. On at least an annual basis the City distributes information to the community and businesses concerning flood impacts, risks, and mitigation measures.

Lead Agency	Ferndale Community Development, Planning Department, City of Ferndale Communications Officer, and WCDEM
Funding Source	Local sources
Current Status	Ongoing

F-q. Educate property owners about flood mitigation techniques. On at least an annual basis

the City distributes information to the community and businesses concerning flood impacts, risks, and mitigation measures.

Lead Agency	Ferndale Community Development, Ferndale Public Works, City of Ferndale Communications Officer, and WCDEM
Funding Source	Local sources
Current Status	Ongoing

Landslide/erosion

ER-a. Map and assess vulnerability to erosion. The City maintains steep slope and erosion maps on its GIS database, which is available to the public.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

ER-b. Manage development in erosion hazard areas. There are no areas of substantial erosion risk in the City that would prevent development from occurring on the property; should there be an erosion hazard risk on the property, the City's codes require that the applicant seek to avoid the area or to mitigate impacts accordingly.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

ER-c. Promote or require site and building design standards to minimize erosion risk. The Ferndale Critical Areas Ordinance includes erosion risks as geologic hazards, which must be avoided. If avoidance is not possible, the code identifies several steps to minimize and mitigate potential impacts.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

LS-a. Map and assess vulnerability to landslides. The City of Ferndale's GIS maps depict steep slopes and areas of landslide risk.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

LS-b. Manage development in landslide hazard areas. The Ferndale Critical Areas Ordinance includes landslide risks as geologic hazards, which must be avoided. If avoidance is not possible, the code identifies several steps to minimize and mitigate potential impacts.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

LS-c. Prevent impacts to roadways. The City's development standards, combined with its land use regulations, Critical Areas Ordinance, and Public Works Maintenance division are designed to work collaboratively to prevent impacts to roadways. When necessary the Ferndale Police Department may provide additional traffic control and assistance during emergency events.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

Lightning

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

SW-a. Promote or require site and building design standards to minimize wind damage. The City of Ferndale is required to verify that structures built in the City of Ferndale are designed to meet wind load standards. The City also utilizes Code Enforcement personnel to identify potential risks resulting from wind damage, and to pursue enforcement in order to remove the potential impact.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

SW-b. Increase severe wind risk awareness. The City utilizes its public information channels to promote wind awareness prior to anticipated wind event.

Lead Agency	City of Ferndale Communications Officer and WCDEM
Funding Source	Local sources
Current Status	Ongoing

Tornadoes

No actions ongoing, discontinued, or completed for this hazard

Wildfire

No actions ongoing, discontinued, or completed for this hazard.

Winter storms/Freezes

WW-a. Protect buildings and infrastructure. The City designs and operates its facilities and infrastructure to meet the demands of all seasons and weather conditions. The City seeks to ensure adequate funding for normal maintenance, repairs, and system replacement.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

WW-b. Reduce impacts to roadways. The City has developed snow plow routes, advance warning of inclement winter weather, and more. As a result, City of Ferndale roadways are widely recognized as the most-navigable roadways in Whatcom County during winter weather events.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

WW-c. Conduct winter weather risk awareness activities. Annually, and immediately prior to

forecast winter weather events, the City distributes information concerning priority snow plow routes, shelter opportunities for the homeless and near homeless, appropriate steps to prevent burst pipes, and more.

Lead Agency	City of Ferndale Communications Officer and WCDEM
Funding Source	Local sources
Current Status	Ongoing

Multiple Hazards

MU-a. Assess community risk. The City continually reviews regulations, practices, procedures, and City facilities to determine whether existing conditions are adequate to meet the demands of future growth, change, and hazard impacts. The City has sought to practice rolling code and development changes in order to constantly refresh City expectations and policies. The City is also working with regional partners to augment climate change resiliency planning.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

MU-b. Map community risk. The City maintains a comprehensive GIS mapping system available to the general public. Included in this system are additional data layers (maps) depicting community risk.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

MU-c. Prevent development in hazard areas. The City's various policies (Critical Areas Ordinance, Zoning, Shoreline Master Program, Floodplain Management, Development Standards, etc.) are designed to provide a higher-level of scrutiny when development is proposed in or near hazard areas; development is generally prohibited in high hazard areas.

Lead Agency	Ferndale Community Development and Planning Department
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Funding Source	Local sources
Current Status	Ongoing

MU-d. Adopt development regulations in hazard areas.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

MU-e. Integrate mitigation into local planning.

Lead Agency	Ferndale Community Development and Planning Department
Funding Source	Local sources
Current Status	Ongoing

MU-f. Protect structures.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

MU-g. Protect infrastructure and critical facilities.

Lead Agency	Ferndale Public Works
Funding Source	Local sources
Current Status	Ongoing

MU-h. Increase hazard education and risk awareness.

Lead Agency	City of Ferndale Communications Officer and WCDEM
Funding Source	Local sources
Current Status	Ongoing

MU-i. Improve household disaster preparedness.

Lead Agency	City of Ferndale Communications Officer and WCDEM
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Funding Source	Local sources
Current Status	Ongoing

Ferndale 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

City of Ferndale-Specific Hazard Mitigation Goals

Ferndale does not add any community specific goals to the county goals.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Ferndale considered mitigation options related to earthquakes, volcanoes, flooding, landslides/erosion, land subsidence, tsunamis, and winter storms, especially those related to earthquake and flooding, because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Ferndale. Some options have already been implemented or are ongoing in Ferndale, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Ferndale has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property and public welfare.

Ferndale is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority:	H (High); M (Medium); L (Low)
4	Timeline:	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source:	Local; State; FEMA; Private; Other
6	Estimated Cost:	Actual; Estimated

Ferndale's Identified Mitigation Actions 2021-2025

City of Ferndale IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Education and Outreach Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	<i>EO-a Ongoing -- The City strives to continuously improve the safety of its citizens and level of protection for public infrastructure</i>	1	Ferndale City Council	M	O	Local/State/Federal	Staff
	<i>EO-b Ongoing -- Continue to identify ways the city can improve the protection of public infrastructure</i>	1	Ferndale City Council	M	O	Local/State/Federal	Staff
	<i>EO-d Ongoing – Utility Bill Inserts</i>	2	City of Ferndale Communications Officer	M	O	Local	Staff
	<i>EO-e Ongoing -- Adopt and enforce building codes</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	EO-1 Hazard “Safety Fairs”	2	WCDEM	M	L	Local	
	EO-2 Hazard Awareness Weeks	2	WCDEM	M	L	Local	

City of Ferndale IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	EO-3 Emergency preparedness education programs for schools.	2,1	Ferndale School District	M	S	Local	
	EO-4. Drills, exercises in homes, workplaces, classrooms, etc.	2,1	Ferndale Police Department and WCDEM	M	S	Local	
Hazard Specific (Reference: Whatcom County Mitigation Ideas)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						
Dam/Levee Failures (See: Flooding)	The City of Ferndale has no planned actions for this hazard that is not already in progress or completed						
Droughts/Heat Waves	<i>D-a Ongoing -- Water Conservation Schedules</i>	1, 3	Ferndale Communications	M	O	Local	Staff
Earthquakes	<i>EQ-a Ongoing -- Conduct inspections of building safety</i>	1, 5	Ferndale Community Development and Planning Department	M	O	Local	Staff

City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	EQ-1 Construct a new city hall facility to meet requirements to survive a 6.0M_w or greater earthquake event.	1,2	Ferndale Planning Department	H	L	Local sources, and state and federal grants	\$12-15 million
	EQ-2 Earthquake Early Warning System	1,2	Ferndale Police Department/Whitcom Fire District 7	M	L	Local sources, and state and federal grants	\$500,000
Extreme Temperatures	The City of Ferndale has no planned actions for this hazard that is not already in progress or completed						
Flooding	<i>F-a Ongoing -- Extension of Riverside Dike Reinforcement</i>	1	Public Works	M	O	Local, State, and Federal	Staff
	<i>F-b Ongoing -- Preparedness handbooks, brochures</i>	2	WCDEM	M	O	Local	Staff

City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>F-c Ongoing -- Incorporate flood mitigation in local planning</i>	1	Ferndale Community Development, Planning Department, and Public Works	M	O	Local	Staff
	<i>F-d Ongoing -- Form partnerships to support floodplain management</i>	1, 5	Ferndale Community Development, Planning Department, WCDEM, and Public Works	M	O	Local	Staff
	<i>F-e Ongoing -- Limit or restrict development in floodway areas</i>	1, 3	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>F-f Ongoing -- Improve stormwater management planning</i>	1, 3	Ferndale Public Works	M	O	Local	Staff
	<i>F-g Ongoing -- Adopt policies to reduce stormwater runoff</i>	1, 3	Ferndale Public Works	M	O	Local	Staff

City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>F-h Ongoing -- Improve flood risk assessment</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>F-j Ongoing -- Participate in the CRS</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>F-k Ongoing -- Improve stormwater drainage system capacity</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>F-l Ongoing -- Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>F-m Ongoing -- Protect infrastructure</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>F-n Ongoing -- Protect critical facilities</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>F-p Ongoing -- Increase awareness of flood risk and safety</i>	2	Ferndale Community	M	O	Local	Staff

**City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Development, Planning Department, City of Ferndale Communications Officer, and WCDEM				
	<i>F-q Ongoing -- Educate property owners about flood mitigation techniques</i>	2	Ferndale Community Development, Ferndale Public Works, City of Ferndale Communications Officer, and WCDEM	M	O	Local	Staff
	FL-1 Purchase Repetitive Loss Properties in the Floodplain		Ferndale Planning Department	M	L	Local sources, and state and federal grants	

City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Landslide/ Erosion/ Land Subsidence	<i>ER-a Ongoing -- Map and assess vulnerability to erosion</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>ER-b Ongoing -- Manage development in erosion hazard areas</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>ER-c Ongoing -- Promote or require site and building design standards to minimize erosion risk</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>LS-a Ongoing -- Map and assess vulnerability to landslides</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff

City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>LS-b Ongoing -- Manage development in landslide hazard areas</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>LS-c Ongoing -- Prevent impacts to roadways</i>	1	Ferndale Public Works	M	O	Local	Staff
	LS-1 Survey for potential alluvial fan hazards	1,2	Ferndale Planning Department	M	L	Local sources, and state and federal grants	
Lightning	The City of Ferndale has no planned actions for this hazard that is not already in progress or completed						
Severe Storms	The City of Ferndale has no planned actions for this hazard that is not already in progress or completed						
	<i>SW-a Ongoing -- Promote or require site</i>	1	Ferndale	M	O	Local	Staff

City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Severe Wind	<i>and building design standards to minimize wind damage</i>		Community Development and Planning Department				
	<i>SW-b Ongoing -- Increase severe wind risk awareness</i>	2	City of Ferndale Communications Officer and WCDEM	M	O	Local	Staff
Tornadoes	The City of Ferndale has no planned actions for this hazard that is not already in progress or completed						
Wildfires	The City of Ferndale has no planned actions for this hazard that is not already in progress or completed						
Winter Storms/ Freezes (Severe Winter Weather)	<i>WW-a Ongoing -- Protect buildings and infrastructure</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>WW-b Ongoing -- Reduce impacts to roadways</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>WW-c Ongoing -- Conduct winter weather risk awareness activities</i>	1	City of Ferndale Communications Officer and	M	O	Local	Staff

**City of Ferndale
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			WCDEM				
Multiple Hazards	<i>MU-a Ongoing -- Assess community risk</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>MU-b Ongoing -- Map community risk</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>MU-c Ongoing -- Prevent development in hazard areas</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>MU-d Ongoing -- Adopt development regulations in hazard areas</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff

City of Ferndale IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>MU-e Ongoing -- Integrate mitigation into local planning</i>	1	Ferndale Community Development and Planning Department	M	O	Local	Staff
	<i>MU-f Ongoing -- Protect structures</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>MU-g Ongoing -- Protect infrastructure and critical facilities</i>	1	Ferndale Public Works	M	O	Local	Staff
	<i>MU-h Ongoing -- Increase hazard education and risk awareness</i>	1	City of Ferndale Communications Officer and WCDEM	M	O	Local	Staff
	<i>MU-i Ongoing -- Improve household disaster preparedness</i>	1	City of Ferndale Communications Officer and WCDEM	M	O	Local	Staff
Advanced Mitigation Projects	Natural Hazard Early Warning Systems	1,2,5	Whatcom County, Ferndale Police Department, What-Comm	M	S	Unknown	\$500,000

City of Ferndale IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
(Dream List)	Tone Radio Based Early Warning System Natural Hazard Early Warning Systems	1,2,5	Whatcom County, Ferndale Police Department, What-Comm	M	S	Unknown	\$500,000
	Purchase Repetitive Loss Properties	1,3	City of Ferndale, Whatcom County River and Flood	L	L	FEMA, Local Match	\$1 million
	Schell Marsh Flood Attenuation Project	1,3	City of Ferndale	H	M	State, Federal	\$1 million

Ferndale Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

Step One: Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.

Step Two: Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.

Step Three: Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review

Step Four: Submit the completed form(s) to the Whatcom County DEM.

City of Ferndale						
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
EDUCATION AND OUTREACH						
EO-a. The City strives to continuously improve the safety of its citizens and level of protection for public infrastructure.	B					Ongoing/Forever Action
EO-b. Continue to identify ways the city can improve the protection of public infrastructure.	B					Ongoing/Forever Action
EO-c. Telephone based early warning system: A computerized early warning system that automatically dials each landline telephone number within a specified area, and plays a recorded message when the phone is answered is currently provided to the City by the Whatcom County Sheriff's Office, Division of Emergency Management. A larger capacity system that can also contact cell phones through the use of a federally licensed COG would help address a variety of natural and manmade problems.	D					
EO-d. Utility bill inserts.	B					Stormwater, Flood (anticipated for 2021)
EO-1. Hazard "Safety Fairs"		B				
EO-2. Hazard Awareness Weeks	B					City anticipates a hazard awareness week to coincide with the adoption of NHMP and CEMP
EO-3. Emergency preparedness education programs for schools.	B					
EO-4. Drills, exercises in homes, workplaces, classrooms, etc.	B					City anticipates 2021 evacuation/emergency response drills in City facilities
<i>Add New Action Items if Applicable</i>						

City of Ferndale Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
DAM/LEEVE FAILURES						
Add New Action Items if Applicable						
DROUGHTS/HEAT WAVES						
D-a. Water Conservation Schedules	B					City annually distributes information concerning water conservation and steps to mitigate drought impacts
Add New Action Items if Applicable						
EARTHQUAKES						
EQ-a. Conduct inspections of building safety.	C					COVID-19 and higher-than-normal private development activity has reduced the City's ability to conduct safety inspections for existing buildings.
EQ-1. Construct a new city hall facility to meet requirements to survive a 6.0MW or greater earthquake event.	C					Design will not occur prior to 2022 at the earliest.
EQ-2. Earthquake Early Warning System	D					
Add New Action Items if Applicable						
VOLCANO						
VOL-a. Lahar warning through IPAWS alerting.						
Add New Action Items if Applicable						
FLOODING						
FL-a. Extension of Riverside Dike	B					Initial design and alternatives under

City of Ferndale Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>Reinforcement: The City, working with Whatcom County River and Flood, anticipate that a project to modify the existing levee system north of the treatment plant may provide some flooding benefits. This project would not extend as far as what is described here, but would potentially be close.</i>						review
<i>FL-b. Preparedness handbooks, brochures. Distribution of severe weather guides, homeowner's retrofit guide, etc.</i>	B					City maintains an inventory of FEMA flood information available to the public, Ferndale Public Library includes identical data available to the public for reference.
<i>FL-c. Incorporate flood mitigation in local planning.</i>	B					
<i>FL-d. Form partnerships to support floodplain management.</i>	B					
<i>FL-e. Limit or restrict development in floodway areas.</i>	B					
<i>FL-f. Improve stormwater management planning.</i>	B					The City has initiated an update to its Stormwater Comprehensive Plan, to be completed 4Q 2022.
<i>FL-g. Adopt policies to reduce stormwater runoff.</i>	B					The City has adopted such policies consistent with relevant stormwater manuals.
<i>FL-h. Improve flood risk assessment.</i>						
<i>FL-i. Join or improve compliance with NFIP.</i>	A					Ongoing/Forever Action
<i>FL-j. Participate in the CRS, have been participating since 2016.</i>	B					Ongoing/Forever Action
<i>FL-k. Improve stormwater drainage system capacity.</i>	B					Ongoing/Forever Action
<i>FL-l. Conduct Regular Maintenance for</i>	B					Ongoing/Forever Action

City of Ferndale Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>Drainage Systems and Flood Control Structures.</i>						
<i>FL-m. Protect infrastructure.</i>	B					Ongoing/Forever Action
<i>FL-n. Protect critical facilities.</i>	B					Ongoing/Forever Action
<i>FL-o. Preserve pre-designated undeveloped flood plains as open space.</i>	B					Ongoing/Forever Action
<i>FL-p. Increase awareness of flood risk and safety.</i>	B					Ongoing/Forever Action
<i>FL-q. Educate property owners about flood mitigation techniques.</i>	B					Ongoing/Forever Action
<i>FL-1. Purchase Repetitive Loss Properties in the Floodplain</i>	D					
<i>Add New Action Items if Applicable</i>						
LANDSLIDES/EROSION						
<i>ER-a. Map and assess vulnerability to erosion.</i>	A					
<i>ER-b. Manage development in erosion hazard areas.</i>	B					Ongoing/Forever Action
<i>ER-c. Promote or require site and building design standards to minimize erosion risk.</i>	B					Ongoing/Forever Action
<i>ER-d. Increase awareness of erosion hazards.</i>	B					Ongoing/Forever Action
<i>LS-a. Map and assess vulnerability to landslides.</i>	A					
<i>LS-b. Manage development in landslide hazard areas.</i>	B					Ongoing/Forever Action
<i>LS-c. Prevent impacts to roadways.</i>	B					Ongoing/Forever Action
<i>LS-1. Survey for potential alluvial fan</i>	D					

City of Ferndale Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
hazards						
<i>Add New Action Items if Applicable</i>						
LAND SUBSIDENCE						
<i>SU-a. Educate residents about subsidence.</i>	D					
<i>Add New Action Items if Applicable</i>						
TORNADOES						
<i>Add New Action Items if Applicable</i>						
TSUNAMI						
<i>TSU-a. Map and assess vulnerability to tsunami.</i>	A					
<i>TSU-b. Manage development in tsunami hazard areas.</i>	A					
<i>TSU-c. Increase public awareness of tsunami hazard.</i>	A					
<i>Add New Action Items if Applicable</i>						
WILDFIRES						
<i>Add New Action Items if Applicable</i>						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
<i>WW-a. Protect buildings and infrastructure.</i>	B					Ongoing/Forever Action
<i>WW-b. Reduce impacts to roadways.</i>	B					Ongoing/Forever Action
<i>WW-c. Conduct winter weather risk awareness activities.</i>	B					Ongoing/Forever Action

City of Ferndale Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Add New Action Items if Applicable						
EXTREME TEMPERATURES						
Add New Action Items if Applicable						
LIGHTNING						
Add New Action Items if Applicable						
SEVERE WIND						
<i>SW-a. Promote or require site and building design standards to minimize wind damage.</i>	B					Ongoing/Forever Action
<i>SW-b. Increase severe wind risk awareness.</i>						
Add New Action Items if Applicable						
MULTIPLE HAZARDS						
<i>MU-a. Assess community risk.</i>	B					Ongoing/Forever Action
<i>MU-b. Map community risk.</i>	B					Ongoing/Forever Action
<i>MU-c. Prevent development in hazard areas.</i>	B					Ongoing/Forever Action
<i>MU-d. Adopt development regulations in hazard areas.</i>	A					
<i>MU-e. Integrate mitigation into local planning.</i>	A					
<i>MU-f. Adopt and enforce building codes.</i>	B					Ongoing/Forever Action
<i>MU-g. Protect structures.</i>	B					Ongoing/Forever Action
<i>MU-h. Protect infrastructure and critical facilities.</i>	B					Ongoing/Forever Action
<i>MU-i. Increase hazard education and risk</i>	B					Ongoing/Forever Action

City of Ferndale Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>awareness.</i>						
<i>MU-j. Improve household disaster preparedness.</i>	D					
<i>Add New Action Items if Applicable</i>						

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WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT

Contact Information

Paula Harris

River and Flood Manager
Whatcom County Public Works
322 N Commercial Street, Suite 120 Bellingham, WA 98225
360-778-6230

Approving Authority

**County Executive Satpal Singh Sidhu and Whatcom County Council
Members, acting as the Whatcom County Flood Control Zone**

District Board of Supervisors
311 Grand Avenue, Suite 308 Bellingham, WA 98225
(360) 676-6717

Planning Process

The updating process started in early 2021. This process consisted of county wide meetings as well as more focused meetings with district staff and Western Washington University, with the goal of improving the Whatcom County Flood Control District section.

Key Contributor List

- Paula Harris, River and Flood Manager
- Kraig Olason, Stormwater Manager
- Andrew Wiser, Geohazard Specialist, Planner

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability and potential mitigation is based on the best science and technology currently available. This information and related data on natural hazards potentially impacting the Flood Control Zone District will be used as a tool when the County updates other plans and programs, such as the following:

- Whatcom County Comprehensive Plan
- Whatcom County Comprehensive Emergency Management Plan
- Shoreline Management Program (part of comprehensive plan)
- Transportation Plan (part of comprehensive plan)

- Urban Growth Areas SubArea Plans
- Zoning Code
- Capital Improvement Program for Whatcom County Facilities

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for Whatcom Flood Control Zone District

The Whatcom County Flood Control Zone District (FCZD) has initiated the Floodplain Integrate Planning (FLIP) process to update and expand the Lower Nooksack River Comprehensive Flood Hazard Management Plan (CFHMP) to include the Upper Forks of the Nooksack River. The Whatcom County River and Flood Division of the Public Works Department is overseeing and coordinating the planning process. An extensive stakeholder group has been established that includes representatives from the resource agencies and special districts involved in river management to contribute to this planning process. Throughout the planning process, regular updates are provided to and feedback solicited from the FCZD Advisory Committee, a citizens committee that includes floodplain residents, mayors of two small cities and interested parties. These meetings are open to the public and are advertised through press releases, emailed agendas to those who request them, and postings on the Whatcom County website calendar. Additional opportunities for public input occur during regular updates to the Whatcom County FCZD Board of Supervisors, which occur during meetings of the Whatcom County Council. Once the CFHMP update is complete, the new risk and mitigation information will be incorporated into the next version of this Plan.

Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	No	
Ongoing public education or information programs	Yes	Provide information of flood hazards and mitigation measures to individuals and as projects develop
School-related programs for natural hazard safety	No	
Public education or information program	Yes	Community Rating System
StormReady certification	No	Whatcom County is a StormReady county.
Firewise Community certification	No	
Public-Private Partnership initiatives addressing disaster-related issues	No	
Other		

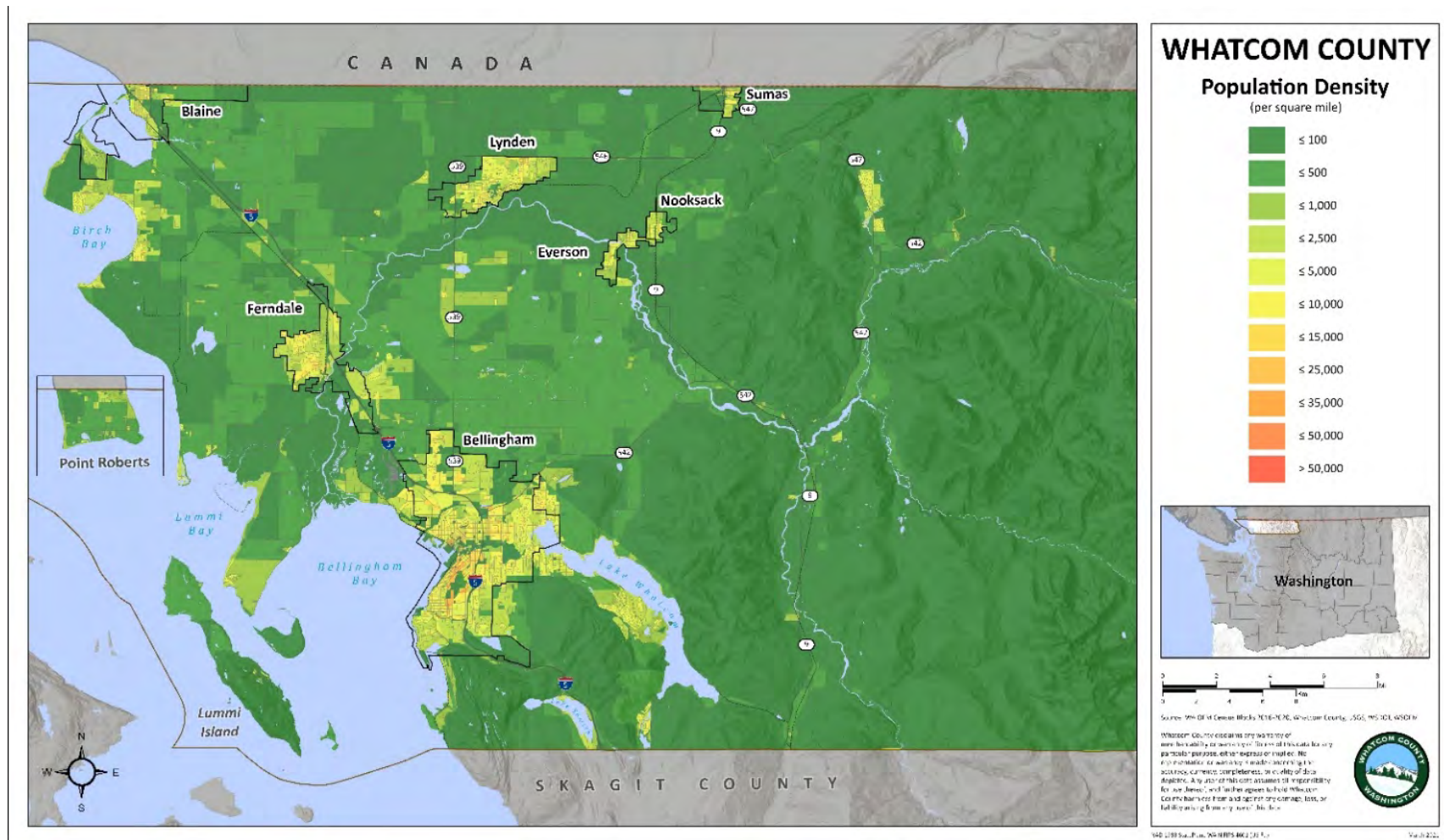
Overview of Whatcom Flood Control District, Hazards and Assets

Geography of The Whatcom Flood Control Zone District

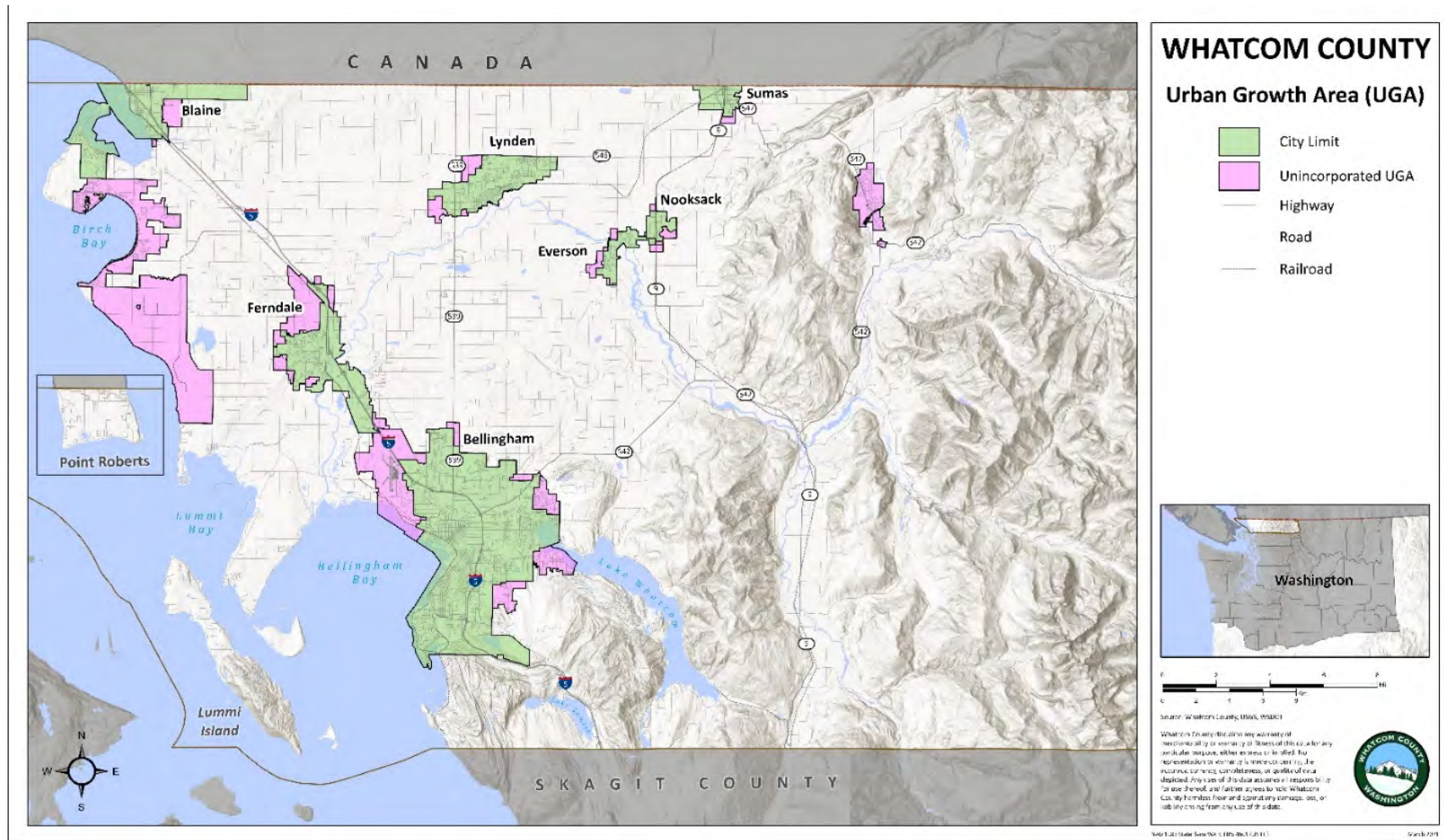
<u>Flood Control Zone District Total Population</u>	<u>228,000 (2020 Census estimate)</u>
<u>Unincorporated Area Population</u>	95,300 <u>(2020 Census estimate)</u>
<u>Flood Control Zone District Total Area</u>	2,120 mi
<u>Flood Control Zone District Incorporated Area</u>	95.4 mi
<u>Flood Control Zone District Unincorporated Area</u>	2,024.6 mi

Growth Trends

This maps below display the district boundaries, population, and the UGA for the Flood Control Zone District, as designated by the Whatcom County Comprehensive Plan.



Washington State Office of Financial Management (OFM) 2020 population and housing estimates for 2010-2020 census block data. This map uses the 2016-2020 average population to show population density per square mile.



Presence of Hazards and their Impacts in the Flood Control Zone District

The Flood Control Zone District encompasses the same area that Whatcom County does, and therefore has the same hazard exposure and impacts. The Flood Control Zone District is primarily concerned with the impacts of flooding and erosion. See the profiles of other jurisdictions or Whatcom County for details on more hazards.

Flooding on the Nooksack River in February of 2020 resulted in significant overflows at Everson that impacted the communities of Everson, Nooksack and Sumas as well as the unincorporated areas. In addition to structural damages to residences and businesses in the Everson-Sumas overflow corridor, the transportation infrastructure in the corridor was impacted for several days during and after the flood.

The Flood Control Zone District's growth is the same as Whatcom County's and the individual communities that make up the district. See their sections for more detail on growth, including exposure to hazards.

In the table below is a list of the major hazards that affect Whatcom County. The second column provides the percentage of the Flood Control Zone District's total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	86.4%	Moderate to High	The risk of earthquakes to the county is moderate to high. Lake shores are especially subject to damage, as well as characteristics of geologic materials in the County have caused major slides that impacted ground transportation.
	Liquefaction	25.5%	Moderate to High	The loss of intergranular strength in saturated, loosely packed sediment due to elevated pore pressures typically generated by seismic shaking during large magnitude earthquakes. Liquefaction can result in a loss of foundation bearing support and significant building damage, as well as lateral spreading, sand boils, and excessive ground settlement with associated disruption of utilities, roadway systems, and infrastructure.
	Landslide	5.8%	Moderate	Multiple areas around the county are at risk of landslides and debris flows due to unstable geologic conditions.
	Volcano	33.9%	High	Many of the populated areas are at risk in the event of a volcanic eruption from Mount Baker and associated lahars.
	Tsunami	1.2%	Low	Portions of the county exposed to the western straits are at risk of tsunami damage, specifically the area around Sandy Point, Lummi Peninsula, and the Nooksack and Lummi River deltas and floodplain upstream to Ferndale.
	Mine Hazards	0.1%	Low	Mine hazards are present throughout the county. Whatcom has a history of coal mining.
Hydrological	Flooding	4.8%	High	The Nooksack River, its upstream forks, alluvial fans on tributaries and coastal areas are subject to flooding. The main coastal communities impacted by coastal flooding are Sandy Point, Birch Bay, Point Roberts, and Lummi Peninsula.

				Damages can include structural damage to residences and seawalls as large debris is carried by waves hitting the shoreline, inundation damage to structures, and debris accumulation and flooding of roadways.
Meteorological	Wildfire	12.3%	Moderate	Certain Communities at Risk have been identified, as well as levels of fire risk.

Severity Scale: **None** = no impact to community function
Low = minor degradation of community functions, not widespread
Moderate = moderate degradation over multiple weeks or widespread
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

Natural hazard maps for the Flood Control District can be found in Section 2, which provides hazard maps for the entire county.

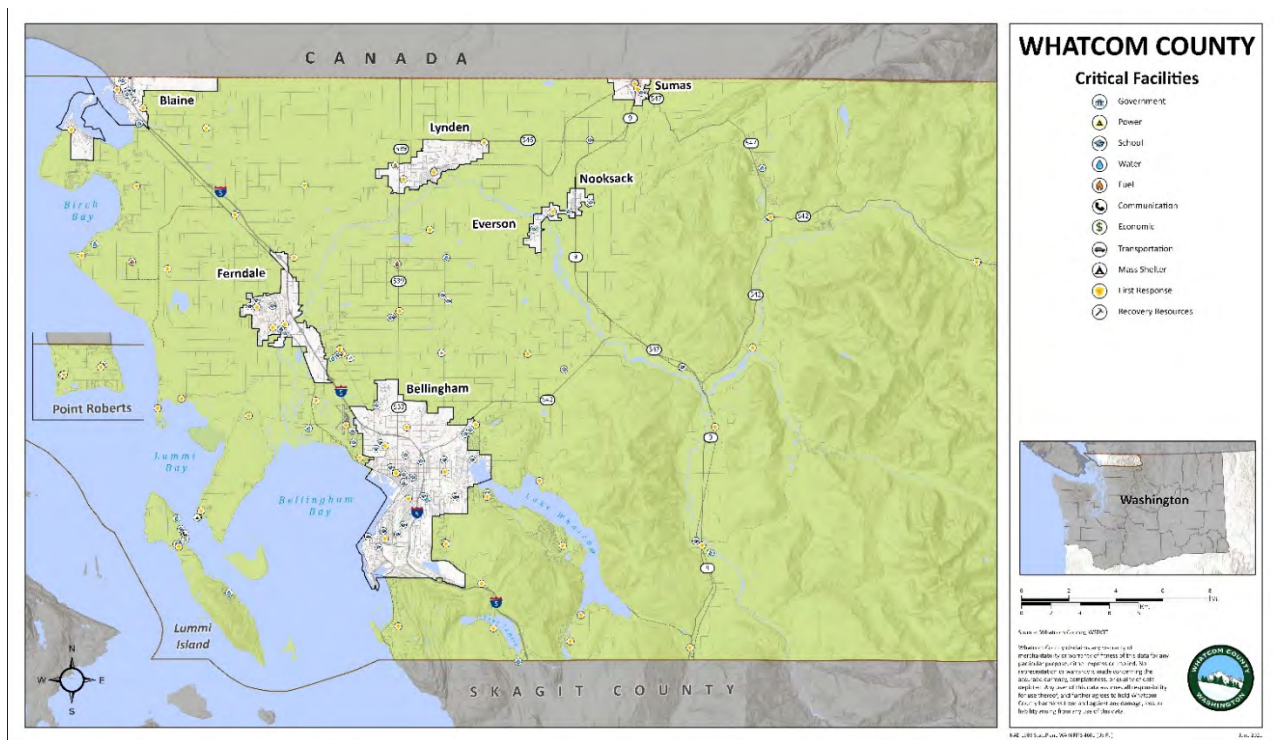
Whatcom Flood Control Zone District Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Columbia Valley Water District	LUS	3	6229 Azure Way, Maple Falls, WA 98266		Water District
Lummi Law & Order	EF	3	Lummi Reservation		Lummi Police
Nooksack Police Department	EF	3	111 W Main St., Everson, WA 98247		Nooksack Police
Northwest Water Works, Inc.	LUS	3	5207 Graveline Rd., Bellingham, WA 98226		Utility: Water
Pole Road Water Association	LUS	3	6912 Hannegan Rd. #105, Lynden, WA 98264		Utility: Water
Schools: Districts 501, 503, 505, 507	EF	1	10 Schools Total		School, possible shelter, distribution site or staging area.
Search & Rescue	LUS	3	1041 W Smith Rd, Bellingham, WA 98226		
Seattle City Light	LUS	3	Newhalem		Utility: Power
Fire Protection District – 38 Total	EF	3	Various		Critical Government Facility
Water District #2 – Bellingham	LUS	3	1615 Bayon Rd, Bellingham, WA 98225		Utility: Water
Water District #7 – Bellingham	LUS	3	1615 Bayon Rd, Bellingham, WA 98225		Utility: Water
Water District #4 – Point Roberts	LUS	3	1405 Gulf Rd, Point Roberts, WA 98281		Utility: Water

Water District #10 – Geneva/Sudden Valley	LUS	3	1220 Lakeway Dr, Bellingham, WA 98229		Utility: Water
Water District #12 – Lake Samish	LUS	3	2195 Nulle Road Bellingham, WA 98229		Utility: Water
Water District #13 – Maple Falls	LUS	3	6229 Azure Way, Maple Falls, WA 98266		Utility: Water
Water District #14 – Glacier	LUS	3	9973 Mt Baker Hwy, Deming, WA 98244		Utility: Water
Water District #18 – Acme	LUS	3	5456 Rothenbuhler Rd., Acme, WA 98220		Utility: Water
BP-Cherry Point Refinery	Fuel	2	4519 Grandview Road		
Birch Bay Water and Sewer (District 8)	LUS	3	7096 Pt. Whitehorn Road		Utility: Water
Birch Bay Water Connection	LUS	3	2701 Bell Road		Utility: Water
Whatcom Unified Emergency Coordination Center	EF	3	3888 Sound Way		Critical Government Facility

Facility Type: EF = Essential Facility; HMF = Hazardous Materials Facility; HPL = High Potential Loss; LUS = Lifeline Utility System

Significance to community function: 1=Moderate; 2= High; 3 =Very High



Map of critical facilities identified by the Whatcom County Flood Control Zone District. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all jurisdictions identified or included critical facilities in each category.

Critical Facility Rankings for the Flood Control Zone District

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of e hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Columbia Valley Water District	LUS	3	1	1	0	0	0	0	0	1	0.45
Lummi Law & Order	EF	3	1	1	0	0	0	0	0	1	0.45
Nooksack Police Department	EF	3	1	1	0	0	0	0	0	0	0.30
Northwest Water Works, Inc.	LUS	3	1	1	0	0	0	0	0	0	0.30
Pole Road Water Association	LUS	3	1	1	0	0	0	0	0	0	0.30
Schools: Districts 501, 503, 505, 507	EF	1	See Whatcom Unincorporated in Section 3 for individual school listings.								0.05-0.33
Search & Rescue	LUS	3	1	1	0	0	0	0	0	0	0.30
Seattle City Light	LUS	3	1	0	0	0	0	1	0	0	0.25
Fire Protection District – 38 Total	EF	3	See Whatcom Unincorporated in Section 3 for individual school listings.								0.3-0.75
Water District #2 – Bellingham	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #7 – Bellingham	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #4 – Point Roberts	LUS	3	1	1	0	1	0	0	0	1	0.75
Water District #10 – Geneva/Sudden Valley	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #12 – Lake Samish	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #13 – Maple Falls	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #14 – Glacier	LUS	3	1	1	1	0	1	1	0	1	1

Water District #18 – Acme	LUS	3	1	1	0	0	1	1	0	1	0.85
BP-Cherry Point Refinery	Fuel	2	1	1	0	0	0	0	0	1	0.30
Birch Bay Water and Sewer (District 8)	LUS	3	1	1	0	1	0	0	0	1	0.75
Birch Bay Water Connection	LUS	3	1	1	0	1	0	0	0	1	0.75
Whatcom Unified Emergency Coordination Center	EF	3	1	1	0	0	0	0	0	0	0.30

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

Flood Control Zone District Exposure to Natural Hazards						
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity					
	<i>MMI IV</i>	7.7%	-	0.03%	-	-
	<i>MMI V</i>	31.7%	15.3%	15.7%	23.6%	\$153
	<i>MMI VI</i>	29.6%	63.5%	66.8%	58.4%	\$1181
	<i>MMI VII</i>	11.7%	13.8%	8.4%	7.9%	\$14
	<i>MMI VIII - IX</i>	5.7%	7.3%	7.4%	10.1%	\$40
	TOTAL	86.4%	99.9%	98.3%	100%	\$1388
	Liquefaction					
	<i>Very Low to Low</i>	14.6%	45.4%	41.8%	51.7%	\$215
	<i>Low to Moderate</i>	6.5%	24.4%	27.5%	24.7%	\$1052
	<i>Moderate</i>	-	-	-	-	-
	<i>Moderate to High</i>	4.4%	7.5%	8.5%	7.9%	\$34
	<i>High</i>	0.02%	-	0.04%	-	-
	TOTAL	25.5%	77.3%	77.84%	84.3%	\$1301
	Landslide					
	<i>Landslide Low</i>	0.7%	0.2%	0.25	-	-
	<i>Landslide Moderate</i>	1%	0.2%	0.1%	-	-
	<i>Landslide High</i>	2.9%	1.2%	1.9%	1.1%	\$0.1
	<i>Fan Low</i>	0.1%	0.1%	0.06%	-	-

	<i>Fan Moderate</i>	0.3%	0.2%	0.2%	-	-
	<i>Fan High</i>	0.8%	2.4%	1.9%	2.2%	\$3
	<i>Mine Hazard</i>	0.1%	0.4%	2.1%	2.2%	\$17
	TOTAL	5.9%	4.7%	6.51%	5.5%	\$20.1
	Volcanic Eruption					
	<i>Case 1 Debris Flows</i>	1.6%	1.9%	2.1%	2.2%	\$0.5
	<i>Case 2 Debris Flows</i>	0.9%	1.2%	-	-	-
	<i>Case M Flows</i>	2.9%	5.6%	6.3%	7.9%	\$34
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	5.8	0.2%	0.6%	1.1%	-
	<i>Lateral Blast Hazard Zone</i>	22.7%	3.8%	5.5%	6.7%	\$11
	TOTAL	33.9%	12.7%	14.5%	17.9%	\$45.5
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	0.3%	2.2%	0.6%	2.3%	\$2
	<i>Moderate to High Inundation Potential</i>	0.3%	2.4%	0.5%	-	-
	<i>High Inundation Potential</i>	0.6%	0.7%	5.6%	2.3%	\$0.4
	TOTAL	1.2%	5.3%	6.7%	4.6%	\$2.4
Hydrological Hazards	Flooding					
	<i>100-year Flood</i>	3.5%	6.7%	8%	3.4%	\$1
	<i>500-year Flood</i>	0.4%	1.9%	3.4%	4.5%	\$4
	<i>Floodway</i>	0.9%	1.4%	-	-	-
	<i>Undetermined (Zone D)</i>	52.1%	0.1%	0.05%	1.1%	\$9
	TOTAL	4.8%	10.1%	11.45%	9%	\$14

Meteorological Hazards	Wildfire Zones					
	Interface Very Low-Low Structure Density	0.9%	1.9%	7.7%	1.1%	\$0.4
	Interface Medium-High Structure Density	1.4%	23.2%	26.9%	41.6%	\$1208
	Intermix Very Low-Low Structure Density	5.9%	17.2%	1.6%	30.3%	\$112
	Intermix Medium-High Structure Density	4.1%	32.1%	30.4%	22.5%	\$36
	TOTAL	12.3%	74.4%	66.6%	95.5%	\$1356.4

Status of Whatcom County Flood Control Zone District's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

Education and Outreach

EO-a. Ensure Welfare and Safety of Residents

For alluvial fans and landslides, additional measures recommended by studies are listed below. In general, the following steps should be implemented to reduce risk of the four geologic hazards – alluvial fans, coalmines, landslides, and seismic hazards – affecting Whatcom County:

- Train local Fire District volunteers on using the County's reverse 911 notification system to message community members in alluvial fan areas when danger is eminent.
- Limit, and if possible, eliminate new development in high-risk hazard areas.
- If new development is to be permitted, mitigate new construction to address the specific geological hazard.
- Educate existing property owners at risk to help minimize the risk of the local hazards.
- If cost effective, buyout high-risk properties.
- As a last-case resort, consider engineering solutions to manage the specific geologic hazard, if proven effective.

The Whatcom County FCZD has developed hazard mitigation recommendations strategies for several of the more developed alluvial fans, including Canyon Creek and Jones Creek. See the Geologic Hazard section of this Plan for further details.

Lead Agency	FCZD
Funding Source	Local, state and FEMA
Current Status	Ongoing

EO-b. Public service announcements: Broadcast early warning video on local TV

Lead Agency	FCZD and Public Works River and Flood.
Funding Source	Local
Current Status	Ongoing

EO-c. Newsletters: Flood preparedness newsletter and related flood materials, such as homeowner's retrofit guide, etc. Annual distribution of flood preparedness newsletter to floodplain residents.

Lead Agency	FCZD and Public Works River and Flood.
Funding Source	Local
Current Status	Ongoing

EO-d. Direct Mailings: Direct mailings to lenders/realtors/insurance agents and repetitive flood loss properties annually.

Lead Agency	FCZD and Public Works River and Flood.
Funding Source	Local
Current Status	Ongoing

Drought/heat wave

No actions ongoing, discontinued, or completed for this hazard.

Earthquake

EQ-a. Support County EQ recovery: The FCZD will support Whatcom County in responding to any flood-related impacts that could result from an earthquake.

Lead Agency	FCZD
Funding Source	Local, State and FEMA
Current Status	Ongoing

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

FL-a. Comprehensive Flood Hazard Management Plan: The mitigation strategies and recommendations for all five reaches of the Nooksack River and other areas prone to flooding are explored in the Flooding section of this Plan. The River and Flood Division, Whatcom County Public Works has published a Comprehensive Flood Hazard Management Plan (CFHMP) for the Lower Nooksack River which details the projects on the lower river downstream of Deming. This plan was prepared for the Whatcom County FCZD and was adopted by the District’s Board of Supervisors. Since its adoption in 1999, the Whatcom County FCZD has been working to implement the plan. A multi-year collaborative process to update the plan and expand it to include the Upper Forks is currently underway.

Lead Agency	FCZD
Funding Source	Local, State, EPA, NOAA
Current Status	Ongoing

FL-b. Adopt and Enforce Building Codes and Development Standards. Whatcom County River and Flood continues to review all developments permits within the floodplain to ensure compliance with Whatcom County Title 17, Flood Damage Prevention and the National Flood Insurance Program.

Lead Agency	Whatcom County Public Works River and Flood and Whatcom County Planning
Funding Source	Local, State, FEMA
Current Status	Ongoing

FL-c. Improve Flood Risk Assessment. In January of 2019, FEMA adopted new floodplain maps for most of the flooding sources in Whatcom County except for the Lower Nooksack River. Work is ongoing to complete and adopt new mapping for the Lower Nooksack River.

Lead Agency	Whatcom County FCZD and Public Works River and Flood
Funding Source	Local, State, FEMA
Current Status	Ongoing

FL-d. Improve Compliance with NFIP. Whatcom County continues to educate the real estate and development community on flood hazards and the requirements for building within special flood hazard areas as part of the Community Rating System. An educational flyer is also being developed to help simplify the steps in permitting developments in the floodplain for property owners and their agents.

Lead Agency	Whatcom County Public Works River and Flood
Funding Source	Local, Private
Current Status	Ongoing

FL-e. Manage the Floodplain Beyond Minimum Requirements. Whatcom County's flood damage prevention ordinance requires new and substantially improved structures to be elevated one foot above the base flood elevation.

Lead Agency	Whatcom County Public Works River and Flood
Funding Source	Local
Current Status	Ongoing

FL-f. Participate in the CRS. Whatcom County River and Flood administers the CRS program in Whatcom County and continues to maintain a CRS rating of 6, resulting in a 20% discount on flood insurance premiums for unincorporated Whatcom County residents.

Lead Agency	Whatcom County Public Works River and Flood
Funding Source	Local, State, FEMA
Current Status	Ongoing

FL-g. Remove Existing Structures from Flood Hazard Areas. The FCZD acquired three additional residences in Marietta and removed the structures from the parcels. Additionally, the FCZD acquired a large agricultural parcel in the floodplain north of Ferndale for future wetland mitigation and the existing residence was removed.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local, State, FEMA
Current Status	Ongoing

FL-h. Improve Stormwater Drainage System Capacity. Improved stormwater conveyance has been the focus of the BBWARM District (Birch Bay area of Whatcom County Stormwater Program) over the past decade. Projects from 2015 through 2020 include: Seaview Drive Drainage upgrade, replaced failing storm conveyance system, 2016 – Birch Point Drainage repair, replaced undersized marine outfall which resulted in regular flooding and landslides,

2017 – upgraded an inlet and increased headwall bank height to reduce regular flooding of a neighborhood, 2018 – regraded ditches and replaced driveway culverts to improve drainage system capacity, 2019 – major capacity upgrade consisting of 3,000 feet of pipe and new outfall.

Another focus area within Whatcom County for stormwater improvements is the Lake Whatcom watershed which provides the drinking water to over 100,000 people. Projects typically focus on conveyance and treatment improvements which seek to reduce phosphorus runoff into the lake. Projects in this area from 2015 – 2020 include: Academy Road Improvements, a water quality treatment facility utilizing “Filtera” media and sand polishing cells, 2016- Cedar Hills/Euclid, a variety of water quality treatment methods including swales, treatment cells and cartridge vaults, 2018 – Agate Bay Phase 1, installation of 3 cartridge filter vaults and conveyance upgrades, 2019 – Agate Bay Phase 2, installation of 3 cartridge filter vaults and conveyance upgrades, 2020 – North Shore/Edgewater cartridge treatment vault and conveyance upgrade.

Lead Agency	Whatcom County FCZD/Public Works Stormwater and Engineering
Funding Source	Local, State
Current Status	Ongoing

FL-i. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures.

Whatcom County Maintenance & Operations continues to maintain the drainage system within the County’s rights-of-way. Whatcom County River and Flood continues to with drainage and diking districts and Subzones to maintain the drainage systems and flood control structures within their districts.

Lead Agency	Whatcom County Public Works Maintenance and Operations
Funding Source	Local
Current Status	Ongoing

FL-j. Protect Infrastructure. The Deming Levee Improvement Project was constructed in 2017; a portion of the upstream end of the levee was set back from the river and raised to protect Nooksack tribal infrastructure, including their sewage treatment facilities for the former casino, as well as the town of Deming. Capital projects aimed at addressing deficiencies and/or repairing damages caused by floods. were conducted on the following levees during the 2016-2020 timeframe: Twin View Levee, Hannegan Levee, Red River Levee, Rayhorst Levee and Marine Drive Levee. Emergency projects were implemented at Rutsatz Road and Truck Road to

prevent erosion damage to the roadways. Sediment traps were constructed on High Creek to reduce flooding of the Mt Baker Highway. A project to reduce the threat of erosion of the Abbott Levee and Abbott Road is currently in final design and planned for construction in 2021.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local, state, USACE, Private, Other
Current Status	Ongoing

FL-k. Protect Critical Facilities. Detailed design work is underway for two levee improvement projects to protect critical infrastructure in the Cities of Lynden and Ferndale. Improvements to the Lynden Levee adjacent to their sewage treatment plant are planned for construction in 2021 by the USACE; this work is being done in conjunction with a FCZD project to realign the creek that runs behind and under the levee. Detailed design for improvements to the Ferndale Levee is still in the early stages; this levee protects the City's water and wastewater treatment plants and the PUD's water treatment facility. Detailed design and land acquisition is also underway for the Jones Creek deflection berm that will mitigate debris flood hazards to the Acme Elementary School.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local, state, FEMA, Private, Other
Current Status	Ongoing

FL-m. Protect and Restore Natural Flood Mitigation Features. Incorporating natural flood mitigation features into flood control structure design has become the new norm. The Deming Levee was set back connecting more floodplain area and a disconnected tributary was reconnected to the river. The Lynden Levee project includes realigning a small tributary behind the levee farther from the wastewater treatment plant facilities and improving habitat. The Abbott Levee project has been designed as habitat structures along the bank that will reduce the risk of the river eroding into the levee prism.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local, state, FEMA, Private, Other
Current Status	Ongoing

Alluvial Fans

AF-a. Map and Assess Alluvial Fans Hazards. A detailed hazard assessment was performed for the Glacier-Gallup alluvial fans in the town of Glacier. This work will be used in developing a long-term solution to addressing the levee deficiency on the Glacier Levee and reducing risk to the town of Glacier.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local
Current Status	Ongoing

AF-b. Manage Development in Alluvial Fan Hazard Areas. Whatcom County Planning and Development Services continues to review new development proposals in alluvial fans to ensure compliance with the Critical Areas Ordinance.

Lead Agency	Whatcom County Planning
Funding Source	Local, Private
Current Status	Ongoing

AF-c. Promote or Require Site and Building Design Standards to Minimize Risk on Alluvial Fans. Residential development that has occurred in regulated Alluvial Fan Hazard Areas has been subject to recommendations prepared by a qualified professional (Licensed Geologist) intended to mitigate hazards posed to the development and life-safety. Recommendations primarily consist of siting recommendations intended to achieve hazard avoidance to the maximum extent feasible as well as prevent the transfer of risk to adjacent or down-stream properties. In the event that avoidance cannot be accomplished due to site constraints, estimates of debris flow/flood conditions anticipated during a code-defined event (500-year recurrence debris flow) are provided by the qualified professional for incorporation in the foundation and building design by the project structural engineer. Structural measures employed vary based on proximity to the hazard source and the severity of estimated flow/flood conditions, but typically included elevating finish floor above estimated flow/flood depths, deepened foundation embedment with armoring to prevent scour, and increased foundation reinforcement to withstand flood and debris impacts or pier foundations to allow flow through of flood waters and debris.

Lead Agency	Whatcom County Planning
Funding Source	Local, Private
Current Status	Ongoing

AF-d. Remove Existing Buildings and Infrastructure from Erosion/Alluvial Fan Hazard Areas.

One resident on the Jones Creek alluvial fan is being relocated to enable construction of the Jones Creek deflection berm. Once acquired all structures will be removed.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local, State, FEMA
Current Status	Ongoing

AF-e. Develop Basin-Specific Plans for Alluvial Fan Hazard Areas. With the Glacier-Gallup hazard assessment now complete, work is underway to evaluate alternatives to address the deficiencies on the Glacier Levee and reduce the risk to the town of Glacier.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local
Current Status	Ongoing

AF-f. Construct Mitigation Measures on Alluvial Fan Hazard Areas. Detailed design of the Jones Creek deflection berm is ongoing and will be completed once the final properties needed for construction of the deflection berm are acquired.

Lead Agency	Whatcom County FCZD/Public Works River and Flood
Funding Source	Local, State, FEMA, Private
Current Status	Ongoing

AF-g. Increase Awareness of Alluvial Fan Hazards. Whatcom County Public Works participates with the Acme Fire District during their annual outreach activities with the community of Acme; these have included public meetings, response and evacuation planning and reverse 911 call outs to the community. Community involvement is also an integral part of the Glacier-Gallup project; a community meeting was held at the start of the project in 2019 and more are planned as the project proceeds.

Lead Agency	Whatcom County FCZD/Public Works and Whatcom Unified Emergency Management.
Funding Source	Local
Current Status	Ongoing

Landslide/erosion

No actions ongoing, discontinued, or completed for this hazard.

Landslide Subsidence

No actions ongoing, discontinued, or completed for this hazard.

Lightning

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

No actions ongoing, discontinued, or completed for this hazard.

Tornadoes

No actions ongoing, discontinued, or completed for this hazard.

Tsunami

TSU-a. Ensure the Welfare and Safety of Residents. With new data available, tsunamis have been identified as a greater threat to Whatcom County and the jurisdictions within than previously thought. Education about tsunamis and acceptance of the threat must precede any plans. Both civic leaders and the public need to understand that there is a threat, and further, have a clear understanding of what the threat entails. Even with the current new data, there is not a clear understanding of the extent of a tsunami threat. More data needs to be obtained, specific to each community along the western border of Whatcom County. There is more tsunami mitigation plan information contained within the tsunami section of this Plan.

The following steps have been implemented to reduce tsunami risk:

- Finish all tsunami inundation mapping for the coast line of Whatcom County.
- Secure tsunami hazard signs from the State of Washington to post in the newly mapped inundation areas.
- Limit, and if possible, eliminate new development in high-risk hazard areas.
- If new development is to be permitted, mitigate new construction to address the specific tsunami hazard.

- As funding permits acquire more tsunami AHAB sirens for the remaining areas threatened by inundation.

The FCZD will support Whatcom County in responding to flooding associated with a tsunami.

Lead Agency	FCZD
Funding Source	Local, state and FEMA
Current Status	Ongoing

Volcanoes

VOL-a. Reduce Risk from Volcanic Activity. Raising awareness and educating both civic leaders and the public in the areas subject to volcano-related damage is very important. Recent statewide campaigns and the news-related stories of volcanoes in the state have sparked interest for those living in the shadow of Mount Baker, Whatcom County's volcano. More awareness and education needs to take place, especially with regards to warning signals of a volcanic eruption and the types of damage that can occur with an eruption with special attention to Lahars. There is more information about volcano-hazard mitigation planning under the Volcano section of this Plan.

The following steps have been implemented to reduce risk of volcanic activity:

- Finish the Mt. Baker / Glacier Peak Volcanic Eruption Plan, and complete a table top exercise based on it.
- Continue to message the citizens who reside in Glacier and Mt. Baker areas on the risks of living on a volcano.

The FCZD will support Whatcom County in responding to any flood-related impacts that could result from a volcano.

Lead Agency	FCZD
Funding Source	Local, state and FEMA
Current Status	Ongoing

Wildfire

WF-a. Create Mitigation Strategies in Cooperation with State and Federal Departments. In cooperation with fire managers from WDNR, NW Region, three mitigation strategies were developed to address Whatcom County's fire hazards:

- Inter-Agency Cooperation
- County-wide Wildland Fire Prevention
- Wildland/Urban Interface Communities at Risk

The FCZD will support Whatcom County in responding to any flood-related impacts that could result from any wildfires. More information and details can be found in the Wildland Fire section of this Plan.

Lead Agency	FCZD
Funding Source	Local, state and FEMA
Current Status	Completed

Winter storms/Freezes

No actions ongoing, discontinued, or completed for this hazard.

Multiple Hazards

No actions ongoing, discontinued, or completed for this hazard.

Flood Control Zone District 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Flood Control Zone District-Specific Hazard Mitigation Goals

The 1999 Lower Nooksack River CFHMP included the following community-specific mitigation planning goals for the Flood Control Zone District:

FCZD Goal A: Protect lives

FCZD Goal B: Minimize damage to public and private property and to public resources

FCZD Goal C: Provide a comprehensive understanding of the river

FCZD Goal D: Propose projects with a positive environmental benefit

FCZD Goal E: Maintain ongoing jurisdictional involvement and cooperation

FCZD Goal F: Emphasize long-term solutions

FCZD Goal G: Minimize public expenditures related to flooding

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Flood Control Zone District considered mitigation options related to those that Whatcom County itself has considered, especially those related to flooding and alluvial fans, because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for the Flood Control Zone District. Some options have already been implemented or are ongoing in Flood Control Zone

District, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

Whatcom County FCZD chose to prioritize its hazard mitigation strategies according to hazard, not by specific facilities. The FCZD is currently very involved with flood hazard mitigation and will continue with flooding as the primary mitigation project priority. Flood-related mitigation related to geological hazards is also a District priority.

The mitigation actions in this section are new actions that Flood Control Zone District has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property and public welfare. Flood Control Zone District is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Priority:	H (High); M (Medium); L (Low)
Timeline:	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
Funding Source:	Local; State; FEMA; Private; Other
Estimated Cost:	Actual; Estimated

Flood Control District Identified Mitigation Actions 2021-2025

FLOOD CONTROL ZONE DISTRICT IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Education and Outreach Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	<i>EO-a. Ensure Welfare and Safety of Residents</i>	1	FCZD	M	O	Local, State, and FEMA	Staff
	<i>EO-b. Public Service Announcements</i>	1	FCZD and Public Works River and Flood	M	O	Local	
	<i>EO-c. Newsletters</i>	2	FCZD and Public Works River and Flood	M	O	Local	
	<i>EO-d. Direct Mailings</i>	2	FCZD and Public Works River and Flood	M	O	Local	
Hazard Specific (Reference: <u>Whatcom County</u>)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						

FLOOD CONTROL ZONE DISTRICT IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Mitigation Ideas)							
Dam/Levee Failures (See: Flooding)	There are no new actions considered/all actions ongoing, discontinued, or completed						
Droughts/Heat Waves	There are no new actions considered/all actions ongoing, discontinued, or completed						
Earthquakes	<i>EQ-a. Support County EQ Recovery</i> The FCZD will support Whatcom County in responding to any flood-related impacts that could result from an earthquake	1, 3, 5	FCZD	L	O	Local, State, and FEMA	Unknown
Extreme Temperatures	There are no new actions considered/all actions ongoing, discontinued, or completed						
Flooding	<i>FL-a Ongoing -- Comprehensive Flood Hazard Management Plan</i>	1, 5	FCZD	M	O	Local, State, NOAA, EPA	

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>FL-b Ongoing -- Adopt and Enforce Building Codes and Development Standards</i>	1	Whatcom County Public Works River and Flood and Whatcom County Planning	M	O	Local State, FEMA	
	<i>FL-c Ongoing -- Improve Flood Risk Assessment</i>	1	Whatcom County FCZD and Public Works River and Flood	M	O	Local, State, FEMA	
	<i>FL-d Ongoing -- Improve Compliance with NFIP</i>	1	Whatcom County Public Works River and Flood	M	O	Local, Private	
	<i>FL-e Ongoing -- Manage the Floodplain Beyond Minimum Requirements</i>	1	Whatcom County Public Works River and Flood	M	O	Local	
	<i>FL-f Ongoing -- Participate in the CRS</i>	1	Whatcom County Public	M	O	Local, State, FEMA	

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Works River and Flood				
	<i>FL-g Ongoing -- Remove Existing Structures from Flood Hazard Areas</i>	1, 3	Whatcom County FCZD/Public Works River and Flood	M	O	Local, State, FEMA	
	<i>FL-h Ongoing -- Improve Stormwater Drainage System Capacity</i>	1	Whatcom County FCZD/Public Works Stormwater and Engineering	M	O	Local, State	
	<i>FL-i Ongoing -- Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>	1	Whatcom County Public Works Maintenance and Operations	M	O	Local	

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>FL-j Ongoing -- Protect Infrastructure</i>	1	Whatcom County FCZD/Public Works River and Flood	M	O	Local, state, U SACE, Private, Other	
	<i>FL-k Ongoing -- Protect Critical Facilities</i>	1	Whatcom County FCZD/Public Works River and Flood	M	O	Local, state, FEMA, Private, Other	
	<i>FL-m. Protect and Restore Natural Flood Mitigation Features</i>	1, 3	Whatcom County FCZD/Public Works River and Flood	M	O	Local, state, FEMA, Private, Other	
	F-1 Incorporate Flood Mitigation in Local Planning	1,2	Whatcom County FCZD/Public Works River and	H	L	Local, state, FEMA	

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Flood and Whatcom County Planning				
	F-2 Form Partnerships to Support Floodplain Management	1,4	Whatcom County FCZD/Public Works River and Flood	H	L	Local, state, NOAA, Private	
	F-3 Limit or Restrict Development in Floodplain Areas	1,3	Whatcom County Public Works River and Flood and Whatcom County Planning	H	L	Local	
	FL-4 Improve Stormwater Management Planning	1,5	Whatcom County FCZD/Public Works Stormwater	M	L	Local, State	
	FL-5 Adopt Polices to Reduce Stormwater Runoff	3,5	Whatcom County Public Works	L	L	Local, State	

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Engineering Services				
	FL-6 Establish Local Funding Mechanisms for Flood Mitigation	1, 4	Whatcom County FCZD	L	L	Local	
	FL-7 Elevate or Retrofit Structures and Utilities	1, 4	Whatcom County Departments do not engage in this activity as public funds are not spent on private infrastructure. But these actions may be taken in the future.	L	L	Local, State, FEMA	
	FL-8 Flood proof Residential and Non-Residential Structures	1, 4	Whatcom County Departments do not engage in this activity as	L	L	Local, State, FEMA	

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			public funds are not spent on private infrastructure. But these actions may be taken in the future.				
	FL-9 Preserve Floodplains as Open Space	1, 3	Whatcom County FCZD/Public Works River and Flood and Whatcom County Planning.	H	L	Local, State, FEMA, Private	
	FL-10 Increase Awareness of Flood Risk and Safety	2	Whatcom Unified Emergency Management	M	L	Local	
	FL-11 Educate Property Owners about Flood Mitigation Techniques	2	Whatcom County FCZD/Public	M	L	Local	

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			Works River and Flood.				
Landslide/ Erosion	There are no new actions considered/all actions ongoing, discontinued, or completed						
Land Subsidence	There are no new actions considered/all actions ongoing, discontinued, or completed						
Lightning	There are no new actions considered/all actions ongoing, discontinued, or completed						
Severe Storms	There are no new actions considered/all actions ongoing, discontinued, or completed						
Severe Wind	There are no new actions considered/all actions ongoing, discontinued, or completed						
Volcanoes	<i>VOL-a. Reduce risk from volcanic activity</i>	1, 2, 5	FCZD	M	O	Local, State, and FEMA	Staff

**FLOOD CONTROL ZONE DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Tsunami	<i>TSU-a. Ensure the welfare and safety of residents.</i>	1	FCZD	L	O	Local, State, and FEMA	Staff
Wildfires	<i>WF-a. Create Mitigation Strategies in Cooperation with State and Federal Departments</i>	1, 5	FCZD	Complete	Complete	Local, State, FEMA	
Winter Storms/ Freezes (Severe Winter Weather)	There are no new actions considered/all actions ongoing, discontinued, or completed						
Multiple Hazards	There are no new actions considered/all actions ongoing, discontinued, or completed						
Advanced Mitigation Projects (Dream List)							

Flood Control District Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

Flood Zone Control District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
EDUCATION AND OUTREACH						
<i>EO-a. Ensure Welfare and Safety of Residents:</i>						
<i>EO-b. Public service announcements</i>						
<i>EO-c. Newsletters</i>						
<i>EO-d. Direct Mailings</i>						
<i>Add New Action Items if Applicable</i>						
DAM/LEEVE FAILURES						
<i>Add New Action Items if Applicable</i>						
DROUGHTS/HEAT WAVES						
EARTHQUAKES						
<i>EQ-a. Support County EQ recovery</i>						
<i>Add New Action Items if Applicable</i>						
VOLCANOES						
<i>VOL-a. Reduce Risk from Volcanic Activity</i>						
<i>Add New Action Items if Applicable</i>						
FLOODING						
<i>FL-a. Comprehensive Flood Hazard Management Plan</i>						
<i>FL-b. Adopt and Enforce Building Codes and Development Standards</i>						

Flood Zone Control District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>FL-c. Improve Flood Risk Assessment</i>						
<i>FL-d. Join or Improve Compliance with NFIP</i>						
<i>FL-e. Manage the Floodplain Beyond Minimum Requirements</i>						
<i>FL-f. Participate in the CRS</i>						
<i>FL-g. Remove Existing Structures from Flood Hazard Areas</i>						
<i>FL-h. Improve Stormwater Drainage System Capacity</i>						
<i>FL-i. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>						
<i>FL-j. Protect Infrastructure</i>						
<i>FL-k. Protect Critical Facilities</i>						
<i>FL-l. Construct Flood Control Measures</i>						
<i>FL-m. Protect and Restore Natural Flood Mitigation Features</i>						
F-1 Incorporate Flood Mitigation in Local Planning						
F-2 Form Partnerships to Support Floodplain Management						
F-3 Limit or Restrict Development in Floodplain Areas						
FL-4 Improve Stormwater Management Planning						
FL-5 Adopt Policies to Reduce Stormwater Runoff						
FL-6 Establish Local Funding Mechanisms for Flood Mitigation						
FL-7 Elevate or Retrofit Structures and						

Flood Zone Control District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Utilities						
FL-8 Flood proof Residential and Non-Residential Structures						
FL-9 Preserve Floodplains as Open Space						
FL-10 Increase Awareness of Flood Risk and Safety						
FL-11 Educate Property Owners about Flood Mitigation Techniques						
Add New Action Items if Applicable						
ALLUVIAL FANS						
AF-a. Map and Assess Alluvial Fans Hazards						
AF-b. Manage Development in Alluvial Fan Hazard Areas						
AF-c. Promote or Require Site and Building Design Standards to Minimize Risk on Alluvial Fans						
AF-d. Remove Existing Buildings and Infrastructure from Erosion/Alluvial Fan Hazard Areas						
AF-e. Develop Basin-Specific Plans for Alluvial Fan Hazard Areas						
AF-f. Construct Mitigation Measures on Alluvial Fan Hazard Areas						
AF-g. Increase Awareness of Alluvial Fan Hazards						
Add New Action Items if Applicable						
LANDSLIDES/EROSION						
Add New Action Items if Applicable						

Flood Zone Control District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
LAND SUBSIDENCE						
Add New Action Items if Applicable						
TSUNAMI						
TSU-a. Ensure the Welfare and Safety of Residents						
Add New Action Items if Applicable						
WILDFIRES						
WF-a. Create Mitigation Strategies in Cooperation with State and Federal Departments						
Add New Action Items if Applicable						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
Add New Action Items if Applicable						
EXTREME TEMPERATURES						
Add New Action Items if Applicable						
LANDSLIDE						
Add New Action Items if Applicable						
LIGHTNING						
Add New Action Items if Applicable						
SEVERE WIND						
Add New Action Items if Applicable						
MULTIPLE HAZARDS						

Flood Zone Control District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Add New Action Items if Applicable						

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LAKE WHATCOM WATER AND SEWER DISTRICT

Contact Information

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Safety Officer
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Bellingham, WA 98229
360.734.9224 / 360.296.4590

Approving Authority

Board of Commissioners
Lake Whatcom Water and Sewer District
1220 Lakeway Drive
Bellingham, WA 98229
360.734.9224

Planning Process

The Lake Whatcom Water and Sewer District completed an update to the District-specific content contained in the prior (2016) Plan through District department head review and formal adoption by the Board of Commissioners. In addition, District staff participated in all coordination meetings hosted by the Whatcom County Sheriff's Office Division of Emergency Management, updated the District's critical facility information based upon facilities constructed or improved since 2016, and incorporated a 2020 asset valuation conducted on all District-owned facilities. The District performed public outreach throughout the planning process through routine staff updates on the revision progress during regularly scheduled Board meetings, inviting public participation through the District's social media accounts, and ultimately through resolution adoption by the District Board during a regularly scheduled public meeting.

Key Contributor List

- Justin Clary, General Manager
- Bill Hunter, District Engineer/Assist. General Manager
- Rich Munson, Safety Officer

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability, and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting the Lake Whatcom Water and Sewer District will be used as a tool when the District

updates other plans and programs, such as the following:

- Emergency Response Plan
- Comprehensive Sewer Plan
- Water System Comprehensive Plan
- Water and Sewer Utility Capital Improvement Programs

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for Lake Whatcom Water & Sewer District

For each Whatcom County-led Plan revision, the District will review and revise District-specific content, perform public outreach via applicable avenues, and undergo formal Board of Commissioner adoption of the revised Plan during a regularly scheduled public meeting.

Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	No	not applicable
Ongoing public education or information programs	Yes	Periodic posts to District Facebook and web pages providing emergency preparedness information; periodic presentation to Sudden Valley Community Assoc. board regarding capital project and operational information
School-related programs for natural hazard safety	No	not applicable
Public education or information program	Yes	Water conservation education to limit system capacity impacts; semi-annual utility bill inserts on emergency and winter weather preparedness

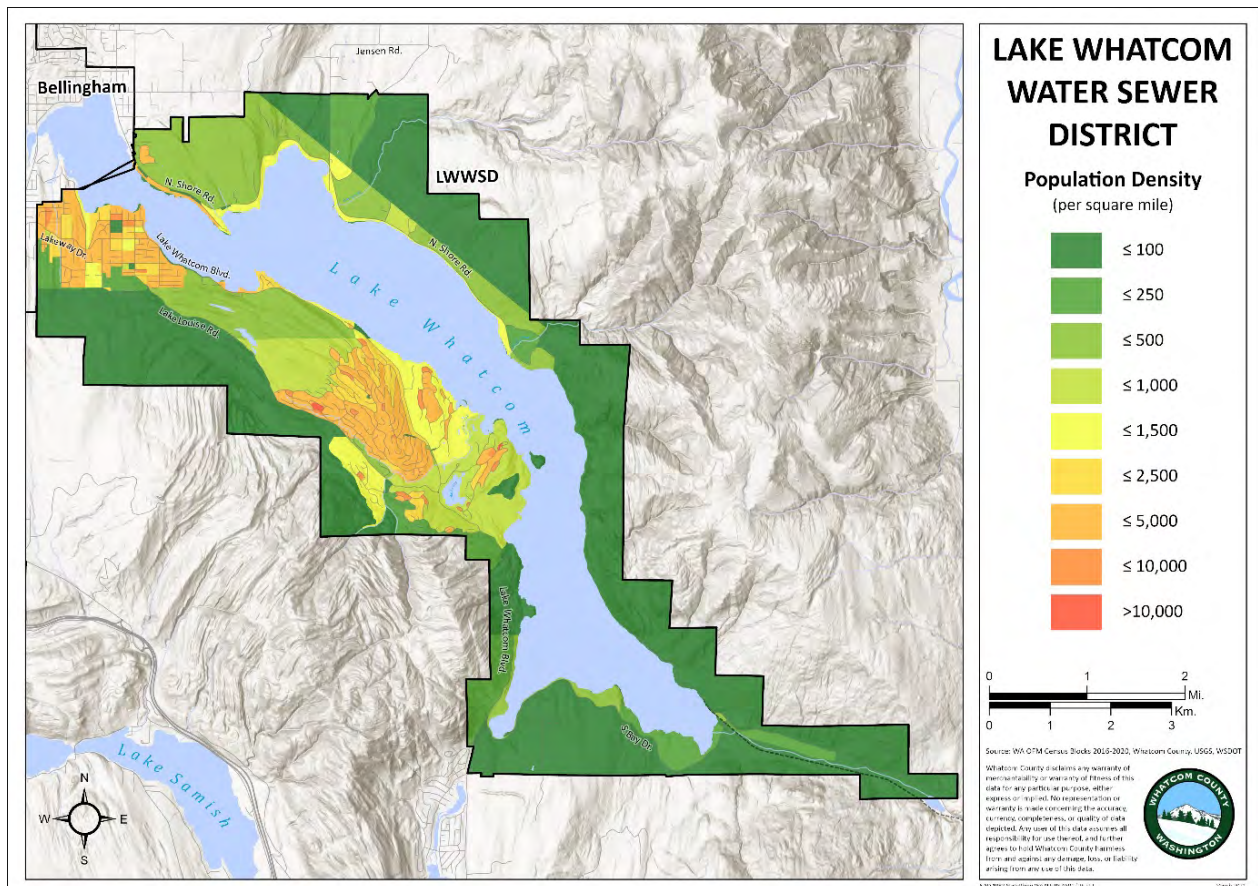
StormReady certification	No	not applicable
Firewise Community certification	No	not applicable
Public-Private Partnership initiatives addressing disaster-related issues	No	not applicable
Other	none	not applicable

Overview of Lake Whatcom Water & Sewer District, Hazards, and Assets

Geography of Lake Whatcom Water & Sewer District

District Population	12,000 (2020 estimate)
Total area	18 sq. mi.

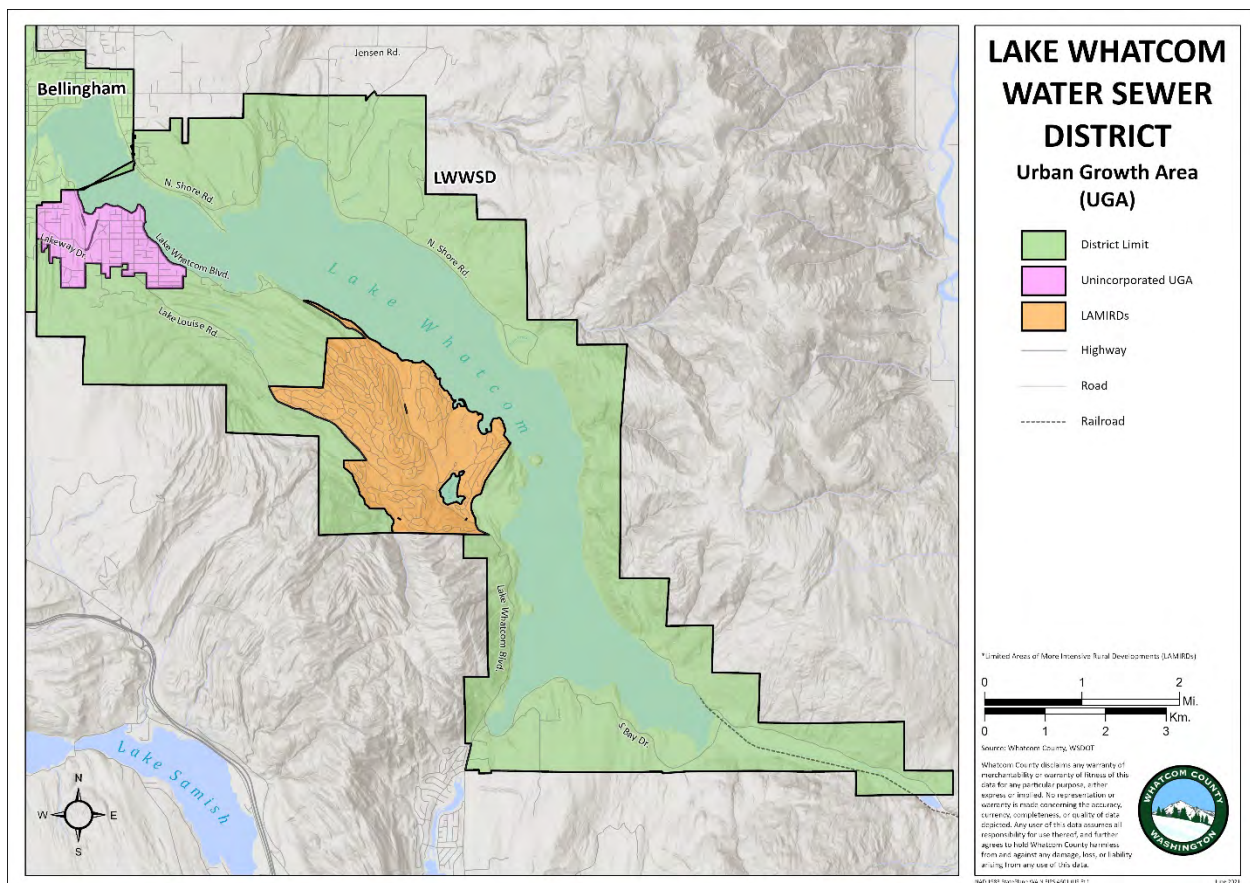
This map displays the service area for the Lake Whatcom Water and Sewer District, as defined in the resolution adopted by the Whatcom County Board of Commissioners on November 21, 1968, that created the District.



Washington State Office of Financial Management (OFM) 2020 population and housing estimates for 2010-2020 census block data. This map uses the 2016-2020 average population to show population density per square mile.

Growth Trends

The District's service area includes the City of Bellingham's Geneva Urban Growth Area, as well as the Sudden Valley LAMIRD (limited area of more intense rural development land use designation in Whatcom County Code). The majority of growth within the District since the last Plan update, as well as future growth projections, occurs in these two areas.



Presence of Hazards and their Impacts in the Lake Whatcom Water & Sewer District

Throughout its over 50-year existence, the District has had limited impact to its services and/or infrastructure caused by natural hazard-related events, with those that have occurred being landslide and riverine flooding caused by severe storm events. Of those events that have impacted District services, all have been ephemeral, lasting no more than a couple days, with most having services restored within 24 hours.

With the District wholly located within the environmentally sensitive Lake Whatcom Watershed, land use restrictions have been adopted within the Whatcom County Comprehensive Plan and Whatcom County Code to limit further development within the watershed. As a result, the District has witnessed relative low growth since issuance of the 2016 Plan, with much of the growth that has occurred being in the Sudden Valley LAMIRD (limited area of more intense rural development land use designation) and Geneva UGA. While the topography of Sudden Valley is largely comprised of lands classified as steep slopes (greater than 15%), all development has occurred on previously existing parcels served by existing District infrastructure. As a result, there has been limited need for infrastructure expansion projects that required incorporation of natural hazard-resilient measures.

In the table below is a list of the major hazards that affect Whatcom County. The second column provides the percentage of the Lake Whatcom Water and Sewer District's total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

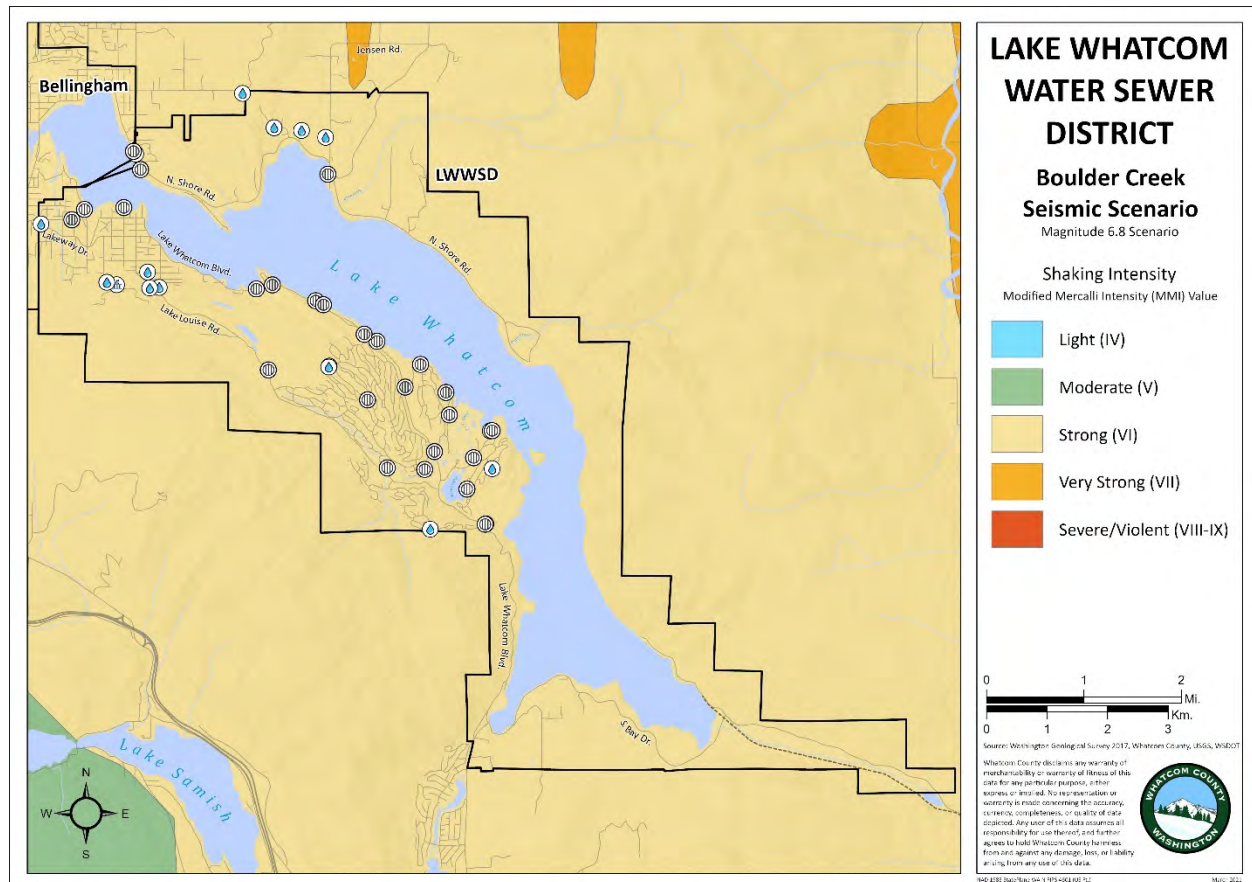
	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	100%	High	All land susceptible to seismic shaking. Anticipated loss of water/sewage systems for weeks to months, with potential for release of untreated sewage to Lake Whatcom.
	Liquefaction	13.5%	Mod	Areas susceptible to liquefaction are primarily limited to the areas immediately surrounding the mouths of Austin, Carpenter, Olson and Smith creeks (alluvial deposits). Infrastructure in these areas is relatively limited (water/sewer pipelines and 5 sewer lift stations), all of which could be damaged, resulting in a loss of service to some customers.
	Landslide	11.1%	Mod	Areas susceptible to landslide are primarily limited to the Sudden Valley area where slopes are predominately 15% or greater. Landslides could impact (or access to) critical infrastructure, including water/sewer pipelines, water pump stations and reservoirs, and sewer lift stations.
	Volcano	0%	Low	Unlikely that a lahar from a major eruption would enter service area; however, ash fallout could impact lake water quality (drinking water source).
	Tsunami	0%	None	Not within a tsunami inundation zone.
	Mine Hazards	0.8%	None	No known mines are located within the service area.
Hydro-logical	Flooding	34.1%	Mod	Prolonged periods of precipitation may create significant flows in Austin, Beaver, Carpenter, Olson and Smith creeks that could impact (or access to) infrastructure. An example includes the 1983 flood event

				that resulted in Austin Creek washing out bridges and a District water main.
Meteorological	Wildfire	44.3%	Mod	Much of service area is forested, including areas of development. As is indicated in the Wildland-Urban Interface map, much of the District's critical infrastructure could be impacted by wildfires.

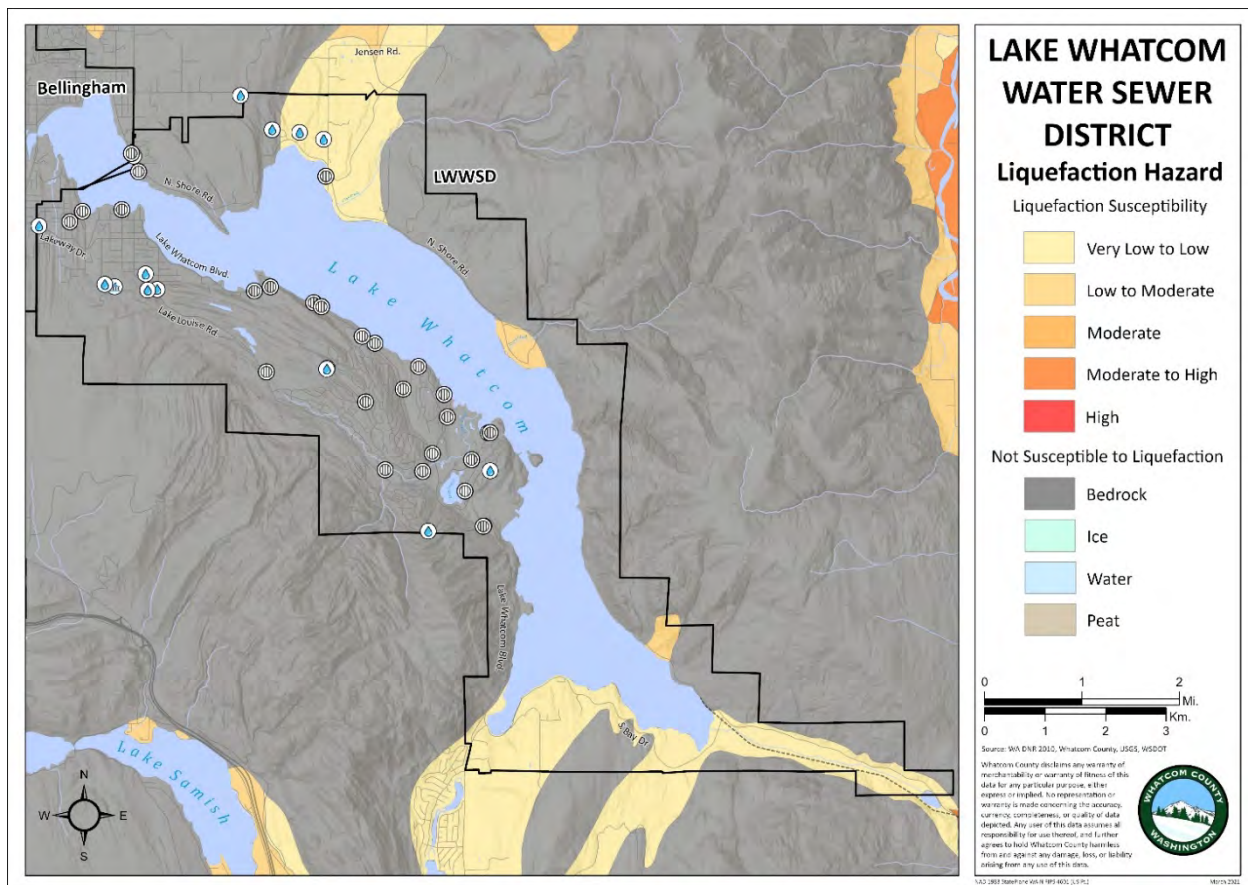
Severity Scale: **None** = no impact to community function
Low = minor degradation of community functions, not widespread
Moderate = moderate degradation over multiple weeks or widespread
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

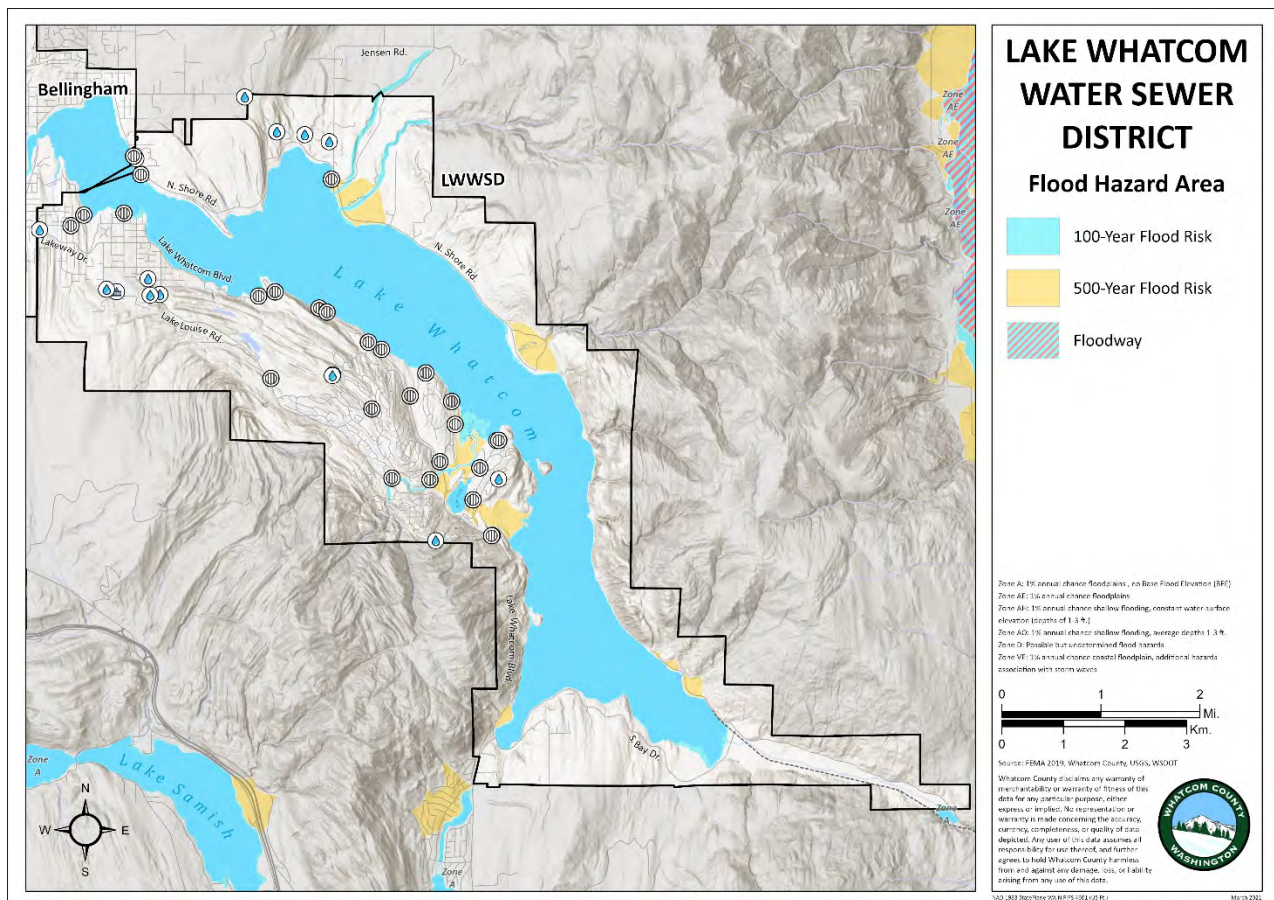
The following figures depict the natural hazards present within the jurisdiction.



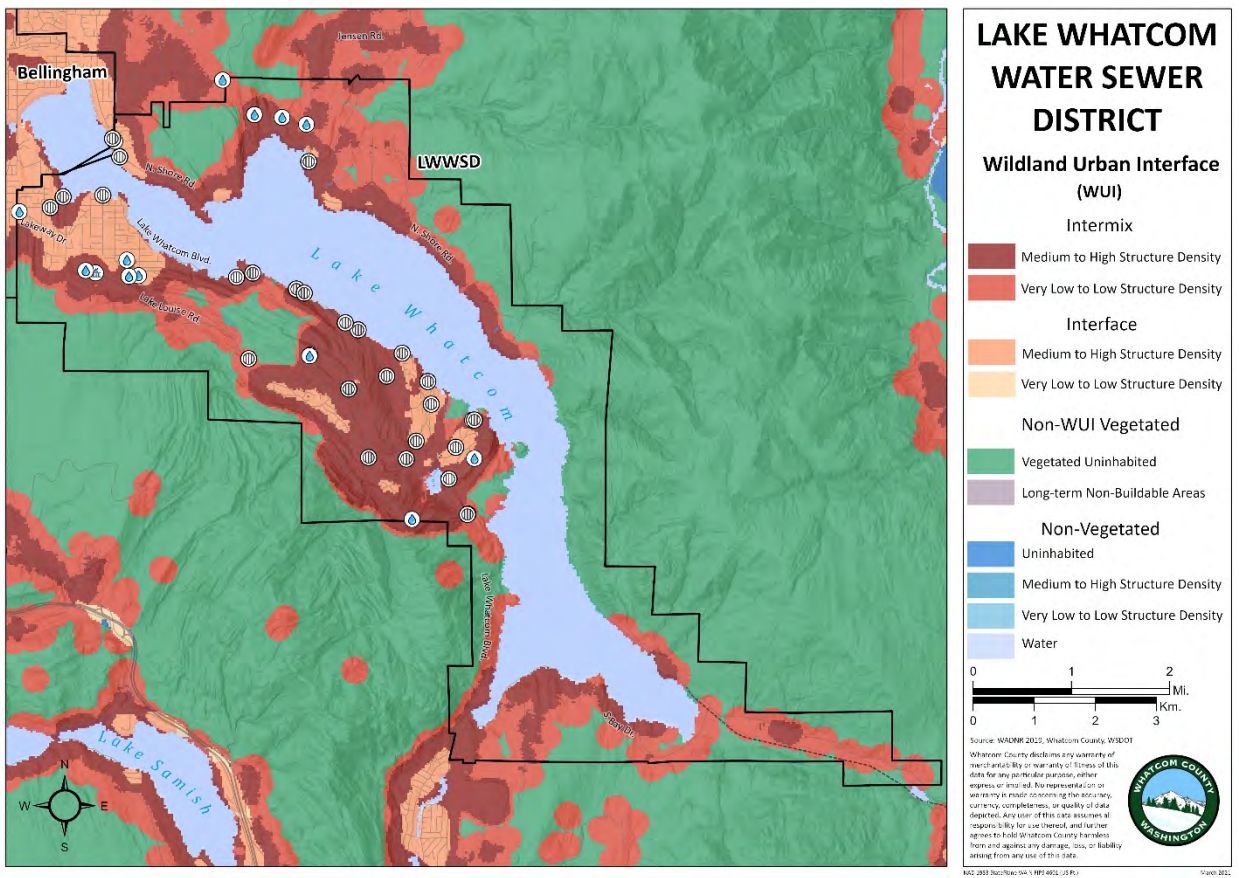
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



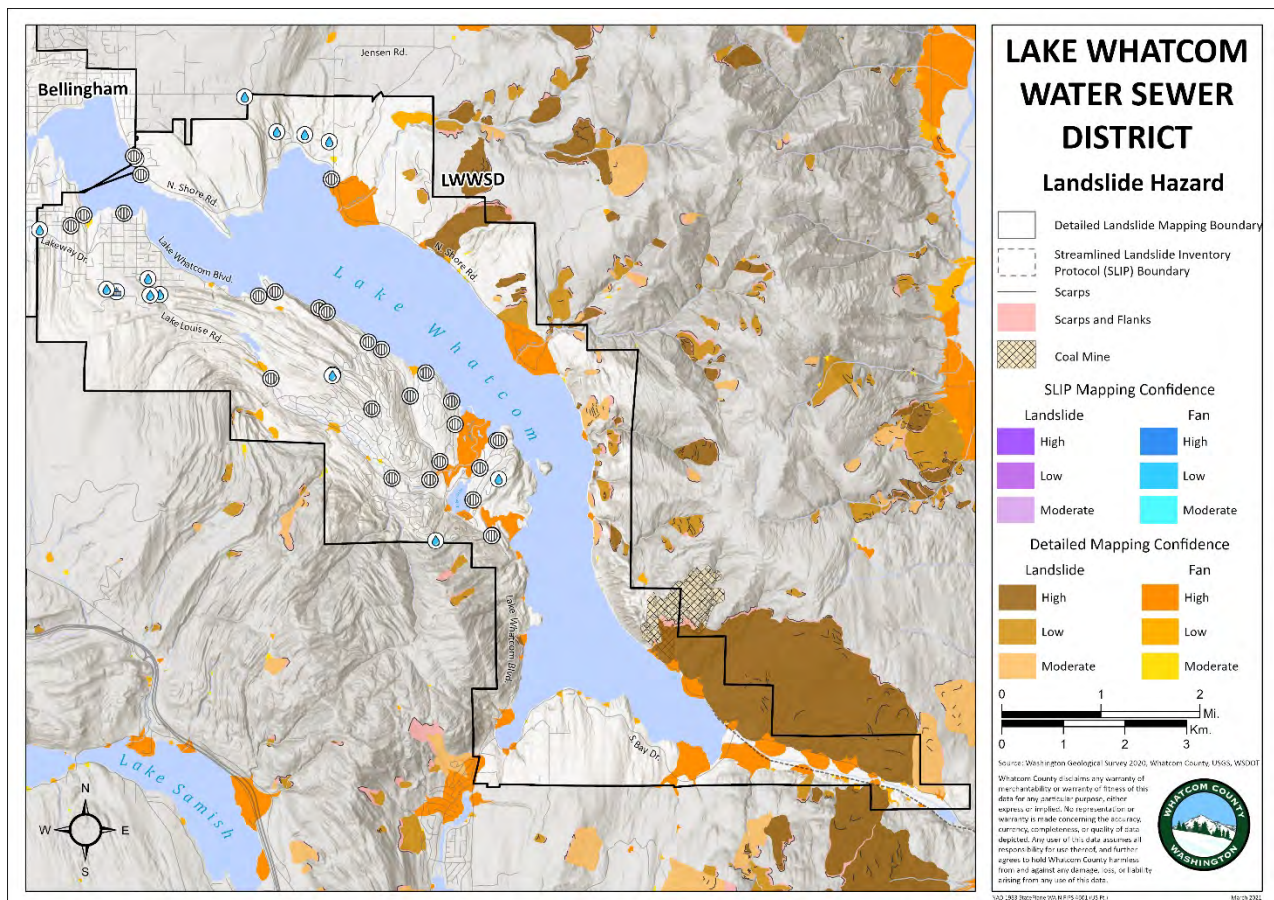
Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.



FEMA 2019 flood hazard data showing 100-year flooding, 500-year flooding, floodways, and flood zones. FEMA flood data includes both riverine and coastal flooding.



Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.



Washington Geological Survey (WGS) 2020 Washington landslide inventory data compiled following streamline landslide mapping protocol (SLIP). SLIP was developed by the WGS's Landslide Hazards Program to help geologists rapidly map landslide landforms from lidar. This data shows both detailed mapping and SLIP landslide data.

Lake Whatcom Water & Sewer District Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value (2020)	Notes
Administration Building	EF	1	1220 Lakeway Dr, Bellingham, WA	\$964,000	Functions as District headquarters and EOC; located outside District
Post Point Wastewater Treatment Plant	EF	3	200 McKenzie Ave, Bellingham, WA	\$6,254,284	City of Bellingham-owned facility that treats District-generated wastewater under an interlocal agreement
Maintenance Facility	EF	2	1010 Lakeview St, Bellingham, WA	\$1,271,800	Stores all equipment, materials and spare parts, serves as backup EOC
Sudden Valley Water Treatment Plant/Chlorine Contact Reservoir	EF	3	26 Morning Beach Dr, Bellingham, WA	\$3,194,700	Produces drinking water for South Shore System (3,880 connections)
Sudden Valley WTP Booster Station	EF	3	26 Morning Beach Dr, Bellingham, WA	\$1,327,200	Pumps treated water from SVWTP to South Shore System
Agate Heights Water Treatment Plant/Well Site	EF	3	3320 Sunny Cove Ct, Bellingham, WA	\$365,200	Produces drinking water for Agate Heights System (50 connections)
Johnson Well Site	EF	1	3471 Agate Bay Ln, Bellingham, WA	\$139,200	Drinking water source for 2 connections
Eagleridge Booster Station	EF	1	1708 Northshore Rd, Bellingham, WA	\$423,500	Intertie with City of Bellingham providing drinking water to Eagleridge System (70 connections)
Coronado Booster Station	EF	1	4826 Lookout St, Bellingham, WA	\$58,300	Drinking water pump station

Geneva Intertie	EF	3	3914 Lakeway Dr, Bellingham, WA	\$116,100	Intertie with City of Bellingham for emergency water supply
Agate Heights Booster Station	EF	2	3363 Opal Terrace, Bellingham, WA	\$119,900	Drinking water pump station
Beecher Booster Station	EF	1	4748 Columbus Ave, Bellingham, WA	\$69,300	Drinking water pump station
South Geneva Booster Station	EF	1	1765 Lake Louise Rd, Bellingham, WA	\$109,100	Drinking water pump station
Division 30 Booster Station	EF	3	1744 Lake Whatcom Blvd, Bellingham, WA	\$294,400	Drinking water pump station
Agate Heights Reservoir	EF	3	3363 Opal Terrace, Bellingham, WA	\$383,200	0.08 MG water reservoir
LWRTC Reservoir	EF	3	2145 Academy Rd, Bellingham, WA	\$544,800	0.1 MG water reservoir
Division 7 Reservoir	EF	3	3 Grand View Circle, Bellingham, WA	\$1,448,300	1.0 MG water reservoir
Division 22 Reservoir No. 1	EF	3	10 Water Tower Ct, Bellingham, WA	\$965,200	0.5 MG water reservoir
Division 22 Reservoir No. 2	EF	3	10 Water Tower Ct, Bellingham, WA	\$1,074,500	0.6 MG water reservoir
Division 30 Reservoir	EF	3	30 Loganberry Ln, Bellingham, WA	\$640,600	0.15 MG water reservoir
Geneva Reservoir	EF	3	1010 Lakeview St, Bellingham, WA	\$937,100	0.5 MG water reservoir
Afternoon Beach Lift Station	EF	3	22 Morning Beach Dr, Bellingham, WA	\$393,000	Sewer pump station with backup generator
Agate Bay Lift Station	EF	3	3187 Agate Bay Ln, Bellingham, WA	\$240,200	Sewer pump station with backup generator

Airport Lift Station	EF	2	2316 Lake Whatcom Blvd, Bellingham, WA	\$173,900	Sewer pump station with backup generator
Austin Lift Station	EF	1	8 Acorn Pl, Bellingham, WA	\$125,200	Sewer pump station with backup generator
Beaver Lift Station	EF	3	2271 Lake Louise Rd, Bellingham, WA	\$930,600	Sewer pump station with backup generator
Boulevard Lift Station	EF	1	2586 Lake Whatcom Blvd, Bellingham, WA	\$172,600	Sewer pump station
Cable Street Lift Station	EF	3	2900 Lake Whatcom Blvd, Bellingham, WA	\$818,700	Sewer pump station with backup generator
Camp Firwood Lift Station	EF	1	1744 Lake Whatcom Blvd, Bellingham, WA	\$190,400	Sewer pump station
Dellesta Lift Station	EF	1	2127 Northshore Dr, Bellingham, WA	\$94,300	Sewer pump station
Edgewater Lift Station	EF	1	1725 Edgewater Ln, Bellingham, WA	\$85,200	Sewer pump station
Euclid Lift Station	EF	2	1602 Euclid Ave, Bellingham, WA	\$207,200	Sewer pump station
Flat Car Lift Station	EF	3	2800 Lake Louise Rd, Bellingham, WA	\$920,700	Sewer pump station with backup generator
Geneva Lift Station	EF	2	1545 Geneva St, Bellingham, WA	\$476,100	Sewer pump station with backup generator
Lakewood Lift Station	EF	1	2462 Lake Whatcom Blvd, Bellingham, WA	\$147,500	Sewer pump station
Lake Louise Lift Station	EF	2	7 Larkspur Park Dr, Bellingham, WA	\$138,600	Sewer pump station with backup generator
Lowe Lift Station	EF	1	1525 Lowe Ave, Bellingham, WA	\$98,700	Sewer pump station
Marina Lift Station	EF	2	2 Marina Circle, Bellingham, WA	\$146,800	Sewer pump station with backup generator
North Point Lift Station	EF	3	10 Clear Lake Ct, Bellingham, WA	\$531,000	Sewer pump station with backup generator

Par Lift Station	EF	1	18 Park Ln, Bellingham, WA	\$229,100	Sewer pump station
Plum Lift Station	EF	2	15 Autumn Vista Pl, Bellingham, WA	\$164,700	Sewer pump station
Ranch House Lift Station	EF	3	10 Marigold Dr, Bellingham, WA	\$630,500	Sewer pump station with backup generator
Rocky Ridge Lift Station	EF	1	2566 Woodcliff Ln, Bellingham, WA	\$108,300	Sewer pump station
Strawberry Canyon Lift Station	EF	2	12 Strawberry Canyon Ct, Bellingham, WA	\$218,600	Sewer pump station with backup generator
Strawberry Point Lift Station	EF	1	2642 Lake Whatcom Blvd, Bellingham, WA	\$208,000	Sewer pump station
Sudden Valley Lift Station	EF	3	2018 Lake Whatcom Blvd, Bellingham, WA	\$2,651,700	Sewer pump station with backup generator and sewage detention basin
Tomb Lift Station	EF	1	16 Marina Ct, Bellingham, WA	\$219,000	Sewer pump station with backup generator

Facility Type: EF = Essential Facility; HMF = Hazardous Materials Facility; HPL = High Potential Loss; LUS = Lifeline Utility System

Significance to community function: 1=Moderate; 2= High; 3 =Very High

Critical Facility Rankings for the Lake Whatcom Water & Sewer District

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Administration Building	EF	1	1	1	0	0	0	0	0	1	0.21
Post Point Wastewater Treatment Plant	EF	3	1	0	0	0	0	0	0	1	0.43
Maintenance Facility	EF	2	1	0	0	0	0	0	0	1	0.29
Sudden Valley Water Treatment Plant/Chlorine Contact Reservoir	EF	3	1	0	0	0	0	1	0	0	0.36
Sudden Valley WTP Booster Station	EF	3	1	0	0	0	0	1	0	0	0.36
Agate Heights Water Treatment Plant/Well Site	EF	3	1	1	0	0	0	0	0	1	0.64
Johnson Well Site	EF	1	1	1	0	0	0	0	0	1	0.21
Eagleridge Booster Station	EF	1	1	0	0	0	0	0	0	1	0.14
Coronado Booster Station	EF	1	1	0	0	0	0	0	0	1	0.14
Geneva Intertie	EF	3	1	0	0	0	0	0	0	1	0.43
Agate Heights Booster Station	EF	2	1	0	0	0	0	0	0	1	0.29
Beecher	EF	1	1	0	0	0	0	0	0	1	0.14

Booster Station											
South Geneva Booster Station	EF	1	1	0	0	0	0	0	0	1	0.14
Division 30 Booster Station	EF	3	1	0	0	0	0	0	0	1	0.43
Agate Heights Reservoir	EF	3	1	0	0	0	0	0	0	0	0.21
LWRTC Reservoir	EF	3	1	0	0	0	0	0	0	1	0.43
Division 7 Reservoir	EF	3	1	0	0	0	0	0	0	1	0.43
Division 22 Reservoir No. 1	EF	3	1	0	0	0	0	0	0	1	0.43
Division 22 Reservoir No. 2	EF	3	1	0	0	0	0	0	0	1	0.43
Division 30 Reservoir	EF	3	1	0	0	0	0	0	0	1	0.43
Geneva Reservoir	EF	3	1	0	0	0	0	0	0	1	0.43
Afternoon Beach Lift Station	EF	3	1	0	0	0	0	0	0	1	0.43
Agate Bay Lift Station	EF	3	1	1	1	0	0	1	0	1	1
Airport Lift Station	EF	2	1	0	0	0	0	0	0	1	0.29
Austin Lift Station	EF	1	1	0	0	0	0	0	0	1	0.14
Beaver Lift Station	EF	3	1	0	0	0	0	0	0	1	0.43
Boulevard Lift Station	EF	1	1	0	0	0	0	1	0	0	0.12
Cable Street Lift Station	EF	3	1	0	0	0	0	0	0	1	0.43
Camp Firwood Lift Station	EF	1	1	0	0	0	0	0	0	1	0.14

Dellesta Lift Station	EF	1	1	0	0	0	0	0	0	1	0.14
Edgewater Lift Station	EF	1	1	0	0	0	0	0	0	1	0.14
Euclid Lift Station	EF	2	1	0	0	0	0	0	0	1	0.29
Flat Car Lift Station	EF	3	1	0	0	0	0	0	0	1	0.43
Geneva Lift Station	EF	2	1	0	0	0	0	0	0	1	0.29
Lakewood Lift Station	EF	1	1	0	0	0	0	0	0	1	0.14
Lake Louise Lift Station	EF	2	1	0	0	0	0	0	0	1	0.29
Lowe Lift Station	EF	1	1	0	0	0	0	0	0	1	0.14
Marina Lift Station	EF	2	1	0	0	0	0	0	0	1	0.29
North Point Lift Station	EF	3	1	0	0	0	0	0	0	1	0.43
Par Lift Station	EF	1	1	1	0	0	0	0	0	1	0.21
Plum Lift Station	EF	2	1	0	0	0	0	0	0	1	0.29
Ranch House Lift Station	EF	3	1	0	0	0	0	0	0	1	0.43
Rocky Ridge Lift Station	EF	1	1	0	0	0	0	0	0	0	0.07
Strawberry Canyon Lift Station	EF	2	1	0	0	0	0	0	0	1	0.29
Strawberry Point Lift Station	EF	1	1	0	0	0	0	1	0	0	0.12
Sudden Valley Lift Station	EF	3	1	0	0	0	0	0	0	1	0.43
Tomb Lift Station	EF	1	1	0	0	0	0	0	0	1	0.14

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

	Lake Whatcom Water & Sewer District Exposure to Natural Hazards					
	Hazard Susceptibility	Asset County (% of Total)			Critical Facilities Appraised Value (Million)	
		Area (sq.mi.)	Population	Parcels		
Geological Hazards	Earthquake, Shaking Intensity					
	MMI V	-	-	-	2.1%	\$0.2 ¹
	MMI VI	100%	99.9%	99.9%	97.9%	\$31 ¹
	MMI VII	-	-	-	-	-
	MMI VIII - IX	-	-	-	-	-
	TOTAL	100%	99.9%	99.9%	100%	\$31.2
	Liquefaction					
	Very Low to Low	12.4%	5.8%	8.9%	8.5%	\$2 ¹
	Low to Moderate	1%	0.5%	1%	-	-
	Moderate	-	-	-	-	-
	Moderate to High	-	-	-	2.1%	\$0.2 ¹
	High	-	-	-	-	-
	TOTAL	13.5%	6.3%	9.9%	10.6%	\$2.2
	Landslide					
	Landslide Low	0.6%	0.1%	0.04%	-	-
	Landslide Moderate	0.6%	0.1%	0.1%	-	-
	Landslide High	4.9%	0.3%	0.7%	-	-
	Fan Low	0.1%	0.2%	0.2%	-	-
	Fan Moderate	0.5%	0.3%	0.3%	-	-

	<i>Fan High</i>	4.4%	4%	4.8%	2.1%	\$0.2 ¹
	<i>Mine Hazard</i>	0.8%	0.02%	0.03%	-	-
	TOTAL	11.9%	5.02%	6.17%	2.1%	\$0.2
	Volcanic Eruption					
	<i>Case 1 Debris Flows</i>	-	-	-	-	-
	<i>Case 2 Debris Flows</i>	-	-	-	-	-
	<i>Case M Flows</i>	-	-	-	-	-
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	-	-	-	-	-
	<i>Lateral Blast Hazard Zone</i>	-	-	-	-	-
	TOTAL	-	-	-	-	-
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	-	-	-	2.1%	\$0.2 ¹
	<i>Moderate to High Inundation Potential</i>	-	-	-	-	-
	<i>High Inundation Potential</i>	-	-	-	2.1%	\$6 ¹
	TOTAL	-	-	-	4.2%	\$6.2
Hydrological	Flooding					
	<i>100-year Flood</i>	31.4%	5.1%	6.4%	12.8%	\$5 ¹
	<i>500-year Flood</i>	2.7%	3.2%	4.3%	4.3%	\$0.4 ¹
	<i>Floodway</i>	-	-	-	-	-
	<i>Undetermined (Zone D)</i>	-	-	-	-	-
	TOTAL	34.1%	8.3%	10.7%	17.1%	\$5.4
Mete	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	-	-	0.2%	-	-

	<i>Interface Medium-High Structure Density</i>	5.5%	32.2%	25.1%	25.5%	\$12 ¹
	<i>Intermix Very Low-Low Structure Density</i>	16.9%	5.8%	3.7%	8.5%	\$2 ¹
	<i>Intermix Medium-High Structure Density</i>	21.9%	48.4%	65.5%	55.3%	\$12 ¹
	<i>TOTAL</i>	44.3%	86.4%	94.5%	89.3%	\$26

¹ Shows the assessed dollar value provided by the community in their critical facilities list. Does not include the appraised total value.

Status of Lake Whatcom Water & Sewer District's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

General: All Hazards

G-a. Emergency Plan Updates – The Lake Whatcom Water and Sewer District updated a prior (2008) revision to its Emergency Management Plan in 2019. A subsequent revision that meets the requirements of the federal America's Water Infrastructure Act of 2018 (AWIA) is underway with anticipated adoption by the Board of Commissioners by the December 31, 2021 deadline.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local
Current Status	Ongoing

G-b. Provide for an increased level of protection for public infrastructure – As owner/operator of water and sewer systems providing essential public services, the Lake Whatcom Water and Sewer District annually allocates funding toward system reinvestment projects that enhance system resiliency and/or redundancy in preparation for unforeseen events. Improvements completed since issuance of the 2016 Plan include: construction of new Division 22 reservoir meeting current seismic standards and outfitted with the ShakeAlert earthquake early detection system, installing an emergency water intertie with the City of Bellingham's system in Geneva, and installation of standby generators at three sewer lift stations.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local sources, and state and federal grants
Current Status	Perpetual

Education and Outreach

EO-a. Utility bill inserts – On a semi-annual basis, the District includes educational materials related to emergency preparedness and winter-weather preparedness within bi-monthly utility bills.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local
Current Status	Annual

Drought/heat wave

D-a. Monitor water supply – As required under its water system operating permits, the Lake Whatcom Water and Sewer District daily records volumes of water treated, distributed, consumed and lost within each of its three Group A water systems.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local
Current Status	Perpetual

D-b. Educate residents on water saving techniques – The District maintains water conservation tips on its website, and regularly provides water conservation information via posts to its social media account, messages on the District office reader board, and via utility bill inserts. The District is an active member of the Whatcom Water Alliance, whose mission is to promote standardized water conservation messaging countywide.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local
Current Status	Perpetual

Earthquake

EQ-a. Seismic retrofit of critical infrastructure – seismic retrofit of the District’s Maintenance Office.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local sources
Current Status	Complete

EQ-b. Protect critical facilities and infrastructure – complete minor improvements to various

facilities and infrastructure.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local sources, other
Current Status	Complete

EQ-c. Seismic resistant water reservoirs – Constructed 0.6 MG water reservoir in 2018 (Div. 22 No. 2) and planning replacement of existing Division 7 water reservoir with two reservoirs that meet current seismic standards.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local and Federal, including FEMA
Current Status	Ongoing

EQ-d. Seismic vulnerability assessment – In 2016, the District hired a consultant to assess the seismic vulnerability of all of its water reservoirs and develop a prioritization plan for retrofit/replacement.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local
Current Status	Complete

EQ-e. Seismic resilient reservoir system – Constructed a second reservoir adjacent to original Division 22 water reservoir in 2018 (including ShakeAlert system), and plan to replace existing single Division 7 reservoir with two reservoirs that will have ShakeAlert-controlled valving to shut it off during high seismic shaking (to preserve water from loss due to anticipated main breaks).

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local and Federal, including FEMA
Current Status	Ongoing

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

No actions ongoing, discontinued, or completed for this hazard.

Landslide/erosion

ER-a. Vulnerability assessment – Mapped and assessed the vulnerability of system elements to landslide/erosion events.

Lead Agency	Lake Whatcom Water and Sewer District
Funding Source	Local sources
Current Status	Ongoing

Landslide Subsidence

No actions ongoing, discontinued, or completed for this hazard.

Lightening

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

No actions ongoing, discontinued, or completed for this hazard.

Tornadoes

No actions ongoing, discontinued, or completed for this hazard

Tsunami

No actions ongoing, discontinued, or completed for this hazard.

Wildfire

No actions ongoing, discontinued, or completed for this hazard.

Winter storms/Freezes

No actions ongoing, discontinued, or completed for this hazard.

Multiple Hazards

No actions ongoing, discontinued, or completed for this hazard.

Lake Whatcom Water & Sewer District 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Lake Whatcom Water & Sewer District-Specific Hazard Mitigation Goals

Lake Whatcom Water and Sewer District adds to these county-wide goals, the following community-specific mitigation planning goals:

LWWSD Goal A: Ensure continuity of water and sewer services

LWWSD Goal B: Harden infrastructure to mitigate impact from seismic hazards

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Lake Whatcom Water and Sewer District considered mitigation options related to earthquake, liquefaction, landslide, volcanic, riverine flooding, and wildfire hazards, especially those related to earthquakes because this hazard has the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for the District. Some options have already been implemented or are ongoing in the District, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that the Lake Whatcom Water and Sewer District has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property and public welfare. The District is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Priority:	H (High); M (Medium); L (Low)
Timeline:	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years); Ongoing
Funding Source:	Local; State; FEMA; Private; Other
Estimated Cost:	Actual; Estimated

Lake Whatcom Water & Sewer District Identified Mitigation Actions 2021-2025

Lake Whatcom Water & Sewer District IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priorit y	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
GENERAL: ALL HAZARDS Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	G-a. Emergency Plan Updates	1	Lake Whatcom Water and Sewer District	M	O	Local	
	G-b. Provide for an increased level of protection for public infrastructure	1	Lake Whatcom Water and Sewer District	M	O	Local, State, Federal	
Education and Outreach	EO-a Ongoing -- Utility bill inserts	1, 2	Lake Whatcom Water and Sewer District	M	O	Local	
Hazard Specific	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						
Dam/Levee Failures (See: Flooding)	No applicable action items	-	-	-	-	-	-
Droughts/Heat	D-a Ongoing -- Monitor water supply	1	Lake Whatcom Water and Sewer	M	O	Local	

**Lake Whatcom Water & Sewer District
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priorit y	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Waves			District				
	<i>D-b Ongoing -- Educate residents on water saving techniques</i>	2	LWWSD	M	O	Local	
	D-1 Require water conservation during drought conditions	3, A	LWWSD	L	O	Local	\$10,000
	D-2 Raw water bypass for low reservoir level	1, A	LWWSD	L	L	Local, State, FEMA, Other	\$200,000
Earthquakes	<i>EQ-c Ongoing -- Seismic resistant water reservoirs</i>	1	LWWSD	L	O	Local, Federal, FEMA	
	<i>EQ-e Ongoing -- Seismic resilient reservoir system</i>	1	LWWSD	L	O	Local, Federal, FEMA	
	EQ-1 Seismic retrofit of existing water reservoirs	1, 5, A, B	LWWSD	H	O	Local, State, FEMA, Other	\$8,000,000
	EQ-2 Replace water mains with seismically resistant piping	1, 5, A, B	LWWSD	L	L	Local, State, FEMA, Other	\$50,000,000
	EQ-3 Seismic retrofit of existing pumping stations; install ShakeAlert system controls	1, 5, A, B	LWWSD	H	S	Local, State, FEMA, Other	\$1,500,000

**Lake Whatcom Water & Sewer District
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priorit y	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	EQ-4 Anchorage of critical facilities: pumps, electronics, communications	1, 5, A, B	LWWSD	H	M	Local, State, FEMA, Other	\$3,000,000
Extreme Temperatures	No applicable action items	-	-	-	-	-	-
Flooding	F-1 Protect Infrastructure Harden infrastructure at bridge and dam crossings	1, 5, A	LWWSD	L	L	Local, State, FEMA, Other	\$1,000,000
	F-2 Protect Critical Facilities Dry proof pumping stations	1, 5, A	LWWSD	L	L	State, FEMA	\$150,000
Landslide/Erosion	ER-a Ongoing -- Vulnerability assessment	1	LWWSD	L	O	Local	
	ER-1 Protect Division 30 Reservoir	1, 5, A, B	LWWSD	L	L	Local, State, FEMA, Other	\$1,000,000
Land Subsidence	LS-1 Protect Critical Facilities	1, 5, A	LWWSD	L	L	Local, State, FEMA, Other	\$2,000,000
Lightning	No applicable action items	-	-	-	-	-	-
Severe Storms	SS-1 Install backup generators at	1, 5, A	LWWSD	H	O	Local, State,	\$2,000,000

**Lake Whatcom Water & Sewer District
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priorit y	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	facilities					FEMA, Other	
Severe Wind	No applicable action items	-	-	-	-	-	-
Tornadoes	No applicable action items	-	-	-	-	-	-
Tsunami	No applicable action items	-	-	-	-	-	-
Wildfires	WF-1 Firewise critical facilities	1, 5, A	LWWSD	M	M	Local, State, FEMA, Other	\$1,000,000
Winter Storms/ Freezes (Severe Winter Weather)	WS-1 Install backup generators at facilities	1, 5, A	LWWSD	H	O	Local, State, FEMA, Other	\$2,000,000
Multiple Hazards	No applicable action items	-	-	-	-	-	-
Advanced Mitigation Projects (Dream List)	No applicable action items	-	-	-	-	-	-

Lake Whatcom Water & Sewer District Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

Lake Whatcom Water and Sewer District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
GENERAL: ALL HAZARDS						
G-a. Update District-specific emergency response plan	B					Plan updated in 2019 and is on track for update in compliance with AWIA-requirements in 2021.
G-b. Provide for an increased level of protection for public infrastructure	B					Six-year water/sewer capital improvement plans includes projects each year assoc. with this task.
Add Additional Actions as Needed						
EDUCATION AND OUTREACH						
EO-a. Utility bill inserts	B					Completed annually.
Add Additional Actions as Needed						
DAM/LEEVE FAILURES						
none	-	-	-	-	-	
DROUGHTS/HEAT WAVES						
D-a. Monitor water supply	B					Conduct daily.
D-b. Educate residents on water saving techniques	B					Conduct via utility bill fact sheets, social media posts, and Lakeway Drive reader board messages.
D-1 Require water conservation during drought conditions	B					To be implemented, if necessary.
D-2 Install raw water bypass for low lake level conditions	D					Improvement planned beyond current planning horizon.
Add Additional Actions as Needed						
EARTHQUAKES						
EQ-c. Seismic resistant water reservoirs	B					Replacement of existing Div. 7 reservoir planned for 2023.
EQ-e. Seismic resilient reservoir system	B					Installation of ShakeAlert controls on water system components planned for

Lake Whatcom Water and Sewer District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
						2023.
EQ-1 Seismic retrofit of existing water reservoirs	D					Improvements dependent upon external funding.
EQ-2 Replace water mains with seismically resistant piping	D					Improvements dependent upon external funding.
EQ-3 Seismic retrofit of existing pumping stations; install ShakeAlert system controls	D					Improvements dependent upon external funding.
EQ-4 Anchorage of critical facilities: pumps, electronics, communications	D					Improvements dependent upon external funding.
Add Additional Actions as Needed						
FLOODING						
F-1 Protect infrastructure (harden infrastructure at bridge and dam crossings)	D					Improvements dependent upon external funding.
F-2 Protect critical facilities (dry proof pumping stations)	D					Improvements dependent upon external funding.
Add Additional Actions as Needed						
LANDSLIDES/EROSION						
ER-1 Protect Division 30 reservoir	D					Improvements dependent upon external funding.
Add Additional Actions as Needed						
LAND SUBSIDENCE						
LS-1 Protect Critical Facilities	D	-	-	-	-	Improvements dependent upon external funding.
Add Additional Actions as Needed						

Lake Whatcom Water and Sewer District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
TORNADOES						
none	-	-	-	-	-	
TSUNAMI						
none	-	-	-	-	-	
WILDFIRES						
WF-1 Firewise critical facilities	D					Improvements dependent upon external funding.
<i>Add Additional Actions as Needed</i>						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
WS-1 Power generation at critical facilities	B					Completed per current capital improvement plan.
<i>Add Additional Actions as Needed</i>						
EXTREME TEMPERATURES						
none	-	-	-	-	-	
LIGHTNING						
none	-	-	-	-	-	
SEVERE WIND						
none	-	-	-	-	-	
MULTIPLE HAZARDS						
none	-	-	-	-	-	

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CITY OF LYNDEN

Contact Information

Mark Billmire
Fire Chief
215 4th Street, Lynden, WA 98264
(360) 255-7913

Approving Authority

Mayor Scott Korthuis & City Council Members
300 Fourth Street Lynden, WA 98264
(360) 354-5026

Planning Process

The City of Lynden process for reviewing, updating, and adopting the 2021 Whatcom County Natural Hazard Mitigation Plan (NHMP) included a review by multiple city departments and formal adoption by the City Council. The staff attended regular, bi-weekly Whatcom County plan update meetings through February through May of 2021. Staff met with Dr. Rebekah Paci-Green in March to review the 2016 plan and understand new elements of 2021 community profile template. In February through June 2021, the Fire Chief attended coordination meetings hosted by the Whatcom County Sheriff's Office Division of Emergency Management (DEM) and received initial guidance from DEM. The City of Lynden Fire Chief and City Administrator reviewed the previous plan, confirmed the critical facilities list and that the existing mitigation strategies were appropriate, and then met with the Mayor, Public Works Director, Chief of Police, and other city departments to solicit input for additional revisions. They worked with Western Washington University to further revise the plan, based upon new elements of the 2021 plan.

The final draft revisions to the NHMP addressing the City of Lynden were submitted to DEM in May of 2021 to be incorporated into the county-wide plan. The Lynden City Council, in partnership with the county, held two duly advertised, virtual public meetings about the planning process on March 23, 2021 and April 13, 2021 and one public hearing on May 5, 2021 to review the draft NHMP dated June 1, 2021 and expects to formally adopted the Plan in the summer of 2021.

Key Contributor List

- Mike Martin, Lynden City Administrator
- Sarah Silvas, Lynden Fire Department

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability and potential mitigation is based on the best available science and technology currently available. All City departments will utilize this information. This information and related data on natural hazards potentially impacting Lynden will be used as a tool when the City updates other plans and programs, such as the following:

Comprehensive Plan required by the Growth Management Act (GMA);

- Critical Areas Ordinance;
- Capital facilities planning;
- Water Resource Inventory Area planning
- Historic Preservation Ordinance No 1492
- Shoreline Management Plan (updated 2019)
- Pepin Creek Sub-Area Master Plan

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for Lynden

This plan will be updated periodically with public information and education programs deployed by the Fire, Police and Public Works departments, along with special, one-time events such as booths at public events.

Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	Yes, ongoing	The Mt. Baker Chapter of the Red Cross is active in promoting emergency preparedness. Through the WCDEM, Lynden residents participate in CERT training.
Ongoing public education or information programs	Yes, ongoing	Police and Fire departments routinely conduct public education for students in all age levels.
School-related programs for natural hazard safety	Yes	The Lynden School Board policy 3432 mandates fire, earthquake, lockdown, evacuation, and shelter-in-place drills. Ongoing programs with Police and Fire Departments.
StormReady certification	Yes, 2003	Whatcom County is one of 14 counties in Washington State to be certified StormReady. StormReady uses a grassroots approach to help communities develop plans to handle all types of extreme weather.
Firewise Community certification	No	

Public-Private Partnership initiatives addressing disaster-related issues	Yes, ongoing	City partners with the Lynden Chamber of Commerce to use its website for emergency notifications. Also, radio station KGMI 790 is a designated emergency communications asset that we use for the same purpose.
Other	No	

This map displays the UGA for Lynden, as designated by the Whatcom County Comprehensive Plan.



Presence of Hazards and their Impacts in Lynden

Flooding, freezing and occasional high-wind events are the most consistent natural hazards affecting Lynden. Flooding occurs in several specific places. Winter flood waters in mainstem of the Nooksack River routinely breach dikes and levees, posing a particular threat to north-south roads, including State Highway 539 and the Hanigan Road – both critical travel assets to the City of Lynden. Flooding also occurs in the Pepin Creek sub-area. This is part of a drainage basin located mainly in Canada that empties into Lynden. Finally, severe, high winds from the Frazier River Valley sweep into North Whatcom County, including Lynden each winter, downing trees, transmission wires and causing other damage.

Since the adoption of the 2016 NHMP Lynden has grown by roughly 2000 people. There has been no change in hazardous areas. Steps are being taken to ensure less structures are at risk of flooding.

The City works closely with the Whatcom County Flood Control districts and other agencies to ensure structures intended to keep the Nooksack River in its channel are adequately maintained and repaired. Regarding the Pepin Creek drainage basin; the City is currently buying property, and designing infrastructure that will greatly reduce flooding in areas that are most at risk from this hazard. It has also rezoned property in this area to mitigate the effects of flooding on private property. Finally, the City consistently updates and improves its response to high wind, freezing and snow events. The manpower, equipment and resources needed to address these hazards is a priority reflected in the City's annual budget.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Lynden's total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	100%	High	Strong shaking (MMI value 6) expected in Lynden during a Boulder Creek earthquake or Cascadia event. Such shaking is expected to cause low to moderate damage to infrastructure. Wastewater Treatment Plant, which is expected to experience very strong shaking (MMI value 7), may experience moderate damage. High impact to the North and South means that extensive and prolonged disruption of transportation and goods may occur.
	Liquefaction	98.9%	Mod	Seismically-sensitive soils present near the Nooksack River, a small portion of the downtown area, and the waste water treatment plant. Could also affect transportation route (Guide Meridian, Hampton Rd, Hannegan Rd) into and out of the community.
	Landslide	0.2%	None	NA
	Volcano	2.4%	Low	The southern portion of the city is at risk of a Mount Baker lahar. This would impact the Wastewater Treatment Plant.
	Tsunami	0%	Low	Portions of the City are exposed to the Nooksack River. During the raining season this stretch of the river could be prone to tsunami inundation, specifically the area around the Wastewater Treatment Plant.
	Mine Hazards	0%	None	NA
Hydro-logical	Flooding	4.3%	Low	Lynden is located above the floodplain. New construction has currently encroached on the floodplain. Fishtrap Creek, which bisects

				the City, is subject to seasonal flooding, which could impact sanitary services at the Wastewater Treatment Plant, as well as transportation at crossing.
Meteorological	Wildfire	20.9%	Low	The Eastern portion of Lynden, called the Northwood area, is designated a Wildland Urban Interface area with moderate wildfire potential. However, the area has rapidly urbanized with new developments and is surrounded by open farmland. Forest cover is now minimal. It is unlikely to experience wildfire that could severely threaten these neighborhoods.

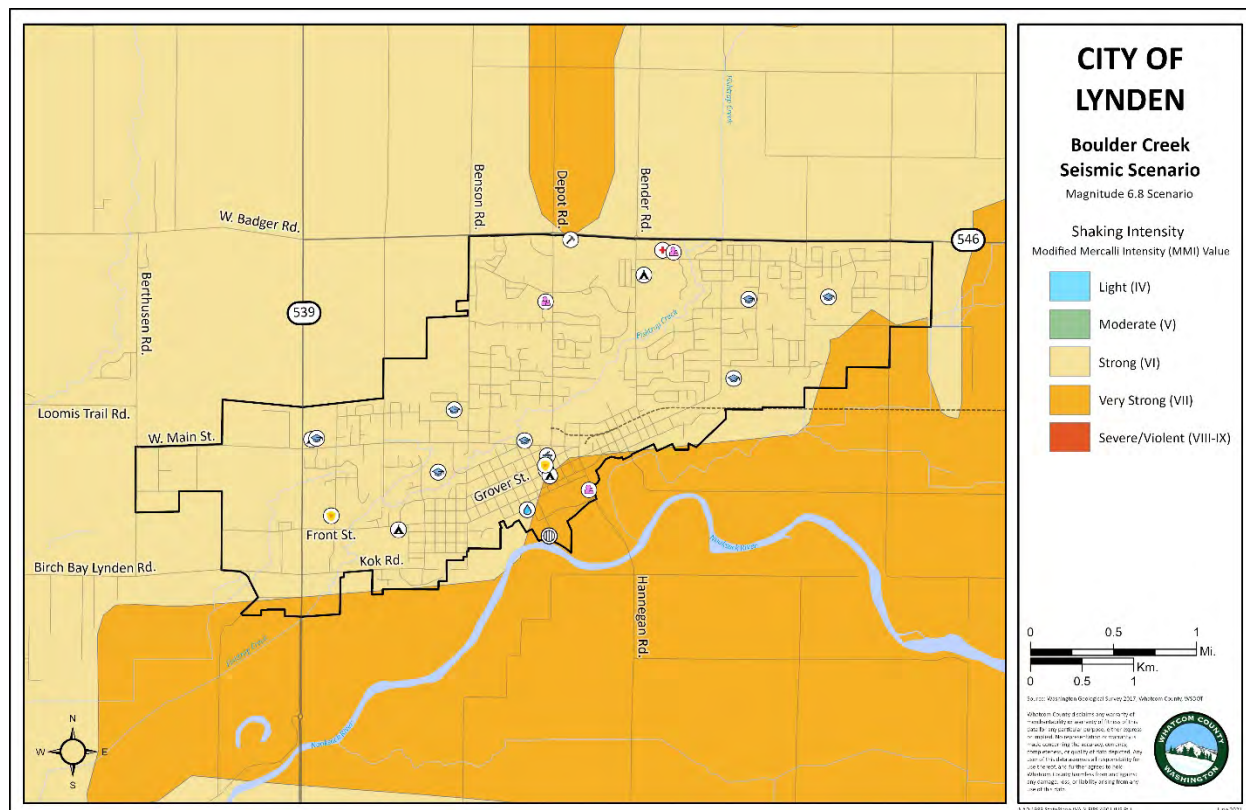
Severity Scale: **None** = no impact to community function

Low = minor degradation of community functions, not widespread

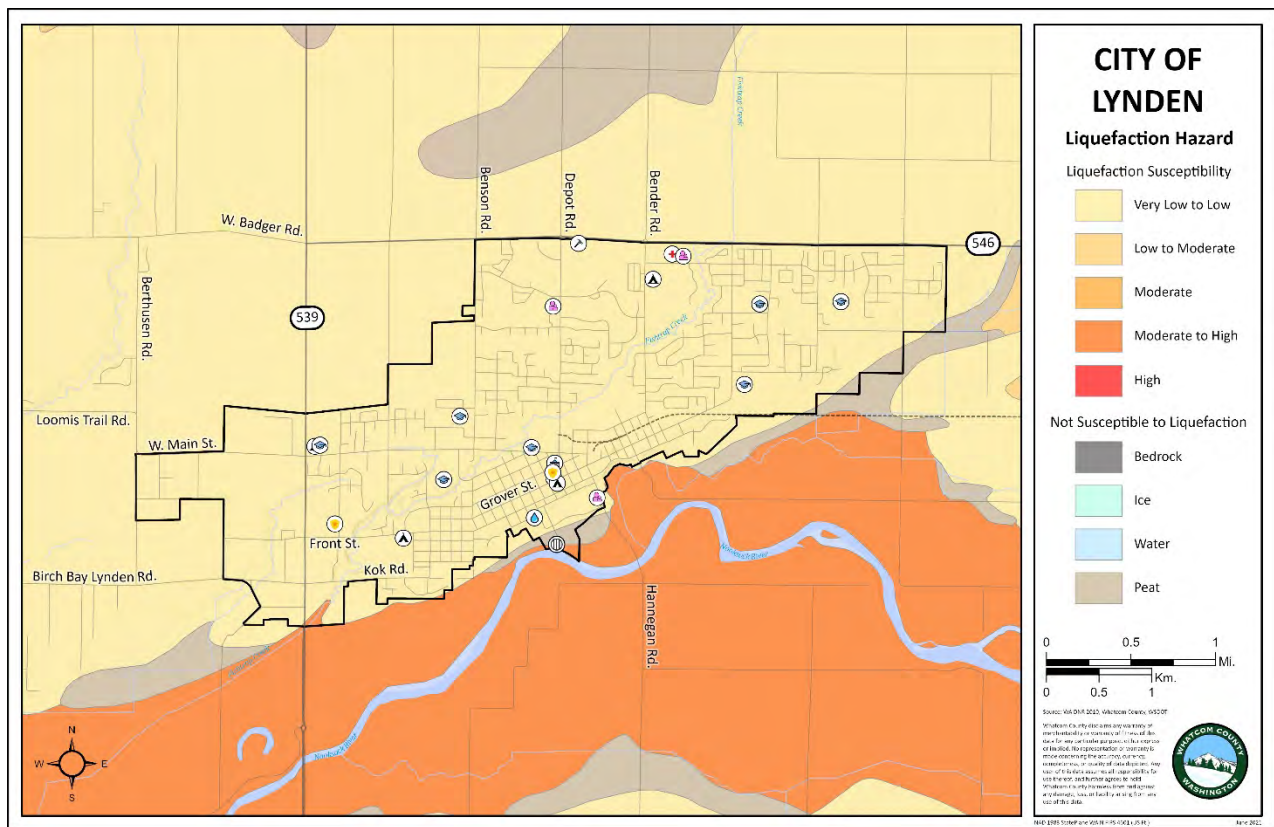
Moderate = moderate degradation over multiple weeks or widespread

High = degradation or loss over many weeks, widespread

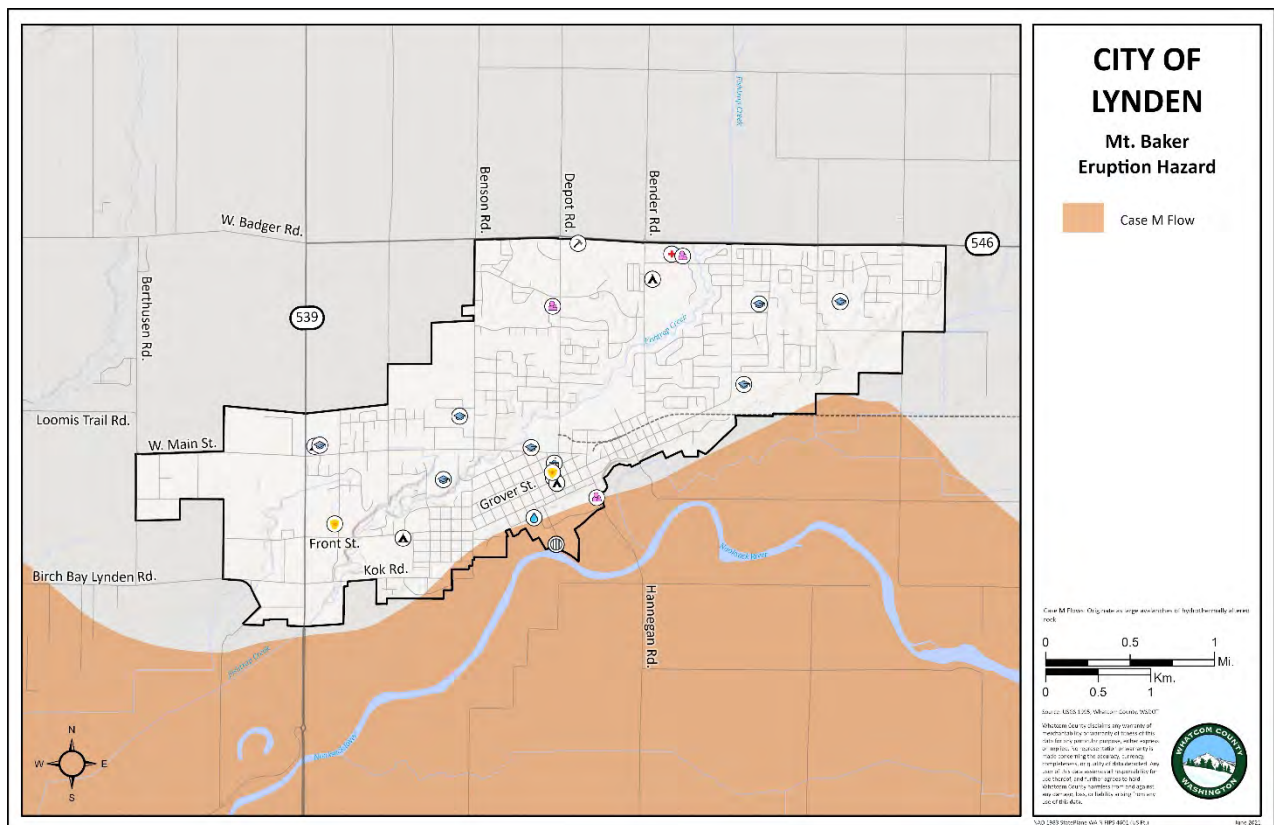
The following figures depict the natural hazards present within the jurisdiction.



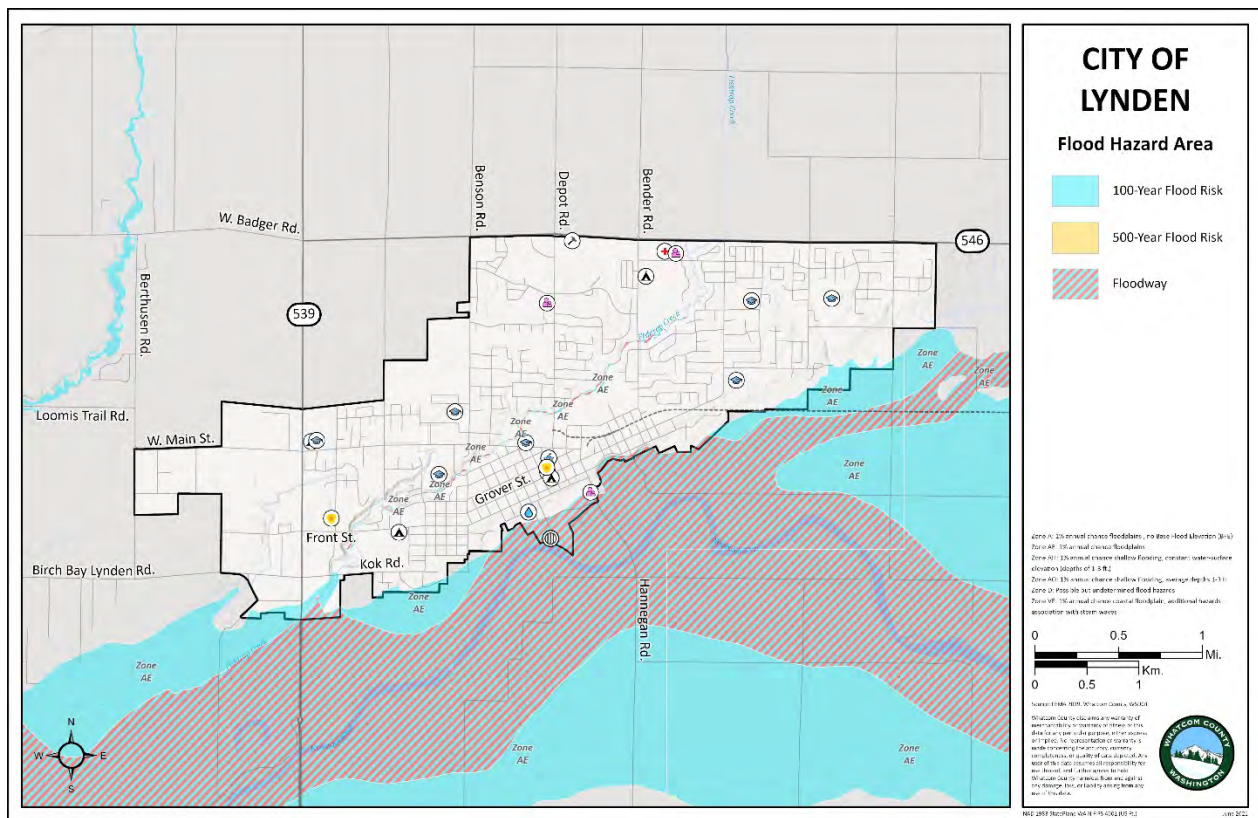
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.



USGS Hazards from Future Activity of Mount Baker, WA (1995) data shows different volcanic flows. Case M flows originate as large avalanches of hydrothermally altered rock. Case 1 debris flows are non-cohesive flows related to melting of snow and ice, with a recurrence of 500 years. Case 2 debris flows are cohesive flows from small debris avalanches, with a recurrence of 100 years.



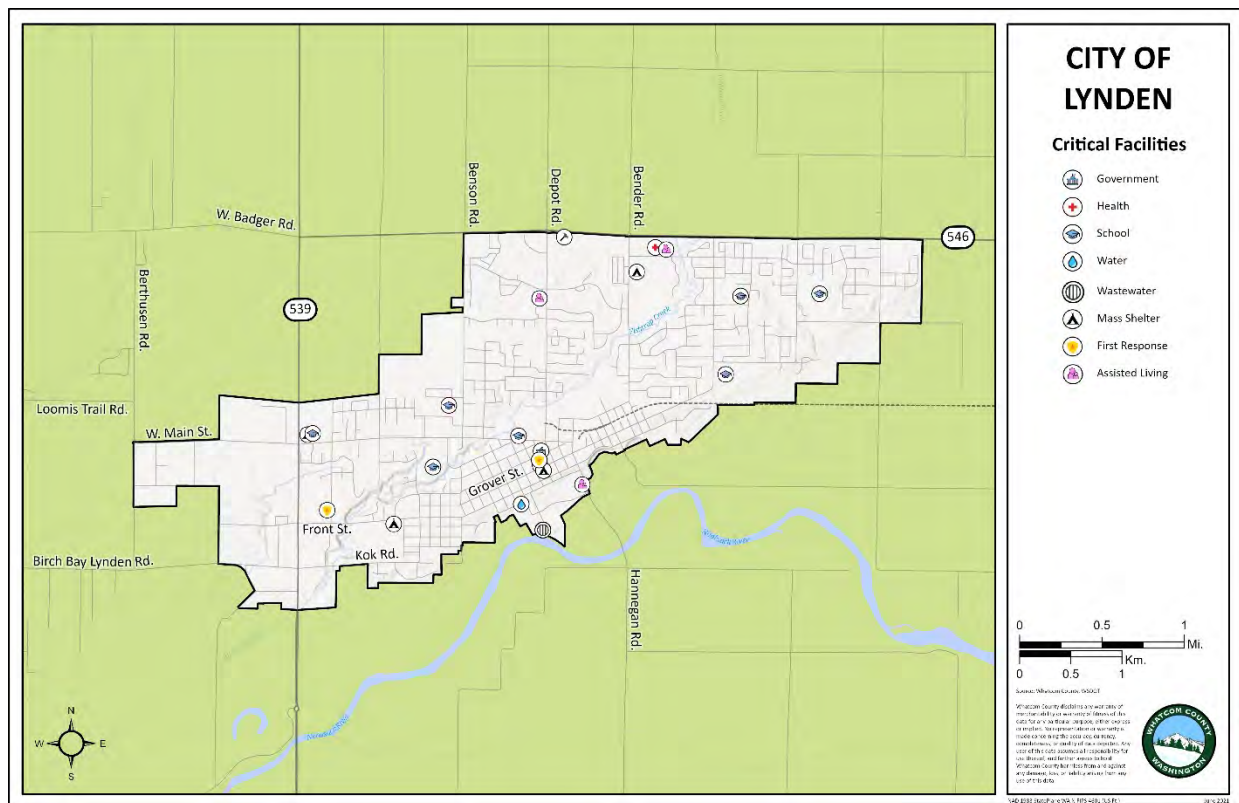
Lynden Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Christian Health Care Center	EF: Assisted Living	2	855 Aaron Drive, Lynden WA 98264	\$17 million	24/7 care for elderly, fragile population who are physically or mentally compromised. Large Elder Care, including skilled nursing.
Lynden City Hall	EF: Government	2	300 Fourth Street, Lynden WA 98264	\$12 million	Center for most City functions, including Public Works. EOC located here. City “headquarters.”
Lynden City Hall Annex	EF: Government	1	205 Fourth Street, Lynden WA 98264	\$3.5 million	Usually empty. Not a high risk. City Council and Municipal Court Chambers.
Lynden Community Center	EF: Assisted Living	1	401 Grover Street, Lynden WA 98264	\$4 million	Seniors use this for social gatherings, meals, and other services. Has kitchen. Senior Gathering place.
Lynden Fire Department	EF: Fire Station	2	215 Fourth Street, Lynden WA 98264	\$9 million	Includes all personnel and equipment for fire response. City’s only Fire Station.
Lynden Manor	EF: Assisted Living	2	905 Aaron Drive, Lynden WA 98264	\$20 million	24/7 care for elderly, fragile population who are physically or mentally compromised. Elder Care, including skilled nursing.
Lynden Police Department	EF: Law Enforcement	2	203 – 19th Street, Lynden WA 98264	\$8.5 million	Includes all personal and equipment for police response. City’s only Police Station.
Meadow Greens	EF: Assisted Living	2	301 W. Homestead Blvd. , Lynden WA 98264	\$20 million	24/7 care for elderly, fragile population who are physically or mentally compromised. Elder Care, including skilled nursing

Riverhouse Retirement	EF: Assisted Living	1	100 Riverview Rd. , Lynden WA 98264	\$12 million	Aging population but robust enough to live alone. Retirement Community.
Northwest Washington Fair	EF: Emergency Services	1	1775 Front Street, Lynden WA 98264	\$25 million	Large facility with capacity for staging and sheltering. Fairgrounds.
Schools – District 504	EF: Evacuation Center	3	7 Schools Total, Lynden WA 98264	\$200 million	2,000 children attend. Facilities have capacity for sheltering. Grades K through 12.
Sonlight Church	EF: Evacuation Center	1	8800 Bender Road, Lynden WA 98264	\$6 million	Large congregation. Used as latchkey facility for school kids. Large Church.
Waste Water Treatment Plant	LUS: Sewer	3	800 S. 6th Street, Lynden WA 98264	\$22 million	All City sewage treated here. Has outfall to Nooksack River. Tertiary sewage treatment.
Water Treatment Plant	LUS: Water	3	525 Judson Street, Lynden WA 98264	\$32 million	Water source for entire City and its residents. Produces City water.
City Bible Church	EF: Evacuation Center	1	1986 Main Street, Lynden WA 98264	\$11 million	Large congregation, transitioning to sports facility. Also “socializing” facility for homeschoolers. Large Church and Gym.
Public Works Street Shop	EF: Snow/Ice removal, various	2	745 Badger Road, Lynden, WA	\$3 million	This facility houses the City’s men and equipment that respond to all natural disasters (flood, snow, ice road washouts etc.). Shop and storage on 5 acres.

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



Map of critical facilities identified by the City of Lynden. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all judications identified or included critical facilities in each category.

Critical Facility Rankings for the Lynden

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in the jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Christian Health Care Center	Assisted Living	2	1	1	0	0	0	0	0	0	0.26
Lynden City Hall	Government	2	1	1	0	0	0	0	0	0	0.26
Lynden City Hall Annex	Government	1	1	1	0	0	0	0	0	0	0.14
Lynden Community Center	Assisted Living	1	1	1	0	0	0	0	0	0	0.14
Lynden Fire Department	Fire Station	2	1	1	0	0	0	0	0	0	0.29
Lynden Manor	Assisted Living	2	1	1	0	0	0	0	0	0	0.29
Lynden Police Department	Law Enforcement	2	1	1	0	0	0	0	0	0	0.29
Meadow Greens	Assisted Living	2	1	1	0	0	0	0	0	0	0.29
Riverhouse Retirement	Assisted Living	1	1	1	0	0	0	1	0	0	0.19
Northwest Washington Fair	Emergency Services	1	1	1	0	0	0	0	0	0	0.14
Schools – District 504	Evacuation Center	3	1	1	0	0	0	0	0	1	0.64
Sonlight Church	Evacuation Center	1	1	1	0	0	0	0	0	0	0.14
Waste Water Treatment Plant	Utility: Sewer	3	1	0	0	0	1	1	0	1	1

Water Treatment Plant	Utility: Water	3	1	1	0	0	0	0	0	0	0.42
City Bible Church	Evacuation Center	1	1	1	0	0	0	0	0	0	0.14
Public Works Street Shop	EF: Snow/Ice removal, various	2	1	1	0	0	0	0	0	0	0.28

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

City of Lynden Exposure to Natural Hazards						
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity					
	<i>MMI V</i>	-	-	-	-	-
	<i>MMI VI</i>	93.9%	95.8%	96.5%	86.4%	\$145 ²
	<i>MMI VII</i>	6.1%	4.2%	3.5%	13.6%	\$38 ²
	<i>MMI VIII - IX</i>	-	-	-	-	-
	TOTAL	100%	100%	100%	100%	\$183
	Liquefaction					
	<i>Very Low to Low</i>	98.5%	99.1%	99.8%	95.5%	\$197 ¹
	<i>Low to Moderate</i>	-	-	-	-	-
	<i>Moderate</i>	-	0.2%	-	-	-
	<i>Moderate to High</i>	0.4%	-	0.1%	-	-
	<i>High</i>	-	-	-	-	-
	TOTAL	98.9%	99.3%	99.9%	95.5%	\$197
	Landslide					
	<i>Landslide Low</i>	-	-	-	-	-
	<i>Landslide Moderate</i>	-	-	-	-	-
	<i>Landslide High</i>	-	-	-	-	-
	<i>Fan Low</i>	0.2%	0.02%	0.1%	-	-
	<i>Fan Moderate</i>	-	-	-	-	-
	<i>Fan High</i>	-	-	-	-	-

	Mine Hazard	-	-	-	-	-
	TOTAL	0.2%	0.02%	0.1%	-	-
	Volcanic Eruption					
	Case 1 Debris Flows	-	-	-	-	-
	Case 2 Debris Flows	-	-	-	-	-
	Case M Flows	2.4%	2.4%	1.9%	4.5%	\$22 ²
	Pyroclastic Flows, Lava Flows, and Ballistic Debris	-	-	-	-	-
	Lateral Blast Hazard Zone	-	-	-	-	-
	TOTAL	2.4%	2.4%	1.9%	4.5%	\$22
	Tsunami, Inundation Zone					
	Low to Moderate Inundation Potential	-	-	-	-	-
	Moderate to High Inundation Potential	-	-	-	-	-
	High Inundation Potential	-	-	-	-	-
	TOTAL	-	-	-	-	-
Hydrological	Flooding					
	100-year Flood	1.9%	0.7%	0.5%	-	-
	500-year Flood	0.1%	0.1%	-	-	-
	Floodway	2.3%	2.1%	0.5%	9.1%	\$34 ²
	Undetermined (Zone D)	-	-	-	-	-
	TOTAL	4.3%	3%	1%	9.1%	\$34
Meteor	Wildfire Zones					
	Interface Very Low-Low Structure Density	0.3%	0.1%	0.02%	-	-

	<i>Interface Medium-High Structure Density</i>	14.8%	15.1%	17.8%	9.1%	\$19
	<i>Intermix Very Low-Low Structure Density</i>	0.9%	0.2%	0.5%	-	-
	<i>Intermix Medium-High Structure Density</i>	4.9%	2.8%	2.3%	9.1%	\$26 ¹
	<i>TOTAL</i>	20.9%	18.2%	20.62	18.2%	\$45

¹This value shows the total of 2020 Whatcom County parcel data appraised total value and community's critical facility assessed dollar value (found in the community's critical facilities list). The critical facility's assessed dollar value was used instead of the appraised total value when available.

²Shows the assessed dollar value provided by the community in their critical facilities list. Does not include the appraised total value.

Status of Lynden's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date, if applicable

General: All Hazards

G-a. Provide for an increased level of safety to the citizens of Lynden. The City regularly undertakes public works projects to prevent or mitigate the effects of natural hazards, particularly flooding, freezing and high-wind events. Particular attention paid to "sheet flooding" which can occur when flat fields freeze solid, followed by heavy rain.

Responsible Entity:	Lynden City Council
Funding Source:	Local sources, and state and federal grants
Timeline:	Current and ongoing
2016-2020 Status	On-Going

G-b. Provide for an increased level of protection for public infrastructure. The City since 2015 has spent an estimated \$600,000 developing the Pepin Creek project which will include \$103,000,000 in infrastructure projects to alleviate flooding in the north-central part of the City. This project is currently underway, with the installation of a boxed-bridge culvert under West Main Street. The project is expected to take 12-15 years, and will be funded mainly through development fees.

Responsible Entity:	Lynden City Council
Funding Source:	Local sources, and state and federal grants
Timeline:	Current and ongoing
2016-2020 Status	On-Going

G-c. Work with neighboring jurisdictions to add additional flow capacity to the Nooksack River in order to minimize catastrophic flooding losses. The City works closely with the Whatcom County flood district to anticipate and mitigate flooding from the Nooksack. The City is also working with the State Department of Ecology to monitor flows on the north, south and mainstem of the Nooksack River.

Responsible Entity:	Lynden City Council
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Funding Source:	Local sources, and state and federal grants
Timeline:	Current and ongoing
2016-2020 Status	On-Going

Education and Outreach

EO-a. Ongoing Community-wide Education and Awareness Activities. Lynden, through the fire department and emergency management, continues to engage in a range of public awareness activities at public events, in the schools and through media channels.

Action Item	Lead Responsibility	Funding	Estimated Cost
Emergency preparedness education programs for schools.	Lynden Fire Department (LFD)	Local	10,000
Drills, exercises in homes, workplaces, classrooms, etc.	LFD	Local	5,000
Public service announcements.	LFD	Local	500
Hazard "safety fairs."	DEM / LFD	Local	1,000
Hazard conferences, seminars.	DEM / LFD	Local	1,000
Hazard awareness weeks.	DEM / LFD	Local	500
Preparedness handbooks, brochures. Distribution of severe weather guides, homeowner's retrofit guide, etc.	DEM / LFD	Local	2,000
Regular newspaper articles.	LFD	Local	200
Annual correspondence with residents reminding them of the need to be hazard prepared.	LFD	Local	200

Drought/heat wave

D-a. Monitor Water Supply. The City has increased its recognized annual water right from 1,792 acre-feet in 2015 to more than 2,000 acre-feet currently. It will increase by another 300-400 acre-feet when the Industrial Condensate Project is complete at the end of 2021. The City is also working on a Managed Aquifer Recharge (MAR) Project that has the potential of providing a surfeit of water to the City's water right. Lynden recently received a \$4.7 million grant to develop the project.

Responsible Entity:	Public Works
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

D-b. Require Water Conservation During Drought Conditions. The City informally discourages unnecessary summertime water use, such as pressure washing sidewalks etc. It also schedules “watering days” for all residences that have an alternating schedule.

Responsible Entity:	Public Works
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

Earthquake

EQ-a Conduct Inspections of Building Safety. The Fire Department does annual Life-Safety inspections of all business.

Responsible Entity:	Lynden Fire Department
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

EQ-b Protect Critical Facilities and Infrastructure. This is an ongoing activity that is part of the City’s regular facility maintenance cycle.

Responsible Entity:	Public Works and Lynden Fire Department
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

EQ-c Conduct Outreach to Builders, Architects, Engineers, and Inspectors. The City has a close working relationship with the Building Development Community. This relationship was strengthened during the recent COVID crisis due to the precautions that needed to be taken and monitored to build safely.

Responsible Entity:	Planning
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

Extreme Temp

ET-a Assist Vulnerable Populations. Lynden has a number of assisted living care facilities. They are all equipped with generators that are tested regularly. There is a strong community-based network in all neighborhoods that check on vulnerable individuals who many need care. Likewise, there are many faith-based assets that reach out to vulnerable individuals to ensure their safety, especially in times of natural hazard events.

Responsible Entity:	Care facilities
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

Flooding

F-a. Incorporate Flood Mitigation in Local Planning. Lynden, like most jurisdictions, has strict requirements intended to anticipate and mitigate local flooding events.

Responsible Entity:	Public Works/Panning
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

F-b. Limit or Restrict Development in Floodplain Areas. Lynden does not allow development in floodplains except in very rare cases. In those cases, significant mitigation is required.

Responsible Entity:	Planning
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

F-c. Improve Stormwater Management Planning. The City is continually improving its stormwater system and collects impact fees to support that activity. The City recently began physically removing snow that collects in north-south drainage ditches, improving their effectiveness.

Responsible Entity:	Public Works
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

F-d. Improve Stormwater Drainage System Capacity. See F-c above.

Responsible Entity:	Public Works
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

F-e. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures.

Lynden regularly maintains and repairs its entire stormwater drainage system, including the use of vacators to extract debris washed into the system.

Responsible Entity:	Public Works
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

F-f. Protect Infrastructure

Responsible Entity:	Public Works
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

F-g. Preserve Floodplains as Open Space. This is generally required by law, and Lynden complies.

Responsible Entity:	Public Works
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

Landslide/erosion

No actions ongoing, discontinued, or completed for this hazard

Landslide Subsidence

No actions ongoing, discontinued, or completed for this hazard

Lightening

No actions ongoing, discontinued, or completed for this hazard

Severe Storm

No actions ongoing, discontinued, or completed for this hazard

Severe Wind

No actions ongoing, discontinued, or completed for this hazard

Tornadoes

No actions ongoing, discontinued, or completed for this hazard

Tsunami

Not Applicable

Wildfire

No actions ongoing, discontinued, or completed for this hazard

Winter storms/Freezes

WW-a Protect Power Lines. This is generally not a City function. Puget Sound Energy regularly prunes trees and vegetation to reduce the possibility of damage to power lines.

Responsible Entity:	Power Company and Public Works
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Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

Multi-Hazard

MU-a. Prevent Development in Hazard Areas. Like all Cities, Lynden is subject to state and local laws that prohibit development in hazard areas where flooding or other events that might endanger residents might occur.

Responsible Entity:	Planning
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

MU-b. Adopt and Enforce Building Codes. Lynden adopted the International Building Code, the International Residential Code and the International Fire Code in 2004, and the International Existing Building Code in 2009, among other building codes. It further adopts any future amendments to these codes, effective upon their adoption by the State Building Code Council. The Planning department and fire department support enforcement.

Responsible Entity:	Public Works and Lynden Fire Department
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

MU-c. Monitor Mitigation Plan Implementation. Lynden does regular annual monitoring of the Mitigation Plan as required by law.

Responsible Entity:	Planning
Funding Source:	Local
Timeline:	Current and ongoing
2016-2020 Status	On-Going

Lynden 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Lynden-Specific Hazard Mitigation Goals

Lynden supports the county-wide planning goals. No additional community-specific mitigation planning goals have been identified at this time.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Lynden considered mitigation options related to drought, earthquake, extreme temperature, flooding, landslides, subsidence, lightening, severe storms, severe wind, wildfires, winter storms, and actions that addressed multiple hazards or all hazards. Lynden especially considered actions related to flooding, earthquakes, severe winter storms, and drought because of the jurisdiction's high exposure to these hazards and/or their potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Lynden. Some options have already been implemented or are ongoing in Lynden, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that [Lynden](#) has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration

of which actions had the greatest potential to protect life, property and public welfare. Lynden is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority	H (High); M (Medium); L (Low)
4	Timeline	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source	Local; State; FEMA; Private; Other
6	Estimated Cost	Actual; Estimated

Lynden Identified Mitigation Actions 2021-2025

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priorit y	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
GENERAL: ALL HAZARDS Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	<i>G-a. Ongoing: Provide for an increased level of safety to the citizens of Lynden.</i>	1, 5	Lynden City Council	H	O	Local sources, and state and federal grants	
	<i>G-b. Ongoing: Provide for an increased level of protection for public infrastructure.</i>	1, 5	Lynden City Council	M	O	Local sources, and state and federal grants	
	<i>G-c. Ongoing: Work with neighboring jurisdictions to add additional flow capacity to the Nooksack River in order to minimize catastrophic flooding losses.</i>	1, 3	Lynden City Council	M	O	Local sources, and state and federal grants	
Education and Outreach	<i>EO-a. Ongoing: Ongoing Community-wide Education and Awareness Activities.</i>	1, 2	Lynden Fire Department and Department of Emergency Management	L	O	Local	
Hazard Specific (Reference:	Actions communities is considering to reducing risk to natural hazards and disasters.						

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priorit y	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
<u>Whatcom County Mitigation Ideas)</u>							
Dam/Levee Failures (See: Flooding)							
Droughts/Heat Waves	<i>D-a Ongoing: Monitor Water Supply</i>	1,3	PW	H	O	Local	2,000
	<i>D-b Ongoing: Require Water Conservation During Drought Conditions</i>	1,3	PW	H	O	Local	1,000
Earthquakes	<i>EQ-a Ongoing: Conduct Inspections of Building Safety</i>	1	LFD	M	O	Local	10,000
	<i>EQ-b Ongoing: Protect Critical Facilities and Infrastructure</i>	1,5	PW / LFD	M	O	Local	2,000
	<i>EQ-c Ongoing: Conduct Outreach to Builders, Architects, Engineers, and Inspectors</i>	2	PW	M	O	Local	1,000
Extreme Temperatures	<i>ET-a Ongoing: Assist Vulnerable Populations</i>	1	LFD	H	O	Local	1,000
	<i>F-a Ongoing: Incorporate Flood</i>	1	PW	M	O	Local	2,000

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Flooding	<i>Mitigation in Local Planning</i>						
	<i>F-b Ongoing: Limit or Restrict Development in Floodplain Areas</i>	1,3	PLANNING	M	O	Local	1,000
	<i>F-c Ongoing: Improve Stormwater Management Planning</i>	1,5	PW	M	O	Local	1,000
	<i>F-d Ongoing: Improve Stormwater Drainage System Capacity</i>	1,5	PW	M	O	Local	1,000
	<i>F-e Ongoing: Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>	1.5	PW	M	O	Local	2,000
	<i>F-f Ongoing: Protect Infrastructure</i>	1	PW	M	O	Local	1,000
	<i>F-g Ongoing: Preserve Floodplains as Open Space</i>	3	PW	M	O	Local	500
	<i>F-h Ongoing: Increase Awareness of Flood Risk and Safety</i>	2	PW / LFD	M	O	Local	1,000
	F-1 Elevate or Retrofit Structures and Utilities Sewer outfall on Nooksack River in need	5	PW	H	S	Local	

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	of retrofit.						
	F-2 Protect Wastewater Treatment Plant Construct a ring dike, flood wall, or otherwise mitigate the wastewater treatment plant against a 75-year flood event or volcanic lahars.	5	PW	L	S	Local, State, and Federal	
	F-3 Relocate Wastewater Shops and Offices The Wastewater Treatment shops and offices are located in the floodplain. These should be mitigated in place or moved out of the floodplain.	1,5	PW	L	L	Local, State, and Federal	
	F-4 Fishtrap Creek Flood Storage and Fish Enhancement Fishtrap Creek has had a significant amount of its floodwater storage capacity eliminated due to development. With very little storage capacity left, any discharges into the stream system immediately surge downstream. Increasing this storage	3	PW	M	S	Local, State, and Federal	

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priorit y	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	capacity would mitigate to attenuate stream discharges.						
Landslide/ Erosion	No actions currently ongoing or planned						
Land Subsidence	No actions currently ongoing or planned						
Lightning	No actions currently ongoing or planned						
Severe Storms	No actions currently ongoing or planned						
Severe Wind	No actions currently ongoing or planned						
Tornadoes	No actions currently ongoing or planned						
Wildfires	No actions currently ongoing or planned						
Winter Storms/ Freezes (Severe Winter Weather)	<i>WW-a. Ongoing: Protect Power Lines</i>	5	POWER COMPANY / PW	H	O	Local	10,000

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Multi-Hazard	<i>MU-a. Ongoing: Prevent Development in Hazard Areas</i>	1	PLANNING	M	O	Local	500
	<i>MU-b. Ongoing: Adopt and Enforce Building Codes</i>	1	PW / LFD	M	O	Local	4,000
	<i>MU-c. Ongoing: Monitor Mitigation Plan Implementation</i>	1	PLANNING	M	O	Local	500
Advanced Mitigation Projects (Dream List)	Lahar Early Warning System – The US Geological Survey has designed a number of systems that automatically detect lahars as they descend neighboring valleys. These systems automatically trigger various types of early warning systems, such as sirens or telephone-based warning systems, such as the reserve 911 telephone-based warning system the city secured.	1,2	WCDEM/LFD	L	L	Local sources, and state and federal grants	
	Community Early Warning System - A community-wide warning system could be	1,2	WCDEM/LFD	L	L	Local sources, and state and federal grants	

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	built to help provide broad community notice for evacuation in the event of flooding, lahars, dam failures, etc. Such an early warning system would typically be a series of sirens that could be triggered in the event the City needed to be evacuated.						
	Cell Phone-Based Early Warning System. A computerized early warning system that automatically dials each landline telephone number within a specified area, and play a recorded message when the phone is answered is currently provided to the City by the Whatcom County Sheriff's Office Division of Emergency Management. A larger capacity system that can also contact cell phones through the use of a federally licensed COG would help to address a variety of natural and manmade problems.	1,2	WCDEM/LFD	L	L	Local sources, and state and federal grants	

IDENTIFIED MITIGATION ACTIONS 2021-2025, LYNDEN							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Tone Radio Based Early Warning System - Tone Radios turn on when triggered by a central transmitter, and then information or instructions are announced over the radio. Such a system is currently used for various types of weather radios, for tornados and severe storms hazard areas. A similar system could be put into place for warnings of flooding, lahars, and other related natural hazards.	1,2	WCDEM/LFD	L	O	Local sources, and state and federal grants	
	Earthquake Early Warning System -Such a system could warn residence of an impending earthquake. Technology doesn't currently exist for such a system, but will likely be possible in the future.	1,2	WCDEM/LFD	L	O	Local sources, and state and federal grants	

Lynden Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

City of Lynden Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
GENERAL: ALL HAZARDS						
<i>G-a. Ongoing: Provide for an increased level of safety to the citizens of Lynden.</i>	B					This is baked into our annual budget process.
<i>G-b. Ongoing: Provide for an increased level of protection for public infrastructure.</i>	B					As above.
<i>G-c. Ongoing: Work with neighboring jurisdictions to add additional flow capacity to the Nooksack River in order to minimize catastrophic flooding losses.</i>	B					Consistent work with Whatcom County on strategies to maintain and improve levies and diking systems.
Add New Action Items if Applicable						
EDUCATION AND OUTREACH						
<i>EO-a. Ongoing: Ongoing Community-wide Education and Awareness Activities.</i>	B					Launched “Lynden Watch” website to keep public apprised of Awareness Activities.
Add New Action Items if Applicable						
DROUGHTS/HEAT WAVES						
<i>D-a Ongoing: Monitor Water Supply</i>	B					Completing Industrial Condensate Project Q3 2021.
<i>D-b Ongoing: Require Water Conservation During Drought Conditions</i>	B					Built into City Code
Add New Action Items if Applicable						
EARTHQUAKES						
<i>EQ-a Ongoing: Conduct Inspections of Building Safety</i>	B					FD performs annual inspections of all commercial structures.
<i>EQ-b Ongoing: Protect Critical Facilities and</i>	B					

City of Lynden Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Infrastructure						
<i>EQ-c Ongoing: Conduct Outreach to Builders, Architects, Engineers, and Inspectors</i>	B					Regular and close contact with building community, particularly during COVID emergency.
<i>Add New Action Items if Applicable</i>						
FLOODING						
<i>F-a Ongoing: Incorporate Flood Mitigation in Local Planning</i>	B					Required by code.
<i>F-b Ongoing: Limit or Restrict Development in Floodplain Areas</i>	B					This is required by state and local law.
<i>F-c Ongoing: Improve Stormwater Management Planning</i>	B					Undertaking major project to control stormwater runoff in north-central part of City (Pepin Creek).
<i>F-d Ongoing: Improve Stormwater Drainage System Capacity</i>	B					Improving drainage on Pepin Creek.
<i>F-e Ongoing: Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>	B					This is part of normal City activity.
<i>F-f Ongoing: Protect Infrastructure</i>	B					This is part of normal City activity.
<i>F-g Ongoing: Preserve Floodplains as Open Space</i>	B					
<i>F-h Ongoing: Increase Awareness of Flood Risk and Safety</i>	B					
F-1 Elevate or Retrofit Structures and Utilities	B					Retrofitted sewer outfall into Nooksack River, completed Q1 2021.
F-2 Wastewater Treatment Plant	D					Low priority
F-3 Relocate Wastewater Shops and Offices	D					Low priority
F-4 Fishtrap Creek Flood Storage and Fish	B					Always ongoing

City of Lynden Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Enhancement						
<i>Add New Action Items if Applicable</i>						
LANDSLIDES/EROSION						
<i>Add New Action Items if Applicable</i>	E					
LAND SUBSIDENCE						
<i>Add New Action Items if Applicable</i>	E					
TORNADOES						
<i>Add New Action Items if Applicable</i>	E					
TSUNAMI						
<i>Add New Action Items if Applicable</i>	E					
WILDFIRES						
<i>Add New Action Items if Applicable</i>						
	E					
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
<i>WW-a. Ongoing: Protect Power Lines</i>	B					
<i>Add New Action Items if Applicable</i>						
EXTREME TEMPERATURES						
<i>ET-a Ongoing: Assist Vulnerable Populations</i>	B					Will remain a high priority for this City.
<i>ET-b Ongoing: Educate Property Owners About Freezing Pipes</i>	B					Community is largely self-sufficient but City engages on this when appropriate.
<i>Add New Action Items if Applicable</i>						

City of Lynden Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
LANDSLIDE						
<i>Add New Action Items if Applicable</i>	E					
LIGHTNING						
<i>Add New Action Items if Applicable</i>	E					
SEVERE WIND						
<i>Add New Action Items if Applicable</i>						
MULTIPLE HAZARDS						
<i>MU-a. Ongoing. Prevent Development in Hazard Areas</i>						
<i>MU-b. Ongoing: Adopt and Enforce Building Codes</i>						
<i>MU-c. Ongoing: Monitor Mitigation Plan Implementation</i>						
<i>Add New Action Items if Applicable</i>						

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MERIDIAN SCHOOL DISTRICT

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Approving Authority

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Planning Process

School District will make use of its capabilities, infrastructure, and dedicated population. The School District will implement its mitigation strategy over the next five years primarily through its annual budget process and varying grant application processes.

The Meridian School District reviewed the previous plan to identify new hazards and recent events to inform new measures. We will work in conjunction with those organizations identified under each mitigation measure to initiate the overall mitigation strategy. Each department or office responsible for carrying out the measures will play a role in self-monitoring and evaluating achievement of measures and objectives. Because the School District has no land use or regulatory authority, it must rely heavily on collaboration with neighboring jurisdictions. For example, for density-related issues the School District will work with partners Whatcom County, and the Hazard Mitigation Forum to implement recommendations into the existing Whatcom County Comprehensive Plan. Other measures will be implemented through collaboration with the identified jurisdictions/departments listed under each measure's evaluation.

These efforts fall under a broader implementation strategy that represents a county-wide effort. This strategy must be adaptable to change while being consistent in its delivery.

Key Contributor List

- Kurt Harvill, Assistant Superintendent
- James Everett, Ed.D, Superintendent
- Joe O’Brien – District Technology Director
- Jay Yeager – District Maintenance and Facilities Director

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability, and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting Meridian School District will be used as a tool when the School District updates other plans and programs, such as the following:

- Strategic and Emergency Response Plan
- Damage Assessment Plan

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for the Meridian School District

The mitigation implementation strategy is a three-tiered method that emphasizes localized needs and vulnerabilities while addressing School District and multi-jurisdictional policies and programs. The first tier is implementation through individual citizen level—existing public education programs in the School District. For example, programs at the individual level through safety presentations and evacuation drills. The second is a School District-wide mechanism for implementation comprised of School District employees implementing strategies from the Emergency Programs Office, Construction Management Office, Facilities Management Office, and Computing & Telecommunications through an ambitious building construction and remodel plan. This perhaps offers the greatest opportunity to implement mitigation opportunities. The third tier is a more external and multi-jurisdictional mechanism, the Hazard Mitigation Forum (HMF).

This method ensures that implementation speaks to unique vulnerabilities at the most local level, allows for coordination among and between levels, and promotes collaboration and innovation. Further, it provides a structured system of monitoring implementation. Finally, it is a method that can adapt to the changing vulnerabilities of the School District, the region, and the times.

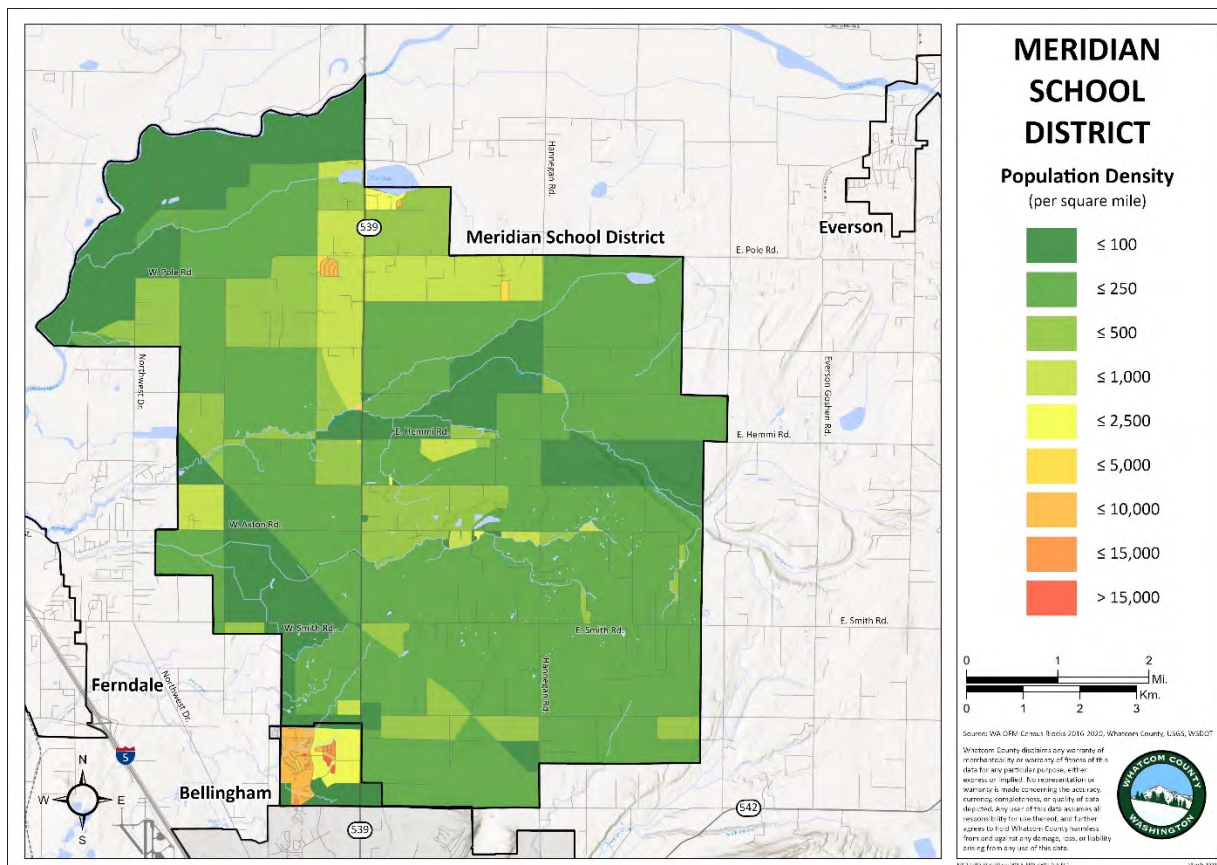
Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	Yes	We teach a fire-science course and have had guests come in to share with classes in the past. We have hosted the WSP drunk driving simulation each 4-6 years.
Ongoing public education or information programs	No Policy; District safety procedures.	We communicate with families and district community members when we are closed or are addressing some need with posting content to our website, Flash Alert system, Student Information System alerts, and robo-calling.
School-related programs for natural hazard safety	Policy 3432, Adopted 2013, Updated 2021	Monthly emergency drills include earthquake, various evacuations, shelter-in-place, and lockdown.
StormReady certification	No	Whatcom is a StormReady County
Firewise Community certification	No	N/A
Public-Private Partnership initiatives addressing disaster-related issues	No	N/A

Overview of Meridian School District, Hazards, and Assets

Geography of the Meridian School District

Meridian School District Students	1800 (2021 estimate)
Meridian School District Staff	250 staff
Total area	38 sq. mi. (within school district)



Washington State Office of Financial Management (OFM) 2020 population and housing estimates for 2010-2020 census block data. This map uses the 2016-2020 average population to show population density per square mile.

Presence of Hazards and their Impacts in the Meridian School District

The main hazards of concern are severe storms and earthquakes. As recently as November 2013, the Meridian School District High School sustained severe cold and wind, resulting in a burst sprinkler head and resulting flood. The damage has been repaired. Another burst pipe, power loss, barn door was blown off and replaced, roofing blown off by wind to the Performing Arts building during winter of 2020. The damage inflicted is a reminder of why proactive steps should be taken to mitigate future natural hazard events.

While enrollment has increased slightly in the past five years, we have not seen an impact to the context of natural hazards in the district. We are currently bringing in eight (8) portables to three sites in the district (three at Meridian Middle School, four at Irene Reither Elementary School, and one to the MP3 campus). There have been no changes other than an increase enrollment and the installation of additional portables (as noted above) during the summer of 2021.

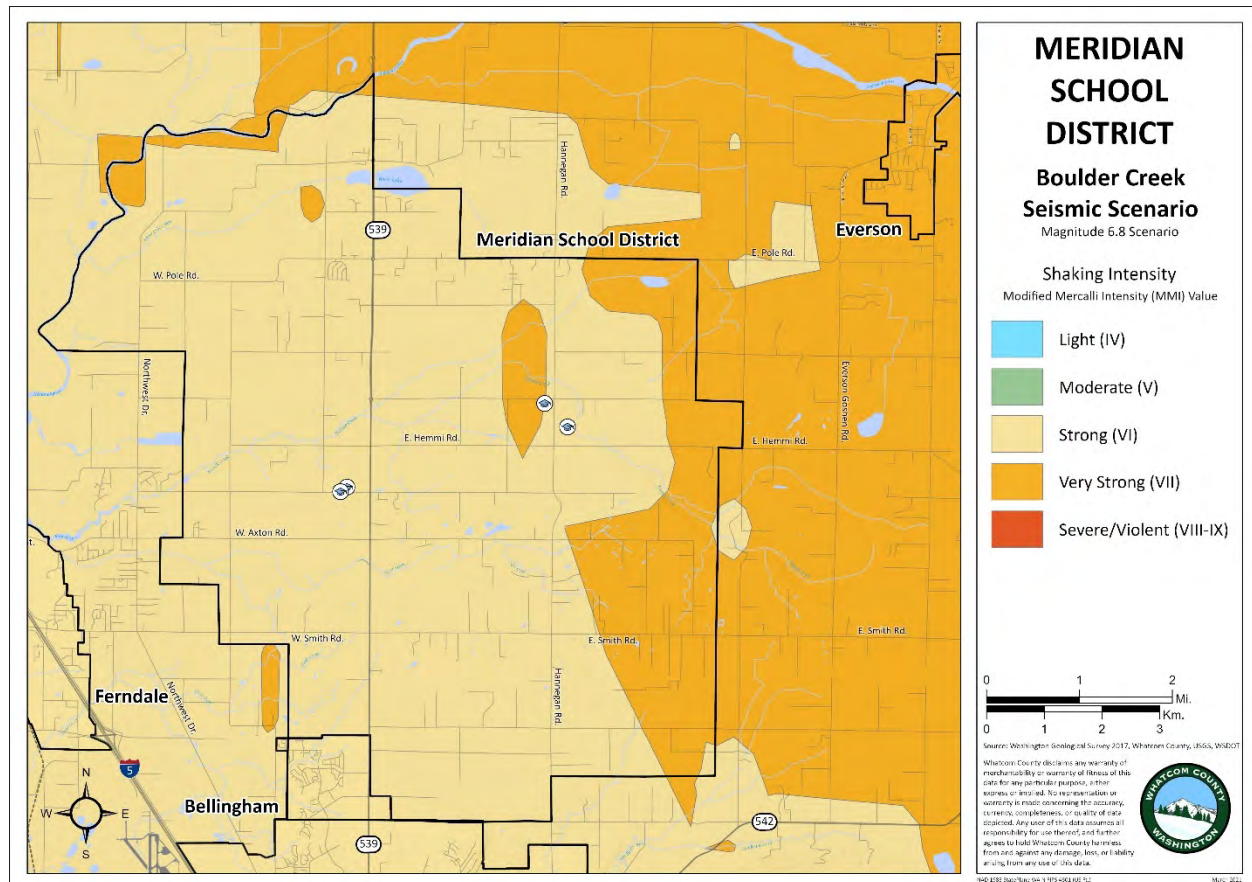
In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Meridian School Districts' total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	97.4%	High	The Meridian School District is prone to earthquake impacts. In particular, according to the Boulder Creek Seismic Scenario, the Meridian School District could receive strong (VI) intensity in the south by the high school and very strong (VII) intensity more north by the middle school.
	Liquefaction	92.81%	High	There are seismically unstable soils throughout the school district.
	Landslide	0.04%	N/A	N/A
	Volcano	7.6%	N/A	N/A
	Tsunami	0%	N/A	N/A
	Mine Hazards	0%	N/A	There are Mine Hazards in north Bellingham, but none are directly below the Meridian schools.
Hydrological	Flooding	6%	Moderate	The Meridian High School, Meridian Parent Partnership Program building, and the Irene Reither Primary School all sit within or near a 100-year floodplain.
Meteorological	Wildfire	64.7%	Moderate	There is a risk of fires spreading to the Meridian schools.
	Severe Storms	100%	Moderate	The Meridian School District is subject to severe storms year-round.

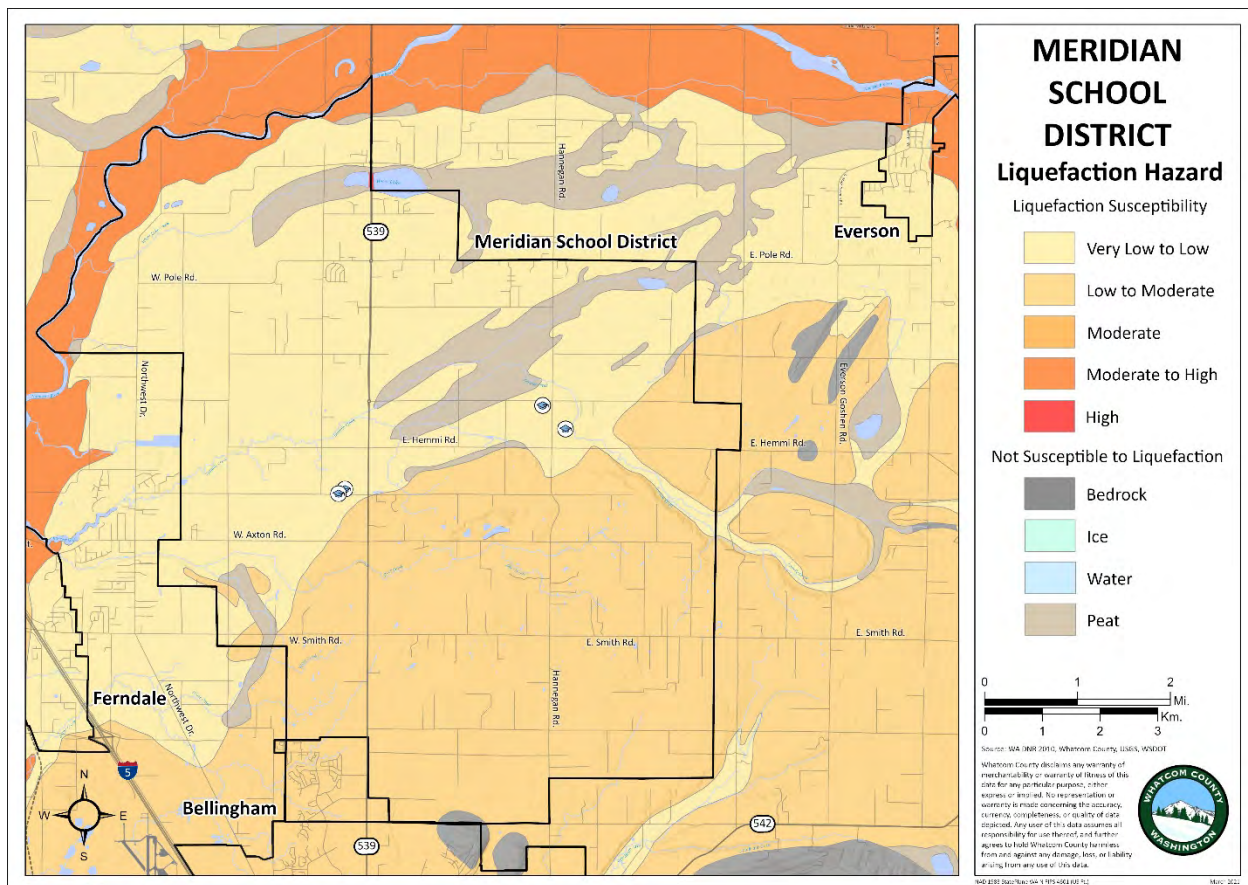
Severity Scale: **None** = no impact to community function
Low = minor degradation of community functions, not widespread
Moderate = moderate degradation over multiple weeks or widespread
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

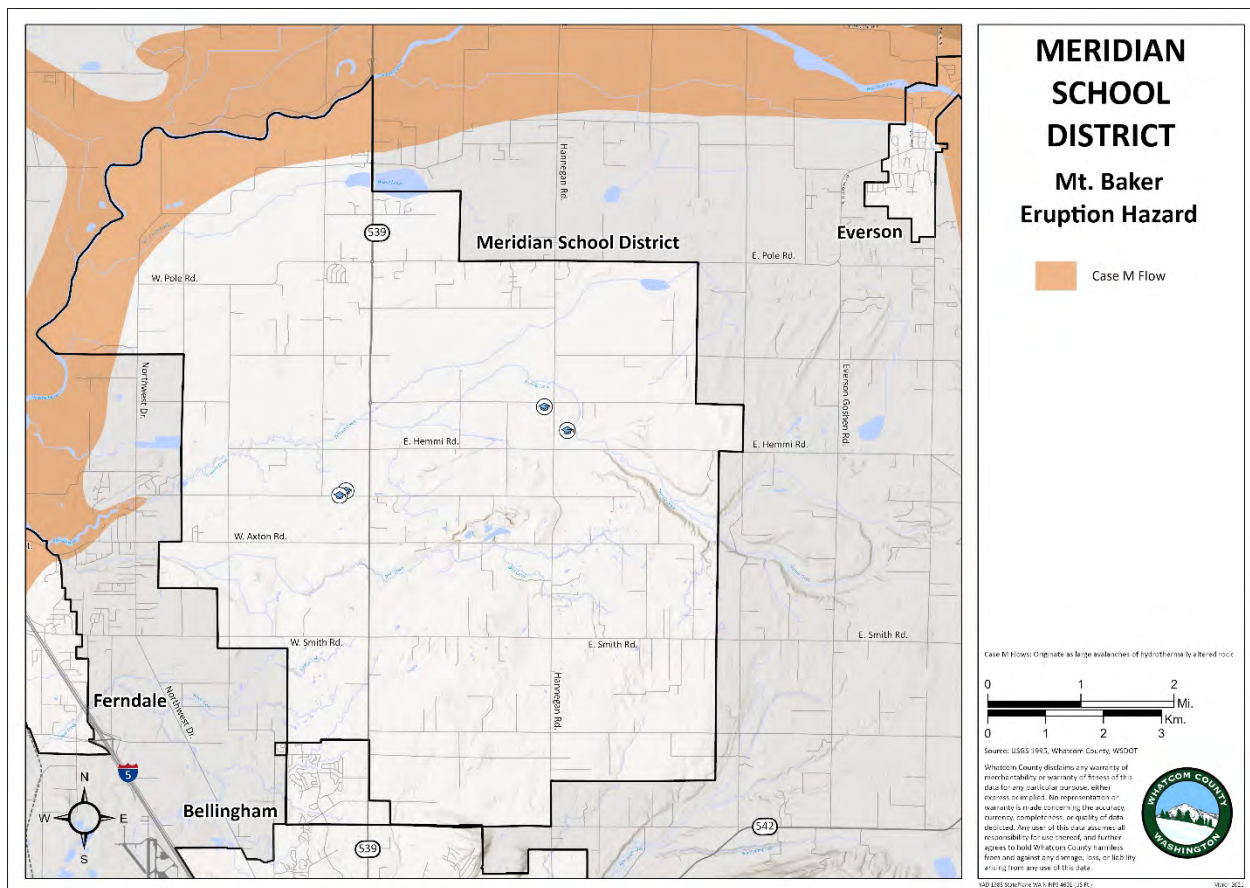
The following figures depict the natural hazards present within the jurisdiction.



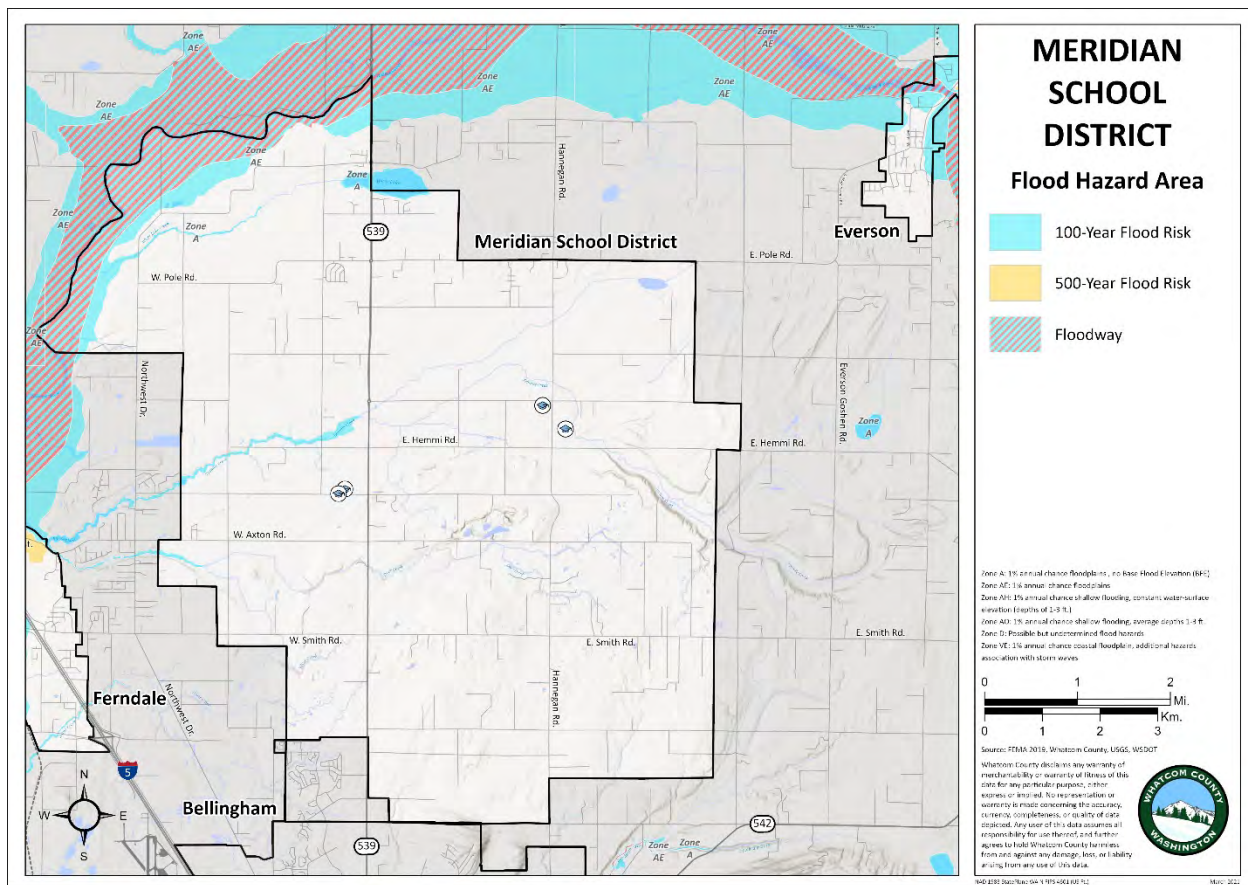
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



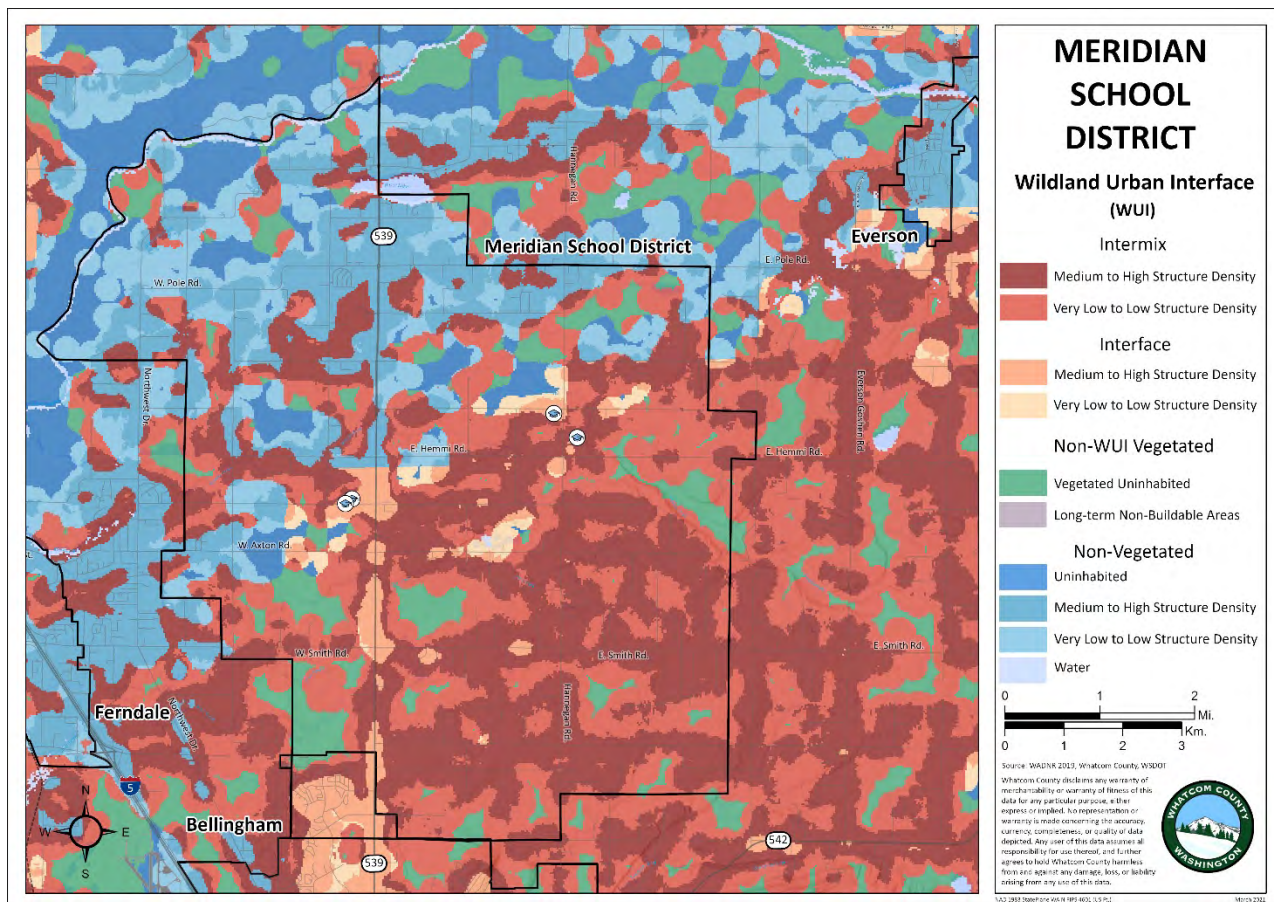
Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.



USGS Hazards from Future Activity of Mount Baker, WA (1995) data shows different volcanic flows. Case M flows originate as large avalanches of hydrothermally altered rock. Case 1 debris flows are non-cohesive flows related to melting of snow and ice, with a recurrence of 500 years. Case 2 debris flows are cohesive flows from small debris avalanches, with a recurrence of 100 years.



FEMA 2019 flood hazard data showing 100-year flooding, 500-year flooding, floodways, and flood zones. FEMA flood data includes both riverine and coastal flooding.



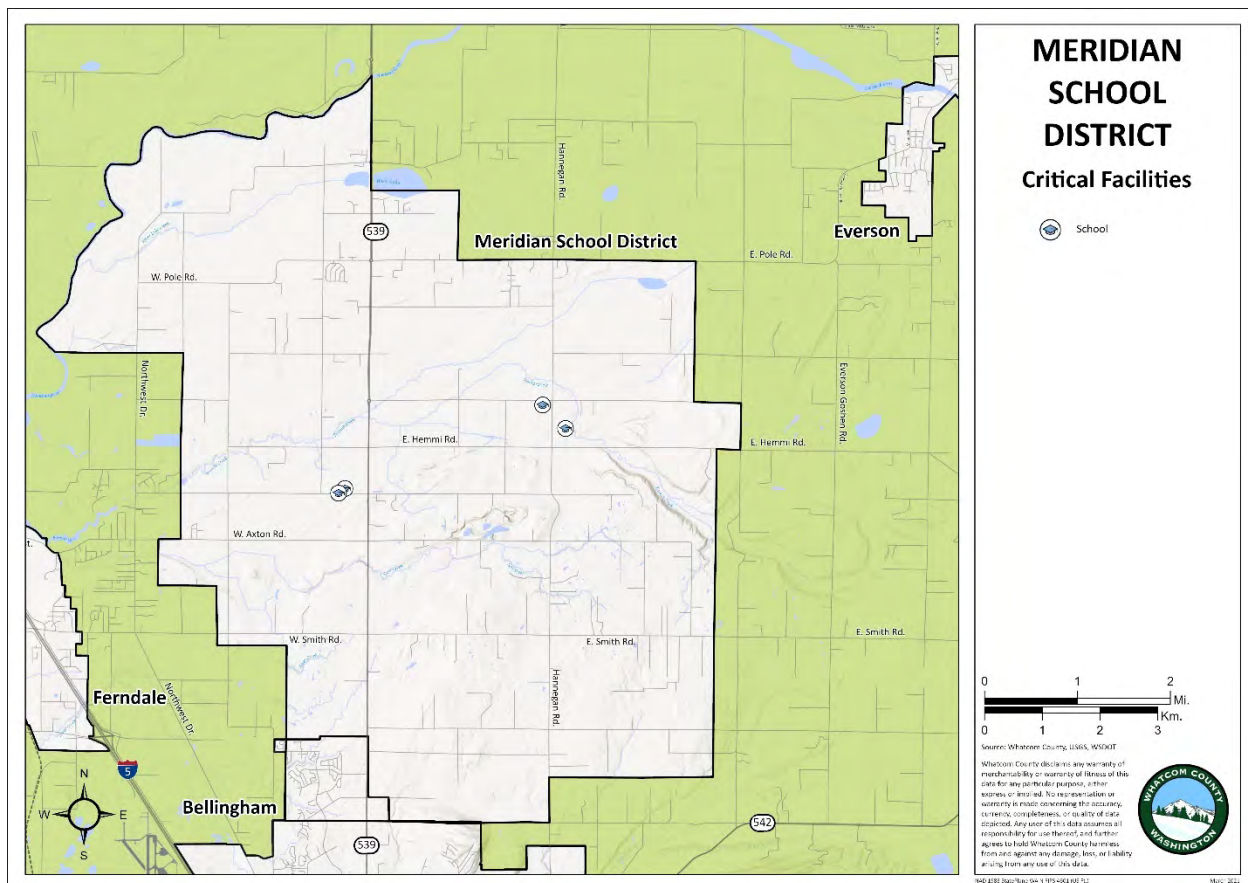
Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.

Meridian School District Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Middle School Gym	EF	3	861 Ten Mile Rd, Lynden, WA		
High School Gym	EF	3	194 W Laurel Rd, Bellingham, WA		
High School Performing Arts Center	EF	3	194 W Laurel Rd, Bellingham, WA		
Irene Reither Elementary	EF	3	954 East Hemmi Road, Everson, WA		
Meridian Middle School	EF	3	861 Ten Mile Rd, Lynden, WA		
Meridian High School	EF	3	194 W Laurel Rd, Bellingham, WA		School and Emergency Shelter
Meridian Parent Partnership	EF	3	240 West Laurel Road, Bellingham		School

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



Map of critical facilities identified by the Meridian School District. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all judications identified or included critical facilities in each category.

Critical Facility Rankings for the Meridian School District

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in the jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Middle School Gym	EF	3	1	1	0	0	0	0	0	1	1
High School Gym	EF	3	1	1	0	0	0	0	0	1	1
High School Performing Arts Center	EF	3	1	1	0	0	0	0	0	1	1
Irene Reither Elementary	EF	3	1	1	0	0	0	0	0	1	1
Meridian Middle School	EF	3	1	1	0	0	0	0	0	1	1
Meridian High School	EF	3	1	1	0	0	0	0	0	1	1
Meridian Parent Partnership	EF	3	1	1	0	0	0	0	0	1	1

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSU** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

Meridian School District's Exposure to Natural Hazards						
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity					
	<i>MMI V</i>	-	-	-	-	-
	<i>MMI VI</i>	83.5%	90.3%	85.6%	75%	\$19
	<i>MMI VII</i>	13.9%	9.6%	13.9%	25%	\$7
	<i>MMI VIII - IX</i>	-	-	-	-	-
	TOTAL	97.4%	99.9%	99.5%	100%	\$26
	Liquefaction					
	<i>Very Low to Low</i>	43.7%	36.8%	51.4%	100%	\$25
	<i>Low to Moderate</i>	45.4%	53.6%	44.5%	-	-
	<i>Moderate</i>	-	-	-	-	-
	<i>Moderate to High</i>	3.7%	1.8%	0.8%	-	-
	<i>High</i>	0.01%	0.01%	-	-	-
	TOTAL	92.81%	92.21%	96.7%	100%	\$25
	Landslide					
	<i>Landslide Low</i>	-	-	-	-	-
	<i>Landslide Moderate</i>	-	-	-	-	-

	<i>Landslide High</i>	-	-	-	-	-
	<i>Fan Low</i>	0.04%	0.01%	0.03%	-	-
	<i>Fan Moderate</i>	-	-	-	-	-
	<i>Fan High</i>	-	-	-	-	-
	<i>Mine Hazard</i>	-	-	-	-	-
	TOTAL	0.04%	0.01%	0.03%	-	-
	Volcanic Eruption					
	<i>Case 1 Debris Flows</i>	-	-	-	-	-
	<i>Case 2 Debris Flows</i>	-	-	-	-	-
	<i>Case M Flows</i>	7.6%	1.9%	3.4%	-	-
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	-	-	-	-	-
	<i>Lateral Blast Hazard Zone</i>	-	-	-	-	-
	TOTAL	7.6%	1.9%	3.4%	-	-
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	-	-	-	-	-
	<i>Moderate to High Inundation Potential</i>	-	-	-	-	-
	<i>High Inundation Potential</i>	-	-	-	-	-
	TOTAL	-	-	-	-	-

Hydrological Hazards	Flooding					
	<i>100-year Flood</i>	2.2%	16.2%	1.6%	-	-
	<i>500-year Flood</i>	-	-	-	-	-
	<i>Floodway</i>	3.8%	5.7%	-	-	-
	<i>Undetermined (Zone D)</i>	-	-	-	-	-
	TOTAL	6%	21.9%	1.6%	-	-
Meteorological	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	1.5%	0.6%	1.7%	-	-
	<i>Interface Medium-High Structure Density</i>	3.9%	16.8%	4.8%	75%	\$21
	<i>Intermix Very Low-Low Structure Density</i>	25.4%	14.7%	12.4%	-	-
	<i>Intermix Medium-High Structure Density</i>	33.9%	27.3%	44.3%	25%	\$4
	TOTAL	64.7%	59.4%	63.2%	100%	\$25

Status of Meridian School District's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

Education and Outreach

EO-a Drills: Classroom, School, and District. Monthly emergency drills include earthquake, various evacuations, shelter-in-place, and lockdown. Goals 1, 2, and 5.

Lead Agency	Principals, District Office
Funding Source	Local
Current Status	Ongoing

EO-b. Preparedness handbooks. Goals 1, 4, and 5.

Lead Agency	Whatcom County Division of Emergency Management
Funding Source	County
Current Status	Ongoing

EO-c. Annual Correspondence. Ongoing communication with WCDEM to ensure procedures are appropriate and updated. Goal 1.

Lead Agency	WCDEM/ District
Funding Source	County / Local
Current Status	Ongoing

Drought/heat wave

No actions ongoing, discontinued, or completed for this hazard.

Earthquake

EQ-a. Building Inspections/ trained staff for shut offs.

Lead Agency	Director of Maintenance
Funding Source	Local
Current Status	Ongoing

EQ-b. Review and Update Emergency Preparedness Plan

Lead Agency	Supt or Designee
Funding Source	Local
Current Status	Ongoing

EQ-c. Increase Risk Awareness

Lead Agency	Supt or Designee
Funding Source	Local
Current Status	Ongoing

EQ-d. Damage Assessment Plan

Lead Agency	Designee
Funding Source	Local
Current Status	Ongoing

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

No actions ongoing, discontinued, or completed for this hazard.

Landslide/erosion

No actions ongoing, discontinued, or completed for this hazard.

Landslide Subsidence

No actions ongoing, discontinued, or completed for this hazard.

Lightning

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

SS-a. Storm Preparedness Check list.

Lead Agency	Director of Maintenance
Funding Source	Local
Current Status	Ongoing

SS-b. Post Storm checklists (debris and damage management).

Lead Agency	Director of Maintenance
Funding Source	Local
Current Status	Ongoing

SS-c. Review and Update Emergency Preparedness Plan

Lead Agency	Supt or Designee
Funding Source	Local
Current Status	Ongoing

Severe Wind

No actions ongoing, discontinued, or completed for this hazard.

Tornadoes

No actions ongoing, discontinued, or completed for this hazard.

Tsunami

No actions ongoing, discontinued, or completed for this hazard.

Wildfire

No actions ongoing, discontinued, or completed for this hazard.

Winter storms/Freezes

No actions ongoing, discontinued, or completed for this hazard.

Multiple Hazards

No actions ongoing, discontinued, or completed for this hazard.

Meridian School District 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Meridian School District-Specific Hazard Mitigation Goals

Meridian School District does not add to these county-wide goals.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Meridian School District considered mitigation options related to earthquakes and severe storms because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Meridian School District. Some options have already been implemented or are ongoing in Meridian School District, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Meridian School District has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property and public welfare. Meridian School District is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority	H (High); M (Medium); L (Low)
4	Timeline	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source	Local; State; FEMA; Private; Other
6	Estimated Cost	Actual; Estimated

Meridian School District Identified Mitigation Actions 2021-2025

MERIDIAN SCHOOL DISTRICT IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Education and Outreach Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	EO-a Ongoing -- Drills: Classroom, School, and District Monthly emergency drills include earthquake, various evacuations, shelter-in-place, and lockdown.	1,2,5	Principals, District office		O		
	EO-b. Ongoing -- Preparedness handbooks.	1,4,5	WCDEM		O		
	EO-c Ongoing -- Annual Correspondence Ongoing communication with WCDEM to ensure procedures are appropriate and updated.	1	WCDEM/ District		O		
Hazard Specific (Reference: Whatcom County Mitigation Ideas)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						

**MERIDIAN SCHOOL DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Dam/Levee Failures (See: Flooding)	There are no new actions considered/all actions ongoing, discontinued, or completed						
Droughts/Heat Waves	There are no new actions considered/all actions ongoing, discontinued, or completed						
Earthquakes	<i>EQ-a. Ongoing: Building Inspections/ trained staff for shut offs.</i>	1,5	Director of Maintenance				
	<i>EQ-b. Ongoing: Review and Update Emergency Preparedness Plan</i>	1, 5	Supt or Designee		0		
	<i>EQ-c. Ongoing: Increase Risk Awareness</i>	2	Supt or Designee		0		
	<i>EQ-d. Ongoing: Damage Assessment Plan</i>	1, 5	Supt or Designee		0		
Extreme Temperatures	There are no new actions considered/all actions ongoing, discontinued, or completed						
Flooding	There are no new actions considered/all actions ongoing, discontinued, or completed						

**MERIDIAN SCHOOL DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Landslide/ Erosion	There are no new actions considered/all actions ongoing, discontinued, or completed						
Land Subsidence	There are no new actions considered/all actions ongoing, discontinued, or completed						
Lightning	There are no new actions considered/all actions ongoing, discontinued, or completed						
Severe Storms	<i>SS-a. Ongoing: Storm Preparedness Checklist.</i>	1,5	Director of Maintenance		O		
	<i>SS-b. Ongoing: Post Storm checklists (debris and damage management)</i>	1,5	Director of Maintenance		O		
	<i>SS-c. Ongoing: Review and Update Emergency Preparedness Plan</i>	1,5	Supt or Designee		O		
Severe Wind	There are no new actions considered/all actions ongoing, discontinued, or completed						
Tornadoes	There are no new actions considered/all actions ongoing, discontinued, or completed						
Tsunami	There are no new actions considered/all actions ongoing, discontinued, or completed						

**MERIDIAN SCHOOL DISTRICT
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Wildfires	There are no new actions considered/all actions ongoing, discontinued, or completed						
Winter Storms/ Freezes (Severe Winter Weather)	There are no new actions considered/all actions ongoing.						
Multiple Hazards	There are no new actions considered/all actions ongoing.						

Meridian School District Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

Meridian School District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Education and Outreach						
<i>EO-a Ongoing: Drills-- Classroom, School, and District</i>	B					
<i>EO-b Ongoing: Preparedness handbooks</i>	B					
<i>EO-c Ongoing: Annual Correspondence</i>	B					
<i>Add New Action Items if Applicable</i>						
DAM/LEVEE FAILURES						
<i>Add New Action Items if Applicable</i>	N/A					
DROUGHTS/HEAT WAVES						
<i>Add New Action Items if Applicable</i>	N/A					
EARTHQUAKES						
<i>EQ-a. Ongoing: Building Inspections/ trained staff for shut offs.</i>	B					
<i>EQ-b Ongoing: Review and Update Emergency Preparedness Plan</i>	B					
<i>EQ-c Ongoing: Increase Risk Awareness</i>	B					
<i>EQ-d Ongoing: Damage assessment plan</i>	B					
<i>Add New Action Items if Applicable</i>						
SEVERE STORMS						
<i>SS-a. Ongoing: Storm Preparedness Check list</i>	B					
<i>SS-b. Ongoing: Post Storm checklists (debris and damage management)</i>	B					
<i>SS-c. Ongoing: Review and Update Emergency Preparedness Plan</i>	B					
<i>Add New Action Items if Applicable</i>						

Meridian School District Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					Notes on yearly progress
	2021	2022	2023	2024	2025	
LANDSLIDES/EROSION						
<i>Add New Action Items if Applicable</i>						
LAND SUBSIDENCE						
<i>Add New Action Items if Applicable</i>						
TORNADOES						
<i>Add New Action Items if Applicable</i>						
TSUNAMI						
<i>Add New Action Items if Applicable</i>						
WILDFIRES						
<i>Add New Action Items if Applicable</i>						
EXTREME TEMPERATURES						
<i>Add New Action Items if Applicable</i>						
LANDSLIDE						
<i>Add New Action Items if Applicable</i>						
LIGHTNING						
<i>Add New Action Items if Applicable</i>						
SEVERE WIND						
<i>Add New Action Items if Applicable</i>						
MULTIPLE HAZARDS						
<i>Add New Action Items if Applicable</i>						

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CITY OF NOOKSACK

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Planning Process

The City of Nooksack process of reviewing, updating, and adopting the 2021 update of the Whatcom County Natural Hazards Mitigation Plan (NHMP or Plan) included review by multiple City departments and formal adoption by the City Council. Review of the prior plan began in early 2021. The City Planner reviewed the previous plan and met with the City Clerk and Public Works Director to identify sections of the Plan that might need to be updated. From February through April 2021, the City Planner attended a series of coordination meetings hosted by the County Division of Emergency Management (DEM). Initial guidance was received from DEM regarding the update schedule and the main areas to focus on as part of the update.

In early March 2021, the City provided public notice in the Lynden Tribune regarding the planned update of the NHMP and posted information regarding the update on the City website. Information regarding opportunities to provide public comment was also posted on the City website. During March and April of 2021, the City Planner prepared draft revisions to the NHMP and met with the Public Works Director and the Mayor to review the draft revisions and receive additional input. City staff also coordinated with the Everson Chief of Police regarding details contained in the Nooksack section of the Plan because the Everson Police Department provides police protection services to the city of Nooksack on a contract basis. During the same time period, City staff participated in two virtual public meetings hosted by DEM where the public was invited to receive information and ask questions regarding the 2021 update of the NHMP.

The draft revisions to the NHMP addressing the city of Nooksack, incorporating input received from the Public Works Director, Mayor and Chief of Police, were submitted to DEM in late April of 2021. In May of 2021, DEM notified the public regarding the availability of draft revisions to the full Plan and hosted a third virtual public meeting to receive comments from the public. Following review by the City Council in May 2021, the City Council passed a motion supporting the updates contained in the Nooksack section of draft NHMP. Prior to the Plan being

submitted to the Federal Emergency Management Agency for review, the City Council formally adopted the draft Plan on XX, 2021 through Resolution No. XX. It is anticipated that formal adoption by ordinance will follow approval from FEMA.

Key Contributor List

- Rollin Harper, City Planner
- Mayor Marshall Judy
- Virginia Arnason, City Clerk-Treasurer
- Bob Skillman, Public Works Director
- Everson Chief of Police, Dan MacPhee

Meeting Dates and Attendees

- February 18, 2021 – Harper, Arnason and Skillman
- April 15, 2021 – Harper and Arnason
- April 30, 2021 – Harper and Skillman

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability, and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting the City of Nooksack will be used as a tool when the City updates other plans and programs, such as the following:

- Comprehensive plan required by the Growth Management Act (GMA);
- Development regulations required by the GMA;
- Critical areas ordinance;
- Capital improvement program;
- Capital facilities planning; and
- Water Resource Inventory Area planning.

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for the City of Nooksack

The City of Nooksack will maintain and update the Natural Hazards Mitigation Plan as needed to respond to changed circumstances, to incorporate best available science and to address

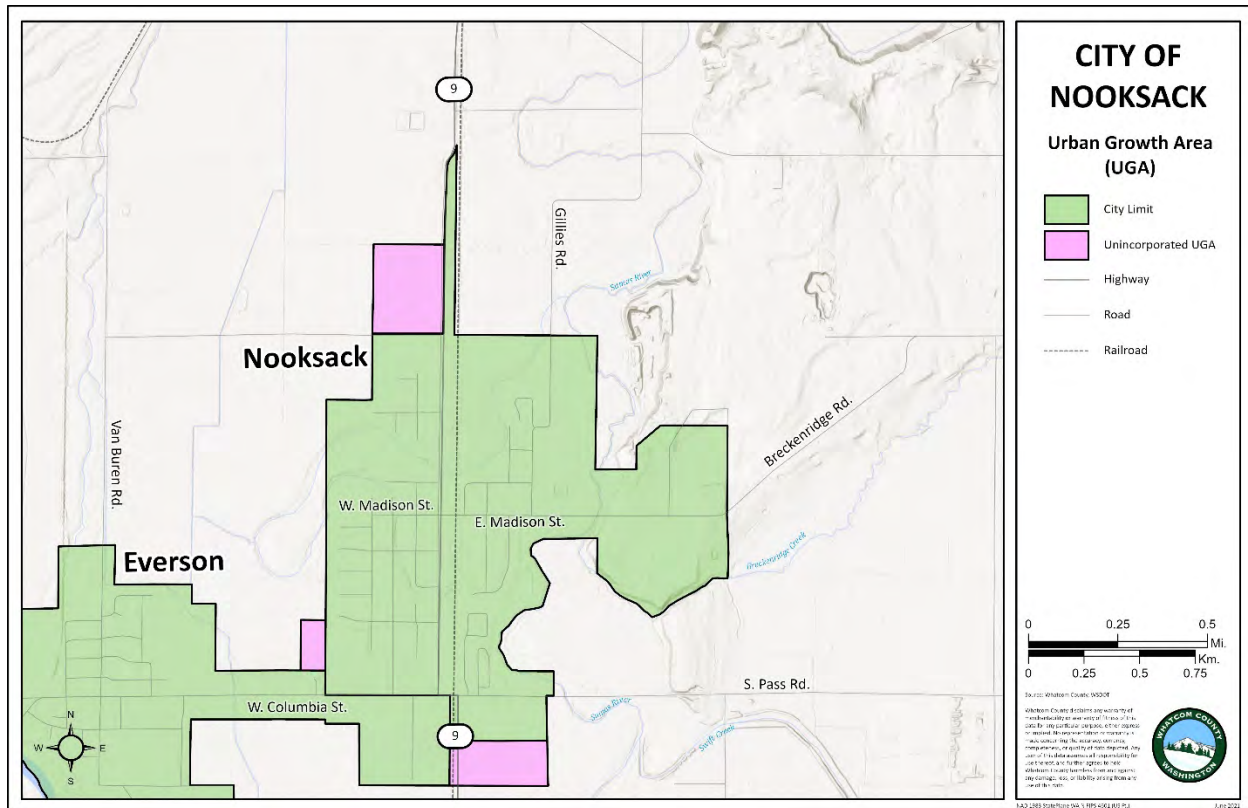
changing community priorities. The Plan update process will include community engagement through public meetings and opportunities for public comment. Formal updates of the Plan will be reviewed by the City Council prior to adoption.

Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	No	
Ongoing public education or information programs	YES 2000-City newsletters	Information regarding water conservation and flood preparedness
School-related programs for natural hazard safety	Yes 2005	Semi-annual in-school drills regarding responses to natural disasters
Public education or information program	Yes 2000-City newsletters	Information regarding water conservation and flood preparedness
StormReady certification	No	Whatcom County is StormReady certified.
Firewise Community certification	No	N/A
Public-Private Partnership initiatives addressing disaster-related issues	No	
Other		

Growth Trends

This map displays the UGA for the City of Nooksack as designated by the Whatcom County Comprehensive Plan.



Presence of Hazards and their Impacts in the City of Nooksack

Flooding is the main natural hazard that affects the City of Nooksack. Flooding events that affect Nooksack occur about every five to ten years and are associated with flooding of both the Nooksack River along the western border of the city and the Sumas River. That forms a portion of the eastern City limits. The most recent event was in February 2020 when the Nooksack River overflowed its banks to the south of the adjacent city of Everson. As is typical in major flooding events on the Nooksack River, these floodwaters diverged from the main channel and flowed north (through what is referred to as the “Nooksack Overflow Corridor”), flooding the western portions of residential subdivisions in the City of Nooksack and continuing north through the City of Sumas and into Canada. The flow of floodwaters through the Nooksack Overflow Corridor in 2020 resulted in the temporary closure of a portion of State Route 544 (W. Main Street through the City of Everson) that is the main connection route between the two cities. This closure can significantly interrupt access to police, fire and emergency services that are located on the opposite side of the Overflow Corridor from the City of Nooksack.

During the same event, flooding occurred on the Sumas River that resulted in temporary closure of a major north-south travel route. Flooding of the Sumas River contributes to an additional hazard that affects the City of Nooksack. Floodwaters from the Sumas River often pick up and carry fine particulate matter that contains naturally occurring asbestos that originates from a landslide on the western slope of the nearby Sumas Mountain. These potentially toxic materials are then deposited throughout the Sumas River floodplain, where they can dry and become airborne.

Since the 2016 NHMP was adopted, the City of Nooksack has grown by roughly 170 people. The great majority of this growth has occurred in locations outside the 100-year floodplain. Since 2016, the City has increased residential densities in non-floodplain areas and in areas where structures and building sites can be elevated above the elevation of the 100-year flood event. The City also worked in cooperation with Whatcom County to add approximately 30 acres outside the floodplain to the City’s designated urban growth area in exchange for removing a larger area from the UGA that was subject to both flooding from the Sumas River and deposition of naturally occurring asbestos. In December 2019 the City annexed an over 100-acre area of higher ground to the east of the Sumas River that is almost entirely outside the 100-year floodplain.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Nooksack’s total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering

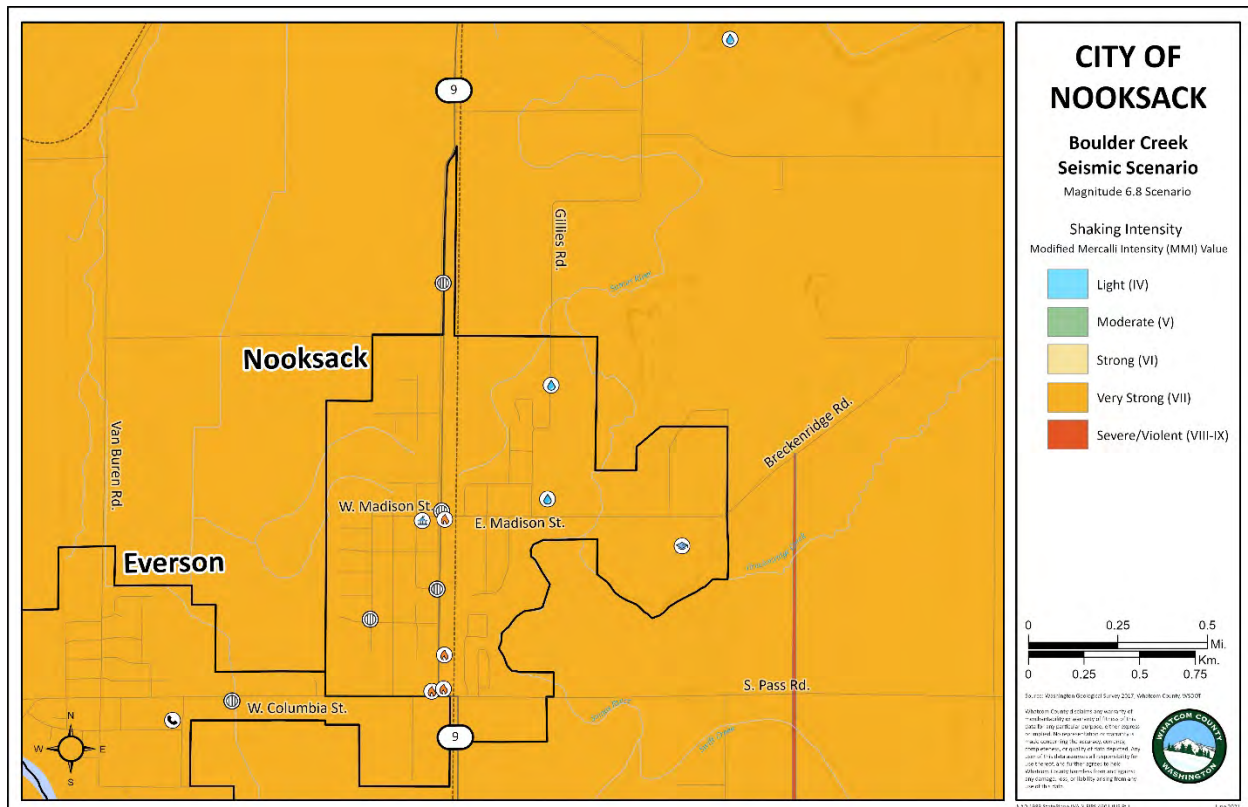
the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	100%	Mod	The city is subject to seismic activity.
	Liquefaction	97.2%	Low	Seismically-sensitive soils.
	Landslide	0%	None	N/A
	Volcano	93.9%	Low	All of the area within the city limits would be affected by a Mount Baker lahar.
	Tsunami	0%	None	N/A
	Mine Hazards	0%	None	N/A
Hydrological	Flooding	45.5%	High	This hazard occurs frequently and can be severe, especially due the presence of isolated areas. Major flooding occurred in 1989, 1990, and 1995. Flooding begins in the west side of the City and moves east and north up Highway 9, toward Sumas. A dike was extended in 1991 with money from mitigation. The dike runs parallel to the Nooksack River on the West side, ending on Emerson Road. It prevents water from going to Washington St. and on through to Main Street. The dike diverts Nooksack River overflow to the floodway that runs to the north along the western boundary of Nooksack. The Sumas River can flood east of the City, but does not cause severe problems.
Meteorological	Wildfire	20.3%	None	N/A

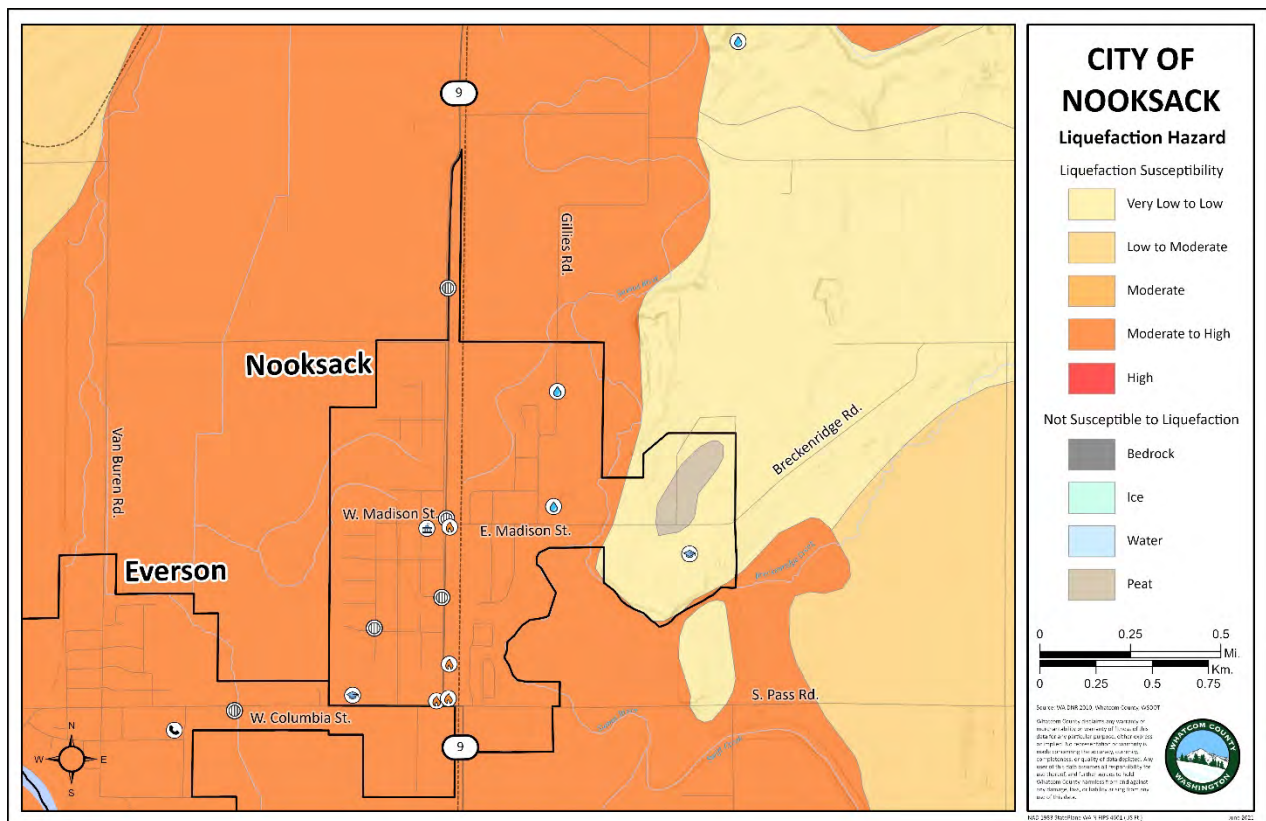
Severity Scale: **None** = no impact to community function
Low = minor degradation of community functions, not widespread
Moderate = moderate degradation over multiple weeks or widespread
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

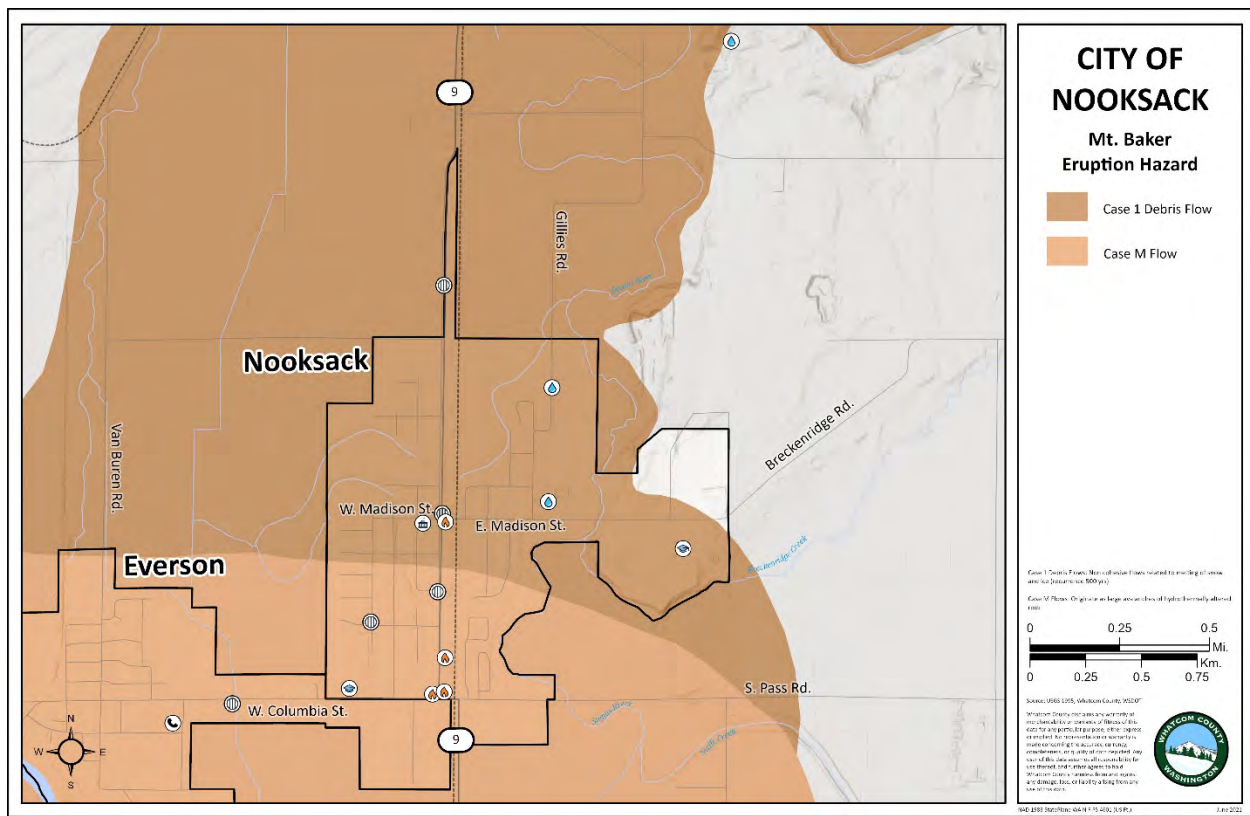
The following figures depict the natural hazards present within the jurisdiction.



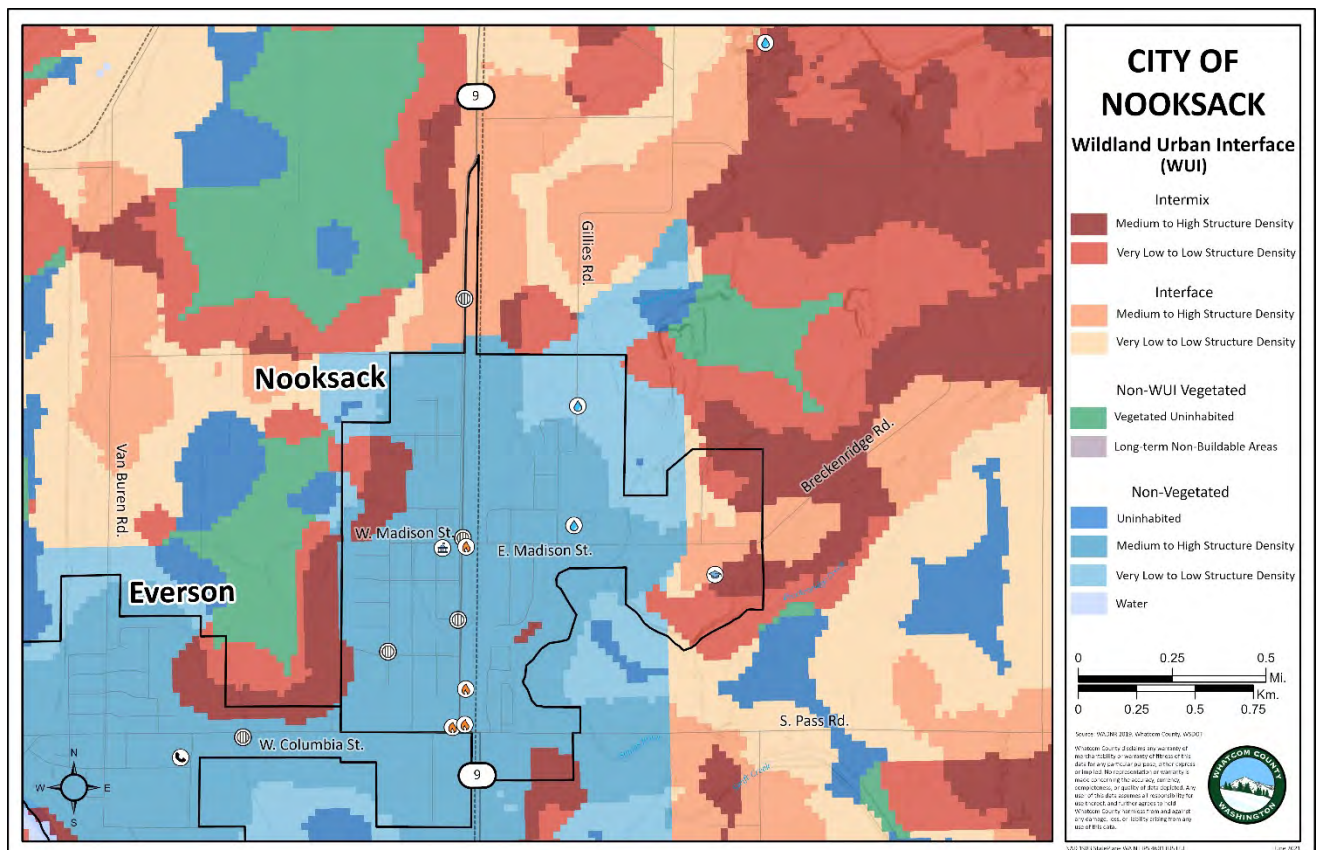
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.



USGS Hazards from Future Activity of Mount Baker, WA (1995) data shows different volcanic flows. Case M flows originate as large avalanches of hydrothermally altered rock. Case 1 debris flows are non-cohesive flows related to melting of snow and ice, with a recurrence of 500 years. Case 2 debris flows are cohesive flows from small debris avalanches, with a recurrence of 100 years.



Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.

Nooksack Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Elementary School - Dist. 506	EF	2	3333 Breckenridge Road		Evacuation Center
Nooksack City Hall	EF	3	103 West Madison St		Government
Nooksack Water Tanks	LUS	3	8386 Gillies Rd.		Utility: Water
Post Office	EF	2	108 Blair Drive, Everson		Mail
Pump-Station #1	LUS	3	105 Garfield St.		Utility: Sewer
Pump-Station #2	LUS	2	610 Nooksack Ave.		Utility: Sewer
Pump-Station #3	LUS	2	1216 Nooksack Ave.		Utility: Sewer
Starvin' Sams	HMF	1	102 Columbia St.		Fuel
Pump Station #12	LUS	2	305A West Third St.		Utility: Sewer
Water Booster Pump	LUS	3	1014 Gillies Rd.		Utility: Water
Pacific Pride	HMF	1	204 Nooksack Ave.		Fuel
Whatcom Farmers Co-op Energy	HMF	2	508 Nooksack Ave.		Fuel Propane Depot
Water Pump Station	LUS	2	503 E. Madison St.		Utility: Water
CHS Northwest Store	HMF	1	102 Nooksack Ave.		Fuel
Pump Station #4 (Interceptor)	LUS	3	506 E. Main Street, Everson		Utility: Sewer
CHS Northwest Store	HMF	1	102 Nooksack Avenue		Utility: Sewer
US Border Patrol	EF	3	9648 Garrison Road		

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High

Critical Facility Rankings for the City of Nooksack

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in the jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Elementary School - Dist. 506	EF	2	1	1	0	0	1	1	0	1	0.81
Nooksack City Hall	EF	3	1	1	0	0	1	0	0	0	0.86
Nooksack Water Tanks	LUS	3	1	1	0	0	0	0	0	1	0.64
Post Office	EF	2	1	1	0	0	1	1	0	0	0.66
Pump-Station #1	LUS	3	1	1	0	0	1	1	0	0	1
Pump-Station #2	LUS	2	1	1	0	0	1	0	0	0	0.57
Pump-Station #3	LUS	2	1	1	0	0	1	1	0	1	0.81
Starvin' Sams	HMF	1	1	1	0	0	1	1	0	0	0.33
Pump Station #12	LUS	2	1	1	0	0	1	1	0	0	0.66
Water Booster Pump	LUS	3	1	1	0	0	1	1	0	0	1
Pacific Pride	HMF	1	1	1	0	0	1	0	0	0	0.29
Whatcom Farmers Co-op Energy	HMF	2	1	1	0	0	1	0	0	0	0.57
Water Pump Station	LUS	2	1	1	0	0	1	1	0	0	0.66
Pump Station #4 (Interceptor)	LUS	1	1	1	0	0	1	1	0	0	1
CHS Northwest Store	HMF	1	1	1	0	0	1	0	0	0	.29
US Border Patrol	EF	3	1	1	0	0	1	1	0	0	1

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

City of Nooksack Exposure to Natural Hazards						
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity					
	MMI V	-	-	-	-	-
	MMI VI	-	-	-	-	-
	MMI VII	100%	100%	100%	93.7%	\$7
	MMI VIII - IX	-	-	-	6.3%	\$5
	TOTAL	100%	100%	100%	100%	\$12
	Liquefaction					
	Very Low to Low	14.4%	1.1%	-	6.3%	\$5
	Low to Moderate	-	-	-	-	-
	Moderate	-	-	-	-	-
	Moderate to High	82.8%	98.8%	100%	87.5%	\$7
	High	-	-	-	-	-
	TOTAL	97.2%	99.9%	100%	93.8%	\$12
	Landslide					
	Landslide Low	-	-	-	-	-
	Landslide Moderate	-	-	-	-	-
	Landslide High	-	-	-	-	-
	Fan Low	-	-	-	-	-
	Fan Moderate	-	-	-	-	-
	Fan High	-	-	-	-	-

	Mine Hazard	-	-	-	-	-
	TOTAL	-	-	-	-	-
	Volcanic Eruption					
	Case 1 Debris Flows	66.4%	58.1%	57.5%	50%	\$9
	Case 2 Debris Flows	-	-	-	-	-
	Case M Flows	27.5%	41.6%	42.5%	43.8%	\$2
	Pyroclastic Flows, Lava Flows, and Ballistic Debris	-	-	-	-	-
	Lateral Blast Hazard Zone	-	-	-	-	-
	TOTAL	93.9%	99.7%	100%	93.8%	\$11
	Tsunami, Inundation Zone					
	Low to Moderate Inundation Potential	-	-	-	-	-
	Moderate to High Inundation Potential	-	-	-	-	-
	High Inundation Potential	-	-	-	-	-
	TOTAL	-	-	-	-	-
Hydrological	Flooding					
	100-year Flood	25.7%	20.4%	16.2%	18.8%	\$0.8
	500-year Flood	16.9%	25.2%	34.5%	12.5%	\$5
	Floodway	2.9%	2%	0.3%	6.3%	-
	Undetermined (Zone D)	-	-	-	-	-
	TOTAL	45.5%	47.6%	51%	37.6%	\$5.8
Meteorolog	Wildfire Zones					
	Interface Very Low-Low Structure Density	2.3%	0.1%	-	-	-
	Interface Medium-High Structure Density	4.8%	4.3%	4.2%	12.5%	\$4

	<i>Intermix Very Low-Low Structure Density</i>	4.9%	1.5%	0.2%	-	-
	<i>Intermix Medium-High Structure Density</i>	8.3%	5.7%	3%	6.3%	\$0.3
	<i>TOTAL</i>	20.3%	11.6%	7.4%	18.8%	\$4.3

Status of Nooksack's 2016-2020 and Ongoing Hazard Mitigation Actions

The cities of Everson and Nooksack chose to collaborate in their mitigation strategies because Everson provides Nooksack with police and sewer services. (Note: The following information in copied from Everson.)

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

General: All Hazards

G-a. Adopt and enforce building codes. This applies to earthquakes, flooding, winter storms/freezes, and severe winds. The City Planning, Building and Public Works Departments continue to adopt and enforce building codes and development regulations that address natural hazards mitigation.

Lead Agency	Nooksack Planning, Building and Public Works Departments
Funding Source	Local
Current Status	Ongoing

Drought/heat wave

D-a. Assess Vulnerability to Drought Risk. The City Planning Department continues to assess risks related to drought, including as part of the 2016 update to the City's critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

D-b. Monitor Drought Conditions. The City Public Works Department continues to monitor drought conditions on annual basis and implements water-related mitigation strategies as

appropriate.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

D-c. Monitor Water Supply. The City Public Works Department continues to monitor the public water supply and implement water conservation strategies as appropriate.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

D-d. Plan for Drought. The City Planning Department continues to plan for droughts, including as part of the 2016 update of the city comprehensive land use plan.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

D-e. Require Water Conservation During Drought Conditions. The City Public Works Department continues to monitor drought conditions and implement water conservation measures as appropriate.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

D-f. Educate Residents on Water Saving Techniques. The City Administration continues to support education of residents regarding water conservation efforts, including through provision of information along with monthly utility bills.

Lead Agency	City Administration
Funding Source	Local
Current Status	Ongoing

Earthquake

EQ-a. Incorporate Earthquake Mitigation into Local Planning. The City Planning Department continues to incorporate planning related to earthquakes, including as part of the 2016 update to the city comprehensive plan.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

EQ-b. Map and Assess Community Vulnerability to Seismic Hazards. The City Planning Department continues to map and assess vulnerability to seismic hazards, including as part of the 2016 update of the city critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

EQ-c. Conduct Inspections of Building Safety. The City Building Department continues to conduct inspections related to building safety as required by City building codes.

Lead Agency	City Building Dept.
Funding Source	Local
Current Status	Ongoing

EQ-d. Protect Critical Facilities and Infrastructure. The City Building Department continues to protect critical facilities and infrastructure, including through requiring the local middle school to be constructed with the lowest floor more than 2.5 feet above the FEMA base flood elevation.

Lead Agency	City Building Dept.
Funding Source	Local
Current Status	Ongoing

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

FL-a. Incorporate Flood Mitigation in Local Planning. The City Planning Department continues to incorporate flood mitigation into local planning, including as part of the 2016 update of the city critical areas ordinance, the 2019 adoption of new FEMA flood insurance rate maps, and updates to the County comprehensive flood hazard management plan currently underway.

Lead Agency	City Planning Dept.
Funding Source	Local

Current Status	Ongoing
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FL-b. Form Partnerships to Support Floodplain Management. The City Planning and Public Works Departments continue to work to form partnerships that support floodplain management, including working closely with County long-range and current planning divisions and the County Public Works River and Flood Division.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

FL-c. Limit or Restrict Development in Floodplain Areas. The City Planning, Building and Public Works Departments continue to limit development in floodplain areas through amendment and enforcement of City critical areas ordinance regulations, national flood insurance program requirements, and city building codes.

Lead Agency	City Planning, Building and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

FL-d. Improve Stormwater Management Planning. The City Planning Department continues to improve planning, regulation and enforcement related to stormwater management, including through 2016 updates to the City comprehensive plan and the 2016 adoption of the state stormwater management manual for Western Washington.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

FL-e. Improve Flood Risk Assessment. The City Public Works Department continues to assess risks related to flooding, including through participation in the federal RISK Map assessment efforts.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

FL-f. Join or Improve Compliance with NFIP. The City continues to participate in the National Flood Insurance Program (NFIP). The City Planning, Building and Public Works Departments

continue to work to improve compliance with the NFIP, including through adoption of 2019 amendments to the City's NFIP ordinance that included updated flood insurance rate maps.

Lead Agency	City Planning, Building and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

FL-g. Manage the Floodplain Beyond Minimum Requirements. The City Planning and Building Departments continue to manage floodplains beyond minimum requirements, including through amendment of critical areas and floodplain management regulations that require extra elevation of critical facilities and prohibit the placement of fill within floodplains except under certain conditions.

Lead Agency	City Planning and Building Depts.
Funding Source	Local
Current Status	Ongoing

FL-h. Establish Local Funding Mechanisms for Flood Mitigation. The County Flood Control Zone District continues to make locally generated district funds available for local projects, including the purchase of open space areas located in designated floodways adjacent to Nooksack.

Lead Agency	County Flood Control Zone District
Funding Source	County
Current Status	Ongoing

FL-i. Improve Stormwater Drainage System Capacity. The City Public Works Department continues to work to improve stormwater drainage system capacity through annual system upgrades and maintenance projects.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

FL-j. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures. The City Public Works Department continues to work to improve stormwater drainage system capacity through annual maintenance projects, such as inspection and clearing of stormwater conveyance systems.

Lead Agency	City Public Works Dept.
Funding Source	Local

Current Status	Ongoing
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FL-k. Preserve Floodplains as Open Space. The City Planning Department continues to work to preserve floodplains as open space, including through the recording of restrictive covenants required in conjunction with approved subdivisions.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing; Bi-annual

Landslide/erosion

No actions ongoing, discontinued, or completed for this hazard.

Landslide Subsidence

SU-a. Map and Assess Vulnerability to Subsidence. The City Planning Department continues to map and assess vulnerability to subsidence, including through 2016 updates to the City critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

SU-b. Manage Development in High-Risk Areas. The City Building Department continues to manage development in high-risk areas, including through required geologically hazardous area site assessment reports.

Lead Agency	City Building Dept.
Funding Source	Local
Current Status	Ongoing

Lightening

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

SW-a. Protect Power Lines and Infrastructure. The City Public Works Department continues to work to protect power lines and infrastructure through as-needed inspections following major

wind events and coordination with Puget Sound Energy.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

SW-b. Retrofit Public Buildings and Critical Facilities. The City Public Works Department continues to work to protect public buildings and infrastructure, including through undergrounding of power lines and provision of back-up power generation at critical facilities.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

Tornadoes

No actions ongoing, discontinued, or completed for this hazard.

Tsunami

No actions ongoing, discontinued, or completed for this hazard.

Wildfire

No actions ongoing, discontinued, or completed for this hazard.

Winter storms/Freezes

WW-a. Protect Buildings and Infrastructure. The City Public Works Department continues to work to protect public buildings and infrastructure from severe winter storms, including through replacing and upgrading all City water meters to increase system resiliency.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

WW-b. Protect Power Lines. The City Public Works Department continues to work to protect power lines through as-needed inspections following major winter storm events and coordination with Puget Sound Energy.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

WW-c. Reduce Impacts to Roadways. The City Public Works Department continues to work to reduce impacts to roadways, including through implementation of road closures during major freeze/thaw events.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Ongoing

Multiple Hazards

MU-a. Assess Community Risk. The City Planning and Public Works Departments continue to assess risks to the public from natural hazards, including through review of repetitive loss properties and review and adoption of updated hazard maps.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

MU-b. Map Community Risk. The City Planning Department continues to work to map natural hazard areas and assess the risks associated with such areas, including through the 2016 update of the City's critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-c. Prevent Development in Hazard Areas. The City Building and Planning Departments continue to prevent development in hazard areas, including through enforcement of floodway, steep slopes and erosion hazard area regulations.

Lead Agency	City Building and Planning Depts.
Funding Source	Local
Current Status	Ongoing

MU-d. Adopt Development Regulations in Hazard Areas. The City Building and Planning Departments continue to work to adopt regulations addressing hazard areas, including through the 2016 update to the City's critical areas ordinance and the 2019 adoption of updated FEMA flood insurance rate maps and National Flood Insurance Program ordinance.

Lead Agency	City Building and Planning Depts.
Funding Source	Local

Current Status	Ongoing
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MU-e. Limit Density in Hazard Areas. The City Planning Department continues to work to limit density in hazard areas, including through adoption of floodway regulations and establishment of low-density zones in hazard areas, such as Open Space/Agriculture.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-f. Integrate Mitigation into Local Planning. The City Planning Department continues to integrate mitigation into local planning, including through establishment and enforcement of mitigation requirements under the City's critical areas regulations.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-g. Strengthen Land Use Regulations. The City Planning Department continues to work to strengthen local land use regulations, including through the 2016 update of the City's critical areas ordinance and 2019 updates to the City's National Flood Insurance Program ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local
Current Status	Ongoing

MU-h. Monitor Mitigation Plan Implementation. The City Planning and Public Works Departments continue to monitor implementation of the Natural Hazards Mitigation Plan through the required annual review process.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

MU-i. Protect Structures. The City Building and Public Works Departments continue to work to protect structures within the City through enforcement of local building codes and critical areas regulations.

Lead Agency	City Building and Public Works Depts.
Funding Source	Local
Current Status	Ongoing

MU-j. Protect Infrastructure and Critical Facilities. The City Public Works Department continues to work to protect infrastructure and critical facilities, including through regular inspections, annual maintenance projects and capital improvement projects, such as elevating critical facilities above minimum standards.

Lead Agency	Public Works Dept.
Funding Source	Local
Current Status	Ongoing

MU-k. Increase Hazard Education and Risk Awareness. The City Public Works Department continues to work to increase hazard education and risk awareness, including through informational materials sent out with monthly utility bills.

Lead Agency	Public Works Dept.
Funding Source	Local
Current Status	Ongoing

Nooksack 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Nooksack-Specific Hazard Mitigation Goals

Nooksack supports the above county-wide goals. No additional community-specific mitigation planning goals have been identified at this time.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Nooksack considered mitigation options related to earthquakes, drought, land subsidence, winter storms, severe wind, and erosion, especially those related to flooding, because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Nooksack. Some options have already been implemented or are ongoing in Nooksack, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Nooksack has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property and public welfare. Nooksack is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be

used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority	H (High); M (Medium); L (Low)
4	Timeline	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source	Local; State; FEMA; Private; Other
6	Estimated Cost	Actual; Estimated

Nooksack Identified Mitigation Actions 2021-2025

City of Nooksack IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
GENERAL: ALL HAZARDS Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	<i>G-a. Ongoing -- Adopt and enforce building codes.</i> This applies to earthquakes, flooding, winter storms/freezes, and severe winds. The City Planning, Building and Public Works Departments continue to adopt and enforce building codes and development regulations that address natural hazards mitigation.	1,5	Nooksack Planning, Building and Public Works		O		
Hazard Specific (Reference: Whatcom County Mitigation Ideas)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						
Dam/Levee Failures (See: Flooding)	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
Droughts/Heat Waves	<i>D-a. Ongoing -- Assess Vulnerability to Drought Risk.</i> The City Planning Department continues to assess risks related to drought, including as part of the 2016 update to the City's critical areas ordinance. .	1, 2	City Planning Dept		O		
	<i>D-b. Ongoing -- Monitor Drought Conditions.</i> The City Public Works Department continues to monitor drought conditions on annual basis and implements water-related mitigation strategies as appropriate.	1, 2	City Public Works Dept.		O		
	<i>D-c. Ongoing -- Monitor Water Supply.</i> The City Public Works Department continues to monitor the public water supply and implement water conservation strategies as appropriate.	1, 2	City Public Works Dept.		O		
	<i>D-d. Ongoing -- Plan for Drought.</i> The City Planning Department continues to plan for droughts, including as part of the 2016 update of the city comprehensive land use plan.	1	City Planning Dept		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	<i>D-e. Ongoing -- Require Water Conservation During Drought Conditions.</i> The City Public Works Department continues to monitor drought conditions and implement water conservation measures as appropriate.	1, 5	City Public Works Dept.		O		
	<i>D-f. Ongoing -- Educate Residents on Water Saving Techniques.</i> The City Administration continues to support education of residents regarding water conservation efforts, including through provision of information along with monthly utility bills.	2, 5	City Administration		O		
Volcano	VOL-1 Lahar Early Warning System The USGS has designed a number of systems that automatically detect lahars as they descend neighboring valleys. These systems then automatically trigger various types of early warning systems, such as sirens or telephone-based warning systems.	1, 2, 5	Whatcom County Fire District 1, Everson Police Department, Whatcom County Department of Emergency Management, Whatcom County	L	L	Local sources, and state and federal grants	Unknow n

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
			Public Works				
Earthquakes	<i>EQ-a. Ongoing -- Incorporate Earthquake Mitigation into Local Planning.</i> The City Planning Department continues to incorporate planning related to earthquakes, including as part of the 2016 update to the city comprehensive plan.	1	City Planning Dept	O			
	<i>EQ-b. Ongoing -- Map and Assess Community Vulnerability to Seismic Hazards.</i> The City Planning Department continues to map and assess vulnerability to seismic hazards, including as part of the 2016 update of the city critical areas ordinance.	1,2	City Planning Dept	O			
	<i>EQ-c. Ongoing -- Conduct Inspections of Building Safety.</i> The City Building Department continues to conduct inspections related to building safety as required by City building codes.	1	City Building Dept	O			
	<i>EQ-d. Ongoing -- Protect Critical Facilities</i>	1,5	City Building Dept	O			

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	and Infrastructure. The City Building Department continues to protect critical facilities and infrastructure, including through requiring the local middle school to be constructed with the lowest floor more than 2.5 feet above the FEMA base flood elevation.						
	EQ-1 Retrofit City Hall Nooksack City Hall would suffer significant damage in the event of an earthquake. This facility should be retrofitted, replaced, or relocated so that it can survive a 6.0 magnitude or greater earthquake event.	1, 5	Nooksack City Council, Whatcom County Building Department, Whatcom County Fire District 1 Commissioners	L	L	Local sources, and state and federal grants	\$1 Million
Extreme Temperatures	ET-1 No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Flooding	FL-a. Ongoing -- Incorporate Flood Mitigation in Local Planning. The City Planning Department continues to incorporate flood mitigation into local	1	City Planning Dept.		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	planning, including as part of the 2016 update of the city critical areas ordinance, the 2019 adoption of new FEMA flood insurance rate maps, and updates to the County comprehensive flood hazard management plan currently underway.						
	<i>FL-b. Ongoing -- Form Partnerships to Support Floodplain Management.</i> The City Planning and Public Works Departments continue to work to form partnerships that support floodplain management, including working closely with County long-range and current planning divisions and the County Public Works River and Flood Division.	4	City Planning and Public Works Dept.		O		
	<i>FL-c. Ongoing -- Limit or Restrict Development in Floodplain Areas.</i> The City Planning, Building and Public Works Departments continue to limit development in floodplain areas through amendment and enforcement of City critical areas ordinance regulations, national flood insurance program requirements, and city building codes.	1,3	City Planning, Building, and Public Works Dept		O		
	<i>FL-d. Ongoing -- Improve Stormwater</i>	1,5	City Planning		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	Management Planning. The City Planning Department continues to improve planning, regulation and enforcement related to stormwater management, including through 2016 updates to the City comprehensive plan and the 2016 adoption of the state stormwater management manual for Western Washington.		Dept.				
	FL-e. Ongoing -- Improve Flood Risk Assessment. The City Public Works Department continues to assess risks related to flooding, including through participation in the federal RISK Map assessment efforts.	1,2	City Public Works Dept		O		
	FL-f. Ongoing -- Join or Improve Compliance with NFIP. The City continues to participate in the National Flood Insurance Program (NFIP). The City Planning, Building and Public Works Departments continue to work to improve compliance with the NFIP, including through adoption of 2019 amendments to the City's NFIP ordinance that included updated flood insurance rate maps.	1,4	City Planning, Building, and Public Works Dept		O		
	FL-g. Ongoing -- Manage the Floodplain	1,3,5	City Planning,		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	<i>Beyond Minimum Requirements.</i> The City Planning and Building Departments continue to manage floodplains beyond minimum requirements, including through amendment of critical areas and floodplain management regulations that require extra elevation of critical facilities and prohibit the placement of fill within floodplains except under certain conditions.		Building Dept				
	<i>FL-h. Ongoing -- Establish Local Funding Mechanisms for Flood Mitigation.</i> The County Flood Control Zone District continues to make locally generated district funds available for local projects, including the purchase of open space areas located in designated floodways adjacent to Nooksack.	1	County Flood Control Zone District		O		
	<i>FL-i. Ongoing -- Improve Stormwater Drainage System Capacity.</i> The City Public Works Department continues to work to improve stormwater drainage system capacity through annual system upgrades and maintenance projects.	1,5	City Public Works Dept.		O		
	<i>FL-j. Ongoing -- Conduct Regular</i>	1,5	City Public Works		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	Maintenance for Drainage Systems and Flood Control Structures. The City Public Works Department continues to work to improve stormwater drainage system capacity through annual maintenance projects, such as inspection and clearing of stormwater conveyance systems.		Dept.				
	FL-k. Ongoing -- Preserve Floodplains as Open Space. The City Planning Department continues to work to preserve floodplains as open space, including through the recording of restrictive covenants required in conjunction with approved subdivisions.	1,3	City Planning Dept.		O		
	FL-1 Mitigate Nooksack Slough. Remove sediment deposited from the Sumas River that blocks the section of the Nooksack Slough Between Gillies Road and the Sumas River	1, 3, 4	Nooksack City Council. Whatcom County	H	M	Local sources, and state and federal grants	\$300,000
Landslide/ Erosion	ER-1 No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
Land Subsidence	<i>SU-a. Ongoing -- Map and Assess Vulnerability to Subsidence.</i> The City Planning Department continues to map and assess vulnerability to subsidence, including through 2016 updates to the City critical areas ordinance.	1,2	City Planning Dept.		O		
	<i>SU-b. Ongoing -- Manage Development in High-Risk Areas.</i> The City Building Department continues to manage development in high-risk areas, including through required geologically hazardous area site assessment reports.	1	City Building Dept.		O		
Lightning	L-1 No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Severe Storms	SS-1 No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Severe Wind	<i>SW-a. Ongoing -- Protect Power Lines and Infrastructure.</i> The City Public Works	1,5	City Public Works Dept.		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	Department continues to work to protect power lines and infrastructure through as-needed inspections following major wind events and coordination with Puget Sound Energy.						
	<p><i>SW-b. Retrofit Public Buildings and Critical Facilities.</i></p> <p>The City Public Works Department continues to work to protect public buildings and infrastructure, including through undergrounding of power lines and provision of back-up power generation at critical facilities.</p>	1,5	City Public Works Dept.		0		
Tornadoes	T-1 No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Tsunami	NA						
Wildfires	WF-1 No actions are currently being considered/All mitigation actions are						

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	ongoing, discontinued, or complete.						
Winter Storms/ Freezes (Severe Winter Weather)	WW-a. Ongoing -- Protect Buildings and Infrastructure. The City Public Works Department continues to work to protect public buildings and infrastructure from severe winter storms, including through replacing and upgrading all City water meters to increase system resiliency.	1,5	City Public Works		O		
	WW-b. Ongoing -- Protect Power Lines. The City Public Works Department continues to work to protect power lines through as-needed inspections following major winter storm events and coordination with Puget Sound Energy.	1,5	City Public Works		O		
	WW-c. Ongoing -- Reduce Impacts to Roadways. The City Public Works Department continues to work to reduce impacts to roadways, including through implementation of road closures during major freeze/thaw events.	1,5	City Public Works		O		
Multi Hazard	MU-a. Ongoing -- Assess Community Risk. The City Planning and Public Works	1,2	City Planning Public Works		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	Departments continue to assess risks to the public from natural hazards, including through review of repetitive loss properties and review and adoption of updated hazard maps.		Depts.				
	MU-b. Ongoing -- Map Community Risk. The City Planning Department continues to work to map natural hazard areas and assess the risks associated with such areas, including through the 2016 update of the City's critical areas ordinance.	1,2	City Planning Dept.		0		
	MU-c. Ongoing -- Prevent Development in Hazard Areas. The City Building and Planning Departments continue to prevent development in hazard areas, including through enforcement of floodway, steep slopes and erosion hazard area regulations.	1,3	City Building and Planning Depts.		0		
	MU-d. Ongoing -- Adopt Development Regulations in Hazard Areas. The City Building and Planning Departments continue to work to adopt regulations addressing hazard areas, including through the 2016 update to the City's critical areas ordinance	1	City Building and Planning Depts.		0		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	and the 2019 adoption of updated FEMA flood insurance rate maps and National Flood Insurance Program ordinance.						
	MU-e. Ongoing -- Limit Density in Hazard Areas. The City Planning Department continues to work to limit density in hazard areas, including through adoption of floodway regulations and establishment of low-density zones in hazard areas, such as Open Space/Agriculture.	1	City Planning Dept.		O		
	MU-f. Ongoing -- Integrate Mitigation into Local Planning. The City Planning Department continues to integrate mitigation into local planning, including through establishment and enforcement of mitigation requirements under the City's critical areas regulations.	1,4	City Planning Dept.		O		
	MU-g. Ongoing -- Strengthen Land Use Regulations. The City Planning Department continues to work to strengthen local land use regulations, including through the 2016 update of the City's critical areas ordinance and 2019 updates to the City's National Flood	1,4	City Planning Dept.		O		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	Insurance Program ordinance.						
	MU-h. Ongoing -- Monitor Mitigation Plan Implementation. The City Planning and Public Works Departments continue to monitor implementation of the Natural Hazards Mitigation Plan through the required annual review process.	1	City Planning and Public Works Depts.		0		
	MU-i. Ongoing -- Protect Structures. The City Building and Public Works Departments continue to work to protect structures within the City through enforcement of local building codes and critical areas regulations.	1	City Building and Public Works Depts.		0		
	MU-j. Ongoing -- Protect Infrastructure and Critical Facilities. The City Public Works Department continues to work to protect infrastructure and critical facilities, including through regular inspections, annual maintenance projects and capital improvement projects, such as elevating critical facilities above minimum standards.	1,5	Public Works Dept.		0		
	MU-k. Ongoing -- Increase Hazard Education and Risk Awareness. The City Public Works	2	Public Works Dept.		0		

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	Department continues to work to increase hazard education and risk awareness, including through informational materials sent out with monthly utility bills.						
	MU-1 Tone Radio Based Early Warning System Tone Radios turn on when triggered by a central transmitter and then information or instructions are announced over the radio. Such a system is currently used for various types of weather radios, for tornados and severe storms hazard areas. A similar system could be put into place for warning of flooding, lahars, and other related natural hazards.	1, 2, 5	Whatcom County Department of Emergency Management, NOAA Radio		L	Local sources, and state and federal grants	
Advanced Mitigation Projects (Dream List)	Earthquake Early Warning System Such a system could warn residence of an impending earthquake. Technology doesn't currently exist for such a system, but will likely be possible in the future.	1, 2, 5	Federal, State, County, and local entities	L	L	Local sources, and state and federal grants	Unknow n

City of Nooksack
IDENTIFIED MITIGATION ACTIONS 2021-2025

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimat ed Cost
Hazard	Action Items						
	Mitigate against 100-year flood event or volcanic lahar	1, 2, 5	DEM	L	L	Local sources, and state and federal grants	Unknow n
	Cell Phone-Based Early Warning System A computerized early warning system that automatically dials each landline telephone number within a specified area, and play a recorded message when the phone is answered is currently provided to the City by the Whatcom County Sheriff's Office Division of Emergency Management. A larger capacity system that can also contact cell phones through the use of a federally licensed COG would help to address a variety of natural and manmade problems.	1, 2, 5	WCDEM/LFD	L	L	Local sources, and state and federal grants	Unknow n

Nooksack Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

City of Nooksack Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
GENERAL: ALL HAZARDS						
<i>G-a. Adopt and enforce building codes.</i>						
Add New Action Items if Applicable						
DAM/LEVEE FAILURES						
Add New Action Items if Applicable						
DROUGHTS/HEAT WAVES						
<i>D-a. Assess Vulnerability to Drought Risk.</i>						
<i>D-b. Monitor Drought Conditions.</i>						
<i>D-c. Monitor Water Supply.</i>						
<i>D-d. Plan for Drought.</i>						
<i>D-e. Require Water Conservation During Drought Conditions.</i>						
<i>D-f. Educate Residents on Water Saving Techniques.</i>						
Add New Action Items if Applicable						
EARTHQUAKES						
<i>EQ-a. Incorporate Earthquake Mitigation into Local Planning.</i>						
<i>EQ-b. Map and Assess Community Vulnerability to Seismic Hazards.</i>						
<i>EQ-c. Conduct Inspections of Building Safety.</i>						
<i>EQ-d. Protect Critical Facilities and</i>						

City of Nooksack Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Infrastructure.						
EQ-1 Retrofit City Hall						
Add New Action Items if Applicable						
VOLCANO						
VOL-1 Lahar Early Warning System						
Add New Action Items if Applicable						
FLOODING						
FL-a. Incorporate Flood Mitigation in Local Planning.						
FL-b. Form Partnerships to Support Floodplain Management.						
FL-c. Limit or Restrict Development in Floodplain Areas.						
FL-d. Improve Stormwater Management Planning.						
FL-e. Improve Flood Risk Assessment.						
FL-f. Join or Improve Compliance with NFIP.						
FL-g. Manage the Floodplain Beyond Minimum Requirements.						
FL-h. Establish Local Funding Mechanisms for Flood Mitigation.						
FL-i. Improve Stormwater Drainage System Capacity						
FL-j. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures.						

City of Nooksack Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
FL-k. Preserve Floodplains as Open Space.						
FL-1 Mitigate Nooksack Slough						
Add New Action Items if Applicable						
LANDSLIDES/EROSION						
Add New Action Items if Applicable						
LAND SUBSIDENCE						
SU-a. Map and Assess Vulnerability to Subsidence.						
SU-b. Manage Development in High-Risk Areas.						
Add New Action Items if Applicable						
TORNADOES						
Add New Action Items if Applicable						
TSUNAMI						
Add New Action Items if Applicable						
WILDFIRES						
Add New Action Items if Applicable						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
WW-a. Protect Buildings and Infrastructure.						
WW-b. Protect Power Lines.						
WW-c. Reduce Impacts to Roadways.						
Add New Action Items if Applicable						

City of Nooksack Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
EXTREME TEMPERATURES						
<i>Add New Action Items if Applicable</i>						
LANDSLIDE						
<i>Add New Action Items if Applicable</i>						
LIGHTNING						
<i>Add New Action Items if Applicable</i>						
SEVERE WIND						
<i>SW-a. Protect Power Lines and Infrastructure.</i>						
<i>SW-b. Retrofit Public Buildings and Critical Facilities.</i>						
<i>Add New Action Items if Applicable</i>						
MULTIPLE HAZARDS						
<i>MU-a. Assess Community Risk.</i>						
<i>MU-b. Map Community Risk.</i>						
<i>MU-c. Prevent Development in Hazard Areas.</i>						
<i>MU-d. Adopt Development Regulations in Hazard Areas.</i>						
<i>MU-e. Limit Density in Hazard Areas.</i>						
<i>MU-f. Integrate Mitigation into Local Planning.</i>						
<i>MU-g. Strengthen Land Use Regulations.</i>						
<i>MU-h. Monitor Mitigation Plan Implementation.</i>						

City of Nooksack Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>MU-i. Protect Structures.</i>						
<i>MU-j. Protect Infrastructure and Critical Facilities.</i>						
<i>MU-k. Increase Hazard Education and Risk Awareness.</i>						
MU-1 Tone Radio Based Early Warning System						
<i>Add New Action Items if Applicable</i>						

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PORT OF BELLINGHAM

Contact Information

Dave Warter

Marine Terminals and Emergency Services Manager
1801 Roeder Avenue Bellingham, WA 98225
(360) 676-2500

Approving Authority

Executive Director Rob Fix & Port Commission

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The Port of Bellingham is a Washington State special purpose municipal corporation serving all of Whatcom County. It is a unique organization that makes significant contributions to the local community through leveraging its resources by direct participation in revenue-earning lines of business, as well as by capitalizing on its strategic assets through special public agency powers. Special districts have a vested interest in reducing threat and hazard impacts, particularly if they provide services critical to recovery efforts.

By combining expertise in both the business and government sectors, the Port has a role in job preservation and job creation, as well as a role in the operation of transportation facilities for seaports and airports. This combination is distinct from that of either the private sector or other government entities.

The Port of Bellingham's mission is:

"Promote sustainable economic development, optimize transportation gateways, and manage publicly owned land and facilities to benefit Whatcom County."

Planning Process

The Port ensures that local and state building codes and land use laws are followed in a fair and equitable manner in all Port projects. Our Environmental and Planning Services division works closely with our Facilities and Engineering divisions to plan new developments with a focus on mitigating risk wherever practicable. One example is a former Georgia Pacific Mill property that the Port acquired in 2005. Demolition and cleanup of the 36-acre waterfront brown field was completed with the fronting waterway dredged of contaminated soils. Meanwhile the upland property was raised several feet to prepare it for further development and to mitigate against possible tsunami and sea-level rise.

The Port is a member of the Whatcom County Emergency Management Council and supports the Whatcom County Sheriff's Office Division of Emergency Management (WCSO-DEM) with annual funding based on the budget needs of the Division. The Port supports and participates in

the Division's on-going public education, planning, training, and exercise program, as appropriate, including presentations about various risks within the Port, including earthquake, tsunami, and flood risk and examination of other various natural hazard risks and risk mitigation models. This coordination allows the Port to collaborate with other jurisdictions on natural hazard mitigation efforts and provides additional outlets to reach visitors to Port facilities and reach County residents that may use Port asset areas.

Port properties and assets are located within the jurisdictional boundaries of the City of Bellingham, the City of Blaine, the City of Sumas, and unincorporated Whatcom County. As such, the Port is subject to the community plans and policies of that guide and influence land use, land development and population growth within each of these jurisdictions. Such existing plans and policies include local building codes, comprehensive plans, zoning ordinances and technical reports or studies. Land use and comprehensive and strategic plans are updated regularly and can adapt easily to changing conditions and needs. This Natural Hazard Mitigation Plan will be used to identify potential risks to Port properties and inform future development and mitigation efforts. It will also be used to ensure that Port tenants are aware of these natural hazard risks.

The 2021 update of the Port's section of this Plan was conducted through a collaborative effort by the Port's Emergency Management, Environmental and Planning Services, Engineering, and Facilities/Maintenance functions. This team reviewed and updated the Plan to reflect progress against, or completion of, Mitigation Actions since the last Plan update, as appropriate. It also evaluated potential future Mitigation Actions against updated natural hazard risk information, resulting in a list of Mitigation Actions for the period 2021-2025 that reflects jurisdiction risks, authorities, and priorities.

The Port's section of this Plan update was also informed by participation in the Natural Hazard Mitigation Plan update process facilitated by the Whatcom County Sheriff's Office Division of Emergency Management, which included a series of meetings of representatives from all Whatcom County jurisdictions represented in this Plan. Throughout the Plan update process, the WCSO-DEM's website (whatcomready.org) maintained a virtual town hall related to the Natural Hazard Mitigation Plan, which allowed residents to leave feedback regarding the Port's portion of the plan, as well as read the plan's current iteration in its entirety. Port-specific comments were shared with the Port and incorporated into this Plan update. This collaborative county-wide update process facilitated the sharing of best practices and identification of multi-jurisdiction mitigation opportunities by all Whatcom County jurisdictions.

Key Contributor List

- Scott McCreery, Emergency Management/Security Officer

- Kurt Baumgarten, Environmental Planner
- Brian Gouran, Environmental & Planning Services Director
- Greg Nicoll, Senior Engineer
- Alex Hildreth, Maintenance Manager
- Alice Cords, Environmental Specialist
- Adrienne Hegedus, Environmental Specialist
- Dave Warter, Marine Terminals and Emergency Services Manager

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting the Port of Bellingham will be used as a tool when creating or updating Port planning, strategic investment, and capital improvement documents and plans.

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for the Port of Bellingham

The WCSO-DEM is responsible for facilitating annual review of the Plan per the process and schedule reflected in Section 4 of this Plan. The Port participates in the WCSO-DEM's annual Plan maintenance process and in public meetings called as part of this process. Information regarding changes to the Plan as part of this annual review process are shared on the Port's social media outlets and through the WCSO-DEM website (whatcomready.org), as appropriate.

During the process of adopting and updating the Natural Hazard Mitigation Plan, the Bellingham Port Commission and Executive Director are provided with an Executive Summary of the plan and the Port's role in the plan. An Action Memo that goes to the Executive Director and Commission also outlines the history of the plan and why formal adoption is recommended. The Commission agenda, along with the Action Memo are published on the Port's website. The adoption process is recorded and is available for public review.

Public Outreach and Education

Natural Hazard education and outreach capabilities undertaken by the Port of Bellingham are typically done in conjunction with our local jurisdiction partners in the jurisdictions in which Port facilities are located, i.e., the City of Bellingham, City of Blaine, City of Sumas, and Whatcom County, and other community partners. include ongoing programs that local-to-federal government, nonprofit, and other organizations provide to communities which may be leveraged to implement hazard mitigation actions and build community resilience.

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	No	N/A
Ongoing public education or information programs	Yes, 2019	Bellingham Tsunami Evacuation Walk Time maps and associated outreach.
School-related programs for natural hazard safety	No	N/A
Public education or information program	No	N/A
StormReady certification	No	N/A
Firewise Community certification	No	N/A
Public-Private Partnership initiatives addressing disaster-related issues	No	N/A
Other	No	N/A

Presence of Hazards and their Impacts in the Port of Bellingham

The Port of Bellingham includes infrastructure and facilities that are critical to maritime, air, and ground transportation between Whatcom County, the region, North America, and the world. These Port resources and critical services have not been impacted by natural hazards in the past.

Shoreline erosion mitigation was required in the area of the Fairhaven Station Multi-Modal Facility because of winter storm-induced coastal flooding during the winter of 2015-2016. These impacts did not disrupt the provision of critical transportation services by the Port.

Refer to the City of Bellingham, City of Blaine, City of Sumas, and Whatcom County jurisdictional Overviews regarding community change and natural hazard interface impacting Port facilities in these jurisdictions.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of the Port of Bellingham's total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	86.4%	High	Subject to the intensity of seismic activity. The location of Critical Port Facilities on seismically sensitive soils and coastal fill make these community-wide transportation infrastructure assets vulnerable to earthquake hazards.
	Liquefaction	25.5%	High	Subject to the intensity of seismic activity. The location of Bellingham International Airport on seismically sensitive ancient lakebed soils and other Critical Port Facilities on coastal fill material make these community-wide transportation infrastructure assets vulnerable to earthquake hazards.
	Landslide	5.9%	Moderate	Breakwater structures that protect Squalicum Harbor and Blaine Harbor from heavy marine weather are subject to seismically induced landslide damage.
	Volcano	33.9%	Low	Depending on wind direction, ash fall could significantly impact Port operations especially at Bellingham International Airport over a period of days to weeks.
	Tsunami	1.2%	High	The Bellingham Cruise Terminal, Fairhaven Station Multi-Modal Transportation Facility, Bellingham Shipping Terminal, Squalicum Harbor, and Blaine Harbor are all located within the modeled tsunami inundation zone. Breakwater structures that protect Squalicum Harbor and Blaine Harbor from heavy marine weather are subject to tsunami-induced landslide/erosion damage.
	Mine Hazards	0%	None	While abandoned mine workings may be located beneath some Port properties, they are believed to be at depths that limit their potential risk to Port facilities and services.
⚡	Flooding	4.8%	Mod	The Port's Sumas International Cargo Terminal

				is subject to Nooksack River flooding events. All Port of Bellingham facilities on Bellingham Bay and Blaine Harbor are subject to coastal flooding risk, with increasing risk associated with sea level rise
Meteorological	Wildfire	12.3%	Low	Wildfire risk is generally limited to the Bellingham International Airport and mitigated by buffers between surrounding forested areas and critical airport infrastructure; however, wildfire in these surrounding areas could impact general Port operations.

Severity Scale: **None** = no impact to port function

Low = minor degradation of port functions, not widespread

Moderate = moderate degradation over multiple weeks or widespread

High = degradation or loss over many weeks, widespread

Natural Hazard Maps

For natural hazards present within the Port of Bellingham, see the natural hazard maps for the following jurisdictions:

- Whatcom County
- City of Bellingham
- City of Blaine
- City of Sumas

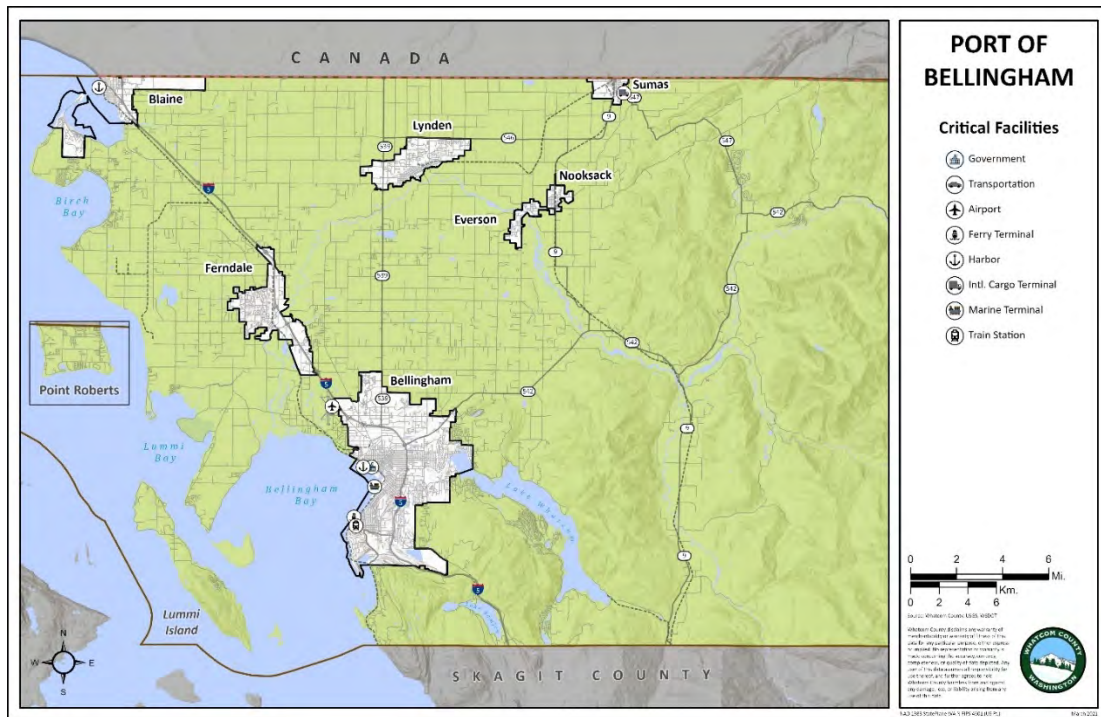
Port of Bellingham Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Bellingham Cruise Terminal	EF	2	355 Harris Ave. Bellingham, WA	\$22,823,000	BCT serves as the southern terminus of the Alaska Marine Highway System and is a critical transportation hub for personnel and goods between WA and AK. In the event that highways are damaged or unavailable, BCT, along with BST, provide the only facilities in Whatcom County capable of accommodating larger vessels and barges.
Bellingham International Airport	EF	2	4255 Mitchell Way Bellingham, WA	\$130,820,000	BLI is the only commercial aviation terminal located between Everett, WA and Vancouver, B.C.
Bellingham Shipping Terminal #1 & #2	EF	1	629 Cornwall Bellingham, WA	\$49,068,000	While nominally a bulk and break bulk shipping terminal, BST could be used, along with BCT, to accommodate larger vessels and barges in the event that I-5 was damaged or unavailable.
Blaine Harbor	EF	2	235 Marine Drive Blaine, WA	\$49,133,000	Marine harbor serving recreational and

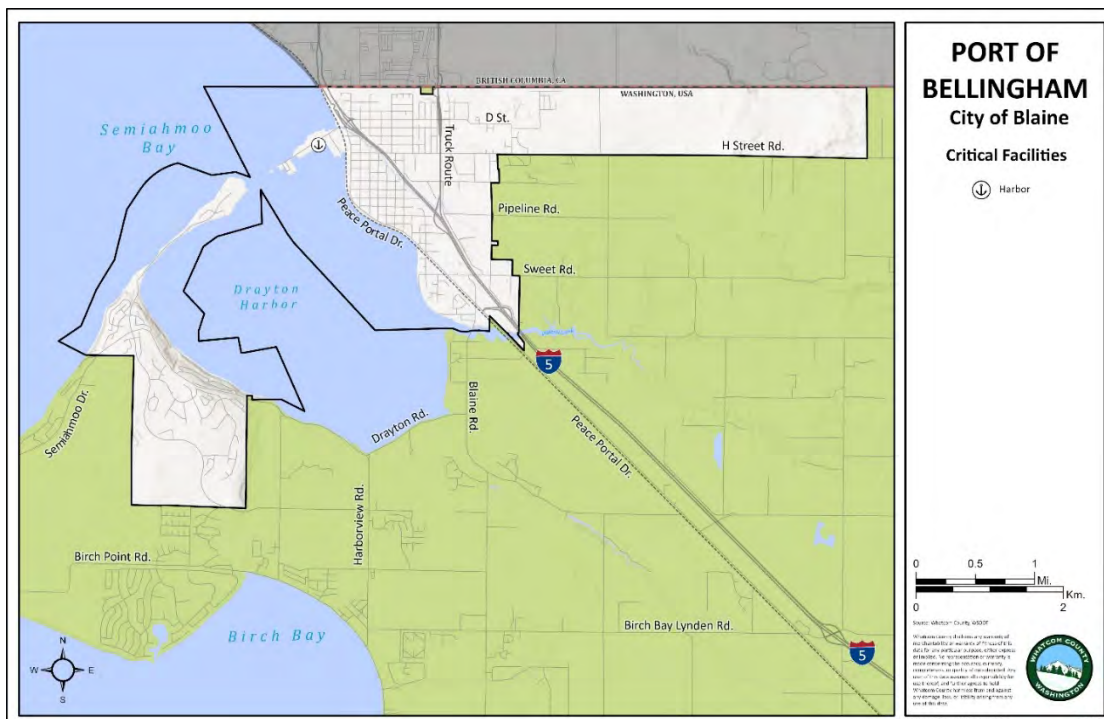
					commercial fishing vessels.
Fairhaven Station - Multi-Modal Facility	EF	2	401 Harris Ave. Bellingham, WA	\$33,917,000	Rail and bus transportation hub.
Harbor Center Building	EF	1	1801 Roeder Ave. Bellingham, WA	\$11,668,000	Building housing Port administrative functions.
Squalicum Harbor	EF	2	722 Coho Way Bellingham, WA	\$95,045,000	Marine harbor serving recreational and commercial fishing vessels
Sumas International Cargo Terminal	EF	1	530 Front Street Sumas, WA	\$10,282,000	Rail and truck trans-load facility.

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

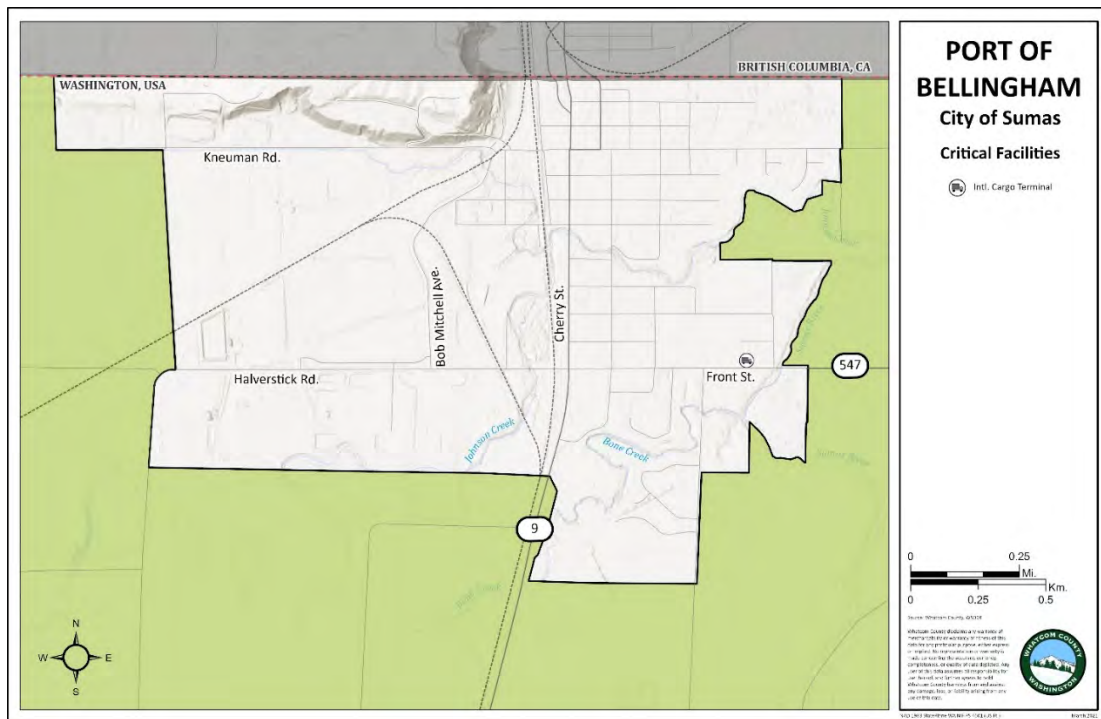
Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



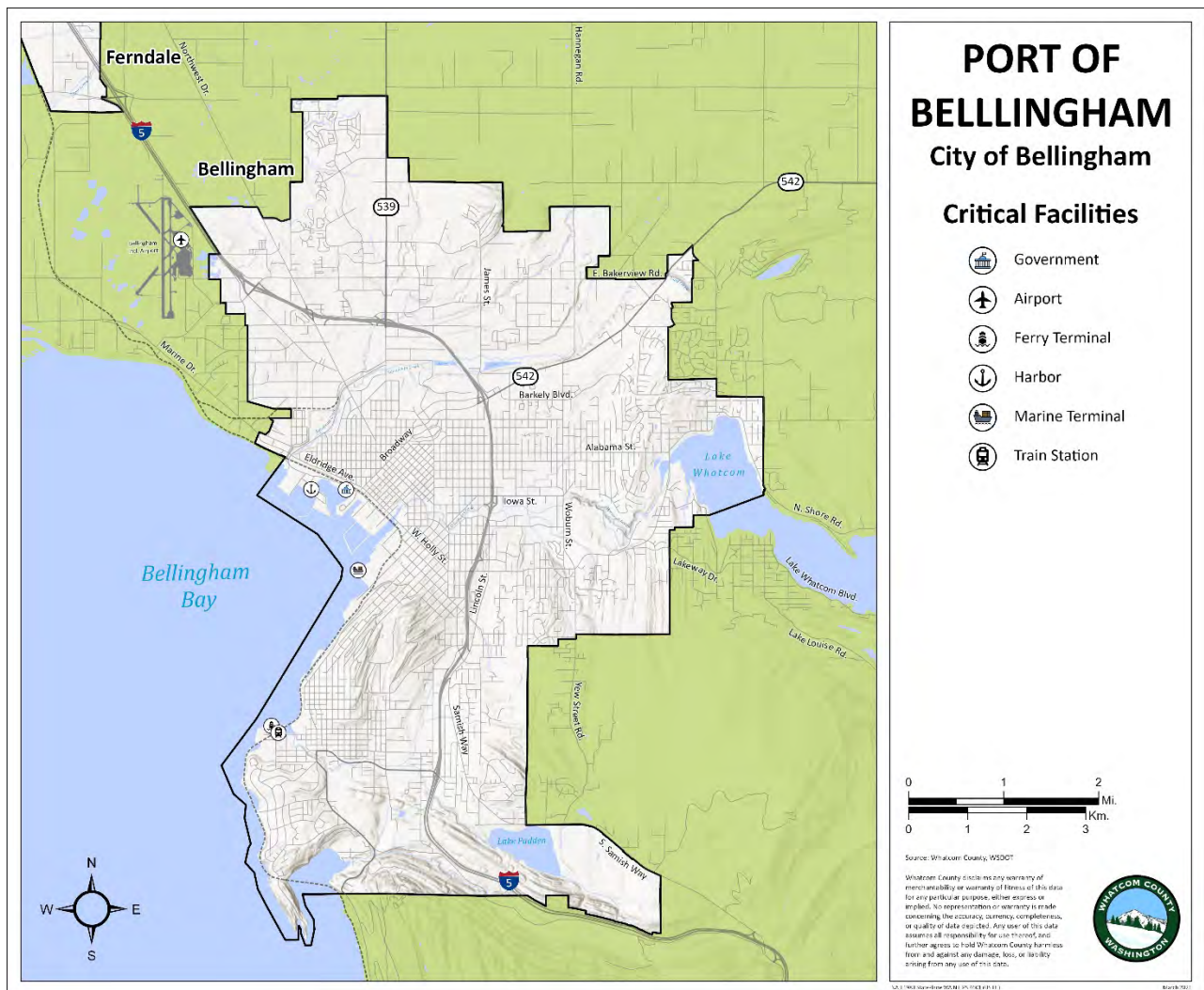
Map of critical facilities identified by the Port of Bellingham. Across Whatcom County, critical facilities fell into 6 categories. Facilities were categorized according to Port of Bellingham’s critical facility table, including: government, airport, ferry terminal, harbor, marine terminal, and train station. Not all judications identified or included critical facilities in each category.



Location of critical facilities for the Port of Bellingham in Blaine.



Location of critical facilities for the Port of Bellingham in Sumas.



Location of critical facilities for the Port of Bellingham in the City of Bellingham.

Critical Facility Rankings for the Port of Bellingham

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding, and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in the jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Bellingham Cruise Terminal	EF - Transportation	2	1	0	0	1	0	1	1	0	0.93
Bellingham International Airport	EF - Transportation: Airport	2	1	1	0	0	0	0	0	0	0.43
Bellingham Shipping Terminal #1 & #2	EF - Transportation	1	1	1	0	1	0	0	0	0	0.43
Blaine Harbor	EF - Transportation	2	1	1	0	1	0	0	1	0	1
Fairhaven Station - Multi-Modal Facility	EF - Transportation	2	1	0	0	1	0	0	0	1	0.86
Harbor Center Building	EF – Transportation, Administrative	1	1	1	0	1	0	0	0	0	0.43
Squalicum Harbor	EF - Transportation	2	1	1	0	1	0	0	1	0	1
Sumas International Cargo Terminal	EF - Transportation	1	1	1	0	0	1	1	0	0	0.5

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

Port of Bellingham Exposure to Natural Hazards				
	Hazard Susceptibility	Asset County (% of Total)		Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Critical Facilities	
Geological Hazards	Earthquake, Shaking Intensity			
	MMI IV	7.7%	-	-
	MMI V	31.7%	12.5%	\$49 ¹
	MMI VI	29.6%	75%	\$343 ¹
	MMI VII	11.7%	-	-
	MMI VIII - IX	5.7%	12.5%	\$10 ¹
	TOTAL	86.4%	100%	\$402
	Liquefaction			
	Very Low to Low	14.6%	-	-
	Low to Moderate	6.5%	12.5%	\$131 ¹
	Moderate	-	-	-
	Moderate to High	4.4%	12.5%	\$10 ¹
	High	0.02%	50%	\$205 ¹
	TOTAL	25.5%	75%	\$346
	Landslide			
	Landslide Low	0.7%	-	-
	Landslide Moderate	1%	-	-

Hydrol	<i>Landslide High</i>	2.9%	-	-
	<i>Fan Low</i>	0.1%	-	-
	<i>Fan Moderate</i>	0.3%	-	-
	<i>Fan High</i>	0.8%	-	-
	<i>Mine Hazard</i>	0.1%	-	-
	TOTAL	5.9%	-	-
	Volcanic Eruption			
	<i>Case 1 Debris Flows</i>	1.6%	12.5% ²	\$10 ^{1/2}
	<i>Case 2 Debris Flows</i>	0.9%	-	-
	<i>Case M Flows</i>	2.9%	-	-
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	5.8	-	-
	<i>Lateral Blast Hazard Zone</i>	22.7%	-	-
	TOTAL	33.9%	12.5%	\$10
	Tsunami, Inundation Zone			
	<i>Low to Moderate Inundation Potential</i>	0.3%	-	-
	<i>Moderate to High Inundation Potential</i>	0.3%	-	-
	<i>High Inundation Potential</i>	0.6%	75%	\$262 ¹
	TOTAL	1.2%	75%	\$262
	Flooding			
	<i>100-year Flood</i>	3.5%	12.5%	\$10 ¹

	<i>500-year Flood</i>	0.4%	-	-
	<i>Floodway</i>	0.9%	-	-
	<i>Undetermined (Zone D)</i>	52.1%	-	-
	TOTAL	4.8%	12.5%	\$10
Meteorological	Wildfire Zones			
	<i>Interface Very Low-Low Structure Density</i>	0.9%	-	-
	<i>Interface Medium-High Structure Density</i>	1.4%	25%	\$57 ¹
	<i>Intermix Very Low-Low Structure Density</i>	5.9%	-	-
	<i>Intermix Medium-High Structure Density</i>	4.1%	-	-
	TOTAL	12.3%	25%	\$57

¹Shows the assessed dollar value provided by the community in their critical facilities list. Does not include the appraised total value.

²Some critical facilities located in multiple hazard zone

Status of Port of Bellingham's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

Tsunami

TSU-a. Map and Assess Vulnerability to Tsunami – In 2019, the Port of Bellingham, in conjunction with jurisdictional partner the City of Bellingham and the Washington Military Department Division of Emergency Management, the Washington Department of Natural Resources, and the National Oceanic and Atmospheric Administration, developed tsunami inundation models and Tsunami Evacuation Walk Time Maps for the City of Bellingham and Port properties within Bellingham.

Lead Entity	WDNR, City of Bellingham
Funding Source	State, Federal, Local
Current Status	Ongoing

TSU-b. Increase Public Awareness of Tsunami Hazard – In 2017, All Hazards Alert Broadcast (AHAB) Warning Sirens were installed on Port of Bellingham property at Squaticum Harbor at geographic coordinates 48.7559 N, 122.50193 W, and on City of Blaine property at geographic coordinates 48.99449 N, 122.7602850193 W, adjacent to Blaine Harbor. An additional AHAB Siren was installed on Port of Bellingham property adjacent to the Bellingham Cruise Terminal at geographic coordinates 48.720249 N, 122.513427 W, in 2020.

Lead Entity	WDNR, Whatcom County, City of Bellingham, Port of Bellingham
Funding Source	State, Federal, Local
Current Status	Ongoing

Flooding

No actions ongoing, discontinued, or completed for this hazard.

Winter Storms/Freezes

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

No actions ongoing, discontinued, or completed for this hazard.

Multiple Hazards

MU-a. Increase Hazard Education and Risk Awareness – The Whatcom County Sheriff’s Office Division of Emergency Management and City of Bellingham Office of Emergency Management have adopted use of the AlertSense messaging system to notify the public and the media of emergency events throughout Whatcom County, including Port of Bellingham facilities and tenants. AlertSense allows a pre-formatted message to be sent to an email address, to a mobile phone as a text message, and/or as a voice message to a landline or mobile phone number. Messages can be sent to all individuals who voluntarily register in the system (free of charge), or to targeted groups for specific geographic areas (i.e. cities, towns or communities).

Lead Entity	City of Bellingham, Whatcom County
Funding Source	Local
Current Status	Ongoing

MU-b. Protect Structures – This Mitigation Action generally relies on the relocation of structures outside hazard areas. This Mitigation Action is now considered infeasible and, as such, has been discontinued.

Lead Entity	N/A
Funding Source	
Current Status	Discontinued

Earthquake

EQ-a. Conduct Outreach to Builders, Architects, Engineers and Inspectors – The Port of Bellingham relies on the jurisdictions with code establishment and enforcement authority within which Port facilities are located to implement this Mitigation Action. As such, this Mitigation Action is not considered applicable to the Port and has been discontinued.

Lead Entity	N/A
Funding Source	
Current Status	Discontinued

EQ-c. Design all Critical Facilities and Infrastructure for design earthquake event – The port follows the International Building Code adopted by the county, which includes design for seismic hazard.

Lead Entity	Facilities/E&PS
Funding Source	Local, State and Federal
Current Status	Ongoing

Landslide/Erosion

ER-a. Increase Awareness of Erosion Hazard – The Port of Bellingham relies on those jurisdictions with code establishment and enforcement authority within which Port facilities are located to implement this Mitigation Action. The only identified erosion hazard on Port properties is to Port-owned breakwater structures at Squalicum and Blaine Harbors and the appropriate Port Engineering and Facilities leads are aware of this hazard as part of their core functions. As such, this Mitigation Action is not considered applicable to the Port and has been discontinued.

Lead Entity	N/A
Funding Source	
Current Status	Discontinued

Port of Bellingham 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Port of Bellingham-Specific Hazard Mitigation Goals

The Port of Bellingham supports the county-wide planning goals. No additional community-specific mitigation planning goals have been identified at this time.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Port of Bellingham considered mitigation options related to earthquake, flooding, erosion, tsunami, winter storms, severe wind, especially those related to flooding because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Port of Bellingham. Some options have already been implemented or are ongoing in Port of Bellingham, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Port of Bellingham has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property and public welfare. Port of Bellingham is working in cooperation with the County and other participating communities and special districts to develop a systematic methodology that would use multiple

evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority	H (High); M (Medium); L (Low)
4	Timeline	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source	Local; State; FEMA; Private; Other
6	Estimated Cost	Actual; Estimated

Port of Bellingham Identified Mitigation Actions 2021-2025

PORT OF BELLINGHAM IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
GENERAL: ALL HAZARDS Education and Awareness Actions	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	G-1 Distribute Whatcom County Emergency Preparedness Guide.	2	Emergency Management	M	M	Local	15,000
Hazard Specific (Reference: <u>Whatcom County Mitigation Ideas</u>)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						
Droughts/Heat Waves	D-1 There are no new actions considered/all actions ongoing, discontinued, or completed						
Earthquakes	EQ-c. Design all Critical Facilities and Infrastructure for design earthquake event	1	Facilities/E&PS	M	O	Local, State, and Federal	
	EQ-1 Incorporate Earthquake Mitigation into Port Planning	1	Environmental and Planning	M	M	Local	unknown

			Services (E&PS)				
	EQ-2 Map and Assess Port Vulnerability to Seismic Hazards	1, 2	E&PS	M	M	Local, State & Federal	unknown
	EQ-3 Increase Earthquake Risk Awareness	2	Emergency Mgmt	M	M	Local	15,000
	EQ-4 Provide Information on Structural and Non-Structural Retrofitting	1	Emergency Mgmt/Real Estate	M	M	Local	15,000.
	EQ-5. Conduct Inspections of Building Safety –	1	Facilities	M	M	Local, State and Federal	Unknown
Extreme Temperatures	ET-1 There are no new actions considered/all actions ongoing, discontinued, or completed						
Flooding	FL-1 Participate in Partnerships to Support Floodplain Management	4, 1	E&PS	L	M	Local	unknown
	FL-2 Increase Awareness of Flood Risk and Safety	2	Emergency Mgmt	M	M	Local	15,000.
	FL-3. Incorporate Flood Mitigation in Local Planning	1, 2	Facilities/E&PS	M	M	Local, State and Federal	Unknown
	FL-4. Follow Current Building Codes and Development Standards	1	Facilities	M	M	Local	Unknown
	FL-5. Stormwater Management Planning	1, 2	Facilities/E&PS	M	M	Local, State	Cost of current staff
	FL-6. Adopt Policies to Reduce Stormwater Runoff	1	Facilities/E&PS	M	M	Local, State	Cost of Current staff
	FL-7. Conduct Regular Maintenance for	1	Facilities/E&PS	M	M	Local,	Unknown

	Drainage Systems and Flood Control Structures					State	
	FL-8. Protect Infrastructure	1	Facilities	M	M	Local	Unknown
	FL-9. Design and construct Critical Facilities to prevent flooding and future sea level rise.	1, 5	Facilities	M	M	Local	Unknown
Landslide/ Erosion	ER-1 Manage Development in Erosion Hazard Areas	1, 3	E&PS	M	M	Local	Unknown
	ER-2. Stabilize Erosion Hazard Areas	1, 5	Facilities	M	M	Local	Unknown
Land Subsidence	LS-1 There are no new actions considered/all actions ongoing, discontinued, or completed						
Lightning	L-1 There are no new actions considered/all actions ongoing, discontinued, or completed						
Severe Storms	SS-1 There are no new actions considered/all actions ongoing, discontinued, or completed						
Severe Wind	SW-1. Apply Site and Building Design Standards that Minimize Wind Damage	1	Facilities and E&PS	M	M	Local	Unknown
	SW-2. Assess Vulnerability to Severe Wind	1,	Facilities	M	M	Local	Unknown
	SW-3. Protect Power Lines and Infrastructure	1, 5	Facilities	M	M	Federal, State and Local	Unknown
Tornadoes	T-1 There are no new actions considered/all actions ongoing, discontinued, or completed						
Tsunami	<i>TSU-a Ongoing -- Map and Assess Vulnerability to Tsunami</i>	1, 5	WDNR, City of Bellingham	M	O	Federal, State, and	

						Local	
	<i>TSU-b Ongoing -- Increase Public Awareness of Tsunami Hazard</i>	2	WDNR, Whatcom County, City of Bellingham, Port of Bellingham	M	O	Federal, State, and Local	
	TSU-1 Manage Development of Port infrastructure in Tsunami Hazard Areas	1, 5	Environmental and Planning Services (E&PS)	M	M	Local	Unknown
Wildfires	WF-1 There are no new actions considered/all actions ongoing, discontinued, or completed						
Winter Storms/ Freezes (Severe Winter Weather)	WW-1 Conduct Winter Weather Risk Awareness Activities	2	Emergency Mgmt/Facilities	M	M	Local	15,000
	WW-2. Design and construct Buildings and Infrastructure to withstand design storm events	1	Facilities	M	M	Local	Unknown
	WW-3. Reduce Impacts to Roadways	1, 5	Facilities	M	M	Local	Unknown
Multiple Hazards	<i>MU-a Ongoing -- Increase Hazard Education and Risk Awareness</i>	2	City of Bellingham, Whatcom County	M	O	Local	
	MU-1 Increase Port Live Aboard Disaster Preparedness Awareness	1, 2	Emergency Mgmt	M	M	Local	15,000.
	MU-2 Promote Private Mitigation Efforts	4	Emergency Mgmt	M	M	Local	15,000.
	MU-3. Assess Community Risk	1, 2, 5	Emergency Management	M	M	Local and State	Current Staff

	MU-4 Map Risk	1, 2, 5	Emergency Management	M	M	Local and State	Current Staff
	MU-5. Prevent Development in Hazard Areas	1, 2, 5	E&PS	M	M	Local and State	Current Staff
	MU-6 Integrate Mitigation into Local Planning	1, 2, 5	E&PS	M	M	Local	Current Staff
	MU-7. Monitor Mitigation Plan Implementation	1, 2, 5	Emergency Management	M	M	Local	Current Staff
	MU-8 Construct and improve Infrastructure and Critical Facilities to mitigate damage from multiple hazards.	1	Facilities	M	M	Local and State	Unknown
Advanced Mitigation Projects (Dream List)	International Cargo Terminal Flooding at Sumas	1	Port	M	L	Local	unknown
	Survey of existing mines – Bellingham International Airport	1	Port	L	L	State, Federal	Unknown
	Survey of existing mines- Bellingham Shipping Terminal	1	Port	L	L	State, Federal	Unknown
	Survey of existing mines-Squalicum Harbor	1	Port	L	L	State, Federal	Unknown
	Survey of existing mines- Fairhaven Station	1	Port	L	L	State, Federal	Unknown

Port of Bellingham Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

Port of Bellingham Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					Notes on yearly progress
	2021	2022	2023	2024	2025	
GENERAL: ALL HAZARDS						
G-1 Distribute Whatcom County Emergency Preparedness Guide.						
<i>Add New Action Items if Applicable</i>						
DAM/LEVEE FAILURES						
<i>Add New Action Items if Applicable</i>						
DROUGHTS/HEAT WAVES						

Port of Bellingham Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Add New Action Items if Applicable						
EARTHQUAKES						
EQ-a. Ongoing -- Conduct Outreach to Builders, Architects, Engineers and Inspectors						
EQ-c. Ongoing -- Design all Critical Facilities and Infrastructure for design earthquake event						
EQ-1 Incorporate Earthquake Mitigation into Port Planning						
EQ-2 Map and Assess Port Vulnerability to Seismic Hazards						
EQ-3 Increase Earthquake Risk Awareness						
EQ-4 Provide Information on Structural and Non-Structural Retrofitting						
EQ-5. Conduct Inspections of Building Safety						
Add New Action Items if Applicable						
FLOODING						
FL-1 Participate in Partnerships to Support Floodplain Management						
FL-2 Increase Awareness of Flood Risk and Safety						
FL-3. Incorporate Flood Mitigation in Local Planning –						
FL-4. Follow Current Building Codes and Development Standards						
FL-5. Stormwater Management Planning						
FL-6. Adopt Policies to Reduce Stormwater Runoff						
FL-7. Conduct Regular Maintenance for						

Port of Bellingham Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Drainage Systems and Flood Control Structures						
FL-8 Protect Infrastructure						
FL-9. Design and construct Critical Facilities to prevent flooding and future sea level rise.						
<i>Add New Action Items if Applicable</i>						
LANDSLIDES/EROSION						
ER-a. Ongoing -- Increase Awareness of Erosion Hazard						
ER-1. Manage Development in Erosion Hazard Areas						
ER-2. Stabilize Erosion Hazard Areas						
<i>Add New Action Items if Applicable</i>						
LAND SUBSIDENCE						
<i>Add New Action Items if Applicable</i>						
TORNADOES						
<i>Add New Action Items if Applicable</i>						
TSUNAMI						
TSU-a. Ongoing -- Map and Assess Vulnerability to Tsunami						
TSU-b. Ongoing -- Increase Public Awareness of Tsunami Hazard						
TSU-1. Manage Development of Port infrastructure in Tsunami Hazard Areas						
<i>Add New Action Items if Applicable</i>						
WILDFIRES						

Port of Bellingham Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Add New Action Items if Applicable						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
WW-1 Conduct Winter Weather Risk Awareness Activities						
WW-2. Design and construct Buildings and Infrastructure to withstand design storm events						
WW-3 Reduce Impacts to Roadways						
Add New Action Items if Applicable						
EXTREME TEMPERATURES						
Add New Action Items if Applicable						
LANDSLIDE						
Add New Action Items if Applicable						
LIGHTNING						
Add New Action Items if Applicable						
SEVERE WIND						
SW-a. Ongoing -- Apply Site and Building Design Standards that Minimize Wind Damage						
SW-b. Ongoing -- Assess Vulnerability to Severe Wind						
SW-c. Ongoing -- Protect Power Lines and Infrastructure						
Add New Action Items if Applicable						
MULTIPLE HAZARDS						

Port of Bellingham Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>MU-a. Ongoing -- Increase Hazard Education and Risk Awareness</i>						
<i>MU-b. Ongoing -- Protect Structures</i>						
MU-1 Increase Port Live Aboard Disaster Preparedness Awareness						
MU-2 Promote Private Mitigation Efforts						
MU-3. Assess Community Risk						
MU-4. Map Community Risk						
MU-5. Prevent Development in Hazard Areas						
MU-6. Integrate Mitigation into Local Planning						
MU-7. Monitor Mitigation Plan Implementation						
MU-8. Construct and improve Infrastructure and Critical Facilities to mitigate damage from multiple hazards.						
<i>Add New Action Items if Applicable</i>						

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CITY OF SUMAS

Contact Information

Daniel DeBruin

Chief of Police
433 Cherry Street / P.O. Box 9 Sumas, WA 98295
(360) 988-5711

Approving Authority

Mayor Kyle Christensen & City Council Members

433 Cherry Street / P.O. Box 9 Sumas, WA 98295
(360) 988-5711

Planning Process

The City of Sumas process of reviewing, updating, and adopting the 2021 update of the Whatcom County Natural Hazards Mitigation Plan (NHMP or Plan) included review by multiple City departments and formal adoption by the City Council. Review of the prior plan began in early 2021. The City Planner reviewed the previous plan and met with the Public Works Director and Chief of Police to identify details that might need to be updated. From January through April of 2021, City staff attended a series of coordination meetings hosted by the County Division of Emergency Management (DEM). Initial guidance was received from DEM regarding the update schedule and the main areas to focus on as part of the update.

In early March 2021, the City provided public notice in the Lynden Tribune regarding the planned update of the NHMP and posted information regarding the update on the City website. Information regarding opportunities to provide public comment was also posted on the City website. During March and April of 2021, the City Planner prepared draft revisions to the NHMP and met with the Public Works Director and the Chief of Police to review the draft revisions and receive additional input. During the same time period, City staff participated in two virtual public meetings hosted by DEM where the public was invited to receive information and ask questions regarding the 2021 update of the NHMP.

The draft revisions to the NHMP addressing the city of Sumas, incorporating input received from the Public Works Director, Mayor and Chief of Police, were submitted to DEM in late April 2021. In May of 2021, DEM notified the public regarding the availability of draft revisions to the full Plan and hosted a third virtual public meeting to receive comments from the public. Following review by the City Council in May 2021, the City Council passed a motion supporting the updates contained in the Sumas section of draft NHMP. Prior to the Plan being submitted to the Federal Emergency Management Agency for review, the City Council formally adopted the draft Plan on XX, 2021 through Resolution No. XX. It is anticipated that formal adoption by ordinance will follow approval from FEMA.

Key Contributor List

- Rollin Harper, City Planner
- Chief of Police Daniel DeBruin
- Sunny Aulakh, Public Works Director
- Mayor Kyle Christensen

Meeting Dates and Attendees

- February 18, 2021 – Harper, Aulakh and DeBruin
- April 15, 2021 – Harper, Aulakh and DeBruin
- April 29, 2021 – Harper, Aulakh and DeBruin

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability, and potential mitigation is based on the best available science and technology currently available. This information and related data on natural hazards potentially impacting the City of Sumas will be used as a tool when the City updates other plans and programs, such as the following:

- Comprehensive plan required by the Growth Management Act (GMA);
- Development regulations required by the GMA;
- Critical areas ordinance;
- Capital improvement program;
- Capital facilities planning; and
- Water Resource Inventory Area planning.

As additional information becomes available from other planning sources that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for the City of Sumas

The City of Sumas will maintain and update the Natural Hazards Mitigation Plan as needed to respond to changed circumstances, to incorporate best available science and to address changing community priorities. The Plan update process will include community engagement through public meetings and opportunities for public comment. Formal updates of the Plan will be reviewed by the City Council prior to adoption.

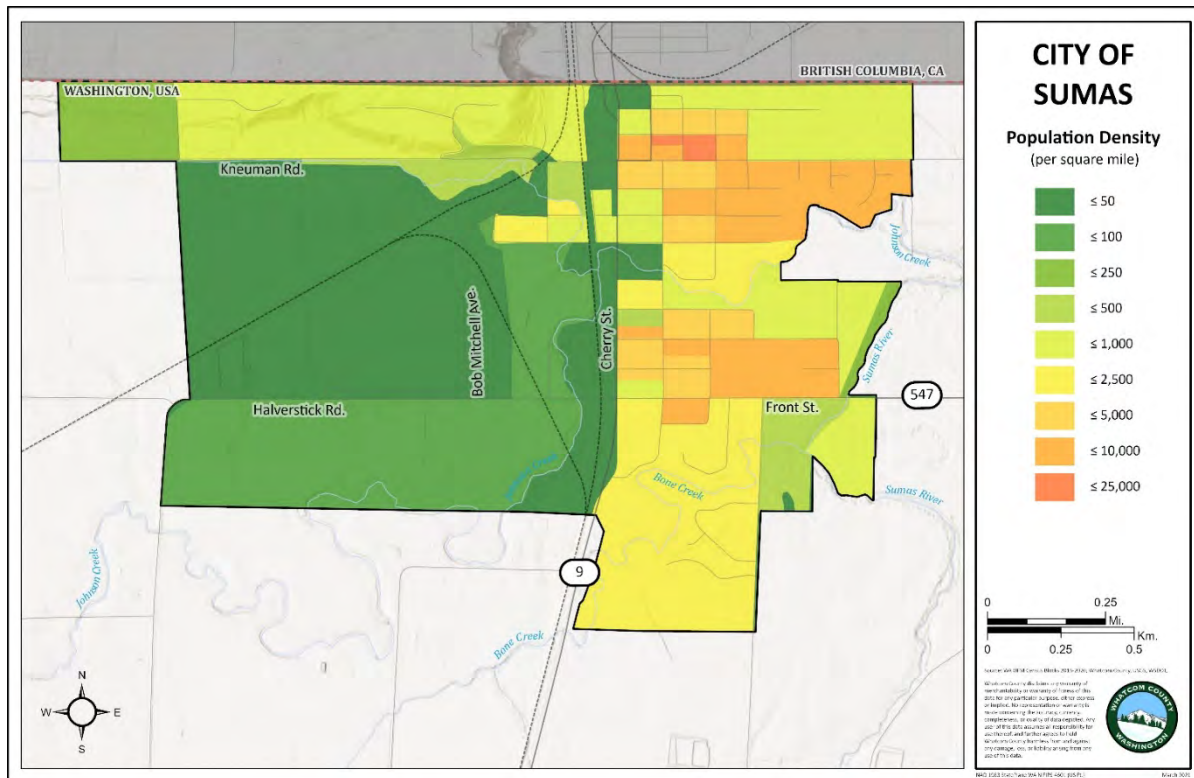
Public Outreach and Education

Program	Yes/No, Year Adopted	Description
Nonprofit organizations or local residents groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.	No	
Ongoing public education or information programs	Yes 2006-Quarterly newsletters 2008-CRS notifications 2014- City website postings 2018-City Facebook postings	Information regarding water conservation, repetitive loss, winter storm preparedness, flood hazard preparedness.
School-related programs for natural hazard safety	Yes 2010 to present	Semiannual drills in schools regarding disaster preparedness
Public education or information program	Yes 2006-Quarterly newsletters 2008-CRS notifications 2014- City website postings 2018-City Facebook postings	Information regarding water conservation, repetitive loss, winter storm preparedness, flood hazard preparedness.
StormReady certification	No	Whatcom County is a StormReady County.
Firewise Community certification	No	The Paradise Lakes Country Club is a Firewise Site, but is located outside the City.
Public-Private Partnership initiatives addressing disaster-related issues	No	
Other		

Overview of Sumas, Hazards, and Assets

Geography of Sumas

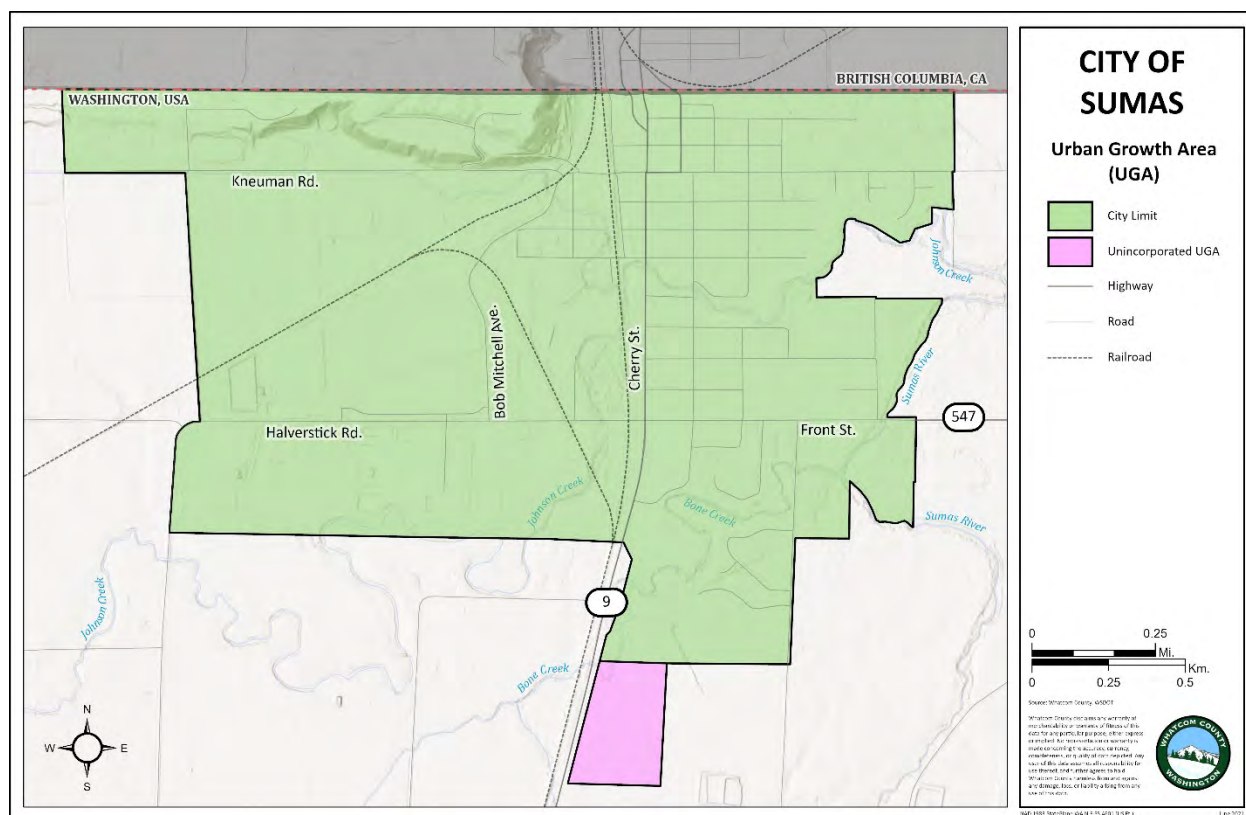
Sumas Population	1,665 (2020 OFM estimate)
Total Area	1.44 sq. mi. (within city limits)



Washington State Office of Financial Management (OFM) 2020 population and housing estimates for 2010-2020 census block data. This map uses the 2016-2020 average population to show population density per square mile.

Growth Trends

This map displays the UGA for the City of Sumas, as designated by the Whatcom County Comprehensive Plan.



Presence of Hazards and their Impacts in the City of Sumas

Flooding is a major hazard impacting the City of Sumas. Moderate to major flooding events occur approximately every five to ten years, with the most recent event taking place in February 2020. During that event, floodwaters from the Nooksack River flowed north through the Nooksack Overflow Corridor and through Sumas on the way to the Fraser River in Canada. That event saw major flooding through much of the City, with floodwater depths from one to three feet through much of the downtown commercial and residential areas. Numerous travel routes were unavailable and access to local businesses and services was also interrupted.

Since the 2016 NHMP was adopted, the City of Sumas has grown by roughly 150 people. While some of this growth has occurred on Moe Hill (the high ground outside the floodplain located adjacent to the Canadian border), the majority of new growth has occurred within the 100-year floodplain because nearly all of the remaining undeveloped land is in the floodplain. The presence of the floodplain throughout much of Sumas has resulted in the local school district

moving forward with construction of a new elementary school on the site of the existing school, which is in the floodplain. However, based on requirements set forth in the City's Flood Damage Prevention Ordinance, the new school will be constructed to have the lowest floor elevated three feet above the base elevation of the 100-year flood event.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Sumas' total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	99.9%	Mod	Subject to seismic activity. Significant risk due to Sumas' highest concentration of older homes in the county.
	Liquefaction	91.5%	Low	Seismically-sensitive soils.
	Landslide	0%	Low	The steep slopes along the southern margin of Moe Hill present a low severity risk of landslide.
	Volcano	88.9%	Low	The City is at risk of a Mount Baker lahar.
	Tsunami	0%	None	N/A
	Mine Hazards	0%	None	N/A
Hydrological	Flooding	88.5%	High	During a flooding event, the majority of the City floods from the Nooksack River, from west to east, in a northeasterly flow.
Meteorological	Wildfire	17.5%	None	N/A

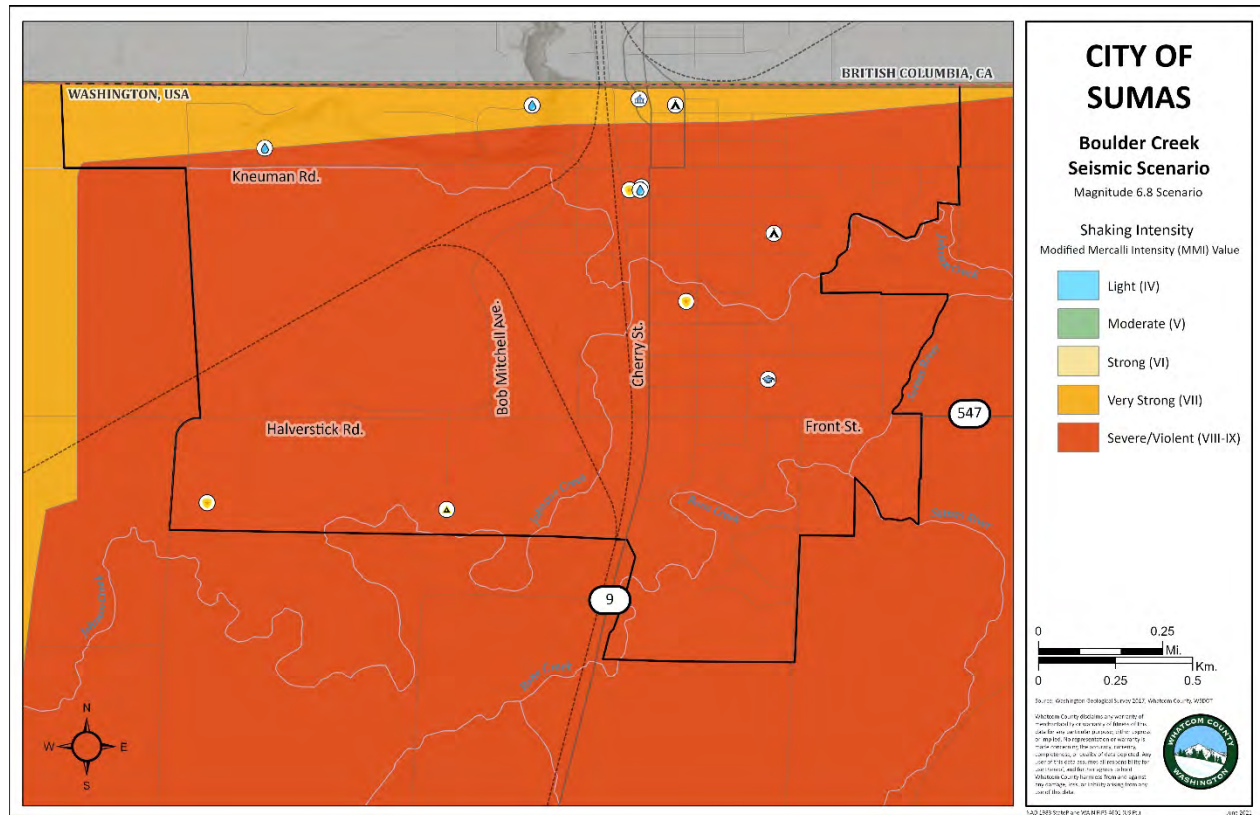
Severity Scale: **None** = no impact to community function

Low = minor degradation of community functions, not widespread

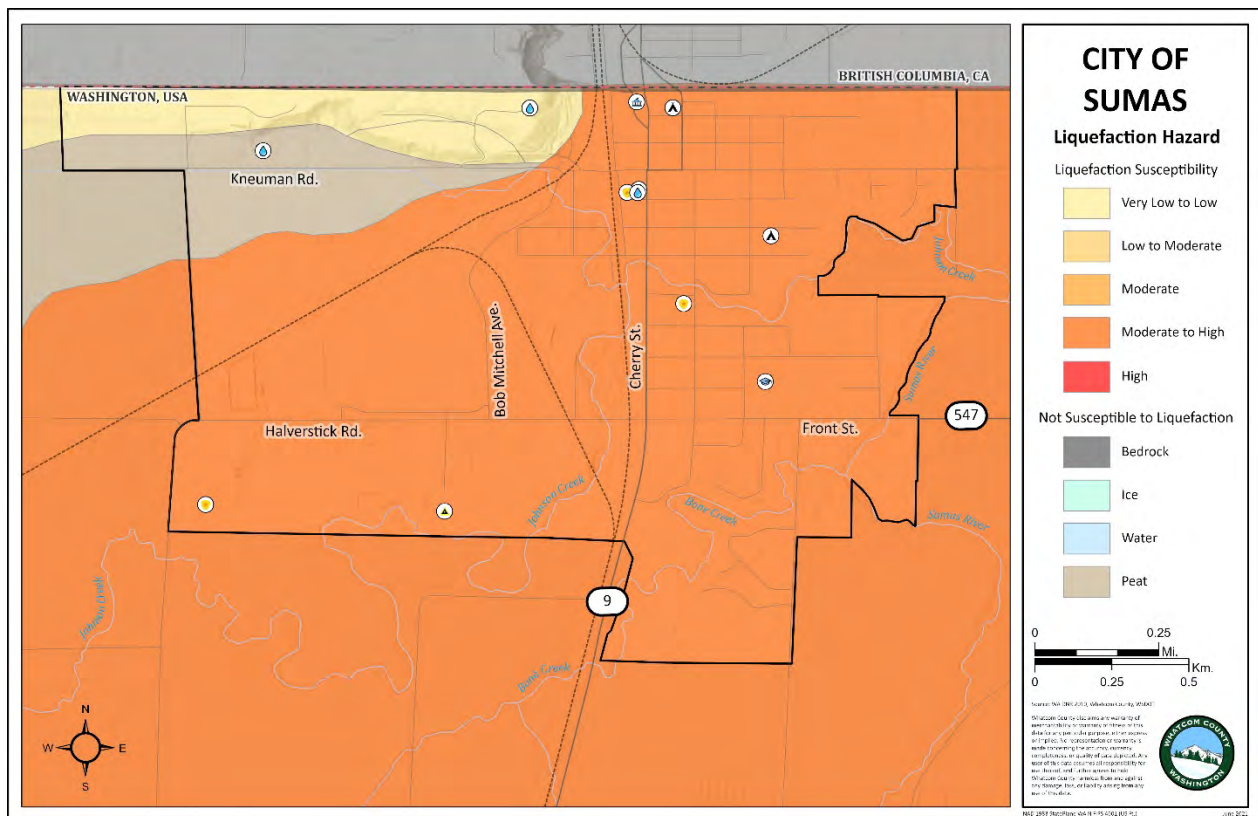
Moderate = moderate degradation over multiple weeks or widespread

High = degradation or loss over many weeks, widespread

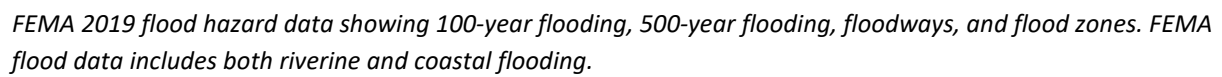
The following figures depict the natural hazards present within the jurisdiction.

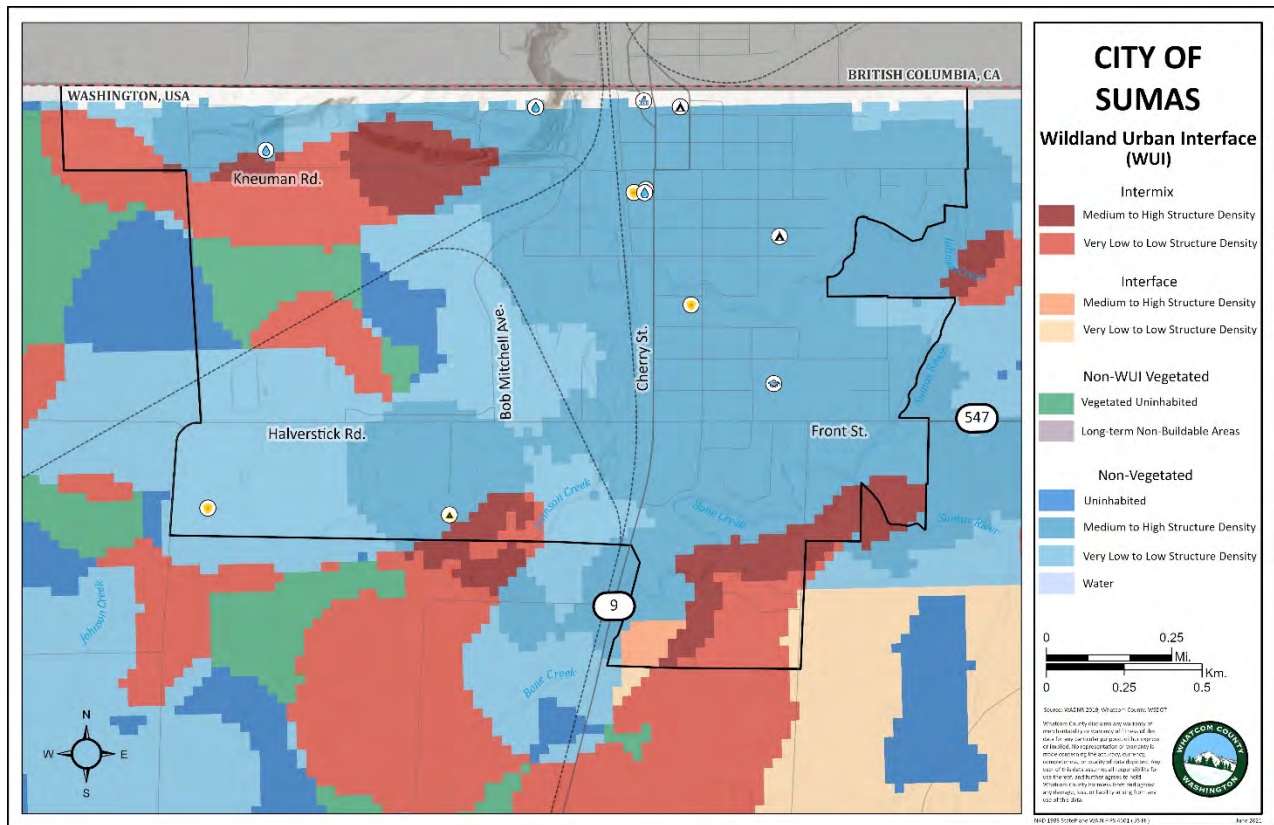


Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.





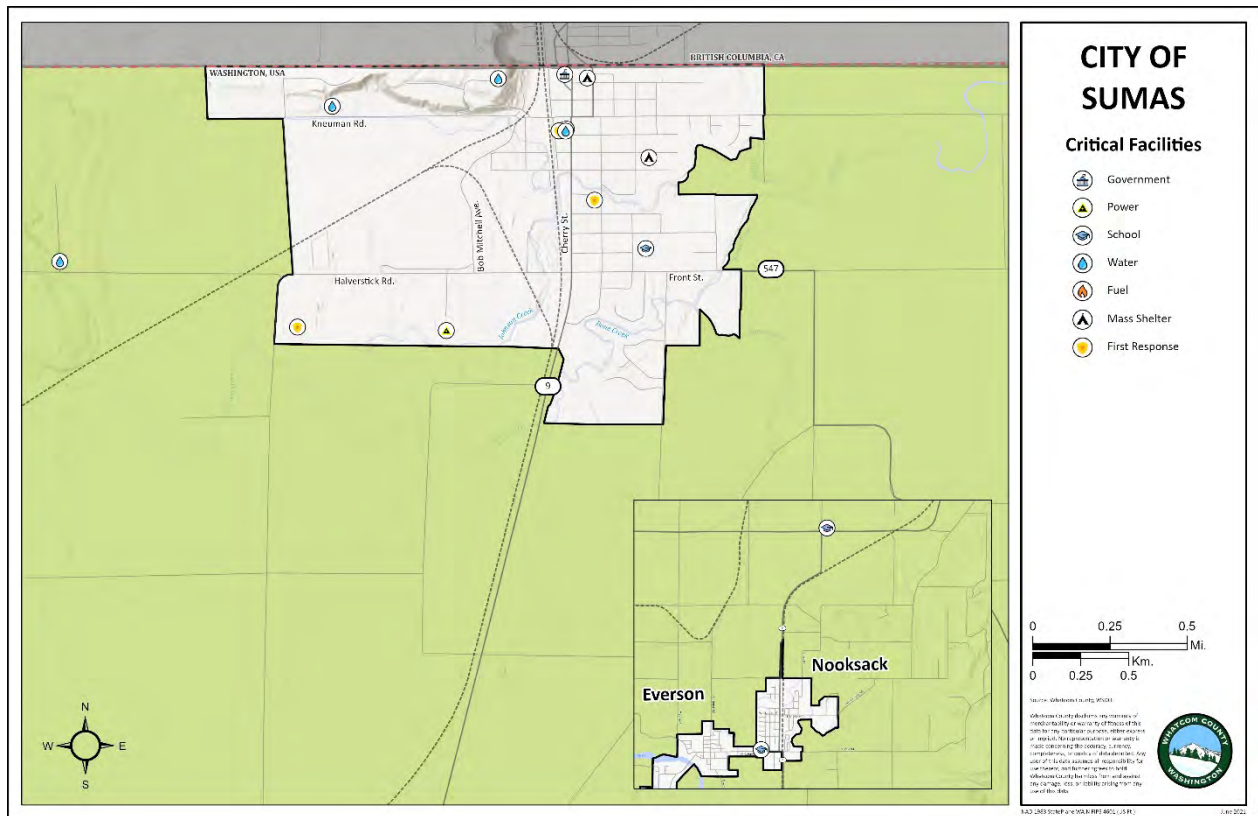
Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.

Sumas' Critical Facility List

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
American Legion Hall	EF	1	134 Harrison Avenue		Emergency Services
Elementary School - Dist. 506	EF	2	1024 Lawson Street		Evacuation Center
High School - District 506	EF	2	3326 E. Badger Road (County)		Evacuation Center
May Road Wellfield	LUS	3	9700 May Road		Utility: Water
Middle School - District 506	EF	1	404 W. Columbia Street, Nooksack		Evacuation Center
Sumas City Hall	EF	3	433 Cherry Street		Government
Sumas City Reservoir	LUS	3	205 Washington Street		Utility: Water
Sumas City Wellfield	LUS	3	3670 Kneuman Road		Utility: Water
Puget Sound Energy	LUS	1	601-B W. Front Street		Utility: Power
Sumas Fire Station	EF	3	143 Columbia Street		
Sumas Police Dept.	EF	3	433 Cherry Street		Law Enforcement
Sumas Senior Center	EF	2	451 Second Street		Evacuation Center
Sumas Water & Lights	EF	3	433 Cherry Street		Government
Sumas – Customs and Border Patrol	EF	2	109 Cherry Street		Law Enforcement
Williams Gas Pipeline	HMF	2	4378 Jones Road		Fuel
U.S. Border Patrol	EF	3	9648 Garrison Road		Law Enforcement

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



Map of critical facilities identified by the City of Sumas. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all jurisdictions identified or included critical facilities in each category.

Critical Facility Rankings for the City of Sumas

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in the jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
American Legion Hall	EF	1	1	1	0	0	1	1	0	0	0.33
Elementary School - Dist. 506	EF	2	1	1	0	0	1	1	0	0	0.66
High School - District 506	EF	2	1	1	0	0	1	1	0	0	0.66
May Road Wellfield	LUS	3	1	1	0	0	1	1	0	0	1
Middle School - District 506	EF	1	1	1	0	0	1	1	0	0	0.33
Sumas City Hall	EF	3	1	1	0	0	1	1	0	0	1
Sumas City Reservoir	LUS	3	1	1	0	0	1	0	0	0	0.86
Sumas City Wellfield	LUS	3	1	0	0	0	1	0	0	1	0.86
Puget Sound Energy	LUS	1	1	1	0	0	1	1	0	0	0.33
Sumas Fire Station	EF	3	1	1	0	0	1	1	0	0	1
Sumas Police Dept.	EF	3	1	1	0	0	1	1	0	0	1
Sumas Senior Center	EF	2	1	1	0	0	1	1	0	0	0.66
Sumas Water & Lights	EF	3	1	1	0	0	1	1	0	0	1
Sumas – CBP	EF	2	1	1	0	0	1	1	0	0	0.66
Williams Gas Pipeline	HMF	2	1	1	0	0	1	1	0	0	0.66
U.S. Border Patrol	EF	3	1	1	0	0	1	1	0	0	1

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

City of Sumas Exposure to Natural Hazards						
	Hazard Susceptibility	Asset County (% of Total)				Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological	Earthquake, Shaking Intensity					
	MMI IV	-	-	-	-	-
	MMI V	-	-	-	-	-
	MMI VI	-	-	-	-	-
	MMI VII	11.9%	6.4%	10.6%	43.7%	\$18
	MMI VIII - IX	88%	93.1%	89.4%	56.3%	\$36
	TOTAL	99.9%	99.5%	100%	100%	\$54
	Liquefaction					
	Very Low to Low	7.9%	4.1%	6.8%	12.5%	\$0.3
	Low to Moderate	-	-	-	-	-
	Moderate	-	-	-	81.3%	\$53
	Moderate to High	83.6%	93.5%	91.2%	-	-
	High	-	-	-	-	-
	TOTAL	91.5%	97.6%	98%	93.8%	\$53.3
	Volcanic Eruption					
	Case 1 Debris Flows	88.9%	93.6%	91.4%	75% ¹	\$49 ¹
	Case 2 Debris Flows	-	-	-	-	-
	Case M Flows	-	-	-	6.3% ¹	\$5 ¹

	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	-	-	-	-	-
	<i>Lateral Blast Hazard Zone</i>	-	-	-	-	-
	TOTAL	88.9%	93.6%	91.4%	81.3%	\$54
	Tsunami, Inundation Zone					
	<i>Low to Moderate Inundation Potential</i>	-	-	-	-	-
	<i>Moderate to High Inundation Potential</i>	-	-	-	-	-
	<i>High Inundation Potential</i>	-	-	-	-	-
	TOTAL	-	-	-	-	-
Hydrological	Flooding					
	<i>100-year Flood</i>	72.2%	82.8%	73.9%	56.2%	\$11
	<i>500-year Flood</i>	16.3%	11%	19%	18.8%	\$33
	<i>Floodway</i>	-	-	-	-	-
	<i>Undetermined (Zone D)</i>	-	-	-	-	-
	TOTAL	88.5%	93.8%	92.9%	75%	\$44
Meteorological	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	0.3%	0.3%	0.1%	-	-
	<i>Interface Medium-High Structure Density</i>	0.6%	0.9%	0.2%	-	-
	<i>Intermix Very Low-Low Structure Density</i>	9.5%	3.7%	2.5%	6.3%	-
	<i>Intermix Medium-High Structure Density</i>	7.1%	4.8%	5.9%	-	-
	TOTAL	17.5%	9.7%	8.7%	6.3%	-

¹Some critical facilities located in multiple hazard zones.

Status of Sumas's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

1	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
5	Funding Source:	Local; State; FEMA; Private; Other
6	Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

General: All Hazards

G-a. Adopt and Enforce Building Codes. This applies to earthquakes, flooding, winter storms/freezes, and severe wind. The City Building Department continues to adopt and enforce local building codes to reduce risks from natural hazards.

Lead Agency	City Building Department
Funding Source	Local; City General Fund
Current Status	Ongoing

Education and Outreach

EO-a. Emergency preparedness education programs for schools. Emergency preparedness and emergency management is delegated to school districts by Washington State RCW's. The Whatcom County Sheriff's Office Division of Emergency Management does support all the school districts in Whatcom County with emergency planning.

Lead Agency	School District
Funding Source	Local, Homeland Security Grant Funding
Current Status	Action Ongoing and continuous

EO-b. Drills, exercises in homes, workplaces, classrooms, etc. Emergency drills and exercises are delegated to school districts by Washington State RCW's. The Whatcom County Sheriff's Office Division of Emergency Management does support all the school districts in Whatcom

County with emergency drills and exercises.

Lead Agency	School District
Funding Source	Local; Annual budget / Member dues
Current Status	Ongoing

EO-c. Distribution of severe weather guides, preparedness handbooks, brochures homeowner's retrofit guide, etc. The Whatcom County Sheriff's Office Division of Emergency Management is the county focal point for the distribution of brochures, handbooks and guides for emergency and disaster management.

Lead Agency	Whatcom County Sheriff's Office Division of Emergency Management
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action Ongoing and continuous

EO-d. Newsletters and utility bill inserts. The City Public Works Department continues provide hazard information to citizens, including through quarterly newsletters and information included with monthly utility bills.

Lead Agency	City Public Works Department
Funding Source	Local; City General Fund
Current Status	Ongoing

Drought/heat wave

D-a. Assess Vulnerability to Drought Risk. The City Planning Department continues to assess risks related to drought, including as part of the 2016 update to the City's critical areas ordinance.

Lead Agency	City Planning Department
Funding Source	Local; City Water Fund
Current Status	Ongoing

D-b. Monitor Drought Conditions. The City Public Works Department continues to monitor drought conditions on annual basis and implements water-related mitigation strategies as appropriate.

Lead Agency	City Public Works Department
Funding Source	Local; City Water Fund
Current Status	Ongoing

D-c. Monitor Water Supply. The City Public Works Department continues to monitor the public water supply and implement water conservation strategies as appropriate.

Lead Agency	City Public Works Department
Funding Source	Local; City Water Fund
Current Status	Ongoing

D-e. Plan for Drought. The City Planning Department continues to plan for droughts, including as part of the 2016 update of the city comprehensive land use plan.

Lead Agency	City Planning Department
Funding Source	Local; City Water Fund
Current Status	Ongoing

D-f. Require Water Conservation During Drought Conditions. The City Public Works Department continues to monitor drought conditions and implement water conservation measures as appropriate.

Lead Agency	City Public Works Department
Funding Source	Local; City Water Fund
Current Status	Ongoing

D-g. Educate Residents on Water Saving Techniques. The City Administration continues to support education of residents regarding water conservation efforts, including through information provided with quarterly newsletters and monthly utility bulls.

Lead Agency	City Administration
Funding Source	Local; City Water Fund
Current Status	Ongoing

Earthquake

EQ-a. Incorporate Earthquake Mitigation into Local Planning. The City Planning Department continues to incorporate planning related to earthquakes, including as part of the 2016 update to the city comprehensive plan.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

EQ-b. Map and Assess Community Vulnerability to Seismic Hazards. The City Planning

Department continues to map and assess vulnerability to seismic hazards, including as part of the 2016 update of the city critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

EQ-c. Conduct Inspections of Building Safety. The City Building Department continues to conduct inspections related to building safety as required by City building codes.

Lead Agency	City Building Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

EQ-d. Protect Critical Facilities and Infrastructure. The City Building, Planning and Public Works Departments continue to protect critical facilities and infrastructure, including requiring critical facilities to be elevated three feet above the FEMA base flood elevation.

Lead Agency	City Building, Planning and Public Works Depts.
Funding Source	Local; City General Fund
Current Status	Ongoing

EQ-e- Protect Wellfield Backup Power.

Lead Agency	City Public Works Dept.
Funding Source	Local
Current Status	Discontinued

Volcano

No actions ongoing, discontinued, or completed for this hazard.

Extreme Temp

No actions ongoing, discontinued, or completed for this hazard.

Flooding

FL-a. Incorporate Flood Mitigation in Local Planning. The City Planning Department continues to incorporate flood mitigation into local planning, including as part of the 2016 update of the city critical areas ordinance, the 2019 adoption of new FEMA flood insurance rate maps, and updates to the County comprehensive flood hazard management plan currently underway.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-b. Form Partnerships to Support Floodplain Management. The City Planning and Public Works Departments continue to work to form partnerships that support floodplain management, including working closely with County long-range and current planning divisions and the County Public Works River and Flood Division.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-c. Limit or Restrict Development in Floodplain Areas. The City Planning, Building and Public Works Departments continue to limit development in floodplain areas through amendment and enforcement of City critical areas ordinance regulations, flood damage prevention regulations, and city building codes.

Lead Agency	City Planning, Building and Public Works Depts.
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-d. Improve Stormwater Management Planning. The City Planning Department continues to improve planning, regulation and enforcement related to stormwater management, including through 2016 updates to the City comprehensive plan and the 2016 adoption of the state stormwater management manual for Western Washington.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-e. Improve Flood Risk Assessment. The City Public Works Department continues to assess risks related to flooding, including through participation in the federal CRS Program and RISK Map assessment efforts.

Lead Agency	City Public Works Dept
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-f. Join or Improve Compliance with NFIP. The City continues to participate in the National Flood Insurance Program (NFIP). The City Planning, Building and Public Works Departments continue to work to improve compliance with the NFIP, including through adoption of 2019 amendments to the City's flood damage prevention ordinance that included updated flood insurance rate maps.

Lead Agency	City Planning, Building and Public Works Depts.
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-g. Manage the Floodplain Beyond Minimum Requirements. The City Planning and Building Departments continue to manage floodplains beyond minimum requirements, including through amendment of critical areas and floodplain management regulations that require extra elevation of critical facilities and prohibit the placement of fill within floodplains except under certain conditions

Lead Agency	City Planning and Building Depts.
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-h. Establish Local Funding Mechanisms for Flood Mitigation. The County Flood Control Zone District continues to make locally generated district funds available for local projects, including the buyout of property in high hazard areas.

Lead Agency	County Flood Control Zone District
Funding Source	Local; County Flood Fund
Current Status	Ongoing

FL-i. Improve Stormwater Drainage System Capacity. The City Public Works Department continues to work to improve stormwater drainage system capacity through annual system upgrades and maintenance projects.

Lead Agency	City Public Works Dept
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-j. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures. The City Public Works Department continues to work to improve stormwater drainage system capacity through annual maintenance projects, such as inspection and clearing of stormwater conveyance systems.

Lead Agency	City Public Works Dept
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-k. Preserve Floodplains as Open Space. The City Planning Department continues to work to preserve floodplains as open space, including through the recording of restrictive covenants required in conjunction with approved subdivisions.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

FL-l. FL-5 Sumas Avenue Replacement.

Lead Agency	WSDOT
Funding Source	State and Federal
Current Status	Discontinued

Landslide/erosion

No actions ongoing, discontinued, or completed for this hazard.

Landslide Subsidence

SU-a. Map and Assess Vulnerability to Subsidence. The City Planning Department continues to map and assess vulnerability to subsidence, including through 2016 updates to the City critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

SU-b. Manage Development in High-Risk Areas. The City Building Department continues to manage development in high risk areas, including through required geologically hazardous area site assessment reports.

Lead Agency	City Building Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

Lightning

No actions ongoing, discontinued, or completed for this hazard.

Winter Storms/Freezes

WW-a. Protect Buildings and Infrastructure. The City Public Works Department continues to work to protect public buildings and infrastructure from severe winter storms, including through annual maintenance and upgrades to increase system resiliency.

Lead Agency	City Public Works Dept
Funding Source	Local; City General, Water and Sewer Funds
Current Status	Ongoing

WW-b. Protect Power Lines. The City Public Works Department continues to work to protect power lines through as-needed inspections and repairs following major winter storm events.

Lead Agency	City Public Works Dept
Funding Source	Local; City General Funds
Current Status	Ongoing

WW-c. Reduce Impacts to Roadways. The City Public Works Department continues to work to reduce impacts to roadways, including through implementation of road closures during major freeze/thaw events.

Lead Agency	City Public Works Dept
Funding Source	Local; City Street Funds
Current Status	Ongoing

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind

SW-a. Protect Power Lines and Infrastructure. The City Public Works Department continues to work to protect power lines and infrastructure through as-needed inspections and repairs following major wind events.

Lead Agency	City Public Works Dept
Funding Source	Local; City General Funds
Current Status	Ongoing

SW-b. Retrofit Public Buildings and Critical Facilities. The City Public Works Department continues to work to protect public buildings and infrastructure, including through undergrounding of power lines and provision of back-up power generation at critical facilities.

Lead Agency	City Public Works Dept
Funding Source	Local; City General Funds
Current Status	Ongoing

Tornadoes

No actions ongoing, discontinued, or completed for this hazard.

Tsunami

No actions ongoing, discontinued, or completed for this hazard.

Wildfire

No actions ongoing, discontinued, or completed for this hazard.

Winter storms/Freezes

No actions ongoing, discontinued, or completed for this hazard.

Multiple Hazards

MU-a. Assess Community Risk. The City Planning and Public Works Departments continue to assess risks to the public from natural hazards, including through review of repetitive loss properties and review and adoption of updated hazard maps.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-b. Map Community Risk. The City Planning Department continues to work to map natural hazard areas and assess the risks associated with such areas, including through the 2016 update of the City’s critical areas ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-c. Prevent Development in Hazard Areas. The City Building and Planning Departments continue to prevent development in hazard areas, including through enforcement of floodplain, steep slopes and other critical areas regulations,

Lead Agency	City Building and Planning Depts.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-d. Adopt Development Regulations in Hazard Areas. The City Building and Planning Departments continue to work to adopt regulations addressing hazard areas, including through the 2016 update to the City’s critical areas ordinance and the 2019 adoption of updated FEMA flood insurance rate maps and Flood Damage Prevention ordinance.

Lead Agency	City Building and Planning Depts.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-e. Limit Density in Hazard Areas. The City Planning Department continues to work to limit density in hazard areas, including through adoption of flood corridor regulations and establishment of low-density zones in hazard areas, such as Agriculture and Residential, Low-Density.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-f. Integrate Mitigation into Local Planning. The City Planning Department continues to

integrate mitigation into local planning, including through establishment and enforcement of mitigation requirements under the City's critical areas regulations.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-g. Strengthen Land Use Regulations. The City Planning Department continues to work to strengthen local land use regulations, including through the 2016 update of the City's critical areas ordinance and 2019 updates to the City's Flood Damage Prevention ordinance.

Lead Agency	City Planning Dept.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-h. Monitor Mitigation Plan Implementation. The City Planning and Public Works Departments continue to monitor implementation of the Natural Hazards Mitigation Plan through the required annual review process.

Lead Agency	City Planning and Public Works Depts.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-i. Protect Structures. The City Building and Public Works Departments continue to work to protect structures within the City through enforcement of local building codes and critical areas regulations.

Lead Agency	City Building and Public Works Depts.
Funding Source	Local; City General Funds
Current Status	Ongoing

MU-j. Protect Infrastructure and Critical Facilities. The City Public Works Department continues to work to protect infrastructure and critical facilities, including through regular inspections, annual maintenance projects and capital improvement projects, such as elevating critical facilities above minimum standards.

Lead Agency	City Public Works Dept.
Funding Source	Local; City General, Water and Sewer Funds
Current Status	Ongoing

MU-k. Increase Hazard Education and Risk Awareness. The City Public Works Department continues to work to increase hazard education and risk awareness, including through informational materials included in quarterly newsletters and posted on the City website.

Lead Agency	City Public Works Dept.
Funding Source	Local; City General Fund
Current Status	Ongoing

Sumas 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Sumas-Specific Hazard Mitigation Goals

Sumas supports the above county-wide goals. No additional community-specific mitigation planning goals have been identified at this time.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Sumas considered mitigation options related to earthquakes, droughts, land subsidence, winter storms, severe winds, severe storms, and especially those related to flooding, because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Sumas. Some options have already been implemented or are ongoing in Sumas, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Sumas has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial, and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property, and public welfare. Sumas is working in cooperation with the County and other participating communities

and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority	H (High); M (Medium); L (Low)
4	Timeline	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years)
5	Funding Source	Local; State; FEMA; Private; Other
6	Estimated Cost	Actual; Estimated

Sumas Identified Mitigation Actions 2021-2025

CITY OF SUMAS IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
GENERAL: ALL HAZARDS	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
Education and Awareness Actions	<i>G-a. Ongoing -- Adopt and Enforce Building Codes.</i>	1,2	City Building Dept		O		
Education and Outreach	<i>EO-a. Ongoing -- Emergency preparedness education programs for schools.</i>	2	School District		O		
	<i>EO-b. Ongoing -- Drills, exercises in homes, workplaces, classrooms, etc.</i>	2	School District		O		
	<i>EO-c. Ongoing -- Distribution of severe weather guides, preparedness handbooks, brochures homeowner's retrofit guide, etc.</i>	2	WCDEM		O		
	<i>EO-d. Ongoing -- Newsletters and utility bill inserts.</i>	2	City Public Works Dept		O		
Hazard Specific (Reference: Whatcom County Mitigation Ideas)	Actions communities should consider to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters.						
Dam/Levee							

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Failures (See: Flooding)							
Droughts/Heat Waves	<i>D-a. Ongoing -- Assess Vulnerability to Drought Risk.</i>	1,2	City Planning Department		O		
	<i>D-b. Ongoing -- Monitor Drought Conditions.</i>	1,2	City Public Works Department		O		
	<i>D-c. Ongoing -- Monitor Water Supply.</i>	1,2,5	City Public Works Department		O		
	<i>D-e. Ongoing -- Plan for Drought.</i>	1			O		
	<i>D-f. Ongoing -- Require Water Conservation During Drought Conditions</i>	1	City Public Works Department		O		
	<i>D-g. Ongoing -- Educate Residents on Water Saving Techniques.</i>	2	City Administration		O		
Earthquakes	<i>EQ-a. Ongoing -- Incorporate Earthquake Mitigation into Local Planning.</i>	1.4	City Planning Dept		O		
	<i>EQ-b. Ongoing -- Map and Assess Community Vulnerability to Seismic</i>	1,2	City Planning Dept		O		

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>Hazards.</i>						
	<i>EQ-c. Ongoing -- Conduct Inspections of Building Safety.</i>	1	City Building Dept		O		
	<i>EQ-d. Ongoing -- Protect Critical Facilities and Infrastructure</i>	1,5	City Building, Planning and Public Works		O		
Volcano	VOL-1 Lahar Early Warning Trigger System The US Geological Survey has designed a number of systems that automatically detect lahars as they descend neighboring valleys. These systems automatically trigger various types of early warning systems, such as sirens or telephone-based warning systems.	1, 2, 5	Lynden Fire Department	L	M	Local sources, and state and federal grants	UNKNOWN
Extreme Temperatures	No actions are currently being considered/All mitigation actions are discontinued, or complete.						
Flooding	<i>FL-a. Ongoing -- Incorporate Flood Mitigation in Local Planning.</i>	1, 5	City Planning Dept.	M	O	Local	
	<i>FL-b. Ongoing -- Form Partnerships to Support Floodplain Management.</i>	1	City Planning and Public Works Depts.	M	O	Local	

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>FL-c. Ongoing -- Limit or Restrict Development in Floodplain Areas.</i>	1, 3	City Planning, Building and Public Works Depts.	M	O	Local	
	<i>FL-d. Ongoing -- Improve Stormwater Management Planning.</i>	1, 3	City Planning Dept	M	O	Local	
	<i>FL-e. Ongoing -- Improve Flood Risk Assessment.</i>	1	City Public Works Dept	M	O	Local	
	<i>FL-f. Ongoing -- Join or Improve Compliance with NFIP.</i>	1	City Planning, Building and Public Works Depts.	M	O	Local	
	<i>FL-g. Ongoing -- Manage the Floodplain Beyond Minimum Requirements.</i>	1, 3	City Planning and Building Depts.	M	O	Local	
	<i>FL-h. Ongoing -- Establish Local Funding Mechanisms for Flood Mitigation.</i>	1, 3	County Flood Control Zone District	M	O	Local, County Flood Fund	

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	FL-i. Ongoing -- Improve Stormwater Drainage System Capacity.	1	City Public Works Dept	M	O	Local	
	FL-j. Ongoing -- Conduct Regular Maintenance for Drainage Systems and Flood Control Structures	1	City Public Works Dept	M	O	Local	
	FL-k. Ongoing -- Preserve Floodplains as Open Space.	1, 3	City Planning Dept	M	O	Local	
	FL-1 Protect City Hall/Police Station This building is subject to flooding and is also prone to major damage in an earthquake, given that the building pre-dates modern building codes. A new facility should be constructed outside the floodplain.	1, 5	Sumas Public Works Department	M	M	State or Federal grants	\$4.5 Million
	FL-2 Protect the Fire Station This building is subject to flooding. A new facility should be constructed outside the floodplain.	1, 5	Whatcom County Fire District # 14	M	M	State or federal grants	2.5 Million
	FL-3 Flood Corridor Residential Buy-Out In a large flood, the Cherry Street bridge over Johnson Creek is a major impediment to flow. Water is forced out of the Johnson	1, 2, 3	City of Sumas	M	L	State or federal grants	\$1 Million

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Creek channel, leading to worse inundation in the commercial and residential areas to the north and northeast. The bridge should be replaced at a higher elevation and with less supporting pilings.						
	FL-4 Cherry Street Bridge Replacement In a large flood, the Cherry Street bridge over Johnson Creek is a major impediment to flow. Water is forced out of the Johnson Creek channel, leading to worse inundation in the commercial and residential areas to the north and northeast. The bridge should be replaced at a higher elevation and with less supporting pilings.	1, 2, 3	WA State Department of Transportation	M	L	State or federal grants	\$10 Million
Landslide/ Erosion	No actions are currently being considered/All mitigation actions are discontinued, or complete.						
Land Subsidence	<i>SU-a. Ongoing -- Map and Assess Vulnerability to Subsidence.</i>	1,2	City Planning Dept.		O		
	<i>SU-b. Ongoing -- Manage Development in High-Risk Areas.</i>	1	City Building Dept.		O		

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Lightning	No actions are currently being considered/All mitigation actions are discontinued, or complete.						
Severe Storms	No actions are currently being considered/All mitigation actions are discontinued, or complete.						
Severe Wind	<i>SW-a. Ongoing -- Protect Power Lines and Infrastructure.</i>	1,5	City Public Works		0		
	<i>SW-b. Ongoing -- Retrofit Public Buildings and Critical Facilities.</i>	1,5	City Public Works		0		
Tornadoes	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Tsunami	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Wildfires	No actions are currently being considered/All mitigation actions are ongoing, discontinued, or complete.						
Winter Storms/	<i>WW-a. Ongoing -- Protect Buildings and Infrastructure.</i>	1	City Public Works Dept		0		

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Freezes (Severe Winter Weather)	<i>WW-b. Ongoing -- Protect Power Lines.</i>	1,5	City Public Works Dept		0		
	<i>WW-c. Ongoing -- Reduce Impacts to Roadways</i>	1,5	City Public Works Dept		0		
Multiple Hazards	<i>MU-a. Ongoing -- Assess Community Risk.</i>	1,2	City Planning and Public Works Depts		0		
	<i>MU-b. Ongoing -- Map Community Risk.</i>	2	City Planning Dept.		0		
	<i>MU-c. Ongoing -- Prevent Development in Hazard Areas.</i>	1	City Building and Planning Depts		0		
	<i>MU-d. Ongoing -- Adopt Development Regulations in Hazard Areas.</i>	1	City Building and Planning Depts.		0		
	<i>MU-e. Ongoing -- Limit Density in Hazard Areas.</i>	1	City Planning Dept.		0		
	<i>MU-f. Ongoing -- Integrate Mitigation into Local Planning.</i>	1,4	City Planning Dept.		0		
	<i>MU-g. Ongoing -- Strengthen Land Use Regulations.</i>	1	City Planning Dept.		0		

**CITY OF SUMAS
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>MU-h. Ongoing -- Monitor Mitigation Plan Implementation.</i>	1	City Planning and Public Works Depts		0		
	<i>MU-i. Ongoing -- Protect Structures.</i>	1	City Planning and Public Works Depts		0		
	<i>MU-j. Ongoing -- Protect Infrastructure and Critical Facilities.</i>	1,5	City Public Works Dept.		0		
	<i>MU-k. Ongoing --Increase Hazard Education and Risk Awareness.</i>	2	City Public Works Dept.		0		
Advanced Mitigation Projects (Dream List)	Natural Hazard Early Warning Systems	1,5					
	Cell Phone-Based Early Warning System. A computerized early warning system that automatically dials each landline telephone number within a specified area, and play a recorded message when the phone is answered is currently provided to the City by the Whatcom County Sheriff's Office Division of Emergency Management. A larger capacity system that can also contact cell phones through the use of a federally	2, 5	WCDEM/LFD			Local sources, and state and federal grants	

CITY OF SUMAS IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	licensed COG would help to address a variety of natural and manmade problems.						

Sumas Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

City of Sumas						
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
GENERAL: ALL HAZARDS						
<i>G-a. Ongoing -- Emergency preparedness education programs for schools.</i>						
<i>G-b. Ongoing -- Drills, exercises in homes, workplaces, classrooms, etc.</i>						
<i>G-c. Ongoing -- Distribution of severe weather guides, preparedness handbooks, brochures homeowner's retrofit guide, etc.</i>						
<i>G-d. Ongoing -- Newsletters and utility bill inserts. .</i>						
<i>G-e. Ongoing -- Adopt and Enforce Building Codes.</i>						
<i>Add New Action Items if Applicable</i>						
DAM/LEEVE FAILURES						
<i>Add New Action Items if Applicable</i>						
DROUGHTS/HEAT WAVES						
<i>D-a. Ongoing -- Assess Vulnerability to Drought Risk.</i>						
<i>D-b. Ongoing -- Monitor Drought Conditions.</i>						
<i>D-c. Ongoing -- Monitor Water Supply.</i>						
<i>D-e. Ongoing -- Plan for Drought.</i>						
<i>D-f. Ongoing -- Require Water Conservation During Drought Conditions.</i>						
<i>D-g. Ongoing -- Educate Residents on Water Saving Techniques.</i>						
EARTHQUAKES						

City of Sumas Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>EQ-a. Ongoing -- Incorporate Earthquake Mitigation into Local Planning.</i>						
<i>EQ-b. Ongoing -- Map and Assess Community Vulnerability to Seismic Hazards.</i>						
<i>EQ-c. Ongoing -- Conduct Inspections of Building Safety.</i>						
<i>EQ-d. Ongoing -- Protect Critical Facilities and Infrastructure.</i>						
<i>EQ-e Ongoing -- Protect Wellfield Backup Power</i>						Discontinued
<i>Add New Action Items if Applicable</i>						
VOLCANO						
<i>VOL-a. Ongoing -- Lahar Early Warning System.</i>						
VOL-1 Lahar Early Warning Trigger System						
<i>Add New Action Items if Applicable</i>						
FLOODING						
<i>FL-a. Ongoing -- Incorporate Flood Mitigation in Local Planning.</i>						
<i>FL-b. Ongoing -- Form Partnerships to Support Floodplain Management.</i>						
<i>FL-c. Ongoing -- Limit or Restrict Development in Floodplain Areas.</i>						
<i>FL-d. Ongoing -- Improve Stormwater Management Planning.</i>						
<i>FL-e. Ongoing -- Improve Flood Risk Assessment.</i>						
<i>FL-f. Ongoing -- Join or Improve Compliance with NFIP.</i>						

City of Sumas Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>FL-g. Ongoing -- Manage the Floodplain Beyond Minimum Requirements.</i>						
<i>FL-h. Ongoing -- Establish Local Funding Mechanisms for Flood Mitigation.</i>						
<i>FL-i Ongoing --. Improve Stormwater Drainage System Capacity.</i>						
<i>FL-j. Ongoing -- Conduct Regular Maintenance for Drainage Systems and Flood Control Structures.</i>						
<i>FL-k. Ongoing -- Preserve Floodplains as Open Space.</i>						
FL-1 Protect City Hall/Police Station						
FL-2 Protect the Fire Station						
FL-3 Flood Corridor Residential Buy-Out						
FL-4 Cherry Street Bridge Replacement						
<i>Add New Action Items if Applicable</i>						
LANDSLIDES/EROSION						
<i>Add New Action Items if Applicable</i>						
LAND SUBSIDENCE						
<i>SU-a. Ongoing -- Map and Assess Vulnerability to Subsidence.</i>						
<i>SU-b. Ongoing -- Manage Development in High-Risk Areas.</i>						
<i>Add New Action Items if Applicable</i>						
TORNADOES						
<i>Add New Action Items if Applicable</i>						
TSUNAMI						

City of Sumas						
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Add New Action Items if Applicable						
WILDFIRES						
Add New Action Items if Applicable						
WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
<i>WW-a. Ongoing -- Protect Buildings and Infrastructure.</i>						
<i>WW-b. Ongoing -- Protect Power Lines.</i>						
<i>WW-c. Ongoing -- Reduce Impacts to Roadways.</i>						
Add New Action Items if Applicable						
EXTREME TEMPERATURES						
Add New Action Items if Applicable						
LANDSLIDE						
Add New Action Items if Applicable						
LIGHTNING						
Add New Action Items if Applicable						
SEVERE WIND						
<i>SW-a. Ongoing -- Protect Power Lines and Infrastructure.</i>						
<i>SW-b. Ongoing -- Retrofit Public Buildings and Critical Facilities.</i>						
Add New Action Items if Applicable						
MULTIPLE HAZARDS						

City of Sumas Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
<i>MU-a. Ongoing -- Assess Community Risk.</i>						
<i>MU-b. Ongoing -- Map Community Risk.</i>						
<i>MU-c. Ongoing -- Prevent Development in Hazard Areas.</i>						
<i>MU-d. Ongoing -- Adopt Development Regulations in Hazard Areas.</i>						
<i>MU-e. Ongoing -- Limit Density in Hazard Areas.</i>						
<i>MU-f. Ongoing -- Integrate Mitigation into Local Planning.</i>						
<i>MU-g. Ongoing -- Strengthen Land Use Regulations.</i>						
<i>MU-h. Ongoing -- Monitor Mitigation Plan Implementation</i>						
<i>MU-i. Ongoing -- Protect Structures.</i>						
<i>MU-j. Ongoing -- Protect Infrastructure and Critical Facilities.</i>						
<i>MU-k. Ongoing -- Increase Hazard Education and Risk Awareness.</i>						
<i>Add New Action Items if Applicable</i>						

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WHATCOM COUNTY

Contact Information

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Whatcom County Sheriff's Office
Division of Emergency Management
3888 Sound Way, Bellingham, WA 98226
(360) 778-7160

Approving Authority

County Executive Satpal Singh Sidhu & County Council Members
311 Grand Avenue, Suite 108
Bellingham, WA 98225
(360) 778-5200

Planning Process

Whatcom County began the process reviewing, updating, and adopting the 2021 Natural Hazards Mitigation Plan (NHMP or Plan) in the winter of 2020. Biweekly county wide meetings took place to guide Whatcom County through updating the plan. The planning process involved all local political subdivisions in Whatcom County as well as several special districts. The wider Whatcom County community was invited to participate through multiple webinars and outreach efforts.

Key Contributor List

- Wally Kost, Program Specialist, Whatcom County Sheriff's Office, Div. of Emergency Management
- John Gargett, Deputy Director, Whatcom County Sheriff's Office, Div. of Emergency Management
- Frances Burkhart, Program Specialist, Whatcom County Sheriff's Office, Div. of Emergency Management
- Roland Middleton, Whatcom County Public Works
- Paula Harris, River and Flood Manager, Whatcom County Public Works
- Andy Wiser, Geohazard Specialists/Planner, Whatcom County Planning and Development Services

The information contained in the Natural Hazards Mitigation Plan update regarding hazards, risks, vulnerability and potential mitigation is based on the available science, historical

occurrence, known hazards and technology available. This information is used as a planning tool and source document when the County updates other plans and programs, such as the following:

- Whatcom County Comprehensive Emergency Management Plan
- Shoreline Management Program (part of comprehensive plan)
- Transportation Plan (part of comprehensive plan)
- Urban Growth Areas SubArea Plans
- Zoning Code
- Capital Improvement Program for Whatcom County Facilities
- Whatcom County Comprehensive Emergency Management Plan
- Whatcom County Disaster Debris Management Plan
- Whatcom County Severe Storm Action Plan
- Whatcom County Tsunami Action Plan
- Whatcom County Mount Baker Action Plan

As information becomes available from other planning sources, actual incidents and events, or emerging threats that can enhance this Plan, that information will be incorporated through the periodic update process.

Plan Maintenance for Whatcom County

Each year, beginning in August, an annual review will be conducted by each community. Each community will update the status of their 2021-2025 mitigation actions using the annual review and progress table.

The Whatcom County Sheriff's Office Division of Emergency Management will initiate the action. Updates or changes to the plan will be annotated and submitted to the Whatcom County Sheriff's Office Division of Emergency Management. Should the plan require a major change(s) due to legislative or other action, a virtual public meeting will be coordinated by the Whatcom County Sheriff's Office Division of Emergency Management. The update process will be completed when a letter or amendment, as required, is sent to the Washington Military Department, Emergency Management Division Hazard Mitigation Officer stating completion of the review.

Public Outreach and Education

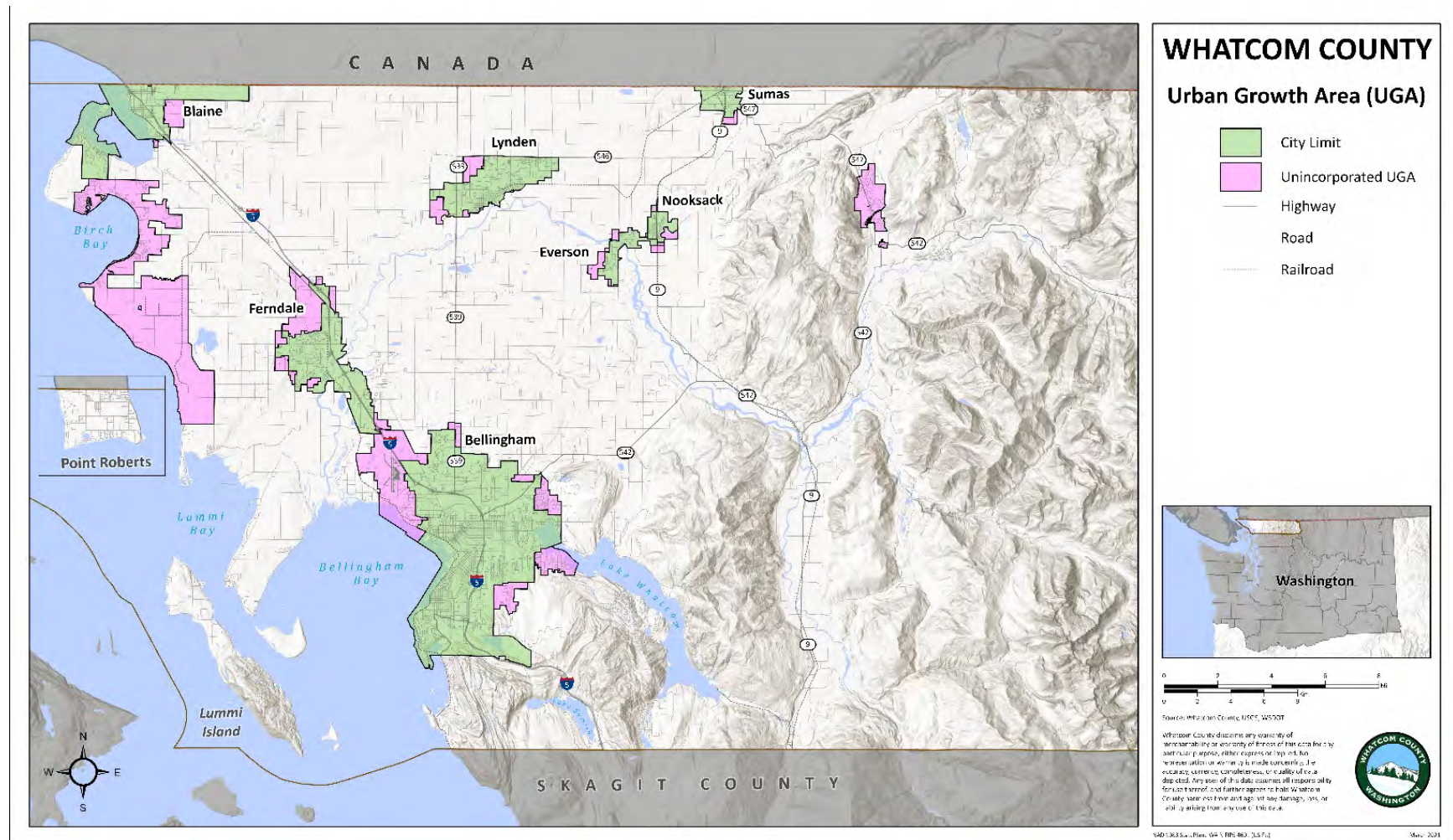
Program	Yes/No, Year Adopted	Description
<p>Nonprofit organizations or local residents' groups focused on hazard mitigation, emergency preparedness, vulnerable populations, etc.</p>	<p>Yes</p>	<p>Map Your Neighborhood: prepares residents for the span of time when emergency services are unavailable during a disaster.</p> <p>CERT: Community Emergency Response Training prepares residents to safely and efficiently assist others in their neighborhood or workplace following an event when professional responders are not immediately available to help.</p> <p>Volunteer Mobilization Center: The VMC is dedicated to being ready after a disaster to sign up spontaneous volunteers as temporary State emergency workers and matching their skills with emergency responders' needs.</p>
<p>School-related programs for natural hazard safety</p>	<p>Yes, 2015-2021</p>	<p>Emergency preparedness education programs for school staff in multiple Whatcom County School Districts.</p>
<p>Public education or information program</p>	<p>Yes, Continuous</p>	<p>Public Engagement: Drills, exercises in homes, workplaces, classrooms, etc.; Regular PSA and social media posts; Hazard "safety fairs"; hazard conferences, seminars; Distribution of severe weather guides, preparedness handbooks, brochures homeowner's retrofit guide, etc.; Direct Mailings; Regular newspaper articles</p> <p>Whatcom County Sheriff's Office Division of Emergency Management</p> <p>Annual correspondence: Notify residents reminding them of the need to be hazard prepared.</p>

StormReady certification	Yes, first adopted in 2003, and has been renewed every five years since with the most recent renewal being 2021.	Whatcom County is one of 14 counties in Washington State to be certified StormReady. StormReady uses a grassroots approach to help communities develop plans to handle all types of extreme weather.
Firewise Community certification	Yes, initially started in 2015.	There are six FireWise sites in Whatcom County: Clark's Point, The Town of Diablo, Lummi Island Scenic Estates, The Town of Newhalen, North Cascades Environmental Learning Center, and Paradise Lakes Country Club. The national Firewise USA® recognition program provides a collaborative framework to help neighbors in a geographic area get organized, find direction, and take action to increase the ignition resistance of their homes and community and to reduce wildfire risks at the local level. Any community that meets a set of voluntary criteria on an annual basis and retains an "In Good Standing Status" may identify itself as being a Firewise® Site.
Public-Private Partnership initiatives addressing disaster-related issues	Yes, 2015	The Whatcom County Sheriff's Office Division of Emergency Management has undertaken multiple disaster planning and response support with industries in Whatcom County, including response support and planning in 2020 for COVID-19 and the Custer Train Derailment.
Other		

Overview of Whatcom County, Hazards, and Assets

Geography of Whatcom County

Whatcom County Total Population	228,000 (2020 Census estimate)
Unincorporated Area Population	95,300 (2020 Census estimate)
Whatcom County Total Area	2,120 mi
Whatcom County Incorporated Area	95.4 mi
Whatcom County Unincorporated Area	2,024.6 mi



Presence of Hazards and their Impacts in Whatcom County

Since its establishment in 1854, Whatcom County has experienced many of the hazards in this Plan. As recently as January of 2020, Whatcom County faced flooding costing millions of dollars in damages, across the County, with specific impact in the Sumas drainage. There have been four FEMA disaster declarations by Whatcom County from January 2016 to June 2021, including:

Declaration Year	Incident Date	Designation	Title	Individual Assistance	Public Assistance ²
2017	30-Jan-2017 thru 22-Feb-2017	DR-4309-WA	Severe Winter Storms, Flooding, Landslides, and Mudslides in 2017	x	✓ Types A, B, C, D, E, F, and G
2019	10-Dec-2018 thru 24-Dec-2018	DR-4418-WA	Straight-Line Winds, Flooding, Landslides, and Tornado	x	✓ Types A, B, C, D, E, F, and G
2020	20-Jan-2020 thru 10-Feb-2020	DR-4539-WA	Severe Storms, Flooding, Landslides, and Mudslides	x	✓ Types A, B, C, D, E, F, and G
2020	22-Mar-2020 ¹ thru unknown	DR-4481-WA	Covid-19 Pandemic	✓ (crisis counseling; funeral assistance)	✓ Type B

¹Emergency declaration on 13-Mar-2020, superseded by disaster declaration on 22-Mar-2020.

²Public Assistance Types: A-debris removal, B-emergency protective measures, C-permanent work (roads and bridges), D-permanent work (water control facilities), E-permanent work (buildings and equipment), F-permanent work (utilities), G- permanent works (other) , H-fire management.

Since 2016, Whatcom County Unincorporated has grown by roughly 5,000 residents. This growth has increased the threat of natural hazards, particularly wildfires in the wildland urban interface.

In the table below is a list of the major hazards that effect Whatcom County. The second column provides the percentage of Whatcom County's total area that is exposed to each hazard. The third column indicates the severity of anticipated impacts to community function, considering the credible worst-case hazard scenario. Severity of anticipated impacts considers

effects on basic community function such as shelter, transportation, utilities, commerce, industry, agriculture, education, health, recreation, and cultural identity. Severity ranges from none to extreme, as shown in the key below the table. Finally, the last column of the table describes where the hazard impacts the community and which services the hazard would most significantly impact.

	Hazard	% area Exposed	Severity of Anticipated Impacts	Hazard Descriptions
Geological	Earthquake	86.4%	Moderate to High	The risk of earthquakes to the county is moderate to high. Shorelines, wetlands and river/stream beds are especially subject to damage through liquefaction. There are also potential threats from landslides impacting transportation routes. Structural damage could be moderate to high for many older structures in Whatcom County.
	Liquefaction	25.5%	Moderate to High	The loss of intergranular strength in saturated, loosely-packed sediment due to elevated pore pressures typically generated by seismic shaking during large magnitude earthquakes. Liquefaction can result in a loss of foundation bearing support and significant building damage, as well as lateral spreading, sand boils, and excessive ground settlement with associated disruption of utilities, roadway systems, and infrastructure.
	Landslide	5.8%	Moderate	Landslides can affect many places throughout the county, caused destruction to infrastructure, property, and interrupting transportation. Landslides could be caused by earthquakes or erosion, including excess rainfall. Mount Baker, the Chuckanut Mountains, and the Nooksack are just some of the areas susceptible to landslides.
	Volcano	33.9%	High	The principal threat from Mount Baker are lahar flows. Lahar flows to the west will impact the Nooksack drainages, with the potential for the greatest impact in the Sumas Plain north to British Columbia. Lahar flows to the east will, and have (1975), threatened the Baker River project

				dams. In 2019 it was estimated that the damage from an eruption of Mount Baker could reach 12-15 billion dollars in damage and long-term impact.
	Tsunami	1.2%	Low	All Whatcom County shorelines are at risk of tsunami damage based on current modeling, however the only area in unincorporated Whatcom County where evidence of a tsunami has been found is in Birch Bay at Birch Bay State Park.
	Mine Hazards	0.1%	Low	Mine hazards are minimal in Whatcom County and generally the mines are deep enough that even a collapse of the shafts would have minimal impact on the surface. Coal mining occurred in Whatcom County over 100 years ago, but there are no active coal mines since then.
Hydrological	Flooding	4.8%	Moderate	<p>The Nooksack River is the primary river basin subject to flooding in Whatcom County that causes significant impacts, however there are other rivers and creeks that cause flooding, including Johnson Creek, Sumas River, and Jones Creek. All Whatcom County shorelines are at risk of coastal flooding based on actual events over the last 100 years.</p> <p>The communities in unincorporated Whatcom County impacted by coastal flooding are Sandy Point, Birch Bay, Blaine, Point Roberts, and Lummi Peninsula and Lummi Island. Damages have included structural damage to residences, seawalls and transportation as large debris is carried by waves hitting the shoreline, inundation damage to structures, and debris accumulation and flooding of roadways. In December of 2018 over 3.5 million dollars in damage occurred in Birch Bay and Blaine from coastal flooding.</p>

Meteorological	Wildfire	12.3%	Moderate	Certain communities at risk have been identified, as well as levels of fire risk. Smaller communities on the Mt Baker Highway, as well as residents around the North and South shore of Lake Whatcom, along Highway 2 and 542, Pt. Roberts, and Lummi Island are some of the the WUI intermix and interface areas and at the highest risk.

Severity Scale: **None** = no impact to community function

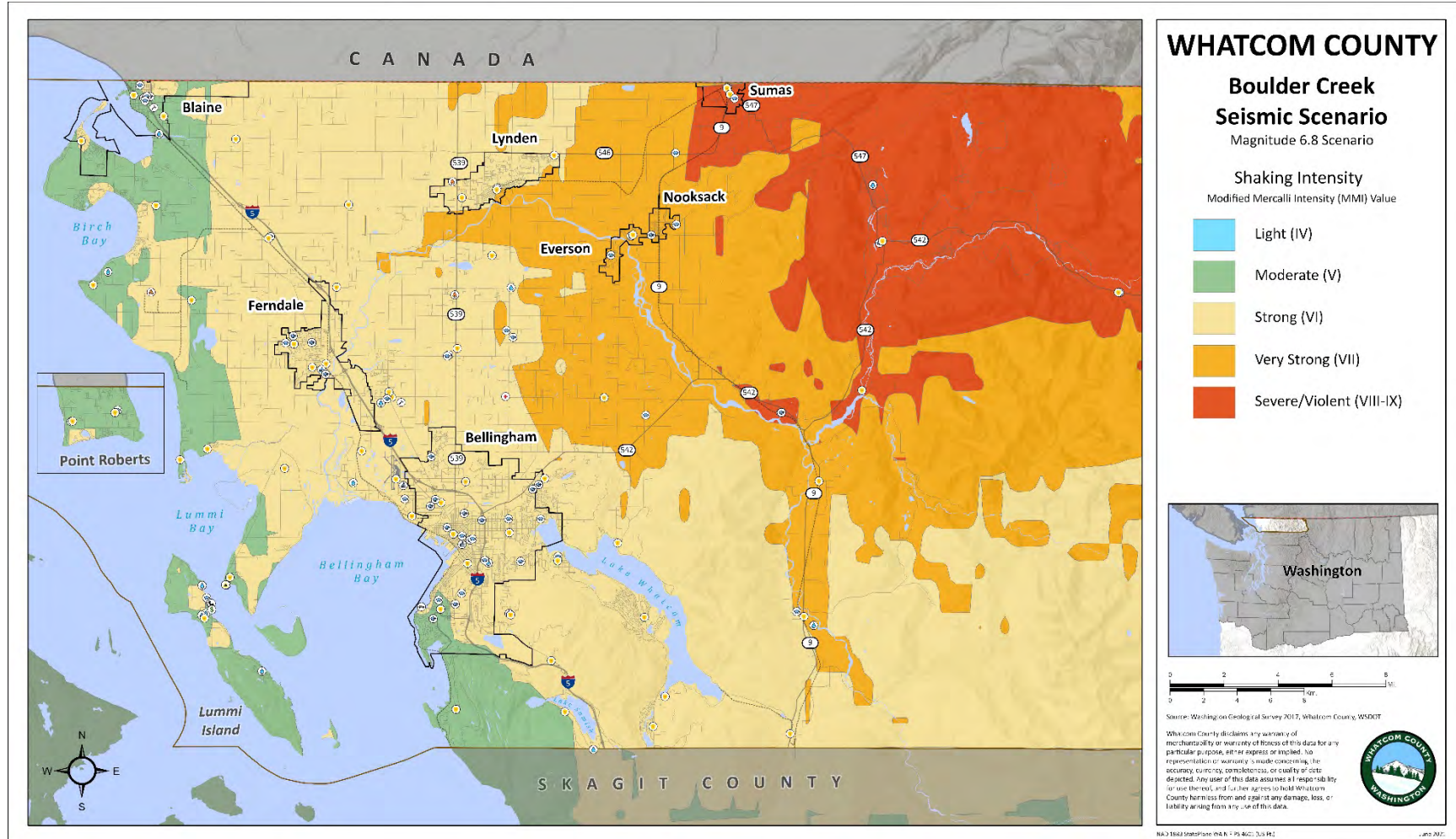
Low = minor degradation of community functions, not widespread

Moderate = moderate degradation over multiple weeks or widespread

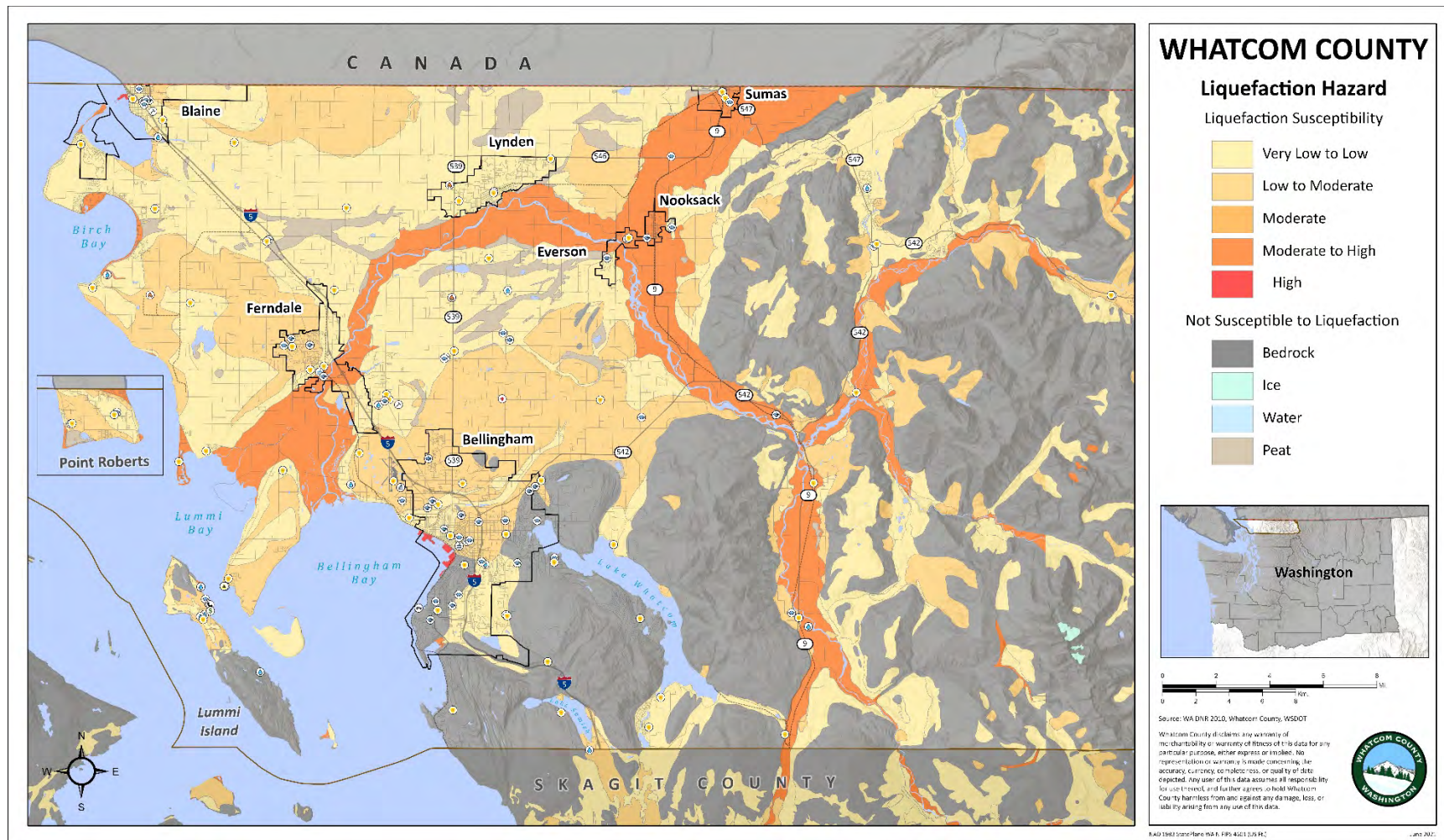
High = degradation or loss over many weeks, widespread

Natural Hazard Maps

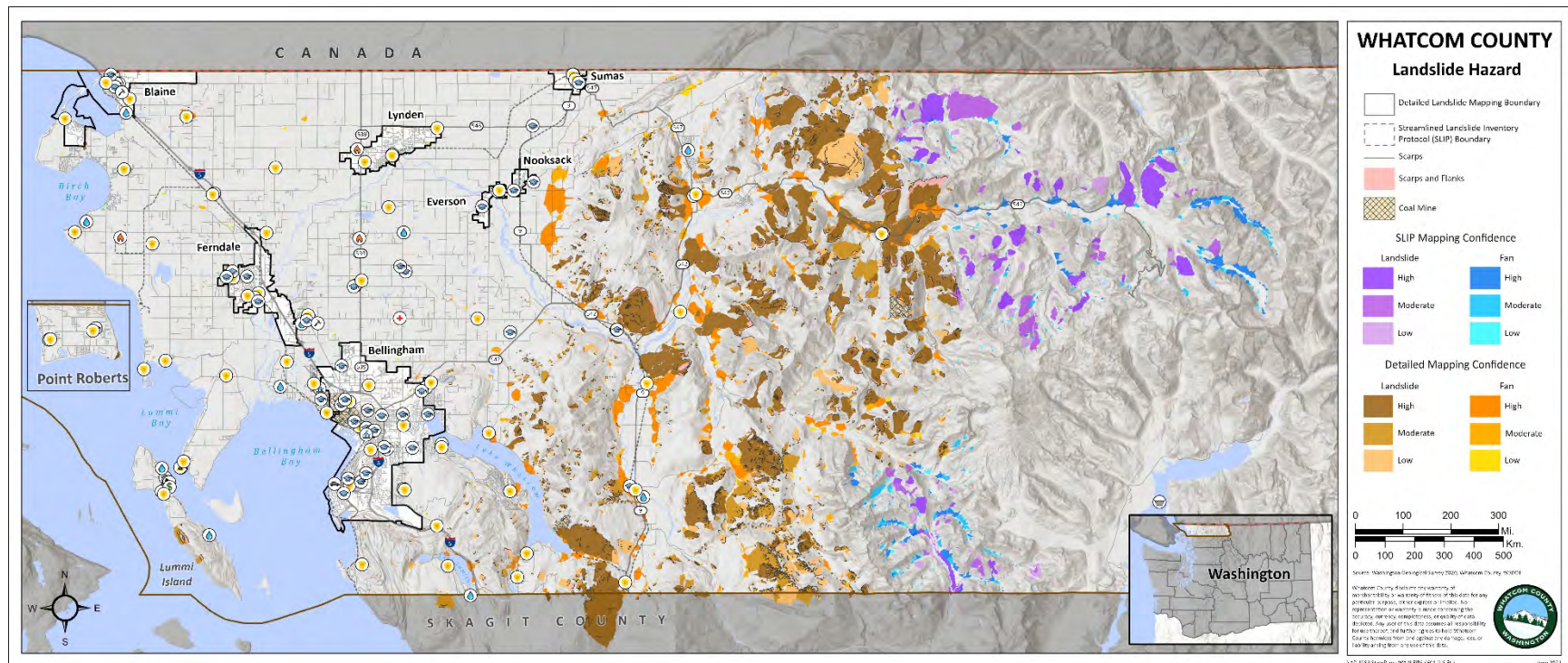
The following figures depict the natural hazards present within the jurisdiction.



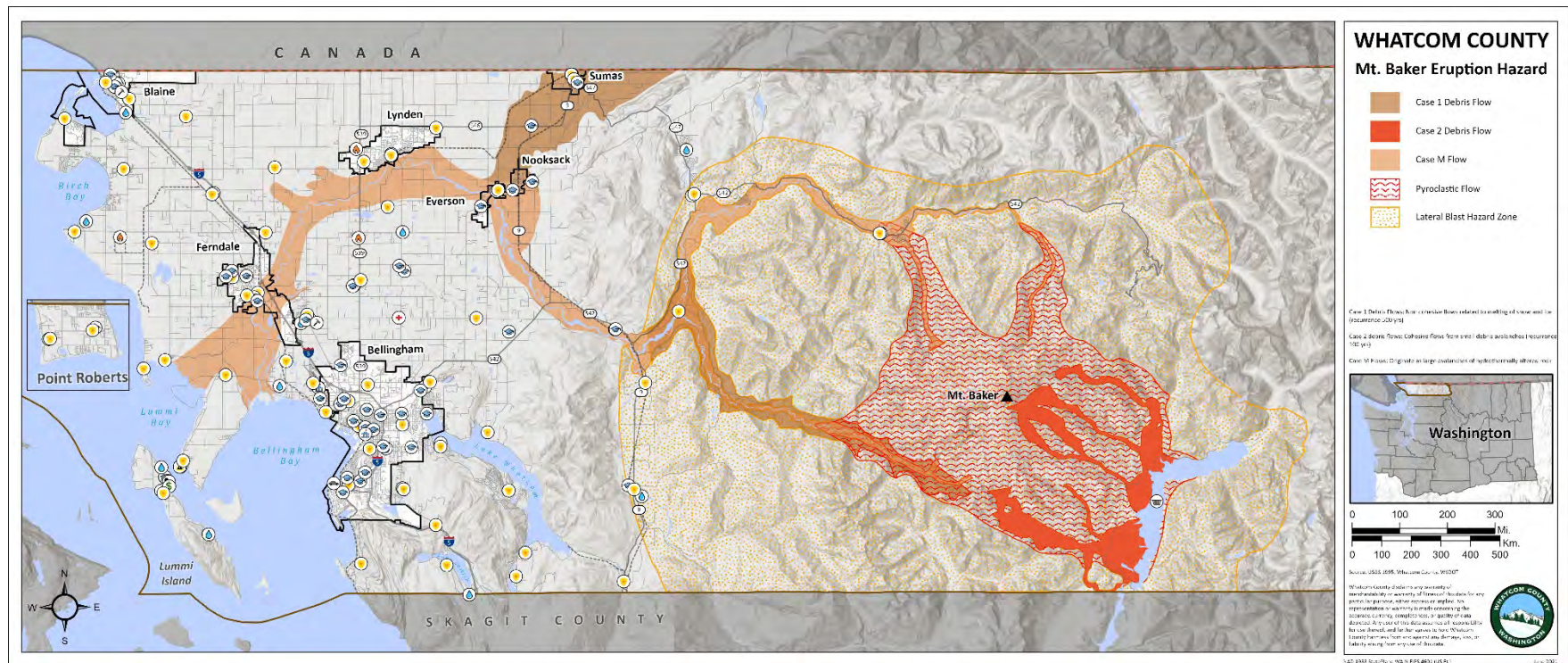
Washington Department of Natural Resources (WA DNR) 2017 Boulder Creek Fault Zone seismic scenario of magnitude 6.8 data. Displays extent and severity of the modeled earthquake in the Modified Mercalli Intensity (MMI) scale.



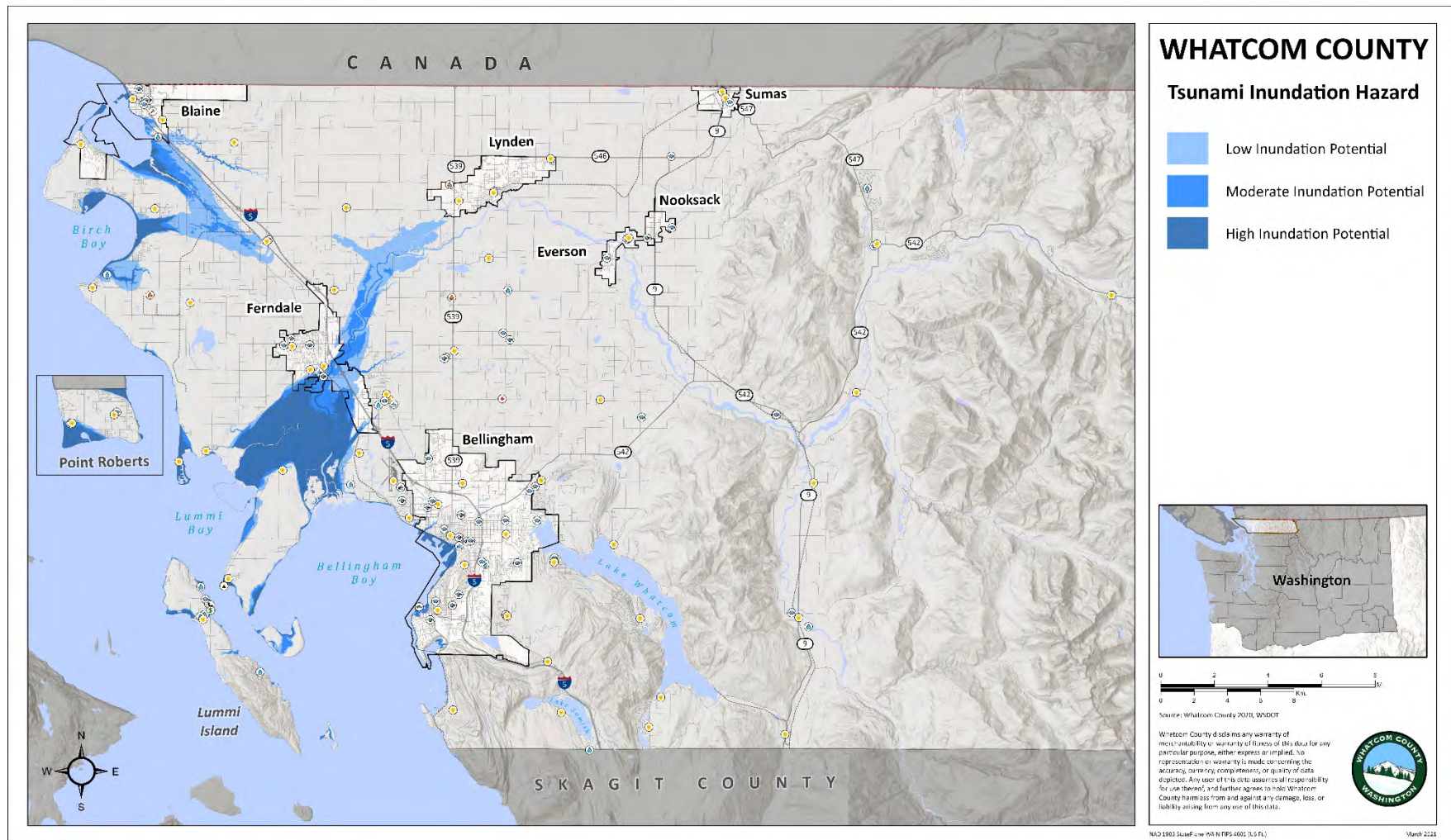
Washington Department of Natural Resources (WA DNR) 2010 liquefaction susceptibility data. This feature class is part of a geodatabase that contains statewide ground response data for Washington State.



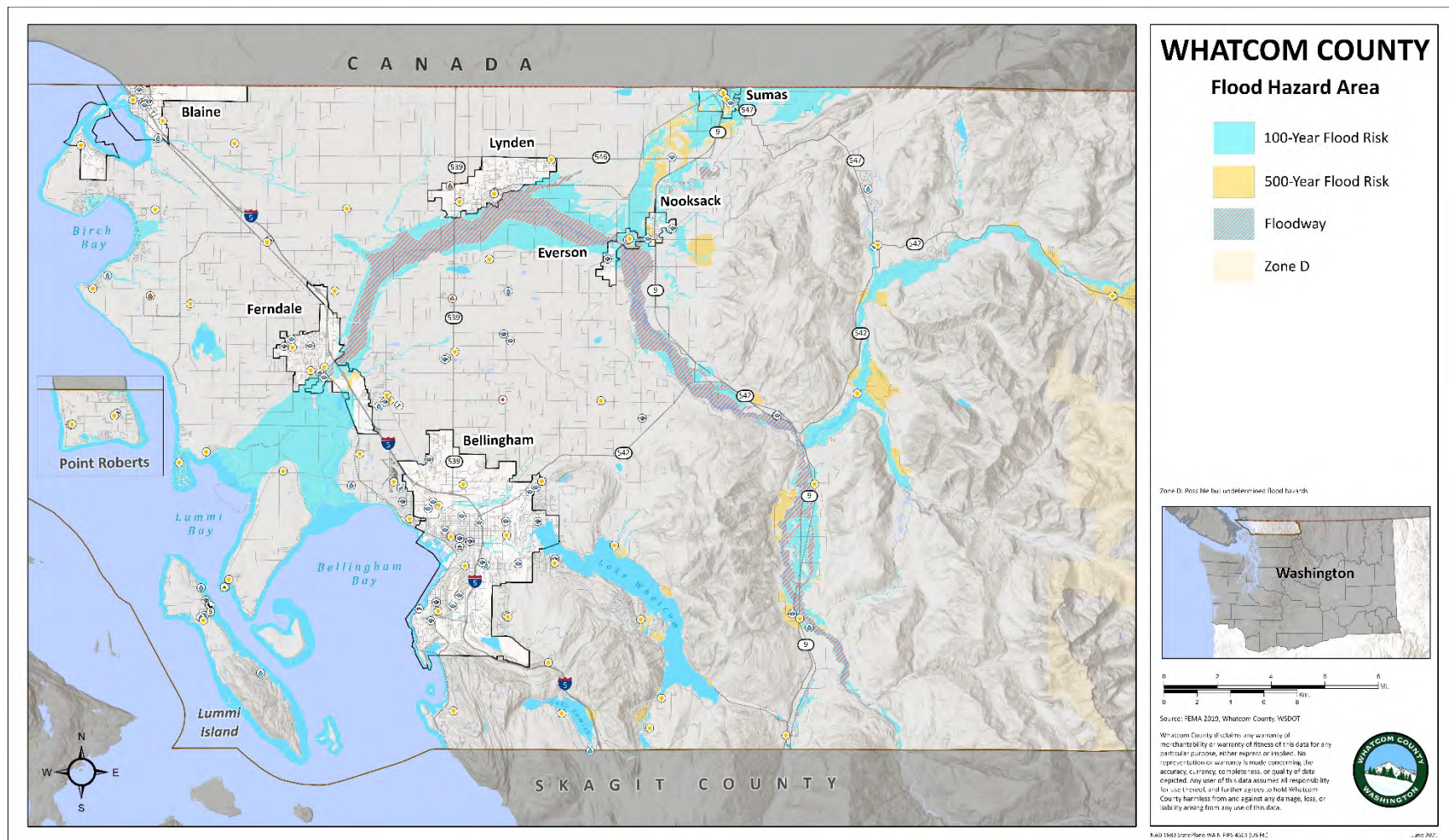
Washington Geological Survey (WGS) 2020 Washington landslide inventory data compiled following streamline landslide mapping protocol (SLIP). SLIP was developed by the WGS's Landslide Hazards Program to help geologists rapidly map landslide landforms from lidar. This data shows both detailed mapping and SLIP landslide data.



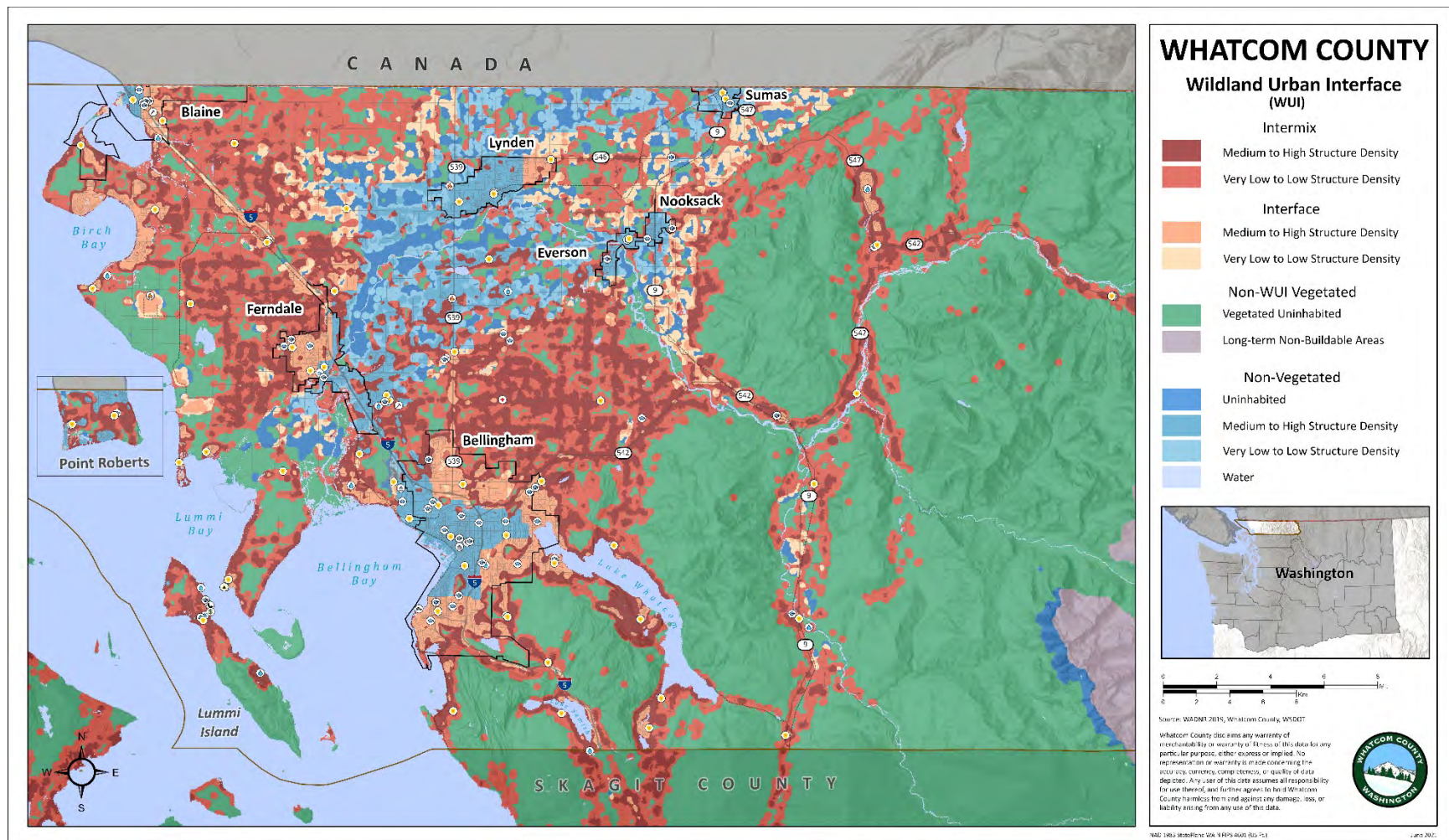
USGS Hazards from Future Activity of Mount Baker, WA (1995) data shows different volcanic flows. Case M flows originate as large avalanches of hydrothermally altered rock. Case 1 debris flows are non-cohesive flows related to melting of snow and ice, with a recurrence of 500 years. Case 2 debris flows are cohesive flows from small debris avalanches, with a recurrence of 100 years.



Whatcom County 2020 tsunami inundation data. Assumes, magnitude 9.0 Cascadia Subduction Zone earthquake-induced tsunami scenario. This scenario predicts a maximum wave height of about 9.6 feet, which could come on top of a 10 ft high tide. Additionally, tsunami inundation can be “funneled” into bays, river and stream deltas, pushing water well inland of the coast and past 20 ft elevation.



FEMA 2019 flood hazard data showing 100-year flooding, 500-year flooding, floodways, and flood zones. FEMA flood data includes both riverine and coastal flooding.



Washington Department of Natural Resources (WA DNR) 2019 mapped data of Washington's Wildland Urban Interface (WUI). The WUI displays areas of WA where structures and wildland overlap with specific structure densities.

Whatcom County Critical Facility List

While this section of the Whatcom County Natural Hazards Mitigation Plan focuses on unincorporated Whatcom County, the list of critical facilities includes all critical facilities in the county, whether located in the unincorporated section of the county or within a city limit. First response critical facilities, in particular, engage in mutual aid; fire and police stations in a city also support response in unincorporated county. Water and sewage pumping stations and treatment sites are often located in unincorporated county while servicing cities and vis-versa. School district boundaries do always follow city boundaries; during a disaster, schools may serve as educational site and/or mass care sites and serve residents beyond their traditional school catchment area.

Facility Name	Facility Type	Significance	Location	Assessed Dollar Value	Notes
Columbia Valley Water District	LUS	3	6229 Azure Way, Maple Falls, WA 98266		Water District
Beach School Elementary School	EF	1	3786 Centerview Road		Shelter for Lummi Island Residents
Fairhaven Alaskan Ferry Terminal	EF	3	355 Harris Ave, Bellingham, WA 98225		Southern terminus of Alaska Marine Highway system.
Gooseberry Point Ferry Dock	EF	3	Lummi View Drive		Ferry dock for Lummi Island
Isle Aire Beach Association	LUS	2	P.O. Box 211		Water District on Lummi Island
LISECC	LUS	2	1211 Island Drive		Water District on Lummi Island
Lummi Island Dock	EF	3	N Nugent Road		Ferry dock for Lummi Island
Lummi Island Grange	EF	1	2210 N. Nugent Road		Shelter for Lummi Island Residents
Lummi Island Post Office	EF	1	2211 N Nugent Road		Post Office for Lummi Island
Lummi Point Water	LUS	3	3766 Blizard Rd.		Water District on Lummi Island
Owners Association	LUS	3	2174 Granger Way		Utility: Water

Beach Club Condos					
Puget Sound Energy Switch	LUS	3	Gooseberry Point		Utility: Power for Lummi Island
Sunset Water and Maintenance Association	LUS	3	2040 Granger Way		Utility: Water
					Private contractor, not essential
The Islander	EF	1	2130 S. Nugent Road		Lummi Island Store
Vander Yacht Propane	LUS	3	6811 WA-539, Lynden, WA 98264		Largest propane distributor in Whatcom County with thousands of customers and serves the San Juan Islands
Whatcom Farmers Co-op	LUS	3	2041 Agronomy Way, Lynden, WA 98264		propane distributor in Whatcom County with thousands of customers
Lummi Law & Order	EF	3	Lummi Reservation		Lummi Police
Nooksack Police Department	EF	3	111 W Main St, Everson, WA 98247		Nooksack Police
Northwest Water Association	LUS	3	5207 Graveline Rd, Bellingham, WA 98226		Utility: Water
Pole Road Water Association	LUS	3	6912 Hannegan Rd #105, Lynden, WA 98264		Utility: Water
Alderwood Elementary School	EF	1	3400 Hollywood Avenue, Bellingham, WA 98225-1134		School, possible shelter, distribution site or staging area.
Birchwood Elementary School	EF	1	3200 Pinewood Avenue, Bellingham, WA 98225-1436		School, possible shelter, distribution site or staging area.
Carl Cozier Elementary School	EF	1	1330 Lincoln Street, Bellingham WA 98229-6238		School, possible shelter, distribution site or staging area.

Columbia Elementary School	EF	1	2508 Utter Street, Bellingham WA 98225-2708		School, possible shelter, distribution site or staging area.
Cordata Elementary School	EF	1	4420 Aldrich Road, Bellingham, WA 98226-9680		School, possible shelter, distribution site or staging area.
Geneva Elementary School	EF	1	1401 Geneva Street, Bellingham WA 98229-5218		School, possible shelter, distribution site or staging area.
Happy Valley Elementary School	EF	1	1041 24th Street, Bellingham WA 98225-8603		School, possible shelter, distribution site or staging area.
Lowell Elementary School	EF	1	935 14th Street, Bellingham WA 98225-6305		School, possible shelter, distribution site or staging area.
Northern Heights Elementary School	EF	1	4000 Magrath Road, Bellingham WA 98226-1729		School, possible shelter, distribution site or staging area.
Parkview Elementary School	EF	1	3033 Coolidge Drive, Bellingham WA 98225-1803		School, possible shelter, distribution site or staging area.
Roosevelt Elementary School	EF	1	2900 Yew Street, Bellingham WA 98226-6127		School, possible shelter, distribution site or staging area.
Silver Beach Elementary School	EF	1	4101 Academy Street, Bellingham WA 98226-4443		School, possible shelter, distribution site or staging area.
Sunnyland Elementary School	EF	1	2800 James Street, Bellingham WA 98225-2639		School, possible shelter, distribution site or staging area.
Wade King Elementary School	EF	1	2155 Yew Street Road, Bellingham, WA 98229-8812		School, possible shelter, distribution site or staging area.
Fairhaven Middle School	EF	1	110 Parkridge Road, Bellingham WA 98225-7907		School, possible shelter, distribution site or staging area.
Kulshan Middle School	EF	1	1250 Kenoyer Drive, Bellingham WA 98229-2346		School, possible shelter, distribution site or staging area.

Shuksan Middle School	EF	1	2717 Alderwood Avenue, Bellingham WA 98225-1222		School, possible shelter, distribution site or staging area.
Whatcom Middle School	EF	1	810 Halleck Street, Bellingham WA 98225-3243		School, possible shelter, distribution site or staging area.
Bellingham High School	EF	1	2020 Cornwall Avenue, Bellingham WA 98225-3648		School, possible shelter, distribution site or staging area.
Options High School	EF	1	2015 Franklin Street, Bellingham WA 98225-4220		School, possible shelter, distribution site or staging area.
Sehome High School	EF	1	2700 Bill McDonald Parkway, Bellingham WA 98225-5909		School, possible shelter, distribution site or staging area.
Squalicum High School	EF	1	3773 E McLeod Road, Bellingham WA 98226-7728		School, possible shelter, distribution site or staging area.
Blaine High School	EF	1	1055 H Street Blaine, WA 98230		School, possible shelter, distribution site or staging area.
Blaine Middle School	EF	1	975 H Street Blaine, WA 98230		School, possible shelter, distribution site or staging area.
Blaine Elementary School	EF	1	836 Mitchell Avenue Blaine, Washington 98230		School, possible shelter, distribution site or staging area.
Blaine Primary School	EF	1	820 Boblett Street Blaine, WA 98230		School, possible shelter, distribution site or staging area.
Point Roberts Primary School	EF	1	2050 Benson Road Pt. Roberts, WA 98281		School, possible shelter, distribution site or staging area.
Irene Reither Elementary School	EF	1	954 East Hemmi Road Everson, WA 98247		School, possible shelter, distribution site or staging area.

Meridian Middle School	EF	1	861 Ten Mile Road Lynden, WA 98264		School, possible shelter, distribution site or staging area.
Meridian High School	EF	1	194 West Laurel Road Bellingham, WA 98226		School, possible shelter, distribution site or staging area.
Acme Elementary School	EF	1	5200 Turkington Rd, Acme, WA 98220		School, possible shelter, distribution site or staging area.
Harmony Elementary School	EF	1	5060 Sand Rd, Bellingham, WA 98226		School, possible shelter, distribution site or staging area.
Kendall Elementary School	EF	1	7547 Kendall Rd, Maple Falls, WA 98266		School, possible shelter, distribution site or staging area.
Mt. Baker Junior/Senior High School	EF	1	4936 Deming Rd Deming, WA 98244		School, possible shelter, distribution site or staging area.
Ferndale High School	EF	1	5830 Golden Eagle Drive PO Box 428 Ferndale WA 98248		School, possible shelter, distribution site or staging area.
Horizon Middle School	EF	1	2671 Thornton Road PO Box 1769 Ferndale WA 98248		School, possible shelter, distribution site or staging area.
Vista Middle School	EF	1	6051 Vista Drive PO Box 1328 Ferndale WA 98248		School, possible shelter, distribution site or staging area.
Beach Elementary School	EF	1	3786 Centerview Road Ferndale WA 98262		School, possible shelter, distribution site or staging area.
Cascadia Elementary School	EF	1	6175 Church Road PO Box 2009 Ferndale WA 98248		School, possible shelter, distribution site or staging area.
Central Elementary School	EF	1	5610 Second Avenue PO Box 187 Ferndale WA 98248		School, possible shelter, distribution site or staging area.
Custer Elementary School	EF	1	7660 Custer School Road Custer WA 98240		School, possible shelter, distribution site or staging area.

Eagleridge Elementary School	EF	1	2651 Thornton Road PO Box 1127 Ferndale WA 98248		School, possible shelter, distribution site or staging area.
Skyline Elementary School	EF	1	2225 Thornton Road PO Box 905 Ferndale WA 98248		School, possible shelter, distribution site or staging area.
North Bellingham Learning Center (Ferndale Schools)	EF	1	5275 Northwest Drive Bellingham, WA 98226		School, possible shelter, distribution site or staging area.
Nooksack Valley High School	EF	1	3326 E. Badger Rd. Everson, WA 98247		School, possible shelter, distribution site or staging area.
Nooksack Valley Middle School	EF	1	404 W. Columbia Everson, WA 98247		School, possible shelter, distribution site or staging area.
Everson Elementary School	EF	1	216 Everson Goshen Rd Everson, WA 98247		School, possible shelter, distribution site or staging area.
Nooksack Elementary School	EF	1	3333 Breckenridge Rd Everson, WA 98247		School, possible shelter, distribution site or staging area.
Sumas Elementary School	EF	1	1024 Lawson St Sumas, WA 98295		School, possible shelter, distribution site or staging area.
Whatcom County Search & Rescue	EF	3	1041 W Smith Rd, Bellingham, WA 98226		
Seattle City Light Ross Dam	LUS	3	Newhalem		Utility: Power
Seattle City Light Diablo Dam	LUS	3	Newhalem		Utility: Power
Seattle City Light Gorge Dam	LUS	3	Newhalem		Utility: Power
Puget Sound Energy Upper Baker Dam	LUS	3	Baker Lake		Utility: Power
Water District #2 – Bellingham	LUS	3	Bellingham		Utility: Water

Water District #7 – Bellingham	LUS	3	Bellingham		Utility: Water
Water District #4 – Point Roberts	LUS	3	Point Roberts		Utility: Water
Water District #10 – Geneva/Sudden Valley	LUS	3	Bellingham		Utility: Water
Water District #12 – Lake Samish	LUS	3	Bellingham		Utility: Water
Water District #13 – Maple Falls	LUS	3	Maple Falls		Utility: Water
Water District #14 – Glacier	LUS	3	Bellingham		Utility: Water
Water District #18 – Acme	LUS	3	Acme		Utility: Water
BP-Cherry Point Refinery	Fuel	2	4519 Grandview Road		
Birch Bay Water and Sewer (District 8)	LUS	3	7096 Pt. Whitehorn Road		Utility: Water
Birch Bay Water Connection	LUS	3	2701 Bell Road		Utility: Water
Whatcom County Sheriff's Office Emergency Coordination Center	EF	3	3888 Sound Way Bellingham, WA 98226		Critical Government Facility
Whatcom County Sheriff's Office	EF	3	311 Grand Avenue Public Safety Office Bellingham, WA 98225		Critical Government Facility
Fire Station 01 – Bellingham Fire Station	EF	3	1800 Broadway St, Bellingham, Wa 98225		Critical Government Facility

Fire Station 02 – Bellingham Fire Station	EF	3	1590 Harris Ave, Bellingham, Wa 98225		Critical Government Facility
Fire Station 03 – Bellingham Fire Station	EF	3	1111 Billy Frank Jr St, Bellingham, Wa 98225		Critical Government Facility
Fire Station 04 – Bellingham Fire Station	EF	3	2306 Yew St, Bellingham, Wa 98229		Critical Government Facility
Fire Station 05 – Bellingham Fire Station	EF	3	3314 Northwest Ave, Bellingham, Wa 98225		Critical Government Facility
Fire Station 06 – Bellingham Fire Station	EF	3	4060 Deemer Rd, Bellingham, Wa 98226		Critical Government Facility
Fire Station 10 – Bellingham Fire Station	EF	3	858 E Smith Rd, Bellingham, Wa 98226		Critical Government Facility
Fire Station 31 – Bellingham Fire / WCFD 08 Station	EF	3	752 Marine Dr, Bellingham, Wa 98225		Critical Government Facility
Fire Station 34 – Bellingham Fire / WCFD 08 Station	EF	3	2600 Mackenzie Rd, Bellingham, Wa 98226		Critical Government Facility
Fire Station 33 – Bellingham Fire / WCFD 08 Station	EF	3	4504 Curtis Rd, Bellingham, Wa 98229		Critical Government Facility
Fire Station 32 - Bellingham International Airport ARFF	EF	3	2005 West Bakerview Road, Bellingham, WA 98226		Critical Government Facility
Fire Station 96 – WCFD 19	EF	3	9953 Mt Baker Hwy Deming Wa 98244		Critical Government Facility
Fire Station 71 – Lynden Fire Department	EF	3	203 19th St Lynden Wa 98264		Critical Government Facility
Fire Station 75 – Lynden Fire Department	EF	3	215 4th St Lynden Wa 98264		Critical Government Facility

Fire Station 72 – Lynden Fire Department	EF	3	1507 E Badger Rd Lynden Wa 98247		Critical Government Facility
Fire Station 13 – North Whatcom Fire Rescue	EF	3	2308 E Smith Rd, Bellingham, Wa 98226		Critical Government Facility
Fire Station 11 – North Whatcom Fire Rescue	EF	3	3131 Y Road Bellingham Wa 98226		Critical Government Facility
Fire Station 12 – North Whatcom Fire Rescue	EF	3	4142 Britton Loop Bellingham Wa 98226		Critical Government Facility
Fire Station 36 – North Whatcom Fire Rescue	EF	3	633 E Wiser Lake Rd Lynden Wa 98264		Critical Government Facility
Fire Station 61 – North Whatcom Fire Rescue	EF	3	9408 Odell Rd Blaine Wa 98230		Critical Government Facility
Fire Station 62 – North Whatcom Fire Rescue	EF	3	9001 Semiahmoo PkwY Blaine Wa 98230		Critical Government Facility
Fire Station 63 – North Whatcom Fire Rescue	EF	3	4581 Birch Bay Lynden Rd Blaine Wa 98230		Critical Government Facility
Fire Station 64 – North Whatcom Fire Rescue	EF	3	7625 Custer School Rd Custer Wa 98240		Critical Government Facility
Fire Station 65 – North Whatcom Fire Rescue	EF	3	3401 Haymie Rd Blaine Wa 98230		Critical Government Facility
Fire Station 68 – North Whatcom Fire Rescue	EF	3	8118 N Enterprise Rd Custer Wa 98240		Critical Government Facility

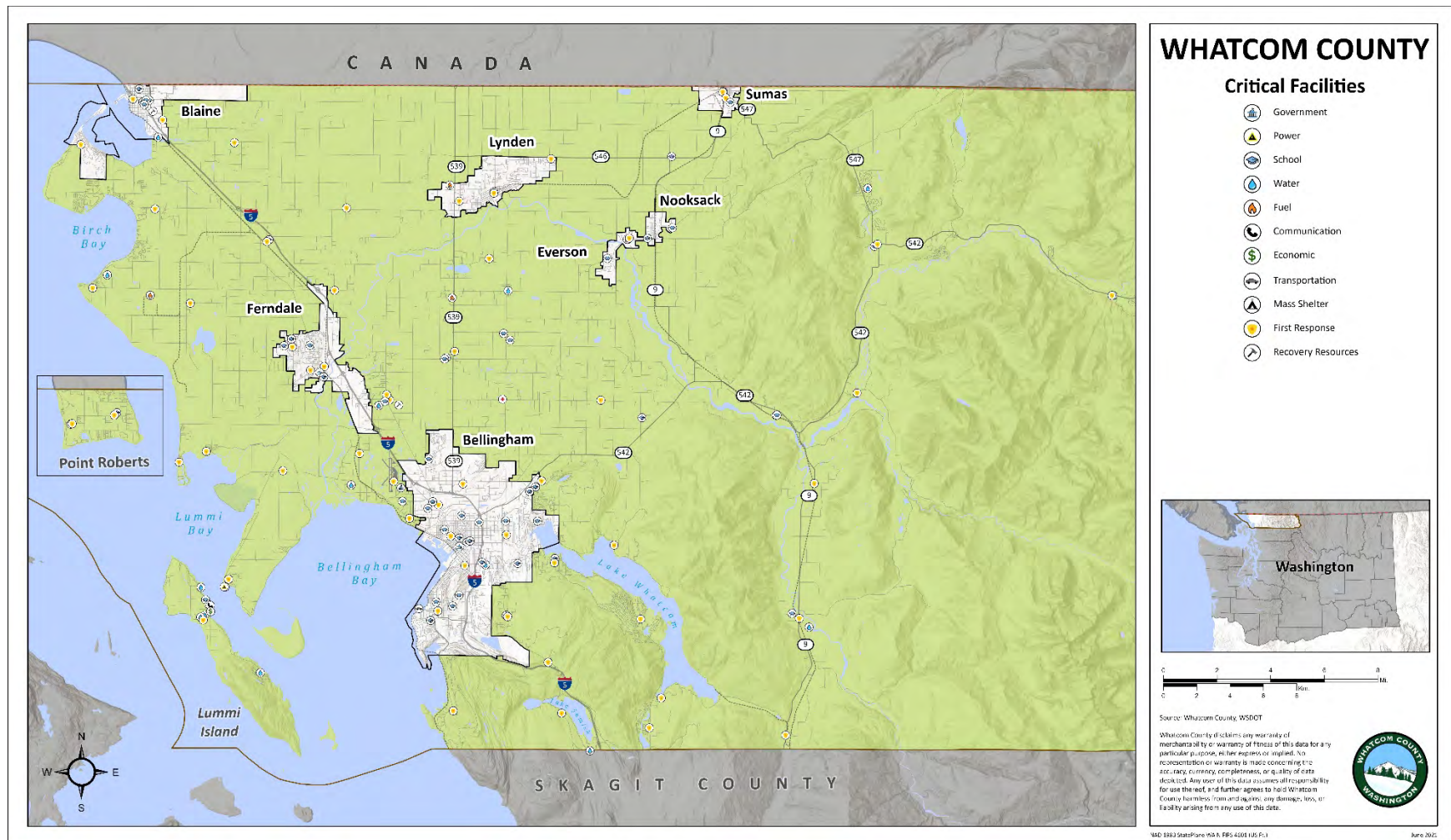
Fire Station 69 – North Whatcom Fire Rescue	EF	3	6028 Guide Meridian Bellingham Wa 98226		Critical Government Facility
Fire Station 56 – Sandy Point Fire	EF	3	4332 Sucia Dr Ferndale Wa 98248		Critical Government Facility
Fire Station 57 – Sandy Point Fire	EF	3	3685 Prevost Way Ferndale Wa 98248		Critical Government Facility
Fire Station 16 – South Whatcom Fire Authority	EF	3	2095 Yew St Rd Bellingham Wa 98229		Critical Government Facility
Fire Station 18 – South Whatcom Fire Authority	EF	3	686 Chuckanut Dr Bellingham Wa 98229		Critical Government Facility
Fire Station 21 – South Whatcom Fire Authority	EF	3	4518 Cable St Bellingham Wa 98229		Critical Government Facility
Fire Station 22 – South Whatcom Fire Authority	EF	3	2050 Lake Whatcom Blvd Bellingham Wa 98229		Critical Government Facility
Fire Station 28 – South Whatcom Fire Authority	EF	3	5170 Samish Way Bellingham Wa 98229		Critical Government Facility
Fire Station 29 – South Whatcom Fire Authority	EF	3	705 W Lake Samish Dr Bellingham Wa 98229		Critical Government Facility
Fire Station 80 – WCFD 01	EF	3	101 E Main St Everson Wa 98247		Critical Government Facility
Fire Station 81 – WCFD 01	EF	3	3740 Mt Baker Hwy Everson Wa 98247		Critical Government Facility
Fire Station 58 – WCFD 05	EF	3	2030 Benson Rd Point Roberts Wa 98281		Critical Government Facility
Fire Station 59 – WCFD 05	EF	3	1431 Gulf Rd Point Roberts Wa 98281		Critical Government Facility

Fire Station 41 – WCFD 07	EF	3	2020 Washington St Ferndale Wa 98248		Critical Government Facility
Fire Station 42 – WCFD 07	EF	3	4047 Brown Rd Ferndale Wa 98248		Critical Government Facility
Fire Station 43 – WCFD 07	EF	3	5368 Northwest Dr Bellingham Wa 98226		Critical Government Facility
Fire Station 44 – WCFD 07	EF	3	5491 Grandview Rd Blaine Wa 98230		Critical Government Facility
Fire Station 45 – WCFD 07	EF	3	1886 Grandview Rd Ferndale Wa 8248		Critical Government Facility
Fire Station 46 – WCFD 07	EF	3	6081 Church Rd Ferndale Wa 98248		Critical Government Facility
Fire Station 38 – Lummi Island	EF	3	3809 Legoe Bay Rd Lummi Island Wa 98262		Critical Government Facility
Fire Station 91 – WCFD 14	EF	3	841 Sumas Ave Sumas Wa 98295		Critical Government Facility
Fire Station 92 – WCFD 14	EF	3	7528 Kendall Rd Maple Falls Wa 98266		Critical Government Facility
Fire Station 93 – WCFD 14	EF	3	5640 Mosquito Lake Rd Deming Wa 98244		Critical Government Facility
Fire Station 86 – WCFD 16	EF	3	5491 Potter Rd Acme Wa 98220		Critical Government Facility
Fire Station 87 – WCFD 16	EF	3	2036 Valley Hwy Acme Wa 98220		Critical Government Facility
Fire Station 88 – WCFD 16	EF	3	319 Valley Hwy Acme Wa 98220		Critical Government Facility
Fire Station 25 – WCFD 18	EF	3	3250 South Bay Dr Sedro Woolley Wa		Critical Government Facility
Fire Station 26 – WCFD 18	EF	3	431 Cain Lake Rd Sedro Woolley Wa 98284		Critical Government Facility
Ferndale Police Department	EF	3	2220 Main St, Ferndale, WA 98248		Critical Government Facility
Blaine Police Department	EF	3	322 H St, Blaine, WA 98230		Critical Government Facility
Lynden Police Department	EF	3	203 19th St, Lynden, WA 98264		Critical Government Facility
Sumas Police Department	EF	3	433 Cherry Street, Sumas, WA 98295		Critical Government Facility

Everson Police Department	EF	3	111 W Main St, Everson, WA 98247		Critical Government Facility
Whatcom County Public Works	EF	3	901 East Smith Road, Bellingham, WA 98226		Critical Government Facility
Sumas Public Works Department	EF	3	433 Cherry Street, Sumas, WA 98295		Critical Government Facility
Ferndale Public Works Department	EF	3	2095 Main St, Ferndale, WA 98248		Critical Government Facility
Blaine Public Works Department	EF	3	1200 Yew Ave, Blaine, WA 98230		Critical Government Facility
Lynden Public Works Department	EF	3	300 4th St, Lynden, WA 98264		Critical Government Facility
Everson Public Works Department	EF	3	111 West Main Street, Everson, WA 98247		Critical Government Facility

Facility Type: **EF** = Essential Facility; **HMF** = Hazardous Materials Facility; **HPL** = High Potential Loss; **LUS** = Lifeline Utility System

Significance to community function: **1**=Moderate; **2**= High; **3** =Very High



Map of critical facilities identified by Unincorporated Whatcom County. Across Whatcom County, critical facilities fell into 15 categories. Unique categories developed for this plan update include mass shelter, assisted living, and recovery resources. Mass shelter includes facilities such as fairgrounds and community centers. Recovery resources are facilities that are required post-hazard event, for example public works and private construction companies. Not all jurisdictions identified or included critical facilities in each category.

Critical Facility Rankings for the Whatcom County

The table below indicates whether each critical facility falls within known hazard zones for earthquake, liquefaction, landslide, tsunami, volcano, riverine flooding, coastal flooding and wildfire zones. A rank assessment in the last column indicates how the relative risk of community impact. This ranking considers the significance of the facility to the community and the number of hazard zones the facility is within. The frequency of each hazard is also considered, such that being in a low frequency hazard zone would receive a lower ranking than that same facility being in a high frequency hazard zone. Ranking is on a scale of 1 to 10, with 1 being the facility with the highest-ranking score, and 10 being a facility with the lowest ranking score in the jurisdiction.

$$\text{Rank} = \text{Significance} * \left[\frac{\text{EQ_Zone}}{\text{EQ_Freq}} + \frac{\text{LQ_Zone}}{\text{LQ_Freq}} + \frac{\text{LS_Zone}}{\text{LS_Freq}} + \dots + \frac{\text{WF_Zone}}{\text{WF_Freq}} \right]$$

Ranking value will be from 0.0 to 1.0, scaled to the highest ranking in the jurisdiction.

Significance: 1=moderate; 2=high; 3=very high, as assessed in the critical facilities list in the previous section

Zone: 0=facility not in hazard zone; 1 = facility in the hazard zone

Frequency (e.g. EQ_Freq, LQ_Freq) is the most difficult variable to which to assign a value. Frequency varies based upon the magnitude of a hazard event and varies from one place to another. It was not possible within the time constraints to assess frequency of hazard at each critical facility location. Instead, a qualitative assessment of the hazard frequency across the entire county was made, as shown in the chart below.

Description	Freq Value used in formula	Hazards
Frequent, occurring on the order of decades	3	Riverine flooding (FL); Coastal flooding (COA)
Rare, occurring on the order of centuries	2	Earthquake (EQ); Liquefaction (LQ); Landslide (LS); Wildfire (WF)
Very rare, occurring on the order of millennia	1	Tsunami (TSU); Volcano (VOL)

Note: Severe storm, a very frequent hazard, was omitted because it is ubiquitous and because no hazard map of storm severity was available.

Critical Facilities Ranking Table

Facility Name	Facility Type	Significance	EQ	LQ	LS	TSU	VOL	FL	COA	WF	Rank Assessment
Columbia Valley Water District	LUS	3	1	1	0	0	0	0	0	1	0.45
Beach School Elementary School	EF	1	1	1	0	0	0	1	1	1	0.22
Fairhaven Alaskan Ferry Terminal	EF	3	1	0	0	1	0	0	1	0	0.55
Gooseberry Point Ferry Dock	EF	3	1	1	0	1	0	0	1	1	0.85
Isle Aire Beach Association	LUS	2	1	1	0	0	0	0	0	0	0.2
LISECC	LUS	2	1	0	0	0	0	0	0	1	0.2
Lummi Island Dock	EF	3	1	1	0	0	0	0	0	0	0.3
Lummi Island Grange	EF	1	1	1	0	0	0	0	0	1	0.15
Lummi Island Post Office	EF	1	1	0	0	1	0	0	0	1	0.2
Lummi Point Water	LUS	3	1	0	0	1	0	0	1	1	0.7
Owners Association Beach Club Condos	LUS	3	1	1	0	0	0	0	0	1	0.45
Puget Sound Energy Switch	LUS	3	1	1	0	1	0	0	1	1	0.85
Sunset Water and Maintenance Association	LUS	3	1	1	0	0	0	0	0	1	0.45
The Islander	EF	1	1	1	0	1	0	0	0	1	0.25
Vander Yacht Propane	LUS	3	1	1	0	0	0	0	0	0	0.3
Whatcom Farmers Co-op	LUS	3	1	1	0	0	0	0	0	0	0.3

Lummi Law & Order	EF	3	1	1	0	0	0	0	0	1	0.45
Nooksack Police Department	EF	3	1	1	0	0	0	0	0	0	0.3
Northwest Water Association	LUS	3	1	1	0	0	0	0	0	0	0.3
Pole Road Water Association	LUS	3	1	1	0	0	0	0	0	0	0.3
Alderwood Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Birchwood Elementary School	EF	1	1	1	1	0	0	0	0	0	0.15
Carl Cozier Elementary School	EF	1	1	1	0	0	0	0	0	1	0.15
Columbia Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Cordata Elementary School	EF	1	1	1	0	0	0	0	0	1	0.15
Geneva Elementary School	EF	1	1	0	0	0	0	0	0	1	0.1
Happy Valley Elementary School	EF	1	1	1	0	0	0	0	0	1	0.15
Lowell Elementary School	EF	1	1	0	0	0	0	0	0	1	0.1
Northern Heights Elementary School	EF	1	1	1	0	0	0	0	0	1	0.15
Parkview Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Roosevelt Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1

Silver Beach Elementary School	EF	1	1	0	0	0	0	0	0	1	0.1
Sunnyland Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Wade King Elementary School	EF	1	1	1	0	0	0	0	0	1	0.15
Fairhaven Middle School	EF	1	1	0	0	0	0	0	0	1	0.1
Kulshan Middle School	EF	1	1	0	0	0	0	0	0	1	0.1
Shuksan Middle School	EF	1	1	1	1	0	0	0	0	0	0.15
Whatcom Middle School	EF	1	1	1	0	0	0	0	0	0	0.1
Bellingham High School	EF	1	1	1	0	0	0	0	0	0	0.1
Options High School	EF	1	1	1	0	0	0	0	0	0	0.1
Sehome High School	EF	1	1	0	0	0	0	0	0	0	0.05
Squalicum High School	EF	1	1	0	0	0	0	0	0	1	0.1
Blaine High School	EF	1	1	1	0	0	0	0	0	1	0.15
Blaine Middle School	EF	1	1	1	0	0	0	0	0	1	0.15
Blaine Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Blaine Primary School	EF	1	1	1	0	0	0	0	0	1	0.15
Point Roberts Primary School	EF	1	1	1	0	0	0	0	0	1	0.15
Irene Reither Elementary School	EF	1	1	1	0	0	0	0	0	1	0.15
Meridian Middle School	EF	1	1	1	0	0	0	0	0	1	0.15
Meridian High School	EF	1	1	1	0	0	0	0	0	1	0.15

Acme Elementary School	EF	1	1	1	1	0	1	1	0	1	0.33
Harmony Elementary School	EF	1	1	1	0	0	1	0	0	1	0.25
Kendall Elementary School	EF	1	1	1	0	0	0	0	0	1	0.15
Mt. Baker Junior/Senior High School	EF	1	1	1	0	0	1	0	0	1	0.25
Ferndale High School	EF	1	1	1	0	0	0	0	0	0	0.1
Horizon Middle School	EF	1	1	1	0	0	0	0	0	0	0.1
Vista Middle School	EF	1	1	1	0	0	0	0	0	0	0.1
Beach Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Cascadia Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Central Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Custer Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Eagleridge Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Skyline Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
North Bellingham Learning Center (Ferndale Schools)	EF	1	1	1	0	0	0	0	0	0	0.1
Nooksack Valley High School	EF	1	1	1	0	0	0	0	0	0	0.1

Nooksack Valley Middle School	EF	1	1	1	0	0	0	0	0	0	0.1
Everson Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Nooksack Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Sumas Elementary School	EF	1	1	1	0	0	0	0	0	0	0.1
Whatcom County Search & Rescue	EF	3	1	1	0	0	0	0	0	0	0.3
Seattle City Light Ross Dam	LUS	3	1	0	0	0	0	1	0	0	0.25
Seattle City Light Diablo Dam	LUS	3	1	0	0	0	0	1	0	0	0.25
Seattle City Light Gorge Dam	LUS	3	1	0	0	0	0	1	0	0	0.25
Puget Sound Energy Upper Baker Dam	LUS	3	1	1	0	0	0	0	0	0	0.3
Water District #2 – Bellingham	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #7 – Bellingham	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #4 – Point Roberts	LUS	3	1	1	0	1	0	0	0	1	0.75
Water District #10 – Geneva/Sudden Valley	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #12 – Lake Samish	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #13 – Maple Falls	LUS	3	1	1	0	0	0	0	0	1	0.45
Water District #14 – Glacier	LUS	3	1	1	1	0	1	1	0	1	1

Water District #18 – Acme	LUS	3	1	1	0	0	1	1	0	1	0.85
BP-Cherry Point Refinery	Fuel	2	1	1	0	0	0	0	0	1	0.3
Birch Bay Water and Sewer (District 8)	LUS	3		1	0	1	0	0	0	1	0.75
Birch Bay Water Connection	LUS	3	1	1	0	1	0	0	0	1	0.75
Whatcom County Sheriff's Office Emergency Coordination Center	EF	3	1	1	0	0	0	0	0	0	0.3
Whatcom County Sheriff's Office	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 01 – Bellingham Fire Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 02 – Bellingham Fire Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 03 – Bellingham Fire Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 04 – Bellingham Fire Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 05 – Bellingham Fire Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 06 – Bellingham Fire Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 10 – Bellingham Fire Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 31 – Bellingham Fire / WCFD 08 Station	EF	3	1	1	0	0	0	0	0	0	0.3

Fire Station 34 – Bellingham Fire / WCFD 08 Station	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 33 – Bellingham Fire / WCFD 08 Station	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 32 – Bellingham International Airport ARFF	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 96 – WCFD 19	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 71 – Lynden Fire Department	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 75 – Lynden Fire Department	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 72 – Lynden Fire Department	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 13 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 11 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 12 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 36 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 61 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 62 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 63 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45

Fire Station 64 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 65 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 68 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 69 – North Whatcom Fire Rescue	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 56 – Sandy Point Fire	EF	3	1	1	0	1	0	0	1	1	0.85
Fire Station 57 – Sandy Point Fire	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 16 – South Whatcom Fire Authority	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 18 – South Whatcom Fire Authority	EF	3	1	0	0	0	0	0	0	1	0.3
Fire Station 21 – South Whatcom Fire Authority	EF	3	1	0	0	0	0	0	0	1	0.3
Fire Station 22 – South Whatcom Fire Authority	EF	3	1	0	0	0	0	0	0	1	0.3
Fire Station 28 – South Whatcom Fire Authority	EF	3	1	0	0	0	0	0	0	1	0.3
Fire Station 29 – South Whatcom Fire Authority	EF	3	1	0	0	0	0	0	0	1	0.3
Fire Station 80 – WCFD 01	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 81 – WCFD 01	EF	3	1	1	0	0	1	1	0	0	0.7
Fire Station 58 – WCFD 05	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 59 – WCFD 05	EF	3	1	1	0	0	0	0	0	1	0.45

Fire Station 41 – WCFD 07	EF	3	1	1	0	0	1	0	0	0	0.6
Fire Station 42 – WCFD 07	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 43 – WCFD 07	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 44 – WCFD 07	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 45 – WCFD 07	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 46 – WCFD 07	EF	3	1	1	0	0	0	0	0	1	0.45
Fire Station 38 – Lummi Island	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 91 – WCFD 14	EF	3	1	1	0	0	1	0	0	0	0.6
Fire Station 92 – WCFD 14	EF	3	1	1	0	0	1	0	0	1	0.75
Fire Station 93 – WCFD 14	EF	3	1	0	0	0	1	0	0	1	0.6
Fire Station 86 – WCFD 16	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 87 – WCFD 16	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 88 – WCFD 16	EF	3	1	1	0	0	0	0	0	0	0.3
Fire Station 25 – WCFD 18	EF	3	1	0	1	0	0	0	0	0	0.3
Fire Station 26 – WCFD 18	EF	3	1	1	0	0	0	0	0	1	0.45
Ferndale Police Department	EF	3	1	1	0	0	0	0	0	0	0.3
Blaine Police Department	EF	3	1	1	0	0	0	0	0	0	0.3
Lynden Police Department	EF	3	1	1	0	0	0	0	0	0	0.3
Sumas Police Department	EF	3	1	1	0	0	0	0	0	0	0.3
Everson Police Department	EF	3	1	1	0	0	1	1	0	0	0.7
Whatcom County Public Works	EF	3	1	1	0	0	0	0	0	0	0.3

Sumas Public Works Department	EF	3	1	1	0	0	0	0	0	0	0.3
Ferndale Public Works Department	EF	3	1	1	0	0	0	0	0	0	0.3
Blaine Public Works Department	EF	3	1	1	0	0	0	0	0	0	0.3
Lynden Public Works Department	EF	3	1	1	0	0	0	0	0	0	0.3
Everson Public Works Department	EF	3	1	1	0	0	0	0	0	0	0.3

Notes: **EQ** = Earthquake; **LQ** = Liquefaction; **LS** = Landslide; **TSUN** = Tsunami; **VOL** = Volcano; **FL** = Riverine Flooding; **COA** = Coastal Flooding; **WF** = Wildland Fire

Areas and Assets Exposed, Per Hazard

	Unincorporated Whatcom County Exposure to Natural Hazards					
	Hazard Susceptibility					Critical Facilities Appraised Value (Million)
		Area (sq.mi.)	Population	Parcels	Critical Facilities	
Geological						
	MMI IV	7.7%	-	0.03%	-	-
	MMI V	31.7%	15.3%	15.7%	23.8%	\$161 ¹
	MMI VI	29.6%	63.5%	66.8%	47.6%	\$1396 ¹
	MMI VII	11.7%	13.8%	8.4%	9.8%	\$37
	MMI VIII - IX	5.7%	7.3%	7.4%	9.1%	\$44
	TOTAL	86.4%	99.9%	98.3%	90.3%	\$1,638
	Very Low to Low	14.6%	45.4%	41.8%	45.5%	\$283 ¹
	Low to Moderate	6.5%	24.4%	27.5%	28%	\$1189 ¹
	Moderate	-	-	-	-	-
	Moderate to High	4.4%	7.5%	8.5%	11.2%	\$59
	High	0.02%	-	0.04%	-	-
	TOTAL	25.5%	77.3%	77.84%	84.7%	\$1,531
	Landslide Low	0.7%	0.2%	0.25	-	-
	Landslide Moderate	1%	0.2%	0.1%	-	-
	Landslide High	2.9%	1.2%	1.9%	1.4%	\$0.3

	<i>Fan Low</i>	0.1%	0.1%	0.06%	-	-
	<i>Fan Moderate</i>	0.3%	0.2%	0.2%	-	-
	<i>Fan High</i>	0.8%	2.4%	1.9%	2.8%	\$3
	<i>Mine Hazard</i>	0.1%	0.4%	2.1%	1.4%	19% ¹
	TOTAL	5.9%	4.7%	6.51%	5.6%	\$22.3
	<i>Case 1 Debris Flows</i>	1.6%	1.9%	2.1%	4.9% ²	\$19 ²
	<i>Case 2 Debris Flows</i>	0.9%	1.2%	-	-	-
	<i>Case M Flows</i>	2.9%	5.6%	6.3%	7.7% ²	\$43 ²
	<i>Pyroclastic Flows, Lava Flows, and Ballistic Debris</i>	5.8%	0.2%	0.6%	2.1% ²	\$0.3 ²
	<i>Lateral Blast Hazard Zone</i>	22.7%	3.8%	5.5%	7% ²	\$11 ²
	TOTAL	33.9%	12.7%	14.5%	21.7%	\$73.3
	<i>Low to Moderate Inundation Potential</i>	0.3%	3%	0.6%	3.5%	\$7
	<i>Moderate to High Inundation Potential</i>	0.3%	1.5%	0.5%	-	-
	<i>High Inundation Potential</i>	0.6%	3.8%	5.6%	4.2%	\$18
	TOTAL	1.6%	8.3%	6.7%	7.7%	\$25
Hydrol						
	<i>100-year Flood</i>	3.5%	6.7%	8%	9.1%	\$66

	<i>500-year Flood</i>	0.4%	1.9%	3.4%	4.9%	\$129
	<i>Floodway</i>	0.9%	1.4%	-	-	-
	<i>Undetermined (Zone D)</i>	52.1%	0.1%	0.05%	1.4%	\$9
	TOTAL	4.8%	10.1%	11.45%	15.4%	\$204
Meteorological	Wildfire Zones					
	<i>Interface Very Low-Low Structure Density</i>	0.9%	1.9%	7.7%	0.7%	\$0.4
	<i>Interface Medium-High Structure Density</i>	1.4%	23.2%	26.9%	39.2%	\$1,331 ¹
	<i>Intermix Very Low-Low Structure Density</i>	5.9%	17.2%	1.6%	19.6%	\$112
	<i>Intermix Medium-High Structure Density</i>	4.1%	32.1%	30.4%	23.1%	\$39
	TOTAL	12.3%	74.4%	66.6%	82.6%	\$1,482.4

¹This value shows the total of 2020 Whatcom County parcel data appraised total value and community's critical facility assessed dollar value (found in the community's critical facilities list). The critical facility's assessed dollar value was used instead of the appraised total value when available.

²Some critical facilities located in multiple hazard zones.

Status of Unincorporated Whatcom County's 2016-2020 and Ongoing Hazard Mitigation Actions

This section describes the status of mitigation actions that were proposed in the 2016 Mitigation Plan and are now 1) currently being implemented and are ongoing, 2) are now completed, or 3) are now discontinued because they are no longer needed. The actions are organized by hazard and indicate the lead agency, funding source, and status.

Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
Funding Source	Local; State; FEMA; Private; Other
Current Status	Action Discontinued / Action Completed / Action ongoing and expected completion date

Education and Outreach

EO-a. Emergency preparedness education programs for schools. Emergency preparedness and emergency management is delegated to school districts by Washington State RCW's. The Whatcom County Sheriff's Office Division of Emergency Management does support all the school districts in Whatcom County with emergency planning.

Lead Agency	School Districts 501, 502, 503, 504, 506, 507
Funding Source	Local, Homeland Security Grant Funding
Current Status	Action Ongoing and continuous

EO-b. Drills, exercises in homes, workplaces, classrooms, etc. Emergency drills and exercises are delegated to school districts by Washington State RCW's. The Whatcom County Sheriff's Office Division of Emergency Management does support all the school districts in Whatcom County with emergency drills and exercises.

Lead Agency	School Districts 501, 502, 503, 504, 506, 507
Funding Source	Local
Current Status	Action Ongoing and continuous

EO-c. Hazard "safety fairs." Hazard "safety fairs" are conducted at the local level within jurisdictions or special districts. While COVID-19 did disrupt these fairs in 2020, the Whatcom County Sheriff's Office Division of Emergency Management did participate in a number of these (Night Out, Lummi Island Safety Fair, Sudden Valley Safety Fair, Northwest Washington Fair,

etc.).

Lead Agency	Local jurisdictions and special districts
Funding Source	Local, other
Current Status	Action Ongoing and continuous

EO-d. Hazard conferences, seminars. The Whatcom County Sheriff's Office Division of Emergency Management has sponsored, participated in, or attended numerous hazard specific conferences and seminars over the last 5 years on all natural hazards listed in this plan.

Lead Agency	Whatcom County Sheriff's Office Division of Emergency Management
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action Ongoing and continuous

EO-e. Distribution of severe weather guides, preparedness handbooks, brochures homeowner's retrofit guide, etc. The Whatcom County Sheriff's Office Division of Emergency Management is the county focal point for the distribution of brochures, handbooks and guides for emergency and disaster management.

Lead Agency	Whatcom County Sheriff's Office Division of Emergency Management
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action Ongoing and continuous

EO-f. Newspaper articles - There has been no articles regularly published on disaster preparedness in the last 5 years as the local media does not support regular submissions or have a section for disaster planning. They have reported on disasters and did do a fictional (internal) account of what would happen after a major earthquake, with input from local experts and emergency managers.

Lead Agency	None
Funding Source	Other
Current Status	Ad hoc

EO-g. Annual correspondence with residents. Whatcom County Public Works does distribute an annual flood and emergency preparedness outreach paper.

Lead Agency	Whatcom county Public Works
Funding Source	Local
Current Status	Action Ongoing and continuous

Drought/heat wave

Action initiating with initial goals of identifying, documenting and determining applicability of Droughts and Heat Waves.

Earthquake

EQ-a. Incorporate Earthquake Mitigation into Local Planning. Whatcom County has incorporated building mitigation strategies for earthquakes into the Comprehensive Plan.

Lead Agency	Whatcom County Planning and Development Services
Funding Source	Local
Current Status	Action Ongoing and continuous

EQ-b. Conduct Inspections of Building Safety. Building safety inspections are carried out on a continual and regular basis.

Lead Agency	Whatcom County Planning and Development Services
Funding Source	Local
Current Status	Action Ongoing and continuous

EQ-c. Increase Earthquake Risk Awareness. The Whatcom County Sheriff's Office Division of Emergency Management promotes earthquake awareness on a continual and ongoing basis.

Lead Agency	Whatcom County Sheriff's Office Division of Emergency Management
Funding Source	Local, State and Federal
Current Status	Action Ongoing and continuous

Debris Slides

LS-a. Manage Development in Landslide Hazard Areas. Whatcom County Planning and Development Services does manage development in Landslide Hazard Areas on a continual and ongoing basis.

Lead Agency	Whatcom County Planning and Development Services
Funding Source	Local
Current Status	Action Ongoing and continuous

Flooding

FL-a. Establish Local Funding Mechanisms for Flood Mitigation

Lead Agency	Lead responsibility lies Flood Zone & Surface Water/ Public Works
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action ongoing and continuous

FL-b. Remove Existing Structures from Flood Hazard Areas

Lead Agency	Lead responsibility lies Flood Zone & Surface Water/ Public Works
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action ongoing and expected to be completed in 2025

FL-c. Improve Stormwater Drainage System Capacity

Lead Agency	Lead responsibility lies Flood Zone & Surface Water/ Public Works
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action ongoing and continuous

FL-d. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures

Lead Agency	Lead responsibility lies Flood Zone & Surface Water/ Public Works
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action ongoing and continuous

FL-e. Protect Infrastructure

Lead Agency	Lead responsibility lies Flood Zone & Surface Water/ Public Works for any infrastructure that is County property
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action ongoing and continuous

FL-f. Construct Flood Control Measures

Lead Agency	Lead responsibility lies Flood Zone & Surface Water/ Public Works for any infrastructure that is County property
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action ongoing and continuous

FL-g. Protect and Restore Natural Flood Mitigation Features

Lead Agency	Lead responsibility lies Flood Zone & Surface Water/ Public Works in repetitive problem areas
Funding Source	Local, state, FEMA, Private, Other
Current Status	Action ongoing and continuous

Landslide/erosion

No actions ongoing, discontinued, or completed for this hazard.

Severe Storm

No actions ongoing, discontinued, or completed for this hazard.

Severe Wind**SW-a. Protect Power Lines and Infrastructure**

Lead Agency	Puget Sound Energy, Blaine Electric, Bonneville Power Administration, Western States Power Grid
Funding Source	Private Investment
Current Status	Action ongoing and continuous

Tsunami**TSU-a. Map and Assess Vulnerability to Tsunami**

Lead Agency	Lead responsibility lies with the DNR. They have completed all mapping in Whatcom County in 2013.
Funding Source	State, other
Current Status	Action ongoing and expected to be completed in 2025

TSU-b. Manage Development in Tsunami Hazard Areas

Lead Agency	Lead responsibility lies with Whatcom County Planning Department
Funding Source	Local
Current Status	Action ongoing and continuous

Wildfire

WF-a. Incorporate Wildfire Mitigation in the Comprehensive Plan. The Whatcom County Sheriff's Office Division of Emergency Management has been working with the fire community to write a Wildland Fire plan for Whatcom County.

Lead Agency	Whatcom County Sheriff's Office Division of Emergency Management
Funding Source	Local
Current Status	Action ongoing and continuous

WF-b. Participate in Firewise Program. Firewise is managed by the Whatcom Conservation District and is a continual improvement process.

Lead Agency	Whatcom Conservation District
Funding Source	State & Local
Current Status	Action ongoing and continuous

Winter storms/Freezes

WW-a. Reduce Impacts to Roadways

Lead Agency	Whatcom County Public Works.
Funding Source	Local
Current Status	Action ongoing and continuous

WW-b. Conduct Winter Weather Risk Awareness Activities

Lead Agency	Whatcom County Sheriff's Office Division of Emergency Management
Funding Source	Local
Current Status	Action ongoing and continuous

Multiple Hazards

MU-a. Adopt and Enforce Building Codes. Whatcom County adopts the International Building Code Suit, including the Residential and Building Codes, which include standards for seismic, wind, and snow loads, among others; it also adopts the suite's Fire Code. It currently follows the 2018 editions of those codes per Ordinance 2021-016, passed March 23, 2021. The Whatcom County Planning Department supports enforcement through its permitting and inspection processes.

Lead Agency	Whatcom County Planning and Development Services
Funding Source	Local
Current Status	Action Ongoing and continuous

MU-b. Improve Household Disaster Preparedness. The shortage in staff for the task is leveraged through social media outreach. In 2019, the Division of Emergency Management partnered with CERT and Western Washington University to pilot a door-to-door and online survey on resident hazard awareness and disaster preparedness. Residents surveyed were given information about natural hazards in Whatcom County, expected impacts, and simple ways they could be better prepare. Future iterations of the survey are planned for post-pandemic conditions.

Lead Agency	Whatcom County Sheriff's Office Division of Emergency Management.
Funding Source	Local
Current Status	Action Ongoing and continuous

Unincorporated Whatcom County 2021-2025 Hazard Mitigation Strategy

Whatcom County Hazard Mitigation Goals

Whatcom County has identified five overarching hazard mitigation goals, which represent what a community seeks to achieve through mitigation actions.

Goal 1. Protect Life, Property and Public Welfare

Goal 2. Increase Public Awareness

Goal 3. Preserve and Enhance Natural Systems

Goal 4. Encourage Partnership for Implementation

Goal 5. Ensure Continuity of Emergency Services

These countywide goals help guide any prioritization and implementation of mitigation actions, ensuring that the actions contribute to a community's vision for the future.

Mitigation Action Options

Appendix E of the Whatcom County Natural Hazard Mitigation Plan provides a list of mitigation options. Unincorporated Whatcom County considered mitigation options related to geological, hydrological, and meteorological hazards, especially those related to earthquake, liquefaction and volcano because these hazards have the potential to cause the greatest loss and damage. Not all mitigation options in Appendix E were relevant or a strong priority for Unincorporated Whatcom County. Some options have already been implemented or are ongoing in Unincorporated Whatcom County, as documented in the section above on the status of 2016-2020 and ongoing hazard mitigation actions.

Mitigation Action Prioritization

The mitigation actions in this section are new actions that Unincorporated Whatcom County has prioritized for the 2021-2025 planning period and beyond. Mitigation options were prioritized based upon review of the following two criteria: 1) The action's Overall Feasibility based on engineering, environmental, financial and political considerations, 2) The Criticality of the action, based upon a consideration of which actions had the greatest potential to protect life, property and public welfare. Unincorporated Whatcom County is working with other participating communities and special districts to develop a systematic methodology that would use multiple evaluation criteria to determine mitigation action prioritization. This new methodology will be used in future updates of this Plan.

Unincorporated Whatcom County has, since the first Natural Hazards Mitigation Plan in 2005, consistently maintained the goals of the plans to be similar and addressed the natural hazards

in a maintenance format. Since 2005, many of the understandings of the natural hazards, along with the science supporting these hazards, has changed. In this 2021-2025 plan, Whatcom County will focus on mitigation actions that will help Unincorporated Whatcom County integrate the new science, assumptions and realities for each of the major natural hazards, coupled with an expansion of the use of GIS, both for documentation and geospatial analysis, as well as multiagency coordination. Finally, it will focus on enhanced education outreach. The goal is to establish a baseline that will be up-to-date, accurate and based on best available science, from which the most appropriate mitigation actions can be chosen.

In the following Identified Mitigation Actions 2021-2025 table, each priority action is listed by hazard. Each action is followed by planning goals, lead agency, the priority evaluation, timeline, funding source and estimated cost, where such information is available. This information can be used by local decision makers in pursuing strategies for implementation.

1	Goals	Indicates the hazard mitigation planning goal or goals this action addresses; countywide and/or community-specific
2	Lead Agency	May be more than one lead agency indicating shared responsibility and coordination
3	Priority	H (High); M (Medium); L (Low)
4	Timeline	Short-Range (less than 2 years); Mid-Range (2-5 years); Long-Range (more than 5 years); Ongoing
5	Funding Source	Local; State; FEMA; Private; Other
6	Estimated Cost	Actual; Estimated

Unincorporated Whatcom County Identified Mitigation Actions 2021-2025

UNINCORPORATED WHATCOM COUNTY IDENTIFIED MITIGATION ACTIONS 2021-2025							
MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
MULTIPLE HAZARDS	These are actions that inform and educate citizens, elected officials, and property owners about hazards and ways to mitigate them.						
	<i>MU-a Ongoing -- Adopt and Enforce Building Codes</i> Whatcom County adopts the International Building Code Suit, including the Residential and Building Codes, which include standards for seismic, wind, and snow loads, among others; it also adopts the suite’s Fire Code. It currently follows the 2018 editions of those codes per Ordinance 2021-016, passed March 23, 2021. The Whatcom County Planning Department supports enforcement through its permitting and inspection processes.	1	Whatcom County Planning and Development Services	H	O	Local	
	<i>MU-b Ongoing -- Improve Household Disaster Preparedness</i> The shortage in staff for the task is leveraged through social media outreach. In 2019, the Division of Emergency Management partnered with CERT and Western Washington University to pilot a door-to-door	1	Whatcom County Sheriff’s Office Division of Emergency Management.	H	O	Local	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	and online survey on resident hazard awareness and disaster preparedness. Residents surveyed were given information about natural hazards in Whatcom County, expected impacts, and simple ways they could be better prepare. Future iterations of the survey are planned for post-pandemic conditions.						
	MU-1 Assess Community Risk Task: <ol style="list-style-type: none"> 1. Obtain local data including tax parcels, building footprints, critical facility locations, and other information for use in risk analysis. 2. Develop and maintain a database to track community exposure in known hazard areas. 3. Establish a process to coordinate with state and Federal agencies to maintain up-to-date hazard data, maps, and assessments. 	1,2, 3	Whatcom County Sheriff's Office Division of Emergency	H	MR	Local, State, FEMA	\$250,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	4. Update aerial photography current, especially in rapidly developing areas. 5. Identify the most at-risk critical facilities and evaluating potential mitigation techniques. 6. Perform a social vulnerability analysis to identify neighborhoods of high vulnerability to hazard impacts, considering income, age, insurance rates, education, length of time in community and other potential indicators.						
	MU-2 Integrate Mitigation into Local Planning Tasks: 1. Incorporate risk assessment and hazard mitigation principles into comprehensive planning efforts. 2. Incorporate a stand-alone element for hazard mitigation into the local comprehensive (land use) plan.	1, 4	Whatcom County Planning and Development Services	M	LR	Local, State, FEMA	\$250,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	3. Incorporate hazard mitigation into broader growth management (i.e., Smart Growth) initiatives. 4. Incorporate a hazard risk assessment into the local development and subdivision review process.						
	MU-3 Monitor Mitigation Plan Implementation Tasks: 1. Form a plan implementation steering committee to monitor progress on local mitigation actions. Include a mix of representatives from neighborhoods, local businesses, and local government. 2. Prepare a plan implementation monitoring schedule and outlining roles for those responsible for monitoring (i.e., local departments, agencies, and committees). 3. Prepare and submit an annual plan implementation progress report to the local elected body.	1,4	Whatcom County Sheriff's Office Division of Emergency	H	MR	Local, State, FEMA	\$125,000
	MU-4 Protect Structures	1,5	Task 1:	H	MR	Local,	\$5,000,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Tasks: 1. Acquire or relocating structures located in hazard areas. 2. Assess the need to retrofit fire and police stations to become hazard resistant.		Whatcom County Public Works Task 2: Whatcom County Sheriff's Office Division of Emergency			State, FEMA	
	MU-5 Increase Hazard Education and Risk Awareness Tasks: 1. Develop and implement a multi-hazard public awareness program. 2. Establish a "hazard awareness week" in coordination with the media to promote hazard awareness (seasonal). 3. Create a speaker's bureau for disaster-related topics that focus on mitigation and preparedness measures.	2	Whatcom County Sheriff's Office Division of Emergency	H	MR	Local, State, FEMA	\$100,000
Education and Outreach	<i>EO-a Ongoing -- Emergency preparedness education programs for schools</i> Emergency preparedness and emergency	2	School Districts 501, 502, 503, 504, 506, 507	H	O	Local, Homeland Security	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	management is delegated to school districts by Washington State RCW's. The Whatcom County Sheriff's Office Division of Emergency Management does support all the school districts in Whatcom County with emergency planning.					Grant Funding	
	<i>EO-b Ongoing -- Drills, exercises in homes, workplaces, classrooms, etc.</i> Emergency drills and exercises are delegated to school districts by Washington State RCW's. The Whatcom County Sheriff's Office Division of Emergency Management does support all the school districts in Whatcom County with emergency drills and exercises.	1, 2	School Districts 501, 502, 503, 504, 506, 507	H	O	Local	
	<i>EO-c Ongoing -- Hazard "safety fairs."</i> Hazard "safety fairs" are conducted at the local level within jurisdictions or special districts. While COVID-19 did disrupt these fairs in 2020, the Whatcom County Sheriff's Office Division of Emergency Management did participate in a number of these (Night Out, Lummi Island Safety Fair, Sudden Valley Safety Fair, Northwest Washington Fair,	2	Local jurisdictions and special districts	H	O	Local, Other	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	etc.).						
	<i>EO-d Ongoing -- Hazard conferences, seminars</i> The Whatcom County Sheriff's Office Division of Emergency Management has sponsored, participated in, or attended numerous hazard specific conferences and seminars over the last 5 years on all natural hazards listed in this plan.	2	Whatcom County Sheriff's Office Division of Emergency Management	M	O	Local, state, FEMA, Private, Other	
	<i>EO-e Ongoing -- Distribution of severe weather guides, preparedness handbooks, brochures homeowner's retrofit guide, etc.</i> The Whatcom County Sheriff's Office Division of Emergency Management is the county focal point for the distribution of brochures, handbooks and guides for emergency and disaster management.	2	Whatcom County Sheriff's Office Division of Emergency Management	M	O	Local, state, FEMA, Private, Other	
	<i>EO-f Ongoing -- Newspaper articles</i> There has been no articles regularly published on disaster preparedness in the last 5 years as the local media does not support regular submissions or have a section	2	None	L	O	Other	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	for disaster planning. They have reported on disasters and did do a fictional (internal) account of what would happen after a major earthquake, with input from local experts and emergency managers.						
	<i>EO-g Ongoing -- Annual correspondence with residents</i> Whatcom County Public Works does distribute an annual flood and emergency preparedness outreach paper.	2	Whatcom county Public Works	M	O	Local	
Hazard Specific (Reference: <u>Whatcom County Mitigation Ideas</u>)							
Droughts/Heat Waves	D-1 Assess Vulnerability to Drought Risk Tasks: 1. Gather and analyze existing water and climate data and projection modeling to gain a better understanding of local climate and changes in future precipitation and temperature patterns.	1, 5	Whatcom County Sheriff's Office Division of Emergency Management	L	M	State, FEMA, and Federal	\$75,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	2. Identify factors that affect the severity of a drought, including water usage and population projections. 3. Identify available water supplies and projected shortages. 4. Identify appropriate water saving and use reduction strategies that may reduce impact of drought. 5. Integrate drought mitigation into public awareness actions.						
Earthquakes	<i>EQ-a Ongoing -- Incorporate Earthquake Mitigation into Local Planning.</i> Whatcom County has incorporated building mitigation strategies for earthquakes into the Comprehensive Plan.	1	Whatcom County Planning and Development Services	M	O	Local	
	<i>EQ-b Ongoing -- Conduct Inspections of Building Safety</i> Building safety inspections are carried out on a continual and regular basis.	1	Whatcom County Planning and Development Services	M	O	Local	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>EQ-c Ongoing -- Increase Earthquake Risk Awareness.</i> The Whatcom County Sheriff's Office Division of Emergency Management promotes earthquake awareness on a continual and ongoing basis.	1	Whatcom County Sheriff's Office Division of Emergency Management	M	O	Local, State, Federal	
	EQ-1 Increase Earthquake Risk Awareness Tasks: 1. Develop an outreach program about earthquake risk and mitigation activities in homes, schools, and businesses.	2	Whatcom County Sheriff's Office Division of Emergency Management	H	M	Local, state, FEMA, Private, Other	\$100,000
	EQ-2 Conduct Outreach to Builders, Architects, Engineers, and Inspector Tasks: 1. Training building department staff and officials on Form ATC-20 for post-earthquake building evaluation. The ATC-20 report and addendum, prepared by the Applied Technology Council, provide procedures and guidelines for making on-the-spot evaluations and decisions regarding continued use and	2,3	Whatcom County Sheriff's Office Division of Emergency Management	M	M	Local, state, FEMA, Private, Other	\$75,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	occupancy of earthquake-damaged buildings.						
Erosion	ER-1 Map and Assess Vulnerability to Erosion Tasks: 1. Use satellite and aerial photography to identify and map erosion hazard areas. 2. Develop and maintain a database to track community vulnerability to erosion. 3. Use GIS to identify concentrations of at-risk structures.	1	Whatcom County Sheriff's Office Division of Emergency Management	M	M	Local, State, FEMA, Private, Other	\$150,000
Landslides	LS-a Ongoing -- Manage Development in Landslide Hazard Areas. Whatcom County Planning and Development Services does manage development in Landslide Hazard Areas on a continual and ongoing basis.	1, 3	Whatcom County Planning and Development Services	M	O	Local	
	LS-1 Map and Assess Vulnerability to Landslides Tasks:	1, 2	Whatcom County Sheriff's Office Division of	H	M	Local, State, FEMA,	\$150,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<ol style="list-style-type: none"> Study areas where riparian landslides may occur. Complete an inventory of locations where critical facilities, other buildings, and infrastructure are vulnerable to landslides. Develop and maintaining a database to track community vulnerability to landslides. 		Emergency Management			Private, Other	
Flooding	<i>FL-a Ongoing -- Establish Local Funding Mechanisms for Flood Mitigation</i>	1	Lead responsibility lies Flood Zone & Surface Water/ Public Works	M	O	Local, state, FEMA, Private, Other	
	<i>FL-b Ongoing -- Remove Existing Structures from Flood Hazard Areas</i>	1	Lead responsibility lies Flood Zone & Surface Water/ Public Works	M	O	Local, state, FEMA, Private, Other	
	<i>FL-c Ongoing -- Improve Stormwater</i>	1	Lead	M	O	Local,	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<i>Drainage System Capacity</i>		responsibility lies Flood Zone & Surface Water/ Public Works			state, FEMA, Private, Other	
	<i>FL-d Ongoing -- Conduct Regular Maintenance for Drainage Systems and Flood Control Structures</i>	1	Lead responsibility lies Flood Zone & Surface Water/ Public Works	M	O	Local, state, FEMA, Private, Other	
	<i>FL-e Ongoing -- Protect Infrastructure</i>	1	Lead responsibility lies Flood Zone & Surface Water/ Public Works for any infrastructure that is County property	M	O	Local, state, FEMA, Private, Other	
	<i>FL-f Ongoing -- Construct Flood Control Measures</i>	1	Lead responsibility	M	O	Local, state,	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
			lies Flood Zone & Surface Water/ Public Works for any infrastructure that is County property			FEMA, Private, Other	
	<i>FL-g Ongoing -- Protect and Restore Natural Flood Mitigation Features</i>	1	Lead responsibility lies Flood Zone & Surface Water/ Public Works in repetitive problem areas	M	O	Local, state, FEMA, Private, Other	
Coastal Flooding	CF-1 Map and Assess Vulnerability to Coastal Flooding Tasks: 1. Model various “what-if” scenarios to estimate potential vulnerabilities in order to develop coastal mitigation priorities. 2. Use GIS to map hazard areas, at-risk	1, 2, 5	Whatcom County Sheriff’s Office Division of Emergency Management	M	M	Local, State, FEMA, Private, Other	\$250,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	structures, and associated hazards (e.g., flood and storm surge) to assess high-risk areas. 3. Develop an inventory of public buildings and infrastructure that may be particularly vulnerable to coastal flooding.						
Winter Weather	WW-a. Reduce Impacts to Roadways	1	Whatcom County Public Works.	M	O	Local	
	WW-b. Conduct Winter Weather Risk Awareness Activities	1	Whatcom County Sheriff's Office Division of Emergency Management	M	O	Local	
	WW-1 Conduct Winter Weather Risk Awareness Activities Tasks: 1. Inform the public about severe winter weather impacts. 2. Distribute family and traveler emergency preparedness information	1, 2	Whatcom County Sheriff's Office Division of Emergency Management	M	M	Local, State, FEMA, Private, Other	\$50,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	about severe winter weather hazards. 3. Encourage homeowners to install carbon monoxide monitors and alarms. 4. Educating citizens that all fuel-burning equipment should be vented to the outside.						
	WW-2 Assist Vulnerable Populations Tasks: 1. Identify specific at-risk populations that may be exceptionally vulnerable in the event of long-term power outages. 2. Organize outreach to vulnerable populations, including establishing and promoting accessible heating centers in the community.	1	Task 1: Whatcom County Sheriff's Office Division of Emergency Management Task 2: Whatcom County Health Department	M	M	Local, State, FEMA, Private, Other	\$100,000
Subsidence	SU-1 Map and Assess Vulnerability to Subsidence Tasks: 1. Using GIS to map areas that are susceptible to subsidence. 2. Identify and map old mining areas or		Whatcom County Sheriff's Office Division of Emergency Management	M	M	Local, State, FEMA, Private, Other	\$75,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	geologically unstable terrain so that development can be prevented or eliminated. 3. Improve accuracy of hazard area maps to educate residents about unanticipated risks.						
Tsunami	<i>TSU-a Ongoing -- Map and Assess Vulnerability to Tsunami</i>	1	Lead responsibility lies with the DNR. They have completed all mapping in Whatcom County in 2013.	M	O	State, Other	
	<i>TSU-b Ongoing -- Manage Development in Tsunami Hazard Areas</i>	1, 3	Lead responsibility lies with Whatcom County Planning Department	M	O	Local	
	TSU-1 Map and Assess Vulnerability to		Whatcom	H	S	Local,	\$250,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	Tsunami Tasks: 1. Using updated tsunami indentation modeling from DNR, develop and maintain a database to track community vulnerability to tsunamis. 2. Offer tsunami hazard mapping online for residents and design professionals. 3. Educate map users on the appropriate uses and limitations of maps. 4. More accurately map problem areas to educate residents about unanticipated risks.		County Sheriff's Office Division of Emergency Management			State, FEMA, Private, Other	
	TSU-2 Manage Development in Tsunami Hazard Areas Tasks: 1. Encourage awareness of and compliance with the IBC's non-mandatory appendix on tsunami-generated flood hazard. 2. Where modeled wave height is low, encourage new development that is configured to minimize tsunami losses	1,3,5	Whatcom County Planning and Development Services	H	S	Local, State, FEMA, Private, Other	\$25,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	by using site planning strategies that slow water currents, steer water forces, and block water forces.						
	TSU-3 Increase Public Awareness of Tsunami Hazard Tasks: 1. Educate citizens regarding the dangers of tsunami and inform them of emergency procedures and routes to use should a tsunami warning be issued. 2. Designate tsunami inundation zones and evacuation routes. 3. Conduct tsunami evacuation drills. 4. Develop maps showing possible tsunami inundation areas. 5. Participating in NOAA's TsunamiReady Community program.	2	Whatcom County Sherriff's Office Division of Emergency Management	H	S	Local, State, FEMA, Private, Other	\$150,
	WF-a Ongoing -- Incorporate Wildfire Mitigation in the Comprehensive Plan The Whatcom County Sheriff's Office Division of Emergency Management has been	1	Whatcom County Sheriff's Office Division of Emergency	M	O	Local	

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
Wildfire	working with the fire community to write a Wildland Fire plan for Whatcom County.		Management				
	WF-b Ongoing -- Participate in Firewise Program. Firewise is managed by the Whatcom Conservation District and is a continual improvement process.	1	Whatcom Conservation District	M	O	State, Local	
	WF-1 Map and Assess Vulnerability to Wildfire Tasks: 1. Use GIS mapping of wildfire hazard areas to facilitate analysis and planning decisions through comparison with zoning, development, infrastructure, etc. 2. Develop and maintain a database to track community vulnerability to wildfire. 3. Create a wildfire scenario to estimate potential loss of life and injuries, the types of potential damage, and existing	1,2	Whatcom County Sheriff's Office Division of Emergency Management	H	S	Local, state, FEMA, Private, Other	\$250,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	vulnerabilities within a community to develop wildfire mitigation priorities.						
	WF-2 Require or Encourage Fire-Resistant Construction Techniques Tasks: 1. Encourage the use of non-combustible materials for new construction in wildfire hazard areas. 2. Using fire resistant roofing and building materials in remodels, upgrades, and new construction. 3. Encourage enclosing the foundations of homes and other buildings in wildfire-prone areas, rather than leaving them open and potentially exposing undersides to blown embers or other materials.		Whatcom County Planning and Development Services	H	S	Local, state, FEMA, Private, Other	\$125,000
	WF-3 Create Defensible Space Around Structures and Infrastructure Tasks: 1. Encourage creating buffers around residential and non-residential structures through the removal or reduction of flammable vegetation,		Whatcom County Sheriff's Office Division of Emergency Management	H	S	Local, state, FEMA, Private, Other	\$125,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	including vertical clearance of tree branches. 2. Encourage replacing flammable vegetation with less flammable species. 3. Encourage creating defensible zones around power lines, oil and gas lines, and other infrastructure systems.						
	WF-4 Participate in Firewise Program Tasks: 1. Expand the “Firewise Communities/USA” recognition program sponsored by the National Wildlife Coordinating Group (firewise.org). 2. Sponsor Firewise workshops for local officials, developers, civic groups, and neighborhood/homeowners’ associations. 3. Publicize Firewise guidance and encourage best practices in Whatcom County.		Whatcom County Conservation District	H	S	Local, state, FEMA, Private, Other	\$125,000
	WF-5 Increase Wildfire Risk Awareness Tasks:		Whatcom County Sheriff’s Office Division of	H	S	Local, state, FEMA,	\$75,000

**UNINCORPORATED WHATCOM COUNTY
IDENTIFIED MITIGATION ACTIONS 2021-2025**

MITIGATION ACTIONS		(1) Goals	(2) Lead Responsibility for Carrying out Measure	(3) Priority	(4) Timeline	(5) Funding Source	(6) Estimated Cost
Hazard	Action Items						
	<ol style="list-style-type: none"> 1. Offer GIS hazard mapping online for residents, developers, and design professionals. 2. Organize Fire District tours to show elected officials and planners the most vulnerable areas of the community's wildland-urban interface and increase their understanding of risks. 3. Develop partnerships with neighborhood groups, homeowners' associations, and others to conduct outreach activities. 4. Conduct education programs in schools. 5. Educate the public about evacuation procedures. 6. Form a citizen plan implementation steering committee to monitor progress of local mitigation actions. Include a mix of representatives from neighborhoods, local businesses, and local government. 		Emergency Management			Private, Other	

Unincorporated Whatcom County Annual Review and Progress for Hazard-Specific Mitigation Actions 2021-2025

Progress monitoring means tracking the implementation of the hazard specific mitigation actions over time. Each jurisdiction must identify how, when, and by whom action items will be monitored. The responsible agency assigned to each mitigation action is responsible for tracking and reporting on each of their actions.

Annual review and progress reporting includes the following:

- Step One:** Identify mitigation actions that your planning team has identified for the annual review. The planning team has the option to address ALL action items, or only those that should be acted on during each review cycle.
- Step Two:** Use the table below to track annual progress. For each action item selected for annual review insert the appropriate letter that indicates the status of that action item.
- Step Three:** Complete a progress report form as illustrated in Appendix G for each mitigation action item selected for annual review
- Step Four:** Submit the completed form(s) to the Whatcom County DEM.

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
MULTIPLE HAZARDS						
MU-a Ongoing -- Adopt and Enforce Building Codes						
MU-b Ongoing -- Improve Household Disaster Preparedness						
MU-1 Assess Community Risk - Obtain local data including tax parcels, building footprints, critical facility locations, and other information for use in risk analysis						
MU-1 Assess Community Risk - Develop and maintain a database to track community vulnerability (i.e., exposure in known hazard areas)						
MU-1 Assess Community Risk - Establish a process to coordinate with state and Federal agencies to maintain up-to-date hazard data, maps, and assessments						
MU-1 Assess Community Risk - Update aerial photography current, especially in rapidly developing areas						
MU-1 Assess Community Risk - Identify the most at-risk critical facilities and evaluating potential mitigation techniques						
MU-2 Integrate Mitigation into Local Planning - Incorporate risk assessment and hazard mitigation principles into comprehensive planning efforts						
MU-2 Integrate Mitigation into Local Planning - Incorporate a stand-alone element for hazard mitigation into the local comprehensive (land use) plan						
MU-2 Integrate Mitigation into Local Planning - Incorporate hazard mitigation into broader growth management (i.e.,						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Smart Growth) initiatives.						
MU-2 Integrate Mitigation into Local Planning - Incorporate a hazard risk assessment into the local development and subdivision review process.						
MU-3 Monitor Mitigation Plan Implementation - Form a plan implementation steering committee to monitor progress on local mitigation actions. Include a mix of representatives from neighborhoods, local businesses, and local government						
MU-3 Monitor Mitigation Plan Implementation - Prepare a plan implementation monitoring schedule and outlining roles for those responsible for monitoring (i.e., local departments, agencies, and committees)						
MU-3 Monitor Mitigation Plan Implementation - Prepare and submit an annual plan implementation progress report to the local elected body						
MU-4 Protect Structures - Acquire or relocating structures located in hazard areas						
MU-4 Protect Structures - Assess the need to retrofit fire and police stations to become hazard resistant						
MU-5 Increase Hazard Education and Risk Awareness - Develop and implement a multi-hazard public awareness program						
MU-5 Increase Hazard Education and Risk Awareness - Establish a “hazard awareness week” in coordination with the media to promote hazard awareness (seasonal)						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
MU-5 Increase Hazard Education and Risk Awareness - Create a speaker's bureau for disaster-related topics that focus on mitigation and preparedness measures						
<i>Add New Action Items if Applicable</i>						
DROUGHTS/HEAT WAVES						
D-1 Assess Vulnerability to Drought Risk - Gather and analyze water and climate data to gain a better understanding of local climate and drought history						
D-1 Assess Vulnerability to Drought Risk - Identify factors that affect the severity of a drought						
D-1 Assess Vulnerability to Drought Risk - Identify available water supplies						
D-1 Assess Vulnerability to Drought Risk - Determine how the community and its water sources have been impacted by droughts in the past						
EARTHQUAKES						
<i>EQ-a Ongoing -- Incorporate Earthquake Mitigation into Local Planning.</i> Whatcom County has incorporated building mitigation strategies for earthquakes into the Comprehensive Plan.						
<i>EQ-b Ongoing -- Conduct Inspections of Building Safety</i> Building safety inspections are carried out on a continual and regular basis.						
<i>EQ-c Ongoing -- Increase Earthquake Risk Awareness.</i> The Whatcom County Sheriff's Office Division of Emergency Management promotes earthquake awareness on a continual and ongoing basis.						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
EQ-1 Increase Earthquake Risk Awareness - Develop an outreach program about earthquake risk and mitigation activities in homes, schools, and businesses						
EQ-2 Conduct Outreach to Builders, Architects, Engineers, and Inspectors - Training building department staff and officials on Form ATC-20 for post-earthquake building evaluation. The ATC-20 report and addendum, prepared by the Applied Technology Council, provide procedures and guidelines for making on-the-spot evaluations and decisions regarding continued use and occupancy of earthquake-damaged buildings						
<i>Add New Action Items if Applicable</i>						
EROSION						
ER-1 Map and Assess Vulnerability to Erosion - Use GIS to identify and map erosion hazard areas						
ER-1 Map and Assess Vulnerability to Erosion - Develop and maintain a database to track community vulnerability to erosion						
ER-1 Map and Assess Vulnerability to Erosion - Use GIS to identify concentrations of at-risk structures						
<i>Add New Action Items if Applicable</i>						
LANDSLIDES						
LS-a Ongoing -- Manage Development in Landslide Hazard Areas. Whatcom County Planning and Development Services does manage development in Landslide Hazard Areas on a continual and ongoing basis.						
LS-1 Map and Assess Vulnerability to Landslides – Study areas where						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
riparian landslides may occur						
LS-1 Map and Assess Vulnerability to Landslides - Complete an inventory of locations where critical facilities, other buildings, and infrastructure are vulnerable to landslides						
LS-1 Map and Assess Vulnerability to Landslides - Use GIS to identify and map landslide hazard areas						
LS-1 Map and Assess Vulnerability to Landslides - Develop and maintaining a database to track community vulnerability to landslides						
Add New Action Items if Applicable						
FLOODING						
FL-a. Comprehensive Flood Hazard Management Plan						
FL-b. Adopt and Enforce Building Codes and Development Standards						
FL-c. Improve Flood Risk Assessment						
FL-d. Join or Improve Compliance with NFIP						
FL-e. Manage the Floodplain Beyond Minimum Requirements						
FL-f. Participate in the CRS						
FL-g. Remove Existing Structures from Flood Hazard Areas						
FL-h. Improve Stormwater Drainage System Capacity						
FL-i. Conduct Regular Maintenance for Drainage Systems and Flood Control Structures						
FL-j. Protect Infrastructure						
FL-k. Protect Critical Facilities						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
FL-l. Construct Flood Control Measures						
FL-m. Protect and Restore Natural Flood Mitigation Features						
FL-1 Incorporate Flood Mitigation in Local Planning						
FL-2 Form Partnerships to Support Floodplain Management						
FL-3 Limit or Restrict Development in Floodplain Areas						
FL-4 Improve Stormwater Management Planning						
FL-5 Adopt Policies to Reduce Stormwater Runoff						
FL-6 Establish Local Funding Mechanisms for Flood Mitigation						
FL-7 Elevate or Retrofit Structures and Utilities						
FL-8 Flood proof Residential and Non-Residential Structures						
FL-9 Preserve Floodplains as Open Space						
FL-10 Increase Awareness of Flood Risk and Safety						
FL-11 Educate Property Owners about Flood Mitigation Techniques						
Add New Action Items if Applicable						
ALLUEVIAL FANS						
AF-a. Map and Assess Alluvial Fans Hazards						
AF-b. Manage Development in Alluvial Fan Hazard Areas						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
AF-c. Promote or Require Site and Building Design Standards to Minimize Risk on Alluvial Fans						
AF-d. Remove Existing Buildings and Infrastructure from Erosion/Alluvial Fan Hazard Areas						
AF-e. Develop Basin-Specific Plans for Alluvial Fan Hazard Areas						
AF-f. Construct Mitigation Measures on Alluvial Fan Hazard Areas						
AF-g. Increase Awareness of Alluvial Fan Hazards						
<i>Add New Action Items if Applicable</i>						
COASTAL FLOODING (including STORM SURGE)						
CF-1 Map and Assess Vulnerability to Coastal Flooding - Model various “what-if” scenarios to estimate potential vulnerabilities in order to develop coastal mitigation priorities						
CF-1 Map and Assess Vulnerability to Coastal Flooding - Use GIS to map hazard areas, at-risk structures, and associated hazards (e.g., flood and storm surge) to assess high-risk areas						
CF-1 Map and Assess Vulnerability to Coastal Flooding - Develop an inventory of public buildings and infrastructure that may be particularly vulnerable to coastal flooding						
<i>Add New Action Items if Applicable</i>						
WINTER WEATHER						
WW-1 Conduct Winter Weather Risk Awareness Activities - Inform the public about severe winter weather impacts						
WW-1 Conduct Winter Weather Risk						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Awareness Activities - Distribute family and traveler emergency preparedness information about severe winter weather hazards						
WW-1 Conduct Winter Weather Risk Awareness Activities - Encourage homeowners to install carbon monoxide monitors and alarms						
WW-1 Conduct Winter Weather Risk Awareness Activities - Educating citizens that all fuel-burning equipment should be vented to the outside						
WW-2 Assist Vulnerable Populations - Organize outreach to vulnerable populations, including establishing and promoting accessible heating centers in the community						
<i>Add New Action Items if Applicable</i>						
SUBSIDENCE						
SU-1 Map and Assess Vulnerability to Subsidence - Use GIS to map areas that are susceptible to subsidence						
SU-1 Map and Assess Vulnerability to Subsidence - Identify and map old mining areas or geologically unstable terrain so that development can be prevented or eliminated						
SU-1 Map and Assess Vulnerability to Subsidence - Improve accuracy of hazard area maps to educate residents about unanticipated risks						
<i>Add New Action Items if Applicable</i>						
TSUNAMI						
TSU-1 Map and Assess Vulnerability to Tsunami - Using GIS to map areas that are vulnerable to inundation by tsunamis						
TSU-1 Map and Assess Vulnerability to						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Tsunami - Develop and maintain a database to track community vulnerability to tsunamis						
TSU-1 Map and Assess Vulnerability to Tsunami - Offer GIS hazard mapping online for residents and design professionals						
TSU-1 Map and Assess Vulnerability to Tsunami - Educate map users on the appropriate uses and limitations of maps						
TSU-1 Map and Assess Vulnerability to Tsunami - More accurately map problem areas to educate residents about unanticipated risks						
TSU-2 Manage Development in Tsunami Hazard Areas - Adopt and enforce building codes and design standards that contain requirements for tsunami-resistant design						
TSU-2 Manage Development in Tsunami Hazard Areas - Encourage new development that is configured to minimize tsunami losses by using site planning strategies that slow water currents, steer water forces, and block water forces						
TSU-3 Increase Public Awareness of Tsunami Hazard - Educate citizens regarding the dangers of tsunami and inform them of emergency procedures and routes to use should a tsunami warning be issued						
TSU-3 Increase Public Awareness of Tsunami Hazard - Conduct tsunami drills						
TSU-3 Increase Public Awareness of Tsunami Hazard - Designate tsunami inundation zones and evacuation routes						
TSU-3 Increase Public Awareness of Tsunami Hazard - Develop maps showing possible tsunami inundation areas						
TSU-3 Increase Public Awareness of						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
Tsunami Hazard - Participating in NOAA's TsunamiReady Community program						
<i>Add New Action Items if Applicable</i>						
WILDFIRE						
WF-1 Map and Assess Vulnerability to Wildfire - Use GIS mapping of wildfire hazard areas to facilitate analysis and planning decisions through comparison with zoning, development, infrastructure, etc						
WF-1 Map and Assess Vulnerability to Wildfire - Develop and maintain a database to track community vulnerability to wildfire						
WF-1 Map and Assess Vulnerability to Wildfire - Create a wildfire scenario to estimate potential loss of life and injuries, the types of potential damage, and existing vulnerabilities within a community to develop wildfire mitigation priorities						
WF-2 Require or Encourage Fire-Resistant Construction Techniques - Encourage the use of non-combustible materials for new construction in wildfire hazard areas						
WF-2 Require or Encourage Fire-Resistant Construction Techniques - Using fire resistant roofing and building materials in remodels, upgrades, and new construction						
WF-2 Require or Encourage Fire-Resistant Construction Techniques - Encourage enclosing the foundations of homes and other buildings in wildfire-prone areas, rather than leaving them open and potentially exposing undersides to blown embers or other materials						
WF-3 Create Defensible Space Around Structures and Infrastructure - Encourage creating buffers around residential and						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
non-residential structures through the removal or reduction of flammable vegetation, including vertical clearance of tree branches						
WF-3 Create Defensible Space Around Structures and Infrastructure - Encourage replacing flammable vegetation with less flammable species						
WF-3 Create Defensible Space Around Structures and Infrastructure - Encourage creating defensible zones around power lines, oil and gas lines, and other infrastructure systems						
WF-4 Participate in Firewise Program - Expand the “Firewise Communities/USA” recognition program sponsored by the National Wildlife Coordinating Group (firewise.org)						
WF-4 Participate in Firewise Program - Sponsor Firewise workshops for local officials, developers, civic groups, and neighborhood/homeowners’ associations						
WF-4 Participate in Firewise Program - Publicize Firewise guidance and encourage best practices in Whatcom County						
WF-5 Increase Wildfire Risk Awareness - Offer GIS hazard mapping online for residents, developers, and design professionals						
WF-5 Increase Wildfire Risk Awareness - Organize Fire District tours to show elected officials and planners the most vulnerable areas of the community’s wildland-urban interface and increase their understanding of risks						
WF-5 Increase Wildfire Risk Awareness - Develop partnerships with neighborhood groups, homeowners’ associations, and others to conduct outreach activities						

Unincorporated Whatcom County Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter): A. Completed; B. In Progress (on schedule); C. In Progress (delayed); D. Delayed Until Funding Available; E. Canceled					
	2021	2022	2023	2024	2025	Notes on yearly progress
WF-5 Increase Wildfire Risk Awareness - Conduct education programs in schools						
WF-5 Increase Wildfire Risk Awareness - Educate the public about evacuation procedures						
WF-5 Increase Wildfire Risk Awareness - Form a citizen plan implementation steering committee to monitor progress of local mitigation actions. Include a mix of representatives from neighborhoods, local businesses, and local government						
<i>Add New Action Items if Applicable</i>						
VOLCANIC						
VOL-1 – Update the 2019 Mount Baker Action Plan						
VOL-2 – Update the latest USGS geologic risks related to Mount Baker and publish in Whatcom County GIS						
VOL-3 – Conduct Whatcom County table top exercise on updated plans and risks.						
<i>Add New Action Items if Applicable</i>						

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SECTION 4. PLAN MAINTENANCE

Annual Review and Updates to the Plan

The Plan will be reviewed annually by each of the major jurisdictions that have adopted the Plan. It will be evaluated to determine the effectiveness of mitigation programs, projects, or other related activities and changed accordingly. As new hazard threats arise, or mitigation data becomes available, it will be incorporated into the Plan. Each adopting jurisdiction is responsible for the section of the Plan that refers to its jurisdiction and to provide written changes, if any, annually to Whatcom County DEM prior to each annual public meeting.

Note: Each participating jurisdiction is responsible for monitoring and performing an annual review of their proposed 2021 to 2025 hazard specific action items. Instructions are found in the Annual Review and Progress Report of their Community Profile.

By adopting the Plan, jurisdictions will notify the Whatcom County DEM of status updates regarding assets, mitigation planning, or general updates that occur during the 5-year cycle for the subsequent Plan update. If necessary, a public meeting will be held with representatives of the adopting jurisdictions present to answer any questions or concerns regarding their section of the Plan. Public notices will be posted to invite public participation in the process.

The County will use this plan as a resource in its planning efforts with other planning endeavors such as the Whatcom County Development Standards, and the Comprehensive Flood Hazard Management Plan, as well as the Comprehensive Emergency Management Plan. Local participating political jurisdictions will update Whatcom County DEM to any changes in how they integrated the plan into their capital improvement plans or comprehensive planning efforts during the 5-year cycle for the subsequent Plan update.

A written report containing a summary of any changes based on annual reviews will be produced by the DEM and sent to the WSHMO following each annual review. The annual reviews by each jurisdiction and the public meeting will conclude by November 30 each year. The DEM will facilitate the review process.

Major Plan Update and Plan Reviews

A major update to the Plan will be performed and published every 5 years. It will contain all changes in strategy, identified hazards, and project updates, and will incorporate new data as it relates to the Plan. The public will also be involved in this process through public meetings coordinated by the DEM. A copy of the updated Plan will be delivered to the WSHMO for approval and forwarding to FEMA, Region X. All the jurisdictions that have adopted the Plan within Whatcom County will receive a copy of the updated Plan once it is approved.

As changes are made to other plans, the plan will be used to review them for consistency, and changes will be incorporated into other plans as necessitated by review and update of this plan.

The next 5-year update will be delivered to the WSHMO within 30 days following December 31, 2025.

Date	Product
August 2021	First annual review/update
August 2022	Second annual review/update
August 2023	Third annual review/update
August 2024	Fourth annual review/update
January thru December 2025	Major Plan Update and resubmission

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SECTION 5: APPENDICES

Appendix A: Capabilities Identification

Appendix B: List of Acronyms and Abbreviations

Appendix C: Whatcom County Risk Assessment & Mitigation Strategies for Wildland Fire

Appendix D: National Flood Insurance Program Participation (NFIP)

Appendix E: Whatcom County Mitigation Ideas

Appendix F: Mitigation Action Progress Report Form

Appendix G: Whatcom County Contact List

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APPENDIX A: CAPABILITIES IDENTIFICATION

Types of Capabilities

The ability of a jurisdiction to develop an effective hazard mitigation plan depends upon its capability to implement policy and programs which is dependent on the type of jurisdiction. This ability comes from the different types of capabilities a jurisdiction maintains. The FEMA 386 publication describes a capability assessment and outlines the types of capabilities that should be considered:

- Legal and Regulatory
- Administrative and Technical
- Fiscal

Legal and regulatory capabilities refer to the laws, regulations, authorities, and policies that govern current and potential mitigation measures. This can be broken down into two basic areas, local and extra-local. Local are those generated by the local governing agency that the jurisdiction has control over. Extra-local laws, regulations, etc. are those from a different level of government. Administrative and technical capabilities refer to a jurisdiction's staff and technical resources, as well as completed plans and studies that have considered, directly or indirectly, the mitigation of natural hazards. Technical capabilities also include the existing electronic and systemic resources. Fiscal capabilities refer to the financial resources available to achieve the identified mitigation strategies.

For the organizational purposes of this plan, administrative capabilities are organizations, agencies or departments responsible for implementing or partnering to implement mitigation measures. The fiscal capabilities at the City level are thus correlated to the budgets and expenditures of these departments as well as the separate funds available for mitigation-related activities. For special purpose districts, fiscal capabilities center on levies, contracts, and grants.

For the purposes of this Plan the 10 jurisdictions have been placed into three categories or groups of jurisdictions: Cities/Towns, School Districts, and Special Purpose Districts.

Additionally, there are **State and Federal Capabilities**. These are the regulations that dictate what a specified jurisdiction in Washington can and cannot pursue with regards to mitigation, as well as what assistance may be available. They essentially cover the same 4 capability areas that are covered in local capabilities: **Legal and Regulatory, Administrative, Technical, and Fiscal**.

Extra-Local Fiscal Resources

One of the key issues in implementing mitigation measures is finding sufficient monetary resources to do it. Fiscal resources in the form of grants are available to jurisdictions in pursuing hazard reduction activities. Grants may be administered from the federal or state level, and in some instances may be administered by the private or non-profit sector. Each grant has specific requirements and uses varying elements to conduct benefit-cost analysis. The purpose of the benefit-cost analysis is to determine if the benefits of the project exceed the costs of the project. Jurisdictions should coordinate with the administering agency to understand the program-specific requirements and conduct the required analyses.

For example, if either Hazard Mitigation Grant Program (HMGP) or Pre-Disaster Mitigation (PDM) funding is involved in a hazard mitigation project, the jurisdiction involved will conduct a benefit-cost analysis based on guidelines provided by U.S. Department of Homeland Security, FEMA, and Washington Emergency Management Division on how to determine cost-effectiveness of mitigation projects and how to calculate the benefit-cost ratio. Both the HMGP and PDM require a benefit-cost ratio of at least 1.0 for a project to be considered for funding.

Contained on the following pages are some of the major federal resources that currently may be used to secure funding to pursue implementation of mitigation measures. In addition, there is a list of State agencies that have mitigation capabilities and, in some cases, have funds that can assist with mitigation projects. Because the funding source, available funding, requirements, and type and number of grants is constantly changing, this assessment will outline neither all potential grants nor the detailed requirements of those grants that are mentioned. The websites listed here were accessed and confirmed just prior to the finalization of this document.

Federal Capabilities

The Federal Emergency Management Agency's (FEMA) Mitigation Grant programs provide funding for eligible mitigation activities that reduce disaster losses and protect life and property from future disaster damages. Currently, FEMA administers the Hazard Mitigation Grant Program (HMGP), the Flood Mitigation Assistance (FMA) program, and the Pre-Disaster Mitigation (PDM) program, the Repetitive Flood Claims (RFC) program, and the Severe Repetitive Loss (SRL) program.

FEMA's mitigation grants are provided to eligible Applicant States/Tribes/Territories that, in turn, provide sub-grants to local governments. The Applicant selects and prioritizes applications developed and submitted to them by local jurisdictions to submit to FEMA for grant funds.

Prospective Sub-applicants should consult the official designated point of contact for their Applicant State/Tribe/Territory for further information regarding specific program and application requirements.

For more information on the mitigation grant programs, see below:

Pre-Disaster Mitigation Grant Program (PDM)

<http://www.fema.gov/pre-disaster-mitigation-grant-program>

The PDM program provides funds to states, territories, Indian tribal governments, communities, and universities for hazard mitigation planning and the implementation of mitigation projects prior to a disaster event. Funding these plans and projects reduces overall risks to the population and structures, while also reducing reliance on funding from actual disaster declarations. PDM grants are to be awarded on a competitive basis and without reference to state allocations, quotas, or other formula-based allocation of funds.

Hazard Mitigation Grant Program (HMGP)

<http://www.fema.gov/hazard-mitigation-grant-program-hmgrp>

The HMGP provides grants to States and local governments to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of the HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster. The HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Flood Mitigation Assistance (FMA) Program

<http://www.fema.gov/flood-mitigation-assistance-program>

The FMA program was created as part of the National Flood Insurance Reform Act (NFIRA) of 1994 (42 U.S.C. 4101) with the goal of reducing or eliminating claims under the [National Flood Insurance Program](#) (NFIP). FEMA provides FMA funds to assist States and communities implement measures that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insurable under the National Flood Insurance Program.

Repetitive Flood Claims Program (RFC)

<http://www.fema.gov/repetitive-flood-claims-program>

The RFC grant program was authorized by the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (P.L. 108–264), which amended the National Flood Insurance Act (NFIA) of 1968 (42 U.S.C. 4001, et al). Up to \$10 million is available annually for FEMA to provide RFC

funds to assist States and communities reduce flood damages to insured properties that have had one or more claims to the [National Flood Insurance Program \(NFIP\)](#).

Severe Repetitive Loss Program (SRL)

<http://www.fema.gov/severe-repetitive-loss-program>

The SRL grant program was authorized by the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, which amended the National Flood Insurance Act of 1968 to provide funding to reduce or eliminate the long-term risk of flood damage to severe repetitive loss (SRL) structures insured under the [National Flood Insurance Program \(NFIP\)](#).

The definition of severe repetitive loss as applied to this program was established in section 1361A of the National Flood Insurance Act, as amended (NFIA), 42 U.S.C. 4102a. An SRL property is defined as a **residential property** that is covered under an NFIP flood insurance policy and: (a) That has at least four NFIP claim payments (including building and contents) over \$5,000 each, and the cumulative amount of such claims payments exceeds \$20,000; or (b) For which at least two separate claims payments (building payments only) have been made with the cumulative amount of the building portion of such claims exceeding the market value of the building. For both (a) and (b) above, at least two of the referenced claims must have occurred within any ten-year period, and must be greater than 10 days apart.

AFGP Fire Prevention & Safety Grants (DHS)

www.fema.gov/firegrants/fpsgrants/index.shtm

The Fire Prevention and Safety Grants (FP&S) are part of the Assistance to Firefighters Grants (AFG) and are under the purview of the Grant Programs Directorate in the Federal Emergency Management Agency. FP&S grants support projects that enhance the safety of the public and firefighters from fire and related hazards. The primary goal is to target high-risk populations and mitigate high incidences of death and injury. Examples of the types of projects supported by FP&S include fire prevention and public safety education campaigns, juvenile firesetter interventions, media campaigns, and arson prevention and awareness programs. In fiscal year 2005, Congress reauthorized funding for FP&S and expanded the eligible uses of funds to include Firefighter Safety Research and Development.

Fire Prevention and Safety Grants

<http://www.firegrantshelp.com/search-grants/453560-fire-prevention-and-safety-fp-s-grants/>

FP&S offers grants to support activities in two categories:

- activities designed to reach high-risk target groups and mitigate incidences of death and injuries caused by fire and fire-related hazards (“Fire Prevention and Safety Activity”);
- research and development activities aimed at improving firefighter safety (“Firefighter Safety Research and Development Activity”).

Buffer Zone Protection Program (BZPP)

http://www.dhs.gov/files/programs/gc_1265397547397.shtm

BZPP provides grants to build security and risk-management capabilities at the State and local level in order to secure pre-designated Tier I and Tier II critical infrastructure sites, including chemical facilities, financial institutions, nuclear and electric power plants, dams, stadiums, and other high-risk/high-consequence facilities.

Community Development Block Grants (CDBG)

<http://www.hud.gov/offices/cpd/communitydevelopment/programs/>

These grants are a source of funding for hazard mitigation initiatives. The objective of the CDBG program is to assist communities in rehabilitating substandard dwelling structures and to expand economic opportunities, primarily for low-to-moderate-income families. Following a Presidential declared disaster, CDBG funds may be used for long-term needs such as acquisition, reconstruction, and redevelopment of disaster-affected areas.

Disaster Preparedness and Response for Schools and Universities

<http://www.edfacilities.org/rl/disaster.cfm>

National Clearinghouse for Educational Facilities (NCEF's) resource list of links, books, and journal articles on building or retrofitting schools to withstand natural disasters and terrorism, developing emergency preparedness plans, and using school buildings to shelter community members during emergencies.

Emergency Management Program Grants (EMPG)

<http://www.fema.gov/non-disaster-grant-management-system>

The EMPG program provides resources to assist State and local governments to sustain and enhance all-hazards emergency management capabilities. States have the opportunity to use EMPG funds to further strengthen their ability to support emergency management activities while simultaneously addressing issues of national concern as identified in the National Priorities of the National Preparedness Guidelines. EMPG has a 50 percent Federal and 50 percent State cost-share cash or in-kind match requirement.

Environmental Protection Agency's National Estuary Program

<http://www.epa.gov/nep/>

The EPA's National Estuary Program was established by Congress in 1987 to improve the quality of estuaries of national importance. The [Clean Water Act Section 320](#) directs EPA to develop plans for attaining or maintaining water quality in an estuary. This includes protection of public

water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on water, requires that control of point and nonpoint sources of pollution to supplement existing controls of pollution. In several cases, more than one State is participating in a National Estuary Program. Each program establishes a [Comprehensive Conservation and Management Plan](#) to meet the goals of Section 320.

Hazardous Materials Emergency Preparedness (HMEP) Grant Program

<http://hazmat.dot.gov/training/state/hmep/hmep.htm>

The Hazardous Materials Emergency Preparedness (HMEP) grant program is intended to provide financial and technical assistance as well as national direction and guidance to enhance State, Territorial, Tribal, and local hazardous materials emergency planning and training. The HMEP Grant Program distributes fees collected from shippers and carriers of hazardous materials to emergency responders for hazmat training and to Local Emergency Planning Committees (LEPCs) for hazmat planning.

Homeland Security Grant Program

<http://www.fema.gov/government/grant/hsgp/index.shtm>

This core assistance program provides funds to build capabilities at the State and local levels through planning, organization, equipment, training, and exercise activities. State Homeland Security Program (SHSP) also supports the implementation of State homeland security strategies and key elements of the national preparedness architecture, including the National Preparedness Guidelines, the National Incident Management System and the National Response Framework.

The Homeland Security Grant Program (HSGP) plays an important role in the implementation of Presidential Policy Directive – 8 (PPD-8) by supporting the development and sustainment of core capabilities to fulfill the National Preparedness Goal (NPG). HSGP is comprised of three interconnected grant programs:

- State Homeland Security Program (SHSP)
- Urban Areas Security Initiative (UASI)
- Operation Stonegarden (OPSG)

Together, these grant programs fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, and management and administration.

National Earthquake Hazards Reduction Program

<http://www.nehrp.gov/index.htm>

The National Earthquake Hazards Reduction Program (NEHRP) was established by the U.S. Congress when it passed the Earthquake Hazards Reduction Act of 1977, Public Law (PL) 95–124. At the time of its creation, Congress' stated purpose for NEHRP was "to reduce the risks of life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program." In establishing NEHRP, Congress recognized that earthquake-related losses could be reduced through improved design and construction methods and practices, land use controls and redevelopment, prediction techniques and early-warning systems, coordinated emergency preparedness plans, and public education and involvement programs.

National Weather Service

<http://www.weather.gov/>

The National Weather Service (NWS) provides weather, hydrologic, and climate forecasts and warnings for the United States, its territories, adjacent waters and ocean areas, for the protection of life and property and the enhancement of the national economy. NWS data and products form a national information database and infrastructure which can be used by other governmental agencies, the private sector, the public, and the global community.

Port Security Grant Program (PSGP)

<http://www.fema.gov/port-security-grant-program>

The PSGP provides grant funding to port areas for the protection of critical port infrastructure from terrorism. PSGP funds help ports enhance their risk management capabilities, domain awareness, training and exercises, and capabilities to prevent, detect, respond to, and recover from attacks involving improvised explosive devices and other non-conventional weapons.

Urban Areas Security Initiative Nonprofit Security Grant Program

<http://www.fema.gov/preparedness-non-disaster-grants/urban-areas-security-initiative-nonprofit-security-grant-program>

Nonprofit Security Grants Program (NSGP) provides funding support for target hardening and other physical security enhancements and activities to nonprofit organizations that are at high risk of a terrorist attack and located within one of the specific FY 2012 UASI-eligible urban areas. The FY 2012 NSGP plays an important role in the implementation of the Presidential Policy Directive – 8 by supporting the development and sustainment of core capabilities to fulfill the National Preparedness Goal.

Problem Solving Partnerships Grant Program (COPS)

<http://www.cops.usdoj.gov/>

The COPS Office has distributed over \$12 billion to advance community policing since it was created in 1994. This funding supports a wide range of activities. COPS funding helps local law

enforcement agencies hire, equip, and train new community policing professionals. COPS funding helps redeploy existing officers into their communities and studies ways to maximize the impact they have on the people who live there. COPS funds a wide variety of strategies to advance community policing through innovative techniques and technologies.

Transit Security Grant Program

<http://www.fema.gov/transit-security-grant-program>

TSGP provides funds to owners and operators of transit systems (which include intracity bus, commuter bus, ferries, and all forms of passenger rail) to protect critical surface transportation infrastructure and the traveling public from acts of terrorism and to increase the resilience of transit infrastructure. The TSGP plays an important role in the implementation of PPD-8 by supporting the development and sustainment of core capabilities to fulfill the National Preparedness Goal (NPG).

Rural Development-Housing & Community Facilities Programs

http://www.rurdev.usda.gov/rhs/cf/brief_cp_grant.htm

Community Programs provides grants to assist in the development of essential community facilities in rural areas and towns of up to 20,000 in population. Grants are authorized on a graduated scale. Applicants located in small communities with low populations and low incomes will receive a higher percentage of grants. Grants are available to public entities such as municipalities, counties, and special-purpose districts, as well as non-profit corporations and tribal governments.

Grant funds may be used to assist in the development of essential community facilities. Grant funds can be used to construct, enlarge, or improve community facilities for health care, public safety, and community and public services. This can include the purchase of equipment required for a facility's operation. A grant may be made in combination with other Community Facilities financial assistance such as a direct or guaranteed loan, applicant contributions, or loans and grants from other sources.

Volunteers in Police Service (VIPS) Program

<http://www.policevolunteers.org/>

The VIPS Program provides support and resources for agencies interested in developing or enhancing a volunteer program and for citizens who wish to volunteer their time and skills with a community law enforcement agency. The program's ultimate goal is to enhance the capacity of state and local law enforcement to utilize volunteers.

Western Regional Climate Action Initiative

<http://www.westernclimateinitiative.org/>

The Western Climate Initiative (WCI) is a collaboration which was launched in February 2007 by the Governors of Arizona, California, New Mexico, Oregon and Washington to develop regional strategies to address climate change. WCI is identifying, evaluating and implementing collective and cooperative ways to reduce greenhouse gases in the region.

State Capabilities

Various law and rules have been identified in Washington State as supporting hazard mitigation. These can be found in Revised Code of Washington (RCW) and Washington Administrative Code (WAC). Washington State Constitution further identifies who does what and the basic rights in the State.

Various State of Washington State Agencies/Departments have mitigation capabilities:

- Community, Trade, Economic Development <http://www.cted.wa.gov/>
- Department of Fish and Wildlife <http://wdfw.wa.gov/>
- Department of Ecology <http://www.ecy.wa.gov/> Department of Labor and Industries <http://www.lni.wa.gov/>
- Department of Natural Resource <http://www.dnr.wa.gov/>
- Department of Transportation <http://www.wsdot.wa.gov/>
- Governor's Office <http://www.governor.wa.gov/>
- Military Department (Emergency Management Division) <http://www.emd.wa.gov/>
- Office of Superintendent of Public Instruction <http://www.k12.wa.us/>
- Washington State Patrol <http://www.wsp.wa.gov/>

Other various capabilities in Washington State:

- Association of Washington Cities <http://www.awcnet.org/>
- Association of Washington Counties <http://www.wacounties.org/>
- Cascade Land Conservancy <http://www.cascadeland.org/>
- Municipal Research of Washington <http://www.mrsc.org/>
- Structural Engineers Association of Washington <http://www.seaw.org/>
- WA Association of Building Officials <http://wabo.org/>
- WA Association of Fire Chiefs <http://www.wsafc.org/>

- WA Association of Maintenance & Operations Administrators <http://www.wamoa.org/>
- WA Association of Sheriffs & Police Chiefs <http://www.waspc.org/>
- WA Emergency Management Association <http://www.wsema.com/>
- WA Firefighter Association <http://www.wsffa.org/>
- WA Fire Commissioners Association <http://www.wfca.wa.gov/default.asp>
- Washington Public Ports Administration <http://www.washingtonports.org/>
- Washington Schools Risk Management Pool <http://www.wsrmp.com/>

Local Capabilities

Each of the 10 individual jurisdictions has extensive local capabilities in their individual documents. Any websites associated with these local capabilities will be found within the 10 jurisdictions' addenda.

Mitigation Tools	Yes/No	Comments
Jurisdictional Capabilities		
Comprehensive Plan	Yes	
Capital Facilities Element	Yes	
Environmental & Critical Areas Element	Yes	
Land Use Element	Yes	
County Code	Yes	
Building/Fire Code	Yes	
Critical Areas	Yes	
Shoreline Regulations	Yes	
Zoning	Yes	
Critical Areas Regulations	Yes	
Flood Hazards	Yes	
Administrative Tools		
County Executive (elected official)	Yes	
County Council (elected officials)	Yes	
Planning & Land Services	Yes	
Board of Adjustment/Hearing Examiner	Yes	
Commercial Fire Safety/Code Inspection	Yes	
Regional Capabilities		
Hazard Mitigation Planning Team	Yes	
Local Business Districts	Yes	
Local Emergency Management	Yes	
Local Fire Agencies	Yes	

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APPENDIX B: LIST OF ACRONYMS AND ABBREVIATIONS

ACS	Auxiliary Communications Service
AFG	Assistance to Firefighters Grants
AHAB	All Hazard Alert Broadcast Siren
APA	Approval Pending Adoption
AWIA	America’s Water infrastructure Act of 2018
BBWARM	Birch Bay area of Whatcom County Stormwater Program
B.C.	British Columbia
BCT	Bellingham Cruise Terminal
BFD	Bellingham Fire Department
BLI	Bellingham International Airport
BMC	Bellingham Municipal Code
BMC	Blaine Municipal Code
BST	Bellingham Shipping Terminal
BZPP	Buffer Zone Protection Program
Cascades	The Cascade Range
CDBG	Community Development Block Grants
CDS	Community Development Services
CEMP	Comprehensive Emergency Management Plan
CERT	Community Emergency Response Team
CFHMP	Comprehensive Flood Hazard Management Plan
CFR	Code of Federal Regulations
CFS	Cubic Feet per Second
COSMOS	Coastal Storm Modeling Systems
CRS	Community Rating System
CSZ	Cascadia Subduction Zone
CTP	Cooperating Technical Partners
CWPP	Community Wildfire Protection Plan
DMA	Disaster Mitigation Act of 2000
DEM	Division of Emergency Management
EF	Essential Facility
EIS	Environmental Impact Statement
EMD	Emergency Management Division
EMPG	Emergency Management Program Grants
EOC	Emergency Operations Center
EPA	Environmental Protection Agency

E&PS	Environmental and Planning Services
FCZD	Flood Control Zone District
FEMA	Federal Emergency Management Agency
FERN	Ferndale Emergency Response Network
FIPS	Federal Information Processing Standards
FLIP	Floodplain Integrated Planning Process
FMA	Flood Mitigation Assistance
FMC	Ferndale Municipal Code
FP&S	Fire Prevention and Safety Grants
FR	Federal Regulation
GIS	Geographic Information Systems
GMA	Growth Management Act
HIVA	Hazard Identification and Vulnerability Analysis
HMF	Hazardous Materials Facility
HMF	Hazard Mitigation Forum
HMEP	Hazardous Materials Emergency Preparedness Grants Program
HMGP	Hazard Mitigation Grant Program
HPL	High Potential Loss
HSGP	Homeland Security Grant Program
I-5	Interstate 5
IBC	International Building Code
ICC	International Code Council
ICT	Interagency Coordination Team
IFPL	Industrial Fire Precaution Level
IPAWS	Integrated Public Alert and Warning System
IRC	International Residential Code
KGMI	Emergency Alert System Station 790 AM
LAMIRD	Limited Area of More Intense Rural Development
LF	Linear Feet
LFD	Lynden Fire Department
LiDAR	Light Detection and Ranging
LUS	Lifeline Utility System
MAR	Managed Aquifer Recharge
MLLW	Mean Lower Low Water
MMI	Modified Mercalli Intensity Scale
MOST	Method of Splitting Tsunami
mph	miles per hour

MU	Multiple Hazards
NAD	North American Datum of 1983
NEHRP	National Earthquake Hazard Reduction Program
NFIP	National Flood Insurance Program
NFPA	National Fire Protection Association
NHMP	Natural Hazards Mitigation Plan
NOA	Naturally Occurring Asbestos
NOAA	National Oceanic and Atmospheric Association
NPDES	National Pollutant Discharge Elimination System
NPG	National Preparedness Goal
NTHMP	National Tsunami Hazard Mitigation Program
NW	Northwest
NWAC	Northwest Avalanche Center
NWS	National Weather Service
OEM	Office of Emergency Management
OFM	Office of Financial Management
OHV	Off Highway Vehicle
OPSG	Operation Stonegarden
PDM	Pre-Disaster Mitigation
PL	Public Law
Plan	Whatcom County Natural Hazards Mitigation Plan
PSE	Puget Sound Energy
PSGP	Port Security Grant Program
PUD	Public Utility District
PW	Public Works
RAMS	Risk Assessment and Mitigation Strategy
RCW	Revised Code of Washington
RFL	Repetitive Flood Loss Property
SCSMAP	Swift Creek Sediment Management Action Plan
SHMO	State Hazard Mitigation Officer
SHSP	State Homeland Security Program
SLIP	Streamline Landslide Mapping Protocol
SRL	Severe Repetative Loss Program
SR	State Route
SWIF	System-Wide Improvement Framework
TIME	Tsunami Inundation Mapping Effort
TSGP	Transit Security Grant Program

UASI	Urban Areas Security Initiative
UGA	Urban Growth Area
USACE	U.S. Army Corps of Engineers
U.S.C.	U.S. Code
USGS	U.S. Geological Society
VMC	Volunteer Mobilization Center
WABO	Washington Association Building Officials
WAC	Washington Administrative Code
WCI	Western Climate Initiative
WCNHMP	Whatcom County Natural Hazard Mitigation Plan
WCSO	Whatcom County Sheriff's Office
WDFW	Washington Department of Fish and Wildlife
WDNR	Washington Department of Natural Resources
WGS	Washington Geological Survey
WPSAPS	Wildfire Prevention Spatial Assessment and Planning Strategies
WSCP	Water Shortage Contingency Plan
WSDOT	Washington State Department of Transportation
WTA	Whatcom Transportation Authority
WSHMO	Washington State Hazard Mitigation Officer
WUI	Wildland/Urban Interface

APPENDIX C: WHATCOM COUNTY RISK ASSESSMENT & MITIGATION STRATEGIES FOR WILDLAND FIRE

This Assessment has been prepared for the Whatcom County using the Risk Assessment and Mitigation Strategies (RAMS) planning process. RAMS was developed for fire managers to be a holistic approach to analyzing wildland FUELS, HAZARD, RISK, VALUE, and SUPPRESSION CAPABILITY. It considers the effects of fire on unit ecosystems by taking a coordinated approach to planning at a landscape level and allows users to develop fire prevention and/or fuels treatments programs.

The steps involved in this process include:

- Identification of spatial Compartments for study
- Fire Management Zone 37 = Whatcom County
- Assessment of significant issues within each Compartment

Compartment 13: 37653 Part 1

Compartment 13 contains 295,228 acres in Fire Management Zone 37. The Compartment experiences 4.00 fires per year, totaling 5 acres. The characteristics of the compartment indicate that: Catastrophic Fire Likely.

Fuels Hazard characteristics are rated:

- Fuels (flame length produced): 8 + Feet (High)
- Crowning Potential: 0 - 2 (Low)
- Slope Percent: 0 - 20 (Low)
- Aspect: North (Low)
- Elevation: 0 - 3500 (High)

Protection Capability ratings are:

- Initial Attack: 21 - 30 minutes (Moderate)
- Suppression Complexity: Average (Moderate)

Ignition Risk factors include:

- Population Density - Wildland Urban Interface
 - 1001+ Dwellings/structures

- Power Lines In Unit
 - Sub-station
 - Distribution Lines
 - Transmission Lines
- Industrial Operations
 - Active timber sale
 - Maintenance/service contracts
 - Mining
 - Debris/slash burning
 - Construction project
- Recreation
 - Dispersed camping areas, party areas, hunters, water based, hiking
 - Off highway vehicle use
 - Developed camping areas
- Flammables Present
 - Powder magazine
 - Gas pumps or storage
 - Gas or oil wells/transmission
- Other
 - Woodcutting area, power equipment
 - Dump
 - Fireworks, children with matches
 - Electronic installations
 - Shooting/target
 - Government operations
 - Cultural Activities
 - Incendiary
- Railroads
 - Railroads are present
- Transportation System
 - Public Access Road(s)
 - County road(s)
 - State/Federal highway(s)
- Commercial Development
 - Camps, resorts, stables
 - Schools
 - Business, agricultural/ranching

Compartment 13: 37653 Part II

Compartment Values are characterized:

- Recreation: Developed recreation site within or adjacent to area **(High)**
- Administrative: High value or numerous administrative sites **(High)**
- Wildlife/Fisheries: Highly significant habitat **(High)**
- Range Use: Range allotment within area, normal/average use **(Moderate)**
- Watershed: Stream Class PI, I. Important water use/riparian area. Domestic water use **(High)**
- Forest/Woodland: Standing timber/woodland on 26 - 50% of area **(Moderate)**
- Plantations: 15% or less of area in or programmed for plantations **(Low)**
- Private Property: High loss and threat potential due to numbers and placement **(High)**
- Cultural Resources: Archaeological/historical findings of high significance **(High)**
- Special Interest Areas: Area is adjacent to a Special Interest area **(Moderate)**
- Visual Resources: Maximum modification dominates **(Low)**
- T&E Species: Species present **(High)**
- Soils (Erosion): Low significance (EHR < 4) **(Low)**
- Airshed: High receptor sensitivity **(High)**
- Vegetation: Potential for sensitive plants **(Moderate)**

Compartment 14: 37656 Part I

Compartment 14 contains 360,471 acres in Fire Management Zone 37. The Compartment experiences 8.00 fires per year, totaling 98 acres. The characteristics of the compartment indicate that: Catastrophic Fire Likely.

Fuels Hazard characteristics are rated:

- Fuels (flame length produced): 8 + Feet **(High)**
- Crowning Potential: 6 + **(High)**
- Slope Percent: 21 - 35 **(Moderate)**
- Aspect: North **(Low)**
- Elevation: 0 - 3500 **(High)**

Protection Capability ratings are:

- Initial Attack: 31+ minutes **(High)**
- Suppression Complexity: Complex **(High)**

Ignition Risk factors include:

- Population Density - Wildland Urban Interface
 - 1001+ Dwellings/structures
- Power Lines In Unit

- Transmission Lines
- Distribution Lines
- Sub-station
- Industrial Operations
 - Active timber sale
 - Construction project
 - Debris/slash burning
 - Mining
 - Maintenance/service contracts
- Recreation
 - Dispersed camping areas, party areas, hunters, waterbased, hiking
 - Developed camping areas
 - Off highway vehicle use
- Flammables Present
 - Powder magazine
 - Gas or oil wells/transmission
 - Gas pumps or storage
- Other
 - Fireworks, children with matches
 - Electronic installations
 - Woodcutting area, power equipment
 - Shooting/target
 - Government operations
 - Incendiary
 - Cultural Activities
 - Dump
- Railroads
 - Railroads are present
- Transportation System
 - State/Federal highway(s)
 - County road(s)
 - Public Access Road(s)
- Commercial Development
 - Schools
 - Camps, resorts, stables
 - Business, agricultural/ranching

Compartment 14: 37656 Part II

Compartment Values are characterized:

- Recreation: Developed recreation site within or adjacent to area **(High)**
- Administrative: High value or numerous administrative sites **(High)**

- Wildlife/Fisheries: Highly significant habitat **(High)**
- Range Use: Range allotment within area, normal/average use **(Moderate)**
- Watershed: Stream Class PI, I. Important water use/riparian area. Domestic water use. **(High)**
- Forest/Woodland: Standing timber/woodland on 51+% of area **(High)**
- Plantations: 31+% or less of area in or programmed for plantations **(High)**
- Private Property: High loss and threat potential due to numbers and placement **(High)**
- Cultural Resources: Archaeological/historical findings of high significance **(High)**
- Special Interest Areas: Area is adjacent to a Special Interest area **(Moderate)**
- Visual Resources: Partially retain existing character **(Moderate)**
- T&E Species: Species present **(High)**
- Soils (Erosion): Moderately erodible (EHR 4-12) **(Moderate)**
- Airshed: High receptor sensitivity **(High)**
- Vegetation: Potential for sensitive plants **(Moderate)**

Compartment 15: 37658 Part I

Compartment 15 contains 948,133 acres in Fire Management Zone 37. The Compartment experiences 1.00 fires per year, totaling 6 acres. The characteristics of the compartment indicate that: Catastrophic Fire Possible.

Fuels Hazard characteristics are rated:

- Fuels (flame length produced): 8 + Feet (High)
- Crowning Potential: 3 - 5 (Moderate)
- Slope Percent: 36 + (High)
- Aspect: South (High)
- Elevation: 5001 + (Low)

Protection Capability ratings are:

- Initial Attack: 31+ minutes (High)
- Suppression Complexity: Simple (Low)

Ignition Risk factors include:

- Population Density - Wildland Urban Interface
 - 501-1000 Dwellings/structures
- Power Lines In Unit
 - Transmission Lines
 - Sub-station
 - Distribution Lines

- Industrial Operations
 - Debris/slash burning
 - Mining
 - Construction project
 - Active timber sale
 - Maintenance/service contracts
- Recreation
 - Dispersed camping areas, party areas, hunters, waterbased, hiking
 - Developed camping areas
 - Off highway vehicle use
- Flammables Present
 - Powder magazine
 - Gas or oil wells/transmission
 - Gas pumps or storage
- Other
 - Electronic installations
 - Fireworks, children with matches
 - Woodcutting area, power equipment
 - Shooting/target
 - Government operations
 - Incendiary
 - Cultural Activities
 - Dump
- Railroads
 - Railroads are present
- Transportation System
 - State/Federal highway(s)
 - Public Access Road(s)
 - County road(s)
- Commercial Development
 - Schools
 - Camps, resorts, stables
 - Business, agricultural/ranching

Compartment 15: 37658 Part II

Compartment Values are characterized:

- Recreation: Developed recreation site within or adjacent to area (**High**)
- Administrative:

Few or no administrative sites (**Low**)

- Wildlife/Fisheries: Highly significant habitat **(High)**
- Range Use: Little or no range use **(Low)**
- Watershed: Stream Class PI, I. Important water use/riparian area. Domestic water use **(High)**
- Forest/Woodland: Standing timber/woodland on 51+% of area **(High)**
- Plantations: 16 - 30% or less of area in or programmed for plantations **(Moderate)**
- Private Property: Little or no threat or loss potential **(Low)**
- Cultural Resources: Minimal archaeological/historical findings, potential for Native American use **(Moderate)**
- Special Interest Areas: Area is adjacent to a Special Interest area **(Moderate)**
- Visual Resources: Preserve and retain existing character **(High)**
- T&E Species: Species present. (High)
- Soils (Erosion): Moderately erodible (EHR 4-12) **(Moderate)**
- Airshed: Low receptor sensitivity (Low)
- Vegetation: Potential for sensitive plants **(Moderate)**

APPENDIX D: NATIONAL FLOOD INSURANCE PROGRAM PARTICIPATION (NFIP)

F1-WHATCOM COUNTY National Flood Insurance Program Participation

Topic	Considerations	Where to find Information	Answer
Insurance Summary	<p>How many NFIP policies are in the community?</p> <p>What is the total premium and coverage?</p>	CRS Floodplain Specialist ISO, Community Hazard Mitigation	<p>994 policies in force</p> <p>\$224,779,300.00 insurance in force</p> <p>17 repetitive loss properties 7 mitigated properties. The Repetitive Loss Structures in Whatcom are residential. This is based off the 2018 Washington State Repetitive Loss Record from the State Mitigation Strategist at the Washington Emergency Management Division. There may currently be different Repetitive Loss structure types located in Whatcom, but the 2018 Repetitive Loss Record is the best available data.</p>
	<p>How many claims have been paid in the community?</p> <p>What is the total amount of paid claims?</p>	CRS Floodplain Specialist ISO, Community Hazard Mitigation	<p>307 paid losses</p> <p>\$3,712,362.59 total losses paid</p>

Topic	Considerations	Where to find Information	Answer
	How many of the claims were for substantial damage?		24 sub. damage claims since 1977
	Number of Structures exposed to flood risk within the community	Community Floodplain Administrator (FPA)	Approx. 5,043 Assessor parcels with improvement values (or structures) as of last map update (2019) plus new construction to date - we do not have the ability to do a precise structure count per parcel.
	Describe any areas of flood risk with limited NFIP policy coverage	Community FPA & FEMA Insurance Specialist	There is good coverage within the mapped floodplain areas. However, areas that could get damage due to flood events outside of the mapped floodplain (alluvial fan and channel migration zone areas)
Staff Resources	Does the community have a dedicated Floodplain Manager or NFIP Coordinator?	Community FPA	Yes
	Is floodplain management an auxiliary duty?		No
	Is there a Certified Floodplain Manager on Staff?		Yes there are 2 CFM's currently on staff
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections,		Education and outreach includes an annual flood newsletter, , annual repetitive

Topic	Considerations	Where to find Information	Answer
	engineering capability)		loss mailing, annual letter to Insurance/Local Realtors/Lenders regarding flood insurance. Administrative includes: Floodplain inquiries, permit review, GIS education, comprehensive flood planning, and flood hazard reduction.
	What are the barriers to running an effective NFIP program in the community, if any?		Limited resources due to budget constraints and competing priorities
Compliance History	Is the community in good standing with the NFIP?	<ul style="list-style-type: none"> State NFIP Coordinator, FEMA NFIP Specialist, community records 	Yes
	Are there any outstanding compliance issues (i.e., current violations)?		No
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		Last CAV was closed on 12/4/2017
Regulation	When did the community enter the NFIP?	<ul style="list-style-type: none"> Community Status Book http://www.fema.gov/fema/cs b.shtm 	09/30/1977 regular entry
	When did the community's Flood Insurance Rate Maps (FIRMS) become effective?		September 30, 1977
	Are the FIRMS digital or paper?	<ul style="list-style-type: none"> Community FPA, State or FEMA NFIP Specialists 	Paper and digital (DFIRM-GIS layers)

Topic	Considerations	Where to find Information	Answer
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum requirements? If so, in what ways?	<ul style="list-style-type: none"> Community FPA 	Yes , was updated in 2019 to reflect new Countywide Flood Insurance Study (FIS) and exceeds minimum requirements.
	Provide an explanation of the permitting process and include a copy of floodplain permit.	<ul style="list-style-type: none"> Community FPA 	Applicant goes to Planning/ Development services for a permit. Permit is screened at the counter to determine if the project is located within the floodplain. If project is located within the floodplain it is routed to the Flood Division for a flood review and conditions are put on the applicable permit (see attached).
	Does the community participate in CRS?	<ul style="list-style-type: none"> Community FPA, Sate, FEMA NFIP 	Yes
	What is the community's CRS Class Ranking?	<ul style="list-style-type: none"> Flood Insurance Manual Community status book report for state WA (fema.gov) 	6
	What categories and activities provide CRS points and how can the class be improved?	<ul style="list-style-type: none"> Community FPA, FEMA CRS Coordinator, ISO representative 	CRS Activities: 310,320,330,360,430,502,510,520,450, 501,510,520,530,610
	Does the plan include CRS planning requirements?	<ul style="list-style-type: none"> CRS manual https://www.fema.gov/sites/ 	Yes

Topic	Considerations	Where to find Information	Answer
		default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf	

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Staff Resources	<p>Identify need for additional staff.</p> <p>Identify training needs of existing staff.</p>	<p>We could use additional staff, but hiring is limited due to budget issues.</p> <p>We have 3 staff eligible to take the CFM.</p>
Compliance	<p>When is the next Community Assistance visit anticipated?</p> <p>If unknown, discuss any need for CAV, CAC, or other compliance assistance.</p>	<p>Unknown</p> <p>We have recently requested concurrence from FEMA regarding compliance with Ag. Structures.</p>
Flood Risk Maps	<p>Are there flood prone areas that need new flood studies?</p> <p>What areas are highest priority and why?</p> <p>Does the community have new data that can be included in future flood map updates?</p>	<p>Currently, Whatcom County is in the process of finalizing a Levee Analysis and Mapping Procedure (LAMP) project to update the Flood Maps and FIS for the Lower Nooksack River Reaches 1-5. Draft Work Maps have been submitted to the communities for comment. Preliminary FIRMS or Maps and FIS is scheduled to be released in the Winter of 2021 with a projected Effective date of Fall 2023.</p>
Community Outreach	<p>Consider outreach and education to provide in the community.</p> <p>Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics.</p> <p>Consider a variety of audiences, such as elected officials or builders.</p>	<p>We actively provide outreach and education as documented in CRS program. We have developed a "Building in a Floodplain" brochure and diagram for permit inquiries and applicants. We also provide outreach materials on our website accessible to variety of audiences.</p>
Community Rating System (CRS)	<p>Does the community want to participate in the CRS program?</p> <p>Does the community want to improve its current CRS class ranking?</p> <p>Identify activities the community is or will be pursuing to gain CRS points.</p>	<p>Whatcom County currently participates in the CRS program</p> <p>No, not at this time.</p> <p>Nothing at this time.</p>

F2-CITY OF BELLINGHAM National Flood Insurance Program Participation

Topic	Considerations	Where to find Information	Answer
Insurance Summary	<p>How many NFIP policies are in the community?</p> <p>What is the total premium and coverage?</p>	<ul style="list-style-type: none"> State NFIP Coordinator or FEMA NFIP Specialist 	<p>95 policies in force</p> <p>\$33,986,900.00 insurance in force</p> <p>2 repetitive loss properties. The Repetitive Loss Structures in Bellingham are non- residential. This is based off the 2018 Washington State Repetitive Loss Record from the State Mitigation Strategist at the Washington Emergency Management Division. There may currently be different Repetitive Loss structure types located in Bellingham, but the 2018 Repetitive Loss Record is the best available data.</p>
	<p>How many claims have been paid in the community?</p> <p>What is the total amount of</p>	<ul style="list-style-type: none"> FEMA NFIP or Insurance Specialist 	<p>29 paid claims</p> <p>\$702,702.51 total losses paid</p>

Topic	Considerations	Where to find Information	Answer
	paid claims? How many of the claims were for substantial damage?		1 sub. damage claim since 1978
	Number of Structures exposed to flood risk within the community	<ul style="list-style-type: none"> Community Floodplain Administrator (FPA) 	464
	Describe any areas of flood risk with limited NFIP policy coverage	<ul style="list-style-type: none"> Community FPA & FEMA Insurance Specialist 	A portion of the Baker Creek floodplain is not within a study area while it has had repeated flooding. Flooding is somewhat dependent on system capacity issues with Interstate 5 and other State conveyance systems.
Staff Resources	Does the community have a dedicated Floodplain Manager or NFIP Coordinator?	<ul style="list-style-type: none"> Community FPA 	Storm and Surface Water Utility Manager also acts as Floodplain Administrator
	Is floodplain management an auxiliary duty?		Yes
	Is there a Certified Floodplain Manager on Staff?		No
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)		Plan reviewers are trained to determine if projects or structures are within floodplain boundaries with required review for all permits. GIS system has FEMA coverage for

Topic	Considerations	Where to find Information	Answer
			permit review. Permits are conditioned for no occupancy until all certifications are complete and returned.
	What are the barriers to running an effective NFIP program in the community, if any?		Change to true digital mapping may ease process.
Compliance History	Is the community in good standing with the NFIP?	<ul style="list-style-type: none"> State NFIP Coordinator, FEMA NFIP Specialist, community records 	Yes
	Are there any outstanding compliance issues (i.e., current violations)?		No
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		11/28/2016 last CAV date
	Is a CAV or CAC scheduled or needed?		Changes to floodplains are forthcoming. A CAV would be appreciated.
Regulation	When did the community enter the NFIP?	<ul style="list-style-type: none"> Community Status Book http://www.fema.gov/fema/csb.s.htm 	09/02/1982 regular entry.
	When did the community's Flood Insurance Rate Maps (FIRMS) become effective?		09/02/1982
	Are the FIRMS digital or paper?	<ul style="list-style-type: none"> Community FPA, State or FEMA NFIP Specialists 	Digital
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum requirements? If so, in what ways?	<ul style="list-style-type: none"> Community FPA 	Ordinances and maps updated and revised January 16, 2004. Deemed in compliance at that time.

Topic	Considerations	Where to find Information	Answer
		NFIP Continued Compliance Actions	

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Staff Resources	Identify need for additional staff. Identify training needs of existing staff.	For the amount of floodplain area within City existing staff level is sufficient. Ongoing training and/or refresher courses would be helpful.
Compliance	When is the next Community Assistance visit anticipated? If unknown, discuss any need for CAV, CAC, or other compliance assistance.	Unknown. Bellingham would welcome a CAV, however, the number of projects within flood areas has diminished. We are looking at a major stream rerouting project for Squalicum Creek that would be of interest.
Regulation	Are there potential ordinance changes to consider strengthening requirements? Are there potential improvements to permitting process or other administrative aspects of the community's NFIP program? Could the community enhance its floodplain services?	City still working on potential changes to comply with BiOp. Digital mapping. We should enter CRS program.
Flood Risk Maps	Are there flood prone areas that need new flood studies? What areas are highest priority and why? Does the community have new data that can be included in future flood map updates?	Yes, Bellingham has apprised FEMA of flood areas on Baker Creek outside of the area of study in the past. Bellingham will likely be providing a new study for Squalicum Creek as a part of the stream reroute. A new study for Padden Creek will be needed as a result of a proposed project to daylight 1/2 mile of this stream that was formerly culverted. Priority for the City would be Squalicum and Padden Creeks.

Topic	Considerations	Answer
		It is expected that the City will be submitting data for those two projects.
Community Outreach	Consider outreach and education to provide in the community. Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics. Consider a variety of audiences, such as elected officials or builders.	Community outreach has not been a significant part of our program due to the limited nature of the flooding. Discussion of that lacking at a CAV would be appreciated.
Community Rating System (CRS)	<p>Does the community want to participate in the CRS program?</p> <p>Does the community want to improve its current CRS class ranking?</p> <p>Identify activities the community is or will be pursuing to gain CRS points.</p>	Not Participating. Bellingham will consider entering CRS. It is likely that we need only to quantify some of the existing activities that we already do to receive a CRS class ranking.

F3-CITY OF BLAINE National Flood Insurance Program Participation

Topic	Considerations	Where to find Information	Answer
Insurance Summary	How many NFIP policies are in the community?	<ul style="list-style-type: none"> State NFIP Coordinator or FEMA NFIP Specialist 	51 policies in force
	What is the total premium and coverage?		\$13,963,900.00 insurance in force
			0 repetitive losses
	How many claims have been paid in the community?	<ul style="list-style-type: none"> FEMA NFIP or Insurance Specialist 	3 paid losses
	What is the total amount of paid claims?		\$267,790.34 total paid losses
	How many of the claims were for substantial damage?		0 sub. damage claims since 1978
	Number of Structures exposed to flood risk within the community	<ul style="list-style-type: none"> Community Floodplain Administrator (FPA) 	8 (eight)
	Describe any areas of flood risk with limited NFIP policy coverage	<ul style="list-style-type: none"> Community FPA & FEMA Insurance Specialist 	Not aware of any
	Does the community have a	<ul style="list-style-type: none"> Community FPA 	No, covered by

Topic	Considerations	Where to find Information	Answer
Staff Resources	dedicated Floodplain Manager or NFIP Coordinator?		Community Development Director
	Is floodplain management an auxiliary duty?		Yes
	Is there a Certified Floodplain Manager on Staff?		No
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)		Permit review
	What are the barriers to running an effective NFIP program in the community, if any? Lack of staff, funds, and minimal impact/benefit		
Compliance History	Is the community in good standing with the NFIP?	<ul style="list-style-type: none"> State NFIP Coordinator, FEMA NFIP Specialist, community records 	Yes
	Are there any outstanding compliance issues (i.e., current violations)?		No
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		11/28/2016 last CAV date
	Is a CAV or CAC scheduled or needed?		Not scheduled, and not needed
Regulation	When did the community enter the NFIP?	<ul style="list-style-type: none"> Community Status Book http://www.fema.gov/fema/csb.shtm 	07/16/1979 regular entry
	When did the community's Flood Insurance Rate Maps (FIRMS) become effective?		7/16/1979
	Are the FIRMS digital or paper?	<ul style="list-style-type: none"> Community FPA, State or FEMA NFIP Specialists 	Digital
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum requirements? If so, in what ways?	<ul style="list-style-type: none"> Community FPA 	Does not meet the recent ESA standards
	Provide an explanation of the	<ul style="list-style-type: none"> Community FPA 	Requests are

Topic	Considerations	Where to find Information	Answer
	permitting process and include a copy of floodplain permit.		reviewed for compliance in conjunction with Shoreline permits, and with building permits when Shoreline permit not required. It is a staff review for code compliance. We do not have a flood plain permit application.
	Does the community participate in CRS?	<ul style="list-style-type: none"> Community FPA, Sate, FEMA NFIP 	No
	What is the community's CRS Class Ranking?	<ul style="list-style-type: none"> Flood Insurance Manual http://www.fema.gov/business/nfip/manual.shtm 	
	What categories and activities provide CRS points and how can the class be improved?	<ul style="list-style-type: none"> Community FPA, FEMA CRS Coordinator, ISO representative 	
	Does the plan include CRS planning requirements?	<ul style="list-style-type: none"> CRS manual http://www.fema.gov/library/viewRecord.do?id=2434 	

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Staff Resources	Identify need for additional staff. Identify training needs of existing staff.	
Compliance	When is the next Community Assistance visit anticipated? If unknown, discuss any need for CAV, CAC, or other compliance assistance.	
Regulation	<p>Are there potential ordinance changes to consider strengthening requirements?</p> <p>Are there potential improvements to permitting process or other administrative aspects of the community's NFIP program?</p> <p>Could the community enhance its floodplain</p>	Yes, the ordinance can be revised to comply with the ESA requirements.

Topic	Considerations	Answer
	services?	
Flood Risk Maps	<p>Are there flood prone areas that need new flood studies?</p> <p>What areas are highest priority and why?</p> <p>Does the community have new data that can be included in future flood map updates?</p>	
Community Outreach	<p>Consider outreach and education to provide in the community.</p> <p>Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics. Consider a variety of audiences, such as elected officials or builders.</p>	
Community Rating System (CRS)	<p>Does the community want to participate in the CRS program? Does the community want to improve its current CRS class ranking? Identify activities the community is or will be pursuing to gain CRS points.</p>	

F4-CITY OF EVERSON National Flood Insurance Program Participation

Topic	Considerations	Where to find Information	Answer
Insurance Summary	<p>How many NFIP policies are in the community?</p> <p>What is the total premium and coverage?</p>	<ul style="list-style-type: none"> State NFIP Coordinator or FEMA NFIP Specialist 	<p>127 policies in force</p> <p>\$31,819,000.00 insurance in force</p> <p>9 repetitive loss properties. The Repetitive Loss Structures in Everson are residential. This is based off the 2018 Washington State Repetitive Loss Record from the State Mitigation</p>

Topic	Considerations	Where to find Information	Answer
			Strategist at the Washington Emergency Management Division. There may currently be different Repetitive Loss structure types located in Whatcom, but the 2018 Repetitive Loss Record is the best available data.
	How many claims have been paid in the community? What is the total amount of paid claims? How many of the claims were for substantial damage?	• FEMA NFIP or Insurance Specialist	48 paid losses \$464,029.21 total losses paid 2 Substantial Damage Claims
	Number of Structures exposed to flood risk within the community	• Community Floodplain Administrator (FPA)	Number of structures in the "Flood Plain": 453 Number of structures in the "Floodway": 14 Number of residential structures in the "Flood Plain": 254 Number of residential structures in the "Floodway": 5 (data compiled 10/2007)
	Describe any areas of flood risk with limited NFIP policy coverage	• Community FPA & FEMA Insurance Specialist	None
Staff Resources	Does the community have a dedicated Floodplain Manager or NFIP	• Community FPA	Yes

Topic	Considerations	Where to find Information	Answer
	Coordinator?		
	Is floodplain management an auxiliary duty?		Yes
	Is there a Certified Floodplain Manager on Staff?		No
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)		Permit review, community outreach, administration services, inspections.
	What are the barriers to running an effective NFIP program in the community, if any?		Loss of floodplain specialist at DOE regional level makes floodplain management more difficult to find answers to specific questions.
Compliance History	Is the community in good standing with the NFIP?	<ul style="list-style-type: none"> State NFIP Coordinator, FEMA NFIP Specialist, community records 	Yes
	Are there any outstanding compliance issues (i.e., current violations)?		No
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		12/11/2014 last CAV date
	Is a CAV or CAC scheduled or needed?		None scheduled
Regulation	When did the community enter the NFIP?	<ul style="list-style-type: none"> Community Status Book http://www.fema.gov/fema/cs b.shtm 	08/02/1982 regular entry
	When did the community's Flood Insurance Rate Maps (FIRMS) become effective?		08/02/1982
	When did the community's Flood Insurance Rate Maps (FIRMS) become effective?		08/02/1982
	Are the FIRMS digital or paper?	<ul style="list-style-type: none"> Community FPA, State or FEMA NFIP Specialists 	Digital
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum	<ul style="list-style-type: none"> Community FPA 	Meets

Topic	Considerations	Where to find Information	Answer
	requirements? If so, in what ways?		
	Provide an explanation of the permitting process and include a copy of floodplain permit.	<ul style="list-style-type: none"> Community FPA 	We provide a City prepared Development Assessment Flow Chart and Floodplain Development Permit for applicants to complete as part of the normal Building Permit application process.
	Does the community participate in CRS?	<ul style="list-style-type: none"> Community FPA, State, FEMA NFIP 	Yes
	What is the community's CRS Class Ranking?	<ul style="list-style-type: none"> Flood Insurance Manual Community status book report for state WA (fema.gov) 	6
	What categories and activities provide CRS points and how can the class be improved?	<ul style="list-style-type: none"> Community FPA, FEMA CRS Coordinator, ISO representative 	Activities 310 -630 are applied and we continue to review policies and procedures to improve our rating.
	Does the plan include CRS planning requirements?	<ul style="list-style-type: none"> CRS manual http://www.fema.gov/library/vi ewRecord.do?id=2434 	Yes

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Staff Resources	Identify need for additional staff. Identify training needs of existing staff.	Additional staff would be helpful to maximize the best possible rating for our community through application of all aspects of Activities 310-630.
Compliance	When is the next Community Assistance visit anticipated?	As scheduled by DOE.

	If unknown, discuss any need for CAV, CAC, or other compliance assistance.	
Regulation	<p>Are there potential ordinance changes to consider strengthening requirements?</p> <p>Are there potential improvements to permitting process or other administrative aspects of the community's NFIP program?</p> <p>Could the community enhance its floodplain services?</p>	<p>Considering amendments to assess BAS ramifications.</p> <p>None at this time.</p> <p>Not at this time.</p>
Flood Risk Maps	<p>Are there flood prone areas that need new flood studies?</p> <p>What areas are highest priority and why?</p> <p>Does the community have new data that can be included in future flood map updates?</p>	<p>Johnson creek overflow corridor.</p> <p>No</p>
Community Outreach	Consider outreach and education to provide in the community. Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics. Consider a variety of audiences, such as elected officials or builders.	
Community Rating System (CRS)	<p>Does the community want to participate in the CRS program?</p> <p>Does the community want to improve its current CRS class ranking?</p> <p>Identify activities the community is or will be pursuing to gain CRS points.</p>	<p>We currently participate.</p> <p>Yes</p> <p>More community information assimilation. Policy review and revision</p>

F5-CITY OF FERNDALE National Flood Insurance Program Participation

Topic	Considerations	Where to find Information	Answer
Insurance Summary	How many NFIP policies are in the community?	<ul style="list-style-type: none"> State NFIP Coordinator or FEMA NFIP Specialist 	<p>98 policies in force</p> <p>\$25,096,400.00</p>

Topic	Considerations	Where to find Information	Answer
	What is the total premium and coverage?		insurance in force. 1 9 repetitive loss properties. The Repetitive Loss Structures in Ferndale are residential. This is based off the 2018 Washington State Repetitive Loss Record from the State Mitigation Strategist at the Washington Emergency Management Division. There may currently be different Repetitive Loss structure types located in Ferndale, but the 2018 Repetitive Loss Record is the best available data.
	How many claims have been paid in the community? What is the total amount of paid claims? How many of the claims were for substantial damage?	• FEMA NFIP or Insurance Specialist	40 paid losses \$1,061,601.64 total losses paid 10 sub. damage claims since 1978
	Number of Structures exposed to flood risk within the community	• Community Floodplain Administrator (FPA)	Undetermined / Do not know
	Describe any areas of flood risk with limited NFIP policy coverage	• Community FPA & FEMA Insurance Specialist	Undetermined / Do not know
Staff	Does the community have a dedicated Floodplain	• Community FPA	No

Topic	Considerations	Where to find Information	Answer
Resources	Manager or NFIP Coordinator?		
	Is floodplain management an auxiliary duty?		Yes – managed by Community Development Director or designee
	Is there a Certified Floodplain Manager on Staff?		No
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)		City of Ferndale reviews development proposals for compliance with Floodplain Management requirements as defined by the Ferndale Municipal Code. Review may include modifications to development submittals.
	What are the barriers to running an effective NFIP program in the community, if any?		Public perception that FIRM's in certain portions of the City are inaccurate/ out of date. Lack of new modeling cannot verify or deny these claims.
Compliance History	Is the community in good standing with the NFIP?	<ul style="list-style-type: none"> State NFIP Coordinator, FEMA NFIP Specialist, community records 	Yes
	Are there any outstanding compliance issues (i.e., current violations)?		No / Unknown
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		9/19/2012 last CAV date. Note that the City has worked with FEMA (last contact 7/29/2011) in

Topic	Considerations	Where to find Information	Answer
			developing ordinances intended to comply with NMFS Biological Opinion
	Is a CAV or CAC scheduled or needed?		Unknown
Regulation	When did the community enter the NFIP?	<ul style="list-style-type: none"> Community Status Book http://www.fema.gov/fema/csb.s.htm 	06/01/1983 regular entry
	What did the community's Flood Insurance Rate Maps (FIRMS) become effective?		January 16, 2004
	Are the FIRMS digital or paper?	<ul style="list-style-type: none"> Community FPA, State or FEMA NFIP Specialists 	Yes
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum requirements? If so, in what ways?	<ul style="list-style-type: none"> Community FPA 	The current ordinance meets or exceeds standards at this time, but does not reflect Biological Opinion. City Council will consider adopting new standard that meets or exceeds standards on August 15th 2011.
	Provide an explanation of the permitting process and include a copy of floodplain permit.	<ul style="list-style-type: none"> Community FPA 	Review processes vary dramatically depending on specific land use proposal. Generally speaking, an application is made to the City, and is reviewed by the Community Development Department. If the development is proposed within a floodplain, the City will attach

Topic	Considerations	Where to find Information	Answer
			conditions to the development permit specifying the steps necessary to achieve compliance with flood regulations. In these cases, the development permit acts as the floodplain permit.
	Does the community participate in CRS?	<ul style="list-style-type: none"> Community FPA, Sate, FEMA NFIP 	Yes
	What is the community's CRS Class Ranking?	<ul style="list-style-type: none"> Flood Insurance Manual Community status book report for state WA (fema.gov) 	6
	What categories and activities provide CRS points and how can the class be improved?	<ul style="list-style-type: none"> Community FPA, FEMA CRS Coordinator, ISO representative 	N/A – However, while DOE/FEMA staff have been very cooperative on navigating various compliance issues, there haven't been opportunities to discuss ways to participate in incentive programs, etc.
	Does the plan include CRS planning requirements?	<ul style="list-style-type: none"> CRS manual http://www.fema.gov/library/viewRecord.do?id=2434 	N/A

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Staff Resources	<p>Identify need for additional staff.</p> <p>Identify training needs of existing staff.</p>	Application of current flood regulations is manageable under current staff levels. If there were ways to establish universal, electronic reporting or documentation

Topic	Considerations	Answer
		processes, it could be helpful (while modeling has improved, much of the reporting seems to have not kept up with technology)
Compliance	<p>When is the next Community Assistance visit anticipated?</p> <p>If unknown, discuss any need for CAV, CAC, or other compliance assistance.</p>	<p>Unknown. CAV's should be conducted less as an audit (though there are some auditing functions) and more as a way to provide tools to communities that may not be employing them and may not be aware of them.</p> <p>As development within the floodplain becomes less of an option, applications for development permits become less common. In some cases, lack of compliance may be the result of inactivity and unfamiliarity. CAV's should be conducted with the approach of trying to gain compliance, rather than searching for non-compliance.</p>
Regulation	<p>Are there potential ordinance changes to consider strengthening requirements?</p> <p>Are there potential improvements to permitting process or other administrative aspects of the community's NFIP program?</p> <p>Could the community enhance its floodplain services?</p>	<p>The floodplain management ordinance, once adopted pursuant to the Biological Opinion, should offer improved guidance for development without substantial changes. Stable regulations will allow the City to expand its services to the community.</p> <p>Improvements in flood modeling technology has revealed that notions of mitigating flood attenuation capacity by "digging a bigger hole" do not always work. Regulations that emphasize this philosophy without providing other methods of discovery should be reexamined.</p>
Flood Risk Maps	<p>Are there flood prone areas that need new flood studies?</p> <p>What areas are highest priority and why?</p> <p>Does the community have new data that can be included in future flood map updates?</p>	<p>The community has questioned whether the current FIRM's accurately analyze the 100-Year Flood within the downtown core; the current FIRM's reflect flood areas that have not historically flooded or given indication of potential flooding.</p>

Topic	Considerations	Answer
Community Outreach	Consider outreach and education to provide in the community. Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics. Consider a variety of audiences, such as elected officials or builders.	If the Biological Opinion-compliant ordinance is adopted, the City expects to provide educational materials to elected officials and the development community.
Community Rating System (CRS)	Does the community want to participate in the CRS program? Does the community want to improve its current CRS class ranking? Identify activities the community is or will be pursuing to gain CRS points.	The City is interested in participating, pending a CAV in September/October 2011.

F6-CITY OF LYNDEN National Flood Insurance Program Participation

Topic	Considerations	Where to find Information	Answer
Insurance Summary	How many NFIP policies are in the community?	<ul style="list-style-type: none"> State NFIP Coordinator or FEMA NFIP Specialist 	20 policies in force
	What is the total premium and coverage?		\$5,941,900.00 insurance in force
			0 repetitive loss properties
	How many claims have been paid in the community?	<ul style="list-style-type: none"> FEMA NFIP or Insurance Specialist 	6 paid losses
	What is the total amount of paid claims?		\$54,898.81 total losses paid
	How many of the claims were for substantial damage?		0 sub. damage claims since 1978
	Number of Structures exposed to flood risk within the community	<ul style="list-style-type: none"> Community Floodplain Administrator (FPA) 	3 to 4
	Describe any areas of flood	<ul style="list-style-type: none"> Community FPA & FEMA 	N/A

Topic	Considerations	Where to find Information	Answer
	risk with limited NFIP policy coverage	Insurance Specialist	
Staff Resources	Does the community have a dedicated Floodplain Manager or NFIP Coordinator?	• Community FPA	Public Works Director
	Is floodplain management an auxiliary duty?		Yes
	Is there a Certified Floodplain Manager on Staff?		Yes
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)		On a case by case basis
	What are the barriers to running an effective NFIP program in the community, if any?		None
Compliance History	Is the community in good standing with the NFIP?	• State NFIP Coordinator, FEMA NFIP Specialist, community records	Yes
	Are there any outstanding compliance issues (i.e., current violations)?		No
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		9/21/2012 last CAV date
	Is a CAV or CAC scheduled or needed?		
Regulation	When did the community enter the NFIP?	• Community Status Book http://www.fema.gov/fema/csb.shtm	11/03/1982 regular entry
	What did the community's Flood Insurance Rate Maps (FIRMS) become effective?		11/03/1982
	Are the FIRMS digital or paper?	• Community FPA, State or FEMA NFIP Specialists	Digital
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum requirements? If so, in what ways?	• Community FPA	Meets requirements

Topic	Considerations	Where to find Information	Answer
	Provide an explanation of the permitting process and include a copy of floodplain permit.	<ul style="list-style-type: none"> Community FPA 	Done on a case by case basis
	Does the community participate in CRS?	<ul style="list-style-type: none"> Community FPA, State, FEMA NFIP 	No
	What is the community's CRS Class Ranking?	<ul style="list-style-type: none"> Flood Insurance Manual Community status book report for state WA (fema.gov) 	N/A
	What categories and activities provide CRS points and how can the class be improved?	<ul style="list-style-type: none"> Community FPA, FEMA CRS Coordinator, ISO representative 	N/A
	Does the plan include CRS planning requirements?	<ul style="list-style-type: none"> CRS manual http://www.fema.gov/library/viewRecord.do?id=2434 	N/A

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Topic	Considerations	Answer
Staff Resources	Identify need for additional staff. Identify training needs of existing staff.	None
Compliance	When is the next Community Assistance visit anticipated? If unknown, discuss any need for CAV, CAC, or other compliance assistance.	Not needed
Regulation	Are there potential ordinance changes to consider strengthening requirements? Are there potential improvements to permitting process or other administrative aspects of the community's NFIP program? Could the community enhance its floodplain services?	N/A No N/A
Flood Risk Maps	Are there flood prone areas that need new flood studies? What areas are highest priority and why?	No None Just the information the City

Topic	Considerations	Answer
	Does the community have new data that can be included in future flood map updates?	receives from Whatcom County River and Flood
Community Outreach	<p>Consider outreach and education to provide in the community.</p> <p>Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics. Consider a variety of audiences, such as elected officials or builders.</p>	N/A
Community Rating System (CRS)	<p>Does the community want to participate in the CRS program?</p> <p>Does the community want to improve its current CRS class ranking?</p> <p>Identify activities the community is or will be pursuing to gain CRS points.</p>	Unknown

F7-CITY OF NOOKSACK National Flood Insurance Program Participation

Topic	Considerations	Where to find Information	Answer
Insurance Summary	How many NFIP policies are in the community? What is the total premium and coverage?	<ul style="list-style-type: none"> State NFIP Coordinator or FEMA NFIP Specialist 	<p>39 policies in force</p> <p>\$12,061,600.00 insurance in force</p> <p>0 repetitive losses</p>
	<p>How many claims have been paid in the community?</p> <p>What is the total amount of paid claims?</p> <p>How many of the claims were for substantial damage?</p>	<ul style="list-style-type: none"> FEMA NFIP or Insurance Specialist 	<p>6 paid loss</p> <p>\$53,667.65 total losses paid</p> <p>0 sub. damage claims since 1978</p>
	Number of Structures exposed to flood risk within the community	<ul style="list-style-type: none"> Community Floodplain Administrator (FPA) 	174 (including outbuildings) in FEMA flood zone AE areas
	Describe any areas of flood risk with limited NFIP policy coverage	<ul style="list-style-type: none"> Community FPA & FEMA Insurance Specialist 	None

Topic	Considerations	Where to find Information	Answer
Staff Resources	Does the community have a dedicated Floodplain Manager or NFIP Coordinator?	<ul style="list-style-type: none"> Community FPA 	No
	Is floodplain management an auxiliary duty?		Yes, one of duties of the Public Works Director
	Is there a Certified Floodplain Manager on Staff?		No
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)		Services are as listed with the exception of engineering capability
	What are the barriers to running an effective NFIP program in the community, if any?		None
Compliance History	Is the community in good standing with the NFIP?	<ul style="list-style-type: none"> State NFIP Coordinator, FEMA NFIP Specialist, community records 	Yes
	Are there any outstanding compliance issues (i.e., current violations)?		No
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		04/24/2008 last CAV date
	Is a CAV or CAC scheduled or needed?		No
Regulation	When did the community enter the NFIP?	<ul style="list-style-type: none"> Community Status Book http://www.fema.gov/fema/csb.shtm 	09/02/1982 regular entry
	What did the community's Flood Insurance Rate Maps (FIRMS) become effective?		01/16/2004, revision is currently underway.
	Are the FIRMS digital or paper?	<ul style="list-style-type: none"> Community FPA, State or FEMA NFIP Specialists 	Both
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum requirements? If so, in what ways?	<ul style="list-style-type: none"> Community FPA 	The current City of Nooksack ordinance meets all requirements.

Topic	Considerations	Where to find Information	Answer
	Provide an explanation of the permitting process and include a copy of floodplain permit.	<ul style="list-style-type: none"> Community FPA 	Builders or individuals apply for a Floodplain Development Permit at time of Building Permit application for individual structures. Permit application attached.
	Does the community participate in CRS?	<ul style="list-style-type: none"> Community FPA, Sate, FEMA NFIP 	No
	What is the community's CRS Class Ranking?	<ul style="list-style-type: none"> Flood Insurance Manual Community status book report for state WA (fema.gov) 	
	What categories and activities provide CRS points and how can the class be improved?	<ul style="list-style-type: none"> Community FPA, FEMA CRS Coordinator, ISO representative 	
	Does the plan include CRS planning requirements?	<ul style="list-style-type: none"> CRS manual http://www.fema.gov/library/viewRecord.do?id=2434 	

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Staff Resources	Identify need for additional staff. Identify training needs of existing staff.	As small as the City of Nooksack is, staffing is adequate.
Compliance	When is the next Community Assistance visit anticipated? If unknown, discuss any need for CAV, CAC, or other compliance assistance.	2013, if a five year visit is standard.
Regulation	Are there potential ordinance changes to consider strengthening requirements? Are there potential improvements to permitting process or other administrative aspects of the community's NFIP program? Could the community enhance its floodplain services?	There are no ordinance changes being planned, a change was made in 2010 to correct an omission from previous City Council action. The City is always looking for ways to improve the process involved.
Flood Risk Maps	Are there flood prone areas that need new flood studies? What areas are highest priority and why? Does the community have new data that can be included in future flood map updates?	The City of Nooksack recently completed a flood study that is submitted to FEMA at this time.
Community Outreach	Consider outreach and education to provide in the community. Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics. Consider a variety of audiences, such as elected officials or builders.	The City of Nooksack feels that additional outreach could be made, but local individuals, officials, and builders seem to understand the process if they are involved in any way.
Community Rating System (CRS)	Does the community want to participate in the CRS program? Does the community want to improve its current CRS class ranking? Identify activities the community is or will be pursuing to gain CRS points.	The City of Nooksack would be interested in participation in the CRS program. Yes Unknown

F8-CITY OF SUMAS National Flood Insurance Program Participation

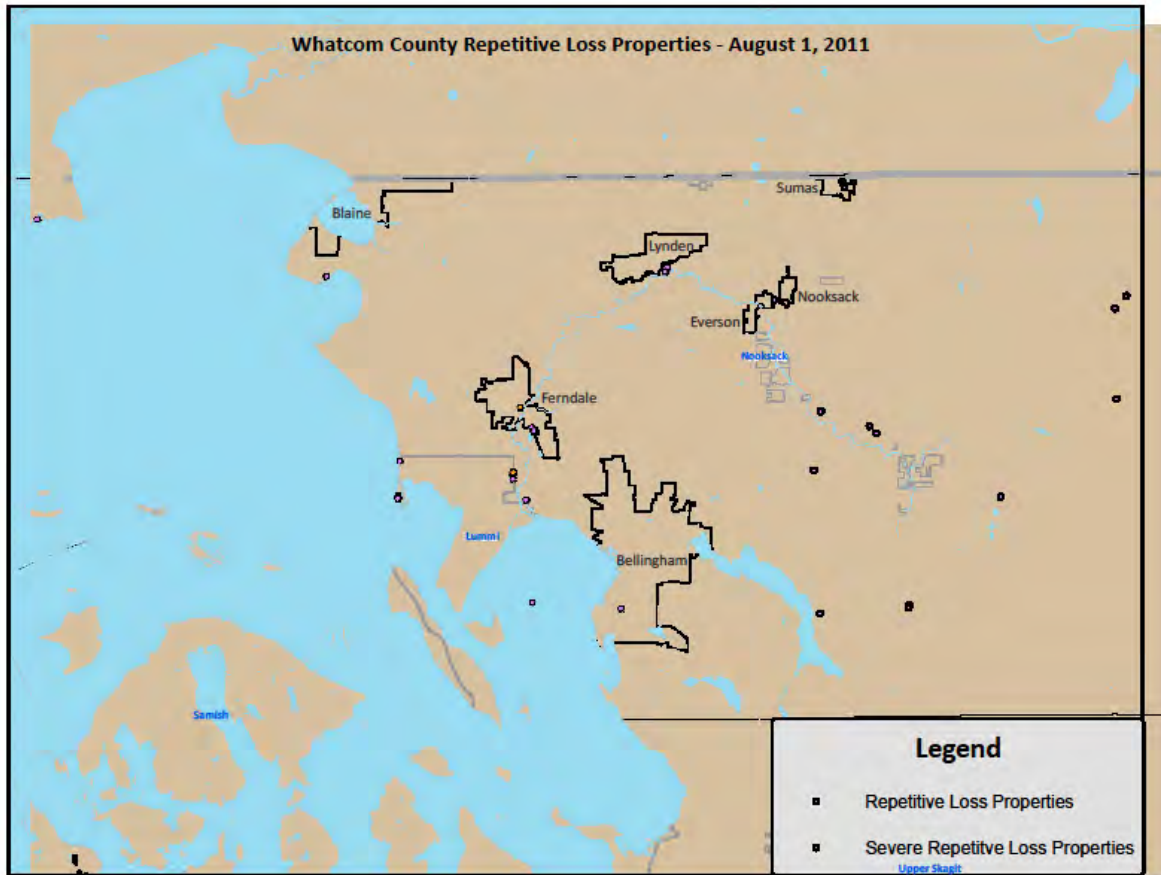
Topic	Considerations	Where to find Information	Answer
Insurance Summary	How many NFIP policies are in the community?	<ul style="list-style-type: none"> State NFIP Coordinator or FEMA NFIP Specialist 	167 policies in force
	What is the total premium and coverage?		\$40,899,700.00 insurance in force
			8 repetitive loss properties. The Repetitive Loss Structures in Sumas are residential. This is based off the 2018 Washington State Repetitive Loss Record from the State Mitigation Strategist at the Washington Emergency Management Division. There may currently be different Repetitive Loss structure types located in Sumas, but the 2018 Repetitive Loss Record is the best available data.
	How many claims have been paid in the community?	<ul style="list-style-type: none"> FEMA NFIP or Insurance Specialist 	82 paid losses
	What is the total amount of paid claims?		\$1,043,047.34 total losses paid
	How many of the claims were for substantial damage?		5 sub. damage claims since 1978
	Number of Structures exposed to flood risk within	<ul style="list-style-type: none"> Community Floodplain Administrator (FPA) 	429

Topic	Considerations	Where to find Information	Answer
	the community		
	Describe any areas of flood risk with limited NFIP policy coverage	<ul style="list-style-type: none"> Community FPA & FEMA Insurance Specialist 	N/A
Staff Resources	Does the community have a dedicated Floodplain Manager or NFIP Coordinator?	<ul style="list-style-type: none"> Community FPA 	Yes, Rod Fadden
	Is floodplain management an auxiliary duty?		Yes
	Is there a Certified Floodplain Manager on Staff?		No
	Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)		I do permit reviews, Outreach CCR renewals, Inspections
	What are the barriers to running an effective NFIP program in the community, if any?		N/A
Compliance History	Is the community in good standing with the NFIP?	<ul style="list-style-type: none"> State NFIP Coordinator, FEMA NFIP Specialist, community records 	Yes, we get the 15% discount
	Are there any outstanding compliance issues (i.e., current violations)?		No
	When was the most recent Community Assistance Visit (VAC) or Community Assistance Contact (CAC)?		12/11/2014 last CAV date
	Is a CAV or CAC scheduled or needed?		No
Regulation	When did the community enter the NFIP?	<ul style="list-style-type: none"> Community Status Book http://www.fema.gov/fema/csb.shtm 	05/15/1985 regular entry
	What did the community's Flood Insurance Rate Maps (FIRMS) become effective?		01/16/2004
	Are the FIRMS digital or paper?	<ul style="list-style-type: none"> Community FPA, State or FEMA NFIP Specialists 	Digital
	Does the Floodplain Ordinance meet or exceed FEMA or State minimum	<ul style="list-style-type: none"> Community FPA 	Yes

Topic	Considerations	Where to find Information	Answer
	requirements? If so, in what ways?		
	Provide an explanation of the permitting process and include a copy of floodplain permit.	<ul style="list-style-type: none"> Community FPA 	The floodplain permit is issued at the time the building permit is.
	Does the community participate in CRS?	<ul style="list-style-type: none"> Community FPA, Sate, FEMA NFIP 	Yes
	What is the community's CRS Class Ranking?	<ul style="list-style-type: none"> Flood Insurance Manual Community status book report for state WA (fema.gov) 	7
	What categories and activities provide CRS points and how can the class be improved?	<ul style="list-style-type: none"> Community FPA, FEMA CRS Coordinator, ISO representative 	310-350, 410-450, 510-540, 610-
	Does the plan include CRS planning requirements?	<ul style="list-style-type: none"> CRS manual http://www.fema.gov/library/viewRecord.do?id=2434 	

NFIP CONTINUED COMPLIANCE ACTIONS

Topic	Considerations	Answer
Staff Resources	Identify need for additional staff.	Ok
	Identify training needs of existing staff.	
Compliance	When is the next Community Assistance visit anticipated?	N/A
	If unknown, discuss any need for CAV, CAC, or other compliance assistance.	
Regulation	Are there potential ordinance changes to consider strengthening requirements?	No
		No
	Are there potential improvements to permitting process or other administrative aspects of the community's NFIP program?	No
	Could the community enhance its floodplain services?	
Flood Risk Maps	Are there flood prone areas that need new flood studies?	No
	What areas are highest priority and why?	N/A
	Does the community have new data that can be included in future flood map updates?	Yes
Community Outreach	Consider outreach and education to provide in the community.	We do newsletters
	Outreach can be targeted to increase NFIP policies, promote NFIP services, or increase knowledge of local flood risk, among other topics.	
	Consider a variety of audiences, such as elected officials or builders.	
Community Rating System (CRS)	Does the community want to participate in the CRS program?	Already in the program
	Does the community want to improve its current CRS class ranking?	
	Identify activities the community is or will be pursuing to gain CRS points.	



The repetitive loss properties in the 2011 Repetitive Loss Map above are up to date. Should there be changes to the properties displayed, or additional properties are added to the repetitive loss property category, this map will be updated to reflect those changes.

APPENDIX E: WHATCOM COUNTY MITIGATION IDEAS

(Reference: FEMA's Mitigation Ideas, A Resource for Reducing Risk to Natural Hazards (January 2013))

The purpose of this document is to provide a resource that communities can use to identify and evaluate a range of potential mitigation actions for reducing risk to natural hazards and disasters. The focus of this document is mitigation, which is action taken to reduce or eliminate long-term risk to hazards. Mitigation is different from preparedness, which is action taken to improve emergency response or operational preparedness.

This document is intended to be a starting point for gathering ideas and should not be used as the only source for identifying actions. Communities should seek innovative and different ideas for reducing risk that meet their unique needs. The actions listed are not necessarily eligible for Federal assistance programs. Users should review specific program guidance and contact their State Hazard Mitigation Officer (SHMO) or regional FEMA office for more information.

Hazard Descriptions

Risk Codes: D—Drought; EQ—Earthquake; VE—Volcanic Eruption; ER—Erosion; ET--Extreme temperatures; F—Flood; HA—Hail; LS—Landslide; L—Lightning; SW--Severe wind; WW--Severe winter weather; SU—Subsidence; T—Tornado; Tsunami—TSU; WF—Wildfire; MU--Multiple Hazards

Drought (D)

A drought is a period of unusually constant dry weather that persists long enough to cause deficiencies in water supply (surface or underground). Droughts are slow onset hazards, but, over time, they can severely affect crops, municipal water supplies, recreational resources, and wildlife. If drought conditions extend over a number of years, the direct and indirect economic impacts can be significant. High temperatures, high winds, and low humidity can worsen drought conditions and also make areas more susceptible to wildfire. In addition, human actions and demands for water resources can accelerate drought-related impacts.

Earthquake (EQ)

An earthquake is a sudden release of energy that creates a movement in the earth's crust. Most earthquake-related property damage and deaths are caused by the failure and collapse of structures due to ground shaking. The level of damage depends upon the extent and duration of the shaking. Other damaging earthquake effects include landslides, the down-slope movement of soil and rock (in mountain regions and along hillsides), and liquefaction.

Volcanic Eruption

A volcano is a vent in the earth's crust through which magma (molten rock), rock fragments, gases, and ashes are ejected from the earth's interior. A volcanic mountain is created over time by the accumulation of these erupted products on the on the earth's surface.

Erosion (ER)

Erosion wearing away of land, such as loss of riverbank, beach, shoreline, or dune material. It is measured as the rate of change in the position or displacement of a riverbank or shoreline over a period of time. Short-term erosion typically results from periodic natural events, such as flooding, hurricanes, storm surge, and windstorms, but may be intensified by human activities. Long-term erosion is a result of multi-

year impacts such as repetitive flooding, wave action, sea level rise, sediment loss, subsidence, and climate change. Death and injury are not typically associated with erosion; however, it can destroy buildings and infrastructure.

Extreme Temperatures (ET)

Extreme heat and extreme cold constitute different conditions in different parts of the country. Extreme cold can range from near freezing temperatures in the southern United States to temperatures well below zero in the northern states. Similarly, extreme heat is typically recognized as the condition where temperatures consistently stay ten degrees or more above a region's average high temperature for an extended period. Fatalities can result from extreme temperatures, as they can push the human body beyond its limits (hyperthermia and hypothermia).

Flood (F)

A flood is the partial or complete inundation of normally dry land. The various types of flooding include riverine flooding, coastal flooding, and shallow flooding. Common impacts of flooding include damage to personal property, buildings, and infrastructure; bridge and road closures; service disruptions; and injuries or even fatalities.

Hail (HA)are a potentially damaging outgrowth

Hailstorms are a potentially damaging outgrowth of severe thunderstorms. Hailstorms frequently accompany thunderstorms, so their locations and spatial extents overlap. Hail can cause substantial damage to vehicles, roofs, landscaping, and other areas of the built environment. U.S. agriculture is typically the area most affected by hail storms, which cause severe crop damage even during minor events.

Landslide (LS)

The movement of a mass of rock, debris, or earth down a slope by force of gravity is considered a landslide. Landslides occur when the slope or soil stability changes from stable to unstable, which may be caused by earthquakes, storms, volcanic eruptions, erosion, fire, or additional human-induced activities. Slopes greater than 10 degrees are more likely to slide, as are slopes where the height from the top of the slope to its toe is greater than 40 feet. Slopes are also more likely to fail if vegetative cover is low and/or soil water content is high. Potential impacts include environmental disturbance, property and infrastructure damage, and injuries or fatalities.

Lightning (L)

Lightning is a discharge of electrical energy that results from the buildup of positive and negative charges in a thunderstorm, which creates a "bolt" when the buildup of charges becomes strong enough. Lightning can strike communications equipment (e.g., radio or cell towers, antennae, satellite dishes, etc.) and hamper communication and emergency response. Lightning strikes can also cause significant damage to buildings, critical facilities, and infrastructure, largely by igniting a fire. Lightning can also ignite a wildfire.

Severe Wind (SW)

Severe wind can occur alone, such as during straightline wind events, or it can accompany other natural hazards, including hurricanes and severe thunderstorms. Severe wind poses a threat to lives, property, and vital utilities primarily due to the effects of flying debris or downed trees and power lines. Severe wind will typically cause the greatest damage to structures of light construction, particularly manufactured homes.

Severe Winter Weather (WW)

Severe winter storms may include snow, sleet, freezing rain, or a mix of these wintry forms of precipitation. Severe winter weather can down trees, cause widespread power outages, damage property, and cause fatalities and injuries.

Subsidence (SU)

Subsidence is the gradual settling or sudden sinking of the Earth's surface due to subsurface movement of earth materials. The level of subsidence ranges from a broad lowering to collapse of land surface. Most causes of subsidence are human-induced, such as groundwater pumpage, aquifer system compaction, drainage of organic soils, underground mining, hydrocompaction, natural compaction, sinkholes, and thawing permafrost. Areas located above or adjacent to karsts topography have a greater risk of experiencing subsidence. Sudden collapses of surface areas can damage and destroy buildings and infrastructure.

Tornado (T)

A tornado is a violently rotating column of air that has contact with the ground and is often visible as a funnel cloud. The destruction caused by tornadoes ranges from light to catastrophic depending on the intensity, size, and duration of the storm. Typically, tornadoes cause the greatest damage to structures of light construction, including residential dwellings and particularly manufactured homes. Tornadoes are more likely to occur during the months of March through May and tend to form in the late afternoon and early evening.

Tsunami (TSU)

A tsunami is a series of great waves that are created by undersea disturbances, such as earthquakes or volcanic eruptions. As opposed to typical waves that crash at the shoreline, tsunamis bring a continuously flowing "wall of water" that has the potential to cause devastating damage in coastal areas immediately along the shore. Areas at greatest risk are less than 50 feet above sea level and within 1 mile of the shoreline. Most deaths that occur during a tsunami result from drowning. Associated risks include flooding, polluted water supplies, and damaged gas lines.

Wildfire (WF)

A wildfire is any outdoor fire that is not controlled, supervised, or arranged. Wildfire probability depends on local weather conditions; outdoor activities such as camping, debris burning, and construction; and the degree of public cooperation with fire prevention measures. Wildfires can result in widespread damage to property and loss of life.

The suggested mitigation actions are summarized into five types: (1) Public Awareness; (2) Local Planning and Regulations; (3) Structural and Infrastructure Projects; (4) Natural Systems Protection; and, (5) Education and Awareness Programs.

PUBLIC AWARENESS

- Emergency preparedness education programs for schools.
- Drills, exercises in homes, workplaces, classrooms, etc.
- Public service announcements.
- Hazard "safety fairs."
- Hazard conferences, seminars.
- Hazard awareness weeks.
- Preparedness handbooks, brochures.
- Distribution of severe weather guides, homeowner's retrofit guide, etc.
- Regular newspaper articles.
- Direct mailings.
- Utility bill inserts.
- Annual correspondence with residents reminding them of the need to be hazard prepared.

LOCAL PLANNING AND REGULATIONS

D-1 Assess Vulnerability to Drought Risk

To better understand and assess local vulnerability to drought, consider actions such as:

- Gathering and analyzing water and climate data to gain a better understanding of local climate and drought history.
- Identifying factors that affect the severity of a drought.
- Identifying available water supplies.
- Determining how the community and its water sources have been impacted by droughts in the past.

D-2 Monitor Drought Conditions

Monitoring drought conditions can provide early warning for policymakers and planners to make decisions through actions including:

- Identifying local drought indicators, such as precipitation, temperature, surface water levels, soil moisture, etc.
- Establishing a regular schedule to monitor and report conditions on at least a monthly basis.

D-3 Monitor Water Supply

Monitoring the water supply and its functions can save water in the long run through actions such as:

- Regularly checking for leaks to minimize water supply losses.
- Improving water supply monitoring.

D-4 Plan for Drought

Plan for future drought events in your area through actions such as:

- Developing a drought emergency plan.
- Developing criteria or triggers for drought-related actions.

- Developing a drought communication plan and early warning system to facilitate timely communication of relevant information to officials, decision makers, emergency managers, and the general public.
- Developing agreements for secondary water sources that may be used during drought conditions.
- Establishing an irrigation time/scheduling program or process so that all agricultural land gets the required amount of water. Through incremental timing, each area is irrigated at different times so that all water is not consumed at the same time. Spacing usage may also help with recharge of groundwater.

D-5 Require Water Conservation During Drought Conditions

Require mandatory water conservation measures during drought emergencies, including:

- Developing an ordinance to restrict the use of public water resources for non-essential usage, such as landscaping, washing cars, filling swimming pools, etc.
- Adopting ordinances to prioritize or control water use, particularly for emergency situations like firefighting.

D-6 Prevent Overgrazing

Prevent overgrazing, which has been linked to drought vulnerability, through actions such as:

- Establishing a grazing policy or permitting program to prevent overgrazing.
- Reducing the number of animals and improving range management.

EQ-1 Adopt and Enforce Building Codes

Building codes reduce earthquake damage to structures. Consider actions such as:

- Adopting and enforcing updated building code provisions to reduce earthquake damage risk.
- Adopting the International Building Code (IBC) and International Residential Code (IRC).

EQ-2 Incorporate Earthquake Mitigation into Local Planning

Earthquake risk can be reduced through local planning, codes, and ordinances, including:

- Creating a seismic safety committee to provide policy recommendations, evaluate and recommend changes in seismic safety standards, and give an annual assessment of local and statewide implementation of seismic safety improvements.
- Developing and distributing guidelines or passing ordinances that require developers and building owners to locate lifelines, buildings, critical facilities, and hazardous materials out of areas subject to significant seismic hazards.
- Incorporating structural and non-structural seismic strengthening actions into ongoing building plans and activities in the capital improvement plan to ensure that facilities remain operational for years to come.
- Supporting financial incentives, such as low interest loans or tax breaks, for home and business owners who seismically retrofit their structures.

EQ-3 Map and Assess Community Vulnerability to Seismic Hazards

To better understand and assess local vulnerability to earthquakes, consider actions such as:

- Developing an inventory of public and commercial buildings that may be particularly vulnerable to earthquake damage, including pre-1940s homes and homes with cripple wall foundations.
- Collecting geologic information on seismic sources, soil conditions, and related potential hazards.
- Creating an earthquake scenario to estimate potential loss of life and injuries, the types of potential damage, and existing vulnerabilities within a community to develop earthquake mitigation priorities.
- Using Hazus to quantitatively estimate potential losses from an earthquake.
- Maintaining a database to track community vulnerability to earthquake risk.
- Using GIS to map hazard areas, at-risk structures, and associated hazards (e.g., liquefaction and landslides) to assess high-risk areas.

EQ-4 Conduct Inspections of Building Safety

Inspections can be used to assess earthquake risk, such as:

- Establishing a school survey procedure and guidance document to inventory structural and non-structural hazards in and around school buildings.
- Using rapid visual screening to quickly inspect a building and identify disaster damage or potential seismic structural and non-structural weaknesses to prioritize retrofit efforts, inventory high-risk structures and critical facilities, or assess post-disaster risk to determine if buildings are safe to re-occupy.
- Consulting industry standard publications such as American Society of Civil Engineers (ASCE) 31 - Seismic Evaluation of Existing Buildings, ASCE 41 - Seismic Rehabilitation of Existing Buildings, and Applied Technology Council (ATC) 20 - Procedures for Post-earthquake Safety Evaluation of Buildings.

ER-1 Map and Assess Vulnerability to Erosion

Erosion risk can be better assessed and monitored with mapping techniques, including the following:

- Using GIS to identify and map erosion hazard areas.
- Developing and maintaining a database to track community vulnerability to erosion.
- Using GIS to identify concentrations of at-risk structures.
- Improving mapping of hazard areas to educate residents about unexpected risks.

ER-2 Manage Development in Erosion Hazard Areas

Erosion damage can be mitigated by regulating how development occurs in hazard areas, such as the following:

- Adopting sediment and erosion control regulations.
- Adopting zoning and erosion overlay districts.
- Developing an erosion protection program for high hazard areas.
- Employing erosion control easements.
- Prohibiting development in high-hazard areas.
- Developing and implementing an erosion management plan.
- Requiring mandatory erosion surcharges on homes.
- Locating utilities and critical facilities outside of areas susceptible to erosion to decrease the risk

of service disruption.

ER-3 Promote or Require Site and Building Design Standards to Minimize Erosion Risk

Development can be designed to minimize damage due to erosion using the following techniques:

- Constructing open foundation systems on buildings to minimize scour.
- Constructing deep foundations in erosion hazard areas.
- Clustering buildings during building and site design.
- Designing and orienting infrastructure to deter erosion and accretion.

ET-1 Reduce Urban Heat Island Effect

As urban areas develop and buildings and roads replace open land and vegetation, urban regions become warmer than their rural surroundings, forming an “island” of heat. Several methods for reducing heat island effects include:

- Increasing tree plantings around buildings to shade parking lots and along public rights-of-way.
- Encouraging installation of green roofs, which provide shade and remove heat from the roof surface and surrounding air.
- Using cool roofing products that reflect sunlight and heat away from a building.

F-1 Incorporate Flood Mitigation in Local Planning

Comprehensive planning and floodplain management can mitigate flooding by influencing development. Strategies include:

- Determining and enforcing acceptable land uses to alleviate the risk of damage by limiting exposure in flood hazard areas. Floodplain and coastal zone management can be included in comprehensive planning.
- Developing a floodplain management plan and updating it regularly.
- Mitigating hazards during infrastructure planning. For example, decisions to extend roads or utilities to an area may increase exposure to flood hazards.
- Adopting a post-disaster recovery ordinance based on a plan to regulate repair activity, generally depending on property location.
- Passing and enforcing an ordinance that regulates dumping in streams and ditches.
- Establishing a “green infrastructure” program to link, manage, and expand existing parks, preserves, greenways, etc.
- Obtaining easements for planned and regulated public use of privately-owned land for temporary water retention and drainage.

F-2 Form Partnerships to Support Floodplain Management

Partnerships between local, state, and regional entities help expand resources and improve coordination. Consider the following actions:

- Developing a storm water committee that meets regularly to discuss issues and recommend projects.
- Forming a regional watershed council to help bring together resources for comprehensive analysis, planning, decision-making, and cooperation.

- Establishing watershed-based planning initiatives to address the flood hazard with neighboring jurisdictions.
- Forming a citizen plan implementation steering committee to monitor progress on local mitigation actions. Include a mix of representatives from neighborhoods, local businesses, and local government.

F-3 Limit or Restrict Development in Floodplain Areas

Flooding can be mitigated by limiting or restricting how development occurs in floodplain areas through actions such as:

- Prohibiting or limiting floodplain development through regulatory and/or incentive-based measures.
- Limiting the density of developments in the floodplain.
- Requiring that floodplains be kept as open space.
- Limiting the percentage of allowable impervious surface within developed parcels.
- Developing a stream buffer ordinance to protect water resources and limit flood impacts.
- Prohibiting any fill in floodplain areas.

F-4 Adopt and Enforce Building Codes and Development Standards

The use of building codes and development standards can ensure structures are able to withstand flooding. Potential actions include:

- Adopting the International Building Code (IBC) and International Residential Code (IRC).
- Adopting ASCE 24-05 Flood Resistant Design and Construction. ASCE 24 is a referenced standard in the IBC that specifies minimum requirements and expected performance for the design and construction of buildings and structures in the flood hazard areas to make them more resistant to flood loads and flood damage.
- Adding or increasing “freeboard” requirements (feet above base flood elevation) in the flood damage ordinance.
- Prohibiting all first floor enclosures below base flood elevation for all structures in flood hazard areas.
- Considering orientation of new development during design (e.g., subdivisions, buildings, infrastructure, etc.).
- Setting the design flood elevation at or above the historical high water mark if it is above the mapped base flood elevation.
- Using subdivision design standards to require elevation data collection during platting and to have buildable space on lots above the base flood elevation.
- Requiring standard tie-downs of propane tanks.

F-5 Improve Storm Water Management Planning

Rainwater and snowmelt can cause flooding and erosion in developed areas. Storm Water management practices to prevent this include:

- Completing a storm water drainage study for known problem areas.
- Preparing and adopting a storm water drainage plan and ordinance.
- Preparing and adopting a community-wide storm water management master plan.
- Regulating development in upland areas in order to reduce storm water run-off through a storm

water ordinance.

- Linking flood hazard mitigation objectives with EPA Storm water Phase II initiatives.
- Developing engineering guidelines for drainage from new development.
- Requiring a drainage study with new development.
- Encouraging the use of Low Impact Development techniques

F-6 Adopt Policies to Reduce Storm Water Runoff

In addition to storm water management, techniques to reduce rain runoff can prevent flooding and erosion, such as:

- Designing a “natural runoff” or “zero discharge” policy for storm water in subdivision design.
- Requiring more trees be preserved and planted in landscape designs to reduce the amount of storm water runoff.
- Requiring developers to plan for on-site sediment retention.
- Requiring developers to construct on-site retention basins for excessive storm water and as a firefighting water source.
- Encouraging the use of porous pavement, vegetative buffers, and islands in large parking areas.
- Conforming pavement to land contours so as not to provide easier avenues for storm water.
- Encouraging the use of permeable driveways and surfaces to reduce runoff and increase groundwater recharge.
- Adopting erosion and sedimentation control regulations for construction and farming.

F-7 Improve Flood Risk Assessment

Heighten awareness of flood risk with the following:

- Incorporating the procedures for tracking high water marks following a flood into emergency response plans.
- Conducting cumulative impact analyses for multiple development projects within the same watershed.
- Conducting a verification study of FEMA’s repetitive loss inventory and developing an associated tracking database.
- Regularly calculating and documenting the amount of flood-prone property preserved as open space.
- Requiring a thorough watershed analysis for all proposed dam or reservoir projects.
- Developing a dam failure study and emergency action plan.
- Using GIS to map areas that are at risk of flooding.
- Obtaining depth grid data and using it to illustrate flood risk to citizens.
- Incorporating digital floodplain and topographic data into GIS systems, in conjunction with Hazus, to assess risk.
- Developing and maintaining a database to track community exposure to flood risk.
- Revising and updating regulatory floodplain maps.

F-8 Join or Improve Compliance with NFIP

The National Flood Insurance Program (NFIP) enables property owners in participating communities to purchase insurance protection against flood losses. Actions to achieve eligibility and maintain compliance include:

- Participating in NFIP.
- Adopting ordinances that meet minimum Federal and state requirements to comply with NFIP.
- Conducting NFIP community workshops to provide information and incentives for property owners to acquire flood insurance.
- Designating a local floodplain manager and/or CRS coordinator who achieves CFM certification.
- Completing and maintaining FEMA elevation certificates for pre-FIRM and/or post-FIRM buildings.
- Requiring and maintaining FEMA elevation certificates for all new and improved buildings located in floodplains.

F-9 Manage the Floodplain Beyond Minimum Requirements

In addition to participation in NFIP, implementing good floodplain management techniques that exceed minimum requirements can help minimize flood losses. Examples include:

- Incorporating the ASFPM's "No Adverse Impact" policy into local floodplain management programs.
- Revising the floodplain ordinance to incorporate cumulative substantial damage requirements.
- Adopting a "no-rise" in base flood elevation clause for the flood damage prevention ordinance.
- Extending the freeboard requirement past the mapped floodplain to include an equivalent land elevation.
- Including requirements in the local floodplain ordinance for homeowners to sign non-conversion agreements for areas below base flood elevation.
- Establishing and publicizing a user-friendly, publicly-accessible repository for inquirers to obtain Flood Insurance Rate Maps.
- Developing an educational flyer targeting NFIP policyholders on increased cost of compliance during post-flood damage assessments.
- Annually notifying the owners of repetitive loss properties of Flood Mitigation Assistance funding.
- Offering incentives for building above the required freeboard minimum (code plus).

F-10 Participate in the CRS

The Community Rating System (CRS) rewards communities that exceed the minimum NFIP requirements. Depending upon the level of participation, flood insurance premium rates are discounted for policyholders. Potential activities that are eligible to receive credit include:

- Advising the public about the local flood hazard, flood insurance, and flood protection measures.
- Enacting and enforcing regulations that exceed NFIP minimum standards so that more flood protection is provided for new development.
- Implementing damage reduction measures for existing buildings such as acquisition, relocation, retrofitting, and maintenance of drainage ways and retention basins.
- Taking action to minimize the effects of flooding on people, property, and building contents through measures including flood warning, emergency response, and evacuation planning.

F-11 Establish Local Funding Mechanisms for Flood Mitigation

Potential methods to develop local funding sources for flood mitigation include:

- Using taxes to support a regulatory system.
- Using impact fees to help fund public projects to mitigate impacts of land development (e.g., increased runoff).
- Levying taxes to fix maintenance of drainage systems and capital improvements.

LS-1 Map and Assess Vulnerability to Landslides

Improve data and mapping on specific landslide risks in the community by:

- Studying areas where riparian landslides may occur.
- Completing an inventory of locations where critical facilities, other buildings, and infrastructure are vulnerable to landslides.
- Using GIS to identify and map landslide hazard areas.
- Developing and maintaining a database to track community vulnerability to landslides.
- Assessing vegetation in wildfire-prone areas to prevent landslides after fires (e.g., encourage plants with strong root systems).

LS-2 Manage Development in Landslide Hazard Areas

Landslide risk can be mitigated by regulating development in landslide hazard areas through actions such as:

- Creating a plan to implement reinforcement measures in high-risk areas.
- Defining steep slope/high-risk areas in land use and comprehensive plans and creating guidelines or restricting new development in those areas.
- Creating or increasing setback limits on parcels near high-risk areas.
- Locating utilities outside of landslide areas to decrease the risk of service disruption.
- Restricting or limiting industrial activity that would strip slopes of essential top soil.
- Incorporating economic development activity restrictions in high-risk areas.

SLR-1 Map and Assess Vulnerability to Sea Level Rise

To better understand and assess local vulnerability to sea level rise, consider actions such as:

- Modeling various “what-if” scenarios to estimate potential vulnerabilities in order to develop sea level rise mitigation priorities.
- Using GIS to map hazard areas, at-risk structures, and associated hazards (e.g., flood and storm surge) to assess high-risk areas.
- Developing an inventory of public buildings and infrastructure that may be particularly vulnerable to sea level rise.
- Adding future conditions hydrology and areas that may be inundated by sea level rise to Digital Flood Insurance Rate Maps (DFIRM).

SLR-2 Manage Development in High-Risk Areas

Local governments can mitigate future losses resulting from sea level rise by regulating development in potential hazard areas through land use planning, including:

- Using zoning, subdivision regulations, and/or a special sea level rise overlay district to designate high-risk areas and specify the conditions for the use and development of specific areas.

- Promoting conservation and management of open space, wetlands, and/or sea level rise boundary zones to separate developed areas from high-hazard areas.
- Prohibiting the redevelopment of areas destroyed by storms or chronic erosion in order to prevent future losses.
- Encouraging compact community design in low-risk areas.
- Establishing setbacks in high-risk areas that account for potential sea level rise.

SRL-3 Prevent Infrastructure Expansion in High-Risk Areas

Future development can be protected from damage resulting from sea level rise through the following:

- Setting guidelines for annexation and service extensions in high-risk areas.
- Locating utilities and critical facilities outside of areas susceptible to sea level rise to decrease the risk of service disruption.
- Requiring all critical facilities to be built 1 foot above the 500-year flood elevation (considering wave action) or the predicted sea level rise level, whichever is higher.

SW-1 Adopt and Enforce Building Codes

Adopt regulations governing residential construction to prevent wind damage. Examples of appropriate regulations are:

- Adopting the International Building Code (IBC) and International Residential Code (IRC).
- Adopting standards from International Code Council (ICC)-600 Standard for Residential Construction in High-Wind Regions.
- Reviewing building codes and structural policies to ensure they are adequate to protect older structures from wind damage.
- Requiring or encouraging wind engineering measures and construction techniques that may include structural bracing, straps and clips, anchor bolts, laminated or impact-resistant glass, reinforced pedestrian and garage doors, window shutters, waterproof adhesive sealing strips, or interlocking roof shingles.
- Requiring tie-downs with anchors and ground anchors appropriate for the soil type for manufactured homes.
- Prohibiting the use of carports and open coverings attached to manufactured homes.
- Requiring the use of special interlocking shingles designed to interlock and resist uplift forces in extreme wind conditions to reduce damage to a roof or other structures.
- Improving nailing patterns.
- Requiring building foundation design, braced elevated platforms, and protections against the lateral forces of winds and waves.
- Requiring new masonry chimneys greater than 6 feet above a roof to have continuous reinforced steel bracing.
- Requiring structures on temporary foundations to be securely anchored to permanent foundations.

SW-2 Promote or Require Site and Building Design Standards to Minimize Wind Damage

Damage associated with severe wind events can be reduced or prevented if considered during building and site design. Examples include the following:

- Using natural environmental features as wind buffers in site design.
- Incorporating passive ventilation in the building design.
- Incorporating passive ventilation in the site design. Passive ventilation systems use a series of vents in exterior walls or at exterior windows to allow outdoor air to enter the home in a controlled way.
- Encouraging architectural designs that limit potential for wind-borne debris.
- Improving architectural design standards for optimal wind conveyance.
- Encouraging wind-resistant roof shapes (e.g., hip over gable).

SW-3 Assess Vulnerability to Severe Wind

In order to better understand and assess local vulnerability to severe wind, consider actions such as:

- Developing and maintaining a database to track community vulnerability to severe wind.
- Using GIS to map areas that are at risk to the wind hazard associated with different hurricane conditions (e.g., Category 1, 2, 3, etc.) and to identify concentrations of at-risk structures.
- Creating a severe wind scenario to estimate potential loss of life and injuries, the types of potential damage, and existing vulnerabilities within a community to develop severe wind mitigation priorities.
- Using Hazus to quantitatively estimate potential losses from hurricane wind.

SW-4 Protect Power Lines and Infrastructure

The regular maintenance and upkeep of utilities can help prevent wind damage. Possible strategies are:

- Establishing standards for all utilities regarding tree pruning around lines.
- Incorporating inspection and management of hazardous trees into the drainage system maintenance process.
- Preemptively testing power line holes to determine if they are rotting.
- Inspecting utility poles to ensure they meet specifications and are wind resistant.
- Burying power lines to provide uninterrupted power after severe winds, considering both maintenance and repair issues.
- Upgrading overhead utility lines (e.g., adjust utility pole sizes, utility pole span widths, and/or line strength).
- Avoiding use of aerial extensions to water, sewer, and gas lines.
- Using designed-failure mode for power line design to allow lines to fall or fail in small sections rather than as a complete system to enable faster restoration.
- Installing redundancies and loopfeeds.

WW-1 Adopt and Enforce Building Codes

Buildings and infrastructure can be protected from the impacts of winter storms with the following regulations:

- Adopting the International Building Code (IBC) and International Residential Code (IRC).
- Ensuring the development and enforcement of building codes for roof snow loads.
- Discouraging flat roofs in areas that experience heavy snows.

SS-1 Adopt Building Codes and Development Standards

Building codes and development standards can be established to mitigate storm surge damage. Possible

regulations include:

- Adopting the International Building Code (IBC) and International Residential Code (IRC).
- Adopting ASCE-24-05 Flood Resistant Design and Construction. ASCE 24, created by the American Society of Civil Engineers, is a referenced standard in the IBC that specifies minimum requirements and expected performance for the design and construction of buildings and structures in flood hazard areas to make them more resistant to flood loads and flood damage.
- Establishing design standards for buildings located in areas susceptible to storm surge.
- Implementing V-zone construction requirements for new development located in coastal A-zones.
- Adopting building requirements for higher elevation in inundation zones.
- Requiring open foundations (e.g., piles or piers) in coastal areas.
- Requiring deep foundations in order to avoid erosion and scour.

SS-2 Improve Land Use Planning and Regulations

Land uses should be planned and regulated to minimize the impact of storm surge. Possible measures to implement include:

- Developing and maintaining a beach management plan.
- Adopting shoreline setback regulations and establishing coastal setback lines.
- Adopting coastal zone management regulations.
- Eliminating all obstructions in areas along the coast subject to inundation by the 1-percent-annual-chance flood event with additional hazards associated with storm-induced waves (also known as the V-zone).
- Planning for future storm surge heights due to sea level rise.
- Limiting or prohibiting development in areas along the coast subject to inundation by the 1-percent-annual-chance flood event with additional hazards associated with storm-induced waves (referred to as the V-zone on Flood Insurance Rate Maps).
- Adopting coastal A-zones, areas of special flood hazard that extend inland and are subject to breaking waves between 1.5 and 3 feet, and ensuring that they are mapped accurately.
- Adopting and enforcing coastal A-zones in A-zones.

SS-3 Minimize Risk to New Facilities and Infrastructure

Infrastructure and critical facilities can be protected from storm surge damage through the following:

- Locating future critical facilities outside of areas susceptible to storm surge.
- Requiring that all critical facilities meet requirements of Executive Order 11988 and be built 1 foot above the 500-year flood elevation (considering wave action).

SS-4 Map and Assess Vulnerability to Storm Surge

Storm surge risk can be better assessed and monitored with mapping techniques, including the following:

- Using GIS to map areas that are at risk to inundation by storm surge.
- Developing and maintaining a database to track community vulnerability to storm surge.

SU-1 Map and Assess Vulnerability to Subsidence

Some areas with subsidence risk may not be fully identified in your community. Consider actions such as:

- Using GIS to map areas that are susceptible to subsidence.
- Identifying and mapping old mining areas or geologically unstable terrain so that development can be prevented or eliminated.
- Using ground-penetrating radar to detect lava tubes and map their location.
- Supporting mapping efforts to identify areas of existing permafrost.
- Improving accuracy of hazard area maps to educate residents about unanticipated risks. Upgrading maps provides a truer measure of risks to a community.

SU-2 Manage Development in High-Risk Areas

Development regulations should consider areas with poor soil conditions, including the following:

- Prohibiting development in areas that have been identified as at-risk to subsidence.
- Restricting development in areas with soil that is considered poor or unsuitable for development.

SU-3 Consider Subsidence in Building Design

If subsidence is considered during building design, future damage may be prevented. Potential actions include:

- Educating design professionals about where to locate information on subsidence rates and maps.
- Incorporating structural designs that can resist loading associated with subsidence.
- Adopting an ordinance promoting permafrost sensitive construction practices.
- Including potential subsidence in freeboard calculations for buildings in flood-prone areas.

SU-4 Monitor Subsidence Risk Factors

Several risk factors can be monitored to help predict subsidence, such as the following:

- Monitoring areas at risk to subsidence by remaining aware of changes in groundwater levels.
- Monitoring areas where natural resources are removed from underground.
- Filling or buttressing subterranean open spaces, as with abandoned mines, to prevent or alleviate collapse.

TSU-1 Map and Assess Vulnerability to Tsunami

Tsunami risk can be better assessed and monitored with mapping techniques, including the following:

- Using GIS to map areas that are vulnerable to inundation by tsunamis.
- Developing and maintaining a database to track community vulnerability to tsunamis.
- Offering GIS hazard mapping online for residents and design professionals.
- Educating map users on the appropriate uses and limitations of maps.
- More accurately mapping problem areas to educate residents about unanticipated risks. Upgrading maps provides a truer measure of risks to a community.

TSU-2 Manage Development in Tsunami Hazard Areas

Planning and regulations can mitigate tsunami damage in many ways, such as:

- Adopting and enforcing building codes and design standards that contain requirements for

- tsunami-resistant design.
- Limiting new development in tsunami run-up areas.
- Encouraging new development that is configured to minimize tsunami losses by using site planning strategies that slow water currents, steer water forces, and block water forces.

TSU-3 Protect Against Fire Following Tsunami

Communities can encourage wildfire mitigation measures (i.e., tree breaks) in tsunami-prone areas to reduce impacts of fires that may occur after a tsunami hits the coastline.

WF-1 Map and Assess Vulnerability to Wildfire

The first step in local planning is to identify wildfire hazard areas and assess overall community vulnerability. Potential actions include:

- Using GIS mapping of wildfire hazard areas to facilitate analysis and planning decisions through comparison with zoning, development, infrastructure, etc.
- Developing and maintaining a database to track community vulnerability to wildfire.
- Creating a wildfire scenario to estimate potential loss of life and injuries, the types of potential damage, and existing vulnerabilities within a community to develop wildfire mitigation priorities.

WF-2 Incorporate Wildfire Mitigation in the Comprehensive Plan

Communities can review comprehensive plans to ensure wildfire mitigation has been addressed. The comprehensive plan may include the following:

- Recognizing the existence of wildfire hazards and identifying areas of risk based on a wildfire vulnerability assessment.
- Describing policies and recommendation for addressing wildfire risk and discouraging expansion in the wildland-urban interface.
- Including considerations of wildfire hazards in land use, public safety, and other elements of the comprehensive plan.

WF-3 Reduce Risk through Land Use Planning

Local governments can mitigate future losses by regulating development in wildfire hazard areas through land use planning, including:

- Using zoning and/or a special wildfire overlay district to designate high-risk areas and specify the conditions for the use and development of specific areas.
- Addressing density and quantity of development, as well emergency access, landscaping and water supply.
- Promoting conservation of open space or wildland-urban boundary zones to separate developed areas from high-hazard areas.
- Setting guidelines for annexation and service extensions in high-risk areas.

WF-4 Develop a Wildland- Urban Interface Code

Communities can develop regulations for safer construction and incorporate mitigation considerations into the permitting process. Potential actions include:

- Developing specific design guidelines and development review procedures for new construction, replacement, relocation, and substantial improvement in wildfire hazard areas.
- Addressing fire mitigation through access, signage, fire hydrants, water availability, vegetation management, and special building construction standards.
- Involving fire protection agencies in determining guidelines and standards and in development and site plan review procedures.
- Establishing wildfire mitigation planning requirements for large scale developments or planned unit developments.

WF-5 Require or Encourage Fire-Resistant Construction Techniques

A local government can encourage fire-resistant construction or may choose to require it through local regulations. Examples include:

- Encouraging the use of non-combustible materials (i.e., stone, brick, and stucco) for new construction in wildfire hazard areas.
- Using fire resistant roofing and building materials in remodels, upgrades, and new construction.
- Enclosing the foundations of homes and other buildings in wildfire-prone areas, rather than leaving them open and potentially exposing undersides to blown embers or other materials.
- Prohibiting wooden shingles/wood shake roofs on any new development in areas prone to wildfires.
- Encouraging the use of functional shutters on windows.

MU-1 Assess Community Risk

Understanding community vulnerability and level of risk is important to identify and prioritize mitigation alternatives. Improve risk assessment through the following:

- Obtaining local data including tax parcels, building footprints, critical facility locations, and other information for use in risk analysis.
- Developing and maintaining a database to track community vulnerability (i.e., exposure in known hazard areas).
- Establishing a process to coordinate with state and Federal agencies to maintain up-to-date hazard data, maps, and assessments.
- Keeping aerial photography current, especially in rapidly developing areas.
- Identifying the most at-risk critical facilities and evaluating potential mitigation techniques.

MU-2 Map Community Risk

Maps are an important tool for communicating risk. Consider the following for developing GIS capabilities:

- Developing a coordinated GIS Department. Find out who uses GIS, determine how it is used, and identify other potential uses.
- Incorporating a GIS system/management plan for tracking permitting, land use patterns, etc.
- Obtaining hazard data and using GIS to map risk for various hazards.

MU-3 Prevent Development in Hazard Areas

Limit or prohibit development in high-hazard areas through the following types of actions:

- Encouraging clustering of residential lots outside of hazard areas in subdivision design/review.
- Prohibiting or limiting public expenditures for capital improvements in known hazard areas.
- Organizing a managed retreat from very high-risk areas.
- Purchasing the “right of first refusal” for hazard-prone parcels targeted for public acquisition.
- Purchasing land and title in the name of a local governing body to remove structures and enforce permanent restrictions on development.
- Acquiring and using easements (e.g., conservation) to prevent development in known hazard areas.
- Using conservation easements to protect environmentally significant portions of parcels from development.
- Acquiring hazardous areas for conservation or restoring as functional public parks.
- Acquiring safe sites for public facilities (e.g., schools, police/fire stations, etc.).
- Prohibiting new facilities for persons with special needs/mobility concerns in hazard areas.
- Prohibiting animal shelters in known hazard areas.

MU-4 Adopt Development Regulations in Hazard Areas

Regulate development in hazard areas. Examples include:

- Using subdivision and development regulations to regulate development in hazard-prone areas.
- Evaluating the use of performance/impact zoning to set risk-based standards for land development.
- Requiring setbacks from delineated hazard areas (e.g., shorelines, wetlands, steep slopes, etc.).
- Requiring conditional/special use permits for the development of known hazard areas.
- Offering expanded development rights to developers/businesses for performing mitigation retrofits.
- Incorporating restrictive covenants on properties located in known hazard areas.
- Designating high-risk zones as special assessment districts (to fund necessary hazard mitigation projects).

MU-5 Limit Density in Hazard Areas

Limit the density of development in the hazard areas through the following techniques:

- Increasing minimum lot size for development in known hazard areas.
- Designating “agricultural use districts” in the zoning ordinance to limit densities in known hazard areas.
- Ensuring the zoning ordinance encourages higher densities only outside of known hazards areas.
- Requiring clustering for planned unit developments (PUD) in the zoning ordinance to reduce densities in known hazard areas.
- Establishing a local transfer of development rights (TDR) program for risk in known hazard areas.
- Establishing a process to use floating zones to reduce densities in damaged areas following a disaster event.

MU-6 Integrate Mitigation into Local Planning

Hazard mitigation can be integrated into local planning efforts through the following:

- Incorporating risk assessment and hazard mitigation principles into comprehensive planning efforts.
- Incorporating a stand-alone element for hazard mitigation into the local comprehensive (land use) plan.
- Incorporating hazard mitigation into broader growth management (i.e., Smart Growth) initiatives.
- Incorporating a hazard risk assessment into the local development and subdivision review process.
- Adding hazard mitigation measures to existing adequate public facilities (APF) tests and programs.
- Ensuring natural hazards are considered in all land suitability analyses (LSA).
- Determining and enforcing acceptable land uses to alleviate the risk of damage by limiting exposure in such hazard areas.
- Developing a post-disaster reconstruction plan to facilitate decision making following a hazard event.
- Involving citizens in comprehensive planning activities that identify and mitigate hazards.

MU-7 Strengthen Land Use Regulations

Land use regulations can reduce hazard risk through the following:

- Using bonus/incentive zoning to encourage mitigation measures for private land development.
- Using conditional use zoning to require or exact mitigation measures for private land development.
- Establishing a process to use overlay zones to require mitigation techniques in high-hazard districts.
- Adopting a post-disaster recovery ordinance based on a plan to regulate repair activity, generally depending on property location.
- Adopting environmental review standards.
- Incorporating proper species selection, planting, and maintenance practices into landscape ordinances.

MU-8 Adopt and Enforce Building Codes

Building codes and inspections help ensure buildings can adequately withstand damage during hazard events. Effective actions include:

- Adopting the International Building Code (IBC) and International Residential Code (IRC).
- Increasing the local Building Code Effectiveness Grading Schedule (BCEGS) classification through higher building code standards and enforcement practices.
- Incorporating higher standards for hazard resistance in local application of the building code.
- Providing advanced training to local building inspectors.
- Considering orientation of new development during design (e.g., subdivisions, buildings, infrastructure, etc.)
- Requiring standard tie-downs of propane tanks.
- Requiring tie-downs for all manufactured housing.
- Establishing moratorium procedures to guide the suspension of post-disaster reconstruction permits.
- Revising fire codes to limit hotel room occupancy to ensure timely evacuation of high-use and

- multi-floor structures.
- Establishing “value-added” incentives for hazard-resistant construction practices beyond code requirements.

MU-9 Create Local Funding Mechanisms for Hazard Mitigation

Local funding resources can be developed through the following measures:

- Establishing a local reserve fund for public mitigation measures.
- Using impact fees to help fund public hazard mitigation projects related to land development (i.e., increased runoff).
- Requiring a development impact tax on new construction to mitigate the impacts of that development.
- Recruiting local financial institutions to participate in “good neighbor” lending for private mitigation practices.
- Providing local match to Federal funds that can fund private mitigation practices.

MU-10 Incentivize Hazard Mitigation

Incentives and disincentives can be used to promote hazard mitigation through the following measures:

- Using special tax assessments to discourage builders from constructing in hazardous areas.
- Using insurance incentives and disincentives (i.e., incentives for best practices).
- Providing tax incentives for development of low-risk hazard parcels.
- Waiving permitting fees for home construction projects related to mitigation.
- Using tax abatements, public subsidies, and other incentives to encourage private mitigation practices.
- Reducing or deferring the tax burden for undeveloped hazard areas facing development pressure.
- Encouraging infill development through tax incentives, streamlined approval processes, etc.

MU-11 Monitor Mitigation Plan Implementation

Monitoring the implementation of the local mitigation plan can ensure that mitigation actions are being completed through:

- Forming a plan implementation steering committee to monitor progress on local mitigation actions. Include a mix of representatives from neighborhoods, local businesses, and local government.
- Preparing a plan implementation monitoring schedule and outlining roles for those responsible for monitoring (i.e., local departments, agencies, and committees).
- Preparing and submitting an annual plan implementation progress report to the local elected body.

STRUCTURE AND INFRASTRUCTURE PROJECTS

D-7 Retrofit Water Supply Systems

Improve water supply and delivery systems to save water through actions such as:

- Designing water delivery systems to accommodate drought events.
- Developing new or upgrading existing water delivery systems to eliminate breaks and leaks.

EQ-5 Protect Critical Facilities and Infrastructure

Reduce potential damage to critical facilities and infrastructure from future seismic events through actions such as:

- Conducting seismic retrofitting for critical public facilities most at risk to earthquakes.
- Requiring bracing of generators, elevators, and other vital equipment in hospitals.
- Identifying and hardening critical lifeline systems (i.e., critical public services such as utilities and roads) to meet “Seismic Design Guidelines and Standards for Lifelines” or equivalent standards such as American Lifelines Alliance (ALA) guidance. This may distinguish a manageable earthquake from a social and economic catastrophe.
- Reviewing construction plans for all bridges to determine their susceptibility to collapse and retrofitting problem bridges.
- Using flexible piping when extending water, sewer, or natural gas service.
- Installing shutoff valves and emergency connector hoses where water mains cross fault lines.

EQ-6 Implement Structural Mitigation Techniques

Use structural mitigation measures to reduce damage from future seismic events, such as:

- Strengthening and retrofitting non-reinforced masonry buildings and non-ductile concrete facilities that are particularly vulnerable to ground shaking.
- Retrofitting building veneers to prevent failure.
- Building a safe room to provide protection during an earthquake.
- Installing window film to prevent injuries from shattered glass.
- Anchoring rooftop-mounted equipment (i.e., HVAC units, satellite dishes, etc).
- Constructing masonry chimneys greater than 6 feet above a roof with continuous reinforced steel bracing.

ER-4 Remove Existing Buildings and Infrastructure from Erosion Hazard Areas

To prevent damage to buildings and infrastructure from erosion, consider acquiring and demolishing or relocating at-risk buildings and infrastructure and enforcing permanent restrictions on development after land and structure acquisition.

F-12 Remove Existing Structures from Flood Hazard Areas

Communities may remove structures from flood-prone areas to minimize future flood losses by acquiring and demolishing or relocating structures from voluntary property owners and preserving lands subject to repetitive flooding.

F-13 Improve Storm Water Drainage System Capacity

Rainwater and snowmelt can cause flooding and erosion in developed areas. Structural storm water management projects that prevent this include:

- Installing, re-routing, or increasing the capacity of a storm drainage system.

- Increasing drainage or absorption capacities with detention and retention basins, relief drains, spillways, drain widening/dredging or rerouting, logjam and debris removal, extra culverts, bridge modification, dike setbacks, flood gates and pumps, or channel redirection.
- Increasing capacity of storm water detention and retention basins.
- Increasing dimensions of drainage culverts in flood-prone areas.
- Using stream restoration to ensure adequate drainage and diversion of storm water.
- Requiring developers to construct on-site retention basins for excessive storm water and as a firefighting water source.
- Providing grassy swales along roadsides.

F-14 Conduct Regular Maintenance for Drainage Systems and Flood Control Structures

Regular maintenance will help drainage systems and flood control structures continue to function properly. Potential activities include:

- Performing regular drainage system maintenance, such as sediment and debris clearance, as well as detection and prevention of discharges into storm water and sewer systems from home footing drains, downspouts, or sewer pumps.
- Implementing an inspection, maintenance, and enforcement program to help ensure continued structural integrity of dams and levees.
- Routinely cleaning debris from support bracing underneath low-lying bridges.
- Routinely cleaning and repairing storm water drains.
- Regularly clearing sediment build-up on riverbanks near aerial lines.
- Inspecting bridges and identifying if any repairs or retrofits are needed to prevent scour.
- Incorporating ice jam prevention techniques as appropriate.

F-15 Elevate or Retrofit Structures and Utilities

Structures and utilities can be elevated to reduce flood damage, including:

- Elevating structures so that the lowest floor, including the basement, is raised above the base flood elevation.
- Raising utilities or other mechanical devices above expected flood levels.
- Elevating and anchoring manufactured homes or, preferably, keeping manufactured homes out of the floodplain.
- Relocating utilities and water heaters above base flood elevation and using tankless water heaters in limited spaces.

F-16 Flood proof Residential and Non-Residential Structures

Flood proofing techniques may protect certain structures from flood damage, including:

- Wet flood proofing in a basement, which may be preferable to attempting to keep water out completely because it allows for controlled flooding to balance exterior and interior wall forces and discourages structural collapse.
- Encouraging wet flood proofing of areas above base flood elevation.
- Using water resistant paints or other materials to allow for easy cleanup after floodwater exposure in accessory structures or in a garage area below an elevated residential structure.
- Dry flood proofing non-residential structures by strengthening walls, sealing openings, or using waterproof compounds or plastic sheeting on walls to keep water out.

F-17 Protect Infrastructure

Mitigation techniques can be implemented to help minimize losses to infrastructure from flood events, such as:

- Elevating roads and bridges above the base flood elevation to maintain dry access. In situations where flood waters tend to wash roads out, construction, reconstruction, or repair can include not only attention to drainage, but also stabilization or armoring of vulnerable shoulders or embankments.
- Raising low-lying bridges.
- Flood proofing wastewater treatment facilities located in flood hazard areas.
- Flood proofing water treatment facilities located in flood hazard areas.
- Depending on its infrastructure capabilities, using check valves, sump pumps, and backflow prevention devices in homes and buildings.
- Using bioengineered bank stabilization techniques.

F-18 Protect Critical Facilities

Techniques to protect critical facilities from flood events include:

- Requiring that all critical facilities including emergency operations centers (EOC), police stations, and fire department facilities be located outside of flood-prone areas.
- Requiring all critical facilities to meet requirements of Executive Order 11988 and be built 1 foot above the 500-year flood elevation.
- Installing/upgrading storm water pumping stations.
- Raising electrical components of sewage lift stations above base flood elevation.
- Raising manhole openings using concrete pillars.
- Installing watertight covers or inflow guards on sewer manholes.
- Installing flood telemetry systems in sewage lift stations.
- Installing back-up generators for pumping and lift stations in sanitary sewer systems along with other measures (e.g., alarms, meters, remote controls, and switchgear upgrades).
- Building earthen dikes around flood-threatened critical facilities.
- Using bioengineered bank stabilization techniques.

F-19 Construct Flood Control Measures

Small flood control structures can be built to prevent flood damage. Examples include:

- Using minor structural projects that are smaller and more localized (e.g., floodwalls or small berms) in areas that cannot be mitigated through non-structural activities or where structural activities are not feasible due to low densities.
- Using revetments (hardened materials placed atop existing riverbanks or slopes) to protect against floods.
- Using bioengineered bank stabilization techniques.

HA-1 Locate Safe Rooms to Minimize Damage

Locate tornado safe rooms inside or directly adjacent to houses to prevent hail-induced injuries that may occur when taking shelter during a severe thunderstorm.

HA-2 Protect Buildings from Hail Damage

For new construction as well as retrofitting existing buildings, techniques to minimize hail damage include:

- Including measures such as structural bracing, shutters, laminated glass in window panes, and hail-resistant roof coverings or flashing in building design to minimize damage.
- Improving roof sheathing to prevent hail penetration.
- Installing hail resistant roofing and siding.
- Contacting the Insurance Institute for Business and Home Safety (IBHS) to learn more about the most appropriate type of roof covering for your geographic region.

LS-3 Prevent Impacts to Roadways

To prevent roadway damage and traffic disruptions from landslides, consider options such as:

- Implementing monitoring mechanisms/procedures (i.e., visual inspection or electronic monitoring systems).
- Applying soil stabilization measures, such as planting soil- stabilizing vegetation on steep, publicly-owned slopes.
- Using debris-flow measures that may reduce damage in sloping areas, such as stabilization, energy dissipation, and flow control measures.
- Establishing setback requirements and using large setbacks when building roads near slopes of marginal stability.
- Installing catch-fall nets for rocks at steep slopes near roadways.

LS-4 Remove Existing Buildings and Infrastructure from Landslide Hazard Areas

To help mitigate landslide hazards, communities can acquire and demolish or relocate at-risk buildings and infrastructure and enforce permanent restrictions on development after land and structure acquisition.

L-1 Protect Critical Facilities and Equipment

Protect critical facilities and infrastructure from lightning damage with the following measures:

- Installing lightning protection devices and methods, such as lightning rods and grounding, on communications infrastructure and other critical facilities.
- Installing and maintaining surge protection on critical electronic equipment.

SRL-4 Protect Buildings and Infrastructure

Existing structures, infrastructure, and critical facilities can be protected from sea level rise through the following:

- Acquiring and demolishing or relocating structures located in high-risk areas.
- Retrofitting structures to elevate them above potential sea level rise levels.
- Retrofitting critical facilities to be 1 foot above the 500-year flood elevation (considering wave action) or the predicted sea level rise level, whichever is higher.
- Replacing exterior building components with more hazard- resistant materials.

SW-5 Retrofit Residential Buildings

The following types of modifications or retrofits to existing residential buildings can reduce future wind damage:

- Improving the building envelope.
- Installing hurricane shutters or other protective measures.
- Retrofitting gable end walls to eliminate wall failures in high winds.
- Replacing existing non-ductile infrastructure with ductile infrastructure to reduce their exposure to hazardous events.
- Retrofitting buildings with load-path connectors to strengthen the structural frames.
- Installing safe rooms.
- Reinforcing garage doors.
- Inspecting and retrofitting roofs to adequate standards to provide wind resistance.

SW-6 Retrofit Public Buildings and Critical Facilities

Public buildings and critical facilities can be retrofitted to reduce future wind damage with the following actions:

- Improving roof coverings (e.g., no pebbles, remove ballast roof systems).
- Anchoring roof-mounted heating, ventilation, and air conditioning units.
- Retrofitting buildings with load-path connectors to strengthen the structural frames.
- Retrofitting or constructing the emergency operations center to FEMA 361 standards.
- Avoiding placing flag poles or antennas near buildings.
- Upgrading and maintaining existing lightning protection systems to prevent roof cover damage.
- Requiring upgrading of reused buildings that will house critical facilities.
- Protecting traffic lights and other traffic controls from high winds.
- Converting traffic lights to mast arms.

WW-2 Protect Buildings and Infrastructure

Buildings and infrastructure can be protected from the impacts of winter storms with the following techniques:

- Adding building insulation to walls and attics.
- As buildings are modified, using new technology to create or increase structural stability.
- Retrofitting public buildings to withstand snow loads and prevent roof collapse.

WW-3 Protect Power Lines

Power lines can be protected from the impacts of winter storms with the following techniques:

- Establishing standards for all utilities regarding tree pruning around lines.
- Burying overhead power lines.
- Using designed-failure mode for power line design to allow lines to fall or fail in small sections rather than as a complete system to enable faster restoration.
- Installing redundancies and loop feeds.

WW-4 Reduce Impacts to Roadways

The leading cause of death during winter storms is from automobile or other transportation accidents, so it is important to consider ways to lessen roadway impacts. Potential strategies include:

- Planning for and maintaining adequate road and debris clearing capabilities.
- Using snow fences or “living snow fences” (e.g., rows of trees or other vegetation) to limit blowing and drifting of snow over critical roadway segments.
- Installing roadway heating technology to prevent ice/snow buildup.

SS-5 Construct Structural Control Techniques

Structural controls can be used to lessen the impact of storm surge. Examples include the following:

- Constructing groins to capture material along the shoreline in order to trap and retain sand.
- Installing geotextile sand tubes to trap sand or protect beachfront properties.
- Building a coastal berm to absorb waves and protect the shoreline from erosion.
- Building a storm berm to keep rock protection in place and provide a slow supply of sediment to the coastal system.

SS-6 Protect Infrastructure and Critical Facilities

Infrastructure and critical facilities can be protected from damage by storm surge through the following:

- Reorienting near-shore roads so they are parallel (not perpendicular) to the beach to prevent the channelization of storm surge and wind inland.
- Constructing seawalls or other structures to protect critical facilities located on the shoreline.
- Relocating existing vulnerable critical facilities outside of high-risk areas.

SU-5 Remove Existing Structures from Subsidence Hazard Areas

To prevent property loss, acquire and demolish or relocate buildings and infrastructure in high-risk areas.

TSU-4 Build Tsunami Shelters

Ensure the population is adequately protected from tsunami inundation by constructing tsunami shelters.

TSU-5 Protect Buildings and Infrastructure

Ensure buildings and infrastructures are adequately protected from tsunami inundation with the

following:

- Requiring coastal structures to be built to standards that allow for proper vertical evacuation and to be specially designed and constructed to resist both tsunami and earthquake loads.
- Locating new and relocating existing infrastructure and critical facilities outside of the tsunami hazard area.
- Elevating existing buildings above the inundation level.
- Relocating fire-prone infrastructure such as electrical lines or case tanks.

WF-6 Retrofit At-Risk Structures with Ignition-Resistant Materials

Existing structures in wildfire hazard areas can be protected through the use of non-combustible materials and technologies, including:

- Installing roof coverings, sheathing, flashing, skylights, roof and attic vents, eaves, and gutters that conform to ignition-resistant construction standards.
- Installing wall components that conform to ignition-resistant construction standards.
- Protecting propane tanks or other external fuel sources.
- Purchasing and installing external, structure-specific water hydration systems (sprinklers); dedicated power sources; and dedicated cisterns if no water source (e.g., lake, river, or swimming pool) is available.

WF-7 Create Defensible Space around Structures and Infrastructure

Local governments can implement defensible space programs to reduce risk to structures and infrastructure, including:

- Creating buffers around residential and non-residential structures through the removal or reduction of flammable vegetation, including vertical clearance of tree branches.
- Replacing flammable vegetation with less flammable species.
- Creating defensible zones around power lines, oil and gas lines, and other infrastructure systems.

WF-8 Conduct Maintenance to Reduce Risk

Local governments can implement maintenance procedures to reduce wildfire risk, including:

- Performing arson prevention cleanup activities in areas of abandoned or collapsed structures, accumulated trash or debris, and with a history of storing flammable materials where spills or dumping may have occurred.
- Preventing or alleviating wildfires by proper maintenance and separation of power lines as well as efficient response to fallen power lines.
- Routinely inspecting the functionality of fire hydrants.
- Requiring and maintaining safe access for fire apparatus to wildland-urban interface neighborhoods and properties.

MU-12 Protect Structures

Damage to structures can be prevented through the following actions:

- Acquiring or relocating structures located in hazard areas.
- Moving vulnerable structures to a less hazardous location.

- Relocating or retrofitting public buildings located in high-hazard areas.
- Relocating or retrofitting endangered public housing units in high-hazard areas.
- Retrofitting fire and police stations to become hazard resistant.
- Identifying and strengthening facilities to function as public shelters.

MU-13 Protect Infrastructure and Critical Facilities

Infrastructure and critical facilities can be protected from damage by the following:

- Incorporating hazard mitigation principles into all aspects of public-funded building.
- Incorporating mitigation retrofits for public facilities into the annual capital improvements program.
- Engineering or retrofitting roads and bridges to withstand hazards.
- Relocating or undergrounding electrical infrastructure.
- Designing and building water tanks or wells for use in times of water outage.
- Installing quick-connect emergency generator hook-ups for critical facilities

NATURAL SYSTEMS PROTECTION

D-8 Enhance Landscaping and Design Measures

Encourage drought-tolerant landscape design through measures such as:

- Incorporating drought tolerant or xeriscaping practices into landscape ordinances to reduce dependence on irrigation.
- Providing incentives for xeriscaping.
- Using permeable driveways and surfaces to reduce runoff and promote groundwater recharge.

EQ-7 Increase Earthquake Risk Awareness

There are many ways to increase awareness of earthquake risk, including:

- Working with insurance industry representatives to increase public awareness of the importance of earthquake insurance. Residential structural improvements can be factored into the process of obtaining insurance coverage or reduced deductibles.
- Developing an outreach program about earthquake risk and mitigation activities in homes, schools, and businesses.
- Educating homeowners on safety techniques to follow during and after an earthquake.
- Offering GIS hazard mapping online for residents and design professionals.

EQ-8 Conduct Outreach to Builders, Architects, Engineers, and Inspectors

Building susceptibility to earthquake damage can be improved if design professionals are made aware of proper design and building requirements. Outreach activities include:

- Conducting information sessions or other forms of outreach on seismic code provisions for new and existing buildings to enhance code use and enforcement by local architects, engineers, contractors, and code enforcement personnel.
- Training building department staff and officials on Form ATC-20 for post-earthquake building

evaluation. The ATC-20 report and addendum, prepared by the Applied Technology Council, provide procedures and guidelines for making on-the-spot evaluations and decisions regarding continued use and occupancy of earthquake- damaged buildings.

EQ-9 Provide Information on Structural and Non-Structural Retrofitting

Property owners can retrofit existing structures to reduce damage from seismic events. Potential actions include the following:

- Educating homeowners about structural and non-structural retrofitting of vulnerable homes and encouraging retrofit.
- Developing a technical assistance information program for homeowners. Teaching them how to seismically strengthen their houses can be an effective mitigation activity. The program can include providing local government building departments with copies of existing strengthening and repair information for distribution.
- Developing an outreach program to encourage homeowners to secure furnishings, storage cabinets, and utilities to prevent injuries and damage. Examples include anchoring tall bookcases and file cabinets, installing latches on drawers and cabinet doors, restraining desktop computers and appliances, using flexible connections on gas and water lines, mounting framed pictures and mirrors securely, and anchoring and bracing propane tanks and gas cylinders.
- Establishing a library of technical documents on structural and non-structural mitigation options as well as model ordinances and procedures that have been used by other jurisdictions to reduce earthquake risk.

ER-5 Stabilize Erosion Hazard Areas

To stabilize slopes susceptible to erosion, consider options such as:

- Preventing erosion with proper bank stabilization, sloping or grading techniques, planting vegetation on slopes, terracing hillsides, or installing riprap boulders or geotextile fabric.
- Stabilizing cliffs with terracing or plantings of grasses or other plants to hold soil together.
- Prohibiting removal of natural vegetation from dunes and slopes.
- Planting mature trees in the coastal riparian zone to assist in dissipation of the wind force in the breaking wave zone.
- Using a hybrid of hard/soft engineering techniques (i.e., combine low-profile rock, rubble, oyster reefs, or wood structures with vegetative planting or other soft stabilization techniques).
- Implementing marine riparian habitat reinstatement or revegetation.
- Using a rock splash pad to direct runoff and minimize the potential for erosion.
- Using bioengineered bank stabilization techniques.

F-20 Protect and Restore Natural Flood Mitigation Features

Natural resources provide floodplain protection, riparian buffers, and other ecosystem services that mitigate flooding. It is important to preserve such functionality with the following:

- Protecting and enhancing landforms that serves as natural mitigation features (i.e., riverbanks, wetlands, dunes, etc.).
- Using vegetative management, such as vegetative buffers, around streams and water sources.
- Protecting and preserving wetlands to help prevent flooding in other areas.
- Establishing and managing riparian buffers along rivers and streams.
- Retaining natural vegetative beds in storm water channels.

- Retaining thick vegetative cover on public lands flanking rivers.

F-21 Preserve Floodplains as Open Space

Preserving natural areas and vegetation benefits natural resources while also mitigating potential flood losses. Techniques include:

- Developing an open space acquisition, reuse, and preservation plan targeting hazard areas.
- Developing a land banking program for the preservation of the natural and beneficial functions of flood hazard areas.
- Using transfer of development rights to allow a developer to increase densities on another parcel that is not at risk in return for keeping floodplain areas vacant.
- Compensating an owner for partial rights, such as easement or development rights, to prevent a property from being developed.

F-22 Increase Awareness of Flood Risk and Safety

Ideas for increasing flood risk awareness include the following:

- Encouraging homeowners to purchase flood insurance.
- Annually distributing flood protection safety pamphlets or brochures to the owners of flood-prone property.
- Educating citizens about safety during flood conditions, including the dangers of driving on flooded roads.
- Using outreach programs to advise homeowners of risks to life, health, and safety.
- Offering GIS hazard mapping online for residents and design professionals.
- Establishing a Program for Public Information (PPI) with a PPI committee (as suggested by Activity 332 of the CRS Coordinator's Manual).

SLR-5 Preserve High-Hazard Areas as Open Space

Preserve open space to benefit natural resources and to reduce risk to structures from potential sea level rise. Techniques include:

- Developing an open space acquisition, reuse, and preservation plan targeting hazard areas.
- Developing a land banking program for the preservation and management of the natural and beneficial functions of flood hazard areas.
- Adopting rolling easements along the shoreline to promote natural migration of shorelines.
- Using transfer of development rights to allow a developer to increase densities on another parcel that is not at risk in return for keeping floodplain areas vacant.
- Compensating an owner for partial rights, such as easement or development rights, to prevent a property from being developed.

SLR-6 Protect and Restore Natural Buffers

Natural resources provide floodplain protection, riparian buffers, and other ecosystem services that mitigate sea level rise. It is important to preserve such functionality with the following:

- Examining the appropriate use of beach nourishment, sand scraping, dune-gap plugs, etc., for coastal hazards.
- Implementing dune restoration, plantings (e.g., sea oats), and use of natural materials.

- Examining the appropriate use of sediment-trapping vegetation, sediment mounds, etc., for coastal hazards.
- Planting sediment-trapping vegetation to buffer the coast against coastal storms by collecting sediment in protective features such as dunes or barrier islands.
- Performing sand scraping—using bulldozers to deposit the top foot of sand above the high-tide line—to reinforce the beach without adding new sand.
- Using sediment mounds to act as artificial dunes or plugs for natural dune gaps in order to slow the inland progress of storm-related wind and water.

SS-7 Protect and Restore Natural Buffers

Natural resources provide floodplain protection, riparian buffers, and other ecosystem services that mitigate storm surge risk. It is important to preserve such functionality with the following:

- Examining the appropriate use of beach nourishment, sand scraping, dune-gap plugs, etc., for coastal hazards.
- Implementing dune restoration, plantings (e.g., sea oats), and use of natural materials.
- Evaluating the appropriate use of sediment-trapping vegetation, sediment mounds, etc., for coastal hazards.
- Planting sediment-trapping vegetation to make the coast more resistant to coastal storms by collecting sediment in protective features such as dunes or barrier islands.
- Performing sand scraping—using bulldozers to deposit the top foot of sand above the high-tide line—to reinforce the beach without adding new sand.
- Using sediment mounds to act as artificial dunes or plugs for natural dune gaps in order to slow the inland progress of storm-related wind and water.

WF-9 Implement a Fuels Management Program

A fuels management program may be implemented to reduce hazardous vegetative fuels on public lands, near essential infrastructure, or on private lands by working with landowners. The program can include the following:

- Performing maintenance including fuel management techniques such as pruning and clearing dead vegetation, selective logging, cutting high grass, planting fire-resistant vegetation, and creating fuel/fire breaks (i.e., areas where the spread of wildfires will be slowed or stopped by the removal of fuels).
- Using prescribed burning to reduce fuel loads that threaten public safety and property.
- Identifying and clearing fuel loads created by downed trees.
- Cutting firebreaks into public wooded areas in the wildland-urban interface.
- Sponsoring local “slash and clean-up days” to reduce fuel loads along the wildland-urban interface.
- Linking wildfire safety with environmental protection strategies (i.e., improving forest ecology, wildlife habitat, etc.).
- Developing a vegetation management plan.

EDUCATION AND AWARENESS PROGRAMS

D-9 Educate Residents on Water Saving Techniques

Encourage citizens to take water-saving measures, such as the following:

- Installing low-flow water saving showerheads and toilets.
- Turning water flow off while brushing teeth or during other cleaning activities.
- Adjusting sprinklers to water the lawn and not the sidewalk or street.
- Running the dishwasher and washing machine only when they are full.
- Checking for leaks in plumbing or dripping faucets.
- Installing rain-capturing devices for irrigation.
- Encouraging the installation of gray water systems in homes to encourage water reuse.

D-10 Educate Farmers on Soil and Water Conservation Practices

Encourage farmers to implement soil and water conservation practices that foster soil health and improve soil quality to help increase resiliency and mitigate the impacts of droughts. Potential conservation practices include the following:

- Rotating crops by growing a series of different types of crops on the same fields every season to reduce soil erosion.
- Practicing contour farming by farming along elevation contour lines to slow water runoff during rainstorms and prevent soil erosion, allowing the water time to absorb into the soil.
- Using terracing on hilly or mountainous terrain to decrease soil erosion and surface runoff.
- Planting “cover crops,” such as oats, wheat, and buckwheat, to prevent soil erosion.
- Using zero and reduced tillage to minimize soil disturbance and leave crop residue on the ground to prevent soil erosion.
- Constructing windbreaks to prevent evaporation from reclaiming salt-affected soil.
- Collecting rainwater and using natural runoff to water plants.

D-11 Purchase Crop Insurance

Preserve economic stability during a drought by encouraging agricultural interests to obtain crop insurance to cover potential losses due to drought.

ER-6 Increase Awareness of Erosion Hazards

Consider ways to help citizens become more aware of specific erosion risks in your area, such as:

- Notifying property owners located in high-risk areas.
- Disclosing the location of high-risk areas to buyers.
- Developing a brochure describing risk and potential mitigation techniques.
- Offering GIS hazard mapping online for residents and design professionals.

ET-2 Increase Awareness of Extreme Temperature Risk and Safety

The impacts of extreme temperatures on public health can be lessened if citizens know how to prepare and protect themselves. Ideas for increasing awareness include the following:

- Educating citizens regarding the dangers of extreme heat and cold and the steps they can take to protect themselves when extreme temperatures occur.

ET-3 Assist Vulnerable Populations

Measures should be taken to ensure vulnerable populations are adequately protected from the impacts of extreme temperatures, such as:

- Organizing outreach to vulnerable populations, including establishing and promoting accessible heating or cooling centers in the community.
- Requiring minimum temperatures in housing/landlord codes.
- Encouraging utility companies to offer special arrangements for paying heating bills, if not already required by state law.
- Creating a database to track those individuals at high risk of death, such as the elderly, homeless, etc.

ET-4 Educate Property Owners About Freezing Pipes

Extreme cold may cause water pipes to freeze and burst, which can cause flooding inside a building. Ideas for educating property owners include the following:

- Educating homeowners and builders on how to protect their pipes, including locating water pipes on the inside of building insulation or keeping them out of attics, crawl spaces, and vulnerable outside walls.
- Informing homeowners that letting a faucet drip during extreme cold weather can prevent the buildup of excessive pressure in the pipeline and avoid bursting.

F-23 Educate Property Owners about Flood Mitigation Techniques

Educate property owners regarding options for mitigating their properties from flooding through outreach activities such as:

- Using outreach activities to facilitate technical assistance programs that address measures that citizens can take or facilitate funding for mitigation measures.
- Encouraging homeowners to install backflow valves to prevent reverse-flow flood damages.
- Encouraging residents in flood-prone areas to elevate homes.
- Educating the public about securing debris, propane tanks, yard items, or stored objects that may otherwise be swept away, damaged, or pose a hazard if picked up and washed away by floodwaters.
- Asking residents to help keep storm drains clear of debris during storms (not to rely solely on Public Works).

HA-3 Increase Hail Risk Awareness

Conduct outreach activities to increase public awareness of hail dangers, including:

- Mailing safety brochures with monthly water bills.
- Posting warning signage at local parks, county fairs, and other outdoor venues.
- Teaching school children about the dangers of hail and how to take safety precautions.

L-2 Conduct Lightning Awareness Programs

Use outreach programs to promote awareness of lightning dangers. This could include ideas such as:

- Developing a lightning brochure for distribution by recreation equipment retailers or outfitters

- in mountainous areas.
- Mailing safety brochures with monthly water bills.
- Posting warning signage at local parks.
- Teaching school children about the dangers of lightning and how to take safety precautions.

SLR-7 Increase Awareness of Sea Level Rise

Improve public awareness of risks due to sea level rise through outreach activities such as:

- Encouraging homeowners to purchase flood insurance.
- Using outreach programs to facilitate technical assistance programs that address measures that citizens can take or facilitate funding for mitigation measures.
- Annually distributing flood protection safety pamphlets or brochures to the owners of property in high-risk areas.
- Educating citizens about safety during flood conditions, including the dangers of driving on flooded roads.
- Using outreach programs to advise homeowners of risks to life, health, and safety.
- Offering GIS hazard mapping online for residents and design professionals.
- Disclosing the location of possible sea level rise areas to potential buyers.

SW-7 Increase Severe Wind Risk Awareness

Improve public awareness of severe wind through outreach activities such as:

- Informing residents of shelter locations and evacuation routes.
- Educating homeowners on the benefits of wind retrofits such as shutters, hurricane clips, etc.
- Ensuring that school officials are aware of the best area of refuge in school buildings.
- Instructing property owners on how to properly install temporary window coverings before a storm.
- Educating design professionals to include wind mitigation during building design.

WW-5 Conduct Winter Weather Risk Awareness Activities

Public awareness of severe winter storms can be improved through the following efforts:

- Informing the public about severe winter weather impacts.
- Producing and distributing family and traveler emergency preparedness information about severe winter weather hazards.
- Including safety strategies for severe weather in driver education classes and materials.
- Encouraging homeowners to install carbon monoxide monitors and alarms.
- Educating citizens that all fuel-burning equipment should be vented to the outside.

WW-6 Assist Vulnerable Populations

Protect vulnerable populations from the impacts of severe winter storms through the following efforts:

- Identifying specific at-risk populations that may be exceptionally vulnerable in the event of long-term power outages.
- Organizing outreach to vulnerable populations, including establishing and promoting accessible heating centers in the community.

SS-8 Provide Information on High-Risk Areas

Increase public awareness of storm surge risk through the following actions:

- Offering GIS hazard mapping online for residents and design professionals.
- More accurately mapping problem areas to educate residents about unanticipated risks. Upgrading maps provides a truer measure of risks to a community.
- Educating property owners in high-risk areas about mitigation options.
- Educating the public about risks, preparedness measures, and evacuation procedures.

SU-6 Educate Residents about Subsidence

Increase residents' knowledge of subsidence through the following:

- Promoting community awareness of subsidence risks and impacts.
- Offering GIS hazard mapping online for residents and design professionals.

T-3 Conduct Tornado Awareness Activities

Conduct outreach activities to increase awareness of tornado risk. Activities could include the following:

- Educating citizens through media outlets.
- Conducting tornado drills in schools and public buildings.
- Teaching school children about the dangers of tornadoes and how to take safety precautions.
- Distributing tornado shelter location information.
- Supporting severe weather awareness week.
- Promoting use of National Oceanic and Atmospheric Administration (NOAA) weather radios.

TSU-6 Increase Public Awareness of Tsunami Hazard

Improve public awareness and better prepare citizens for evacuation during a tsunami by the following:

- Educating citizens regarding the dangers of tsunami and inform them of emergency procedures and routes to use should a tsunami warning be issued.
- Conducting tsunami drills.
- Designating tsunami inundation zones and marking evacuation routes.
- Developing maps showing possible tsunami inundation areas and steering developers away from high-risk areas.
- Participating in NOAA's TsunamiReady Community program.

WF-10 Participate in Firewise Program

The Firewise program provides a series of steps that individual residents and their neighbors can take to keep their homes and neighborhoods safer from fire. Consider actions such as:

- Joining the "Firewise Communities/USA" recognition program sponsored by the National Wildlife Coordinating Group (firewise.org).
- Sponsoring Firewise workshops for local officials, developers, civic groups, and neighborhood/homeowners' associations.
- Consulting Firewise guidance and encouraging or requiring best practices in your community.

WF-11 Increase Wildfire Risk Awareness

Education and outreach programs can target citizens, businesses, developers, landscapers, and insurers among others to increase awareness of wildfire risk and strategies for protecting homes and infrastructure. Consider actions such as:

- Offering GIS hazard mapping online for residents, developers, and design professionals.
- Organizing a local fire department tour to show local elected officials and planners the most vulnerable areas of the community's wildland-urban interface and increase their understanding of risks.
- Working with insurance companies, utility providers, and others to include wildfire safety information in materials provided to area residents.
- Developing partnerships with neighborhood groups, homeowners' associations, and others to conduct outreach activities.
- Using local fire departments to conduct education programs in schools.
- Informing the public about proper evacuation procedures.
- Forming a citizen plan implementation steering committee to monitor progress of local mitigation actions. Include a mix of representatives from neighborhoods, local businesses, and local government.

WF-12 Educate Property Owners about Wildfire Mitigation Techniques

Educate property owners on actions that they can take to reduce risk to property, such as the following:

- Installing fire mitigation systems such as interior and exterior sprinkler systems.
- Performing safe disposal of yard and household waste rather than open burning.
- Removing dead or dry leaves, needles, twigs, and combustibles from roofs, decks, eaves, porches, and yards.
- Creating a defensible space or buffer zone cleared of combustible materials around property.
- Installing and maintaining smoke detectors and fire extinguishers on each floor of their homes or other buildings.
- Safely using and storing necessary flammable materials, including machine fuels.
- Approved safety cans should be used for storing gasoline, oily rags, and other flammable materials. Firewood should be stacked at least 100 feet away and uphill from homes.
- Keeping flammables, such as curtains, secured away from windows or using heavy fire-resistant drapes.

MU-14 Increase Hazard Education and Risk Awareness

Hazard education and awareness activities that address multiple hazards include:

- Developing and implementing a multi-hazard public awareness program.
- Providing information on all types of hazards, preparedness and mitigation measures, and responses during hazard events.
- Establishing a "hazard awareness week" in coordination with the media to promote hazard awareness (seasonal).
- Establishing an interactive website for educating the public on hazard mitigation and preparedness measures.
- Annually hosting a public hazards workshop or exposition for all residents.
- Establishing hazard information centers.
- Creating a speakers bureau for disaster-related topics that focus on mitigation and preparedness measures.

- Enhancing hazard awareness of the private sector, particularly lenders, insurance agents, and realtors.
- Scheduling an annual “what’s new in mitigation” briefing for the local governing body (possibly with SHMO, etc.).

MU-15 Improve Household Disaster Preparedness

Educate the public on how to prepare for hazards and disasters, including the following:

- Encouraging property owners to purchase hazard insurance not as an alternative to mitigation, but rather to add financial protection if damage does occur.
- Encouraging residents to prepare by stocking up the necessary items and planning for how family members should respond during a disaster. Publicized information about household preparedness can be found at www.ready.gov.
- Providing hazard vulnerability checklists for homeowners to conduct their own inspections.
- Promoting the purchase and use of NOAA weather radios by residents.
- Encouraging citizens to secure loose items (i.e., patio furniture).
- Participating in Nation Weather Service StormReady Program.
- Purchasing and installing NOAA weather radios in schools, government buildings, parks, etc.
- Storing digital or hard copies of public records in low-risk, offsite locations.

MU-16 Promote Private Mitigation Efforts

Encourage private mitigation efforts that address multiple hazards through the following:

- Using outreach programs to: 1) advise homeowners of risks to life, health, and safety; 2) facilitate technical assistance programs that address measures that citizens can take; or 3) facilitate funding for mitigation measures.
- Establishing, maintaining, and publicizing a library section on hazard mitigation techniques for local residents.
- Identifying and recruiting civic groups and volunteer agencies for community mitigation projects.
- Establishing a network for a business-to-business mitigation mentoring program.
- Offering hazard susceptibility audits of local small businesses.
- Completing a “demonstration model” showing use of hazard mitigation techniques for public display.
- Establishing a technical assistance program for residents to access data or resources for mitigation purposes.
- Educating the public on tradeoffs associated with multi-hazard design.

APPENDIX F: MITIGATION ACTION PROGRESS REPORT FORM

[Name of Jurisdiction]						
Hazard-Specific Action Items 2021-2025 – Annual Review and Progress						
Action Items	Status (Choose One & Enter Letter):					Notes on yearly progress
	2021	2022	2023	2024	2025	
GENERAL: ALL HAZARDS						
Add New Action Items if Applicable						
DAM/LEEVE FAILURES						
Add New Action Items if Applicable						
DROUGHTS/HEAT WAVES						
Add New Action Items if Applicable						
EARTHQUAKES						
Add New Action Items if Applicable						

FLOODING						
<i>Add New Action Items if Applicable</i>						
LANDSLIDES/EROSION						
<i>Add New Action Items if Applicable</i>						
LAND SUBSIDENCE						
<i>Add New Action Items if Applicable</i>						
TORNADOES						
<i>Add New Action Items if Applicable</i>						
TSUNAMI						
<i>Add New Action Items if Applicable</i>						
WILDFIRES						
<i>Add New Action Items if Applicable</i>						

WINTER STORMS/FREEZES (SEVERE WINTER WEATHER)						
<i>Add New Action Items if Applicable</i>						
SEVERE STORMS						
<i>Add New Action Items if Applicable</i>						
EXTREME TEMPERATURES						
<i>Add New Action Items if Applicable</i>						
LANDSLIDE						
<i>Add New Action Items if Applicable</i>						
LIGHTNING						
<i>Add New Action Items if Applicable</i>						
SEVERE WIND						
<i>Add New Action Items if Applicable</i>						

MULTIPLE HAZARDS							
<i>Add New Action Items if Applicable</i>							

Progress Report Period	From Date:	To Date:
Action Item		
Responsible Agency		
Contact Name		
Contact Phone/Email		
Action Status	<input type="checkbox"/> Action completed <input type="checkbox"/> Action canceled <input type="checkbox"/> Action on schedule Anticipated completion date: _____ <input type="checkbox"/> Action delayed Explain: _____	

Summary of Action Progress for this Report Period

- 1. What was accomplished for this Action during this reporting period?**

- 2. What obstacles, problem, or delays did the Action encounter?**

- 3. If uncompleted, is the Action still relevant? Should the Action be changed or revised?**

- 4. Other comments**

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APPENDIX G: WHATCOM COUNTY CONTACT LIST

#	Jurisdiction Name	Jurisdiction Type (city/borough/ township/ village, etc.)	Plan POC	Mailing Address	Email	Phone
1	Whatcom County	Whatcom County- unincorporated area	Deputy Director John Gargett	3888 Sound Way Bellingham ,WA 98226	ggargett@co.whatcom.wa.us	360-676-6681
2	City of Bellingham	City	Emergency Manager, Office of Emergency Management Liz Coogan	Fire Dept. 1800 Broadway Bellingham, WA 98225	Liz Coogan(ecoogan@cob.org)	(360) 778-8444
3	City of Blaine	City	Community Development Services Director Stacie Pratschner	435 Martin St. Blaine, WA 98230	spratschner@cityofblaine.com	360-332-8311
4	Sumas	City	Rollin Harper	433 Cherry Street, Sumas, WA 98295	'rollinh@sehome.com'	(360) 733-6033
5	Everson	City	Rollin Harper	433 Cherry Street, Sumas, WA 98295	'rollinh@sehome.com'	(360) 733-6033
6	Nooksack	City	Rollin Harper	433 Cherry Street, Sumas, WA 98295	'rollinh@sehome.com'	(360) 733-6033

7	Whatcom County Flood Zone	Special purpose District	Paula Harris River &Flood Manager	322 N Commercial Street, Suite 110 Bellingham, WA 98225	PHarris@co.whatcom.wa.us>	(360) 778-6285
8	Ferndale	City	City Administrator Jori Burnett	P.O. Box 936, Ferndale, WA 98248		(360) 685-2351
9	Lake Whatcom Water and Sewer District	Special purpose District	Justin Clary – General Manager	LAKE WHATCOM WATER & SEWER DISTRICT 1220 Lakeway Drive Bellingham, WA 98229	justin.clary@lwwsd.org	(360) 734-9224
10	Lynden	City	Mike Martin, City Administrator	City of Lynden 300 4th St. Lynden, WA 98264	martinm@Lyndenwa.org	(360) 354-1170, ext 5
11	Meridian School District	School District	Superintendent, Dr. James Everett	214 West Laurel Road, Bellingham, WA 98226	Jeverett@meridian.webnet.edu	360-398-7111
12	Port of Bellingham	Port	Emergency Management/Security Officer Scott McCreery	1801 Roeder Avenue Bellingham, WA	scottm@portofbellinham.com	(360) 303-5211

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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-675

File ID:	AB2021-675	Version:	1	Status:	Held In Committee
File Created:	11/08/2021	Entered by:	LCumming@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution adopting the Whatcom County Multi-jurisdictional Natural Hazards Mitigation Plan (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Adopting the Updated Whatcom County Multi-jurisdictional Natural Hazards Mitigation Plan.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/09/2021	Council Finance and Administrative Services Committee	FORWARDED TO COUNCIL WITH RECOMMENDED MOTION(S)	
11/09/2021	Council	HELD IN COMMITTEE	Council Finance and Administrative Services Committee
11/23/2021	Council Finance and Administrative Services Committee	WITHDRAWN	
11/23/2021	Council	WITHDRAWN	

Attachments: Resolution, Natural Hazard Mitigation Plan Placeholder

PROPOSED BY: CONSENT
SPONSORED BY: PUBLIC WORKS
INTRODUCED: _____

RESOLUTION NO. _____

(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

ADOPTING THE UPDATED WHATCOM COUNTY MULTI-JURISDICTIONAL NATURAL HAZARDS
MITIGATION PLAN

WHEREAS, identification of natural hazards and development of plans to reduce or eliminate the associated long term risk to human life and property results in a safer community; and,

WHEREAS, the Disaster Mitigation Act of 2000 (P.L. 106-390/ 44 CFR Parts 201.6) reinforces the importance of mitigation planning and emphasizes planning for disasters before they occur; and,

WHEREAS, States, communities and special purpose districts must have an approved mitigation plan in place prior to receiving post-disaster Hazard Mitigation Grant Program (HMPG) funds; and,

WHEREAS, the planning process is intended to facilitate cooperation between state and local authorities and encourages local input; and,

WHEREAS, Whatcom County staff participated in a collaborative hazard mitigation planning and update process on behalf of the Whatcom County Flood Control Zone District.

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Flood Control Zone District Board of Supervisors hereby adopts the Whatcom County Multi-Jurisdictional Natural Hazards Mitigation Plan, dated September 30, 2021 and attached as Exhibit A to this resolution.

APPROVED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY FLOOD CONTROL ZONE
DISTRICT BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Board

Barry Buchanan, Chair Board of Supervisors

APPROVED AS TO FORM:

/s/ Brandon Waldron (via e-mail 10/22/21)/FB
Civil Deputy Prosecutor

**SEE AB2021-616 TO VIEW FULL
HAZARD MITIGATION PLAN**



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-693

File ID:	AB2021-693	Version:	1	Status:	Agenda Ready
File Created:	11/12/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Discussion		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Tschroed@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion with Council regarding development of new EDI funded Workforce Housing program

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion with Council regarding development of new EDI funded Workforce Housing program

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
<hr/>			

Attachments: Memo, Guidelines, Stakeholders, StakeholderComments, WCBAC Letter of Support

**WHATCOM COUNTY
EXECUTIVE'S OFFICE**

County Courthouse
311 Grand Avenue, Suite #108
Bellingham, WA 98225-4082



Satpal Singh Sidhu
County Executive

MEMO

To: Whatcom County Council

Through: Satpal Sidhu, County Executive

From: Tyler Schroeder, Deputy Executive

Date: November 1, 2021

RE: EDI Workforce Housing Program

Satpal
TKS

The Whatcom County Executive's Office, as the administrative agent for the Economic Development Investment (EDI) fund, is developing a new "Workforce Housing" program. This program will allow for the use of EDI funds to cover costs related to public infrastructure improvements associated with construction of owner-occupied affordable workforce homes and renter-occupied affordable workforce homes, in both single-family detached and attached housing models.

The goal of this program is to bridge the gap between "affordable housing" and market rate housing. This program is intended to ensure long-term affordability is achieved for multifamily and single-family residential construction projects.

This program is supplemental to the Whatcom County EDI Homes Affordable for the Workforce (HAFTW) program that allows for payment of utility general facility fees and impact fees. A proponent may apply for either/both programs.

The program will be done in partnership with the Cities of Whatcom County and is intended for use by non-profit and for-profit developers to increase the overall supply of affordable housing in our community. This is one piece to the puzzle in creating more affordable housing options for the citizens of Whatcom County.

Program Parameters:

- Funds can only be spent on publicly-owned infrastructure directly supporting construction of affordable workforce housing
- Projects must include housing affordable to those earning 120% of AMI or less
- Loan and grant/loan combinations are possible
- Total EDI funding ranges from 70% to 90% of infrastructure costs
- Grant amounts are limited to 20% of infrastructure costs
- Loan amount is total EDI funding less grant funding
- Total award amounts are typically within \$1.0 million to \$3.0 million range
- Loan interest rates gradually increase from 1% to a ceiling of 5% at year 10, with full repayment of balance due in 25 years as a balloon payment.

Eligible Infrastructure:

By designating at the time of development a certain percentage of long-term affordable units for a certain period of time, the following public infrastructure investments may be covered by EDI loan (pursuant to RCW 82.14.370):

- Construction of public water, sewer and/or stormwater conveyance and management facilities
- Construction of public transportation improvements, including but not limited to streets, sidewalks, trails, and transit facilities

EDI Board Recommendation and WC Business and Commerce Committee Support

The Economic Development Investment Board has been supportive of this program and use of EDI funds. In 2021, the board met and discussed the program on three separate occasions. First, in early 2021, to get a sense of the program and to provide input on the framework. Second, there was a “Stakeholder” meeting to present the framework and get input. This meeting was well attended and included a wide variety of stakeholders, including: affordable housing agencies, EDI board members, City/County Housing program specialists, Whatcom County Business and Commerce Committee members, local developers, and City/County/Port program team.

At the September 29th, EDI board meeting, the Board considered a motion of support of the program and recommendation to the County Council for approval of the program parameters. Overall, the EDI board had general consensus on the program and is eager to see it developed. During those discussions the Board asked for additional information about the program’s financing terms. The main discussion point was to find a few “real-life” examples on how the program would work between the financial support from EDI and the Cities working directly with developers. Those discussions are happening now and the program team will be reporting back to the EDI Board with examples.

Ultimately, the EDI board made a motion to forward the proposal to County Council to provide an update on the program and get feedback for consideration. The motion passed unanimously 11-0.

Further, the Whatcom County Business and Commerce Committee has been a stakeholder in the development of the program. The Committee believes that this program directly addresses two specific topics they have recommended the County focus on to address the affordable housing crises. The program specifically addresses the need to provide infrastructure and resources to increase housing availability and helps to reduce government fees for housing development. As a result, the committee voted 7-0, with 4 absences, to write a letter of support urging the Council to approve the EDI board proposal regarding the Infrastructure Improvements for the Affordable Workforce Housing Program.

Council Action Requested:

The Administration respectfully requests the Council make a motion to approve the guidelines for the Whatcom County EDI Infrastructure Improvements for Affordable Workforce Housing Program. This approval recognizes that the EDI board will be reviewing project specific proposals from developers using the guidelines as a framework. It is further recognized that the EDI Board can recommend approval of projects and modify the guidelines if the overall project aligns with the eligible use of the Fund and intent of the program.

Recognition:

I would like to thank a few people in developing this program, specifically; Michael Jones, City of Blaine City Manager, Jori Burnett, City of Ferndale City Manager, and Don Goldberg, Port of Bellingham Economic Development Director. Without their input and guidance in the development of this program it would not have come together as smoothly and as timely.

Infrastructure Improvements for Affordable Workforce Housing Program

Guidelines for Requesting the Use of Whatcom County Economic Development Investment (EDI) Grant Funds For Public Facility (Infrastructure) Costs Related to Construction of Low Income and Workforce Multi-Family and Single-Family Homes

The Whatcom County Executive's Office, as the administrative agent for EDI funds, and in coordination with the Whatcom County Health Department's Housing Program, will accept requests for the use of EDI funds for costs related to public infrastructure improvements associated with construction of owner-occupied affordable workforce homes and renter-occupied affordable workforce homes, in both single-family detached and attached housing types.

This program is intended to ensure long-term affordability is achieved for multifamily and single-family residential construction projects.

This program is supplemental to the Whatcom County EDI Homes Affordable for the Workforce (HAFTW) program that allows for payment of utility general facility fees and impact fees. A proponent may apply for either/both programs.

Program Parameters:

- Funds can only be spent on publicly-owned infrastructure directly supporting construction of affordable workforce housing
- Projects must include housing affordable to those earning 120% of AMI or less
- Loan and grant/loan combinations are possible
- Total EDI funding ranges from 70% to 90% of infrastructure costs
- Grant amounts are limited to 20% of infrastructure costs
- Loan amount is total EDI funding less grant funding
- Total award amounts are typically within \$1.0 million to \$3.0 million range
- Loan interest rates gradually increase from 1% to a ceiling of 5% at year 10, with full repayment of balance due in 25 years as a balloon payment.

Eligible Infrastructure:

By designating at the time of development a certain percentage of long-term affordable units for a certain period of time, the following public infrastructure investments may be covered by EDI loan (pursuant to RCW 82.14.370):

- Construction of public water, sewer and/or stormwater conveyance and management facilities
- Construction of public transportation improvements, including but not limited to streets, sidewalks, trails, and transit facilities

Definitions:

For the purposes of this program:

"workforce" means wage earners making 120% or less than Average Median Income (AMI) for Whatcom County.

"low income" means wage earners making 60% or less than AMI, and by such definition falls within *"workforce"* category.

“*affordable*” means that the net monthly mortgage or rent payment shall not exceed 30% of the worker’s monthly wage. This shall be verified at time of move in and *may be* verified at additional time benchmarks, at the discretion of the housing management entity.

“*long-term*” is a minimum of 20 years supported by a deed restriction that requires the housing unit to be rented or sold to persons with incomes at 120% AMI and lower.

“*proponent*” means a partnership between a sponsoring local jurisdiction and a for-profit developer, a non-profit developer, and/or a housing agency or housing NGO.

“local jurisdiction” means a city, town, water, sewer and port districts located within the Whatcom County, as outlined in RCW 82.14.370.

Program Guidance and Requirements:

- Potential loan amounts as a percentage of total infrastructure costs
 - 70-percent loan: Requires 5-percent of total units allocated to affordable housing
 - 80-percent loan: Requires 10-percent of total units allocated to affordable housing
 - 90-percent loan: Requires 25-percent or more of total units allocated to affordable housing
- Grant amounts as a percentage of total infrastructure costs
 - 20-percent grant: Requires 100-percent of total units allocated to low-income affordable housing
 - 15-percent grant: Requires 50-percent of total units allocated to low-income affordable housing, and/or 100-percent of total units allocated to workforce affordable housing
 - 10-percent grant: Requires 25-percent of total units allocated to low-income affordable housing and/or 50-percent of total units allocated to workforce affordable housing
 - 5-percent bonus: A 50-year deed restriction or convent increases the grant amount by 5-percent of total

Grant amounts are deducted from total potential loan amounts. Matching funds from the proponent shall complete the remaining percentage of total eligible costs. Grant amounts are not substitute for matching funds.

Example A: A project with 100 units that has \$3.0 million in eligible infrastructure costs¹ and dedicates 25% of the total units to workforce affordable housing (25 units) with a 20-year covenant.

- Eligible for 90% loan at \$2.7 million
- Ineligible for grant award
- Total award of \$2.7 million
- Proponent contribution \$300,000
- Total infrastructure funding \$3.0 million

Example B: A project with 100 units that has \$3.0 million in eligible infrastructure costs and dedicates 25% of the total units to low income affordable housing (25 units) 20-year covenant.

- Eligible for 90% loan at \$2.7 million
- Eligible for 10% grant award (\$300,000), reducing loan amount to \$2.4 million
- Total award of \$2.7 million
- Developer/proponent contribution \$300,000
- Total infrastructure funding \$3.0 million

¹ Estimated infrastructure cost is based on an engineer’s estimate and inclusive of contingency and project management costs

A recorded Declaration of Restrictive Covenants shall ensure that the property will stay “affordable housing” for the terms outlined above, 20-year and/or 50-year term. If a property changes ownership during the term, the Declaration of Restrictive Covenants must transfer with the land to ensure the home stays affordable for people with incomes within the applicable income bracket of the county median income, adjusted for family size.

Loans are intended to be short term, with an interest rate of 1% for the first 2 years, 2% from year 3 to year 5 with a balloon payment at the end of year 5. Loans may be structured for up to 25 years depending on the scale of the project and/or the percentage of affordable units created. Loans with terms of longer than 5 years will have to be negotiated through the County Executive’s office and will generally include escalating interest rates and capitation to terminate at year 25.

Proportionate loan repayment amounts are collected by the local jurisdiction from the developer starting at the time of subdivision recordation or issuance of an occupancy permit for multi-family units, and the local jurisdiction begins loan repayment to the EDI fund within 60 days of subdivision recordation or occupancy permit.

For private, for-profit developers, the recorded Declaration of Restrictive Covenants will identify a program qualified non-profit housing agency (Bellingham & Whatcom Housing Authority, Whatcom-Skagit Housing, Kulshan Community Land Trust, Opportunity Council, or other qualified non-profit organizations for such purposes) to oversee and ensure that the housing unit will be occupied by residents at the appropriate AMI requirements. The private, for-profit developer will typically donate the land or lots to the non-profit partner. The private developer and non-profit housing agency will work together to determine division of responsibility in developing the lot. The developer may 1) develop the lot and transfer lot ownership to the non-profit prior to construction, or 2) develop the lot and construct the housing unit, or 3) develop the lot, construct the housing units, and maintain ownership with the non-profit monitoring the restrictive covenant.

For non-profit housing developers, or public housing agencies, the developer or agency may work with others to develop the lot and/or construct the housing unit, but the non-profit developer or agency shall maintain ownership of the housing unit or shall ensure affordability through the monitoring of a restrictive covenant.

All applications will be co-sponsored by a local jurisdiction. No applications will be accepted without an adopted ordinance or resolution from the local jurisdiction stating its intent to co-sponsor an application. It is at the sole discretion of the jurisdiction to require additional information (i.e., review of civil plans, financing secured, permit approvals, etc.) from the developer prior to co-sponsoring an application. If the application is for a loan, the loan will be paid directly by the County to the local jurisdiction. If the application includes a grant, the local jurisdiction will establish an agreement with the developer to provide the grant proceeds to the developer on a reimbursement basis after the infrastructure has been installed and accepted by the local jurisdiction. The local jurisdiction may payout the loan/grant amount once 50% of the infrastructure has been installed if the developer shows justification to the satisfaction of the local jurisdiction that the costs to date are consistent to the original estimate and assurances to the satisfaction of the local jurisdiction are in place that the infrastructure will be installed to the local jurisdiction’s requirements.

At its option, the local jurisdiction may declare its intent to approve a late-comers agreement for the infrastructure through passage of a resolution. If the local jurisdiction implements a late-comers agreement the EDI loan fund shall be the payee. The late-comers agreement shall be designed to pay back a proportional share of the infrastructure grant for those properties that benefit from the grant-funded infrastructure. Affordable housing projects may be exempt from the late-comers agreement if permitted by the RCW and the formation documents.

It is recommended that the local jurisdiction also consider establishing a Local Improvement District (LID) as a means of assisting benefiting properties in financing the needed capital improvements through the formation of special assessment districts. Special assessment districts permit improvements to be financed and paid for

over a period of time through assessments on the benefiting properties. The formation of a LID may be used to re-pay the EDI loan by collecting an assessment paid with property tax and will likely eliminate administrative overhead on the program implementation.

The local, co-sponsoring jurisdictions will enter into an Interlocal Agreement with the County to establish responsibilities related to a) the grants/loans disbursement to the developer b) local jurisdiction's role -if any- in loan repayment c) program compliance monitoring d) other requirements/obligations/authorizations. Loan and grants will be made to local jurisdictions subject to the terms of an interlocal agreement. Local jurisdictions will be responsible for repayment of loans and enforcing the program requirements. The local jurisdiction may secure a lien on the property and a promissory note, and have an agreement with the developer to ensure repayment.

Project construction must be initiated (land disturbance activities) within an 18-month period following the approval of the loan and be completed within 36 months to qualify. If the project is not completed within the 36-month period, the penalty for non-completion will be a decrease in the loan amount by 5-percent of total eligible infrastructure costs for each month the project goes beyond the 36 months. (The reduction does not decrease the required percentage of lots for affordable housing.)

Non-profits, builders and land developers who would like to request use of these EDI loan funds for this purpose will need to provide adequate information for Whatcom County to determine the eligibility of the proposed project. The Whatcom County Executive's Office will work with the Whatcom County Health Department's Housing program to process the application and generally administer the program on a rolling basis, and the final approval for the use of EDI funds rests with Whatcom County.

The Executive's Office in coordination with the Whatcom County Health Department's Housing program will develop a list of program qualified housing agencies. Non-profit developers and agencies may submit a letter requesting to be added to the list with an overview of how the developer's or agency's goals align with the program's intent.

Infrastructure Improvements for Workforce Housing Program Stakeholder List

- Affordable Housing Agencies
 - Dean Fearing/Kulshan Community Land Trust
 - Brien Thane/Bellingham Housing Authority
 - Julie Menkee/Whatcom Skagit Housing
 - Colin Morgan-Cross/Mercy Housing Northwest
 - Chris Jowell/Catholic Housing Services
 - Joe Nagel/Pioneer Human Services
 - Derek Long & Rose Lanthrop/Whatcom Housing Alliance/Sustainable Connections
 - Greg Winter/Opportunity Council
 - Paul Schissler
- EDI Board Members
 - Mayor Scott Korthuis
 - Guy Occhiogrosso
- Housing Programs
 - Samya Lutz/City of Bellingham,
 - Barbara Johnson-Vinna & Chris D’Onofrio/Whatcom County,
- Business and Commerce Committee
 - Troy Muljat
 - Clark Campbell
 - Pete Dawson
- Developers
 - Skip Jensen
 - Ken Hertz
 - Richard Eggemeyer
 - Rob Janicki
 - David Braithwaite
 - Sam Boulos
- City/County/Port Contacts (Developed the Program)
 - Tyler Schroeder
 - Michael Jones
 - Jori Burnett
 - Don Goldberg

Stakeholder Input and comments – July 2021

<i>Issue</i>	<i>Comment</i>	<i>Response</i>
<i>Flexibility</i>	Each project should be evaluated according to its own parameters and analyzed for total public benefit. A rigid program structure would limit its use.	Agreed, comment noted
<i>Prevailing wage premium</i>	Would the projects be subject to prevailing wage? Would the grant cover the increases associated with typical public projects?	Yes, projects would be subject to prevailing wage requirements. Should anticipate 10-15% increase in infrastructure construction costs.
<i>Program size</i>	How much is available in the bucket? How many projects could potentially be funded?	\$10-11M in reserve with \$2-3M added each year. Goal is to build a \$50M revolving fund in coming years.
<i>Defining affordable/workforce housing</i>	What are the metrics for determining affordable and workforce housing? AMI?	"workforce" < 120% AMI "Low-income" < 60% AMI
<i>Program participants</i>	Who builds the housing?	Either developer or nonprofit could build
<i>Other programs</i>	What other kinds of funding is available for the 80-120% AMI?	Public funds are typically available only for projects targeting <80% AMI.
<i>Land ownership options</i>	Using public funds to cover land acquisition is helpful. AMI 100-120% can support the cost of construction w/o land cost. (EDI spending needs to be tied to specific infrastructure
<i>Other EDI uses</i>	Could EDI be used to cover municipal impact fees?	EDI spending needs to be tied to specific infrastructure
<i>Loan position</i>	What position would the loan be?	The loan would be secondary to commercial loans.
<i>Loan transferability</i>	What if lots are sold by the developer to builders? Would the loan come due?	Loans will be with local jurisdiction. Loans may be transferable for payee (developer)
<i>Measuring program benefit</i>	The details of the loan – interest and terms – will determine whether the program is advantageous enough for developers to participate	Comment noted

<i>Calculating</i>	Maybe a per unit cost coverage would be more manageable than a percentage of infrastructure. (P. Dawson)	Need input from developers to identify per unit figure.
<i>Identifying need / market gaps</i>	Look at bedroom size and households for various sizes and income levels who do not have access to an affordable product. Looking at the price point delivered by the market, and the incomes at which there is a gap in affordability. Tie the grant and loan products to where there are clear gaps in the market.	Need input for housing agencies on where gaps exist in market. Program could be modified to require housing to meet gap.s
<i>Enforcement mechanism</i>	What is the best method to enforce durability of affordability? Title covenant? Non-profit?	Title covenant and oversight by the Non-profit
<i>Length of affordability</i>	How long should the home be obligated to affordability? 20 years? 50 years?	Normally a for 20 yrs. If 50 yrs. the grant can increase by 5% of total.

October 25, 2021

To: Whatcom County Council

From: Whatcom County Business and Commerce Committee

RE: Letter of support for the EDI proposed update

Dear Councilmembers,

The Whatcom County Business and Commerce Committee has voted (7-0-4 unanimous vote in support of opposition with four absences) to write a letter of support urging the Council to approve the EDI board proposal regarding the Infrastructure Improvements for Affordable Workforce Housing Program.

Our committee believes that the proposed edits directly address and take into consideration the committee's past recommendation to County Council regarding the Affordable Housing Crisis in a memo submitted on June 6, 2019, which is also attached. Specifically, the proposed changes to the EDI program will help provide infrastructure and resources to increase housing availability (recommendation #3) and it will help reduce government fees for housing development (recommendation #4).

The proposed changes are a great first step in addressing Whatcom County's ongoing housing crises and we urge Council to take immediate action to approve the EDI's Board's proposal.

Sincerely,

Clark Campbell, Recreation
WCBAC Co-Chair

Sarah Rothenbuhler, Other for profit
WCBAC Co-Chair

The voting committee members who voted yes to support the statement, in addition to the two Co-Chairs listed above (followed by the sector that they represent on the Committee):

Ryan Allsop, Other for profit

Casey Diggs, Retail

Andrew Gamble, Energy

Troy Muljat, Other for profit

Brad Rader, Agriculture

Voting members absent from the meeting (and therefore vote) include:

Debbie Ahl, Healthcare

Bob Pritchett, Internet technology

Paul Burrill, Marine trades

Pete Dawson, Commercial real estate



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-671

File ID:	AB2021-671	Version:	1	Status:	Introduced
File Created:	11/08/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance Closing Sheriff's Records Management System Project Fund 344

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request to close Sheriff's Records Management System Project Fund 344 and return the remaining funds to the General Fund.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance

PROPOSED BY: Executive
INTRODUCTION DATE: 11/23/2021

ORDINANCE NO. _____

**CLOSING SHERIFF'S RECORDS MANAGEMENT SYSTEM PROJECT
FUND 344**

WHEREAS, on November 20, 2012 Ordinance 2012-054 created the Sheriff's Records Management System Project Fund and established a project-based budget for this capital project, and

WHEREAS, the General Fund contributed \$1,440,162 towards the project, and

WHEREAS, the records management system project has now been completed, and

WHEREAS, the project fund is no longer needed, and

WHEREAS, remaining cash in the fund should be returned to the General Fund, and

WHEREAS, the current cash balance in the Fund is \$357,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Sheriff's Records Management System Project Fund be dissolved and its remaining cash balance returned to the General Fund.

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Singh Sidhu, County Executive

Date: _____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-673

File ID:	AB2021-673	Version:	1	Status:	Introduced
File Created:	11/08/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance Establishing the Northwest Annex Redevelopment Fund and Establishing a Project Based Budget for the Northwest Annex Redevelopment Project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request establishes the NW Annex Redevelopment Fund and requests a project based budget in the amount of \$5,100,000 for Phase I, Architect & Engineering.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, Exhibit A

PROPOSED BY: Executive
INTRODUCTION DATE: 11/23/21

ORDINANCE NO. _____

**ORDINANCE ESTABLISHING THE NW ANNEX REDEVELOPMENT FUND AND
ESTABLISHING A PROJECT BASED BUDGET FOR THE NW ANNEX REDEVELOPMENT
PROJECT**

WHEREAS, the existing Northwest Annex facility is over 100 years old and in dire need of replacing, and

WHEREAS, investing in the current building is not fiscally responsible, and

WHEREAS, replacement of the building is a multi-year project with Architect and Engineering being Phase I, and

WHEREAS, Phase I is estimated to cost \$5.1 million and funding is available from Real Estate Excise Tax I Fund, Public Utilities Improvement Fund, sale of Baker Creek building, and sale of Forest Street building to fund this phase of the project, and

WHEREAS, Section 6.80 of the Whatcom County Home Rule Charter allows for project-based capital budget appropriation ordinances that lapse when the project has been completed or abandoned or when no expenditure or encumbrance has been made for three (3) years,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new fund is hereby established effective December 7, 2021 known as the NW Annex Redevelopment Fund. This fund shall be used to account for the revenues and expenditures related to replacing the Northwest Annex building, and

BE IT FURTHER ORDAINED by the Whatcom County Council that the NW Annex Redevelopment Fund is approved as described in Exhibit A with an initial project budget of \$5,100,000.

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive
Date: _____

Supplemental Budget Request*Status:* Pending**Administrative Services****Facilities Management**

<i>Suppl ID #</i> 3515	<i>Fund</i>	<i>Cost Center</i>	<i>Originator:</i> Rob Ney
Year 1	2021	Add'l FTE <input type="checkbox"/>	Priority 1

Name of Request: NW Annex Redevelopment**X****Department Head Signature (Required on Hard Copy Submission)****Date**

<i>Costs:</i>	Object	Object Description	Amount Requested
	7350	Buildings & Structures	\$5,100,000
	8301.332	Operating Transfer In	(\$1,685,000)
	8301.001	Operating Transfer In	(\$1,230,000)
	8301.001	Operating Transfer In	(\$500,000)
	8301.326	Operating Transfer In	(\$1,685,000)
	Request Total		\$0

1a. Description of request:

The existing Northwest Annex facility is over 100 years old and in dire need of replacing. It is not economically viable to invest in this building. The investment in a new facility is considerably more economically responsible.

Staff is requesting funding to begin the process of replacing the aging building. The initial effort is the Architectural and Engineering Phase, which is estimated at \$5.1 million. The seed money for this effort is a combination of several sources:

- 1) Sale of the Animal Control Building) (\$500,000)
- 2) The sale of Forest Street ((\$1,230,000)
- 3) EDI (\$1,685,000)
- 4) REET 1 (\$1,685,000)

Staff is proposing the construction phase of Building 1 would be via a \$26 million bond. The construction bond is not part of this request.

1b. Primary customers:

All staff and the public that currently utilizes the existing Northwest Annex facility.

2. Problem to be solved:

Northwest Annex is beyond reasonable repair and substantial investment in this aging facility would not be prudent.

3a. Options / Advantages:

This is the only economically responsible option. Heavily investing in this building would not be fiscally responsible. With the early 90's alterations of the building (rendering the 2nd floor unusable), the County identified the building as a short term investment and not worthy of a full scale remodel.

Replacing the aging building with a newer building that has a 50 year life is a considerably more responsible economic decision.

3b. Cost savings:

Investing in a 100 year old building is not economically viable. Investing in a new facility, with considerably less maintenance, is a better strategy.

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3515

Fund

Cost Center

Originator: Rob Ney

4a. Outcomes:

It is estimated that the Architectural and Engineering phase of the project will be complete by end of summer 2022.

4b. Measures:

If the bond is put in place and the Architectural, Engineering and archeological phases have been completed, construction will commence in fall of 2022.

A new building will be built in 2022-2023.

5a. Other Departments/Agencies:

The impacts could only be considered advantageous.

None

5b. Name the person in charge of implementation and what they are responsible for:

Rob Ney, Project & Operations Manager

6. Funding Source:

Proceeds from building sales, REET I and Public Utilities Improvement Funds



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-679

File ID:	AB2021-679	Version:	1	Status:	Introduced
File Created:	11/09/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending the 2021 Whatcom County Budget, request no. 18, in the amount of \$7,038,925

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #18 requests funding from the General Fund:

1. To appropriate \$148,000 in County Clerk to fund increase in Assigned Counsel contracts.
2. To decrease funding by (\$148,000) in Public Defender due to increase in Assigned Counsel contracts caused by staff turnover.
3. To appropriate \$500,000 in Non Departmental to fund transfer to partially fund NW Annex Redevelopment Project A&E costs.
4. To record transfer in from American Rescue Plan Act Fund of \$1,068,925 for general government revenue loss recovery.

From the American Rescue Plan Act Fund:

5. To appropriate \$1,068,925 to fund revenue loss recovery transfer.
6. To appropriate \$250,000 to fund Point Roberts economic sustainability assistance.

From Conservation Futures Fund:

7. To appropriate \$1,850,000 to fund Black Slough Water Resources Recovery project.

From Real Estate Excise Tax I Fund:

8. To appropriate \$1,685,000 to fund transfer to partially fund NW Annex Redevelopment Project A&E costs.

From Public Utilities Improvement Fund:

9. To appropriate \$1,685,000 to fund transfer to partially fund NW Annex Redevelopment

Project A&E costs.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, Budget Summary, Supplemental Budget Requests

**ORDINANCE NO.
AMENDMENT NO. 18
OF THE 2021 BUDGET**

WHEREAS, the 2021-2022 budget was adopted November 24, 2020; and,

WHEREAS, changing circumstances require modifications to the approved 2021-2022 budget;
and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the
Whatcom County Council,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2021-2022
Whatcom County Budget Ordinance #2020-068 is hereby amended by adding the following additional
amounts to the 2021 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
County Clerk	148,000	-	148,000
Public Defender	(148,000)	-	(148,000)
Non Departmental	500,000	(1,068,925)	(568,925)
Total General Fund	500,000	(1,068,925)	(568,925)
American Rescue Plan Act Fund	1,318,925	-	1,318,925
Conservation Futures Fund	1,850,000	-	1,850,000
Real Estate Excise Tax I Fund	1,685,000	-	1,685,000
Public Utilities Improvement Fund	1,685,000	-	1,685,000
Total Supplemental	7,038,925	(1,068,925)	5,970,000

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive
Date: _____

WHATCOM COUNTY				
Summary of the 2021 Supplemental Budget Ordinance No. 18				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
County Clerk	To fund increase in Assigned Counsel contracts.	148,000	-	148,000
Public Defender	To decrease funding due to increase in Assigned Counsel contracts.	(148,000)	-	(148,000)
Non Departmental	To fund transfer to partially fund NW Annex Redevelopment Project A&E costs.	500,000	-	500,000
Non Departmental	To record transfer in from ARPA Fund for general government revenue loss recovery.	-	(1,068,925)	(1,068,925)
Total General Fund		500,000	(1,068,925)	(568,925)
American Rescue Plan Act Fund				
Non Departmental	To fund revenue loss recovery transfer.	1,068,925	-	1,068,925
Non Departmental	To fund Point Roberts economic sustainability assistance.	250,000	-	250,000
Total American Rescue Act Fund		1,318,925	-	1,318,925
Conservation Futures Fund	To fund Black Slough Water Resources Recovery project.	1,850,000	-	1,850,000
Real Estate Excise Tax I Fund	To fund transfer to partially fund NW Annex Redevelopment Project A&E costs.	1,685,000	-	1,685,000
Public Utilities Improvement Fund	To fund transfer to partially fund NW Annex Redevelopment Project A&E costs.	1,685,000	-	1,685,000
Total Supplemental		7,038,925	(1,068,925)	5,970,000

Supplemental Budget Request

Status: Pending

County Clerk

Suppl ID # 3541

Fund 1

Cost Center 3140

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Assigned Counsel Contracts Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6650.8000	Ct Eval/Investigations	\$148,000
	Request Total		\$148,000

1a. Description of request:

Request to increase assigned counsel appropriations by \$148,000. See companion supplemental #3540 for a corresponding reduction in the Public Defender's wage and benefit budget..

1b. Primary customers:

public defense clients

2. Problem to be solved:

There has been a large increase in the number of cases assigned to outside attorneys due to caseload standards and turnover in staff in the Public Defender's Office. Assigned counsel contracts are projected to be \$225,000 over budget by 2021 year-end. This request will fund \$148,000 of the projected cost overruns. There is a corresponding supplemental (#3540) in the Public Defender's budget to reduce wage and benefit line items by the amount of lapse due to position turnover and vacancies through 10/31/21. A budget transfer from the Jury/Witness Fees account in Superior Court Administration to Assigned Counsel will fund the remaining \$77,000. Jury/Witness Fees have significant budget lapse due to the pandemic-related stoppage of jury trials.

3a. Options / Advantages:

Leaving the wage and budget lapse in Public Defender and submitting a supplemental to increase the County Clerk's Assigned Counsel budget without a corresponding reduction. This option more accurately reflects the situation that is driving the increase in assigned counsel contract overruns.

3b. Cost savings:

This option provides a net zero impact to the General Fund when adopted with companion supplemental #3540

4a. Outcomes:

Budget authority will be increased to allow coverage of court ordered services upon adoption and signature of the ordinance.

4b. Measures:

When supplemental is posted in JD Edwards accounting system.

5a. Other Departments/Agencies:

Public Defender

5b. Name the person in charge of implementation and what they are responsible for:

AS Finance

6. Funding Source:

Public Defender's General Fund budget to provide funding for Assigned Counsel contracts

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3540

Fund 1

Cost Center 2650

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Assigned Counsel Contract funding from Public Def

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	(\$80,000)
	6210	Retirement	(\$31,000)
	6245	Medical Insurance	(\$37,000)
	Request Total		(\$148,000)

1a. Description of request:

Request to decrease funding in Public Defender wage and benefit line items. See companion supplemental in County Clerk to increase Assigned Counsel contract line items (Suppl ID #3541).

1b. Primary customers:

public defense clients

2. Problem to be solved:

There has been a large increase in the number of cases assigned to outside attorneys due to caseload standards and turnover in staff in the Public Defender's Office. Assigned counsel contracts are projected to be \$225,000 over budget by 2021 year-end. This request reduces wage and benefit budgets in the Public Defender's Office by the amount of lapse due to position turnover and vacancies through 10/31/21. Budget authority in County Clerk's Assigned Counsel will correspondingly be increased in companion supplemental #3541. This supplemental will fund \$148,000 of the projected cost overruns. A budget transfer from the Jury/Witness Fees account in Superior Court Administration to Assigned Counsel will fund the remaining \$77,000. Jury/Witness Fees have significant budget lapse due to the pandemic-related stoppage of jury trials.

3a. Options / Advantages:

Leaving the wage and budget lapse in Public Defender and submitting a supplemental to increase the County Clerk's Assigned Counsel budget without a corresponding reduction. This option more accurately reflects the situation that is driving the increase in assigned counsel contract overruns.

3b. Cost savings:

This option provides a net zero impact to the General Fund when adopted with companion supplemental #3541

4a. Outcomes:

Budget authority will be reduced in Public Defender upon adoption and signature of the ordinance.

4b. Measures:

When supplemental is posted in JD Edwards accounting system.

5a. Other Departments/Agencies:

County Clerk- Assigned Counsel

5b. Name the person in charge of implementation and what they are responsible for:

AS Finance

6. Funding Source:

Monday, November 08, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3540

Fund 1

Cost Center 2650

Originator: M Caldwell

Public Defender's General Fund budget to provide funding for Assigned Counsel contracts

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3542

Fund 1

Cost Center 4530

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: General Fund trf to NW Annex project

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351	Operating Transfer Out	\$500,000
	Request Total		\$500,000

1a. Description of request:

Transfer proceeds of Baker Creek surplus building sale to NW Annex Redevelopment project.
Companion to NW Annex Redevelopment Project ordinance and supplemental ID #3515.

1b. Primary customers:

2. Problem to be solved:

Needed to partially fund the A&E phase of the NW Annex Redevelopment Project

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund - proceeds of Baker Creek surplus building

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3548

Fund 1

Cost Center 120

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Trf in Revenue Loss Recovery from ARPA

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8301.138	Operating Transfer In	(\$1,068,925)
	Request Total		(\$1,068,925)

1a. Description of request:

Companion supplemental to Suppl #3545 ARPA Revenue Loss Recovery Transfer to present the General Fund side of the transfer which receives \$1,068,925 in revenue loss recovery funds for general government services.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

ARPA Fund

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3545

Fund 138

Cost Center 138100

Originator: M Caldwell

Year 1

2021

Add'l FTE ☐

Priority

1

Name of Request: ARPA Revenue Loss Recovery Transfer

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351.001	Operating Transfer Out	\$1,068,925
	Request Total		\$1,068,925

1a. Description of request:

In accordance with U.S. Treasury's Interim Final Rule for 31 CFR 35.6 (d) provides for the provision of government services to the extent of a reduction in the recipient's general revenue. AS Finance has calculated that the County is eligible to transfer \$1,068,925 of ARPA money for the provision of government services, as a result of revenue losses which happened due to the pandemic in 2020. This supplemental requests to transfer the funding provided by ARPA to the General Fund.

1b. Primary customers:

Citizens of Whatcom County

2. Problem to be solved:

The General Fund suffered significant losses in several categories of revenue as a result of the pandemic in 2020. Losses occurred in sales taxes, licenses & permits, fee for service activities, fines & penalties and miscellaneous revenue categories. The American Rescue Plan Act State and Local Fiscal Recovery Funds allows for recovery of losses in accordance with a formula that prescribes calculating the total of all of the County's 2020 revenues that are not from federal sources, applying a 4.1% growth factor and comparing the result to 2019 total non-federal revenues. The resulting amount can then be paid out of ARPA funds and used to fund general government activities. Transferring this funding to the General Fund is needed to cover rising costs due to inflation and product scarcity.

3a. Options / Advantages:

Leave the funding in the ARPA Fund for other uses. The U.S. is entering an inflationary period of rising prices for fuel, wages, benefits, services and supplies. The General Fund needs a healthy fund balance to be able to weather this period of rising costs.

3b. Cost savings:

N/A

4a. Outcomes:

Once the budget for the transfer is recorded in JD Edwards, AS Finance can initiate an interfund transfer to move the funding from ARPA to the General Fund before 2021 year end.

4b. Measures:

When the transfer has been posted in the County's accounting records.

5a. Other Departments/Agencies:

N/A

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3545

Fund 138

Cost Center 138100

Originator: M Caldwell

ARPA Fund

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3552

Fund 138

Cost Center

Originator: Jed Holmes

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Point Roberts Economic Sustainability

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$250,000
	Request Total		\$250,000

1a. Description of request:

The County Executive's Office requests budget authorization to spend up to \$250,000 on economic sustainability and recovery grants in Point Roberts. The grants will focus on addressing gaps in state and federal aid to businesses and households in this uniquely isolated community.

1b. Primary customers:

Residents and businesses in Point Roberts

2. Problem to be solved:

Point Roberts continues to be disproportionately impacted by cross-border travel restrictions related to the pandemic. The continuation of testing requirements for people travelling into Canada presents an economic barrier and logistics challenge. When US border travel requirements were relaxed on November 8, 2021, passenger vehicle travel only marginally improved and remains well below traditional levels.

Individuals previously employed by food service organizations, parcel service providers, the golf course, marina and other businesses dependent on cross-border traffic may be forced to leave Point Roberts to find gainful employment. Anecdotal evidence suggests this may already be happening. Such workforce erosion presents a significant challenge to future economic recovery, as businesses in Point Roberts will face unique barriers to attracting new workers once impediments to travel are fully removed.

If no mitigating actions are taken, the ability of Point Roberts businesses to recover may be severely undermined, impacting the provision of basic services, long-term community resilience, and County tax revenues.

3a. Options / Advantages:

The Administration proposes providing one-time grants to businesses and/or households which demonstrate a need. The parameters of the grant program will include assurances that all eligibility and auditable measures are fulfilled.

3b. Cost savings:

A modest investment using ARPA funds will support the long-term viability of the businesses and future tax revenues streams.

4a. Outcomes:

Businesses, and the workforce they rely on, will have the necessary resources to be sustainable over the short term as border travel gradually begins to normalize.

4b. Measures:

Number of businesses reopening, new vacancies filled.

Friday, November 12, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3552

Fund 138

Cost Center

Originator: Jed Holmes

5a. Other Departments/Agencies:

The County will collaborate with the Regional Economic Partnership at the Port of Bellingham to ensure the grant program is responsive to community needs and deployed efficiently.

5b. Name the person in charge of implementation and what they are responsible for:

Jed Holmes, Community Outreach Facilitator, County Executive's Office; development of grant program parameters, coordination of application and review processes, coordination of grant compliance.

6. Funding Source:

American Rescue Plan Act Fund

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3551

Fund 175

Cost Center 17500

Originator: Chris Elder

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Black Slough Water Resources Recovery Acquisition

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	7320	Land	\$1,850,000
	Request Total		\$1,850,000

1a. Description of request:

The County will partner with the Whatcom Land Trust (WLT) to purchase 200 acres of land that has been identified as having high priority wetlands and salmon bearing streams known as the Black Slough Water Resources Recovery project. The property has been appraised and confirmed through appraisal review at a price of 1.85 million dollars. Whatcom County wishes to provide funds through the Conservation Futures Fund to help support this acquisition in partnership with the Whatcom Land Trust.

The Whatcom Land Trust will own and manage the property initially while the County, the Land Trust, and the Nooksack Indian Tribe discuss and determine long term stewardship, ownership, and restoration of the site. The County will hold a conservation and public access agreement on the property regardless of the final ownership arrangement. The property consists of degraded agricultural land that historically was part of a large wetland and stream complex referred to as the Black Slough. The overall project goal is to improve water quality and enhance streamflow by conserving and restoring hydraulic function, restoring riparian forest conditions for shade and bank stabilization, creating sediment retention and aggradation of the stream bed, and supporting floodplain reengagement and sediment deposition. Resulting baseflow augmentation will increase summer streamflow thus reducing stream temperatures in the Black Slough and SF Nooksack River. Reductions in turbidity through the restoration of channel complexity and floodplain engagement will also occur. Restoration and enhancement of hydraulic function will address degraded stream morphology, undo historic drainage of floodplain wetlands for agricultural use, and reconnect floodplains for the storage of high flow events. Water quality improvements will restore habitat for salmonids (Coho spawning adults/rearing juveniles, Chinook juveniles, Steelhead) and amphibians (ex. Oregon Spotted Frog).

This project was identified as a priority project in the South Fork Nooksack River Conservation Plan and NEP Reach Scale Plan developed by The Nooksack Tribe and again as a recommended management solution in the WRIA 1 Watershed Management Board Strategy Regional Water Supply Plan Phase I Task 3 Water Supply and Management Solutions report to enhance streamflow in the South Fork Nooksack River, in addition to the numerous co-benefits. The support of this project through Conservation Futures Fund will benefit the public by restoring hydraulic maturity and watershed functions in the South Fork Nooksack River basin.

Whatcom County has committed \$1,850,000 from the Conservation Futures Fund towards purchase of the property.

1b. Primary customers:

Whatcom County residents

2. Problem to be solved:

Restoring the wetland and riparian functions of the Black Slough will help enhance streamflow and reduce

Tuesday, November 09, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3551

Fund 175

Cost Center 17500

Originator: Chris Elder

stream temperatures and turbidity in the South Fork Nooksack River. Black Slough wetlands and riparian habitats also serve to sequester and store carbon, create habitat for Coho Salmon and other fish species, create habitat for non-aquatic species such as the Oregon Spotted Frog, and restore the historic condition and hydraulic maturity of the Black Slough which connects to the South Fork Nooksack River. These benefits align with the purpose and intention of the Conservation Futures Fund in protecting and preserving natural lands.

3a. Options / Advantages:

Whatcom County has been partnering with the Whatcom Land Trust and Nooksack Indian Tribe to acquire the property, and has received the support of the Lummi Nation and other watershed partners for this acquisition. The Conservation Futures Fund will have a projected remaining fund balance of \$1.875 million when we deduct the cost of the Black Slough purchase. Current owner is highly motivated to sell the property which provides a limited time and opportunity for this acquisition.

3b. Cost savings:

Preserving pristine forestland is an investment we can make now for today and the future.

4a. Outcomes:

200 acres of land will be acquired for restoration of wetlands and riparian ecosystems and approximately 0 acres of upland will be retained for continued agricultural use. After acquisition it is expected that a Boundary Line Adjustment will allow the County to adjust parcel lines to locate the existing house and barn with the upland agricultural land and be able to resell that portion of the property at a later date to maintain private agricultural production and land ownership. The appraisal completed for this entire acquisition also determined the value of the house and the 40 acres of upland agricultural land at \$850,000 and the county would be able to recoup those funds at a future date.

4b. Measures:

200 acres of land will be acquired for restoration of wetlands and riparian ecosystems and approximately 40 acres of upland will be retained for continued agricultural use. After acquisition it is expected that a Boundary Line Adjustment will allow the County to adjust parcel lines to locate the existing house and barn with the upland agricultural land and be able to resell that portion of the property at a later date to maintain private agricultural production and land ownership. The appraisal completed for this entire acquisition also determined the value of the house and the 40 acres of upland agricultural land at \$850,000 and the County would be able to recoup those funds at a future date.

5a. Other Departments/Agencies:

Whatcom Land Trust, Nooksack Indian Tribe, other WRIA 1 Watershed Management Board entities

5b. Name the person in charge of implementation and what they are responsible for:

Chris Elder, Senior Watershed Management Planner, Public Works

6. Funding Source:

Conservation Futures Fund

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3544

Fund 326

Cost Center 32600

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: REET I transfer to NW Annex Redevelopment Project

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351	Operating Transfer Out	\$1,685,000
	Request Total		\$1,685,000

1a. Description of request:

Transfer Real Estate Excise Tax I (REET I) Fund funding to NW Annex Redevelopment project. Companion to NW Annex Redevelopment Project ordinance and supplemental ID #3515.

1b. Primary customers:

2. Problem to be solved:

Needed to partially fund the A&E phase of the NW Annex Redevelopment Project

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

REET I fund balance

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3543

Fund 332

Cost Center 332100

Originator: M Caldwell

Year 1 2021

Add'l FTE ☐

Priority 1

Name of Request: Public Utilities Improvement trf to fund NW Annex

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351	Operating Transfer Out	\$1,685,000
	Request Total		\$1,685,000

1a. Description of request:

Transfer Public Utilities Improvement funding (aka EDI funding) to NW Annex Redevelopment project. Companion to NW Annex Redevelopment Project ordinance and supplemental ID #3515.

1b. Primary customers:

2. Problem to be solved:

Needed to partially fund the A&E phase of the NW Annex Redevelopment Project

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Public Utilities Improvement Fund balance - County Capital Facilities portion of the fund



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-681

File ID:	AB2021-681	Version:	1	Status:	Introduced
File Created:	11/09/2021	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending the 2022 Whatcom County Budget, request no. 3, in the amount of \$1,144,763

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #3 requests funding from the General Fund:

1. To appropriate \$500,000 in Health to fund Isolation & Quarantine Facility from January through March from grant proceeds.
2. To appropriate \$291,263 in Health to fund NW Workforce Council grant program.
3. To appropriate \$300,000 in Prosecuting Attorney to fund LEAD Program from grant proceeds.

From the Election Reserve Fund:

4. To appropriate \$12,000 to fund completion of Elections' camera system and prox door control projects.

From the Administrative Services Fund:

5. To appropriate \$41,500 to fund Council chambers AV enhancements for hybrid meetings.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, Budget Summary, Supplemental Budget Requests

**ORDINANCE NO.
AMENDMENT NO. 3 OF THE 2022 BUDGET**

WHEREAS, the 2021-2022 budget was adopted November 24, 2020; and,

WHEREAS, changing circumstances require modifications to the approved 2021-2022 budget; and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2021-2022 Whatcom County Budget Ordinance #2020-068 is hereby amended by adding the following additional amounts to the 2022 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Health	791,263	(810,000)	(18,737)
Prosecuting Attorney	300,000	(300,000)	-
Total General Fund	1,091,263	(1,110,000)	(18,737)
Election Reserve Fund	12,000	(12,000)	-
Administrative Services	41,500	-	41,500
Total Supplemental	1,144,763	(1,122,000)	22,763

ADOPTED this ____ day of _____, 2021.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

WHATCOM COUNTY				
Summary of the 2022 Supplemental Budget Ordinance No. 3				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Health	To fund Isolation & Quarantine Facility from January through March from grant proceeds.	500,000	(500,000)	-
Health	To fund NW Workforce Council grant program.	291,263	(310,000)	(18,737)
Prosecuting Attorney	To fund LEAD program from grant proceeds.	<u>300,000</u>	<u>(300,000)</u>	<u>-</u>
Total General Fund		1,091,263	(1,110,000)	(18,737)
Election Reserve Fund	To fund Elections projects from grant proceeds.	12,000	(12,000)	-
Administrative Services	To fund Council chambers AV enhancements for hybrid meetings.	<u>41,500</u>	<u>-</u>	<u>41,500</u>
Total Supplemental		<u>1,144,763</u>	<u>(1,122,000)</u>	<u>22,763</u>

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3547

Fund 1

Cost Center 660460

Originator: Erika Lautenbach

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: FEMA for COVID Isolation & Quarantine Facility

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.9703	FEMA-Public Assistance	(\$500,000)
	6610	Contractual Services	\$500,000
	Request Total		\$0

1a. Description of request:

The Health Department is requesting expenditure authority for FEMA funding available to support operations for the Whatcom County Isolation and Quarantine Facility. This funding will support facility rental, utilities, contracted staffing for daily operations at the site, cleaning and security services. Operational expenses are estimated to be a \$150,000 monthly and this request would cover an extension of facility services needed through Mar 31, 2022.

1b. Primary customers:

Whatcom County residents who have been impacted by the COVID pandemic.

2. Problem to be solved:

Some people who are COVID positive or have been exposed to someone who is COVID positive do not have an option to quarantine or isolate in their current living conditions. Public Health Nurses and disease investigation staff monitor needs and barriers among Community Health Assessment-identified vulnerable populations and work with partners and WUC to address. Staff ensure understanding of and adherence to isolation and quarantine through rigorous case and contact investigations, effective and daily communication and support for successful home isolation and quarantine, and triage, refer and monitor individuals in the county's isolation and quarantine facility

3a. Options / Advantages:

Providing a safe and secure facility to isolate and quarantine people reduces the transmission of COVID-19 to the general public. Providing isolation and quarantine education and support at the local level improves outcomes for Whatcom county residents.

3b. Cost savings:

\$500,000 in savings of local funds will be experienced.

4a. Outcomes:

Operational funding of the Isolation and Quarantine will be fully funded and people will have a safe and secure facility to reside in while eliminating the transmission of COVID-19. Slow the spread of the virus within the community and reduce impact on health care infrastructure.

4b. Measures:

Sustained operations of the Isolation and Quarantine facility, sustained staffing of the Quarantine and Isolation Response Team at the Health Department.

5a. Other Departments/Agencies:

Road2Home and Arista currently provide staffing for operational and administrative oversight of the Isolation and Quarantine Facility.

5b. Name the person in charge of implementation and what they are responsible for:

Tuesday, November 09, 2021

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3547

Fund 1

Cost Center 660460

Originator: Erika Lautenbach

n/a

6. Funding Source:

FEMA funding

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3549

Fund 1

Cost Center 627500

Originator: Cindy Hollinsworth

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: NW Workforce Council Grant 2022

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.1727	WIOA Dislocated Workers Grt	(\$310,000)
	6110	Regular Salaries & Wages	\$173,013
	6210	Retirement	\$17,734
	6230	Social Security	\$13,236
	6245	Medical Insurance	\$75,240
	6255	Other H&W Benefits	\$8,253
	6259	Worker's Comp-Interfund	\$3,337
	6269	Unemployment-Interfund	\$450
	Request Total		(\$18,737)

1a. Description of request:

The Health Department requests expenditure authority for additional new dedicated funding from the Northwest Workforce Council available through May 31, 2022. This funding will decrease the burden upon the general fund for COVID response expenses.

These funds will be utilized for salary expenses for Health Department temporary staff working on the COVID response. This funding supports 11 existing temporary with benefit positions and eligible staff must qualify for the disaster-relief employment program through the Northwest Workforce Council. Staff roles include case and contact investigation, clerical and testing and vaccination access staff.

1b. Primary customers:

Whatcom county residents needing education about isolation or quarantine or support for COVID-19 testing or vaccination appointments.

2. Problem to be solved:

The Health Department requires surge staffing to support an expanded and prolonged response to COVID-19, as well as support testing and community mitigation.

3a. Options / Advantages:

Eligible Whatcom County residents who have been displaced or laid off due to COVID-19 will be employed by Whatcom County. This will provide needed staffing resources to the COVID-19 response and meaningful work for people currently unemployed.

3b. Cost savings:

Positions are funded by Northwest Workforce Council and will offset General Fund expenditures to provide for COVID-19 response.

4a. Outcomes:

The Health Department will have additional staff to support COVID response, both in conducting case and contact investigations and in providing support to WCHD clerical team to support scheduling for COVID vaccine and testing appointments.

Supplemental Budget Request

Status: Pending

Health

Communicable Disease & Epidemiology

Suppl ID # 3549

Fund 1

Cost Center 627500

Originator: Cindy Hollinsworth

4b. Measures:

Metrics for case and contact investigation and testing for COVID-19 and vaccination rates.

5a. Other Departments/Agencies:

n/a

5b. Name the person in charge of implementation and what they are responsible for:

n/a

6. Funding Source:

Northwest Workforce Council.

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3546

Fund 1

Cost Center 2622

Originator: Vanessa Martin

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: LEAD Program

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4331.1683	DOJ Lead Grant	(\$300,000)
	6610	Contractual Services	\$300,000
	Request Total		\$0

1a. Description of request:

In the LEAD program, law enforcement exercise discretionary authority at point of contact to divert individuals to a community-based, harm reduction intervention for law violations driven by unmet behavioral health needs. In lieu of the normal criminal legal system cycle -- booking, detention, prosecution, conviction, incarceration -- individuals are instead referred into a trauma-informed intensive case-management program where the individual receives a wide range of support services, often including transitional and permanent housing and/or drug treatment. Prosecutors and police officers work closely with case managers to ensure that all contacts with LEAD® participants going forward, including new criminal prosecutions for other offenses, are coordinated with the service plan for the participant to maximize the opportunity to achieve behavioral change.

LEAD holds considerable promise as a way for law enforcement and prosecutors to help communities respond to public order issues stemming from unaddressed public health and human services needs -- addiction, untreated mental illness, homelessness, and extreme poverty -- through a public health framework that reduces reliance on the formal criminal justice system.

1b. Primary customers:

The LEAD program serves community members who frequently cycle in and out of the criminal legal system for low-level offenses.

2. Problem to be solved:

The initiative aims to divert people out of the criminal legal system whose infractions are mainly driven by addiction, mental illness, and poverty and who would be better served by quality social services. The effort would reduce recidivism, lower the number of people in our expensive criminal legal system and improve public safety and our communities' quality of life.

Instead of sending low-level offenders to jail, law enforcement can refer individuals to LEAD, which provides them with intensive long-term case management and a chance to change their lives. Case manager become their clients' personal advocates, offering legal assistance and helping them access social services like housing, health care, treatment, and therapy.

LEAD uses a "meet you where you are at" approach to provide individuals with the help they actually want, which makes this program unique to Whatcom County.

3a. Options / Advantages:

The county recently developed the Ground-Level Response And Coordinated Engagement (GRACE) program, which is a community-based effort to find solutions for individuals who are using crisis services and law enforcement in frequent, yet ineffective ways. The aim is to offer intensive, coordinated services

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3546

Fund 1

Cost Center 2622

Originator: Vanessa Martin

to these "familiar faces" whose needs span beyond any single agency.

The LEAD program will function under the GRACE structure and aims to offer intensive, coordinated services to the "familiar faces" of the criminal legal system.

3b. Cost savings:

Instead of sending low-level offenders to jail, law enforcement can refer suspects to LEAD, which will have a great impact on our overall incarceration rates, reducing costs, and increasing public safety.

4a. Outcomes:

This is a 3-year grant cycle and at the end of 2022 the outcomes will be a reduction in recidivism, criminal legal system costs, and an increase in public safety.

4b. Measures:

We will know the outcomes have been met by analyzing the data we will be collecting throughout the program operations.

5a. Other Departments/Agencies:

The LEAD program is a collaboration between law enforcement, prosecutors, public defenders, political leaders, mental health and drug treatment providers, housing providers, other community service partners, business and neighborhood leaders -- working together to find new ways to meet the needs of those who frequently cycle in and out of the criminal legal system.

All partner agencies are committed to the LEAD program and have dedicated resources to ensure on-going support.

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

DOJ grant

Supplemental Budget Request

Status: Pending

Auditor

Suppl ID # 3550

Fund 109

Cost Center 10925

Originator: Rob Ney/Diana Bradrick

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: Elections New Camera Sys/Addt'l Prox Door Control

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.9041	HAVA Election Security	(\$12,000)
	6190	Direct Billing Rate	\$12,000
	Request Total		\$0

1a. Description of request:

The Auditor received a grant for security upgrades for Elections. Facilities will be managing this project. Because of the November Election, we were asked to delay the project until after the election. There is not enough time for us to complete the project before the end of the year. Facilities is requesting that \$12,000 in labor be re-appropriated to 2022 for this effort.

1b. Primary customers:

The Auditor and Elections staff are the primary customers; however the Citizens of Whatcom County are ultimately the customers as these improvements enhance the integrity of the Election.

2. Problem to be solved:

There is not sufficient enough time to complete this project by years end.

3a. Options / Advantages:

It is not feasible for us to complete this complex project with many moving parts in the timeline allowed. Re-appropriating the money into next year will allow Facilities to recoup labor for work completed in 2022.

3b. Cost savings:

There are not many options for cost saving for this improvement.

4a. Outcomes:

Facilities will contract with a local vendor for these repairs in 2021. Most work will occur in 2022 and Labor will not carry over and expires at the end of the year.

4b. Measures:

The improvements will be implemented within budget.
When improvements are installed.

5a. Other Departments/Agencies:

The impacts could only be considered advantageous. However there will be slight disruption to the tenants during the construction of these new improvements.
Auditor/Elections.

5b. Name the person in charge of implementation and what they are responsible for:

Rob Ney, Project & Operations Manager

6. Funding Source:

Elections grant

Supplemental Budget Request

Status: Pending

Administrative Services

Information Technology

Suppl ID # 3539

Fund 507

Cost Center 507111

Originator: P. Rice on Behalf of D. Br

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: Council Chambers AV Enhancements for Hybrid Mtgs

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$41,500
	Request Total		\$41,500

1a. Description of request:

Enhance the Council Chambers audio visual system to support hybrid Zoom meetings.

1b. Primary customers:

County Council and Citizens

2. Problem to be solved:

County Council has been successfully conducting virtual Council Meetings using the Zoom video conferencing system throughout the Covid-19 global pandemic. In the future, County Council desires to conduct hybrid meetings with some members and citizens in Council Chambers and others participating remotely using the Zoom video conferencing system. In order to conduct hybrid meetings, we will need to add fixed cameras, push to talk microphones, monitors with web cameras and video switching equipment to the existing audio visual system in the Council Chambers.

3a. Options / Advantages:

The alternative is to make no modifications to Council Chambers. The proposed option is best to provide clear sound and video of councilmembers and citizens in Council Chambers to remote audiences and participants via the Zoom video conferencing platform.

3b. Cost savings:

Hybrid Council Meetings will allow councilmembers and citizens to participate remotely saving time and transportation costs.

4a. Outcomes:

The county will enter into a contract with a vendor to procure, install and train the county on audio visual enhancements in Council Chambers in early 2022.

4b. Measures:

County Council will be able to successfully conduct a hybrid Council Meeting with some councilmembers and citizens in the Council Chambers and others participating remotely using the Zoom video conferencing system.

5a. Other Departments/Agencies:

County IT will work with a vendor, County Council and Facilities Management on the implementation.

5b. Name the person in charge of implementation and what they are responsible for:

Dana-Brown Davis - Clerk of Council

Rob Ney - Facilities Manager

6. Funding Source:

AS Fund balance



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-683

File ID:	AB2021-683	Version:	1	Status:	Agenda Ready
File Created:	11/10/2021	Entered by:	JHawes@co.whatcom.wa.us		
Department:	Council Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Abeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide housing case management services in the amount of \$527,316 for a total amended contract amount of \$790,974

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Opportunity Council – Housing Case Management Contract Amendment #2

DATE: November 10, 2021

Attached is a contract amendment between Whatcom County and Opportunity Council for your review and signature.

- **Background and Purpose**

Housing Case Managers provide assistance to households to access housing, improve housing stability, and reduce homelessness through joint efforts between the Whatcom Homeless Service Center and the Community Services Division of the Opportunity Council. This contract provides funding for case management and supportive services to those individuals and households experiencing or at-risk of experiencing homelessness, or who are newly housed, in order to improve housing stability and reduce homelessness in Whatcom County. The purpose of this amendment is to extend the contract for an additional year and increase funding based on an annual budget rather than the previously approved 6-month budget.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$527,316, is provided by local document recording fees and the Washington State Department of Commerce Consolidated Homeless and Emergency Solutions COVID-19 Grants (CFDA 14.231). These funds will be included in the 2022 budget. Council approval is required as funding for this amendment exceeds 10% of the approved budget.

Please contact Ann Beck, Human Services Supervisor at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202106045 – 2

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Barbara Johnson-Vinna	
Contractor's / Agency Name:		Opportunity Council	
Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		202106045
Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement?	If yes, grantor agency contract number(s):		CFDA#: 14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		202008014 / 202107011
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	Contract Cost		122200 / 122800 /
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s): 21-04	Center:	122300
Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>		
If YES, indicate exclusion(s) below:			
<input type="checkbox"/> Professional services agreement for certified/licensed professional.			
<input type="checkbox"/> Contract work is for less than \$100,000.		<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	
<input type="checkbox"/> Contract work is for less than 120 days.		<input type="checkbox"/> Work related subcontract less than \$25,000.	
<input type="checkbox"/> Interlocal Agreement (between Governments).		<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments):		Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 	
\$ 263,658			
This Amendment Amount:			
\$ 527,316			
Total Amended Amount:			
\$ 790,974			
Summary of Scope: This contract provides funding for case management and supportive services in association with the Whatcom Homeless Service Center in an effort to improve housing stability and reduce homelessness in Whatcom County.			
Term of Contract:	1 Year	Expiration Date:	12/31/2022
Contract Routing:	1. Prepared by:	JT	Date: 09/07/2021
	2. Health Budget Approval	KR/JG	Date: 11/01/2021
	3. Attorney signoff:	RB	Date: 11/03/2021
	4. AS Finance reviewed:	M Caldwell	Date: 11/2/21
	5. Council Approved (if necessary)	AB2021-683	Date:
	6. Contractor Program Manager:		Date:
	7. Contractor Fiscal Representative:		Date:
	8. Executive Contract Review:		Date:
	9. Executive signed:		Date:
	10. Original to Council:		Date:

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225

CONTRACT PERIODS:

Original & Amendment #1: 07/01/2021 – 12/31/2021

Amendment #2: 01/01/2022 – 12/31/2022

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit A – Scope of Work, (VI.) to increase program outcomes based on a 1-year contract period.
3. Amend Exhibit B – Compensation, to reflect a 1-year budget for the extended contract period.
4. Funding for the extended contract period (01/01/2022 – 12/31/2022) is not to exceed \$527,316.
5. Funding for the total contract period (07/01/2021 – 12/31/2022) is not to exceed \$790,974.
6. All other terms and conditions remain unchanged.
7. The effective start date of the amendment is 01/01/2022.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Supervisor Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

_____	Greg Winter, Executive Director	_____
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

_____	_____
Satpal Singh Sidhu, County Executive	Date

CONTRACTOR INFORMATION:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225
Greg_winter@oppco.org

EXHIBIT "A" – Amendment #2
(SCOPE OF WORK)

I. Background

According to the annual Point In Time Count of homeless persons conducted in January 2021, at least 859 people in Whatcom County were homeless. Throughout the year, more may face the prospect of losing their homes. Whatcom County's Plan to End Homelessness provides a blueprint for how our community will work together to prevent and end homelessness. The provision of housing assistance and case management services are key strategies of the Plan.

Housing case management under Whatcom Homeless Service Center (WHSC) partnership includes both rental subsidy and housing case management components. WHSC staff determine client eligibility for services and authorize and distribute rent subsidies to local landlords on behalf of participating clients, make referrals for case management to partner agencies, and coordinate required data collection efforts.

Through this contract, Opportunity Council will serve as one of the WHSC partner agencies providing Housing Pool case management and other housing case management services. The purpose of this contract is to provide case management for individuals and families experiencing homelessness or at risk of homelessness in order to improve housing stability and reduce homelessness in Whatcom County.

II. Definitions

HMIS	Washington's Homeless Management Information System Database
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1) centralized coordinated system of access, (2) targeted prevention assistance to reduce the number of households that become homeless, (3) re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5) data management and tracking information for people receiving homeless housing services in Whatcom county and according to Washington State Department of Commerce HMIS data collection requirements.

III. Statement of Work

The Contractor will provide housing case management services. Housing case management activities include arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of households and helping them obtain housing stability. Services and activities include:

1. Developing, securing, coordinating, and retaining services and suitable housing. Services include but are not limited to:
 - a. Tenant counseling;
 - b. Assisting individuals and households with understanding leases;
 - c. Securing utilities;
 - d. Making moving arrangements;
 - e. Representative payee services concerning rent and utilities;
 - f. Mediation and outreach to property owners related to locating or retaining housing;
 - g. Monitoring and evaluating household progress;
 - h. Assuring that household rights are protected;
 - i. Developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance.
2. Intake and Referral – People who present to Opportunity Council's Community Resource Center in a housing crisis will receive a low barrier, problem-solving conversation with an Intake and Referral Specialist. Those Housing intake services

provided to collect client information and assess eligibility for housing programs. Services will be provided to low-income and/or homeless individuals and households residing in Whatcom County. Individuals and households served shall have incomes at or below 50% Area Median Income (AMI).

3. Housing Pool (HP) – HP case management services are designed to make persons who are homeless or at imminent risk of homelessness aware of available programs and provide them with a point of access to housing services. HP case management provides supportive services designed to assist people waiting for housing to be able to move rapidly into permanent housing by helping clients stabilize, identify barriers to housing, and engage in activities required to remove those barriers. HP case management diverts people from entering the homeless shelter system whenever possible.
4. Diversion – Diversion can be the first response to resolving an episode of homelessness by focusing on re-housing a family without their entering a longer-term housing program. Diversion starts with problem-solving conversations to identify a household's own strengths and resources. Services are tailored to meet each family's most critical needs to quickly move into housing. Diversion services can include short-term/one-time financial support (i.e., deposit assistance, flex funding).
5. Deposit Assistance - Single adults experiencing homelessness will be assisted with deposit/move-in assistance when they have found housing on their own. This light touch case management will serve people awaiting assistance on the Housing Pool, attending Housing Lab, or applying for assistance through the Community Resource Center. Without the facilitated move-in assistance with case management, the result can be long term homelessness leading to deterioration of health and overall well-being of these individuals.
6. Interim Housing – Emergency shelter and supportive services to homeless families with minor children in their custody is prioritized for those in the most desperate situations. With the onset of the COVID pandemic there has been increasing demand for shelter services in motel stays and in short-term housing offered by Interfaith Coalition. Case management focuses on ensuring basic needs are met and development of a plan to obtain and maintain permanent housing.
7. Rapid Re-housing – These services focus on family homelessness and prioritize those living in shelters, motels, vehicles, or are unsheltered. Rapid Rehousing is an intervention proven to end family homelessness. Case management adhering to a progressive engagement approach and short to medium term rental subsidies for families experiencing homelessness are offered to meet the needs of families to enable them to achieve housing stability.
8. Permanent Supportive Housing – Households served with permanent supportive housing have a history of chronic homelessness or have a combination of high barriers often including mental health, active or history of addiction, and medical, developmental and physical disabilities. Long-term housing retention and personal wellness is supported through a Housing-First model, employing a harm reduction and person-centered approach.
9. Households living in units owned or master-leased by the Opportunity Council.

IV. Program Outcomes

During this contract period (01/01/2022 – 12/31/2022), the housing case management services provided by the Contractor will deliver the following outcomes:

1. At least 90 households will receive HP case management.
2. Total number of households in motels that received short-term housing case management (no specific target)
3. At least 40 families with children will receive diversion case management.
4. At least 14 households in PSH will receive case management.
5. At least 12 households receiving Skagit HOME TBRA rental assistance will receive case management.
6. At least 40 households will receive case management funded with Emergency Solutions COVID-19 Grant (ESG-CV) while in motels for emergency shelter; 20 of these households will transition from motel-based emergency shelter to permanent housing. Households must meet eligibility criteria of the ESG-CV.
7. Median number of days in case management prior to being housed will be 75.

8. Mean number of days in case management prior to being housed will be 90.
9. At least 85% of families that reached a 12-month period of time since exiting the Ending Family Homelessness Project or Rapid ReHousing case management will have retained stable housing.
10. Of the households in PSH, at least 90% will be stably housed (including exits from PSH to permanent housing).
11. At least 40 WCHD funded case management households (from ES, Diversion, EFH, Housing Pool, TBRA RRH or unstably housed, and EFH) will achieve housing stability.
12. At least 30 households will be housed from the Housing Pool with deposit/move-in assistance (this is contingent upon availability of rental assistance and referrals).
13. At least 20 unduplicated households will be stably housed with EFH RRH while receiving case management.
14. At least 45 unduplicated households will receive assistance funded through and eligible for the ESG-CV.

V. Additional Requirements

The Contractor will:

1. Comply with all State of Washington Department of Commerce Special Terms and Conditions of Commerce Grants, herein incorporated as Exhibit D.
2. Comply with all State of Washington Department of Commerce Consolidated Homeless Grant (CHG) requirements, policies and procedures in the CHG Guidelines including periodic updates to the Guidelines which can be accessed at the following link: <https://deptofcommerce.app.box.com/s/4d1ilui45uqljmhseufez4flxqv1q6b>
 - a. Commit to ending homelessness in Whatcom County, per the CHG Guidelines, by:
 1. Prioritizing unsheltered homeless households for services.
 2. Assessing each household's needs and facilitating housing stability with the goal of obtaining or maintaining permanent housing.
 3. Employing a progressive engagement service model.
 4. Prioritizing households likely to become homeless when using prevention rental assistance.
 - b. Ensure that all costs incurred comply with CHG Guidelines.
 - c. Commit to reporting complete quality data that is timely, truthful and accurate (per CHG Guidelines and HMIS User Agreement).
 - d. Consequences of non-compliance with CHG Guidelines, as per the Department of Commerce, include:
 1. If Commerce determines that a Grantee is failing to comply with the Guidelines, Terms and Conditions, Commerce will notify Grantee that Grantee will receive technical assistance and be required to respond to a corrective action plan to address and remedy the non-compliance.
 2. If the Grantee is still out of compliance after the technical assistance, Commerce may move the Grantee into a probationary period with a second corrective action plan and may reduce the grant total by 20%.
 3. If the Grantee remains out of compliance after the probation period, Commerce may terminate the grant per the General Terms and Conditions TERMINATION FOR CAUSE.
3. Comply with relevant State of Washington Department of Commerce Emergency Solutions COVID-19 Grant guidelines, including periodic updates to the guidelines, which can be accessed at the following links:

<https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV-Overview-.pdf> and

<http://www.commerce.wa.gov/wp-content/uploads/2016/10/hau-esg-guidelines-2017-2019.pdf>

4. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services – including deposits, rental payments, and completed home visits.
5. Comply with the following HIP referral procedure. When Contractor staff believes a referral from the HIP is not a good fit for their program, a situation that should be rare, the following procedure must be followed:
 - a. Contractor will submit a written description of the situation that justifies returning the client to the HIP.
 - b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HIP case management services coordinator (or designee).
 - c. The course of action mutually agree to at the case conference will be recorded in writing, constituting a binding agreement.
 - d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.
6. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
 - a. Informing clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system.
 - b. Informing clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons.
 - c. Informing clients/tenants that damages to their unit may result in eviction and loss of the unit in the future for our homeless housing system.
 - d. Informing prospective tenants that they need to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing.
 - e. In scattered sites, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address the issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide case managers with free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated, whenever requested.
 - f. Documenting in each client file that these expectations were communicated to the client/tenant.
7. Require professional development training for direct service staff and supervisors.
8. Attend Whatcom County Coalition to End Homelessness meetings and sponsored activities.
9. Attend meetings and events coordinated by WHSC.

VI. Reporting Requirements

1. The Contractor shall submit quarterly reports* to the WCHD utilizing HMIS data by using the quarterly reporting template accessed on the County website, as noted below. Reports will demonstrate the Contractor's progress toward achieving the program outcomes identified above. Quarterly reports are due on April 15, July 15, October 15, and January 15.

*Contractors will be notified via email of updates to quarterly reporting templates. Current reporting templates will be posted on the Whatcom County Health Department Housing Program website which may be accessed at:

<https://www.whatcomcounty.us/DocumentCenter/View/36907/Case-Management-Report>

2. Reports will include data for only those clients served under this contract and include:
 - a. Number of households that received HP case management this quarter.

- b. Number of households that received short-term housing (excluding motels and transitional housing) case management this quarter (carry-over in Q1, new thereafter).
- c. Number of households that received short-term housing case management this quarter in motels (carry-over in Q1, new thereafter).
- d. Number of FWC that received diversion case management this quarter (carry-over in Q1, new thereafter).
- e. Total number of households in PSH that received case management during the quarter (carry-over in Q1, new thereafter).
- f. Number of households that received Skagit HOME TBRA served with case management this quarter.
- g. Median number of days in case management prior to being housed this quarter.
- h. Mean number of days in case management prior to being housed.
- i. For families that reached a 12-month period of time in the quarter since exiting the Ending Family Homelessness Project or RRH case management, the % that retained stable housing for those 12 months.
- j. Of the households that were in PSH at the beginning of the quarter, the % that remained housed at the end of the quarter. Exists to stable housing are included in housing retention.
- k. Number of WCHD funded case managed households (from ES, Diversion, EFH, HP, TBRA RRH or unstably housed) that achieved housing stability this quarter.
- l. Number of households directly from the HP with deposit/move-in assistance (contingent upon rent assistance and referrals).
- m. Unduplicated number of households that become stably housed with EFH RRH that received case management during this quarter.
- n. Unduplicated number of households that received assistance funded thorough and eligible for, ESG-CV.

Additionally, projects falling under specific intervention types and funded by the CHG will be expected to meet or make progress toward the System-wide Performance Measures and benchmarks, as required by the Washington State Department of Commerce. System-wide performance measures and benchmarks specific to intervention type (HMIS project type) are provided on the CHG System Performance Measures Chart, located at: <http://whatcomcounty.us/910/Housing-Program>.

Changes to the CHG System-Wide Performance Measures may be made without contract amendment. In the event of an update, the County will provide email notification with a link to the current chart on the County's website. CHG Grantees must meet or demonstrate progress towards established performance measure targets by meeting the indicated benchmarks. Targeted prevention performance measures are exempted from the 'Consequences of Non-Compliance' stated above in Section V.(1)(d.) as per Commerce, wherein 'Grantee' refers to the County being the CHG recipient.

VII. Flex Funding

Flex funds must follow the Guidelines established by the County and be reported on the spreadsheet provided by the County (Exhibit D) and signed by an authorized agency signatory. In addition, all flex funds must be accompanied by receipts.

Exhibit B – Amendment #2
(COMPENSATION)

- I. **Source of Funding and Budget:** The source of funding for this contract, in an amount not to exceed \$527,316, is local document recording fees, and the Washington State Department of Commerce Consolidated Homeless and Emergency Solutions COVID-19 Grants (CFDA 14.231). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

Cost Description*	Documents Required with Invoices	Budget
Document Recording Fee (DRF) Funding:		
Personnel – (salary, taxes, benefits): Housing Case Managers Case Management Coordinator Homeless Housing Programs Manager Information & Referral Specialist	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$372,009
Communications (does not include system upgrades or capital costs)	GL Detail	\$2,100
Printing & Duplicating		\$1,500
Office Equipment & Supplies		\$2,000
Postage		\$250
Mileage	Mileage log to include: name of staff member, date of travel, starting point and destination of travel, number of miles traveled, federal reimbursement rate (per www.gsa.gov) and a brief description of the purpose of travel	\$3,000
Travel/Training – Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location.	Ground transportation, coach airfare and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, brief description of the purpose. Receipts for registration fees or other documentation of professional training expenses. Receipts for meals are not required.	\$2,500
Flex Funds	Flex Fund Spreadsheet and copies of receipts	\$1,000
DRF Direct Costs Subtotal		\$384,359
DRF Indirect** @ 12%		\$46,123
Consolidated Homeless Grant (CHG) Funding:		
Personnel – (salary, taxes, benefits): Case management and support staff	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$56,071
Personnel – (CHG PSH FWC) Case management services for families with children in permanent supportive housing		\$2,352
CHG Direct Costs Subtotal		\$58,423
CHG Indirect** @ 12%		\$7,011
Emergency Solutions – CV (ESG-CV) Grant Funding		
Personnel – (salary, taxes, benefits): Case Managers (.3 FTE – services delivered to ESG-CV eligible clients only)	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$28,037
ESG-CV Indirect** @ 7%		\$1,962
DRF Indirect** (in excess of 7% for ESG-CV costs) @ 5%		\$1,401
TOTAL BUDGET		\$527,316

*Changes to the line item budget that exceed 10% of the line item must be approved in writing by the County.

**Indirect costs shall not exceed the current federally approved rate.

II. Invoicing:

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month, following the month of service. Invoices submitted for payment must include the items identified in the table above.
2. The Contractor shall submit invoices to HL-BusinessOffice@co.whatcom.wa.us.
3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The county may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-716

File ID:	AB2021-716	Version:	1	Status:	Agenda Ready
File Created:	11/19/2021	Entered by:	DPierce@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: dpierce@co.whatcom.wa.us <<mailto:dpierce@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Department of Commerce for less-than-lethal equipment, in the amount of \$69,884.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Interagency Agreement.pdf

WHATCOM COUNTY
SHERIFF'S OFFICE


BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

MEMORANDUM

To: Satpal Sidhu, County Executive

From: Bill Elfo, Sheriff 

Date: November 18, 2021

Subject: Washington State Department of Commerce
Community Services and Housing Division
Office of Firearm Safety and Violence prevention – Public Safety Unit
Less Than Lethal Equipment

Enclosed for your review and signature is one (1) original agreement between Whatcom County and the State of Washington Department of Commerce.

Background and Purpose

Interagency agreement for federal funding to assist in purchasing less than lethal equipment.

Funding Amount and Source

Federal pass-through grant funds in the amount of \$69,884.00 from State of Washington Department of Commerce. Funds originate from U.S. Department of Justice (DOJ), CFDA No. 16.738.

Differences from Previous Contract

This is a new grant for the Sheriff's Office.

Please contact Undersheriff Doug Chadwick at extension 6618 if you have any questions or concerns regarding the terms of this agreement.

Thank you.

enclosure

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	35 Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	3520 Bureau of LE & Investigations / 352070 Drug Task Force
Contract or Grant Administrator:	Doug Chadwick, Undersheriff
Contractor's / Agency Name:	State of Washington Department of Commerce
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____ Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100) Is this a grant agreement? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): F19-31440-523 CFDA#: 16.738 Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____ Is this contract the result of a RFP or Bid process? Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: 1003521007 Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form. If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 69,884.00 This Amendment Amount: \$ _____ Total Amended Amount: \$ 69,884.00	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope:	
Interagency agreement with the Washington State Department of Commerce to disperse federal pass-through grant funds of \$69,884.00 to assist in purchasing less than lethal equipment.	
Term of Contract: 11/15/21	Expiration Date: 06/30/22

Contract Routing:	1. Prepared by: D.Duling	Date: 11/18/21
	2. Attorney signoff: approved via email BW/DD	Date: 11/19/21
	3. AS Finance reviewed:	Date: _____
	4. IT reviewed (if IT related):	Date: _____
	5. Contractor signed:	Date: _____
	6. Submitted to Exec.:	Date: _____
	7. Council approved (if necessary):	Date: _____
	8. Executive signed:	Date: _____
	9. Original to Council:	Date: _____

Donna Duling

From: Brandon Waldron
Sent: Friday, November 19, 2021 8:13 AM
To: Donna Duling
Subject: RE: Dept of Commerce RFP No. 19-31440-1 Less-Than-Lethal Equipment

Looks good

From: Donna Duling
Sent: Thursday, November 18, 2021 4:37 PM
To: Brad Bennett <BBennett@co.whatcom.wa.us>; Brandon Waldron <BWaldron@co.whatcom.wa.us>
Subject: Dept of Commerce RFP No. 19-31440-1 Less-Than-Lethal Equipment

Brad, Brandon,

Attached is the contract for the Less than Lethal application that you approved earlier this month.
Could you please review and let me know if you approve or not?

Thank you,
Donna



Donna Duling
Financial Accountant
Whatcom County Sheriff's Office
311 Grand Ave
Bellingham, WA 98225
360-778-6611



Whatcom County
Contract #202111029

Interagency Agreement with

Whatcom County

through

Less Than Lethal Equipment Program

For

Purchase of less than lethal equipment

Start date: November 15, 2021

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Attachment A, Scope of Work

Attachment B, Budget

FACE SHEET

Contract Number: F19-31440-523

Washington State Department of Commerce
Community Services and Housing Division
Office of Firearm Safety and Violence Prevention – Public Safety Unit
Less Than Lethal Equipment

1. Contractor Whatcom County 311 Grand Avenue, Suite 108 Bellingham, WA 98225		2. Contractor Doing Business As (optional)	
3. Contractor Representative Bill Elfo Sheriff 360-778-6600 sheriff@co.whatcom.wa.us		4. COMMERCE Representative Abigail Snyder Program Manager 360-515-6205 Abigail.Snyder@commerce.wa.gov P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525	
5. Contract Amount \$69,884	6. Funding Source Federal: <input checked="" type="checkbox"/> State: <input type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	7. Start Date November 15, 2021	8. End Date June 30, 2022
9. Federal Funds (as applicable) \$69,884	Federal Agency: Department of Justice	CFDA Number: 16.738	Indirect Rate (if applicable): Not Applicable
10. Tax ID # 91-6001383	11. SWV # SWV0002425-02	12. UBI # 600-358-208	13. DUNS # 60044641
14. Contract Purpose To purchase less than lethal equipment.			
15. Signing Statement COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and Attachments and have executed this Contract on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Contract are governed by this Contract and the following documents hereby incorporated by reference: Attachment "A" – Scope of Work, Attachment "B" – Budget			
FOR CONTRACTOR See Attached Date		FOR COMMERCE Diane Klontz, Assistant Director Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL 07/17/2019. APPROVAL ON FILE.	

WHATCOM COUNTY:

Recommended for Approval:



Bill Elfo, Sheriff

11/19/21

Date

Approved as to form:

Approved via email BW/BD

Prosecuting Attorney

11/19/21

Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

Date

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 ____, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington, residing at Bellingham.
My commission expires _____.

**SPECIAL TERMS AND CONDITIONS
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FEDERAL FUNDS**

1. AUTHORITY

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW.

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

Federal Award Date: October 1, 2019

Federal Award Identification Number (FAIN): 2019-DJ-BX-0035

Total amount of the federal award: \$3,303,848

Awarding official: Matt Dummermuth

The Contractor agrees that any publications (written, visual, or sound) but excluding press releases, newsletters and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Contract, shall contain the following statements:

"This project was supported by Grant No. 2019-DJ-BX-0035 awarded by Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the Department of Justice. Grant funds are administered by the Office of Firearm Safety & Violence Prevention – Public Safety Unit, Washington State Department of Commerce."

3. CONTRACT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

4. COMPENSATION

COMMERCE shall pay an amount not to exceed \$69,884 for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in the Scope of Work.

5. EXPENSES

Contractor shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by COMMERCE as reimbursable. The maximum amount to be paid to the Contractor for authorized expenses shall not exceed \$69,884, which amount is included in the Contract total above.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Contractor shall receive compensation for travel expenses at current state travel reimbursement rates.

6. INDIRECT COSTS

Contractor shall provide their indirect cost rate that has been negotiated between their entity and the federal government. If no such rate exists a *de minimis* indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

7. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE at least quarterly, but, not more often than monthly.

The invoice shall include the Contract Number F19-31440-523.

**SPECIAL TERMS AND CONDITIONS
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Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The grantee must invoice for all expenses from the beginning of the Contract through June 30, regardless of the Contract start and end date.

Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

8. SUBCONTRACTOR DATA COLLECTION

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Agreement performed by subcontractors and the portion of funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

9. AUDIT

If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:

- A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Contractor is a subrecipient and expends less than \$750,000 in federal awards from any and/or all sources in any fiscal year, the Contractor shall notify COMMERCE they did not meet the single audit requirement.

The Contractor shall send all single audit documentation to auditreview@commerce.wa.gov.

10. DEBARMENT

- A. Contractor, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - ii. Have not within a three-year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in

**SPECIAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
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connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

- iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
 - iv. Have not within a three-year period preceding the signing of this Contract had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Contractor is unable to certify to any of the statements in this Contract, the Contractor shall attach an explanation to this Contract.
- C. The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
- D. The Contractor further agrees by signing this Contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- i. The lower tier Contractor certifies, by signing this Contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - ii. Where the lower tier Contractor is unable to certify to any of the statements in this Contract, such Contractor shall attach an explanation to this Contract.
- E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

11. INSURANCE

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

12. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director of the Department of Commerce and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "Contract" or "Agreement" means the entire written agreement between COMMERCE and the Contractor, including any attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this Contract shall be the same as delivery of an original.
- D. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

3. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. ASSIGNMENT

Neither this Contract, work thereunder, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
 - iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law.
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the

**GENERAL TERMS AND CONDITIONS
INTERAGENCY AGREEMENT
FEDERAL FUNDS**

Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

- C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. COPYRIGHT

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and any applicable federal laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**GENERAL TERMS AND CONDITIONS
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FEDERAL FUNDS**

9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents.

10. LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

11. RECAPTURE

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

12. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract.

The Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

14. SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.

15. SUBCONTRACTING

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term

**GENERAL TERMS AND CONDITIONS
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or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

16. SURVIVAL

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

17. TERMINATION FOR CAUSE

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this Contract. Before suspending or terminating the Contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the Contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

18. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

19. TERMINATION PROCEDURES

Upon termination of this Contract, COMMERCE, in addition to any other rights provided in this Contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**GENERAL TERMS AND CONDITIONS
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After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A. Stop work under the Contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Contract had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Contract, which is in the possession of the Contractor and in which the Authorized Representative has or may acquire an interest.

20. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this Contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Contract.
- B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Contract

All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

21. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Attachment A Scope of Work

Contractor shall purchase the following equipment:

- 8 Ballistic Shields
- 10 Taser7's,
- 10 Taser Holsters,
- 10 Taser Batteries
- 10 BolaWraps, and
- 50 BolaWrap cartridges

Items will be purchased shortly after the Contract is executed. All officers with access to these less-than-lethal weapons shall receive training in the use of the equipment.

The Contractor will report on the activities identified above on a quarterly basis. Quarterly reports will be due the 15th day of the month following the end of each calendar quarter of the award period.

**Attachment B
Budget**

The budget for the award period of November 15, 2021 through June 30, 2022 is \$69,884.

Equipment & Training Total \$69,884

Note: The Contractor may not obligate or expend any funds under this award until a completed Federal Eligibility Package has been submitted to COMMERCE as identified in RFP 19-31440-1.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-719

File ID:	AB2021-719	Version:	1	Status:	Agenda Ready
File Created:	11/22/2021	Entered by:	AKell@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Whatcom Conservation District for PIC Program support, in the amount of \$826,182 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The purpose of this amendment is to increase the project budget, expand the scope of work, and extend the timeline of the agreement for the activities that will be conducted by the WCD to provide data coordination, storm time-series monitoring, technical assistance to landowners/operators with non-dairy agriculture, and farm series workshops in the support of and in coordination with the Whatcom County Pollution, Identification, and Correction (PIC) Program.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Staff Memo, Proposed amendment

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Jon Hutchings
Director**





NATURAL RESOURCES

322 N. Commercial, Suite 110
Bellingham, WA 98225
Telephone: (360) 778-6230
FAX: (360) 778-6231
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, County Executive
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager 
Erika Douglas, Senior Planner 

DATE: November 19, 2021

RE: Amendment to Interlocal Agreement with the Whatcom Conservation District for Pollution Identification and Correction (PIC) Program Non-Dairy Agriculture Technical Assistance

Please find enclosed for your review a copy of the amendment to the interlocal agreement between the Whatcom County Flood Control Zone District and Whatcom Conservation District (WCD) to provide support for the Whatcom PIC Program. The authorized interlocal agreement amendment will be signed electronically through DocuSign.

Requested Action

Public Works respectfully requests that the Flood Control Zone District Board of Supervisors authorize the County Executive to sign the amendment to the interlocal agreement.

Background and Purpose

The purpose of this amendment is to increase the project budget, expand the scope of work, and extend the timeline of the agreement for the activities that will be conducted by the WCD to provide data coordination, storm time-series monitoring, technical assistance to landowners/operators with non-dairy agriculture, and farm series workshops in support of and in coordination with the Whatcom County PIC Program.

Funding Amount and Source

This amendment to the subrecipient agreement with the WCD will provide an additional \$296,000 for a total budget of \$826,182 to support the non-dairy agriculture component of the PIC program. This amendment is fully funded through the interagency agreement with the Washington State Department of Health and Whatcom County (GVL24435-2, WCC 201909008-2, Environmental Protection Agency National Estuary Program funding).

Differences from Previous Contract

The scope of work is expanded to include a storm time-series monitoring project and an increased number of landowners receiving technical assistance. The timeline of the agreement is extended to March 1, 2023.

Please contact Erika Douglas at extension 6294 or Gary Stoyka at extension 6218, if you have any questions or concerns regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
201909006

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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AMENDMENT No.2 to 2019 INTERLOCAL AND SUBRECIPIENT AGREEMENT
WHATCOM COUNTY- WHATCOM CONSERVATION DISTRICT
Pollution Identification and Correction (PIC) Program
Non-Dairy Agriculture Technical Assistance

WHEREAS, Whatcom County Flood Control Zone District (County) and the Whatcom Conservation District (WCD or Subrecipient), entered a subrecipient agreement in September 2019 (WCC 201909006) wherein Whatcom County provided funding to the WCD to provide technical assistance for the non-dairy agriculture best management practices component of the Whatcom County Pollution Identification and Correction (PIC) program to the mutual advantage of each jurisdiction; and,

WHEREAS, the County received grant funding from the Washington State Department of Health (DOH Interagency Agreement GVL 24435) to enhance the Whatcom County PIC program which includes funding for WCD staff for non-dairy agriculture technical assistance and data coordination; and

WHEREAS, the County received a grant amendment from the Washington State Department of Health (DOH Interagency Agreement GVL24435-1, WCC 201909008-1) in July 2020 to provide additional funding and to extend the period of performance for the Whatcom County PIC Program. This includes funding for WCD staff for non-dairy agriculture technical assistance, data coordination, and small farm workshops; and

WHEREAS, the County received a grant amendment from the Washington State Department of Health (DOH Interagency Agreement GVL24435-2, WCC 201909008-2) in November 2021 to provide additional funding, expand the scope of work, and extend the period of performance for the Whatcom County PIC Program. This includes funding for WCD staff, travel, and supplies for non-dairy agriculture technical assistance, data coordination, small farm workshops, and time-series storm monitoring; and

WHEREAS, it is in the best interest of each party to enter into this Interlocal and Subrecipient Agreement.

NOW THEREFORE, the WCD and County agree as follows:

1. Extend the term of this contract until March 1, 2023. This contract will be effective for services performed from July 1, 2019 through March 1, 2023.
2. Provide additional funding of \$296,000 to provide total funding of \$826,182.
3. Replace Exhibits A-1, B-1, C-1, and D-1 with revised Exhibits A-2, B-2, C-2, D-2, E-2, and F-2.
4. All other terms and conditions remain unchanged.
5. The effective date of this amendment is upon execution.

IN WITNESS WHEREOF, the parties have signed this Agreement this _____ day of _____, 2021.

WHATCOM CONSERVATION DISTRICT

By _____
Heather Christianson, WCD Chair

WHATCOM COUNTY

By _____
Satpal Singh Sidhu, County Executive on behalf of Whatcom County
Flood Control Zone District

Approved as to form:

Senior Deputy Prosecuting Attorney - Civil Division

Director of Public Works

EXHIBIT A-2 - SCOPE OF WORK
Pollution Identification and Correction (PIC) Program
Non-Dairy Agriculture Technical Assistance

PROJECT DESCRIPTION

The purpose of this subrecipient agreement is to provide technical assistance to landowners with non-dairy agricultural activities and coordinate data in support of the Whatcom County PIC Program and Whatcom Clean Water Program. In general the categories of activities consist of program administration, site-specific technical assistance for non-dairy agricultural operations, data coordination for the Whatcom Clean Water Program (WCWP), farm series workshops, and time-series storm monitoring. Details of each of these activities are provided below.

Task 1: Program Administration

WCD will track and report participation in landowner contacts and technical assistance, data coordination and storm time-series monitoring project, and farm series workshops provided under this program.

Deliverables and Timelines:

- Per EPA Programmatic Condition #4 in this award, reports, documents, signage, videos, or other media, developed as part of projects funded by the assistance agreement shall contain the following statement:
“This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement PC-01J18001 to the Washington State Department of Health. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”
- Per DOH grant agreement, all outreach materials and advertising of activities funded through this subrecipient agreement must be reviewed by DOH (two week review period).
- Monthly invoices and summaries of landowner/operator contacts. Monthly summaries will include number of landowners receiving technical assistance categorized by watershed focus area. The summary will identify the number of new landowners receiving technical assistance in each watershed focus area. Monthly summaries will also include a summary of data coordination and storm time-series sampling activities completed.
- Quarterly progress reports-Technical Assistance. Quarterly reports for technical assistance will include number of landowners/operators contacted, number of landowners/operators participating in the program, number and type of pollution sources identified, number of farm plans completed, number of sites with adequate management strategies in place, and number of BMPs installed. This information will be summarized by watershed focus areas. During COVID restrictions, technical assistance will be adapted to meet requirements for social distancing.
- Quarterly progress reports- Data Coordination and Storm Time-Series Monitoring. Quarterly reports for data coordination will summarize progress on the water quality database, data entered, and how data queries and reports are being used for community outreach and source tracking. Progress on the storm time-series monitoring project will be summarized. Presentations and trainings will be included.
- Quarterly progress reports- Farm Series Workshops. Quarterly reports for Farm Series Workshops will summarize workshop and online learning opportunities provided, advertising for the events, and number of participants (or views for online learning experiences). Progress on other supporting outreach tasks and planning activities for future events will be included.

- Quarterly reports shall be submitted by the following dates:
 - **October 5, 2019***
 - January 5, **April 5**, July 5, **October 5, 2020**
 - January 5, **April 5**, July 5, **October 5, 2021**
 - January 5, **April 5**, July 5, **October 5, 2022**,
 - January 5, **March 1**, 2023

* Dates **in bold** are required for grant FEATs reports

Task 2: Non-Dairy Agriculture Technical Assistance

- Introductory letters from the County Executive and County Council will be sent by Whatcom County to landowners in PIC focus areas, in drainages with water quality hot spots, and/or with water quality concerns observed informing landowners of water quality issues, potential sources of fecal coliform bacteria, and the PIC program.
- WCPW staff will generate and prioritize a list of parcels with potential non-dairy agricultural activities in PIC focus areas and hot spots and provide this list to WCD. Approximately one week following an introductory letter, WCPW will send the first in a series of PIC letters to landowners with potential non-dairy agricultural activities (as referenced in Flow Chart A). Additionally, during the critical seasons, joint letters from the Whatcom Clean Water Program will be sent to landowners with recurring issues. Letters will include a WCD resources fact sheet. When referring landowners to WCD for assistance in the PIC, CAO, or Whatcom Clean Water Program context, WCD will be identified as a local, non-regulatory agency that provides assistance to landowners on a voluntary basis. WCD will add landowners/operators of these parcels to their mailing lists for regular contact.
- Through direct landowner/operator contacts, WCD staff will offer free technical assistance to landowners/operators in the form of confidential risk assessments, farm plan development, and guidance in the implementation of BMPs. BMP incentives, rebates, and cost-share options will be described and offered as available.
- WCD will offer technical assistance for temporary fixes to problems identified through the risk assessment that require immediate attention (e.g. animal access to creek, discharge or potential discharge of manure to creek or ditch). Permanent fixes for these problems will be addressed through development and implementation of a farm plan.
- Whatcom County will exercise prosecutorial discretion in withholding enforcement action for violations of the Critical Areas Ordinance or referral of landowners to other agencies for enforcement so long as the landowner is demonstrating good faith in working with the WCD to correct pollution problems.
- WCPW and WCD staff will meet as needed to discuss adaptations to improve the process for landowner contacts. WCPW and WCD technical assistance staff will also participate in bi-weekly WCWP field staff coordination meetings.
- WCPW and WCD will continue meeting with the North Lynden Watershed Improvement District (WID), other WIDs, and the Shellfish Protection District Advisory Committees to improve and adapt efforts to engage landowners in identifying and correcting pollution sources.

Deliverables and Timelines:

- Monthly summaries of landowner/operator contacts shall be submitted to the County by the tenth day of the following month. Monthly summaries will include number of landowners receiving technical assistance categorized by watershed focus area. The summary will identify the number of new landowners receiving technical assistance in each watershed focus area.
- Progress will be tracked through quarterly reports described above including number of landowners/operators contacted, number of landowners/operators participating in the program, number and type of pollution sources identified, number of farm plans completed, number of BMPs planned and installed. This information will be aggregated by watershed focus area.

- One hundred landowners/operators with non-dairy agriculture operations will receive site assessments/technical assistance in Whatcom County PIC areas per year. Initial technical support often spans over multiple quarters and may be requested at a future date as further farm enhancements are implemented. Actions will be initiated to reduce bacteria pollution risk within six months (implement BMPs) of the risk assessment as seasonally feasible. The program goal includes completion of 60 farm plans per year (220 total), however, not all sites have resource concerns and require a farm plan. Assessments that are completed and find current management strategies are protective of water quality will also be tracked. Adaptations to site visits will be made to address social distancing requirements associated with COVID restrictions. This may include technical assistance provided by phone, virtual interactions, or physical site visits with proper precautions in place.
 - Reports on WCD contacts and technical assistance will be included in the quarterly reports described in Task 1.

Task 3: Data Coordination and Time-Series Storm Monitoring

- The data coordinator will support the efforts of the Whatcom Clean Water Program (WCWP). Water quality data collected by WCWP partners will be compiled, posted to an online map of preliminary results, entered and stored in a comprehensive database, and analyzed to support efforts to improve water quality in Whatcom County. This will include work with transboundary partners.
- The data coordinator will assist WCWP partners and community groups with data queries and analysis to support community outreach and source tracking efforts.
- The data coordinator will provide presentations to support WCWP water quality and other data presentation and communication. Draft presentations will be submitted to WCPW for DOH review prior to the event (DOH requires 2 week review period).
- The data coordinator will seek pre-approval for workshops/conferences and provide a summary of training events to support WCWP data coordination in quarterly progress reports. DOH requires pre-approval for conferences and trainings funded through this subrecipient agreement.
- The data coordinator will seek pre-approval for international travel (up to 4 trips/year) to support transboundary efforts.
- The data coordinator will draft a QAPP for the storm time-series monitoring project in the Nooksack watershed. This project will help fill data gaps related to time of travel and patterns of bacteria spikes in the mainstem and priority subwatersheds. Monitoring work will not begin until the QAPP has received final approval.
- WCD research staff will implement the storm time-series monitoring project as described in the QAPP with a minimum of one fall and one spring sampling event. Following the completion of this project, data will be entered into WQX (EPA database) and a project report will be prepared and submitted to Whatcom County and DOH.

Deliverables and Timelines:

- Regularly updated database and online map with water quality data from WCWP Partners.
- Quarterly progress reports describing data management activities as described in Task 1.
- Copies of presentations.
- Storm Event Time-Series Monitoring QAPP. Fall 2021.
- Storm Event Time-Series Monitoring data in WQX. Spring 2022.
- Storm Event Time-Series Monitoring Project Report. Spring 2022.

Task 4: Farm Series Workshops

- WCD will coordinate and host at least four small farm workshops (in-person or virtual) and online learning experiences focused on specific topics, geographic areas, or types of animals identified in PIC windshield surveys and/or seasonal management practices that would provide water quality protection in PIC focus areas. The workshops will be developed and advertised using social marketing techniques

to provide messages that resonate with values identified by landowners in previous focus groups and surveys as well as to address identified barriers. The learning experiences will provide technical assistance to landowners with farm animals to improve and protect water quality.

- WCD will provide information about incentives, rebates, small grant and other financial assistance programs at workshops and/or online learning experiences.
- WCD will verify that landowners/operators/residents have participated in small farm workshops, online training, or site visits to determine eligibility to assist with implementation of the small farm improvement rebate program. Verification can occur through workshop sign-in sheets or email documentation from a WCD farm planner.

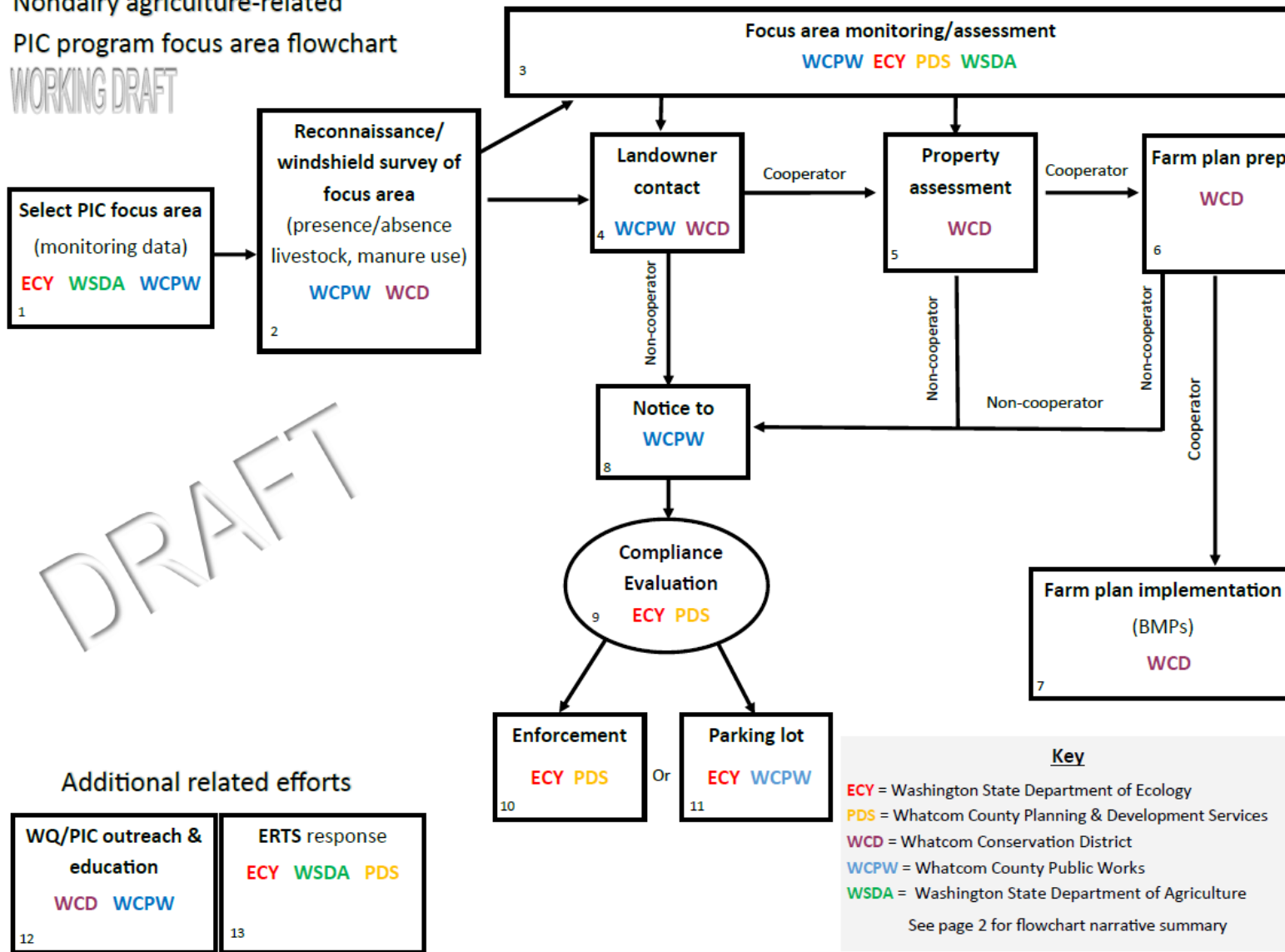
Deliverables and Timelines:

- Quarterly progress reports describing small farm workshops as described in Task 1.
- Workshop sign-in sheets or e-mails verifying landowner/operator/resident participation in trainings to determine eligibility for rebate program.
- Advertisements for workshops/online training experiences will be provided to Whatcom County and DOH for review. (DOH requires a 2-week review period)

Flow Chart A Broad-Scale Description of Landowner Contacts through Whatcom County PIC Program

Nondairy agriculture-related
PIC program focus area flowchart

WORKING DRAFT



WORKING DRAFT

General notes:

- The flow chart on page 1 and the process summarized below does not include identification, correction and tracking of on-site sewage system (OSS) sources. Whatcom County Health Department works closely with Whatcom Clean Water Program partners within and outside of PIC program focus areas to follow up on referrals for possible human sewage pollution sources. County Health informs landowners of OSS operation and maintenance responsibilities and requirements separately from livestock and manure use related PIC program focus area letters.
- WSDA Dairy Nutrient Management Program staff support PIC program focus area efforts through water quality monitoring, source identification and field observation.
- WCPW maintains ongoing communication with partner agencies throughout the PIC program process to monitor status and progress of pollution source identification and corrections, property contacts, and water quality data.

Flow Chart summary:

1. Based on data review and consultation with partner agencies, Whatcom County Public Works (WCPW) chooses a focus area to prioritize pollution reduction efforts.
2. WCPW and WCD staff conduct a windshield survey of the focus area to note likely presence or absence of livestock or evidence of manure use on properties. In Portage Bay watershed focus areas, WCPW will reference existing ECY watershed/field conditions assessment mapping information and dairy field information to supplement the windshield survey observations and help capture all parcels with potential livestock or manure use. Map and database are used to track property contact and status.
3. Agencies monitor conditions (visual observations, water sampling) within focus area to inform landowner contact. If an obvious, substantial pollution source is identified, agencies will inform WCPW to adjust and expedite the landowner contact process to achieve compliance. Responsibility for dairy-related contact remains with WSDA staff. Agency monitoring will help compile observations and data to support source identification efforts and/or potential future compliance actions.
4. WCPW leads contact of all focus area residents through letter from Executive/Council. This letter is followed by a letter to those properties identified as “likely” for having livestock or who use manure on their properties. A series of up to four total letters recommends contact with WCD or follow up with WCPW. After initial letters from WCPW, WCD attempts to contact livestock and/or manure-using properties through phone call(s).
5. Successful contact with resident results in WCD staff site visit to assess pollution sources and discuss opportunities to correct identified sources or to confirm that property is not a pollution concern. Those in need of pollution source correction and who choose to cooperate move on to develop farm plan. Non-cooperators are those who decide they are not interested in continuing with voluntary action or who stop participating at some point. WCD communicates to WCPW about landowner decisions.
6. Landowner commits to and participates in WCD farm planning process. Cooperative resident continues on to BMP implementation. WCD communicates to WCPW about residents who choose not to pursue implementation of farm plan/corrective actions.
7. WCD staff assist landowners with farm plan implementation and communicate progress to WCPW.
8. WCPW receives status updates from WCD regarding landowner contact outcomes. WCPW also receives water quality and field observation information directly from agencies conducting monitoring activities.
9. WCPW consults with regulatory agencies for properties who opt out of voluntary participation in the PIC program. ECY and PDS staff evaluate whether sufficient information exists to move forward with attempts to gain compliance with water pollution control law and/or CAO requirements.
10. Based on determination of adequate evidence of violation, ECY and/or PDS move forward according to relevant protocols.
11. If inadequate evidence exists to support pursuing enforcement action or contact by regulatory agency, the property remains on a “parking lot” list of unresponsive or uncooperative properties. Agencies continue to watch parking lot properties and could contact these properties at a later date if water quality data determines need.
12. WCPW and WCD maintain primary responsibility for outreach and education to non-dairy agriculture properties in PIC program focus areas. This includes community meetings, events, and PIC program letters and follow up. ECY and PDS staff have a role in informing the outreach and ensuring their compliance role responsibilities are communicated and understood. The ECY Communications Manager may support coordinated water quality outreach strategy and content. WSDA maintain communication with dairy producers. All agencies may maintain communication with WID members and leadership.
13. See separate ERTS response flowchart.

EXHIBIT B-2- BUDGET
Pollution Identification and Correction (PIC) Program
Non-Dairy Agriculture Technical Assistance

As consideration for the services provided in Exhibit A-2, Scope of Work, the County agrees to compensate the District according to the actual composite hourly rates of personnel working on this project. *Composite rates are based on actual taxes and benefits, which may vary by month. Estimated hourly composite rates are provided below. Revised Composite Rate forms will be provided to the County for any rate changes upon adjustment. The total budget is not to exceed **\$826,182** with additional details provided below. Requests for payment and reimbursement by the County will coincide and be based on the successful completion of services described in Exhibit A-2. The budget for this agreement is provided through federal funding from DOH Grant Agreement GVL24435-2. Federal funding is provided by US Environmental Protection Agency federal grant award #PC-01J18001 to Washington State Department of Health. CFDA# 66.123.

Requests for reimbursement should contain the name of the employee, title, dates of service, number of hours, individual hourly billing rate, total by employee and grand total. Personnel time shall be supported by signed employee timesheets that account for the total activity of the employee including time spent on this grant-funded project. In addition, supporting documentation for the hourly billing rate computation and the most recent federally approved indirect rate must be submitted at the beginning of the project. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. For mileage reimbursement submit: copies of mileage records, including the name of staff member, date of travel, and number of miles traveled. Lodging and per diem for training shall not exceed the GSA rate for the location where training is provided. Other expenditures such as supplies, postage, and rentals shall be reimbursed at actual cost. Expense reimbursement requests must be accompanied by copies of paid invoices itemizing costs incurred. Contractor certifies that all personnel charging to this contract are program personnel and are not also included in the Contractor's overhead rate. Supporting records shall comply with documentation requirements found in OMB Super Circular 2 CFR Part 200.430 (i) Standards for Documentation of Personnel Expenses. Whatcom County does not reimburse the cost of alcoholic beverages. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense. **NOTE: Changes to task budgets require pre-approval from Whatcom County and DOH. International travel requires pre-approval by EPA. Trainings and conferences require pre-approval from DOH.**

Title	Maximum 2022 Wage Rate	Estimated 2022 composite Rate*	Task 1 (Admin) Hours Est	Task 2 (TA) Hours Est	Task 3 (Data) Hours Est	Task 4 (Workshops) Hours Est	Hours/Month Est	Total cost per employee
GIS Tech	\$ 38.56	\$ 55.97		500			15	\$ 27,983
Admin	\$ 31.77	\$ 47.36		100			4	\$ 4,736
District Manager	\$ 47.46	\$ 69.92		70			5	\$ 4,894
Ed Coordinator	\$ 35.24	\$ 58.73				147	7	\$ 8,611
Ed Assistant	\$ 21.41	\$ 34.24				400	20	\$ 13,696
Fire Prevention Specialist	\$ 31.77	\$ 47.52						\$ -
HIP Coordinator	\$ 31.58	\$ 50.90						\$ -
Wetland Specialist	\$ 31.77	\$ 58.98						\$ -
CREP Coordinator	\$ 41.00	\$ 66.43						\$ -
CREP Tech	\$ 31.77	\$ 54.25						\$ -
Livestock Coordinator	\$ 33.25	\$ 54.52		1500			35	\$ 81,774
Planner	\$ 24.74	\$ 45.61		5111			168	\$ 233,122
Planner	\$ 29.98	\$ 47.47						\$ -
Assistant	\$ 20.59	\$ 38.87						\$ -
WQ Data Coordinator	\$ 31.77	\$ 53.14			4687		120	\$ 249,094
Scientist	\$ 33.25	46.137			30			\$ 1,384
		Totals		\$ 352,508.46	\$ 250,477.69	\$ 22,307.69	sub-total	\$ 625,294
							Overhead 30%	\$ 187,588
							total personnel plus overhead	\$ 812,882
							Supplies/ Lab	\$ 4,300
							Training	\$ 3,000
							Travel	\$ 6,000
							Total	\$ 826,182

Exhibit C-2. CONTRACT INFORMATION

	Item Description	Federal Funding Source
1	Subrecipient Name (Exactly as listed in DUNS): <i>www.SAM.gov</i>	Whatcom Conservation District
2	Subrecipient DUNS Number: <i>www.SAM.gov</i>	142424899
3	Federal Award Identification Number (FAIN):	PC-01J18001-4
4	Federal Award Date	07/25/18
5	Start and End Date of the contract: Found in the "Term" section of the contract.	July 1, 2019-March 15,2023
6	Amount of Federal Funds Obligated by this action:	\$296,000
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (per funding source):	\$826,182
8	Total Amount of the Federal Award to Whatcom County:	\$1,627,732
9	Project description as listed on the FFATA form:	The purpose of this agreement is to expand the successful Whatcom County Pollution Identification and Correction (PIC) Program to cover additional drainage areas with commercial, tribal, or recreational shellfish closures or declining water quality. In addition, Whatcom County will continue the PIC program in areas where water quality improvement is still needed, with a particular emphasis on the Nooksack/Portage Bay watershed, including transboundary efforts. The agreement partially funds Puget Sound Partnership Near Term Action (NTA) #2018-0171.
10	Name of the Federal awarding agency:	EPA/Region 10/ Office of Water and Watersheds
11	Name of the pass-through entity:	Washington State Department of Health and Whatcom County Flood Control Zone District
12	Contact information for awarding official- Statement of Work (Name of County project coordinator)	Erika Douglas
13	Contact information for awarding official- General Contact:	Edouglas@co.whatcom.wa.us
14	CFDA Number	66.123
15	CFDA Name	Puget Sound Action Agenda: Technical Investigations and Implementation Assistance Program
16	Is the award Research and Development?	No
17	The limiting indirect cost rate for the Federal award, if any:	NA
18	Certifications and Assurances- all requirements imposed on the subrecipient by the federal awarding agency: The contract covers all standard certifications and assurances.	
19	Are there any additional requirements imposed by the pass-through entity (Whatcom County) to meet its own responsibilities to the awarding agency: Included in contract.	Yes
20	Indirect Rate: Documentation provided by WCD Does the subrecipient have an approved indirect rate? If your contract allows indirects, you must use the subrecipient's approved indirect rate.	Yes- Approved for 59.66 %, WCD will bill 30% indirect rate
21	Access to Subgrantee's accounting records: All subrecipients are required to make their accounting	

	records available and accessible to the awarding agency. You can find this requirement in the "Records Maintenance" section of the contract.	
22	Closeout Requirements	<ul style="list-style-type: none"> (1) Submit all final billing within 30 days of the end of the contract. (2) Submit all required program reports and deliverables according to timelines in Exhibit A-1 (Scope of Work) (3) Dispose of property purchased with subaward funds and dispose of or return government-furnished property no longer used for subaward related activities.

EXHIBIT D-2

EPA Terms and Conditions

1. General Terms and Conditions - Updated 10-1-2019

The General Terms and Conditions of this agreement are updated in accordance with the link below. However, these updated conditions apply solely to the funds added with this amendment and any previously awarded funds not yet disbursed by the recipient as of the award date of this amendment. The General Terms and Conditions cited in the original award or prior funded amendments remain in effect for funds disbursed by the recipient prior to the award date of this amendment

The sub-recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/sites/production/files/2019-09/documents/fy_2020_epa_general_terms_and_conditions_effective_october_1_2019.pdf These terms and conditions are binding for disbursements and are in addition to or modify the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <https://www.epa.gov/grants/grant-terms-and-conditions>.

2. General Terms and Conditions - Consultant Cap - Additional Information

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by sub-recipients or by a sub-recipient's contractors or subcontractors is limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: <https://www.opm.gov/policy-dataoversight/pay-leave/salaries-wages/>

This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the sub-recipient will pay these in accordance with their normal travel reimbursement practices). The annual salary is divided by 2087 hours to determine the maximum hourly rate, which is then multiplied by 8 to determine the maximum daily rate.

3. General Terms and Conditions - Indirect Costs for States and Tribal

The cost principles of 2 CFR 200 Subpart E are applicable, as appropriate, to this award. In addition to the General Terms and Conditions "Indirect Cost Rate Agreements", if the subrecipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.

The sub-recipient must send its proposal to its cognizant federal agency within six (6) months after the end of its fiscal year. If EPA is the cognizant federal agency of either the interstate agency or the local government, the sub-recipient must send its indirect cost rate proposal within six (6) months after the end of its fiscal year to:

Regular Mail

Financial Analysis and Rate Negotiation Service Center
Office of Acquisition Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, MC
3802R Washington, DC 20460

Mail Courier (e.g. FedEx, UPS, etc.)

Financial Analysis and Rate Negotiation Service Center
Office of Acquisition Management
U.S. Environmental Protection Agency
1300 Pennsylvania Avenue, NW
6th floor Bid and Proposal Room Number 61107
Washington, DC 20004

The sub-recipient agrees to comply with the audit requirements in accordance with 2 CFR 200 Subpart F.

4. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MBE/WBE)**GENERAL COMPLIANCE, 40 CFR, Part 33**

The subrecipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33 except as described in the underlying Terms and Conditions based upon the associated class deviation.

EPA MBE/WBE CERTIFICATION, 40 CFR, Part 33, Subpart B

A class exception to the following provisions of Subpart B of 40 CFR Part 33 has been issued suspending the EPA MBE/WBE certification program: §33.204(a)(3) providing that an entity may apply to EPA MBE or WBE certification after unsuccessfully attempting to obtain certification as otherwise described in §33.204; and §33.205 through and including §33.211. The class exception was authorized pursuant to the authority in 2 CFR 1500.3(b).

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the subrecipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply.

Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government subrecipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government subrecipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The subrecipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302 (a)-(d) and (i).

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Subrecipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Subrecipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the subrecipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A class exception to the entire Subpart D of 40 CFR Part 33 has been authorized pursuant to the authority in 2 CFR 1500.3(b). Notwithstanding Subpart D of 40 CFR Part 33, sub-recipients are not required to negotiate or apply fair share objectives in procurements under assistance agreements.

MBE/WBE REPORTING- SPECIFIC CHANGES PURSUANT TO CLASS DEVIATION, 40 CFR, Part 33, Subpart E

When required, the sub-recipient agrees to complete and submit a “MBE/WBE Utilization Under Federal Grants and Cooperative Agreements” report (EPA Form 5700-52A) on an annual basis. The current EPA Form 5700-52A can be found at the EPA Grantee Forms Page at <https://www.epa.gov/grants/epa-grantee-forms>.

Annual reports are due by October 1st of each year. Final reports are due by October 15th or 90 days after the end of the project period, whichever comes first.

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502.

5. CONTINGENT FUNDING

EPA is funding this agreement incrementally. There is no guarantee of funding beyond the first year. The Total Approved Assistance Amount identified in the budget table of this award is contingent upon the availability of appropriated funds, EPA funding priorities, and satisfactory progress in carrying out the activities described in the scope of work. If the County/DOH informs the sub-recipient that the Total Approved Assistance Amount of the grant funding this agreement will be reduced, the sub-recipient agrees to provide an updated workplan and budget information, as needed, to amend the agreement.

Programmatic Conditions

Program Programmatic Terms and Conditions: 3/2/2020

1. Semi-Annual Performance Reports

The subrecipient will submit performance reports for EPA's Puget Sound Financial and Ecosystem Accounting Tracking System (FEATS) every six (6) months during the life of the project. Reports are due the first calendar days after the end of each reporting period. The reporting periods shall end March 31st and September 30th of each calendar year. Reports will be submitted to Whatcom County to be incorporated into the FEATS form provided by the DOH Contract Manager.

In accordance with 2 CFR 200.328, as appropriate, the subrecipient agrees to submit performance reports that include brief information on each of the following areas:

- a. a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
- b. the reasons why established goals were not met, if appropriate;
- c. additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

In addition to the semi-annual performance reports, the subrecipient shall immediately notify the Whatcom County Contract Manager of developments that have a significant impact on the award-supported activities. As appropriate, the subrecipient agrees to inform the Whatcom County Contract Manager as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

2. Final Performance Report

The subrecipient shall submit a final performance report to Whatcom County to be incorporated into the project FEATS report, which is due 90 calendar days after the expiration or termination of the award. The report shall be submitted to the Whatcom County Contract Manager and must be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period. After completion of the project, the DOH Contract Manager may waive the requirement for a final performance report if the DOH Contract Manager deems such a report is inappropriate or unnecessary.

3. Program Income – Addition

If program income is generated, the subrecipient is required to account for program income related to this project. Program income earned during the project period shall be retained by the subrecipient and shall be added to funds committed to the project by DOH and the subrecipient, and shall be used to further eligible project objectives.

4. Recognition of EPA Funding

Reports, documents, signage, videos, or other media, developed as part of projects funded by this assistance agreement shall contain the following statement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement PC-01J18001-6 to the Washington State Department of Health. The contents of this document do not necessarily reflect the views and policies of the

Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

5. Peer Review

The results of this project may affect management decisions relating to Puget Sound. Prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.

6. Competency of Organizations Generating and/or Using Environmental Measurement Data

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, subrecipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm.

Subrecipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable. Subrecipient agrees to submit documentation and demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data.

R10 Quality Assurance Team Contact: Donald M. Brown at (206) 553-0717 or email: brown.donaldM@epa.gov.

7. Water Quality Exchange (WQX) Requirement

Subrecipients are required to institute standardized reporting requirements into their work plans and include such costs in their budgets. All water quality data generated in accordance with an EPA approved Quality Assurance Project Plan (QAPP) as a result of this assistance agreement, either directly or by subaward, will be required to be transmitted into the Water Quality Portal (WQP) using either WQX or WQX web.

Water quality data appropriate for the Water Quality Portal (WQP) include physical, chemical, and biological sample results for water, sediment and fish tissue. The data include toxicity data, microbiological data, and the metrics and indices generated from biological and habitat data. The Water Quality Exchange (WQX) is the water data schema associated with the EPA, State and Tribal Exchange Network. Using the WQX schema partners map their database structure to the Water Quality Portal structure. WQX web is a web based tool to convert data into the WQX format for smaller data generators that are not direct partners on the Exchange Network. More information about WQX, WQX web, and the Water Quality Portal, including tutorials, can be found at <https://www.epa.gov/waterdata/water-quality-data-wqx>.

If activities submitted as match for this federal assistance agreement involve the generation of water quality data, the resulting information must be publicly accessible (in the Water Quality Portal or some other database). Sub-recipients are encouraged to develop a cross-walk between any non-WQX database utilized for the storage of water quality data associated with match activities and EPA's Water Quality Exchange (WQX).

7. Riparian Buffers

Riparian buffer restoration projects in agricultural areas shall be consistent with the interim riparian buffer recommendations provided to EPA and the Natural Resource Conservation Service by National Marine Fisheries Service letters of January 30, 2013 (stamp received date - February 4, 2013) and April 9, 2013 (stamp received date – April 16, 2013), or the October 28, 2013 guidance. Grantees shall confirm in writing projects' consistency with the recommendations referenced above. When developing project proposals, grantees also should consider the extent to which proposals include appropriate riparian buffers or otherwise address pollution sources on other water courses on the properties in the project area to support water quality and salmon recovery. Deviations can only be obtained through an exception approved by EPA. In order for EPA to evaluate a request for an exception, the grantee must submit the scientific rationale demonstrating adequacy of buffers for supporting water quality and salmon recovery. The request must summarize tribal input on the scientific rationale or other relevant issues. The scientific rationale could be developed from sources such as site-specific assessment data, salmon recovery plans, Total Maximum Daily Loads (TMDLs) and the state nonpoint plan. EPA will confer with the National Oceanic and Atmospheric Administration (NOAA) and the Washington Department of Ecology and provide the opportunity for affected tribes to consult with EPA before making a final decision on a deviation request.

8. International Travel (Including Canada) - – PUGET SOUND PROGRAM WANTS TO HIGHLIGHT THIS DUPLICATE GENERAL TERM AND CONDITION.

All International Travel must be approved by the Office of International and Tribal Affairs (OITA) **BEFORE** travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your DOH Contract Manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can obtain appropriate approvals from EPA Headquarters. If you have questions, please contact your DOH Contract Manager.

9. Geospatial Data Standards

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov

10. Lobbying and Litigation – PUGET SOUND PROGRAM WANTS TO HIGHLIGHT THIS DUPLICATE GENERAL TERM AND CONDITION.

All Subrecipients.

- i. The chief executive officer of this subrecipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The subrecipient shall abide by the Cost Principles available at 2 CFR 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii. The subrecipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The subrecipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.
- iii. In accordance with the Byrd Anti-Lobbying Amendment, any subrecipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

iv. Contracts awarded by a subrecipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

v. Pursuant to Section 18 of the Lobbying Disclosure Act, the subrecipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

11. Quality Assurance Requirements (2 CFR 1500.11)

Acceptable Quality Assurance documentation must be submitted to the DOH Contract Manager within 30 days of the acceptance of this agreement or another date as negotiated with the DOH Contract Manager. No work involving direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology shall be initiated under this project until the DOH Contract Manager, in concert with the Ecology Quality Assurance Manager, has approved the quality assurance document. Additional information on these requirements can be found at the EPA Office of Grants and Debarment website:

<http://www.epa.gov/ogd/grants/assurance.htm>.

Instructions to Submit Quality Assurance Documents for Review:

DOH and the NEP QC will determine if a QAPP is required for this project. If a QAPP is required, sub-recipients will work with DOH and NEP QC to develop and submit a QAPP for approval. The QAPP development and approval process is a multi-step process. More information about QAPPs can be found at <https://ecology.wa.gov/About-us/How-we-operate/Scientific-services/Quality-assurance/Quality-assurance-for-NEP-grantees>.

12. ULO Stretch Goal:

Sub-recipient should manage their project and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are "unspent" federal funds, not yet drawn down through disbursements to sub-recipient.

Stretch Goal: All funds should be spent by 2 ½ years from contract start date. Funds Awarded in FY2020 should all be spent by September 30, 2022.

Assistance agreement subrecipients are to apply these "stretch" goals throughout the life of the assistance agreement and to confer with your DOH Contract Manager whenever instances arise that make attainment of these stretch goals unlikely.

13. Animal Subjects – PUGET SOUND PROGRAM WANTS TO HIGHLIGHT THIS DUPLICATE GENERAL TERM AND CONDITION.

Subrecipient agrees to comply with the Animal Welfare Act of 1966 (P.L. 89-544), as amended, 7 USC 2131-2156. Subrecipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training." (Federal Register 50(97): 20864-20865. May 20, 1985). The nine principles can be viewed at:

<http://www.nal.usda.gov/awic/pubs/IACUC/vert.htm>. For additional information about the Principles, the subrecipient should consult the Guide for Care and Use of Laboratory Animals, prepared by the Institute of Laboratory Animal Resources, National Research Council and can be accessed at: <http://www.nap.edu/readingroom/books/labrats/>.

14. Copyrighted Material and Data – PUGET SOUND PROGRAM WANTS TO HIGHLIGHT THIS DUPLICATE GENERAL TERM AND CONDITION.

In accordance with 2 CFR 200.315, EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the subrecipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;
- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

15. Light Refreshments and/or Meals – PUGET SOUND PROGRAM WANTS TO HIGHLIGHT THIS DUPLICATE GENERAL TERM AND CONDITION. APPLICABLE TO ALL AGREEMENTS EXCEPT STATE CONTINUING ENVIRONMENTAL PROGRAMS (AS DESCRIBED BELOW):

Unless the event(s) and all of its components are described in the approved contract, the sub-recipient agrees to obtain prior approval from DOH for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). The sub-recipient must send requests for approval to the DOH Contract Manager and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- (2) A description of the purpose, agenda, location, length and timing for the event; and,
- (3) An estimated number of participants in the event and a description of their roles.

Costs for light refreshments and meals for sub-recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

Sub-recipients may address questions about whether costs for light refreshments, and meals for events may be allowable to the sub-recipient’s DOH Contract Manager; however, the EPA Agency Award Official or EPA Grant Management Officer will make final determinations on allowability. EPA policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the sub - recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

EPA funding for meals, light refreshments, and space rental may not be used for any portion of an event where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301 -74.7)

16. State Grant Cybersecurity– PUGET SOUND PROGRAM WANTS TO HIGHLIGHT THIS DUPLICATE GENERAL TERM AND CONDITION.

(a) The sub-recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

(b) (1) EPA must ensure that any connections between the sub-recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition. If the sub-recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the sub-recipient agrees to contact the EPA Project Officer and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the sub-recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The sub-recipient agrees that any sub-awards it makes under this agreement will require the sub-recipient to comply with the requirements in (b)(1) if the sub-recipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The sub-recipient will be in compliance with this condition: by including this requirement in sub-award agreements; and during sub-recipient monitoring deemed necessary by the sub-recipient under 2 CFR 200.331(d), by inquiring whether the sub-recipient has contacted the EPA Project Officer. Nothing in this condition requires the sub-recipient to contact the EPA Project Officer on behalf of a sub-recipient or to be involved in the negotiation of an Interconnection Service Agreement between the sub-recipient and EPA.

EXHIBIT E-2

**FEDERAL COMPLIANCE
AND STANDARD FEDERAL CERTIFICATIONS AND ASSURANCES**

In the event federal funds are included in this agreement, added by future amendment(s), or redistributed between fund sources resulting in the provision of federal funds, the following sections apply: I. Federal Compliance and II. Standard Federal Assurances and Certifications. In the instance of inclusion of federal funds as a result of an amendment, the Contractor may be designated as a subrecipient and the effective date of the amendment shall also be the date at which these requirements go into effect.

- I. FEDERAL COMPLIANCE** - The use of federal funds requires additional compliance and control mechanisms to be in place. The following represents the majority of compliance elements that may apply to any federal funds provided under this contract. (Refer to Catalog of Domestic Assistance number(s) cited in the "Payment" section of this contract for requirements specific to that fund source.) For clarification regarding any of these elements or details specific to the federal funds in this contract, contact:

Compliance and Internal Control Officer
Office of Financial Services
Department of Health
Post Office Box 47901
Olympia, Washington 98504-7901

1. **UNIFORM ADMINISTRATIVE GUIDANCE:** The Uniform Administrative Guidance (Supercircular) became effective December 26, 2014 and combines numerous OMB Circulars into one document. This document established requirements which govern expenditure of federal funds. These requirements apply to the Department of Health, as the primary recipient of federal funds, and then follow the funds to the subrecipient. The Uniform Administrative Guidance provides the applicable administrative requirements, cost principles, and audit requirements are identified by subrecipient organization type.

Compliance Matrix

ENTITY TYPE	OMB CIRCULAR		
	ADMINISTRATIVE REQUIREMENTS	COST PRINCIPLES	AUDIT REQUIREMENTS
State, Local and Indian Tribal Governments & Governmental Hospitals	2 CFR 200 Subpart D	2 CFR 200 Subpart E	2 CFR 200 Subpart F
Non-Profit Organizations	2 CFR 200 Subpart D	2 CFR 200 Subpart E	2 CFR 200 Subpart F
Hospitals	2 CFR 200 Subpart D	45 CFR 74 Appendix E	2 CFR 200 Subpart F
Colleges or Universities & Affiliated Hospitals	2 CFR 200 Subpart D	2 CFR 200 Subpart E	2 CFR 200 Subpart F

2. **CITIZENSHIP/ALIEN VERIFICATION/DETERMINATION** - The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (PL 104-193) states that federal public benefits should be made available only to U.S. citizens and qualified aliens. Entities that offer a service defined as a “federal public benefit” must make a citizenship/qualified alien determination/ verification of applicants at the time of application as part of the eligibility criteria. Non-US citizens and unqualified aliens are not eligible to receive the services. PL 104-193 also includes specific reporting requirements. Exemptions from the determination/verification requirement is afforded the following programs offered by the Department of Health: Family Planning, Breast & Cervical Health Program (BCHP), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), WIC Farmers Market Program, Immunization Programs, and Ryan White CARE Act programs and other communicable disease treatment and diagnostic programs.
3. **CIVIL RIGHTS AND NONDISCRIMINATION** - During the performance of this agreement, the Contractor shall comply with all current and future federal statutes relating to nondiscrimination. These include but are not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352), Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1683 and 1685-1686), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107), the Drug Abuse Office and Treatment Act of 1972 (PL 92-255), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), and the Americans with Disability Act (42 U.S.C., Section 12101 et seq.).
4. **SINGLE AUDIT ACT** - A subrecipient (including private, for-profit hospitals and non-profit institutions) shall adhere to 2 CFR 200 Subpart F, as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards during a given fiscal year shall have a single or program-specific audit for that year in accordance with the provisions of [2 CFR 200 Subpart F](#). A subrecipient (including private, for-profit hospitals and non-profit institutions) shall adhere to [2 CFR 200 Subpart F](#).

II. STANDARD FEDERAL CERTIFICATIONS AND ASSURANCES - Following are the Assurances, Certifications, and Special Conditions that apply to all federally funded (in whole or in part) agreements administered by the Washington State Department of Health.

CERTIFICATIONS

1. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

The undersigned (authorized official signing for the contracting organization) certifies to the best of his or her knowledge and belief, that the contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

- A. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
- B. have not within a 3-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local)

transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- C. are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- D. have not within a 3-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

Should the contractor not be able to provide this certification, an explanation as to why should be placed after the assurances page in the contract.

The contractor agrees by signing this contract that it will include, without modification, the clause titled *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions* in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

2. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The undersigned (authorized official signing for the contracting organization) certifies that the contractor will, or will continue to, provide a drug-free workplace in accordance with 45 CFR Part 76 by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing an ongoing drug-free awareness program to inform employees about
 - i. The dangers of drug abuse in the workplace;
 - ii. The contractor's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (a) above;
- D. Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the contract, the employee will:
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- E. Notifying the agency in writing within ten calendar days after receiving notice under paragraph (d) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every contract officer or

other designee on whose contract activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

- F. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d) (ii), with respect to any employee who is so convicted—
 - i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E), and (F).

For purposes of paragraph (e) regarding agency notification of criminal drug convictions, DOH has designated the following central point for receipt of such notices:

Compliance and Internal Control Officer
Office of Grants Management
WA State Department of Health
PO Box 47905
Olympia, WA 98504-7905

3. CERTIFICATION REGARDING LOBBYING

Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (non-appropriated) funds. These requirements apply to grants and cooperative agreements EXCEEDING \$100,000 in total costs (45 CFR Part 93).

The undersigned (authorized official signing for the contracting organization) certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the

undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are included at the end of this application form.)

- C. The undersigned shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, subcontracts, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

4. CERTIFICATION REGARDING PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA)

The undersigned (authorized official signing for the contracting organization) certifies that the statements herein are true, complete, and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious, or fraudulent statements or claims may subject him or her to criminal, civil, or administrative penalties. The undersigned agrees that the contracting organization will comply with the Public Health Service terms and conditions of award if a contract is awarded.

5. CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing the certification, the undersigned certifies that the contracting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The contracting organization agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children's services and that all subrecipients shall certify accordingly.

The Public Health Services strongly encourages all recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

6. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this proposal, the prospective contractor is providing the certification set out below.

- A. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective contractor shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective contractor to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- B. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- C. The prospective contractor shall provide immediate written notice to the department or agency to whom this contract is submitted if at any time the prospective contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- D. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to whom this contract is submitted for assistance in obtaining a copy of those regulations.
- E. The prospective contractor agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DOH.
- F. The prospective contractor further agrees by submitting this contract that it will include the clause titled Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction, provided by HHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List (of excluded parties).
- H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The

knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- I. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, DOH may terminate this transaction for cause or default.

7. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

- A. The prospective contractor certifies to the best of its knowledge and belief, that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - ii. Have not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - iv. Have not within a three-year period preceding this contract had one or more public transactions (Federal, State or local) terminated for cause or default.
- B. Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this contract.

CONTRACTOR'S SIGNATURE IS REQUIRED

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
Please also print or type name:	
ORGANIZATION NAME: (if applicable)	DATE

EXHIBIT F-2
FEDERAL ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO
THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the contractor, I certify that the contractor:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. ☐ 47284763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. ☐ 16811683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. ☐ 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. ☐ 61016107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) ☐ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. ☐ 290 d43 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. ☐ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under

which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. ☐ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. ☐ 276a to 276a7), the Copeland Act (40 U.S.C. ☐ 276c and 18 U.S.C. ☐ 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. ☐ 327333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. ☐ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. ☐ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. ☐ 1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. ☐ 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. ☐ 469a1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. ☐ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. ☐ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Super circular 2CFR200, Subpart F.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

CONTRACTOR’S SIGNATURE IS REQUIRED

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
Please also print or type name:	
ORGANIZATION NAME: (if applicable)	DATE



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-721

File ID:	AB2021-721	Version:	1	Status:	Agenda Ready
File Created:	11/22/2021	Entered by:	AKell@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Whatcom Conservation District for farm planning services and financial assistance, in the amount of \$115,021 (Council acting as the Whatcom County Flood Control Zone district Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The purpose of this interlocal agreement is to provide funding for the WCD to implement community outreach activities, farm planning services and manage the financial assistance and incentives program for land owners/operators with agricultural operations in Whatcom County to support water quality improvement and protection. These activities will be in coordination with and in support of the Whatcom County Pollution Identifications and Correction (PIC) Program and other water quality efforts.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Proposed Interlocal Agreement, Proposed Interlocal Agreement

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
202111033

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: <u>Karen Franks</u> 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: <u>11/22/21</u> Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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2022 INTERLOCAL AGREEMENT

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT- WHATCOM CONSERVATION DISTRICT Agricultural Best Management Practices Outreach, Farm Planning, and Cost-Share

WHEREAS, Whatcom County Flood Control Zone District, hereinafter referred to as the “County” and the Whatcom Conservation District, hereinafter referred to as the “WCD”, desire to establish an arrangement wherein the County will provide funding to the WCD to provide community outreach, farm planning services, and financial assistance programs for agriculture best management practices to the mutual advantage of each jurisdiction; and,

WHEREAS, the Drayton Harbor Shellfish Recovery Plan identified a coordinated water quality monitoring program to identify pollution sources and increased capacity for following up on monitoring findings as high priorities; and,

WHEREAS, the Portage Bay Shellfish Recovery Plan identified a Whatcom County (Pollution Identification and Correction) PIC program as the highest priority recommendation; and,

WHEREAS, the Whatcom County PIC program is a data-driven program guiding pollution-tracking activities to areas in coastal watersheds with the greatest water quality problems, followed by technical and financial assistance offered to landowners to implement fixes to improve and protect water quality; and,

WHEREAS, agricultural activities have been identified as one priority source of fecal bacteria in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts and other coastal watersheds; and,

WHEREAS, agricultural activities are also a potential source of fecal bacteria and nutrient loads to drainages outside coastal watersheds; and,

WHEREAS, the WCD provides local expertise and technical assistance to landowners with agricultural operations to support development and implementation of farm plans that are designed to protect water quality both in drainages to coastal waters and those outside coastal watersheds; and,

WHEREAS, the WCD also administers landowner incentive and cost-share programs including CREP and Washington State Conservation Commission (WSCC) Livestock Cost-share Program for Whatcom County; and

WHEREAS, a more flexible cost-share option is needed to provide financial assistance to landowners with small farms that do not meet the requirements of existing federal and state cost-share programs; and

WHEREAS, the most efficient use of resources is to have the WCD supplement its research, outreach and cost-share programs consistent with the specific needs of the Whatcom County PIC and water quality concerns in other areas as described in Exhibit A to help improve and protect water quality in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts, as well as other county watersheds; and

WHEREAS, the WCD received substantially less funds from the Washington Conservation Commission for 2022 to support farm planning outside coastal watersheds which has impaired their ability to deliver necessary services to the public; and,

WHEREAS, it is in the best interest of each party to enter into this Interlocal Agreement;

NOW THEREFORE, the WCD and County agree as follows:

- I. *Purpose:* The purpose of this agreement is to set the terms whereby the County will make funds available to the WCD to implement an outreach and cost-share program for landowners/operators with non-dairy agricultural operations in PIC program focus areas as described in Exhibit A attached hereto.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this agreement.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to implement the non-dairy agriculture outreach and cost-share program as described in Exhibit A attached hereto.
- IV. *Whatcom County Responsibilities:* The County hereby agrees to reimburse the WCD, not to exceed the total budget amount allocated to the WCD as shown in Exhibit B attached hereto, for the costs of providing and performing the services stated.
- V. *Payment:* Contractor shall submit itemized invoices in a format approved by the County. Each request for payment shall include invoices which detail work performed and supplies or materials purchased. Each request for reimbursement of payments to landowners will include copies of equipment, supply or vendor receipts and substantiation for equipment and labor hours paid. The County will compensate the WCD for services rendered within thirty (30) days following receipt of an approved invoice, provided all other terms and conditions of the contract have been met and are certified as such by the Contract Administrator.
- VI. *Term:* This Agreement shall be effective for services performed from January 1, 2022 through January 31, 2023.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the Whatcom County Public Works (WCPW) Department Director and the WCD Executive Director or their respective designees.
- VIII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
- IX. *Indemnification:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.

- X. *Modifications:* This Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- XI. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.
- XII. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- XIII. *Entire Agreement:* This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.
- XIV. *Recordation:* Upon execution of this Agreement, and prior to its entry into force, Whatcom County shall file a copy of it with the office of its County Auditor or alternatively list it by subject on its web site or other electronically retrievable public source, pursuant to the requirements of RCW 39.34.040.

IN WITNESS WHEREOF, the parties have signed this Agreement this _____ day of _____, 2021.

WHATCOM CONSERVATION DISTRICT

By _____
Heather Christianson, WCD Chair

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT

By _____
Satpal Singh Sidhu, County Executive

Approved as to form:

Whatcom County Senior Prosecuting Attorney

Director of Public Works

EXHIBIT A- SCOPE OF WORK

Agriculture Best Management Practices Outreach, Farm Planning, and Cost-Share

PROJECT DESCRIPTION

The purpose of this interlocal agreement is to identify the activities that will be conducted by the WCD to provide outreach and financial assistance to landowners/operators with agricultural operations in support of and in coordination with Whatcom County water quality programs.

Task 1: Community Outreach (\$44,000)

WCD will develop and implement a community outreach program for landowners/operators with non-dairy agricultural operations in Whatcom County Pollution Identification and Correction (PIC) focus areas. This will include:

- Developing and implementing educational strategies and frameworks in coordination with WCPW to support the PIC.
- Organizing and hosting non-dairy agriculture workshops/trainings. These may include virtual workshops and small group farm tours.
- Developing and distributing educational materials (including social media posts), hosting displays and providing presentations at other community events (in person or virtual).
- Offering incentives for technical assistance programs such as tarps for covering manure storage or soil tests. Other incentives may be jointly agreed upon by WCD and WCPW.

Deliverables and Timelines:

- Activities will be tracked through progress reports.
 - Monthly reports will be submitted with invoices and include a list of events, materials, and social media posts.
 - Quarterly reports will include the type and location of outreach events, number of participants, and a description of educational materials, social media posts, and programs developed and coordinated.
- Electronic files of advertisements, educational materials, social media screenshots, and workshop evaluations will be provided.

Task 2: Technical Assistance to Agricultural Operations(\$50,000)

- Through direct landowner/ operator contacts in watersheds outside PIC areas, WCD staff will offer free technical assistance to landowners/operators in the form of confidential risk assessments, farm plan development, and guidance in the implementation of BMPs. BMP cost-share options will be described and offered as available.
- WCD will offer technical assistance for temporary fixes to problems identified through the risk assessment that require immediate attention (e. g. animal access to creek, discharge or potential discharge of manure to creek or ditch). Permanent fixes for these problems will be addressed through development and implementation of a farm plan.
- Whatcom County will exercise prosecutorial discretion in withholding enforcement action for violations of the Critical Areas Ordinance or referral of landowners to other agencies for enforcement so long as the landowner is demonstrating good faith in working with the WCD to correct pollution problems.
- WCPW, WCPDS, and WCD staff will meet monthly to discuss any adaptations needed to improve the process for landowner contacts. WCPW and WCD technical assistance staff will also participate in WCWP field staff coordination meetings.

Deliverables:

- Monthly summaries of landowner/ operator contacts shall be submitted to the County by the tenth day of the following month. Monthly summaries will include a list of landowners/

operators that have been contacted, landowners/ operators participating in the program, and the corresponding parcels owned or operated.

- Progress will be tracked through quarterly reports described above including number of landowners/ operators contacted, number of landowners/ operators participating in the program, number and type of pollution sources identified, number of farm plans completed, number of BMPs planned and installed. This information will be aggregated by watershed focus area.
- A minimum of 25 landowners/ operators with non- dairy agriculture operations will receive site assessments/ technical assistance in Whatcom County watersheds outside PIC areas per year. Actions will be initiated to reduce bacteria pollution risk within six months (implement BMPs) of the risk assessment as seasonally feasible. There is a goal of producing farm plans for 50% of the parcels that receive technical assistance/ site assessments, however, not all sites have resource concerns and require a farm plan. Assessments that are completed and find current management strategies are protective of water quality will also be tracked. Adaptations to site visits will be made to address social distancing requirements associated with COVID restrictions. This may include technical assistance provided by phone, virtual interactions, or physical site visits with proper precautions in place.

Task 3: Non-Dairy Agricultural Operations Cost-Share (\$21,000)

- WCD and WCPW staff will develop an agreed upon list of eligible cost-share projects. Guidance and application documents created for the 2014 non-dairy agriculture cost-share program have been adapted for this program. WCD and WCPW staff will develop an agreed-upon phased approach for advertising, receiving applications, and selecting priority projects for funding.
- WCD will direct landowners/operators to the most appropriate sources of cost-share funding including funding provided by the County under this agreement, funding provided to the WCD from other sources, and other options through the Whatcom Clean Water program (WCWP).
- WCD staff will assist landowners/operators in completing cost-share applications and provide copies to WCPW for approval of cost-share funding prior to submission to the WCD Director. WCD Director will approve cost-share applications awarded funding by WCPW. No reimbursement will be made where the implementation of BMPs has begun before WCPW and WCD approval. WCD will assist landowners with BMP installation and recordkeeping according to the cost-share program requirements. WCD will receive notification of project completion from landowner/operator and schedule a site visit to verify that BMPs have been installed according to plan specifications. Following the site visit, WCD will approve or deny reimbursement of funds. If reimbursement is denied, the WCD will provide the landowner with information on what is required to improve the BMP to meet specifications needed to sign off as complete and to be approved for reimbursement. The County will reimburse WCD for eligible cost-share expenses as specified in Exhibit B of this Agreement and landowner/operator cost-share agreement contract.

Deliverables:

- Progress will be tracked through quarterly reports summarizing the location, type of pollution sources identified, and type and number of BMPs installed. These statistics will be summarized on a quarterly basis by PIC focus area.
- Final cost-share report including approved applications, installed BMPs, date and findings of site visit, and cost-share reimbursement (with background invoices) by December 31, 2022. Requests from the WCD to the County for reimbursement for cost-share on qualified projects must be submitted with all necessary documentation no later than December 17, 2022.

EXHIBIT B- BUDGET
Agriculture Best Management Practices Outreach, Farm Planning and Cost-Share

As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the actual composite hourly rates of personnel working on this project. *Composite rates are based on actual taxes and benefits, which may vary by month. Estimated hourly composite rates are provided below. Revised Composite Rate forms will be provided to the County for any rate changes upon adjustment. The total budget is not to exceed **\$115,021**. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. For mileage reimbursement submit: copies of mileage records, including the name of staff member, date of travel, and number of miles traveled. Lodging and per diem for training shall not exceed the GSA rate for the location where training is provided. Other expenditures such as supplies, postage, and rentals shall be reimbursed at actual cost. Expense reimbursement requests must be accompanied by copies of paid invoices. Contractor certifies that all personnel charging to this contract are program personnel and are not also included in the Contractor's overhead rate. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense.

Title	Maximum 2022 Wage Rate	Estimated 2022 composite Rate*	Estimated Task 1 Hours	Estimated Task 2 Hours	Total per staff per year	Total cost per employee
GIS Tech	\$ 38.56	\$ 55.97				\$ -
Admin	\$ 31.77	\$ 47.36	12	12	24	\$ 1,137
District Manager	\$ 47.46	\$ 69.92				\$ -
Ed Coordinator	\$ 35.24	\$ 58.73	395		395	\$ 23,197
Ed Assistant	\$ 21.41	\$ 34.24	222		222	\$ 7,601
Fire Prevention Specialist	\$ 31.77	\$ 47.52			0	\$ -
HIP Coordinator	\$ 31.58	\$ 50.90			0	\$ -
Wetland Specialist	\$ 31.77	\$ 58.98			0	\$ -
CREP Coordinator	\$ 41.00	\$ 66.43			0	\$ -
CREP Tech	\$ 31.77	\$ 54.25			0	\$ -
Livestock Coordinator	\$ 33.25	\$ 54.52		695	695	\$ 37,889
Planner	\$ 24.74	\$ 45.61			0	\$ -
Planner	\$ 29.98	\$ 47.47			0	\$ -
Assistant	\$ 20.59	\$ 38.87			0	\$ -
WQ Data Coordinator	\$ 31.77	\$ 53.14			0	\$ -
Scientist	\$ 33.25	\$ 46.137			0	\$ -
		Totals	\$ 31,366.62	\$38,461.54	Sub-total	\$ 69,823
					Overhead 30%	\$ 20,947
					Total personnel plus overhead	\$ 90,771
					Supplies/postage /rental	\$ 3,000
					Mileage	\$ 250
					Cost Share	\$ 21,000
					Total	\$ 115,021

Non-Dairy Livestock Cost-Share Reimbursement Description:

Eligible landowners with applications that are approved by the WCD and WCPW will receive the designated percentage cost-share towards a maximum project cost of \$4,000 (maximum \$3,000 reimbursement). Approved BMPs will be reimbursed through the cost-share program utilizing actual costs and the established rate table. Landowners have the option to do labor themselves. The reimbursable rate for owner/operator services are based upon the established rate sheet (below). Whatcom Conservation District will submit invoices to the County which for each project shall include the landowner cost-share approval form, field inspection sign off / maintenance agreement, landowner reimbursement form (including landowner timesheet), and copies of all receipts.

Reimbursement Rates for Producer Labor and Producer Owned Machinery/Equipment

Description	Rate
Individual labor/operator labor	\$22.00/hr
Equipment only, without operator:	
Small tractor, 20Hp-59Hp	\$17.00/hr
Medium Tractor, 60Hp-99Hp	\$28.00/hr
Large Tractor, 100+Hp	\$55.00/hr
Front end loading	\$17.00/hr
Excavator, Light	\$50.00/hr
Excavator, Med	\$88.00/hr
Excavator, heavy	\$132.00/hr
Chain saw	\$11.00/day

Landowners eligible for cost-share assistance through the PIC Non-Dairy Livestock BMP cost-share program can utilize this rate sheet if they choose to do their own labor. Rates will be reimbursed at 75%. Landowner pays 25% of the project costs (labor and materials). An invoice with hours, description of work, and rate must be submitted with cost-share.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
202111033

Originating Department:		
Division/Program: (i.e. Dept. Division and Program)		
Contract or Grant Administrator:		
Contractor's / Agency Name:		
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>		
Contract Amount:(sum of original contract amount and any prior amendments): \$ _____ This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 	
Summary of Scope:		
Term of Contract:		Expiration Date:

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: <u>Karen Franks</u> 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: <u>11/22/21</u> Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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2022 INTERLOCAL AGREEMENT

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT- WHATCOM CONSERVATION DISTRICT Agricultural Best Management Practices Outreach, Farm Planning, and Cost-Share

WHEREAS, Whatcom County Flood Control Zone District, hereinafter referred to as the “County” and the Whatcom Conservation District, hereinafter referred to as the “WCD”, desire to establish an arrangement wherein the County will provide funding to the WCD to provide community outreach, farm planning services, and financial assistance programs for agriculture best management practices to the mutual advantage of each jurisdiction; and,

WHEREAS, the Drayton Harbor Shellfish Recovery Plan identified a coordinated water quality monitoring program to identify pollution sources and increased capacity for following up on monitoring findings as high priorities; and,

WHEREAS, the Portage Bay Shellfish Recovery Plan identified a Whatcom County (Pollution Identification and Correction) PIC program as the highest priority recommendation; and,

WHEREAS, the Whatcom County PIC program is a data-driven program guiding pollution-tracking activities to areas in coastal watersheds with the greatest water quality problems, followed by technical and financial assistance offered to landowners to implement fixes to improve and protect water quality; and,

WHEREAS, agricultural activities have been identified as one priority source of fecal bacteria in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts and other coastal watersheds; and,

WHEREAS, agricultural activities are also a potential source of fecal bacteria and nutrient loads to drainages outside coastal watersheds; and,

WHEREAS, the WCD provides local expertise and technical assistance to landowners with agricultural operations to support development and implementation of farm plans that are designed to protect water quality both in drainages to coastal waters and those outside coastal watersheds; and,

WHEREAS, the WCD also administers landowner incentive and cost-share programs including CREP and Washington State Conservation Commission (WSCC) Livestock Cost-share Program for Whatcom County; and

WHEREAS, a more flexible cost-share option is needed to provide financial assistance to landowners with small farms that do not meet the requirements of existing federal and state cost-share programs; and

WHEREAS, the most efficient use of resources is to have the WCD supplement its research, outreach and cost-share programs consistent with the specific needs of the Whatcom County PIC and water quality concerns in other areas as described in Exhibit A to help improve and protect water quality in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts, as well as other county watersheds; and

WHEREAS, the WCD received substantially less funds from the Washington Conservation Commission for 2022 to support farm planning outside coastal watersheds which has impaired their ability to deliver necessary services to the public; and,

WHEREAS, it is in the best interest of each party to enter into this Interlocal Agreement;

NOW THEREFORE, the WCD and County agree as follows:

- I. *Purpose:* The purpose of this agreement is to set the terms whereby the County will make funds available to the WCD to implement an outreach and cost-share program for landowners/operators with non-dairy agricultural operations in PIC program focus areas as described in Exhibit A attached hereto.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this agreement.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to implement the non-dairy agriculture outreach and cost-share program as described in Exhibit A attached hereto.
- IV. *Whatcom County Responsibilities:* The County hereby agrees to reimburse the WCD, not to exceed the total budget amount allocated to the WCD as shown in Exhibit B attached hereto, for the costs of providing and performing the services stated.
- V. *Payment:* Contractor shall submit itemized invoices in a format approved by the County. Each request for payment shall include invoices which detail work performed and supplies or materials purchased. Each request for reimbursement of payments to landowners will include copies of equipment, supply or vendor receipts and substantiation for equipment and labor hours paid. The County will compensate the WCD for services rendered within thirty (30) days following receipt of an approved invoice, provided all other terms and conditions of the contract have been met and are certified as such by the Contract Administrator.
- VI. *Term:* This Agreement shall be effective for services performed from January 1, 2022 through January 31, 2023.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the Whatcom County Public Works (WCPW) Department Director and the WCD Executive Director or their respective designees.
- VIII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
- IX. *Indemnification:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.

- X. *Modifications:* This Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- XI. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.
- XII. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- XIII. *Entire Agreement:* This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.
- XIV. *Recordation:* Upon execution of this Agreement, and prior to its entry into force, Whatcom County shall file a copy of it with the office of its County Auditor or alternatively list it by subject on its web site or other electronically retrievable public source, pursuant to the requirements of RCW 39.34.040.

IN WITNESS WHEREOF, the parties have signed this Agreement this _____ day of _____, 2021.

WHATCOM CONSERVATION DISTRICT

By _____
Heather Christianson, WCD Chair

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT

By _____
Satpal Singh Sidhu, County Executive

Approved as to form:

Whatcom County Senior Prosecuting Attorney

Director of Public Works

EXHIBIT A- SCOPE OF WORK

Agriculture Best Management Practices Outreach, Farm Planning, and Cost-Share

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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-724

File ID:	AB2021-724	Version:	1	Status:	Agenda Ready
File Created:	11/23/2021	Entered by:	LCumming@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement with the Department of Natural Resources for Nooksack River lidar topographic and bathymetric mapping (Council acting as the Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Interlocal agreement with Washington State Department of Natural Resources for collection, processing, and delivery of lidar topographic and bathymetric mapping of the Nooksack River.

HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Interlocal Agreement

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and
Honorable Members of the Whatcom County Flood Control Zone District
Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Harris, P.E., River and Flood Manager
Gary Stoyka, Natural Resources Manager 

RE: Interlocal Agreement with Department of Natural Resources for
Nooksack River Lidar Topographic and Bathymetric Mapping
(Work Order No. 22066)

DATE: November 15, 2021

Enclosed is an interlocal between the Department of Natural Resources (DNR) and the Whatcom County Flood Control Zone District (FCZD) for your review and signature.

Requested Action

Public Works respectfully requests that the FCZD Board of Supervisors authorize the County Executive to enter into the above referenced agreement with the DNR for Nooksack River topographic bathymetric mapping services (Work Order No. 22066).

Background and Purpose

River modeling is an important tool that informs comprehensive planning for the FCZD as well as flooding predictions, design parameters, and sedimentation monitoring. An accurate model requires detailed, up-to-date measurements of the bed and banks of the river (bathymetric data). The most recent comprehensive bathymetric survey was completed in 2006, and since that survey there has been significant changes in river alignment, geometry, and sediment loading.

In 2015, the Washington State Legislature mandated that the DNR collect, analyze, and publicly distribute detailed information about our state's geology using the best available technology – LIDAR. If local entities need mapping in areas that are not in the DNR's plan, they are able to partner with the DNR to utilize their existing contracts to map those needed areas. DNR provides the contract administration reviews the final LIDAR product for quality at no cost. Local entities just pay the direct cost of the LIDAR consultant to perform the work. The final product is sent to the local entity as well as published online broader public use.

Funding and Source

The agreement amount is \$129,760 and will be paid 100% by the Flood Fund. There is adequate budget authority for this expenditure.

Please contact Paula Harris at extension 6285, if you have any questions or concerns regarding the terms of this contract.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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DNR Contract No. 93-102925

Whatcom County Flood Control Zone District Contract No. Enter agreement number [HB(1)]

In accordance with Chapter 39.34 RCW, Washington State Department of Natural Resources (DNR) and Whatcom County Flood Control Zone District (FCZD) agree to a cost share agreement for lidar collection and geospatial mapping.

Pursuant to Cost Share Agreement number 93-102925 between DNR and FCZD:

1. The FCZD wishes to acquire bathymetric lidar data and derivatives for the Nooksack River area.
2. Per the agreement, DNR will act as the agent for this purchase.
3. This agreement covers the collection, processing and delivery of lidar data and derivative products as outlined in Nooksack River and Optional Areas proposal provided by Quantum Spatial, for the Nooksack and North Fork Add-on options, attached as Exhibit A.
4. The total cost is not to exceed One Hundred Twenty-Nine Thousand Seven Hundred Sixty Dollars (\$129,760).
5. If a suitable collection window for the lidar data does not occur in the winter of 2022, this cost share agreement will become null and void and a new cost share agreement will be developed for the next suitable collection window.
6. DNR shall submit one invoice for the FCZD's share of the services. Payment for the approved good/services will be made by check, warrant or account transfer within 30 days of receipt of the invoice. Upon expiration of the Agreement, invoice shall be paid, if received within 30 days after the expiration date. However, invoices for all work done within a fiscal year must be submitted within 30 days after the end of the fiscal year.

This agreement may be revoked at any time in writing by either party, provided, however, the FCZD agrees to pay for any services rendered under this agreement prior to termination.

Accepted for: Flood Control Zone District

Accepted for: Washington State Department of
Natural Resources

[[CS2]][HB(3)]

SEE ATTACHED SIGNATURE PAGE

Date: _____

Casey Hanell
Director, Washington Geological Survey
360-902-1439

Date: _____

Exhibit A

November 10, 2021

Abby Gleason

LiDAR Manager

Washington Geological Survey

Department of Natural Resources

[\(360\) 902-1560](tel:(360)902-1560)

abigail.gleason@dnr.wa.gov

RE: Nooksack River and Optional Areas, Whatcom County, WA

NV5 Geospatial appreciates the opportunity to present **Washington Department of Natural Resources (WA DNR)** with a quote and brief statement of work for geospatial mapping services along the Nooksack River, Whatcom County, WA. A brief synopsis of our services, specifications and associated costs for these areas of interest are provided below. The project site will be sufficiently buffered to ensure complete coverage within the project limits.

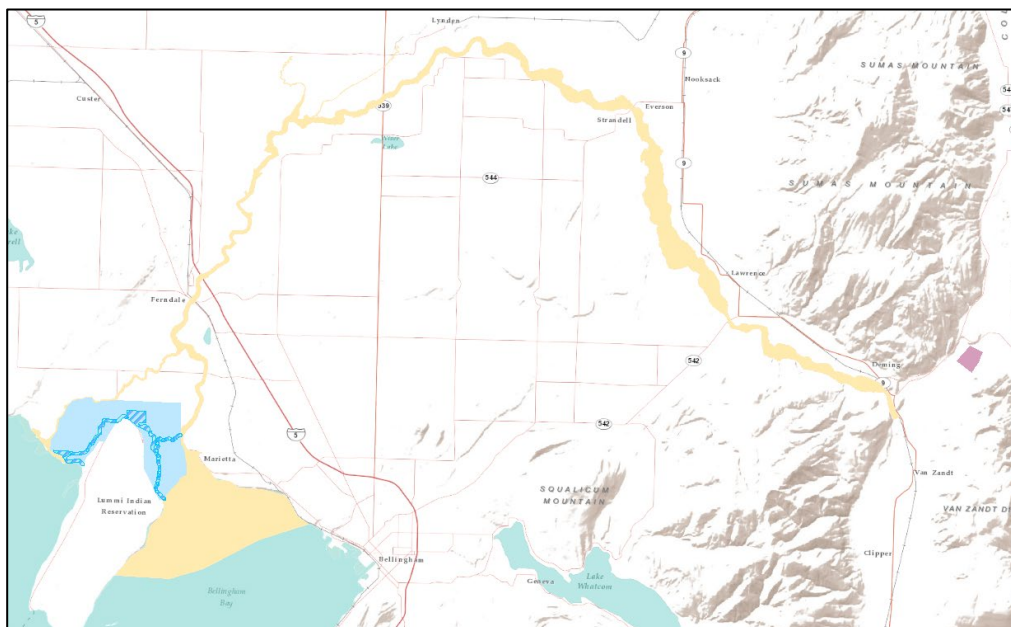


Figure 1: Main area of interest is all area in orange (8989 acres). Add on areas are "North Fork" 141 acres in rose; "Smugglers Large" 2657 acres in blue; and "Smugglers Small" 385 acres in blue hashed.

Topo-bathymetric Lidar Acquisition & Processing

Topo-bathymetric Lidar data will be acquired using one of NV5 Geospatial's hydrographic airborne laser systems. The systems contain a green wavelength ($\lambda=532$ nm) laser capable of penetrating water, with high repetition pulse rate, high scanning speed, small laser footprint, and wide field of view together facilitate high resolution coverage of topographic and bathymetric surfaces. Additionally, the Riegl's short laser pulse length is ideal and critical for shallow-water systems as it allows for effective discrimination between water and bathymetric surfaces which can be challenging when mapping near-shore, shallow, and dynamic aquatic environments.

Topo-Bathy Lidar Specifications Summary

Target Pulse Rate	245 kHz
Laser Wave Length	532nm
Laser Pulse Diameter	28-53 cm
Intensity	16-bit
Field of View	40°, 20° forward fixed angle

The green laser will collect both topographic and bathymetric Lidar data to produce a high resolution topo-bathymetric data set (≥ 15 pulses/m²) with a fixed scan angle of $\pm 20^\circ$ (off nadir). The Riegl system has demonstrated hydrographic depth ranging capability of at least 1.5 Secchi depth on bright reflective surfaces. The laser will not penetrate dense aquatic vegetation or turbid waters. Water clarity affects the depth penetration capability of the bathymetric laser with returning laser energy diminishing by scattering throughout the water column. Additionally, the bottom surface must be reflective enough to return remaining laser energy back to the sensor at a detectable level. Actual depth performance will depend on bottom reflectivity and water clarity at time of acquisition. Data will be collected during the best possible conditions for success which include no fog/rain and any other conditions affecting water clarity.

Lidar processing tasks involve echo extraction; calculations of laser point position; flight line calibration; water surface extraction; refraction correction; point classification; and accuracy assessments. Derived topo-bathymetric DEMs will be developed once the seamless topographic/bathymetric Lidar point cloud is finalized for positional and classification accuracy. NV5G will evaluate clarity and reflectivity as they impact the dataset. Depths ranging beyond the sensor's detection capability will produce voids in the data set. Voids will be identified in the dataset as

well as evaluated in reporting. Our team will assess the accuracy of the topo-bathymetric Lidar system using bare earth and, if available, shallow water check points collected during the survey. Past experience has shown bathymetric surface accuracies of ≤ 10.0 cm RMSE.

Survey Control

Depending on acquisition logistics (configuration of sites, access, schedule, and weather), NV5G will use one or more appropriate methods to enable geo-spatial correction of aircraft positional coordinate data. These include conventional base supported ('BS') survey control, TerraPos® Precise Point Positioning ('PPP'), or Trimble® CenterPoint™ Post-Processed Real-Time Extended ('PP-RTX'). To verify Lidar point calibration and enable accuracy assessment, our field crew will collect ground check points (GCPs) using GPS-based real-time kinematic (RTK) survey techniques. For an RTK survey, the ground crew uses a roving unit to receive radio-relayed corrected positional coordinates for all ground points from a GPS base unit set up over a survey control monument. The roving unit records precise location measurements with an error (σ) of ≤ 1.5 cm relative to the base control. Our team will distribute a suitable number of hard, bare earth ground check points (GCPs) on level slope throughout project areas, as feasible given road access and GPS conditions. The techniques for establishing all ground check points will be outlined in the Report of Survey, including the identity, locations, and position residuals of all GCPs used to evaluate survey accuracy. All survey control and accuracy will be validated and certified by NV5G registered land surveyor

for Washington. **Secchi depth measurements will be taken at suitable locations as close to acquisition time as possible and at locations safe for the field surveyor to access.**

Deliverables

Coordinate System

Washington State Plane North, NAD83 (HARN), NAVD88 (Geoid 12b), US Survey Feet unless otherwise specified.

NIR Lidar with Topobathy

Ground Control Points: Location and orthometric height of all GCPs. Additional attributes that may be included are ellipsoidal height and a description of the ground cover type where the measurement was taken, *shapefile format*

Aircraft Trajectories: Smoothed Best Estimate of Trajectory (SBET) files with aircraft position (easting, northing, and elevation), attitude (heading, pitch, roll, yaw) and GPS time recorded at regular intervals of 1 second or less. May include additional attributes (PDOP and estimated positional and velocity errors).

Lidar Flightlines: attributed with project name, and date of acquisition of each flightline, *shapefile or ASCII text format*

All Return Point Cloud:

- LAS V1.4 format
- Including all valid returns, with all fields populated
- Attributes must include, at a minimum, class number, class name, line number, GPS seconds per week, echo label (only, last, etc.), easting/northing/elevation (reported to nearest 0.01 meter), intensity, scan angle, echo number, and system gain or scanner
- Following USGS LBS 2020 revision A (or most current version thereof) for classification scheme (No points should retain a classification of 0)
- Red, Green, Blue Infrared (RGBI) values must be attributed when applicable
- No duplicate entries
- Time reported to the nearest microsecond or better
- Classification of ground returns must be as complete as is feasible and without avoidable return misclassification
- **Topobathy** Includes additional bathymetric ground, water column, water surface classifications

Bare Earth Surface Model:

- *Erdas .img, GeoTiff, Esri Grid formats*
- No tiling artifacts and no gaps at tile boundaries, or artifacts such as pits, birds, striping or aliasing.
- Areas outside survey boundary shall be coded as NoData with the value '-999999'.
- Internal voids (e.g., open water areas) shall be coded with the value '-999999'.
- 32 bit pixel depth floating point grid at a 1.5 ft (0.5 meter) cell resolution snapped to the corner
- **Topobathy** Includes Topo-bathymetric Bare Earth Digital Elevation Model (DEM), 1 m (3-ft) resolution, *ERDAS IMG format*
- **Topobathy** Bathymetric Coverage Polygon, *shapefile format*

First Return Surface Model:

- Raster generated from the highest collected return for each cell
- Same specifications as for Bare Earth Surface Model
- Cells without first returns will be coded as NoData.

Intensity Images:

- *GeoTiff format, grayscale*
- Normalized if the sensor or combination of sensors used on the project allow
- Grids must be georeferenced 8-bit pixel depth (unless otherwise specified in the purchase order)
- 1.5ft (0.5 meter) cell resolution

First Return Point Density Raster:

- *Erdas .img, GeoTiff, Esri Grid formats*
- Raster illustrating number of first return per resolution cell over the project area
- 8 bit pixel depth grid
- 98.5 ft cell resolution (30m) unless otherwise specified in purchase order, snapped to the corner
- mosaicked to cover entire project extent

Swath Density Raster:

- A raster showing the number of swaths collected per resolution cell
- 8 bit pixel depth grid at a 1640.5 ft cell resolution (500m) unless otherwise specified in purchase order, snapped to the corner
- mosaicked to cover the entire project extent

Survey Report

- *Delivered in .pdf or .docx formats*
- **Project Overview**, including:
 - project name, location map, date collection was ordered, acquisition window, delivery date(s), project AOI, project total area flown, specified units, coordinate system and datum, list of options requested
- **Lidar Acquisition Information**, including:
 - map of flightlines indicating dates of collection
 - acquisition parameters (table) including aircraft, sensor, acquisition settings, flight elevation
- **Report of the ground survey**, including
 - reference map and table listing monuments used and location
 - detailed description of GPS procedures used in establishing the reference network and control points for the project
 - location and height (orthometric) shall be included in as a digital appendix to the report, *shapefile format*
- **Washington State Licensed Surveyor Certification**
- **Calibration Report** for the system(s) used in the data acquisition
- **Projection, datum, epoch of adjustment, and Geoid** used for the survey.
- **Accuracy Assessment:**
 - Relative Accuracy, Absolute Accuracy (summary statistics and histogram).
 - Reported to meet the guidelines of the National Standard for Spatial Data Accuracy (FGDC 1998) and ASPRS 2014).
- **Assessment of Pulse Density**, including maps showing design pulse density and ground return densities by quarter-quadrangle and histograms of both density parameters.
- **Summary Table of Deliverables**, listing file formats and total number and data volume of each deliverable, paths on the delivered hard drive, a standardized description of the data tiling scheme, and a checklist of all deliverables.
- **Metadata:** GIS-compatible data and files shall be explained with XML format metadata that follows the Federal Geographic Data Committee's (FGDC) Content Standard for Digital Geospatial Data. Metadata may be a single file that describes an entire survey or multiple files each of which describes a constituent part (e.g., area A, area B, area C) of the survey.

Tiling Scheme

All geospatial products will be delivered in a 4500 x 4500 foot tiling scheme unless otherwise specified. Esri grids, shapefiles will have complete and correct associated projection files. Tiled products will be edge matched, without gaps or overlap.

Delivery Method

All data will be provided on marked (following consistent nomenclature and versioning info) portable hard drives with appropriate documentation and metadata records. All filenames will follow mutually-agreed upon nomenclature. Each drive will have an identification sticker, identifying the project, delivery, and ship date, as well as serialize the drive ID. Each drive will be delivered with a hard and soft copy of a transmittal letter (emailed to WA DNR the day of shipment). Version control will feature records of each version including (as a minimum) version, date, size, impacted bins, and fixes.

Schedule & Timeline

NV5G will work with DNR to coordinate data collection to coincide with optimal weather conditions and as best meets the needs of the project. We anticipate collection to occur in January/February 2022 during low flow, leaf off and low tide conditions. **See the following attachment "Proposed Constraints" for specific condition parameters for tides and turbidity.** All products will be delivered 60 business days from date of successful acquisition.

Preliminary products for the 141 acre site named “North Fork Add-on” will be delivered three weeks after successful collection. NV5G will coordinate with DNR and stakeholders to utilize established survey monuments where possible and gain access to property. Should NV5G not achieve collection during the optimal window this season, a time-only extension to the contract may be made to allow for a winter 2022/2023 collection.

Cost Estimate

Costs below are for the study areas portrayed in Figure 1 above, assuming timeline and the deliverables listed above. Changes in the size and/or shape of the area of interest will result in modifications to the cost structure. Costs include mobilization, acquisition, survey, processing to products and reporting. Add-on costs assume Nooksack AOI (8989 ac) is contracted. A contingency cost is itemized here in the event that a second mobilization is required. If a second mobilization is not required, then no charge will be made.

<i>Areas of Interest for Nooksack Topobathy</i>	<i>Cost</i>
<i>All Nooksack 8,989 acres</i>	\$117,960
<i>North Fork Add-on 141 acres</i>	\$1,990
<i>Smugglers Large Add-on 2,657 acres</i>	\$2,660
<i>Contingency Mobilization</i>	\$7150

We greatly appreciate the opportunity to be considered for this project. Should you have further questions or comments please feel free to contact **Melissa Christie** at melissa.christie@nv5.com or 925-586-8301.

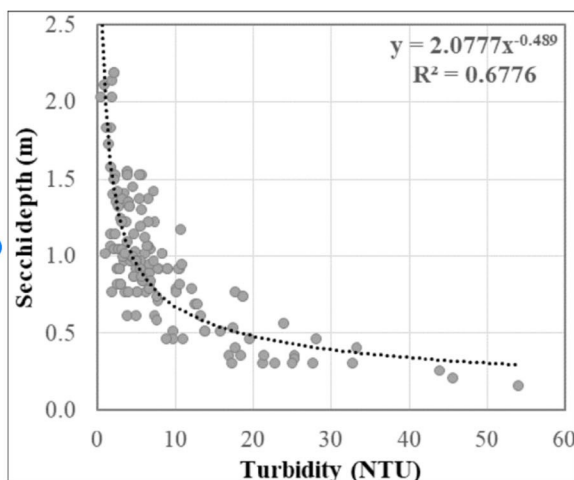
Proposed Constraints for Topo-Bathy LiDAR acquisition for Nooksack River

11/4/2021

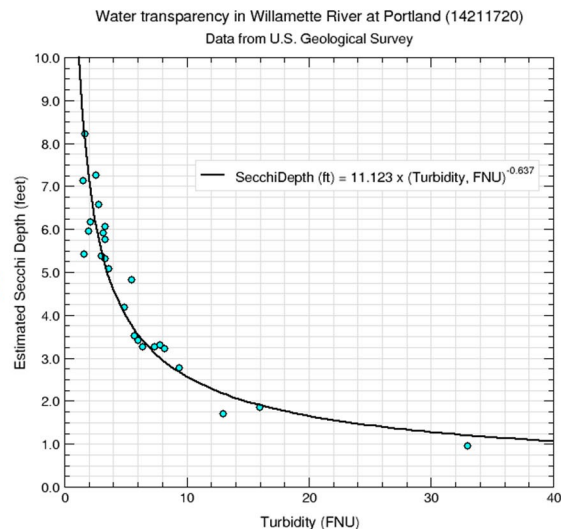
Turbidity Criteria

The Nooksack River is glacially fed and has a high turbidity level much of the time. In order to acquire the highest quality bathymetric data constraints are needed to guide the vendor on when data acquisition flights are allowed. These constraints must allow a realistic opportunity to acquire the data during the winter of 2021/2022.

Bathymetric Lidar penetration estimates: The LiDAR vendor states that under typical conditions the LiDAR should be able to acquire data to 1.5X Secchi depth. On the Nooksack River real-time turbidity data is available, so a correlation with Secchi depth allows us to estimate equivalent turbidity levels. We found two correlations using a quick web search, the results were similar:



Power relationship between turbidity (NTU) and Secchi depth (m).

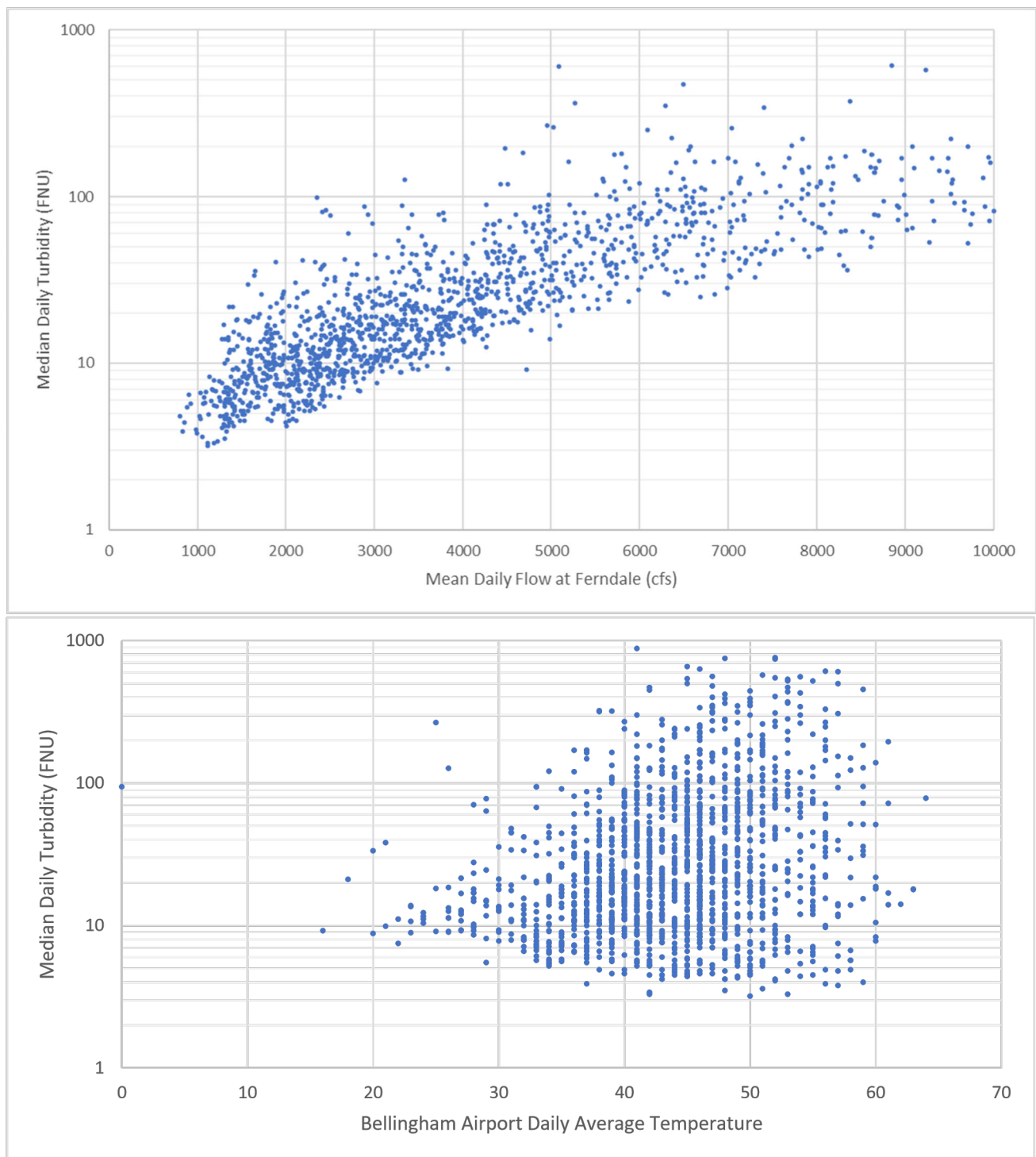


https://www.researchgate.net/figure/Power-relationship-between-turbidity-NTU-and-Secchi-depth-m_fig2_338113358

https://or.water.usgs.gov/will_morrison/secchi_depth_model.html

From these curves it is apparent that turbidities less than 5 NTUs would be desirable, and less than 10 NTUs required to get any amount of significant bathymetric coverage of the river bed, especially considering the data acquisition will occur during deeper winter flow conditions.

The next question is whether or not these targets are achievable on the Nooksack River. We downloaded all available flow and turbidity data for the Ferndale gage (2011 – present, with significant missing data periods), and filtered it for winter months (Oct-Mar). We also downloaded Bellingham Airport weather data. Our hypothesis was that the clearest water in the winter months occurs during long cold spells when most of the basin is not generating runoff and flows are low. The following figures present some correlations with turbidity, note the log scale for turbidity.



- Key Findings
 - Turbidities less than 5 NTUs rarely occur on the Nooksack River
 - Turbidities less than 10 NTU never occur when flows exceed 4000 cfs
 - Somewhat surprisingly, the lowest turbidities occur during warmer temperatures, not during frozen conditions.

Based on the data, we feel that 10 NTU is a reasonable compromise upper turbidity threshold for LiDAR data acquisition. We checked this was reasonable by calculating the number of days/month turbidities were less than 10 NTU for the period of record. Note water year 2018 had no data, and there are

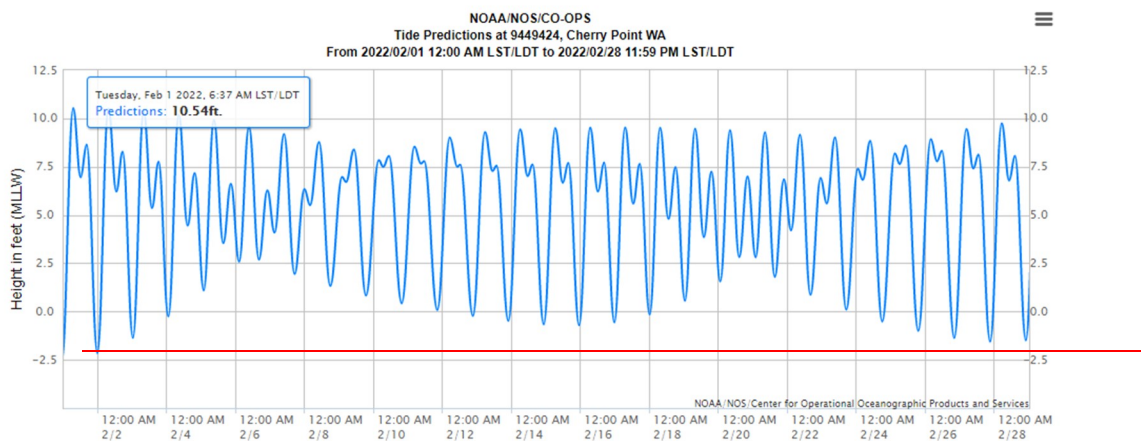
periods of missing data throughout the record, so the numbers may underestimate the total number of days that met the criteria.

Mon	2011	2012	2013	2014	2015	2016	2017	2019	2020	2021	Totals
Oct	1	3	14	0	19	8	0	9	1	0	55
Nov	15	0	8	3	0	0	0	20	2	0	48
Dec	19	3	8	0	1	1	0	12	5		49
Jan		3	13	2	1	11	14	0	0	6	50
Feb		3	19	5	7	0	4	4	1	3	46
Mar		6	6	0	6	0	0	17	16	27	78
Total	35	18	68	10	34	20	18	62	25	36	326

The table shows that every winter month has had low turbidity days. March had had the highest number of clear water days, especially in the last three years.

Tide Criteria:

We suggest requiring that data acquisition in tidal areas be limited to times when the NOAA Cherry Point tide gage is at or below MLLW. This will almost certainly require nighttime acquisition for any period before March. Sequences of low tides below MLLW occur every other week, and this criterion should allow around half of the days in each month to be considered.



<https://tidesandcurrents.noaa.gov/stationhome.html?id=9449424>

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT:
Recommended for Approval:

Jon Hutchings, Public Works Director Date

Approved as to form only:

Christopher Quinn, Date
Senior Deputy Prosecuting Attorney – Civil Division

Approved:
Accepted for Whatcom County Flood Control Zone District

By: _____
Satpal Singh Sidhu, Whatcom County Executive, Date
acting for the Whatcom County
Flood Control Zone District Board of Supervisors



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-725

File ID:	AB2021-725	Version:	1	Status:	Agenda Ready
File Created:	11/23/2021	Entered by:	DLaplant@co.whatcom.wa.us		
Department:	Human Resources Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: dlaplant@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to accept Midwest Employer Casualty renewal option 2 for insurance protection for the self-insured workers' compensation program in 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See Staff Memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Contract



Karen Sterling Goens
Manager

MEMORANDUM

TO: Satpal Singh Sidhu, County Executive

FROM: Donnie LaPlante, Associate HR Manager 

RE: **Workers Compensation – Stop Loss Insurance Policy**

DATE: November 23, 2021

Enclosed is a Client Authorization to Bind Coverage for excess/stop loss coverage for workers' compensation claims over \$500,000 for non-law enforcement and over \$750,000 for law enforcement claims for your review and signature.

The estimated premium is \$92,517 for 2022 coverage plus a \$6,537 Broker Fee. Final premium will be based on worker hours during 2022.

Background and Purpose

The County protects its financial assets in the self-insured workers' compensation program with reserves and with insurance coverage for very large claims (also called stop loss or excess insurance). Each year, Arthur J. Gallagher, broker for the Washington Counties Risk Pool, seeks bids from the market, analyzes quotes, and provides options for coverage.

Current coverage for 2021 is with Midwest Employers Casualty Company which also proposed the best renewal pricing for 2022. The new rate per worker hour of 0.0559 represents a 24% increase. Although Whatcom County's two largest claims over the past five years are less than \$150,000, the insurance market was extremely tough this year. The next best option would require a \$100,000 minimum premium regardless of our claims experience, which would be 8% higher than Midwest. Midwest also offered a second option with a lower premium but higher retention that we are not recommending.

Funding Amount and Source

The workers' compensation program is funded through internal rates charged to departments based on hours worked by risk classification (law enforcement, laborers, office, etc.). Premiums are paid from cost center 507300.

Please feel free to contact me at (360) 778-5306 if you have any questions or concerns regarding my recommendation.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Administrative Services
Division/Program: (i.e. Dept. Division and Program)	Human Resources (HR)
Contract or Grant Administrator:	Donnie LaPlante Associate HR Manager
Contractor's / Agency Name:	Midwest Employers Casualty
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/></p> <p>Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract _____ Cost Center: 507300</p> <p>Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): AJGallagher conducted process</p> <p>Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <p><input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency</p> <p><input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</p> <p><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.</p> <p><input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</p>	
<p>Contract Amount:(sum of original contract amount and any prior amendments):</p> <p>\$ 99,054</p> <p>This Amendment Amount:</p> <p>\$ _____</p> <p>Total Amended Amount:</p> <p>\$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
<p>Summary of Scope:</p>	
<p>Stop loss protection for the self-insured workers' compensation program with Midwest Employers Casualty.</p> <p>RECOMMENDED MOTION:</p> <p>Request authorization for the County Executive to accept Midwest Employer Casualty renewal option 2 for insurance protection for the self-insured workers' compensation program for 2022.</p>	
Term of Contract: One year	Expiration Date: December 31, 2022

Contract Routing:	1. Prepared by: Donnie LaPlante	Date: 11/23/2021
	2. Attorney signoff: George Roche	Date: _____
	3. AS Finance reviewed: _____	Date: _____
	4. IT reviewed (if IT related): N/A	Date: _____
	5. Contractor signed: Proposal received from Arthur J. Gallagher	Date: 11/23/2021
	6. Submitted to Exec.: _____	Date: 11/23/2021
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



Proposal of Insurance

Whatcom County

311 Grand Avenue, Suite 107
Bellingham, WA 98225-4082

Presented: November 22, 2022

Effective: January 1, 2022

Julie McCallum

Area Vice President

Arthur J. Gallagher Risk Management Services, Inc.

1501 Market Street Suite 250

Tacoma, WA 98402

(253) 627-7183

Julie_McCallum@AJG.com



Gallagher

Insurance | Risk Management | Consulting

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Service Team

Julie McCallum has primary service responsibility for your company. We operate using a team approach. Your Service Team consists of:

NAME / TITLE	PHONE / ALT. PHONE	EMAIL	ROLE
Julie McCallum Area Vice President	(425) 586-1040	Julie_McCallum@AJG.com	Producer
Stephen Erni, CPCU, ARM-E Client Service Supervisor	(425) 586-1002	Stephen_Erni@AJG.com	Client Service Manager
Henry Winner Client Service Associate-Achieve Program	(425) 586-1027	Henry_Winner@ajg.com	Client Service Associate

Arthur J. Gallagher Risk Management Services, Inc.

Main Office Phone Number: (253) 627-7183



Program Structure

Named Insured

Named Insured Schedule:

Add / Change / Delete	Named Insured	Excess Workers Compensation - \$750k Retention All Claims	Excess Workers' Compensation
	Whatcom County	X	X

Note: Any entity not named in this proposal, may not be an insured entity. This may include affiliates, subsidiaries, LLC's, partnerships and joint ventures.



Market Review

We approached the following carriers in an effort to provide the most comprehensive and cost effective insurance program.

INSURANCE COMPANY	LINE OF COVERAGE	RESPONSE	PREMIUM
Midwest Employers Casualty Company	Excess Workers Compensation - \$750k Retention All Claims	Quoted	\$80,270.00
Midwest Employers Casualty Company	Excess Workers Compensation - Split Retention Option	Recommended Quote	\$92,517.00
Safety National Group	Excess Workers Compensation	Indication (Written)* / \$150k Minimum Premium	
Arch Insurance Group	Excess Workers Compensation	Indication (Written)* / \$100K Minimum Premium SIR for Police/Fire \$750K	
Zurich Insurance Group Ltd	Excess Workers Compensation	Indication (Written)* / \$400K Minimum Premium	

*The premium indicated is an estimate provided by the market. The actual premium and acceptance of the coverage requested will be determined by the market after a thorough review of the completed application.

Program Details

Coverage: Excess Workers Compensation - \$750k Retention All Claims

Carrier: Midwest Employers Casualty Company

Policy Period: 1/1/2022 to 1/1/2023

Coverage:

DESCRIPTION	LIMIT TYPE	AMOUNT
Specific Limit		Statutory
Employers Liability Limit	Limit	\$1,000,000

Deductibles / Self-Insured Retention

TYPE	COVERAGE	AMOUNT
Retention	Specific Retention	\$750,000
Retention	Employers Liability Retention	See Specific
Retention	Aircraft Per Employee Retention Surcharge	\$750,000

Experience Modification Factor(s):

DESCRIPTION	FACTOR
WA	1

States:

DESCRIPTION	STATE
States Covered:	WA
States Excluded:	OH, ND, WA, WY

Endorsements include, but are not limited to:

DESCRIPTION
Amendment to Schedule Item 11 - CMB-11 (8-13)
Foreign - CMB-160 (8-13)
Policyholder Disclosure Notice of Terrorism Insurance - CMB-199 (1-20)
Aircraft Per Employee Retention Surcharge - \$750,000 - ISI-251 (8-13)
Authorized Volunteers - ISI-260 (8-13)
Voluntary Compensation - ISI-261 (8-13)
Endemic Disease and Repatriation - ISI-266 (8-13)
Jones Act - ISI-280 (8-13)
Washington - ISI-WA (8-13)



Exclusions include, but are not limited to:

DESCRIPTION
Voluntary Compensation
Longshore & Harbor Workers' Act
Owners or Officers
Bodily Injury to an Employee While Employed in Violation of Law
Bodily Injury Intentionally Caused by Insured
Federal Employers' Liability Act
Assumptions under Contract

Binding Requirements:

DESCRIPTION
Subject to Please provide payroll by class data for the prospective & historical terms, or at least total payroll for the prospective & historical terms

Other Significant Terms and Conditions/Restrictions:

DESCRIPTION
Total Premium includes TRIA Premium of \$2,408
MECC must be notified of any aircraft changes occurring during the policy period.

Premium	\$80,270.00
ESTIMATED PROGRAM COST	\$80,270.00
Minimum Premium -	\$72,243.00
TRIA/TRIPRA PREMIUM (+ Additional Surcharges, Taxes and Fees as applicable)	INCLUDED

Subject to Audit: At Expiration

Auditable Exposures:

STATE	CLASS CODE	DESCRIPTION	EXPOSURE	RATE PER \$100
WA		Estimated Annual Worker Hours	1,655,045	0.0485

Coverage: Excess Workers Compensation - Split Retention Option

Carrier: Midwest Employers Casualty Company

Policy Period: 1/1/2022 to 1/1/2023

Coverage:

DESCRIPTION	LIMIT TYPE	AMOUNT
Specific Limit		Statutory
Employers Liability Limit	Limit	\$1,000,000

Deductibles / Self-Insured Retention

TYPE	COVERAGE	AMOUNT
Retention	Specific Retention	\$500,000
Retention	Specific Retention - 6905 WA	\$750,000
Retention	Specific Retention - 6906 WA	\$750,000
Retention	Employers Liability Retention	See Specific
Retention	Aircraft Per Employee Retention Surcharge	\$750,000

Experience Modification Factor(s):

DESCRIPTION	FACTOR
WA	1

States:

DESCRIPTION	STATE
States Covered:	WA
States Excluded:	OH, ND, WY

Endorsements include, but are not limited to:

DESCRIPTION
Amendment to Schedule Item 6 - CMB-6-CLS (8-13)
Amendment to Schedule Item 11 - CMB-11 (8-13)
Foreign - CMB-160 (8-13)
Policyholder Disclosure Notice of Terrorism Insurance - CMB-199 (1-20)
Aircraft Per Employee Retention Surcharge - \$750,000 - ISI-251 (8-13)
Authorized Volunteers - ISI-260 (8-13)
Voluntary Compensation - ISI-261 (8-13)
Endemic Disease and Repatriation - ISI-266 (8-13)
Jones Act - ISI-280 (8-13)



Endorsements include, but are not limited to:

DESCRIPTION

Washington - ISI-WA (8-13)

Exclusions include, but are not limited to:

DESCRIPTION

Longshore & Harbor Workers' Act

Owners or Officers

Bodily Injury to an Employee While Employed in Violation of Law

Bodily Injury Intentionally Caused by Insured

Federal Employers' Liability Act

Assumptions under Contract

Binding Requirements:

DESCRIPTION

Subject to Please provide payroll by class data for the prospective & historical terms, or at least total payroll for the prospective & historical terms

Other Significant Terms and Conditions/Restrictions:

DESCRIPTION

Estimated Premium Includes Terrorism Premium of \$2,776

MECC must be notified of any aircraft changes occurring during the policy period.

Premium **\$92,517.00**

ESTIMATED PROGRAM COST **\$92,517.00**

Minimum Premium - **\$83,265.00**

TRIA/TRIPRA PREMIUM **INCLUDED**
(+ Additional Surcharges, Taxes and Fees as applicable)

Subject to Audit: At Expiration

Auditable Exposures:

STATE	CLASS CODE	DESCRIPTION	EXPOSURE	RATE PER \$100
WA		Estimated Annual Worker Hours	1,655,045 - Annual Worker Hours	0.0559

Premium Summary

The estimated program cost for the options are outlined in the following table:

LINE OF COVERAGE		EXPIRING PROGRAM ESTIMATED COST	PROPOSED PROGRAM(S)	
		Midwest Employers Casualty Company (W. R. Berkley Group)	Midwest Employers Casualty Company (W. R. Berkley Group) \$750k Retention All Claims	Midwest Employers Casualty Company (W. R. Berkley Group) Split Retention Option
Excess Workers Compensation	Premium	\$50,020.00	\$80,270.00	\$92,517.00
	Total Fees	-	-	-
	Estimated Cost	\$50,020.00	\$80,270.00	\$92,517.00
	Annualized Cost	-	-	-
	TRIA Premium	Included	Included	Included
Broker Fee		\$6,286.00	\$6,537.00	\$6,537.00
Total Estimated Program Cost		\$56,306.00	\$86,807.00	\$99,054.00

Quote from **Midwest Employers Casualty Company (W. R. Berkley Group)** is valid until **1/14/2022**

Quote from **Midwest Employers Casualty Company (W. R. Berkley Group)** is valid until **1/14/2022**

Premiums are due and payable as billed and may be financed, subject to acceptance by an approved finance company. Following acceptance, completion (and signature) of a premium finance agreement with the specified down payment is required. Note: Unless prohibited by law, Gallagher may earn compensation for this optional value-added service.

Gallagher is responsible for the placement of the following lines of coverage:

Excess Workers Compensation - \$750k Retention All Claims

Excess Workers Compensation - Split Retention Option

It is understood that any other type of exposure/coverage is either self-insured or placed by another brokerage firm other than Gallagher. If you need help in placing other lines of coverage or covering other types of exposures, please contact your Gallagher representative.

Premium Financing

Arthur J. Gallagher is pleased to offer Premium Financing for our clients.

What is Premium Financing?

Premium financing is a short-term loan that provides premium payment flexibility. By financing, you have the option to spread out your premium payments instead of paying in full at the time of policy purchase or renewal.

Why Premium Financing May be Good for Your Business?

- May improve **capital and cash flow management** by spreading out premium payments over the policy period.
- Allows for **consolidation of** multiple policies into one premium finance agreement with a single monthly or quarterly payment.
- Provides automated **ACH options and flexible payment** terms.

Want to Learn More?

If you are interested in learning more or obtaining a quote, contact your Client Service Manager.

Payment Plans

CARRIER / PAYABLE CARRIER	LINE OF COVERAGE	PAYMENT SCHEDULE	PAYMENT METHOD
Midwest Employers Casualty Company (W. R. Berkley Group)	Excess Workers Compensation - \$750k Retention All Claims	Total Deposit Due: \$80,270	Agency Bill
Midwest Employers Casualty Company (W. R. Berkley Group)	Excess Workers Compensation - Split Retention Option	Total Deposit Due \$92,517	Agency Bill



Carrier Ratings and Admitted Status

PROPOSED INSURANCE COMPANIES	A.M. BEST'S RATING & FINANCIAL SIZE CATEGORY *	ADMITTED/NON-ADMITTED **
Midwest Employers Casualty Company	A+ XV	Admitted

*Gallagher companies use A.M. Best rated insurers and the rating listed above was verified on the date the proposal document was created.

Best's Credit Ratings™ reproduced herein appear under license from A.M. Best and do not constitute, either expressly or impliedly, an endorsement of Gallagher's service or its recommendations. A.M. Best is not responsible for transcription errors made in presenting Best's Credit Ratings™. Best's Credit Ratings™ are proprietary and may not be reproduced or distributed without the express written permission of A.M. Best.

A Best's Financial Strength Rating is an independent opinion of an insurer's financial strength and ability to meet its ongoing insurance policy and contract obligations. It is not a warranty of a company's financial strength and ability to meet its obligations to policyholders. Best's Credit Ratings™ are under continuous review and subject to change and/or affirmation. For the latest Best's Credit Ratings™ and Guide to Best's Credit Ratings, visit the A.M. Best website at <http://www.ambest.com/ratings>.

**If coverage placed with a non-admitted carrier, it is doing business in the state as a surplus lines or non-admitted carrier, and is neither subject to the same regulations as an admitted carrier nor do they participate in any state insurance guarantee fund.

Gallagher companies make no representations and warranties concerning the solvency of any carrier, nor does it make any representation or warranty concerning the rating of the carrier which may change.

Proposal Disclosures



Proposal Disclosures

The following disclosures are hereby made a part of this proposal. Please review these disclosures prior to signing the Client Authorization to Bind or e-mail confirmation.

Proposal Disclaimer

IMPORTANT: The proposal and/or any executive summaries outline certain terms and conditions of the insurance proposed by the insurers, based on the information provided by your company. The insurance policies themselves must be read to fully understand the terms, coverages, exclusions, limitations and/or conditions of the actual policy contract of insurance. Policy forms will be made available upon request. We make no warranties with respect to policy limits or coverage considerations of the carrier.

Compensation Disclosure

1. Gallagher Companies are primarily compensated from the usual and customary commissions, fees or, where permitted, a combination of both, for brokerage and servicing of insurance policies, annuity contracts, guarantee contracts and surety bonds (collectively "insurance coverages") handled for a client's account, which may vary based on market conditions and the insurance product placed for the client.
2. In placing, renewing, consulting on or servicing your insurance coverages, Gallagher companies may participate in contingent and supplemental commission arrangements with intermediaries and insurance companies that provide for additional compensation if certain underwriting, profitability, volume or retention goals are achieved. Such goals are typically based on the total amount of certain insurance coverages placed by Gallagher with the insurance company, not on an individual policy basis. As a result, Gallagher may be considered to have an incentive to place your insurance coverages with a particular insurance company. If you do not wish to have your commercial insurance placement included in consideration for additional compensation, contact your producer or service team for an Opt-out form.
3. Gallagher Companies may receive investment income on fiduciary funds temporarily held by them, or from obtaining or generating premium finance quotes, unless prohibited by law.
4. Gallagher Companies may also access or have an ownership interest in other facilities, including wholesalers, reinsurance intermediaries, captive managers, underwriting managers and others that act as intermediaries for both Gallagher and other brokers in the insurance marketplace some of which may earn and retain customary brokerage commission and fees for their work.

If you have specific questions about any compensation received by Gallagher and its affiliates in relation to your insurance placements, please contact your Gallagher representative for more details.

In the event you wish to register a formal complaint regarding compensation Gallagher receives from insurers or third-parties, please contact Gallagher via e-mail at Compensation_Complaints@ajg.com or by regular mail at:

Chief Compliance Officer
Gallagher Global Brokerage
Arthur J. Gallagher & Co.
2850 Golf Rd.
Rolling Meadows, IL 60008

TRIA/TRIPRA Disclaimer

If this proposal contains options to purchase TRIA/TRIPRA coverage, the proposed TRIA/TRIPRA program may not cover all terrorism losses. While the amendments to TRIA eliminated the distinction between foreign and domestic acts of terrorism, a number of lines of coverage excluded under the amendments passed in 2005 remain excluded including commercial automobile, burglary and theft insurance; surety insurance, farm owners multiple perils and professional liability (although directors and officers liability is specifically included). If such excluded coverages are required, we recommend that you consider purchasing a separate terrorism policy. Please note that a separate terrorism policy for these excluded coverages may be necessary to satisfy loan covenants or other contractual obligations. TRIPRA includes a \$100 billion cap on insurers' aggregate liability.

TRIPRA is set to expire on December 31, 2027. There is no certainty of extension, thus the coverage provided by your insurers may or may not extend beyond December 31, 2027. In the event you have loan covenants or other contractual obligations requiring that TRIA/TRIPRA be maintained throughout the duration of your policy period, we recommend that a separate "Stand Alone" terrorism policy be purchased to satisfy those obligations.

Client Signature Requirements



Client Authorization to Bind Coverage

After careful consideration of Gallagher's proposal dated 11/22/2022, we accept the following coverage(s). Please check the desired coverage(s) and note any coverage amendments below:

	COVERAGE/CARRIER
<input type="checkbox"/> Accept <input checked="" type="checkbox"/> Reject	Excess Workers Compensation - \$750k Retention All Claims
	Midwest Employers Casualty Company
<i>TRIA Cannot Be Rejected</i>	
<input checked="" type="checkbox"/> Accept <input type="checkbox"/> Reject	Excess Workers Compensation - Split Retention Option
	Midwest Employers Casualty Company
<i>TRIA Cannot Be Rejected</i>	

The above coverage may not necessarily represent the entirety of available insurance products. If you are interested in pursuing additional coverages other than those addressed in the coverage considerations included in this proposal, please list below:

Producer/ Insured Coverage Amendments and Notes:

Exposures and Values

We confirm the payroll, values, schedules, and other data contained in the proposal, and submitted to the underwriters, are compiled from information provided by you and we acknowledge it is our responsibility to see that such information is updated and maintained accurately. For renewal policies, if no updates were provided to Gallagher, the values, exposures and operations used were based on the expiring policies.

Provide Quotations or Additional Information on the Following Coverage Considerations:

Gallagher recommends that you purchase the following additional coverages for which you have exposure. By rejecting a quotation for this valuable coverage, you understand that there will be no coverage and agree to hold Gallagher harmless in the event of a loss.

Fee Agreement: In lieu of commission received by Gallagher for the Workers' Compensation policy term reflected herein, effective: 1/1/2022-23, and the two Storage Tank Pollution Liability policies effective 3/8/2022-23, Gallagher will receive a fee of: **\$6,537.00** for:

☒ Placement of Insurance Coverage

This fee IS NOT refundable, is fully earned by signing below, and is due and payable within thirty (30) days of such signing. Any placements that require the payment of additional state or federal taxes and/or fees are the client's responsibility.

By accepting this fee agreement, we agree and understand that it reflects services to be provided that have been discussed with and fully disclosed to us, and the above fee is consistent with our understanding. This agreement and any disputes that arise out of this fee agreement shall be governed by the laws of the state of Illinois.

Gallagher's liability to Client arising from any acts or omissions of Gallagher shall not exceed \$20 million in the aggregate. Gallagher shall only be liable for actual damages incurred by Client, and shall not be liable for any indirect, consequential or punitive damages or attorneys' fees. No claim or cause of action, regardless of form (tort, contract, statutory, or otherwise), arising out of, relating to or in any way connected with this Agreement or any Services provided hereunder may be brought by either party any later than two (2) years after the accrual of such claim or cause of action.

Gallagher has established security controls to protect Client confidential information from unauthorized use or disclosure. For additional information, please review Gallagher's Privacy Policy located at <https://www.ajg.com/privacy-policy/>.

I have read, understand and agree that the above information is correct and has been disclosed to us prior to authorizing Gallagher to bind coverage and/or provide services to us.

By: Satpal Singh Sidhu, County Executive
Print Name (Specify Title)

Whatcom County
Company

Signature

Date: _____

Appendix



Bindable Quotations & Compensation Disclosure Schedule

Client Name: Whatcom County

COVERAGE(S)	CARRIER NAME(S)	WHOLESALE, MGA, OR INTERMEDIARY NAME ¹	EST. ANNUAL PREMIUM ²	COMM.% OR FEE ³	GALLAGHER U.S. OWNED WHOLESALE, MGA, OR INTERMEDIARY %
Excess Workers Compensation - \$750k Retention All Claims	Midwest Employers Casualty Company (W. R. Berkley Group)	N/A	\$80,270.00	0 %	
Excess Workers Compensation - Split Retention Option	Midwest Employers Casualty Company (W. R. Berkley Group)	N/A	\$92,517.00	0 %	
Excess Workers Compensation	Safety National Group (Safety National Group)	N/A	--	0 %	
Excess Workers Compensation	Arch Insurance Group (Arch Insurance Group)	N/A	--	0 %	
Excess Workers Compensation	Zurich Insurance Group Ltd	N/A	--	0 %	
Broker Fee				\$6,537.00	

¹ We were able to obtain more advantageous terms and conditions for you through an intermediary/ wholesaler.

² If the premium is shown as an indication: The premium indicated is an estimate provided by the market. The actual premium and acceptance of the coverage requested will be determined by the market after a thorough review of the completed application.

* A verbal quotation was received from this carrier. We are awaiting a quotation in writing.

³ The commission rate is a percentage of annual premium excluding taxes & fees.

* Gallagher is receiving ____% commission on this policy. The fee due Gallagher will be reduced by the amount of the commissions received.

Binding Requirements

COVERAGE (ISSUING CARRIER)	BINDING REQUIREMENT
Excess Workers Compensation - \$750k Retention All Claims Midwest Employers Casualty Company	Subject to Please provide payroll by class data for the prospective & historical terms, or at least total payroll for the prospective & historical terms
Excess Workers Compensation - Split Retention Option Midwest Employers Casualty Company	Subject to Please provide payroll by class data for the prospective & historical terms, or at least total payroll for the prospective & historical terms

Claims Reporting By Policy

Direct Reporting

Immediately report all claims for the following lines of coverage to the insurance carrier per your current Posting Notice.

Excess Workers' Compensation

- Midwest Employers Casualty Company





Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-727

File ID:	AB2021-727	Version:	1	Status:	Agenda Ready
File Created:	11/23/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: mhillley@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham operating through the Bellingham Fire Department for administering a paramedic training program in the amount of \$865,478

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham operating through the Bellingham Fire Department for administering a paramedic training program in the amount of \$865,478

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Memo, Interlocal Agreement, Routing Form

MEMORANDUM

To: Whatcom County Council Members
From: Mike Hilley, EMS Manager
Subject: Interlocal Agreement for the provision of the Paramedic Training Program
Date: November 24, 2021

BACKGROUND:

Whatcom County Council approved budget authority for a 2022 paramedic training class. Students recommended from Bellingham Fire Department (BFD) and Fire Protection District #7 (FD7) and North Whatcom Fire and Rescue will participate in a joint EMS Paramedic training course funded through the EMS Levy. All three agencies will enter into an interlocal agreement to participate in this paramedic training class.

Bellingham Fire Department
Fire Protection District #7
North Whatcom Fire Authority (NWFA)

This interlocal agreement is between Whatcom County and Bellingham Fire Department to compensate for the paramedic training programs costs associated with program administration, student wages and benefits, preceptor training and class supplies.

FUNDING SOURCE:

The paramedic training program is funded through the EMS Levy as approved by Council in the biennial budget process.

ACTION:

Request authority to enter into the interlocal agreement between Whatcom County and Bellingham Fire Department for the provision of Paramedic Training.

**Inter-Agency Agreement
Between Whatcom County and City of Bellingham**

This agreement, pursuant to RCW 39.34.080, is entered into between **Whatcom County (County) and the City of Bellingham, operating through the Bellingham Fire Department (Department)**. The Parties, in consideration of the terms, conditions, covenants included herein, agree as follows:

The purpose of this agreement regarding paramedic training (hereinafter "Agreement") sets forth the organization, responsibilities, and administration of a program of paramedic training (hereinafter the "Program") conducted as a cooperative effort between the Department and the County.

The term of this Agreement shall be in effect for the 2022 class cycle.

The maximum consideration for this agreement shall not exceed \$865,478. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

1. Scope of Services:

The Parties agree to provide the services presented in Exhibit A.

2. Program Administration:

- A. It is understood that the parties shall remain independent governmental entities in carrying out their responsibilities as set forth herein, that the parties shall remain responsible for the direct supervision of their respective employees, and that nothing in this Agreement will interfere with the employer/employee relationships of the parties.
- B. The Program shall be administered in accordance with the terms of this Agreement as set forth below and as detailed in Exhibit A.

3. Invoice and Payment Procedures:

- A. Whatcom County shall reimburse the Department, using the Whatcom County Emergency Medical Services Fund, for Program expenses, as specified in attached Exhibit B
- B. Department will invoice the County monthly for actual costs of the program, supported by general ledger detail. Payment will be considered timely if made within 30 days of receipt of approved invoice.

4. Minimum Service Requirement

The Department will encourage that each successful paramedic training graduate, sponsored by the Department, will serve a minimum of five years on a County-sponsored ALS unit.

5. Compliance with the Health Insurance Portability Accountability Act of 1996 (HIPAA)

The Parties shall comply with all applicable provisions of HIPAA as well as all applicable provisions of the Health Information Technology for Economic and Clinical Health Act.

Termination:

- A. Termination for Convenience. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty days prior written notice. The Department shall be paid for work performed and expenses incurred to date of termination.
- B. Termination for Cause. If the Department fails to perform in the manner called for in the Agreement, or if the Department fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five days written notice thereof, the County may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Department setting forth the manner in which the Department is in default. The Department will be paid for services already performed in accordance with the manner of performance set forth in the Agreement, up to the date of termination.

6. Maintenance and Inspection of Records

- A. The Parties shall maintain books, records and documents, which sufficiently and properly reflect all work related to the performance of the Agreement. In addition, the Department shall maintain all accounting records in a form necessary to assure proper accounting of all funds paid pursuant to this Agreement. All of the above shall be subject at all reasonable times to inspection, review, or audit by the County, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.
- B. The Parties shall retain all books, records, documents and other material relevant to this Agreement for four years after its expiration. The Department agrees that the County or its designee shall have full access and right to examine any of said materials at all reasonable times during said period; and that the Department shall have similar access to said materials maintained by the County pursuant to this agreement.

7. Dispute Resolution, Jurisdiction, and Venue

- A. In the event of a dispute between the Parties arising from this Agreement or any obligations hereunder, the dispute shall first be referred to the operational officers or representatives designated by the Parties to have the responsibility of administering this Agreement. Said officers or representatives shall meet as soon as possible, and in any event the initial meeting shall be held within thirty (30) days of either Party's request for a meeting to resolve the dispute. The Parties covenant to make a good faith attempt to resolve the dispute at this meeting.
- B. In the event that the Parties are unable to resolve any dispute arising under this Agreement, or other dispute or disagreement arising from the implementation of the terms of the Agreement, the Parties agree that mediation will be a condition precedent to any litigation. The Parties agree to jointly select a mediator. If the Parties are unable to agree upon a mediator, the Parties shall jointly obtain a list of five mediators from a reputable dispute resolution organization and alternately strike mediators on that list until one remains. The Parties agree to share equally in the cost of mediation.
- C. In the event that mediation is unsuccessful and litigation ensues, each Party shall bear its own costs and expenses. The venue for any action hereunder shall be in the Superior Court for Whatcom County, Washington. This Agreement has been and shall be

construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

8. Liability and Indemnification:

The Parties agree to the following distribution and allocation of liability and indemnification:

- A. Neither party to this Agreement will be considered the agent of the other nor does either party assume any responsibility to the other party for the consequences of any act or omission of any person or entity not a party to this Agreement. Each party shall insure its own employees.
- B. Each party agrees to be responsible and assume tort liability for its own wrongful acts or omissions, or those of its officers, employees, volunteers or agents to the fullest extent required by law, and agrees to save, indemnify, defend and hold the other party harmless from any such tort liability. In the event of concurrent liability, the parties shall have the right of contribution in proportion to the respective liability of each party. Nothing contained in this section shall be deemed to waive immunities established pursuant to state statutes or to create third party rights or immunities.

9. Miscellaneous Provisions:

- A. *Severability*. If any provision of this Agreement is held to be invalid, illegal or unenforceable for whatever reason, that shall not affect or impair, in any manner, the validity, legality or enforceability of the remainder of this Agreement.
- B. *Waivers*. A waiver or failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Agreement.
- C. *Status of Agreement*. This Agreement is in addition to, and is not intended to replace, substitute, modify or otherwise amend any other agreement between the Parties. Those other agreements continue in effect according to the terms of those agreements.
- D. *Rights and Remedies*. The rights and remedies provided in this Agreement are in addition to any other rights and remedies that may be provided by law.
- E. *Third Parties*. The Parties do not intend to create any rights or benefits in any entity, organization or person that is not a party hereto.
- F. *Compliance with Laws*. The Parties, in performance of this Agreement, agree to comply with all applicable local, State and/or Federal laws and ordinances, including standards for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals and any other standards or criteria as described in this Agreement to assure quality of services.
- G. *Assignment*. The Parties hereto shall not assign or delegate any or all duty, obligation, right or interest in this Agreement.
- H. *Nondiscrimination*. There will be no discrimination against any participant covered under the Agreement because of race, color, religion, national origin, sex (including pregnancy and parenting status), disability, age, veteran status, sexual orientation, gender identity or expression, marital status or genetic information in programs or activities including employment, admissions, and educational programs. The parties

shall comply with all federal and state nondiscrimination laws and regulations and policies.

- I. *Force Majeure*. The obligations of the parties under this Agreement shall be suspended and excused if the performance of either is prevented or delayed by acts of nature, earthquakes, fire, flood, or the elements, malicious mischief, insurrection, riots, strikes, lockouts, boycotts, picketing, labor disturbances, war, compliances with any directive, order or regulation of any governmental authority or representative thereof made under claim or color of authority or for any reason beyond the control of either party whether or not similar to the foregoing.

10. Notice:

All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given when delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

To: Bellingham Fire Department
1800 Broadway
Bellingham, WA 98225
Attention: Chief Bill Hewett
Telephone: (360) 778-8400
Email: bchewett@cob.org

To: Whatcom County EMS
800 Chestnut Street, Suite 3C
Bellingham, WA 98225
Attn: Mike Hilley, EMS Manager
360-927-1155
mhilley@co.whatcom.wa.us

11. Whole Agreement:

This Agreement is the complete and exclusive statement of the Agreement between the parties relevant to the purpose described above and supersedes all prior agreements or proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. No modification of this Agreement will be binding on either party except as a written addendum signed by an authorized agent of both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 20

WHATCOM COUNTY:

Approved as to form:

Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

On this ____ day of _____ 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at _____. My
commission expires _____.

City of Bellingham signature page for agreement with _____.

Dated this _____ day of _____, 2021, for the CITY OF BELLINGHAM:

Seth Fleetwood, Mayor

Attest:

Finance Director

Department Approval:

Approved as to Form:

Office of the City Attorney

Exhibit A

Scope of Services

The Department will operate the 2022 Paramedic Training Program in accordance with Washington State Department of Health and Commission on Accreditation of Allied Health Education Programs (CAAHEP) standards and requirements. Oversight will be provided by the County's Paramedic Training Course Director. Program will be managed by the Paramedic Lead Instructor.

The Department

Department will be responsible to:

- A. Obtain concurrence from the County on selection of the person to be appointed as the Paramedic Lead Instructor. Duties of the Lead Instructor are further detailed below.
- B. Develop and maintain agreements with all physicians, college instructors, and paramedic instructors as needed.
- C. Manage the accreditation process and develop the self-study for accreditation required by the State of Washington Department of Health and the Commission on Accreditation of Allied Health Education Programs (CAAHEP) for ongoing accreditation support. Coordinate the Committee on Accreditation of Educational Programs for the Emergency Medical Services Profession (COAEMP) site visit and pay the related fee.
- D. Select Department sponsored students for admission to the Program. Provide appropriate admission and registration information and maintain copies of Program records.
- E. Facilitate clinical agreements between the Department and those sites participating in clinical oversight of the paramedic students. Coordinate and schedule all classes, field experience and training activities. Provide preceptors and evaluations for all paramedic students.
- F. Develop and maintain Program curriculums in accordance with state and national standards.
- G. Provide classroom, equipment, and storage space as necessary to support the program.
- H. Select and contract with pre-course anatomy and physiology instructor.
- I. Complete Washington State Department of Health training program and course applications and student completion forms.
- J. Participate as a member of the Paramedic Program Advisory Committee.

The County

The County will be responsible to:

- A. Appoint and supervise a Paramedic Training Course Director. who will provide oversight to ensure the Program is being operated in accordance with Washington State Department of Health and Commission on Accreditation of Allied Health Education Programs standards and requirements.

- B. Ensure contracts with Bellingham Technical College and pre-course anatomy & physiology instructor are in place and current prior to the start date of the class.
- C. Secure budget authority from the Whatcom County Council to fund the 2022 Program costs for paramedic training.
- D. Support the accreditation process as needed.
- E. Provide any records and program information required from the County as needed for ongoing Program accreditation support.
- F. Participate as a member of the Paramedic Program Advisory Committee.

Department Paramedic Lead Instructor

The Program Lead Instructor will be a certified Department Paramedic, who has earned an Associate's degree or higher from an accredited institution, and will meet all requirements for vocational instructor certification as defined in WAC 131.16.070-095. Lead Instructor will be responsible, under the oversight of the Paramedic Training Course Director, to operate the 2022 Paramedic Training Class and manage the accreditation process. Duties include but are not limited to the following:

- A. Develop and implement the class schedule and ensure that all program objectives are met.
 - 1. The class schedule shall be submitted to the Medical Services Officer (MSO), Medical Program Director/Training Physician, and College supervisor for approval.
- B. Coordinate and supervise all class presentations, instructors and field exercises.
- C. Develop examinations based on the Program curriculum and ensure Medical Program Director and Training Physician approval for all examination content.
- D. Review and obtain approval for textbooks and supplemental educational materials used as part of the Program.
- E. Coordinate the COAEMP site visit and manage the accreditation process.
- F. Other duties as assigned.

County Paramedic Training Course Director

The Paramedic Training Course Director will be a certified Paramedic, who has earned a Bachelor's degree or higher from an accredited institution. Director will provide oversight of the 2022 Paramedic Training Class and accreditation process. Duties include but are not limited to the following:

- A. Assist Lead Instructor with class development and operation as needed.
- B. Serve as Program liaison between the Department and Bellingham Technical College.
- C. Review class schedules, student progress, and other program maintenance schedules as needed.
- D. Maintain required documentation related to the course.

Exhibit B Compensation

Item	Description	Per Student	Total
Preceptor Fees	Assigned Student Paramedic Preceptors (5 student - BFD & NWFR)	\$ 5,000	\$ 25,000
Evaluation Fee-BFD	Formal Evaluation Reports (4 students)	\$ 1,100	\$ 4,400
Evaluation Fee-NW	Formal Evaluation Reports (1 student)	\$ 1,600	\$ 1,600
Student Equipment, etc	Books, Stethoscopes, calipers, IV supplies, Disposable mannequin supplies, physiology training anatomy dissection parts, Platinum Program, PALS/NRET testing, CAAHEP, Clinical Training Site visit, Safety Clothing for clinical (8 students - BFD, FD7, NWFR)	\$ 6,350	\$ 50,800
Student Wages & Benefits-BFD only	Student class & patient contact hours (4 students)	\$ 113,000	\$ 452,000
Lead Instructor	Training Coordinator		\$ 184,453
Administrative Costs	COAEMP Required Fee & Site Visit, Admin support- class schedules, software set-up/data entry/student training, program supply/equip ordering, assistance with CAEHEP accreditation process.		\$ 33,000
Anatomy & Physiology Instructor	Pre-Course Anatomy & Physiology		\$ 6,225
Skills Lab	Procedure Skills Lab		\$ 37,000
Program Instructors	Physicians, College Instructors, Paramedic Instructors		\$ 56,000
Facilities	Classroom and office space		\$ 15,000
Total Contract			\$ 865,478

Invoicing

The Department shall submit itemized invoices for actual costs in a format approved by the County. Invoices shall be supported by general ledger detail for all costs. The Department shall submit invoices to Mike Hilley, EMS Manager on a monthly basis.

Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Department.

Duplication of Billed Costs or Payments for Service: The Department shall not bill the County for costs incurred under this contract, and the County shall not pay the Department, if the Department has been or will be paid by any other source, including grants, for those costs. The Department is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-728

File ID:	AB2021-728	Version:	1	Status:	Introduced
File Created:	11/23/2021	Entered by:	JLassite@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance requesting that the Whatcom County Auditor include the question of establishing a Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay on the ballot at the February special election

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This ordinance would forward the Birch Bay Library Capital Facility Area proposal to the Whatcom County Auditor for inclusion on the ballot at the next special election.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, WCLS Resolution, WCLS Auditor Forms, WCLS Explanatory Statement, RCW 27.15 Language

1 **PROPOSED BY: WHATCOM COUNTY RURAL LIBRARY DISTRICT**

2 **INTRODUCTION DATE: November 23, 2021**

3
4
5 **ORDINANCE NO. _____**

6
7 **REQUESTING THAT THE WHATCOM COUNTY AUDITOR INCLUDE THE**
8 **QUESTION OF ESTABLISHING A BIRCH BAY LIBRARY CAPITAL FACILITY**
9 **AREA TO FINANCE A NEW LIBRARY FACILITY IN BIRCH BAY ON THE**
10 **BALLOT AT THE FEBRUARY SPECIAL ELECTION**

11
12 **WHEREAS,** on November 16, 2021, the Whatcom County Library System
13 Board of Trustees adopted Resolution No. 11/16/21-16 initiating the process for
14 establishing the Birch Bay Library Capital Facility Area to finance a new library
15 facility in Birch Bay; and

16
17 **WHEREAS,** the Bookmobile currently serving the Birch Bay community
18 cannot accommodate a collection size to support the rapidly growing population;
19 and

20
21 **WHEREAS,** the Birch Bay community lacks public services such as public
22 meeting rooms, public internet computers, free informational and educational
23 programs and events for all ages; and

24
25 **WHEREAS,** Chapter 27.15 RCW permits, upon the request of the Library
26 District and the approval of the voters, the creation of a library capital facility area
27 to construct, acquire, maintain, and remodel library capital facilities; and

28
29 **WHEREAS,** the Whatcom County Rural Library District has fulfilled all the
30 requirements for the proposed establishment of the Birch Bay Library Capital
31 Facility Area and the proposal is ready to send to a vote of the people.

32
33 **NOW, THEREFORE, BE IT ORDAINED** that the Whatcom County Council
34 hereby forwards the Birch Bay Library Capital Facility Area proposal to the
35 Whatcom County Auditor for inclusion on the ballot at the next special election.

36
37 **BE IT FURTHER ORDAINED** that the boundaries of the Birch Bay Library
38 Capital Facility Area shall be as described by Exhibit A to this ordinance.

BE IT FURTHER ORDAINED that the proposition shall be in substantially the following form:

The Whatcom County Council adopted Ordinance No. ____ concerning a proposition to establish the Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay. If approved, this proposition would establish the Birch Bay Library Capital Facility Area with boundaries as described in County Council Ordinance No. ____, authorize it to acquire, construct, furnish and equip a new library in Birch Bay, incur indebtedness to finance such improvements through the issuance of up to \$4,500,000 in general obligation bonds maturing within 20 years, and levy annual excess property taxes to repay such bonds. Shall this proposition be approved?

YES _____

NO _____

ADOPTED this ____ day of _____, 2021.

ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Satpal Sidhu
County Executive

() Approved () Denied

Date Signed: _____



Pacific Surveying & Engineering, Inc

land surveying • civil engineering • consulting • environmental
909 Squalicum Way #111, Bellingham, WA 98225
Phone 360.671.7387 Facsimile 360.671.4685 Email info@psurvey.com

EXHIBIT 'A'

WHATCOM COUNTY RURAL LIBRARY DISTRICT BIRCH BAY LIBRARY CAPITAL FACILITY AREA BOUNDARY DESCRIPTION

ALL THOSE PORTIONS OF UPLAND AND TIDELANDS PROPERTIES INCLUDED WITHIN THE AREA DESCRIBED BELOW, AND LYING WITHIN PORTIONS OF THE FOLLOWING SECTIONS:

TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.
SECTION 1, SECTION 2, SECTION 11 AND SECTION 12.

TOWNSHIP 39 NORTH, RANGE 1 EAST, W.M.
SECTION 5, SECTION 6, SECTION 7 AND SECTION 8.

TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.
SECTION 10, SECTION 15, SECTION 16, SECTION 21, SECTION 22, SECTION 23, SECTION 24,
SECTION 25, SECTION 26, SECTION 27 AND SECTION 36.

TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M.
SECTION 19, SECTION 20, SECTION 21, SECTION 22, SECTION 27, SECTION 29, SECTION 30,
SECTION 31 AND SECTION 32.

CAPITAL FACILITY AREA BOUNDARY:

BEGINNING AT THE SOUTH 1/16TH CORNER ON THE EAST LINE OF SECTION 10, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.; THENCE WESTERLY ALONG THE SOUTH 1/16TH LINE OF SAID SECTION 10 AND THE SOUTHERLY CITY LIMITS BOUNDARY OF THE CITY OF BLAINE TO THE SHORELINE OF SEMIAHMOO BAY; THENCE ALONG SAID SHORELINE, AS FOLLOWS:

IN A GENERALLY SOUTHERLY DIRECTION ALONG THE SHORELINE OF SEMIAHMOO BAY AND WITHIN SAID SECTIONS 10, 15, 16, AND 21 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.;

THENCE IN A GENERALLY SOUTHEASTERLY DIRECTION ALONG THE SHORELINE OF SEMIAHMOO BAY AND BIRCH BAY AND WITHIN SAID SECTIONS 21, 22 AND 27 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.;

THENCE IN A GENERALLY EASTERLY AND NORTHEASTERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND WITHIN SAID SECTIONS 26 AND 23 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.;

THENCE IN A GENERALLY SOUTHEASTERLY AND SOUTHERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND WITHIN SAID SECTIONS 24 AND 25 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M., AND SECTION 30 OF TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M.;

THENCE IN A GENERALLY SOUTHERLY AND SOUTHWESTERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND WITHIN SAID SECTION 31, TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., AND SECTION 36, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M. AND SECTIONS 1 AND 2, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.;

THENCE CONTINUING IN A GENERALLY WESTERLY AND SOUTHERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND THE STRAIT OF GEORGIA AND WITHIN SECTION 2, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.;

THENCE CONTINUING IN A GENERALLY SOUTHERLY AND SOUTHEASTERLY DIRECTION ALONG THE SHORELINE OF THE STRAIT OF GEORGIA TO THE INTERSECTION WITH THE SOUTH LINE OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.;

THENCE DEPARTING SAID SHORELINE AND EASTERLY ALONG SAID SOUTH LINE OF SECTIONS 11 AND 12, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M. TO THE SOUTHEAST CORNER OF SAID SECTION 12;

THENCE CONTINUING EASTERLY ALONG THE SOUTH LINE OF SECTIONS 7 AND 8, TOWNSHIP 39 NORTH, RANGE 1 EAST, W.M., ALSO BEING THE CENTERLINE OF ALDERGROVE ROAD (CO. RD. NO. 641) TO THE SOUTHEAST CORNER OF SAID SECTION 8, BEING A POINT OF INTERSECTION OF THE CENTERLINES OF SAID ALDERGROVE ROAD WITH KICKERVILLE ROAD (CO. RD. 228);

THENCE NORTH ALONG SAID CENTERLINE OF KICKERVILLE ROAD, AND THE EAST LINE OF SAID SECTIONS 8 AND SECTION 5 OF SAID TOWNSHIP 39 NORTH, RANGE 1 EAST, W.M. TO THE NORTHEAST CORNER OF SAID SECTION 5, BEING A POINT OF INTERSECTION OF THE CENTERLINES OF SAID KICKERVILLE ROAD AND BAY ROAD (CO. ROAD NO. 42);

THENCE NORTHERLY ALONG THE EAST LINE OF SECTIONS 32 AND 29, TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., AND ALONG THE CENTERLINE OF SAID KICKERVILLE ROAD TO THE NORTHEAST CORNER OF SAID SECTION 29, BEING THE POINT OF INTERSECTION OF THE CENTERLINES OF SAID KICKERVILLE ROAD AND BIRCH BAY-LYNDEN ROAD (CO. RD. NO. 559); THENCE EAST ALONG THE SOUTH LINE OF SECTIONS 21 AND 22, TOWNSHIP 40 NORTH, RANGE 1 EAST, AND ALONG THE CENTERLINE OF SAID BIRCH BAY-LYNDEN ROAD TO THE POINT OF INTERSECTION WITH PORTAL WAY; THENCE CONTINUING IN AN EASTERLY AND SOUTHEASTERLY DIRECTION ALONG SAID CENTERLINE OF SAID BIRCH BAY-LYNDEN ROAD AND WITHIN SECTIONS 22 AND 27 OF TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., TO THE WEST MARGIN OF INTERSTATE 5; THENCE NORTHWESTERLY ALONG SAID WEST MARGIN OF INTERSTATE 5 AND WITHIN SAID SECTIONS 27, 22 AND 21 TO THE POINT OF INTERSECTION WITH THE NORTH LINE OF SAID SECTION 21; THENCE WESTERLY ALONG THE NORTH LINE OF SECTIONS 21, 20, AND 19, TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., AND SECTIONS 24 AND 23, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M., TO THE NORTHWEST CORNER OF SAID SECTION 23; THENCE NORTHERLY ALONG THE EAST LINE OF SECTIONS 15 AND 10, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M., TO THE POINT OF BEGINNING.

TOGETHER WITH SECOND CLASS TIDELANDS ABUTTING.

ALSO TOGETHER WITH ANY PROPERTIES LOCATED BETWEEN THE LINE OF ORDINARY HIGH WATER AND THE GOVERNMENT MEANDER LINE.

EXCEPTING THEREFROM ANY PORTION OF LAND LOCATED WITHIN THE CITY OF BLAINE.

SITUATE IN WHATCOM COUNTY, WASHINGTON

NOTE: THE TERM "SHORELINE" USED IN THIS CAPITAL FACILITY AREA BOUNDARY DESCRIPTION IS INTENDED TO REPRESENT THE LEGAL BOUNDARY BETWEEN UPLAND

AND TIDELAND PROPERTIES, WHICH MAY BE EITHER THE GOVERNMENT MEANDER LINE OR THE LINE OR ORDINARY HIGH WATER DEPENDING ON HISTORICAL AND LEGAL CIRCUMSTANCES. IN ALL CASES, AND SPECIFICALLY FOR THE PURPOSES OF THIS CAPITAL FACILITY AREA BOUNDARY DESCRIPTION IT SHOULD BE PRESUMED THAT THERE IS NO GAP BETWEEN UPLAND AND TIDELANDS PROPERTIES.



WHATCOM COUNTY RURAL LIBRARY DISTRICT
BIRCH BAY LIBRARY
CAPITAL FACILITY BOUNDARY EXHIBIT



PSE

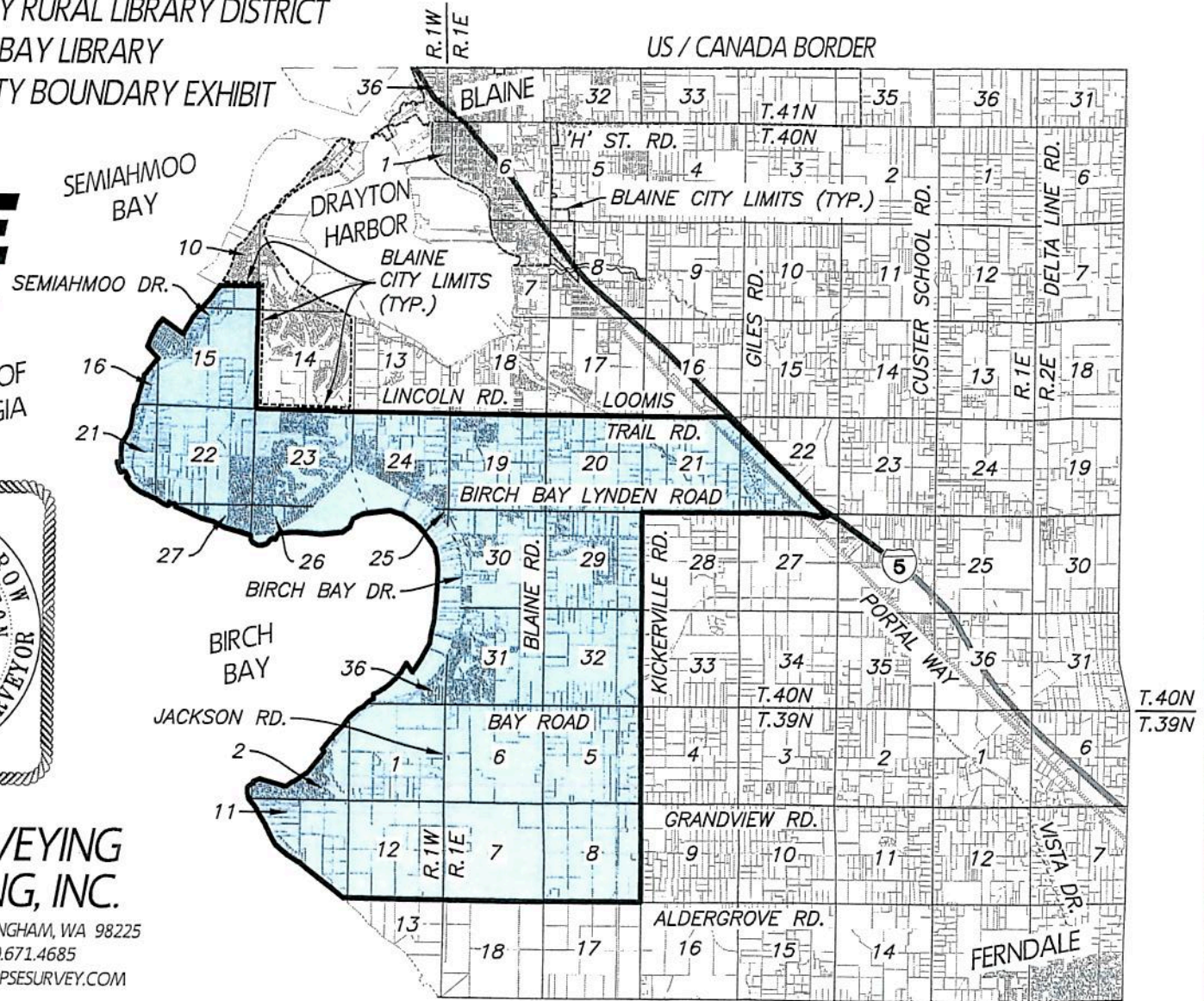
STRAIT OF GEORGIA

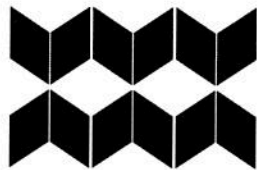


**PACIFIC SURVEYING
& ENGINEERING, INC.**

909 Squalicum Way, Suite 111 | BELLINGHAM, WA 98225
T: 360.671.7387 | F: 360.671.4685
WWW.PSESURVEY.COM | INFO@PSESURVEY.COM

DWG: 2021084_svE_Exhibit.dwg DATE: 6.8.2021 JOB#: 2021084 SCALE: 1"=9000' SHEET: 1 OF 1





whatcom county
library system

RESOLUTION NO. 11/16/21-16

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE
WHATCOM COUNTY RURAL LIBRARY DISTRICT
REQUESTING THE ESTABLISHMENT OF THE BIRCH BAY
LIBRARY CAPITAL FACILITY AREA TO FINANCE A NEW LIBRARY
FACILITY IN BIRCH BAY AND THEREBY EXPAND LIBRARY
SERVICE**

WHEREAS, library service to the residents of the Birch Bay community is currently provided through weekly Bookmobile visits operated by the Whatcom County Rural Library District (the "Library District"); and

WHEREAS, the Blaine Library is located at some distance from the Birch Bay community and is separated from Birch Bay by railroad tracks, which, when occupied, can prevent passage from Birch Bay to Blaine for 20 minutes or more; and

WHEREAS, the Birch Bay community has experienced rapid growth in the number of residents and the population is expected to continue to increase; and

WHEREAS, the Bookmobile cannot accommodate a collection size to support a community of 8,400 residents or more; and

WHEREAS, the Birch Bay community lacks public services such as public meeting rooms, public internet computers, free informational and educational programs and events for all ages; and

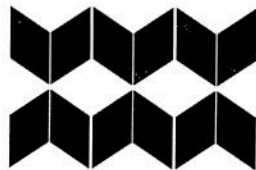
WHEREAS, chapter 27.15 RCW permits, upon the request of the Library District and the approval of the voters, the creation of a library capital facility area to construct, acquire, maintain and remodel library capital facilities; and

WHEREAS, the cost of developing a new library, to be located in the Birch Bay community, can most fairly be paid by those residents of the area to be served thereby through the establishment of a library capital facility area and its issuance of bonds to finance the acquisition, construction, furnishing and equipping of such new library; and

WHEREAS, the Library District will be responsible for designing, administering the construction, furnishing and equipping of, and operating and maintaining the new library to be financed by the proposed Birch Bay library capital facility area, and expects that the governing body of the Birch Bay library capital facility area will enter into an appropriate agreement with the Library District agreeing to such arrangements;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF TRUSTEES OF THE WHATCOM COUNTY RURAL LIBRARY DISTRICT:

1. Approval of Creation of the Birch Bay Library Capital Facility Area. The Library District finds that a new library facility located in Birch Bay is essential to the public welfare and to the residents of the Birch Bay community. The Library District hereby approves the creation of a library capital facility area to be known as the "Birch Bay Library Capital Facility Area," the boundaries of which shall be as described in Exhibit A to this resolution, which is incorporated herein by this reference.



whatcom county
library system

RESOLUTION NO. 11/16/21-16

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE
WHATCOM COUNTY RURAL LIBRARY DISTRICT
REQUESTING THE ESTABLISHMENT OF THE BIRCH BAY
LIBRARY CAPITAL FACILITY AREA TO FINANCE A NEW LIBRARY
FACILITY IN BIRCH BAY AND THEREBY EXPAND LIBRARY
SERVICE

2. Request to the Whatcom County Council. The Library District requests that the Whatcom County Council, pursuant to chapter 27.15 RCW, provide for establishing the Birch Bay Library Capital Facility Area and submit to the voters of the said area a ballot proposition at a special election to be held on February 8, 2022, in substantially the following form, with such additions, deletions, and modifications as may be required by the Whatcom County Prosecuting Attorney:

Proposition 1: The Whatcom County Council adopted Resolution No. ____, concerning a proposition to establish the Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay. If approved, this proposition would establish the Birch Bay Library Capital Facility Area with boundaries as described in County Council Resolution No. ____, authorize it to acquire, construct, furnish and equip a new library in Birch Bay, incur indebtedness to finance such improvements through the issuance of up to \$4,500,000 in general obligation bonds maturing within 20 years, and levy annual excess property taxes to repay such bonds. Shall this proposition be approved?

3. Election Costs. The Library District shall pay all of the costs of submitting the ballot propositions to the voters of the proposed library capital facility area.
4. Authorization to Submit Resolution to the Whatcom County Council. The Executive Director of the Library District is hereby authorized and directed to certify a copy of this resolution and submit it to the Whatcom County Council.

Adopted by the Whatcom County Rural Library District Board of Trustees this 16th day of November, 2021.

Marvin Waschke, Board Chair

Lori Jump, Board Vice Chair

Claudia Disend, Board Secretary

Erika Lautenbach, Trustee

Rodney Lofdahl, Trustee



Pacific Surveying & Engineering, Inc

land surveying • civil engineering • consulting • environmental
909 Squalicum Way #111, Bellingham, WA 98225
Phone 360.671.7387 Facsimile 360.671.4685 Email info@psurvey.com

EXHIBIT 'A'

WHATCOM COUNTY RURAL LIBRARY DISTRICT BIRCH BAY LIBRARY CAPITAL FACILITY AREA BOUNDARY DESCRIPTION

ALL THOSE PORTIONS OF UPLAND AND TIDELANDS PROPERTIES INCLUDED WITHIN THE AREA DESCRIBED BELOW, AND LYING WITHIN PORTIONS OF THE FOLLOWING SECTIONS:

TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.
SECTION 1, SECTION 2, SECTION 11 AND SECTION 12.

TOWNSHIP 39 NORTH, RANGE 1 EAST, W.M.
SECTION 5, SECTION 6, SECTION 7 AND SECTION 8.

TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.
SECTION 10, SECTION 15, SECTION 16, SECTION 21, SECTION 22, SECTION 23, SECTION 24, SECTION 25, SECTION 26, SECTION 27 AND SECTION 36.

TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M.
SECTION 19, SECTION 20, SECTION 21, SECTION 22, SECTION 27, SECTION 29, SECTION 30, SECTION 31 AND SECTION 32.

CAPITAL FACILITY AREA BOUNDARY:

BEGINNING AT THE SOUTH 1/16TH CORNER ON THE EAST LINE OF SECTION 10, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.; THENCE WESTERLY ALONG THE SOUTH 1/16TH LINE OF SAID SECTION 10 AND THE SOUTHERLY CITY LIMITS BOUNDARY OF THE CITY OF BLAINE TO THE SHORELINE OF SEMIAHMOO BAY; THENCE ALONG SAID SHORELINE, AS FOLLOWS:

IN A GENERALLY SOUTHERLY DIRECTION ALONG THE SHORELINE OF SEMIAHMOO BAY AND WITHIN SAID SECTIONS 10, 15, 16, AND 21 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.;

THENCE IN A GENERALLY SOUTHEASTERLY DIRECTION ALONG THE SHORELINE OF SEMIAHMOO BAY AND BIRCH BAY AND WITHIN SAID SECTIONS 21, 22 AND 27 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.;

THENCE IN A GENERALLY EASTERLY AND NORTHEASTERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND WITHIN SAID SECTIONS 26 AND 23 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M.;

THENCE IN A GENERALLY SOUTHEASTERLY AND SOUTHERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND WITHIN SAID SECTIONS 24 AND 25 OF TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M., AND SECTION 30 OF TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M.;

THENCE IN A GENERALLY SOUTHERLY AND SOUTHWESTERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND WITHIN SAID SECTION 31, TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., AND SECTION 36, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M. AND SECTIONS 1 AND 2, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.;

THENCE CONTINUING IN A GENERALLY WESTERLY AND SOUTHERLY DIRECTION ALONG THE SHORELINE OF BIRCH BAY AND THE STRAIT OF GEORGIA AND WITHIN SECTION 2, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.;

THENCE CONTINUING IN A GENERALLY SOUTHERLY AND SOUTHEASTERLY DIRECTION ALONG THE SHORELINE OF THE STRAIT OF GEORGIA TO THE INTERSECTION WITH THE SOUTH LINE OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M.;

THENCE DEPARTING SAID SHORELINE AND EASTERLY ALONG SAID SOUTH LINE OF SECTIONS 11 AND 12, TOWNSHIP 39 NORTH, RANGE 1 WEST, W.M. TO THE SOUTHEAST CORNER OF SAID SECTION 12;

THENCE CONTINUING EASTERLY ALONG THE SOUTH LINE OF SECTIONS 7 AND 8, TOWNSHIP 39 NORTH, RANGE 1 EAST, W.M., ALSO BEING THE CENTERLINE OF ALDERGROVE ROAD (CO. RD. NO. 641) TO THE SOUTHEAST CORNER OF SAID SECTION 8, BEING A POINT OF INTERSECTION OF THE CENTERLINES OF SAID ALDERGROVE ROAD WITH KICKERVILLE ROAD (CO. RD. 228);

THENCE NORTH ALONG SAID CENTERLINE OF KICKERVILLE ROAD, AND THE EAST LINE OF SAID SECTIONS 8 AND SECTION 5 OF SAID TOWNSHIP 39 NORTH, RANGE 1 EAST, W.M. TO THE NORTHEAST CORNER OF SAID SECTION 5, BEING A POINT OF INTERSECTION OF THE CENTERLINES OF SAID KICKERVILLE ROAD AND BAY ROAD (CO. ROAD NO. 42);

THENCE NORTHERLY ALONG THE EAST LINE OF SECTIONS 32 AND 29, TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., AND ALONG THE CENTERLINE OF SAID KICKERVILLE ROAD TO THE NORTHEAST CORNER OF SAID SECTION 29, BEING THE POINT OF INTERSECTION OF THE CENTERLINES OF SAID KICKERVILLE ROAD AND BIRCH BAY-LYNDEN ROAD (CO. RD. NO. 559); THENCE EAST ALONG THE SOUTH LINE OF SECTIONS 21 AND 22, TOWNSHIP 40 NORTH, RANGE 1 EAST, AND ALONG THE CENTERLINE OF SAID BIRCH BAY-LYNDEN ROAD TO THE POINT OF INTERSECTION WITH PORTAL WAY; THENCE CONTINUING IN AN EASTERLY AND SOUTHEASTERLY DIRECTION ALONG SAID CENTERLINE OF SAID BIRCH BAY-LYNDEN ROAD AND WITHIN SECTIONS 22 AND 27 OF TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., TO THE WEST MARGIN OF INTERSTATE 5; THENCE NORTHWESTERLY ALONG SAID WEST MARGIN OF INTERSTATE 5 AND WITHIN SAID SECTIONS 27, 22 AND 21 TO THE POINT OF INTERSECTION WITH THE NORTH LINE OF SAID SECTION 21; THENCE WESTERLY ALONG THE NORTH LINE OF SECTIONS 21, 20, AND 19, TOWNSHIP 40 NORTH, RANGE 1 EAST, W.M., AND SECTIONS 24 AND 23, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M., TO THE NORTHWEST CORNER OF SAID SECTION 23; THENCE NORTHERLY ALONG THE EAST LINE OF SECTIONS 15 AND 10, TOWNSHIP 40 NORTH, RANGE 1 WEST, W.M., TO THE POINT OF BEGINNING.

TOGETHER WITH SECOND CLASS TIDELANDS ABUTTING.

ALSO TOGETHER WITH ANY PROPERTIES LOCATED BETWEEN THE LINE OF ORDINARY HIGH WATER AND THE GOVERNMENT MEANDER LINE.

EXCEPTING THEREFROM ANY PORTION OF LAND LOCATED WITHIN THE CITY OF BLAINE.

SITUATE IN WHATCOM COUNTY, WASHINGTON

NOTE: THE TERM "SHORELINE" USED IN THIS CAPITAL FACILITY AREA BOUNDARY DESCRIPTION IS INTENDED TO REPRESENT THE LEGAL BOUNDARY BETWEEN UPLAND

AND TIDELAND PROPERTIES, WHICH MAY BE EITHER THE GOVERNMENT MEANDER LINE OR THE LINE OR ORDINARY HIGH WATER DEPENDING ON HISTORICAL AND LEGAL CIRCUMSTANCES. IN ALL CASES, AND SPECIFICALLY FOR THE PURPOSES OF THIS CAPITAL FACILITY AREA BOUNDARY DESCRIPTION IT SHOULD BE PRESUMED THAT THERE IS NO GAP BETWEEN UPLAND AND TIDELANDS PROPERTIES.



WHATCOM COUNTY RURAL LIBRARY DISTRICT
BIRCH BAY LIBRARY
CAPITAL FACILITY BOUNDARY EXHIBIT



PSE

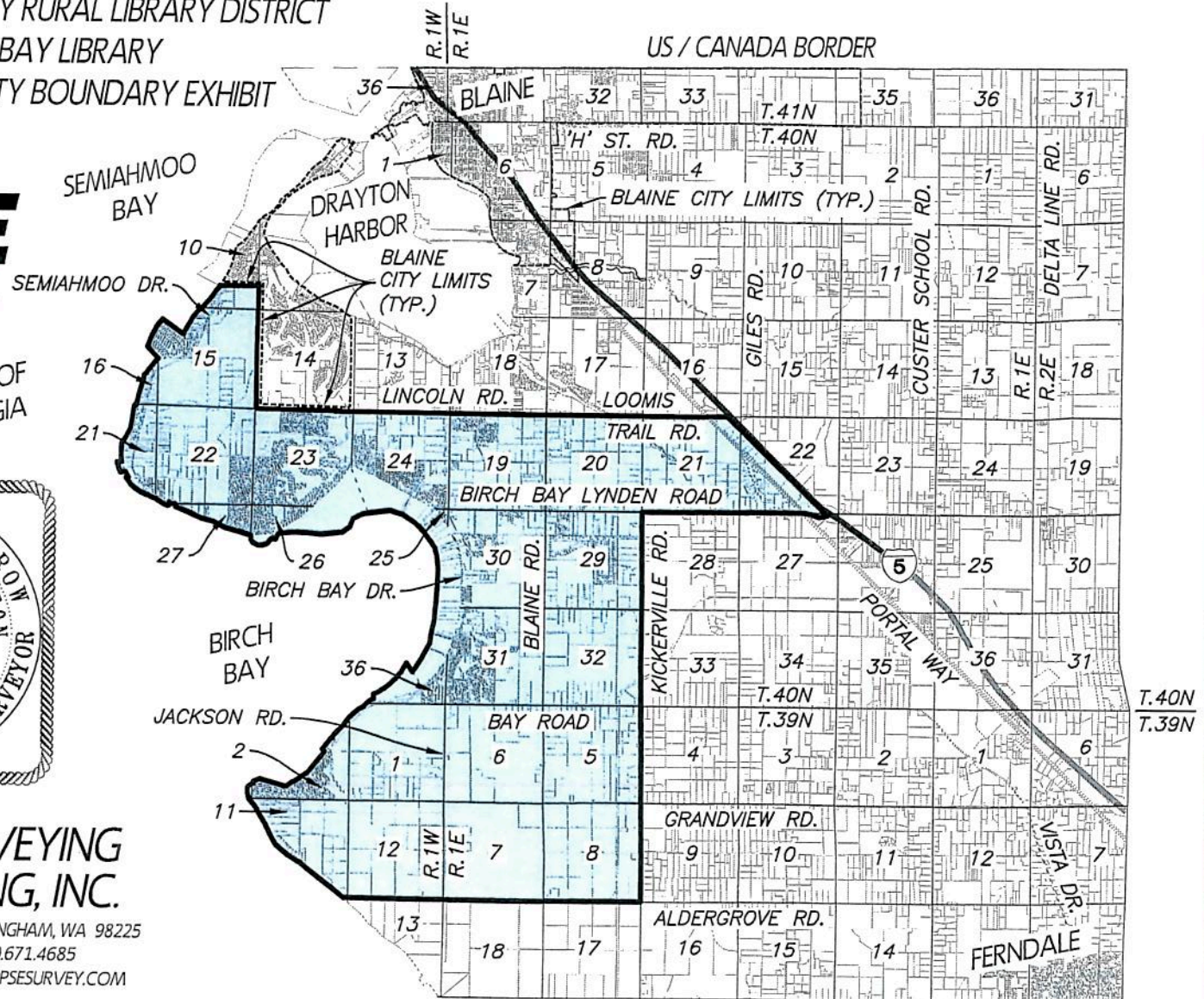
STRAIT OF GEORGIA



**PACIFIC SURVEYING
& ENGINEERING, INC.**

909 Squalicum Way, Suite 111 | BELLINGHAM, WA 98225
T: 360.671.7387 | F: 360.671.4685
WWW.PSESURVEY.COM | INFO@PSESURVEY.COM

DWG: 2021084_svE_Exhibit.dwg DATE: 6.8.2021 JOB#: 2021084 SCALE: 1"=9000' SHEET: 1 OF 1





Ballot Measure Cover Sheet

A completed cover sheet **must** accompany each ballot measure submitted to the Whatcom County Auditor. It is the submitter's responsibility to ensure that requested documentation is presented no later than the resolution deadline date.

This form is available in a fillable form on the Auditor's website: www.whatcomcounty.us/auditor.

District Information

District Name: Whatcom County Rural Library District

District Address: 5205 Northwest Drive, Bellingham, WA 98226

Contact Person 1

Christine Perkins, Executive Director

Name & Title

360-305-3601 christine.perkins@wcls.org

Phone & email

Contact Person 2

Jackie Saul, Director of Finance & Administration

Name & Title

360-305-3603 jackie.saul@wcls.org

Phone & email

Attorney Information

Dan Gottlieb, Attorney

Name

206-470-7627 dgottlieb@hcmp.com

Phone & email

Has your attorney prepared this ballot measure?

☒ Yes

☐ No

Have You:

Attached the Resolution with original signatures *or* a certified copy of the original Resolution?

☒ Yes

☐ No

Attached the Explanatory Statement (not to exceed 100 words) for the Local Voters' Pamphlet prepared by your attorney?

☒ Yes

☐ No

Attached the "For" and "Against" Committee Appointment Forms?

☒ Yes

☐ No

Completed this cover sheet?

☒ Yes

☐ No

Auditor's Office Use

Date Stamp

Missing document(s):

I understand that the submittal deadline date for the missing documents is _____ and the Auditor's Office will not begin processing this ballot measure until all documents have been submitted.

C Perkins

Deputy Auditor's Signature

Presenter's Signature



Whatcom County Auditor's Office

Committee Appointment Form

District & Ballot Measure Information

District Name: Whatcom County Rural Library District

Proposition Name: Birch Bay Library Capital Facility Area Proposition 1

Appointment of: <input checked="" type="checkbox"/> Committee FOR <input type="checkbox"/> Committee AGAINST	No Committee Formed: <input type="checkbox"/> Committee FOR <input type="checkbox"/> Committee AGAINST
<p>NOTE:</p> <p>The Chair of the committee will serve as the contact person for Auditor's staff. The Chair will also be the recipient of the opposing committee's statement so the rebuttal can be prepared.</p> <p>The phone numbers and e-mail addresses listed below will not be published. However, the information provided on this form is subject to public disclosure laws under RCW 42.56 and 42.17. A copy of this form will be released to anyone requesting it.</p>	<p>Actions taken to solicit committee members (required, select at least 3):</p> <ul style="list-style-type: none"><input type="checkbox"/> Posting the request on the jurisdiction's website, if they have one<input type="checkbox"/> Requesting volunteers to serve at any commissioner meeting when the proposal is being discussed<input type="checkbox"/> Making direct phone calls to potential individuals<input type="checkbox"/> Putting up flyers on bulletin boards in libraries, grocery stores, or other community boards<input type="checkbox"/> Submitting a news release or letter to the editor to the newspapers (whether for printed version or online version) requesting volunteers (A "paid ad" in the Legal Notices is not required)<input type="checkbox"/> Posting on a reader board or sandwich board<input type="checkbox"/> Recruiting at any district events (i.e. monthly pancake feed)<input type="checkbox"/> Putting notice in emails or newsletters sent to individuals in the district<input type="checkbox"/> Inserts in bills<input type="checkbox"/> Other direct mail/email notifications<input type="checkbox"/> Other: _____

Committee:

	Name	Phone	email
1. Chair	Doralee Booth	360-371-7440	doraleeb@comcast.net
2. Member	Keith Alesse	206-595-2072	k_alesse@yahoo.com
3. Member	Ruth Higgins	360-303-3931	higginsruth2588@gmail.com

I hereby certify the above name individuals have been appointed and have consented to serve as indicated, or at least 3 actions have been taken to solicit committee members.

C. Perkins
Authorized Signature (individual with authority to sign for the district)

11/16/2021
Date



Whatcom County Auditor's Office

Committee Appointment Form

District & Ballot Measure Information

District Name: Whatcom County Rural Library District

Proposition Name: Birch Bay Library Capital Facility Area

Appointment of:

☐ Committee FOR

☐ Committee AGAINST

NOTE:

The Chair of the committee will serve as the contact person for Auditor's staff. The Chair will also be the recipient of the opposing committee's statement so the rebuttal can be prepared.

The phone numbers and e-mail addresses listed below will not be published. However, the information provided on this form is subject to public disclosure laws under RCW 42.56 and 42.17. A copy of this form will be released to anyone requesting it.

No Committee Formed:

☐ Committee FOR

☒ Committee AGAINST

Actions taken to solicit committee members (required, select **at least 3** and provide documentation when applicable):

- ☐ Posting the request on the jurisdiction's website, if they have one
- ☐ Requesting volunteers to serve at any commissioner meeting when the proposal is being discussed
- ☐ Making direct phone calls to potential individuals
- ☐ Putting up flyers on bulletin boards in libraries, grocery stores, or other community boards
- ☐ Submitting a news release or letter to the editor to the newspapers (whether for printed version or online version) requesting volunteers (A "paid ad" in the Legal Notices is not required)
- ☐ Posting on a reader board or sandwich board
- ☐ Recruiting at any district events (i.e. monthly pancake feed)
- ☐ Putting notice in emails or newsletters sent to individuals in the district
- ☐ Inserts in bills
- ☐ Other direct mail/email notifications
- ☐ Other: _____

Committee:

	Name	Phone	email
1. Chair	<hr/>	<hr/>	<hr/>
2. Member	<hr/>	<hr/>	<hr/>
3. Member	<hr/>	<hr/>	<hr/>

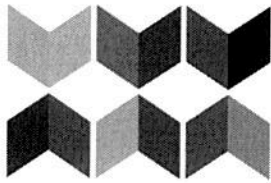
I hereby certify the above name individuals have been appointed and have consented to serve as indicated, or at least 3 actions have been taken to solicit committee members.

C Perkins

Authorized Signature (individual with authority to sign for the district)

11/16/2021

Date



whatcom county
library system

CERTIFICATE RE: RESOLUTION NO. 11/16/21-16

I, the undersigned Executive Director of the Whatcom County Rural Library District, DO HEREBY CERTIFY that attached is a true and complete copy of Resolution No. 11/16/21-16 of the Board of Trustees of the Whatcom County Rural Library District requesting the establishment of the Birch Bay Library Capital Facility Area and submission of a ballot proposition to finance a new library facility in Birch Bay, which resolution was duly adopted at an open, public and regular meeting of the Board of Trustees held on November 16, 2021, and signed by all of the members of the Board of Trustees.

Christine Perkins
Executive Director
Whatcom County Rural Library District

The Power of Sharing

5205 Northwest Drive Bellingham, Washington 98226 | (360) 305-3600 | wcls.org

BIRCH BAY LIBRARY CAPITAL FACILITY AREA

PROPOSITION 1

EXPLANATORY STATEMENT

February 8, 2022 Ballot

A vote for Proposition 1 will establish the Birch Bay Library Capital Facility Area and authorize it to acquire, construct, furnish and equip a new library in Birch Bay, incur indebtedness to finance such improvements through the issuance of up to \$4,500,000 in general obligation bonds maturing within 20 years, and levy annual excess property taxes to repay such bonds, all as permitted by a vote of the people. The proposed library capital facility area boundaries are described in County Council Resolution No. _____, and its governing body will be three members of the County Council selected by the Council.

RCW 27.15.020

Request to establish library capital facility area—Ballot proposition.

(1) Upon receipt of a completed written request to both establish a library capital facility area and submit a ballot proposition under RCW 27.15.050 to finance library capital facilities, that is signed by a majority of the members of the board of trustees of a library district or board of trustees of a city or town library, the county legislative authority or county legislative authorities for the county or counties in which a proposed library capital facility area is to be established must submit a ballot proposition to voters to establish the proposed library capital facility area and authorize the library capital facility area to finance library capital facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. The ballot proposition must be submitted to voters at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW 29A.04.330. The ballot proposition must be approved by a supermajority vote.

(2) A completed request submitted under this section must include: (a) A description of the boundaries of the library capital facility area; and (b) a copy of the resolution of the legislative authority of each city or town, and board of trustees of each library district, with territory included within the proposed library capital facility area indicating both: (i) Its approval of the creation of the proposed library capital facility area; and (ii) agreement on how election costs will be paid for submitting the ballot proposition to voters.

(3) For the purposes of this section, a supermajority vote means the affirmative vote of a three-fifths majority of those voting on the proposition, and the total number of persons voting on the proposition must be at least 40 [forty] percent of the voters in the proposed library capital facility area who voted in the last preceding statewide general election.

[2020 c 207 § 2; 2015 c 53 § 4; 1996 c 258 § 1; 1995 c 368 § 3.]

RCW 27.15.030

Governing body.

The governing body of the library capital facility area shall be three members of the county legislative authority from each county in which the library capital facility area is located. In counties that have more than three members of their legislative body, the three members who shall serve on the governing body of the library capital facility area shall be chosen by the full membership of the county legislative authority. Where the library capital facility area is located in more than one county, a county may be represented by less than three members by mutual agreement of the legislative authorities of the participating counties.

[1995 c 368 § 4.]

RCW 27.15.040

Authority to construct, acquire, maintain, and remodel facilities— Interlocal agreements—Legal title.

A library capital facilities [facility] area may construct, acquire, maintain, and remodel library capital facilities and the governing body of the library capital facility area may, by interlocal agreement or otherwise, contract with a county, city, town, or library district to design, administer the construction of, operate, or maintain a library capital facility financed pursuant to this chapter. Legal title to library capital facilities acquired or constructed pursuant to this chapter may be transferred, acquired, or held by the library capital facility area or by a county, city, town, or library district in which the facility is located.

[1995 c 368 § 5.]

RCW 27.15.050

Financing—Bonds authorized.

(1) A library capital facility area may contract indebtedness or borrow money to finance library capital facilities and may issue general obligation bonds for such purpose not exceeding an amount, together with any existing indebtedness of the library capital facility area, equal to one and one-quarter percent of the value of the taxable property in the district and impose excess property tax levies to retire the general indebtedness as provided in RCW 39.36.050 if a ballot proposition authorizing both the indebtedness and excess levies is approved by at least three-fifths of the voters of the library capital facility area voting on the proposition, and the total number of voters voting on the proposition constitutes not less than forty percent of the total number of voters in the library capital facility area voting at the last preceding general election. The term "value of the taxable property" has the meaning set forth in RCW 39.36.015. Such a proposition shall be submitted to voters at a general or special election and may be submitted to voters at the same election as the election when the ballot proposition authorizing the establishing of the library capital facility area is submitted. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW 29A.04.330.

(2) A library capital facility area may accept gifts or grants of money or property of any kind for the same purposes for which it is authorized to borrow money in subsection (1) of this section.

[2015 c 53 § 5; 1996 c 258 § 2; 1995 c 368 § 6.]

RCW 27.15.060

Dissolution of library capital facility area.

(1) A library capital facility area may be dissolved by a majority vote of the governing body when all obligations under any general obligation bonds issued by the library capital facility area have been discharged and any other contractual obligations of the library capital facility area have either been discharged or assumed by another governmental entity.

(2) A library capital facility area shall be dissolved by the governing body if the first two ballot propositions under RCW 27.15.050 that are submitted to voters are not approved.

[1995 c 368 § 7.]



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-729

File ID:	AB2021-729	Version:	1	Status:	Agenda Ready
File Created:	11/23/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: MHilley@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Fire Protection District No. 7 for reimbursement of wages and benefits for 3 paramedic students in an amount of \$375,033

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Fire Protection District No. 7 for reimbursement of wages and benefits for 3 paramedic students in an amount of \$375,033

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Interlocal, Routing Form

MEMORANDUM

To: Whatcom County Council Members
From: Mike Hilley, EMS Manager
Subject: Interlocal Agreement for the provision of the Paramedic Training Program
Date: November 24, 2021

BACKGROUND:

Whatcom County Council approved budget authority for a 2022 paramedic training class. Students recommended from Bellingham Fire Department (BFD) and Fire Protection District #7 (FD7) and North Whatcom Fire and Rescue will participate in a joint EMS Paramedic training course funded through the EMS Levy. All three agencies will enter into an interlocal agreement to participate in this paramedic training class.

Bellingham Fire Department
Fire Protection District #7
North Whatcom Fire Authority (NWFA)

This interlocal agreement is between Whatcom County and Fire Protection District No. 7 to compensate for the paramedic training programs costs associated with student wages and preceptor evaluations.

FUNDING SOURCE:

The paramedic training program is funded through the EMS Levy as approved by Council in the biennial budget process.

ACTION:

Request authority to enter into the interlocal agreement between Whatcom County and Fire Protection District No. 7 for the provision of Paramedic Training.

**Inter-Agency Agreement
Between Whatcom County and Whatcom County Fire Protection District #7**

This agreement, pursuant to RCW 39.34.080, is entered into between **Whatcom County (County) and the Fire Protection District No. 7 (District)**. The Parties, in consideration of the terms, conditions, covenants included herein, agree as follows:

The purpose of this agreement regarding paramedic training (hereinafter "Agreement") sets forth the agreed amount of reimbursement for costs incurred for participation in the paramedic training program (hereinafter the "Program") conducted as a cooperative effort between the District, Bellingham Fire Department, Bellingham Technical College and the County.

The term of this Agreement shall be in effect for the 2022 class cycle.

The maximum consideration for this agreement shall not exceed \$357,300. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

1. Obligation of Parties:

- A. District shall recommend one student, who has successfully tested for the Program, to participate in the 2022 Program. The District will also comply with the terms and conditions of item 4. below concerning Minimum Service Requirement.
- B. The County shall reimburse the District for student wages as presented in Exhibit A. Student costs for tuition, books, labs, evals and other costs of the Program will be invoiced by Bellingham Fire Department through a separate agreement with the County.

2. Program Administration:

- A. It is understood that the parties shall remain independent governmental entities in carrying out their responsibilities as set forth herein, that the parties shall remain responsible for the direct supervision of their respective employees, and that nothing in this Agreement will interfere with the employer/employee relationships of the parties.
- B. The Program shall be administered in accordance with the terms of this Agreement.

3. Invoice and Payment Procedures:

- A. Whatcom County shall reimburse the District, using the Whatcom County Emergency Medical Services Fund, for Program expenses, as specified in attached Exhibit A.
- B. District will invoice the County monthly for actual costs of the program, supported by general ledger detail. Payment will be considered timely if made within 30 days of receipt of approved invoice.

4. Minimum Service Requirement

The District will ensure that each successful paramedic training graduate, sponsored by the District, will serve a minimum of five years on a County-sponsored ALS unit.

5. Compliance with the Health Insurance Portability Accountability Act of 1996 (HIPAA)

The Parties shall comply with all applicable provisions of HIPAA as well as all applicable provisions of the Health Information Technology for Economic and Clinical Health Act.

6. Termination:

- A. Termination for Convenience. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty days prior written notice. The District shall be paid for costs incurred to date of termination.
- B. Termination for Cause. If the District fails to perform in the manner called for in the Agreement, or if the District fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five days written notice thereof, the County may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the District setting forth the manner in which the District is in default. The District will be paid for costs already incurred in accordance with the manner of performance set forth in the Agreement, up to the date of termination.

7. Maintenance and Inspection of Records

- A. The Parties shall maintain books, records and documents, which sufficiently and properly reflect all costs related to the performance of the Agreement. In addition, the District shall maintain all accounting records in a form necessary to assure proper accounting of all funds paid pursuant to this Agreement. All of the above shall be subject at all reasonable times to inspection, review, or audit by the County, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.
- B. The Parties shall retain all books, records, documents and other material relevant to this Agreement for four years after its expiration. The District agrees that the County or its designee shall have full access and right to examine any of said materials at all reasonable times during said period; and that the District shall have similar access to said materials maintained by the County pursuant to this agreement.

8. Dispute Resolution, Jurisdiction, and Venue

- A. In the event of a dispute between the Parties arising from this Agreement or any obligations hereunder, the dispute shall first be referred to the operational officers or representatives designated by the Parties to have the responsibility of administering this Agreement. Said officers or representatives shall meet as soon as possible, and in any event the initial meeting shall be held within thirty (30) days of either Party's request for a meeting to resolve the dispute. The Parties covenant to make a good faith attempt to resolve the dispute at this meeting.
- B. In the event that the Parties are unable to resolve any dispute arising under this Agreement, or other dispute or disagreement arising from the implementation of the terms of the Agreement, the Parties agree that mediation will be a condition precedent to any litigation. The Parties agree to jointly select a mediator. If the Parties are unable to agree upon a mediator, the Parties shall jointly obtain a list of five mediators from a reputable dispute resolution organization and alternately strike mediators on that list until one remains. The Parties agree to share equally in the cost of mediation.

- C. In the event that mediation is unsuccessful and litigation ensues, each Party shall bear its own costs and expenses. The venue for any action hereunder shall be in the Superior Court for Whatcom County, Washington. This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

9. Liability and Indemnification:

The Parties agree to the following distribution and allocation of liability and indemnification:

- A. Neither party to this Agreement will be considered the agent of the other nor does either party assume any responsibility to the other party for the consequences of any act or omission of any person or entity not a party to this Agreement. Each party shall insure its own employees.
- B. Each party agrees to be responsible and assume tort liability for its own wrongful acts or omissions, or those of its officers, employees, volunteers or agents to the fullest extent required by law, and agrees to save, indemnify, defend and hold the other party harmless from any such tort liability. In the event of concurrent liability, the parties shall have the right of contribution in proportion to the respective liability of each party. Nothing contained in this section shall be deemed to waive immunities established pursuant to state statutes or to create third party rights or immunities.

10. Miscellaneous Provisions:

- A. *Severability*. If any provision of this Agreement is held to be invalid, illegal or unenforceable for whatever reason, that shall not affect or impair, in any manner, the validity, legality or enforceability of the remainder of this Agreement.
- B. *Waivers*. A waiver or failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Agreement.
- C. *Status of Agreement*. This Agreement is in addition to, and is not intended to replace, substitute, modify or otherwise amend any other agreement between the Parties. Those other agreements continue in effect according to the terms of those agreements.
- D. *Rights and Remedies*. The rights and remedies provided in this Agreement are in addition to any other rights and remedies that may be provided by law.
- E. *Third Parties*. The Parties do not intend to create any rights or benefits in any entity, organization or person that is not a party hereto.
- F. *Compliance with Laws*. The Parties, in performance of this Agreement, agree to comply with all applicable local, State and/or Federal laws and ordinances, including standards for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals and any other standards or criteria as described in this Agreement to assure quality of services.
- G. *Assignment*. The Parties hereto shall not assign or delegate any or all duty, obligation, right or interest in this Agreement.
- H. *Nondiscrimination*. There will be no discrimination against any participant covered under the Agreement because of race, color, religion, national origin, sex (including

pregnancy and parenting status), disability, age, veteran status, sexual orientation, gender identity or expression, marital status or genetic information in programs or activities including employment, admissions, and educational programs. The parties shall comply with all federal and state nondiscrimination laws and regulations and policies.

- I. *Force Majeure*. The obligations of the parties under this Agreement shall be suspended and excused if the performance of either is prevented or delayed by acts of nature, earthquakes, fire, flood, or the elements, malicious mischief, insurrection, riots, strikes, lockouts, boycotts, picketing, labor disturbances, war, compliances with any directive, order or regulation of any governmental authority or representative thereof made under claim or color of authority or for any reason beyond the control of either party whether or not similar to the foregoing.

11. Notice:

All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given when delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

To: Fire Protection District No. 7
P.O. Box 1599
2020 Washington Street
Ferndale, WA 98248
Attention: Chief Hoffman
Telephone: (360) 384-0303
lhoffman@wcfcd7.org

To: Whatcom County EMS
800 Chestnut Street, Suite 3C
Bellingham, WA 98225
Attn: Mike Hilley, EMS Manager
360-927-1155
mhilley@co.whatcom.wa.us

12. Whole Agreement:

This Agreement is the complete and exclusive statement of the Agreement between the parties relevant to the purpose described above and supersedes all prior agreements or proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. No modification of this Agreement will be binding on either party except as a written addendum signed by an authorized agent of both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2021

WHATCOM COUNTY:

Approved as to form:

Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

On this _____ day of _____ 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at _____. My
commission expires _____.

Executed this _____ day of _____, 2021, for Fire Protection District No. 7:

Mike Murphy, Board Chair

Attest:

Board Secretary

**Exhibit A
Compensation**

Item	Description	Per Student	Contract Maximum
Preceptor & Evaluation Fees	Assigned Paramedic Preceptors/Formal Eval Rpts	\$ 6,100	\$ 18,300
Student Wages & Benefits	Student class & patient contact hours	\$ 113,000	\$ 339,000
Total Contract			\$ 357,300

Invoicing

The District shall submit itemized invoices for actual costs in a format approved by the County. Invoices shall be supported by general ledger detail for all costs. The District shall submit invoices to Mike Hilley, EMS Manager on a monthly basis.

Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from District.

Duplication of Billed Costs or Payments for Service: The District shall not bill the County for costs incurred under this contract, and the County shall not pay the District, if the District has been or will be paid by any other source, including grants, for those costs. The District is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-730

File ID:	AB2021-730	Version:	1	Status:	Agenda Ready
File Created:	11/23/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Mhilley@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and North Whatcom Fire and Rescue to reimburse the wages and benefits of 1 paramedic student in the amount of \$120,275

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and North Whatcom Fire and Rescue to reimburse the wages and benefits of 1 paramedic student in the amount of \$120,275

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Interlocal Agreement, Routing Form

MEMORANDUM

To: Whatcom County Council Members
From: Mike Hilley, EMS Manager
Subject: Interlocal Agreement for the provision of the Paramedic Training Program
Date: November 24, 2021

BACKGROUND:

Whatcom County Council approved budget authority for a 2022 paramedic training class. Students recommended from Bellingham Fire Department (BFD) and Fire Protection District #7 (FD7) and North Whatcom Fire and Rescue will participate in a joint EMS Paramedic training course funded through the EMS Levy. All three agencies will enter into an interlocal agreement to participate in this paramedic training class.

Bellingham Fire Department
Fire Protection District #7
North Whatcom Fire Authority (NWFA)

This interlocal agreement is between Whatcom County and North Whatcom Fire Authority to compensate for the paramedic training programs costs associated with student wages and benefits.

FUNDING SOURCE:

The paramedic training program is funded through the EMS Levy as approved by Council in the biennial budget process.

ACTION:

Request authority to enter into the interlocal agreement between Whatcom County and North Whatcom Fire Authority for the provision of Paramedic Training.

**Inter-Agency Agreement
Between Whatcom County and Whatcom County Fire Protection District #21
Aka: North Whatcom Fire and Rescue**

This agreement, pursuant to RCW 39.34.080, is entered into between **Whatcom County (County) and the Fire Protection District No. 21 (District)**. The Parties, in consideration of the terms, conditions, covenants included herein, agree as follows:

The purpose of this agreement regarding paramedic training (hereinafter "Agreement") sets forth the agreed amount of reimbursement for costs incurred for participation in the paramedic training program (hereinafter the "Program") conducted as a cooperative effort between the District, Bellingham Fire Department, Bellingham Technical College and the County.

The term of this Agreement shall be in effect for the 2022 class cycle.

The maximum consideration for this agreement shall not exceed \$120,725. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

1. Obligation of Parties:

- A. The District shall recommend one student, who has successfully tested for the Program, to participate in the 2022 Program. The District will also comply with the terms and conditions of item 4. below concerning Minimum Service Requirement.
- B. The County shall reimburse the District for student wages as presented in Exhibit A. Student costs for tuition, books, labs, evals and other costs of the Program will be invoiced by Bellingham Fire Department through a separate agreement with the County.

2. Program Administration:

- A. It is understood that the parties shall remain independent governmental entities in carrying out their responsibilities as set forth herein, that the parties shall remain responsible for the direct supervision of their respective employees, and that nothing in this Agreement will interfere with the employer/employee relationships of the parties.
- B. The Program shall be administered in accordance with the terms of this Agreement.

3. Invoice and Payment Procedures:

- A. Whatcom County shall reimburse the District, using the Whatcom County Emergency Medical Services Fund, for Program expenses, as specified in attached Exhibit A.
- B. District will invoice the County monthly for actual costs of the program, supported by general ledger detail. Payment will be considered timely if made within 30 days of receipt of approved invoice.

4. Minimum Service Requirement

The District will enter into an ILA agreement with a Whatcom County ALS provider to ensure that each successful paramedic training graduate, sponsored by the District, will serve a minimum of five years on a County-sponsored ALS unit.

5. Compliance with the Health Insurance Portability Accountability Act of 1996 (HIPAA)

The Parties shall comply with all applicable provisions of HIPAA as well as all applicable provisions of the Health Information Technology for Economic and Clinical Health Act.

6. Termination:

- A. Termination for Convenience. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty days prior written notice. The District shall be paid for costs incurred to date of termination.
- B. Termination for Cause. If the District fails to perform in the manner called for in the Agreement, or if the District fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five days written notice thereof, the County may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the District setting forth the manner in which the District is in default. The District will be paid for costs already incurred in accordance with the manner of performance set forth in the Agreement, up to the date of termination.

7. Maintenance and Inspection of Records

- A. The Parties shall maintain books, records and documents, which sufficiently and properly reflect all costs related to the performance of the Agreement. In addition, the District shall maintain all accounting records in a form necessary to assure proper accounting of all funds paid pursuant to this Agreement. All of the above shall be subject at all reasonable times to inspection, review, or audit by the County, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.
- B. The Parties shall retain all books, records, documents and other material relevant to this Agreement for four years after its expiration. The District agrees that the County or its designee shall have full access and right to examine any of said materials at all reasonable times during said period; and that the District shall have similar access to said materials maintained by the County pursuant to this agreement.

8. Dispute Resolution, Jurisdiction, and Venue

- A. In the event of a dispute between the Parties arising from this Agreement or any obligations hereunder, the dispute shall first be referred to the operational officers or representatives designated by the Parties to have the responsibility of administering this Agreement. Said officers or representatives shall meet as soon as possible, and in any event the initial meeting shall be held within thirty (30) days of either Party's request for a meeting to resolve the dispute. The Parties covenant to make a good faith attempt to resolve the dispute at this meeting.
- B. In the event that the Parties are unable to resolve any dispute arising under this Agreement, or other dispute or disagreement arising from the implementation of the terms of the Agreement, the Parties agree that mediation will be a condition precedent to any litigation. The Parties agree to jointly select a mediator. If the Parties are unable to agree upon a mediator, the Parties shall jointly obtain a list of five mediators from a

reputable dispute resolution organization and alternately strike mediators on that list until one remains. The Parties agree to share equally in the cost of mediation.

- C. In the event that mediation is unsuccessful and litigation ensues, each Party shall bear its own costs and expenses. The venue for any action hereunder shall be in the Superior Court for Whatcom County, Washington. This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

9. Liability and Indemnification:

The Parties agree to the following distribution and allocation of liability and indemnification:

- A. Neither party to this Agreement will be considered the agent of the other nor does either party assume any responsibility to the other party for the consequences of any act or omission of any person or entity not a party to this Agreement. Each party shall insure its own employees.
- B. Each party agrees to be responsible and assume tort liability for its own wrongful acts or omissions, or those of its officers, employees, volunteers or agents to the fullest extent required by law, and agrees to save, indemnify, defend and hold the other party harmless from any such tort liability. In the event of concurrent liability, the parties shall have the right of contribution in proportion to the respective liability of each party. Nothing contained in this section shall be deemed to waive immunities established pursuant to state statutes or to create third party rights or immunities.

10. Miscellaneous Provisions:

- A. *Severability.* If any provision of this Agreement is held to be invalid, illegal or unenforceable for whatever reason, that shall not affect or impair, in any manner, the validity, legality or enforceability of the remainder of this Agreement.
- B. *Waivers.* A waiver or failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Agreement.
- C. *Status of Agreement.* This Agreement is in addition to, and is not intended to replace, substitute, modify or otherwise amend any other agreement between the Parties. Those other agreements continue in effect according to the terms of those agreements.
- D. *Rights and Remedies.* The rights and remedies provided in this Agreement are in addition to any other rights and remedies that may be provided by law.
- E. *Third Parties.* The Parties do not intend to create any rights or benefits in any entity, organization or person that is not a party hereto.
- F. *Compliance with Laws.* The Parties, in performance of this Agreement, agree to comply with all applicable local, State and/or Federal laws and ordinances, including standards for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals and any other standards or criteria as described in this Agreement to assure quality of services.
- G. *Assignment.* The Parties hereto shall not assign or delegate any or all duty, obligation, right or interest in this Agreement.

- H. *Nondiscrimination*. There will be no discrimination against any participant covered under the Agreement because of race, color, religion, national origin, sex (including pregnancy and parenting status), disability, age, veteran status, sexual orientation, gender identity or expression, marital status or genetic information in programs or activities including employment, admissions, and educational programs. The parties shall comply with all federal and state nondiscrimination laws and regulations and policies.
- I. *Force Majeure*. The obligations of the parties under this Agreement shall be suspended and excused if the performance of either is prevented or delayed by acts of nature, earthquakes, fire, flood, or the elements, malicious mischief, insurrection, riots, strikes, lockouts, boycotts, picketing, labor disturbances, war, compliances with any directive, order or regulation of any governmental authority or representative thereof made under claim or color of authority or for any reason beyond the control of either party whether or not similar to the foregoing.

11. Notice:

All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given when delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

To: Fire Protection District No. 21
North Whatcom Fire and Rescue
P.O. Box 286
Lynden, WA 98264
Attention: Chief Vanderveen
Telephone: (360) 318-9933
jvanderVeen@nwfrs.com

To: Whatcom County EMS
800 Chestnut Street, Suite 3C
Bellingham, WA 98225
Attn: Mike Hilley, EMS Manager
360-927-1155
mhilley@co.whatcom.wa.us

12. Whole Agreement:

This Agreement is the complete and exclusive statement of the Agreement between the parties relevant to the purpose described above and supersedes all prior agreements or proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. No modification of this Agreement will be binding on either party except as a written addendum signed by an authorized agent of both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2021

WHATCOM COUNTY:

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

On this _____ day of _____ 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at _____. My
commission expires _____.

Executed this _____ day of _____, 2021, for Fire Protection District No. 21:

, Board Chair

Attest:

Board Secretary

**Exhibit A
Compensation**

Cost Item	Documentation Required	Contract Maximum
Wages & Benefits	GL Detail	\$ 113,000
Sick Leave Transfer	GL Detail	\$ 7,275
Totals		\$ 120,275

Invoicing

The District shall submit itemized invoices for actual costs in a format approved by the County. Invoices shall be supported by general ledger detail for all costs. The District shall submit invoices to Mike Hilley, EMS Manager on a monthly basis.

Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from District.

Duplication of Billed Costs or Payments for Service: The District shall not bill the County for costs incurred under this contract, and the County shall not pay the District, if the District has been or will be paid by any other source, including grants, for those costs. The District is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <p><input type="checkbox"/> Professional services agreement for certified/licensed professional. Goods and services provided due to an emergency</p> <p><input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</p> <p><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.</p> <p><input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</p>	
<p>Contract Amount:(sum of original contract amount and any prior amendments):</p> <p>\$ _____</p> <p>This Amendment Amount:</p> <p>\$ _____</p> <p>Total Amended Amount:</p> <p>\$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	
Expiration Date: _____	

Contract Routing:	1. Prepared by: _____	Date: _____
	2. Attorney signoff: _____	Date: _____
	3. AS Finance reviewed: _____	Date: _____
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-731

File ID:	AB2021-731	Version:	1	Status:	Agenda Ready
File Created:	11/23/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Mhilley@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham working through the Bellingham Fire Department for reimbursement of personnel costs associated with the hiring of up to six department lateral employees in the amount of \$364,116

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham working through the Bellingham Fire Department for reimbursement of personnel costs associated with the hiring of up to six department lateral employees in the amount of \$364,116

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
<hr/>			

Attachments: Memo, Interlocal Agreement, Routing Form

MEMORANDUM

To: Whatcom County Council Members
From: Mike Hilley, EMS Manager
Subject: Interlocal Agreement for Reimbursing the Costs of Hiring Laterals
Date: November 24, 2021

BACKGROUND:

Whatcom County Council approved budget authority through Ordinance 2021-072 to reimburse Bellingham Fire Department for costs associated with training lateral hires.

This interlocal agreement is between Whatcom County and Bellingham Fire Department to compensate for the preceptor evaluations, salary and wages for up to six Department employees who hire through the lateral paramedic process.

FUNDING SOURCE:

This is funded through the EMS Levy as approved by Council in the biennial budget process.

ACTION:

Request authority to enter into the interlocal agreement between Whatcom County and Bellingham Fire Department for reimbursement of training costs associated with lateral hires.

INTERAGENCY AGREEMENT
Between
City of Bellingham Fire Department
and
Whatcom County Emergency Medical Services/Whatcom County

The City of Bellingham, through Bellingham Fire Department, (hereinafter the "Department"), Whatcom County, through Whatcom County Emergency Medical Services, (hereinafter the "County"), in consideration of the mutual covenants herein, agree as follows:

- I. Purpose: The Department and the County recognize the financial benefit and reduced training time required when hiring an employee that holds a national or state paramedic licensure. When the Department hires an employee that already has experience as a firefighter/paramedic this is deemed a "lateral hire." This agreement outlines the responsibilities of the Department and the County when training lateral paramedic employees.
- II. Program Administration: It is understood that the County and Department shall be responsible for the direct supervision of their respective employees and that nothing in this Agreement will interfere with the employer/employee relationship or the functioning of the County and Department herein named. In compliance with applicable law and State records guidelines, both parties will maintain documentation and/or records relevant to the program in this Agreement.
- III. Financial Agreement: Financial responsibility for training lateral paramedics shall be the responsibility of the County through the County EMS Levy. The County shall pay costs, up to \$364,116, associated with the preceptorship of lateral Paramedics, including administrative costs for formal evaluations, salaries and wages for up to six (6) Department employees who hire through the lateral Paramedic process, not to exceed 6 months in duration. The Department will pay the costs of all other training associated with the duties and responsibilities required to be employed as a City of Bellingham Firefighter/Paramedic. The Department will submit monthly invoices to the County Contract Administrator with supporting documentation as required in Exhibit A. County payment will be considered timely if made within 30 days of receipt of approved invoice.
- IV. Responsibilities of the Department:
 - A. Select lateral paramedic applicants, as available, through the approved Department process.

- B. Ensure the lateral paramedic candidate is in good standing with the accrediting agency or body they are transferring from.
- C. Assign and provide a preceptor to the lateral paramedic candidate.
- D. Work with the County Medical Program Director and Department Supervising Physician to ensure the lateral paramedic candidate completes MPD mandated training, testing, and field internships to become a Whatcom County certified paramedic.
- E. Ensure all forms and paperwork are correctly submitted to the State of Washington for final credentialing.
- F. Communicate with the County, County MPD, and Supervising Physician of the lateral paramedic candidates progress during the training process.
- G. Develop performance improvement plans, as necessary, to correct any deficiencies related to successful completion of the lateral training requirements.
- H. Notify the County of any circumstance that will prevent a lateral paramedic candidate from successfully completing their training to achieve certification or be able to perform as a Whatcom County EMS system paramedic.

V. Responsibilities of the County

- A. Provide financial reimbursement to the department for monthly and non-recurring training costs as outlined in "Exhibit A."
- B. Work with the Department to complete testing and credentialing paperwork associated with the lateral paramedic process.
- C. Ensure all lateral paramedic training tasks and processes are approved by the County MPD and the Department Supervising Physician.

VI. Nondiscrimination:

There will be no discrimination against any participant covered under the Agreement because of race, color, religion, national origin, sex (including pregnancy and parenting status), disability, age, veteran status, sexual orientation, gender identity or expression, marital status or genetic information in programs or activities including employment, admissions, and educational programs.

VII. Liability:

Each party to this Agreement will be responsible for the negligent or willful acts or omissions of its own employees, officers, volunteers or agents in the performance of this Agreement. Neither party will be considered the agent of the other nor does neither party assume any responsibility to the other party for the consequences of any act or omission of any person, firm, or corporation not a party to this Agreement.

VIII. Term of the Agreement:

This Agreement will take effect on January 1, 2022 and will terminate on December 31, 2022 unless terminated earlier by either party. Termination of this Agreement shall be effective thirty (30) days following written notice of termination provided by either party.

- IX. Entire Agreement: This Agreement constitutes the entire agreement between the parties, and supersedes all prior oral or written agreements, commitments, or understandings concerning the matters provided for herein. If modifications to this Agreement are deemed necessary, such changes shall be approved by the Department and County by written amendment.

X. Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

To: Bellingham Fire Department
1800 Broadway
Bellingham, WA 98225
Attention: Chief Bill Hewett
Telephone: (360) 778-8400
Email: bchewett@cob.org

To: Whatcom County EMS
800 Chestnut Street, Suite 3C
Bellingham, WA 98225
Attn: Mike Hilley, EMS Manager
360-927-1155
mhilley@co.whatcom.wa.us

WHATCOM COUNTY:

Approved as to form:

Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

On this ____ day of _____ 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington, residing at _____.
My commission expires _____.

City of Bellingham signature page for agreement with _____.

Dated this _____ day of _____, 2021, for the CITY OF BELLINGHAM:

Seth Fleetwood, Mayor

Attest:

Finance Director

Department Approval:

Approved as to Form:

Office of the City Attorney

EXHIBIT A
CONTRACT BUDGET

Cost Item	Documentation Required	Monthly Amount per Student	Per Student Maximum	Contract Maximum
Wages & Benefits	GL Detail	\$ 9,416	\$ 56,496	\$ 338,976
Preceptor Premium	GL Detail	\$ 515	\$ 3,090	\$ 18,540
Formal Evaluations	GL Detail	N/A	\$ 1,100	\$ 6,600
Totals				\$ 364,116

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-734

File ID:	AB2021-734	Version:	1	Status:	Agenda Ready
File Created:	11/24/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: tschroed@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Opportunity Council for providing a 5,000 square foot child care facility located in a qualified census tract in the amount of \$1,000,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Opportunity Council for providing a 5,000 square foot child care facility located in a qualified census tract in the amount of \$1,000,000

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Agreement

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Tyler Schroeder, Deputy Executive

RE: Opportunity Council
Laurel and Forest Project – Childcare Facility – ARPA funds

DATE: December 1, 2021

Attached is a funding agreement between Whatcom County and Opportunity Council for your review and signature.

- **Background and Purpose**

The insufficient supply of affordable childcare in Whatcom County has created a childcare crisis for low-income households. Opportunity Council is the developer of the Laurel and Forest St Project, which will provide a newly-constructed 5,000 square foot childcare space that includes three classrooms and the capacity to provide childcare services for up to 65 children. These affordable childcare spaces will be offered to low-income families living in Whatcom County. This low-income childcare facility is located in a Qualified Census Tract in accordance with the American Rescue Plan Act. This Agreement provides funding for the project.

- **Funding Amount and Source**

Funding for this Agreement may not exceed \$1,000,000 and is provided by the American Rescue Plan Act. With the adoption of Ordinance 2021-069, these funds are now included in the 2021 budget.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
202111035

Originating Department:	Executive
Division/Program: (i.e. Dept. Division and Program)	Non Departmental
Contract or Grant Administrator:	T. Schroeder/T.Helms
Contractor's / Agency Name:	Opportunity Council

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:
Already approved? Council Approved Date:			(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?	If yes, grantor agency contract number(s):	CFDA#:
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):	ARPA Funding
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	

Is this contract the result of an RFP or Bid process?	Contract Cost Center:
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): 1382401

Is this agreement excluded from E-Verify?	No X	Yes
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.
<input type="checkbox"/> Interlocal Agreement (between Governments).	

Contract Amount:(sum of original contract amount and any prior amendments):	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
\$ 1,000,000	
This Amendment Amount:	
\$	
Total Amended Amount:	
\$	

Summary of Scope: This agreement provides funding for the development of childcare capacity for low-income households in Whatcom County.

Term of Contract:		Expiration Date:	12/31/2023
Contract Routing:	1. Prepared by:	Tawni Helms	Date: 10/25/21
	2. Attorney signoff:		Date:
	3. AS Finance reviewed:	M Caldwell	Date: 12/1/21
	4. IT reviewed (if IT related):		Date:
	5. Contractor approved:		Date:
	6. Submitted to Exec.:		Date:
	7. Council approved (if necessary):		Date:
	8. Executive signed:		Date:
	9. Original to Council:		Date:

Subrecipient ARPA Funding Agreement
(Laurel and Forest Street Low-Income Childcare Project)

I PARTIES

This Agreement is made by and between **Whatcom County** (hereinafter referred to as **the County**), and **the Opportunity Council** (hereinafter referred to as **Subrecipient**).

II TERM

This Agreement takes effect on the date of signature, December ____, 2021 and shall continue in full force and effect until, December 31, 2023, unless extended by mutual written agreement of both Parties or terminated in accordance with Section IX of this Agreement.

III PURPOSE

The purpose of this Agreement is to provide funding support for the Laurel and Forest Street Project, Childcare Facility (hereinafter referred to as **the Project**) using American Rescue Plan Act funds designated for such infrastructure development in Qualified Census Tracts. These funds will be used to complete the Project which will provide a newly-constructed childcare facility for low-income households in Whatcom County.

IV PROJECT DESCRIPTION

The insufficient supply of affordable housing and childcare services in Whatcom County has created housing instability and affordable childcare for low-income households. Subrecipient will develop the site as a mixed use, mixed income, project in a Qualified Census Tract. Component II of the project will be to build-out new 5,000 square foot childcare space that includes three classrooms and the capacity to provide childcare services for up to 65 children. This new childcare facility is located in a Qualified Census Tract in accordance with the American Rescue Plan Act. This Agreement provides funding for the completion of the Project. This Agreement is for the childcare portion of the Project, Component II which includes the construction of a 5,000 square foot childcare facility.

V RECITALS

The Parties make this Agreement based on and in recognition of certain relevant facts and circumstances including:

A. The County has received American Rescue Plan Act (ARPA) funding. One of the goals of the ARPA is to serve the hardest-hit communities and families. One of the vehicles to do so is to invest in housing and neighborhoods through affordable housing development in Qualified Census Tracts (low-income areas as designated

by the Department of Housing and Urban Development).

B. **Subrecipient's** Laurel and Forest Street Project is located in a Qualified Census Tract (QCT) within the city limits of Bellingham, WA and will provide a 5,000 square foot childcare facility for low income families upon completion.

C. Subrecipient, will construct the Project. The Project will be partially funded by a **\$1,000,000. grant to Subrecipient from the County's ARPA Fund**. The Project improvements, when complete, will be leased and maintained by the Subrecipient. The Project improvements will be owned by Laurel Forest Housing, LLC (the **Owner**), of which Subrecipient controls the managing member, Laurel and Forest Manager, LLC (the **Managing Member**).

D. The Whatcom County Council reviewed the intent of the Project to provide child-care facilities within a QCT and approved a grant to Subrecipient from the ARPA Fund in the amount of \$1,000,000.

VI MUTUAL CONSIDERATION

The parties do not intend to create any new or separate legal or administrative entity by this Agreement but intend for this mutual Agreement to govern the County's financial support for the Project. The terms and conditions contained herein reflect the voluntary participation of the parties.

A. SUBRECIPIENT RESPONSIBILITIES: Subrecipient hereby agrees as follows:

- (i) If after the award of the construction contract, the scope of the Project or the Project budget has materially changed, the **Subrecipient** shall provide the County the following updated documents: 1) a detailed description of the Project ; 2) a Project budget itemizing major improvements together with the estimated cost of the improvements; and 3) a schedule showing sources and uses of funding for the Project, if any of the aforementioned documents materially varies from those that were submitted with the **Subrecipient's** application for funding.
- (ii) The **Subrecipient** shall be responsible for all aspects of the design and construction of the Project.
- (iii) ARPA ELIGIBLE EXPENSES – The **Subrecipient** agrees to cause the Owner to use the County-granted ARPA funds for only those eligible expenses, as provided in Exhibit A.
- (iv) The **SUBRECIPIENT**, through the Owner, shall be responsible for all aspects of construction contract administration, which shall include, but not be limited to, advertising, bidding, and awarding the contract. The **SUBRECIPIENT** will cause the Owner to comply with all applicable federal, state and local laws, rules and regulations relating to bidding requirements, and applicable prevailing wage laws. The County shall have no responsibility for the Project other than the funding set forth herein.
- (v) The **SUBRECIPIENT** shall provide the County with a final report showing

the actual cost of the Project and the actual sources and uses of funding for the Project.

- (vi) The **SUBRECIPIENT** shall cause the Owner to record a Child Care covenant consistent with the covenant as presented in Exhibit B, unless modified by mutual agreement between the Parties.
- (vii) The **SUBRECIPIENT** shall comply with all terms, conditions, and restrictions outlined in Exhibit C expressly incorporated herein.

B. WHATCOM COUNTY'S RESPONSIBILITIES: The County hereby agrees as follows:

- (i) COUNTY GRANT—The County shall issue a grant to SUBRECIPIENT for up to One Million Dollars and Zero Cents (\$1,000,000) for the Project described herein. This grant shall be reimbursed by County warrant drawn on the American Rescue Plan Act Fund and payable to the **SUBRECIPIENT** upon approval of this agreement by the Whatcom County Council and the **SUBRECIPIENT**, and pursuant to the terms contained in (ii), Payout of Grant Funding, below.
- (ii) PAYOUT OF GRANT FUNDING—The County shall pay out the grant funding to the **SUBRECIPIENT** up to a maximum of One Million Dollars and Zero Cents (\$1,000,000) of the total Project costs. This amount shall be paid in accordance with and subject to the conditions in Exhibit A. Disbursements of grant funding shall be made contingent upon and subject to the continued commitment of the other Project funding sources, which may be subject to the adjustment at the approval of the County, such approval to not be unreasonably withheld.
- (iii) Unless the parties to this agreement mutually agree in writing to modify the consideration, the funding identified herein is all the County is obligated to pay towards this Project from this funding source.

VII RECORDS, REPORTS AND AUDITS

The **Subrecipient** agrees to maintain such records, make such reports and follow such procedures pertaining to this Agreement as may be reasonably required by the County and as are typically maintained and made by the **Subrecipient** in the undertaking of a project of this nature. All **Subrecipient** records pertaining to this Agreement and the Project work shall be retained by the **Subrecipient** for a period of five (5) years after final audit unless a longer period is required to resolve audit findings or litigation. The County and other authorized representatives of the State government shall have access to any books, documents, papers, and records of the **Subrecipient** which pertain to this Agreement or the Project work for the purpose of making audit, examination, excerpts, and transcriptions.

VIII RELATIONSHIP OF PARTIES AND AGENTS

Neither the **Subrecipient** nor the County shall have authority to execute contracts or to make commitments on behalf of the other, and nothing contained herein shall be

deemed to create the relationship of employer and employee or principal and agent between the County and the **Subrecipient**. This agreement does not create, either implicitly or explicitly, any right, duty or obligation that is not expressly provided for herein.

The **Subrecipient** represents that it has or will secure at its own expense all personnel and/or subcontractors required in order to perform the Project work. Such personnel shall not be employees of the County for purposes of the Project described herein. All such personnel and/or subcontractors shall be fully qualified (as determined by the **Subrecipient** in its sole discretion) and authorized/permitted under State and/or local law to perform such services.

IX TERMINATION

If the **Subrecipient** fails to comply with the terms and conditions of this Agreement, the County may pursue such remedies as are legally available, including, but not limited to, the termination or closeout of this Agreement in the manner specified herein:

- A. **TERMINATION FOR CAUSE**— If the **Subrecipient** fails to comply with the terms and conditions of this Agreement, the County will give notice to the **Subrecipient** in writing of its failure to comply. The **Subrecipient** will be given thirty (30) days from date of notice to comply with the terms of the Agreement or submit a plan acceptable to the County to bring the **Subrecipient** into compliance with the Agreement within a time period reasonably acceptable to the County. Failure to comply with the terms and conditions of this Agreement by either party shall constitute an event of default. In the event of default by the **Subrecipient** and a failure by the **Subrecipient** to cure as provided for herein, the County may take such remedial actions under the law as are available to cure the default, including the imposition of the reasonable costs of collection. In the event of default by the County, the **Subrecipient** may take such remedial actions under the law as are available to cure the default, including specific performance.
- B. **TERMINATION FOR OTHER GROUNDS**—This Agreement may be terminated in whole or in part by mutual consent and written agreement between the parties, duly authorized and executed, setting forth the conditions of termination, including effective date and, in case of termination in part, that portion to be terminated.

X COMPLIANCE WITH LAWS

- A. The Subrecipient and the County shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal

governments, as now or hereafter amended, including, but not limited to United States Laws, Regulations and Circulars (Federal).

- B. The Subrecipient shall comply with the American Rescue Plan Act of 2021, PL 117-2, Section 9901 regarding allowable expenditures. The Subrecipient shall also comply with all federal guidance regarding the Coronavirus State and Local Fiscal Recovery funds, including the Interim Final Rule at 31 CFR Part 35 and U.S. Treasury FAQs.
- C. The Subrecipient shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- D. Other federal regulations applicable to this award include:
 - (i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - (ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R., Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - (iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 80 (including the requirement to include a term or condition in all lower tier covered transaction (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - (iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - (v) Governmentwide Requirement for Drug-Free Workplace, 31 CFR Part 20.
 - (vi) New Restrictions on Lobbying, 31 CFR Part 21.
 - (vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 USC §§ 4601-4655) and implementing regulations
 - (viii) Generally applicable federal environmental laws and regulations.

- E. The Subrecipient shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.
- F. The Subrecipient shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of Services under this Agreement. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the grounds of race, color, or national origin under program or activities receiving federal financial assistance.
 - (ii) The Fair Housing Act, Title VII-IX of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;
 - (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;
 - (iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis or age in programs or activities receiving federal financial assistance; and
 - (v) The American with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities and services provided or made available by state and local governments or instrumentalities or agencies thereto.
 - (vi) The Subrecipient shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this Agreement.

- G. Subrecipient must disclose in writing to Department of Treasury, or the County, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
- H. Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
- I. Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.
- J. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- (i) A member of Congress or a representative of a committee of Congress;
- (ii) An Inspector General;
- (iii) The Government Accountability Office;
- (iv) A Treasury employee responsible for contract or grant oversight or management;
- (v) An authorized official of the Department of Justice or other law enforcement agency;
- (vi) A court or grand jury; or
- (vii) A management official or other employee of Subrecipient, contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

- K. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federal assisted programs and activities for individuals who, because of national denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that that meaningful access may entail providing language

assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

- L. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts program, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067.
- M. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient, Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
- N. Subrecipient acknowledges and agrees that it must require any contractors, subcontractors, successors, transferees, and assignees to comply with assurances contained in sections J, K, L and M herein-above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

XI Acknowledgement of Federal Funds.

Grant Funds paid out under this Agreement are made available and are subject to Section 603(b) of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021. From and after the effective date of this Agreement, the Subrecipient agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Subrecipient describing programs or projects funded in whole or in part with federal funds under this Agreement, shall contain the following statement(s):

This project was supported, in whole or in part, by American Rescue Plan Act funding awarded to Whatcom County by the U.S. Department of Treasury.

XII Repayment of Funds to County.

A. The Subrecipient shall return Grant Funds disbursed to it by the County under this Agreement for return by the County to the U.S. Department of the Treasury, upon the occurrence of any of the following events: (a) if overpayments are made by the County; or (b) if an audit of the Services by the U.S. Department of the Treasury, the State, or the County determines that the funds have been expended for purposes not permitted by 42 USC § 803(c)(1), 31 CFR Part 35, U.S. Treasury FAQs, the U.S. Department of the Treasury, the County, state law, or this Agreement. In such a case, the County shall make a written demand upon the Subrecipient for repayment, and the Subrecipient shall be obligated to repay to the County the funds demanded within sixty (60) calendar days of the demand.

B. No exercise by the County of the right to demand repayment of funds from the Subrecipient shall foreclose the County from making an additional demand for repayment if a return of additional funds is required by the U.S. Department of the Treasury; the County's right to demand repayment from the Subrecipient may be exercised as often as necessary to recoup from the Subrecipient all funds required to be returned by the County to the U.S. Department of the Treasury.

C. The Subrecipient is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

XIII NONDISCRIMINATION AND EQUAL OPPORTUNITY

A. GENERAL PROVISIONS

Subrecipient shall make the Project facilities available to the public in a manner that assures fair, equal, and non-discriminatory treatment to all persons without regard to race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability. No personnel shall be refused service, be given discriminatory treatment, be denied any privilege, use of facilities, or participation in activities on account of race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the

presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability, nor shall any person be required to participate in any religious worship, exercise, or instruction. The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction.

B. TDD/TTY OR RELAY SERVICE REQUIRED

Subrecipient agrees to list a TDD/TTY or the Washington Relay telephone number on all of the written policies and documents that they make available to participants, beneficiaries, or employees, including their letterhead, materials used to market programs, and any other public document that lists a telephone number.

XIV INTEREST OF MEMBERS OF THE COUNTY AND THE SUBRECIPIENT

No member of the governing body of either party and no other officer, employee, or agent of either party who exercises any functions or responsibilities in connection with the planning or carrying out of the Project shall have any personal financial interest, direct or indirect, in this Agreement.

XV HOLD HARMLESS AND INDEMNITY

To the extent permitted by law and with the exception of events arising from the gross negligence or willful misconduct of the county, the **Subrecipient** shall indemnify and hold harmless the County, its officers, agents, and employees, from all liability, loss or damage, including costs of defense they may suffer as a result of third-party claims, demands, actions or judgments which result from the activities to be performed by the **Subrecipient**, its agents, employees, or subcontractors pursuant to this Agreement.

XVI ASSIGNABILITY

The **Subrecipient** shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written consent of the County thereto, provided, however, that claims for money by the Subrecipient from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County by the Subrecipient.

XVII NON-WAIVER

The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

XVIII CONTRACT MODIFICATIONS

No modification or waiver of any clause or condition of this Agreement shall be binding upon either party unless such modification or waiver is in writing and duly authorized and executed by the County and the **Subrecipient**.

XIX SEVERABILITY

If any Portion of this Agreement is changed per mutual agreement or any Portion is held invalid, the remainder of this Agreement shall remain in full force and effect.

XXI NOTICES

Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO SUBRECIPIENT:

Opportunity Council
Attn. Executive Director
1111 Cornwall Avenue
Bellingham, WA 98225

TO COUNTY: Tyler Schroeder, Deputy Executive
c/o Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

XXII INTEGRATION

This Agreement contains all terms and conditions to which the County and the Subrecipient agreed, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this grant transaction. There are no other oral or written agreements between the Subrecipient and County as to the grant terms contained herein. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing, duly authorized and executed by both parties.

XXIII GOVERNING LAW AND VENUE

All questions of the validity, construction, and application of this Agreement shall be governed by the laws of the State of Washington. Venue for any suit between the parties arising out of this Agreement shall be the Superior Court of the State of Washington in and for Whatcom County, Washington.

IN WITNESS WHEREOF, the County and the Subrecipient have executed this Agreement as of the date and year last written below.

EXECUTED, this _____ day of _____, 2021, for **OPPORTUNITY COUNCIL**:

Greg Winter, Executive Director

EXECUTED, this _____ day of _____, 2021, for **WHATCOM COUNTY**:

WHATCOM COUNTY

SATPAL SIDHU
County Executive

APPROVED AS TO FORM

Christopher Quinn, Prosecuting Attorney

Date

Exhibit A
(Financial Commitment)

Funding, in the amount of \$1,000,000 will be disbursed to the Opportunity Council (Subrecipient). Funding is provided by U.S. Department of the Treasury Coronavirus State and Local Fiscal Recovery Funds as authorized by Sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, Public Law No. 117-2 (March 11, 2021), CFDA No. 21.027.

Subrecipient will send invoices for qualifying Project expense reimbursement to:

Whatcom County Executive Office
311 Grand Ave, Suite 108
Bellingham, WA 98225

Any reimbursement sought by Subrecipient for the purchase of real property shall be subject to Subrecipient obtaining, and providing to the County, written approval issued by the US Treasury that acknowledges such expense as qualifying under ARPA guidelines .

In order to ensure compliance with the existing ARPA guidelines set forth by the US Treasury – while also ensuring that all expenditures within the scope of this Agreement adhere to future guidelines that may be established by the US Treasury during the term of this Agreement – the Subrecipient, when requesting reimbursement for eligible ARPA expenditures, shall provide to the County a comprehensive and detailed list of all such expenditures on an itemized invoice, and shall also provide any backup documentation to support such expenditures. Said invoice must include a statement, signed by the Subrecipient, indicating that all expenditures therein comport with the guidelines of the ARPA as set forth by the US Treasury. Reimbursement requests shall be submitted to the County no more than once per month. All reimbursement requests, for expenses occurred in the preceding calendar year, must be submitted no later than January 15th after the end of the preceding calendar year.

Invoices shall include the Whatcom County assigned contract (Agreement) number.

Funds will be made available by immediately upon execution of this Agreement and will be disbursed within 30 days following receipt of invoice and for reimbursement of Project expenses only.

EXHIBIT B - Child Care Covenant

This Child Care Covenant (the “Covenant”) is made by XXX (the “GRANTORS”) and is part of the consideration for the financial assistance provided by Whatcom County, XXX, (the “County”) to the Opportunity Council for the development and construction of a child care center (the “Center”) as defined in the Laurel and Forest Street Agreement-Qualified Census Tract Low-Income Childcare (the “Agreement”), Whatcom County Contract No. XXX.

This Covenant will be filed and recorded in the official public lands records of Whatcom County, Washington and shall constitute a restriction on the use of the Center and is taken and construed as running with the land which shall pass to and be binding on GRANTORS, it’s successors and assigns, heirs, grantees, or leases of the Center beginning XXX and ending XXX. Each and every contract, deed or other instrument covering or conveying the property in which the Center is located, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed or other instruments.

NOW, THEREFORE, it is hereby covenanted, commencing _____ and terminating twenty (20) years after project completion (the “Term”), as set forth in the Agreement, as follows:

1. Childcare Covenant Benefitting Whatcom County. Funding for the child care center (the “Center”) to be constructed on the Property as defined in the Agreement was made available to the GRANTORS with the aid of funds from the Whatcom County’s funds allocated through the American Rescue Plan Act ("ARPA") for childcare purposes. In partial consideration of said funding GRANTORS covenant as follows:
 - a. During the Term, the Center will be actively used for purposes of providing licensed childcare as set forth in the Agreement.
 - b. During the Term, at least 50% of the licensed childcare slots will be reserved for children from households who at the time of initial enrollment and annually thereafter have gross annual household incomes at or below eighty percent (80%) of the local area median income (“Qualifying Households”). Household incomes are adjusted for housing size, as estimated from time to time by the United States Department of Housing and Urban Development ("HUD"). If HUD ceases to provide such estimates of median income, then median income shall mean such comparable figure for Whatcom County, Washington published or reported by a federal, state, or local agency as the Grantee shall reasonably select. Reserved childcare slots for Qualifying Households that remain unfilled for period of thirty (30) consecutive days may be filled with children from non-Qualifying Households.
 - c. This Covenant is for a period of 20 years following project completion as defined in the Agreement.

2. Compliance with State and Local Requirements. The GRANTORS will comply with all state and local codes, licensing requirements, and other requirements regarding the condition of the structure and the operation of the Center in the City of Bellingham.
3. Records. The GRANTORS will keep any records and make any reports relating to compliance with this Covenant that Grantee may reasonably require.
4. Enforcement Provisions. The GRANTORS shall exercise reasonable diligence to comply with the requirements of this Covenant and shall correct any such noncompliance within sixty (60) days after such noncompliance is first discovered by the GRANTORS or would have been discovered by the exercise of reasonable diligence, or within 60 days after the GRANTORS receive notice of such noncompliance from the COUNTY provided however, that such period for correction may be extended by the Grantee if the GRANTORS are exercising due diligence to correct the noncompliance. If such noncompliance remains uncured after such period, then the GRANTORS shall be in default and the Grantee on its own behalf may take any one or more of the following steps:
 - a. By any suit, action or proceeding at law or in equity, require the GRANTORS to perform its obligations under this Covenant, or enjoin any acts or things which may be unlawful or in violation of the rights of the Grantee hereunder; it being recognized that the beneficiaries of the GRANTORS' obligations hereunder cannot be adequately compensated by monetary damages in the event of the GRANTORS' default;
 - b. Have access to, and inspect, examine and make copies of, all of the books and records of the GRANTORS pertaining to the Center. Provided, however, the COUNTY shall not divulge such information to any third party unless required by law or unless the same is necessary to enforce the COUNTY's rights hereunder; and
 - c. Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants, conditions and agreements of the GRANTORS under this Covenant.

In the event legal action is required to enforce the foregoing conditions, the prevailing party shall be entitled to an award of reasonable attorney's fees and all costs of any legal action and title searches.

This Covenant touches and concerns the Property and shall run with the Property and is for the benefit of the general public and shall be binding upon the GRANTORS' heirs, devisees, executors, administrators, successors and assigns. It may not be revoked without the prior written consent of the COUNTY.

Exhibit C

SUBRECIPIENT AGREEMENT ADDITIONAL TERMS AND CERTIFICATIONS

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

- The lower tier subrecipient certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- Where the lower tier subrecipient is unable to certify to any of the statements in this contract, such subrecipient will attach an explanation to this contract.
- The subrecipient further agrees by signing this contract that it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

Clean Air Act

- The subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- The subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to U.S. Treasury, and the appropriate Environmental Protection Agency Regional Office.
- The subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA funding.

Federal Water Pollution Control Act

- The subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- The subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to U.S. Treasury, and the appropriate Environmental Protection Agency Regional Office.
- The subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA funding.

Anti-Lobbying (certifications required for all awards and subawards of \$100,000 or more)
“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)”

Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.”

Contractors must sign and submit the following certification to the NFE with each bid or offer exceeding \$100,000:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Opportunity Council certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Subrecipient's Authorized Official

Name and Title of Subrecipient's Authorized Official

Date

Prohibition on Contracting for Covered Telecommunications Equipment or Services

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the American Rescue Plan Act funding to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing—

- (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or Contract Provisions Guide 28
- (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that:

- (i) Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.
- (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

- (1) In the event the subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the subrecipient is notified of such by a subcontractor at any tier or by any other source, the subrecipient shall report the information in

paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the subrecipient shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Subrecipient shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

Domestic Preference for Procurements

As appropriate, and to the extent consistent with law, the subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

E-Verify

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more.

Subrecipient represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration

Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Subrecipient agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Subrecipient further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Subrecipient understands and agrees that any breach of these warranties may subject Subrecipient to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Subrecipient would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit.” Subrecipient will review and enroll in the E-Verify program through this website: www.uscis.gov



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-735

File ID:	AB2021-735	Version:	1	Status:	Agenda Ready
File Created:	11/24/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Tschroed@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Opportunity Council for the development of affordable housing for low-income households in Whatcom County in the amount of \$3,000,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Opportunity Council for the development of affordable housing for low-income households in Whatcom County in the amount of 3,000,000

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Agreement

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Tyler Schroeder, Deputy Executive

RE: Opportunity Council
Laurel and Forest Project – Senior Housing

DATE: November 24, 2021

Attached is an interlocal agreement between Whatcom County and Opportunity Council for your review and signature.

- **Background and Purpose**

The insufficient supply of affordable housing in Whatcom County has created housing instability for low-income households. Opportunity Council is the developer of the Laurel and Forest St Project, which will construct a building to provide 56 one-bedroom apartments. These affordable housing units will be offered to low-income individuals and families living in Whatcom County. These low-income housing units are located in a Qualified Census Tract in accordance with the American Rescue Plan Act. This Agreement provides funding for the project.

- **Funding Amount and Source**

Funding for this Agreement may not exceed \$3,000,000 and is provided by the American Rescue Plan Act. With the adoption of Ordinance 2021-072, these funds are now included in the 2021 budget.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
202111036

Originating Department:	Executive
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Non Departmental
Contract or Grant Administrator:	T. Schroeder/T.Helms
Contractor's / Agency Name:	Opportunity Council

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:
Already approved? Council Approved Date:			(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?			CFDA#:	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s):		
Is this contract grant funded?			ARPA Funding	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s):		

Is this contract the result of a RFP or Bid process?		Contract	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Cost Center:	138100
If yes, RFP and Bid number(s):			

Is this agreement excluded from E-Verify?	No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.	
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input checked="" type="checkbox"/> Interlocal Agreement (between Governments).	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments):	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
\$ 3,000,000	
This Amendment Amount:	
\$	
Total Amended Amount:	
\$	

Summary of Scope: This agreement provides funding for the development of affordable housing for low-income households in Whatcom County.

Term of Contract:		Expiration Date:	06/30/2023
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Contract Routing:	1. Prepared by:	Tawni Helms	Date:	10/25/21
	2. Attorney signoff:	Christopher Quinn	Date:	11/24/21
	3. AS Finance reviewed:	BBennett	Date:	11/24/21
	4. IT reviewed (if IT related):		Date:	
	5. Contractor approved:		Date:	
	6. Submitted to Exec.:		Date:	
	7. Council approved (if necessary):		Date:	
	8. Executive signed:		Date:	
	9. Original to Council:		Date:	

**Laurel and Forest Street Agreement
Qualified Census Tract Low-Income Housing**

I PARTIES

This Agreement is made by and between **Whatcom County** (hereinafter referred to as **the County**), and **the Opportunity Council** (hereinafter referred to as **Subrecipient**).

II TERM

This Agreement takes effect on date of agreement, November, ____, 2021 and shall continue in full force and effect until, December 31, 2023, unless extended by mutual written agreement of both Parties or terminated in accordance with Section VIII of this Agreement.

III PURPOSE

The purpose of this Agreement is to provide funding support for the Laurel and Forest Street Redevelopment Project, Affordable Housing (hereinafter referred to as **the Project**) using American Rescue Plan Act funds designated for such infrastructure development in Qualified Census Tracts. These funds will be used to complete the Project which will provide newly-constructed apartments for low-income households in Whatcom County.

IV PROJECT DESCRIPTION

The insufficient supply of affordable housing in Whatcom County has created housing instability for low-income households. Subrecipient will develop the site as a mixed use, mixed income, project in a Qualified Census Tract. Component I of the project will be to construct 56 one-bedroom apartments which will be offered to low-income individuals and families living in Whatcom County. These low-income housing units are located in a Qualified Census Tract in accordance with the American Rescue Plan Act. This Agreement provides funding for the completion of the project. This Agreement is for the residential portion which includes the construction of 56 one-bedroom apartments.

V RECITALS

The Parties make this Agreement based on and in recognition of certain relevant facts and circumstances including:

- A. The County has received American Rescue Plan Act (ARPA) funding. One of the goals of the ARPA is to serve the hardest-hit communities and families. One of the vehicles to do so is to invest in housing and neighborhoods through affordable housing development in Qualified Census Tracts (low-income areas as designated by the Department of Housing and Urban Development).
- B. **Subrecipient's** Laurel and Forest Street Project is located in a Qualified Census Tract (QCT) within the city limits of Bellingham and will provide 56 units of low-income housing upon completion.
- C. Subrecipient, through a limited liability company of which Subrecipient controls the managing member (the **Owner**), will construct the Project. The Project will be partially funded by a **\$3,000,000. grant to Subrecipient from the County's ARPA Fund**. Subrecipient will loan the grant to the Owner. The Project improvements, when complete, will be owned and maintained by the Owner.
- D. RCW 82.14.540 defines affordable housing to include units that cost no more than 30% of gross household income for households earning no more than 60% of the area median income.
- E. The Whatcom County Council reviewed the intent of the Project to provide affordable housing with a QCT and approved a grant to **Subrecipient** from the ARPA Fund in the amount of \$3,000,000.

VI MUTUAL CONSIDERATION

The parties do not intend to create any new or separate legal or administrative entity by this Agreement but intend for this mutual Agreement to govern the County's financial support for the Project. The terms and conditions contained herein reflect the voluntary participation of the parties.

A. SUBRECIPIENT RESPONSIBILITIES: Subrecipient hereby agrees as follows:

- (i) If after the award of the construction contract, the scope of the Project or the Project budget has materially changed, the **Subrecipient** shall provide the County the following updated documents: 1) a detailed description of the Project; 2) a Project budget itemizing major improvements together with the estimated cost of the improvements; and 3) a schedule showing sources and uses of funding for the Project, if any of the aforementioned documents materially varies from those that were submitted with the **Subrecipient's** application for funding.
- (ii) The **Subrecipient** shall be responsible for all aspects of the design and construction of the Project.
- (iii) ARPA ELIGIBLE EXPENSES – The **Subrecipient** agrees to cause the Owner to use the County-granted ARPA funds for those eligible expenses, as provided in Exhibit C. In addition, the County-granted ARPA funds shall not be used to pay the costs of on-site construction of the Project.

- (iv) The **SUBRECIPIENT** through the Owner shall be responsible for all aspects of construction contract administration, which shall include, but not be limited to, advertising, bidding, and awarding the contract. The **SUBRECIPIENT** will cause the Owner to comply with all applicable laws, rules and regulations relating to bidding the Project. The County shall have no responsibility for the Project other than the funding set forth herein.
- (v) The **SUBRECIPIENT** shall provide the County with a final report showing the actual cost of the Project and the actual sources and uses of funding for the Project.
- (vi) The **SUBRECIPIENT** shall comply with all terms and conditions of the American Rescue Plan Act as presented in Exhibit A.
- (vii) The **SUBRECIPIENT** shall cause the Owner to record an Affordable Housing covenant consistent with the covenant as presented in Exhibit D, unless modified by mutual agreement between the Parties.

B. WHATCOM COUNTY'S RESPONSIBILITIES: The County hereby agrees as follows:

- (i) COUNTY GRANT—The County shall issue a grant to SUBRECIPIENT for up to Three Million Dollars and Zero Cents (\$3,000,000) for the Project described herein. This grant shall be reimbursed by County warrant drawn on the American Rescue Plan Act Fund and payable to the **SUBRECIPIENT** upon approval of this agreement by the Whatcom County Council and the **SUBRECIPIENT**, and pursuant to the terms contained in (ii), Payout of Grant Funding, below.
- (ii) PAYOUT OF GRANT FUNDING—The County shall pay out the grant funding to the **SUBRECIPIENT** up to a maximum of Three Million Dollars and Zero Cents (\$3,000,000) of the total Project costs. This amount shall be paid in accordance with Exhibit B. Disbursements of grant funding shall be made contingent upon and subject to the continued commitment of the other Project funding sources, which may be subject to the adjustment at the approval of the County, such approval to not be unreasonably withheld.
- (iii) Unless the parties to this agreement mutually agree in writing to modify the consideration, the funding identified herein is all the County is obligated to pay towards this Project from this funding source.

VII RECORDS, REPORTS AND AUDITS

The **Subrecipient** agrees to maintain such records, make such reports and follow such procedures pertaining to this Agreement as may be reasonably required by the County and as are typically maintained and made by the **Subrecipient** in the undertaking of a project of this nature. All **Subrecipient** records pertaining to this Agreement and the Project work shall be retained by the **Subrecipient** for a period of five (5) years after final audit unless a longer period is required to resolve audit findings or litigation. The County and other authorized representatives of the State government shall have access to any books, documents, papers, and records of the

Subrecipient which pertain to this Agreement or the Project work for the purpose of making audit, examination, excerpts, and transcriptions.

VIII RELATIONSHIP OF PARTIES AND AGENTS

Neither the **Subrecipient** nor the County shall have authority to execute contracts or to make commitments on behalf of the other, and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the County and the **Subrecipient**. This agreement does not create, either implicitly or explicitly, any right, duty or obligation that is not expressly provided for herein.

The **Subrecipient** represents that it has or will secure at its own expense all personnel, Subrecipients, and/or subcontractors required in order to perform the Project work. Such personnel shall not be employees of, or Subrecipients with the County for purposes of the Project described herein. All such personnel, Subrecipients, and/or subcontractors shall be fully qualified (as determined by the **Subrecipient** in its sole discretion) and authorized/permitted under State and/or local law to perform such services.

IX TERMINATION

If the **Subrecipient** fails to comply with the terms and conditions of this Agreement, the County may pursue such remedies as are legally available, including, but not limited to, the termination or closeout of this Agreement in the manner specified herein:

- A. **TERMINATION FOR CAUSE**— If the **Subrecipient** fails to comply with the terms and conditions of this Agreement, the County will give notice to the **Subrecipient** in writing of its failure to comply. The **Subrecipient** will be given thirty (30) days from date of notice to comply with the terms of the Agreement or submit a plan acceptable to the County to bring the **Subrecipient** into compliance with the Agreement within a time period reasonably acceptable to the County. Failure to comply with the terms and conditions of this Agreement by either party shall constitute an event of default. In the event of default by the **Subrecipient** and a failure by the **Subrecipient** to cure as provided for herein, the County may take such remedial actions under the law as are available to cure the default, including the imposition of the reasonable costs of collection. In the event of default by the County, the **Subrecipient** may take such remedial actions under the law as are available to cure the default, including specific performance.
- B. **TERMINATION FOR OTHER GROUNDS**—This Agreement may be terminated in whole or in part by mutual consent and written agreement between the parties, duly authorized and executed, setting forth the conditions of termination, including effective date and, in case of termination in part, that portion to be terminated.

X COMPLIANCE WITH LAWS

The County and the **Subrecipient** shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments with regard to the performance of this Agreement.

XI NONDISCRIMINATION AND EQUAL OPPORTUNITY

A. GENERAL PROVISIONS

Subrecipient shall cause the Owner to make the Project facilities available to the public in a manner that assures fair, equal, and non-discriminatory treatment to all persons without regard to race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability. No personnel shall be refused service, be given discriminatory treatment, be denied any privilege, use of facilities, or participation in activities on account of race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability, nor shall any person be required to participate in any religious worship, exercise, or instruction. The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction.

B. EQUAL ACCESS TO HOUSING REGARDLESS OF SEXUAL ORIENTATION OR GENDER IDENTITY

Subrecipient shall abide by all provisions of the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identify, as set forth in 24 CFR, Parts 5 and 570. These provisions ensure that any qualified individual or family is not denied equal access to housing. In addition, the RECIPIENT shall not inquire about the sexual orientation or gender identity of an applicant for, or occupant of, housing assisted under this Agreement.

C. HOUSING PREFERENCES

Projects which have committed to limit eligibility or preference to a particular segment of the population may do so only if permitted by Fair Housing Act restrictions.

Any limitation or preference in housing must not violate nondiscrimination provisions in 24 CFR § 92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR

part 574, the Shelter Plus Care program under 24 CFR part 582, the Supportive Housing program under 24 CFR part 583, supportive housing for the elderly or persons with disabilities under 24 CFR part 891), and the limit or preference is tailored to serve that segment of the population.

If the Project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the Project may have a limitation or preference for persons with disabilities who need services offered at a project only if:

- The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
- Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and
- Such services cannot be provided in a non-segregated setting. The families must not be required to accept the services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

D. TDD/TTY OR RELAY SERVICE REQUIRED

Subrecipient agrees to list a TDD/TTY or the Washington Relay telephone number on all of the written policies and documents that they make available to participants, beneficiaries, or employees, including their letterhead, materials used to market programs, and any other public document that lists a telephone number.

XII INTEREST OF MEMBERS OF THE COUNTY AND THE SUBRECIPIENT

No member of the governing body of either party and no other officer, employee, or agent of either party who exercises any functions or responsibilities in connection with the planning or carrying out of the Project shall have any personal financial interest, direct or indirect, in this Agreement.

XIII HOLD HARMLESS AND INDEMNITY

To the extent permitted by law and with the exception of events arising from the gross negligence or willful misconduct of the County, the **Subrecipient** shall indemnify and hold harmless the County, its officers, agents, and employees, from all liability, loss or damage, including costs of defense they may suffer as a result of third-party claims, demands, actions or judgments which result from the activities to

be performed by the **Subrecipient**, its agents, employees, or subcontractors pursuant to this Agreement.

XIV ASSIGNABILITY

The **Subrecipient** shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written consent of the County thereto, provided, however, that claims for money by the Subrecipient from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County by the Subrecipient.

XV NON-WAIVER

The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

XVI CONTRACT MODIFICATIONS

No modification or waiver of any clause or condition of this Agreement shall be binding upon either party unless such modification or waiver is in writing and duly authorized and executed by the County and the **Subrecipient**.

XVII SEVERABILITY

If any Portion of this Agreement is changed per mutual agreement or any Portion is held invalid, the remainder of this Agreement shall remain in full force and effect.

XVIII NOTICES

Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO SUBRECIPIENT:

Opportunity Council
Attn. Executive Director
1111 Cornwall Avenue
Bellingham, WA 98225

TO COUNTY: Tyler Schroeder, Deputy Executive
c/o Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

XIX INTEGRATION

This Agreement contains all terms and conditions to which the County and the Subrecipient agreed, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this grant transaction. There are no other oral or written agreements between the Subrecipient and County as to the grant terms contained herein. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing, duly authorized and executed by both parties.

XX GOVERNING LAW AND VENUE

All questions of the validity, construction, and application of this Agreement shall be governed by the laws of the State of Washington. Venue for any suit between the parties arising out of this Agreement shall be the Superior Court of the State of Washington in and for Whatcom County, Washington.

XXI RECORDING

Upon execution of this agreement by the parties hereto, the County shall cause it to be posted on the county web site, or otherwise published pursuant to the requirement contained within RCW 39.34.040.

IN WITNESS WHEREOF, the County and the Subrecipient have executed this Agreement as of the date and year last written below.

EXECUTED, this ____ day of ____, 2021, for **OPPORTUNITY COUNCIL:**

Greg Winter, Executive Director

EXECUTED, this _____ day of _____, 2021, for **WHATCOM
COUNTY:**

WHATCOM COUNTY

SATPAL SIDHU
County Executive

APPROVED AS TO FORM

Christopher Quinn, Prosecuting Attorney

Date

Exhibit A SUBRECIPIENT AWARD

Funding provided by U.S. Department of the Treasury grant CFDA Number 21.027 Coronavirus State and Local Fiscal Recovery Funds as authorized by Sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, Public Law No. 117-2 (March 11, 2021)

SUBRECIPIENT will comply with all applicable terms and conditions for Coronavirus State and Local Fiscal Recovery Funds as issued by the U.S. Department of the Treasury.

SUBRECIPIENT will cooperate with the County concerning any requests for information related to this Project that may be needed for the County to fulfill its reporting obligations to U.S. Treasury.

General information about this program can be found at:

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

Specific compliance requirements can be found in:

Compliance and Reporting Guidance

<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

Interim Final Rule (31 CFR 35), specifically housing investment in QCTs

<https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

FAQs (and all subsequent updates)

<https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>

These funds are subject to:

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (the “Uniform Guidance”)

Single Audit Requirements. Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.⁸ Recipients and subrecipients may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.

Civil Rights Compliance. Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and

nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

- The lower tier Subrecipient certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- Where the lower tier Subrecipient is unable to certify to any of the statements in this contract, such Subrecipient will attach an explanation to this contract.
- The Subrecipient further agrees by signing this contract that it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

Clean Air Act

- The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to U.S. Treasury, and the appropriate Environmental Protection Agency Regional Office.
- The Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA funding.

Federal Water Pollution Control Act

- The Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to U.S. Treasury, and the appropriate Environmental Protection Agency Regional Office.

- The Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA funding.

Anti-Lobbying (certifications required for all awards and subawards of \$100,000 or more)

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Subrecipients who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.”

Subrecipients must sign and submit the following certification to the NFE with each bid or offer exceeding \$100,000:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
 Certification for Contracts, Grants, Loans, and Cooperative Agreements The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SUBRECIPIENT certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Subrecipient's Authorized Official

Greg Winter, Executive Director
Name and Title of Subrecipient's Authorized Official

Date

Prohibition on Contracting for Covered Telecommunications Equipment or Services

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) Prohibitions.

- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- (2) Unless an exception in paragraph (c) of this clause applies, the Subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan

guarantee funds from the Federal Emergency Management Agency to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit Subrecipients from providing—

- (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or Contract Provisions Guide 28
- (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that:

- (i) Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.
- (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

- (1) In the event the Subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Subrecipient is notified of such by a subcontractor at any tier or by any other source, the Subrecipient shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Subrecipient shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Subrecipient shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

Domestic Preference for Procurements

As appropriate, and to the extent consistent with law, the Subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel

products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

Exhibit B
(Financial Commitment)

Funding, in the amount of \$3,000,000 will be disbursed to the Opportunity Council (Subrecipient). Funding will be provided by the American Rescue Plan Act Fund.

Subrecipient will send invoices for Project expenses to:

Whatcom County Executive Office
311 Grand Ave, Suite 108
Bellingham, WA 98225

Invoices will include copies of receipts or paid invoices and reference the Whatcom County assigned interlocal agreement number.

Funds will be made available by immediately upon execution of this Agreement and will be disbursed within 30 days following receipt of invoice and for reimbursement of Project expenses only.

EXHIBIT C – FEDERAL REGULATIONS FOR ARPA GRANT FUNDING

1. Use of Funds.

- a. SUBRECIPIENT understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. SUBRECIPIENT will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Maintenance of and Access to Records

- a. SUBRECIPIENT shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of SUBRECIPIENT in order to conduct audits or other investigations.
- c. Records shall be maintained by SUBRECIPIENT for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

3. Conflicts of Interest. SUBRECIPIENT understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. SUBRECIPIENT and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

4. Compliance with Applicable Law and Regulations.

- a. SUBRECIPIENT agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. SUBRECIPIENT also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and SUBRECIPIENT shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit

Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- v. SUBRECIPIENT Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
- viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
- ix. Generally applicable federal environmental laws and regulations.

Exhibit D - Affordable Housing Covenant

LOW-INCOME HOUSING COVENANT

Grantor: XXX

Grantee (Beneficiary): Whatcom County

Abbreviated Legal:

Assessor's Tax Parcel Number(s):

This Low Income Housing Covenant ("Covenant") is made by XXX, LLLP, a Washington limited liability limited partnership, ("Grantor") and is part of the consideration for financial assistance provided by Whatcom County, a political subdivision of the State of Washington (the "County"), to the Opportunity Council pursuant to the Laurel and Forest Street Agreement [for] Qualified Census Tract Low-Income Housing (the "Agreement"), Whatcom County Contract No. XXX, for the new construction of real property (the "Property") legally described as follows:

(**description)

This Covenant will be filed and recorded in the official public lands records of Whatcom County, Washington and shall constitute a restriction on the use of the Property and is taken and construed as running with the land which shall pass to and be binding on Grantor, its successors and assigns, heirs, grantees, or leases of the Center beginning XXX and ending XXX. Each and every contract, deed or other instrument covering or conveying the property in which the Center is located, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed or other instruments.

NOW, THEREFORE, it is hereby covenanted, commencing _____ and terminating fifty (50) years after project completion (the "Term"), as set forth in the Agreement, as follows:

1. Whatcom County Covenant. Funds were made available to GRANTORS from Whatcom County's fund allocated through the American Rescue Plan Act ("ARPA") for residential purposes. GRANTORS covenant as follows:
 - a. During the Term, the residential units of the Property will be rented at no more than 30% of gross household income for households earning no more than 60% of the area median income at initial occupancy. Household incomes are adjusted for housing

size, as estimated from time to time by the United States Department of Housing and Urban Development ("HUD"). If HUD ceases to provide such estimates of median income, then median income shall mean such comparable figure for Whatcom County, Washington published or reported by a federal, state, or local agency as the County shall reasonably select.

- b. The fifty-six (56) residential units are subject to maximum restricted rent no higher than the affordable rent for the target income category based on the number of bedrooms. The County will use the Washington State Housing Finance Commission schedule of maximum rents and income level served for Whatcom County. If the Washington State Housing Finance Commission ceases to provide such schedule of maximum rents and income level served for Whatcom County, then maximum rents and income level shall mean such comparable figure for Whatcom County, Washington published or reported by a federal, state, or local agency as the County shall select.
 - c. This Covenant is for a period of 50 years following project completion as defined in the Agreement.
- 2. Compliance with State and Local Requirements. The GRANTORS will provide safe and sanitary housing and will comply with all state and local housing codes, licensing requirements, and other requirements regarding the condition of the structure and the operation of the project.
 - 3. Records. The GRANTORS will keep any records and make any reports relating to compliance with this covenant that County may reasonably require.
 - 4. Enforcement Provisions. The GRANTORS shall exercise reasonable diligence to comply with the requirements of this Covenant and shall correct any such noncompliance within sixty (60) days after such noncompliance is first discovered by the GRANTORS or would have been discovered by the exercise of reasonable diligence, or within 60 days after the GRANTORS receives notice of such noncompliance from the County; provided however, that such period for correction may be extended by the County if the GRANTORS is exercising due diligence to correct the noncompliance. If such noncompliance remains uncured after such period, then the GRANTORS shall be in default and the County on its own behalf may take any one or more of the following steps:
 - a. By any suit, action or proceeding at law or in equity, require the GRANTORS to perform its obligations under this Covenant, or enjoin any acts or things which may be unlawful or in violation of the rights of the County hereunder; it being recognized that the beneficiaries of the GRANTORS' obligations hereunder cannot be adequately

compensated by monetary damages in the event of the Grantor's default;

- b. Have access to, and inspect, examine and make copies of, all of the books and records of the GRANTORS pertaining to the Project. Provided, however, the County shall not divulge such information to any third party unless required by law or unless the same is necessary to enforce the County's rights hereunder; and
- c. Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants, conditions and agreements of the GRANTORS under this Covenant.

This covenant touches and concerns the Property and shall run with the Property and is for the benefit of the general public and shall be binding upon the GRANTORS' heirs, devisees, executors, administrators, successors and assigns. It may not be revoked without the prior written consent of the County.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-736

File ID:	AB2021-736	Version:	1	Status:	Agenda Ready
File Created:	11/24/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Mhilley@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Fire Protection District No. 7 to reimburse the District for training costs associated with lateral hires in the amount of \$121,372

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Fire Protection District No. 7 to reimburse the District for training costs associated with lateral hires in the amount of \$121,372

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Interlocal, Routing Form

MEMORANDUM

To: Whatcom County Council Members
From: Mike Hilley, EMS Manager
Subject: Interlocal Agreement for Reimbursing the Costs of Hiring Laterals
Date: November 24, 2021

BACKGROUND:

Whatcom County Council approved budget authority through Ordinance 2021-072 to reimburse Fire Protection District No. 7 for personnel costs associated with training lateral hires.

This interlocal agreement is between Whatcom County and Fire Protection District No. 7 to compensate for the preceptor evaluations, salary and wages for up to two Agency employees who hire through the lateral paramedic process.

FUNDING SOURCE:

This is funded through the EMS Levy as approved by Council in the biennial budget process.

ACTION:

Request authority to enter into the interlocal agreement between Whatcom County and Fire Protection District No. 7 for reimbursement of training costs associated with lateral hires.

INTERAGENCY AGREEMENT
Between
Whatcom County Fire District 7
and

Whatcom County Emergency Medical Services/Whatcom County

Whatcom County Fire District 7, (hereinafter the "Fire District"), Whatcom County, through Whatcom County Emergency Medical Services, (hereinafter the "County"), in consideration of the mutual covenants herein, agree as follows:

- I. Purpose: The Fire District and the County recognize the financial benefit and reduced training time required when hiring an employee that holds a national or state paramedic licensure. When the Fire District hires an employee that already has experience as a firefighter/paramedic this is deemed a "lateral hire." This agreement outlines the responsibilities of the Fire District and the County when training lateral paramedic employees.
- II. Program Administration: It is understood that the County and Fire District shall be responsible for the direct supervision of their respective employees and that nothing in this Agreement will interfere with the employer/employee relationship or the functioning of the County and Fire District herein named. In compliance with applicable law and State records guidelines, both parties will maintain documentation and/or records relevant to the program in this Agreement.
- III. Financial Agreement: Financial responsibility for training lateral paramedics shall be the responsibility of the County through the County EMS Levy. The County shall pay costs, up to \$121,372, associated with preceptorship of lateral Paramedics, including administrative costs for formal evaluations, salaries and wages for up to two (2) Fire District employees who hire through the lateral Paramedic process, not to exceed six months in duration. The Fire District will pay the costs of all other training associated with the duties and responsibilities required to be employed as a Fire District 7 Firefighter/Paramedic. The Fire District will submit monthly invoices to the County Contract Administrator with supporting documentation as required in Exhibit A. County payment will be considered timely if made within 30 days of receipt of approved invoice.
- IV. Responsibilities of the Fire District:
 - A. Select lateral paramedic applicants, as available, through the approved Fire District process.
 - B. Ensure the lateral paramedic candidate is in good standing with the accrediting agency or body they are transferring from.
 - C. Assign and provide a preceptor to the lateral paramedic candidate.

- D. Work with the County Medical Program Director and the Fire District Paramedic Program Supervising Physician to ensure the lateral paramedic candidate completes MPD mandated training, testing, and field internships to become a Whatcom County certified paramedic.
- E. Ensure all forms and paperwork are correctly submitted to the State of Washington for final credentialing.
- F. Communicate with the County, County MPD, and Supervising Physician of the lateral paramedic candidates progress during the training process.
- G. Develop performance improvement plans, as necessary, to correct any deficiencies related to successful completion of the lateral training requirements.
- H. Notify the County of any circumstance that will prevent a lateral paramedic candidate from successfully completing their training to achieve certification or be able to perform as a Whatcom County EMS system paramedic.

V. Responsibilities of the County

- A. Provide financial reimbursement to the Fire District for monthly and non-recurring training costs as outlined in "Exhibit A."
 - B. Work with the Fire District to complete testing and credentialing paperwork associated with the lateral paramedic process.
 - C. Ensure all lateral paramedic training tasks and processes are approved by the County MPD and the Fire District Supervising Physician.
- VI. Nondiscrimination: There will be no discrimination against any participant covered under the Agreement because of race, color, religion, national origin, sex (including pregnancy and parenting status), disability, age, veteran status, sexual orientation, gender identity or expression, marital status or genetic information in programs or activities including employment, admissions, and educational programs.
- VII. Liability: Each party to this Agreement will be responsible for the negligent or willful acts or omissions of its own employees, officers, volunteers or agents in the performance of this Agreement. Neither party will be considered the agent of the other nor does neither party assume any responsibility to the other party for the consequences of any act or omission of any person, firm, or corporation not a party to this Agreement.
- VIII. Term of the Agreement: This Agreement will take effect on January 1, 2022 and will terminate on December 31, 2022 unless terminated earlier by either party. Termination of this Agreement shall be effective thirty (30) days following written notice of termination provided by either party.

IX. Entire Agreement: This Agreement constitutes the entire agreement between the parties, and supersedes all prior oral or written agreements, commitments, or understandings concerning the matters provided for herein. If modifications to this Agreement are deemed necessary, such changes shall be approved by the Fire District and County by written amendment.

X. Notices:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

To: Fire Protection District No. 7
P.O. Box 1599
Ferndale, WA 98248
Attention: Fire Chief Hoffman
Telephone: (360) 778-8400
Email: lhoffman@wcfcd7.org

To: Whatcom County EMS
800 Chestnut Street, Suite 3C
Bellingham, WA 98225
Attn: Mike Hilley, EMS Manager
360-927-1155
mhilley@co.whatcom.wa.us

WHATCOM COUNTY:

Approved as to form:

Prosecuting Attorney

Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

On this _____ day of _____ 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington, residing at _____.
My commission expires _____.

City of Bellingham signature page for agreement with _____.

Dated this _____ day of _____, 2021, for Fire Protection District No. 7:

Mike Murphy, Board Chair

Attest:

Board Secretary

EXHIBIT A
CONTRACT BUDGET

Cost Item	Documentation Required	Monthly Amount per Student	Per Student Maximum	Contract Maximum
Wages & Benefits	GL Detail	\$ 9,416	\$ 56,496	\$ 112,992
Preceptor Premium	GL Detail	\$ 515	\$ 3,090	\$ 6,180
Formal Evaluations	GL Detail	N/A	\$ 1,100	\$ 2,200
Totals				\$ 121,372

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-737

File ID:	AB2021-737	Version:	1	Status:	Agenda Ready
File Created:	11/29/2021	Entered by:	PRice@co.whatcom.wa.us		
Department:	Information Technology Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: price@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a 9-year agreement between Whatcom County and Pictometry International Corporation for three oblique and orthogonal aerial imagery flights of western Whatcom County, in the amount of \$489,600

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Contract



PERRY L. RICE
IT Manager

MEMORANDUM

TO: Satpal Singh Sidhu, County Executive
Whatcom County Council

Through: Tyler Schroeder, Deputy Executive \ Director of Administrative Services

FROM: Perry Rice, IT Manager *PJR*

RE: Agreement for Pictometry Aerial Imagery

DATE: November 29, 2021

Enclosed is a proposed agreement between Whatcom County and Pictometry International Corporation (Pictometry) for aerial imagery of western Whatcom County for your review.

▪ Background and Purpose

In 2004, 2008, 2010, 2013, 2016 and 2019 Whatcom County acquired digital aerial imagery from Pictometry. This imagery has been widely used by numerous County departments such as Planning & Development Services, Public Works, Health, Assessor's Office, Treasurer's Office, and Administrative Services. The imagery is also now available to our citizens in our recently released on-line Geographic Information Systems (GIS) viewers such as the Tax Parcel Viewer and Public Works Travel Planner.

The purpose of this request is to enter into an agreement with Pictometry for a new spring 2022 flight to provide Whatcom County and its regional partners with updated orthogonal and oblique digital images for about 897 square miles.

▪ Funding Amount and Source

The amount of the contract is \$163,200 for the spring 2022 flight with an option for two additional flights for a total consideration of \$489,600. Funds have been appropriated in the 2021 Information Technology budget for the first flight. A regional cost-sharing partnership with the following organizations is in the process of being finalized:

- Birch Bay Water & Sewer
- City of Bellingham
- City of Blaine
- City of Everson
- City of Ferndale
- City of Lynden
- City of Nooksack
- City of Sumas
- Lake Whatcom Water & Sewer
- Lummi Nation
- Nooksack Tribe
- Port of Bellingham
- Public Utilities District
- Whatcom Conservation District
- Whatcom Council of Governments
- Whatcom Transportation Authority

In order to obtain favorable pricing, this contract is for the spring 2022 flight and two additional flights at two to three-year intervals:

Flight 1 – (2022):	\$163,200
Flight 2 – Optional (2025):	\$163,200
Flight 3 – Optional (2028):	<u>\$163,200</u>
Three Flight Total:	\$489,600

This is a sole source contract since it is advantageous for the county to have a common dataset and software to view and compare oblique and orthogonal aerial imagery from six flights over 18 years.

The contract contains a “non-appropriation of funds” clause for the second and third flight which allows Whatcom County to opt out of these flights if funding is not obtained. Funding Letters of Intent have been obtained from each regional cost-sharing partner.

Please contact Perry Rice at x5235 if you have any questions or concerns regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Information Technology
Division/Program: (i.e. Dept. Division and Program)	AS - Information Technology - GIS
Contract or Grant Administrator:	Perry Rice
Contractor's / Agency Name:	Pictometry International Corporation
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): Sole Source _____ Cost Center: 507102	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input checked="" type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 489,600.00 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Request authorization for the County Executive to enter into a 9-year agreement between Whatcom County and Pictometry International Corporation for three oblique and orthogonal aerial imagery flights, in the amount of \$489,600.	
Term of Contract: 9-Year	Expiration Date: December 2029

Contract Routing:	1. Prepared by: P. Rice \ M. Pelela <i>PJR</i>	Date: 11/29/2021
	2. Attorney signoff: <i>RnF</i>	Date: 11/29/21
	3. AS Finance reviewed: <i>bbennet</i>	Date: 11/29/21
	4. IT reviewed (if IT related): P. Rice <i>PJR</i>	Date: 11/29/2021
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

**AGREEMENT BETWEEN
PICTOMETRY INTERNATIONAL CORP. ("PICTOMETRY") AND
WHATCOM COUNTY, WA ("CUSTOMER")**

1. This order form ("Order Form"), in combination with the contract components listed below:

Section A: Product Descriptions, Prices and Payment Terms

Section B: License Terms:

- Delivered Content Terms and Conditions of Use
- Online Services General Terms and Conditions
- Software License Agreement

Section C: Non-Standard Terms and Conditions

Appendix 1: Photogrammetric Product Specifications

Map(s)

(all of which, collectively, constitute this "Agreement") set forth the entire understanding between Pictometry and Customer with respect to the subject matter hereof and supersedes all prior representations, agreements and arrangements, whether oral or written, relating to the subject matter hereof. Any modifications to this Agreement must be made in writing and be signed by duly authorized officers of each party. Any purchase order or similar document issued by Customer in connection with this Agreement is issued solely for Customer's internal administrative purposes and the terms and conditions set forth on any such purchase order shall be of no force or effect as between the parties.

2. In the event of any conflict among any contract components comprising this Agreement, order of precedence for resolving such conflict shall be, from highest (i.e., supersedes all others) to lowest (i.e., subordinate to all others): Section C: Non-Standard Terms and Conditions; Appendix 1: Photogrammetric Product Specifications; Section A: Product Descriptions, Prices and Payment Terms; License Terms in order as listed above under the heading 'Section B: License Terms'; and Order Form.
3. All notices under this Agreement shall be in writing and shall be sent to the following respective addresses:

CUSTOMER NOTICE ADDRESS	
311 Grand Avenue, Suite #305	
Bellingham, WA 98225-4038	
Attn: Perry Rice, IT Manager	
Phone: (360) 778-5235	Fax: (360) 778-5231

PICTOMETRY NOTICE ADDRESS	
25 Methodist Hill Drive	
Rochester, New York 14623	
Attn: General Counsel	
Phone: (585) 486-0093	Fax: (585) 486-0098

Either party may change their respective notice address by giving written notice of such change to the other party at the other party's then-current notice address. Notices shall be given by any of the following methods: personal delivery; reputable express courier providing written receipt; or postage-paid certified or registered United States mail, return receipt requested. Notice shall be deemed given when actually received or when delivery is refused.

4. This Agreement, including all licenses granted pursuant to it, shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not be assignable by either party except that (i) Pictometry shall have the right to assign its right to receive Fees under this Agreement, provided no such assignment shall affect Pictometry's obligations hereunder, and (ii) Pictometry shall have the right to assign all its rights under this Agreement to any person or entity, provided the assignee has assumed all of Pictometry's obligations under this Agreement.
5. IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY CAUSE OF ACTION OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING UNDER THEORIES INVOLVING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR BREACH OF WARRANTY), FOR ANY LOST PROFITS OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY OR OTHERS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. With respect to any claims that Customer may have or assert against Pictometry on any matter relating to this Agreement, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry pursuant to this Agreement.
7. The waiver by either party of any default by the other shall not waive subsequent defaults of the same or different kind.
8. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be

unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

9. Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event. A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.
10. In consideration of, and subject to, payment by Customer of the Fees specified in Section A of this Agreement, Pictometry agrees to provide Customer with access to and use of the products specified in Section A of this Agreement, subject to the terms and conditions set forth in this Agreement. Customer hereby agrees to pay the Fees specified in Section A of this Agreement in accordance with the stated payment terms and accepts and agrees to abide by the terms of this Agreement.

This Agreement shall become effective upon execution by duly authorized officers of Customer and Pictometry and receipt by Pictometry of such fully executed document, such date of receipt by Pictometry being the "Effective Date."

PARTIES:

CUSTOMER	PICTOMETRY
WHATCOM COUNTY, WA	PICTOMETRY INTERNATIONAL CORP.
	a Delaware corporation
SIGNATURE:	SIGNATURE:
SEE FOLLOWING PAGE	
NAME:	NAME:
TITLE:	TITLE:
DATE:	EXECUTION DATE:
	DATE OF RECEIPT (EFFECTIVE DATE):

WHATCOM COUNTY:
Recommended for Approval:

P. J. R. 11/29/2021
IT Manager Date

Approved as to form:

Kamal Singh 11/29/21
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

SECTION A

PRODUCT DESCRIPTIONS, PRICES AND PAYMENT TERMS

Pictometry International Corp.
25 Methodist Hill Drive
Rochester, New York 14623

ORDER #
C26126484

BILL TO
Whatcom County, WA
Perry Rice, IT Manager
311 Grand Avenue, Suite #305
Bellingham, WA 98225-4038
(360) 778-5235
price@co.whatcom.wa.us

SHIP TO
Whatcom County, WA
Mike Pelela, Supervisor, GIS
311 Grand Ave.
Bellingham, WA 98225
(360) 778-5244
mpelela@co.whatcom.wa.us

CUSTOMER ID	SALES REP	FREQUENCY OF PROJECT
A118229	dwalt	Triennial

FIRST PROJECT (SPRING 2022 INTENDED)

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
239	Reveal Essentials+ Property	Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 360.00 (10% - Long Term Incentive Discount)	\$ 86,040.00
358	Reveal Essentials+ Neighborhood	Provides ortho and oblique imagery at a Neighborhood level. Deliverables include measurable oblique and ortho imagery at a neighborhood resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 160.00	\$ 120.00 (25%)	\$ 42,960.00
300	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 21,000.00
897	Reveal Orthomosaic - Combined	This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 0.00		\$ 0.00

3	Pictometry Connect - CA - 50	<p>Pictometry Connect - CA - 50 (Custom Access) provides up to 50 concurrent authorized users the ability to login and access the Pictometry-hosted custom imagery libraries specified elsewhere in this Agreement via a web-based, server-based or desktop integration. The default deployment is through web-based Pictometry Connect. Term commences on date of activation. The quantity represents the number of years in the Connect term.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions; Software License Agreement</p> <p>Product Parameters: <i>Admin User Name:</i> Mike Pelela <i>Admin User Email:</i> mpelela@co.whatcom.wa.us</p>	\$ 2,200.00	\$ 0.00 (100%)	\$ 0.00
1	Oblique Imagery Bundle w/Two(2) Yrs of EFS Maint & Support	<p>Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation.</p> <p>Applicable Terms and Conditions: Software License Agreement</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00
1	RapidAccess - Disaster Response Program	<p>RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 0.00		\$ 0.00
SUBTOTAL					\$150,000.00

SECOND PROJECT (SPRING 2025 INTENDED)

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
239	Reveal Essentials+ Property	<p>Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>	\$ 400.00	\$ 360.00 (10% - Long Term Incentive Discount)	\$ 86,040.00
358	Reveal Essentials+ Neighborhood	<p>Provides ortho and oblique imagery at a Neighborhood level. Deliverables include measurable oblique and ortho imagery at a neighborhood resolutions. Color balanced orthomosaic</p>	\$ 160.00	\$ 120.00 (25%)	\$ 42,960.00

		<p>imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>			
300	Reveal Essentials+ Community	<p>Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata.</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>	\$ 70.00		\$ 21,000.00
897	Reveal Orthomosaic - Combined	<p>This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred</p> <p>Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use</p> <p>Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover</p>	\$ 0.00		\$ 0.00
1	RapidAccess - Disaster Response Program	<p>RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program.</p> <p>Applicable Terms and Conditions: Order Form</p>	\$ 0.00		\$ 0.00
1	Oblique Imagery Bundle w/Two(2) Yrs of EFS Maint & Support	<p>Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation.</p> <p>Applicable Terms and Conditions: Software License Agreement</p>	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	<p>Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product.</p> <p>Applicable Terms and Conditions: Online Services General Terms and Conditions</p>	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00
SUBTOTAL					\$150,000.00

THIRD PROJECT (SPRING 2028 INTENDED)

QTY	PRODUCT NAME	PRODUCT DESCRIPTION	LIST PRICE	DISCOUNT PRICE (%)	AMOUNT ¹
239	Reveal Essentials+ Property	Provides high resolution ortho and oblique imagery at a Property level. Deliverables include measurable oblique and ortho imagery at a property resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 400.00	\$ 360.00 (10% - Long Term Incentive Discount)	\$ 86,040.00
358	Reveal Essentials+ Neighborhood	Provides ortho and oblique imagery at a Neighborhood level. Deliverables include measurable oblique and ortho imagery at a neighborhood resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 160.00	\$ 120.00 (25%)	\$ 42,960.00
300	Reveal Essentials+ Community	Provides ortho and oblique imagery at a Community level. Deliverables include measurable oblique and ortho imagery at a community resolutions. Color balanced orthomosaic imagery is generated by a fully automated photogrammetric process and delivered digitally in various formats with the associated metadata. Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 70.00		\$ 21,000.00
897	Reveal Orthomosaic - Combined	This product represents a single orthomosaic, combining tiles of multiple resolutions with the best-available resolution preferred Applicable Terms and Conditions: Delivered Content Terms and Conditions of Use Product Parameters: <i>Leaf:</i> Leaf Off: Less than 30% leaf cover	\$ 0.00		\$ 0.00
1	Pictometry Connect - EarlyAccess	Pictometry Connect - EarlyAccess provides authorized users the ability to login and access the imagery, as specified elsewhere in this agreement, immediately following its preliminary processing and quality control checks and prior to its final processing. Early Access imagery will become available in CONNECT Explorer incrementally as it is processed and it will remain available until final, fully processed imagery is made available through other means. This offering requires an active Pictometry CONNECT account and the current purchase of access to an imagery product. Applicable Terms and Conditions: Online Services General Terms and Conditions	\$ 10,000.00	\$ 0.00 (100%)	\$ 0.00
1	RapidAccess - Disaster Response Program	RapidAccess - Disaster Response Program is an emergency response program offering flights after an emergency or disaster. Refer to the attached detailed description of the Disaster Response Program. Applicable Terms and Conditions: Order Form	\$ 0.00		\$ 0.00

1	Oblique Imagery Bundle w/Two(2) Yrs of EFS Maint & Support	Includes digital copy of the Licensed Documentation for the License Software, two (2) End User Training Sessions, one (1) Advanced User Technical Training, one (1) Administration / IT Training Session, ten (10) hours of telephone support, one copy of Pictometry Electronic Field Study (EFS) software, latest version, on the storage media specified herein, and access to download updated versions of the EFS Licensed Software for a period of two years from the initial date of shipment of the EFS software, along with a copy of the updated documentation. Applicable Terms and Conditions: Software License Agreement	\$ 0.00		\$ 0.00
SUBTOTAL					\$150,000.00

Thank you for choosing Pictometry as your service provider.	TOTAL	\$ 450,000.00
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¹Amount per product = ((1-Discount %) * Qty * List Price)

STANDARD ORTHO MOSAIC PRODUCTS

Pictometry standard ortho mosaic products are produced through automated mosaicking processes that incorporate digital elevation data with individual Pictometry ortho frames to create large-area mosaics on an extremely cost-effective basis. Because these products are produced through automated processes, rather than more expensive manual review and hand-touched corrective processes, there may be inherent artifacts in some of the resulting mosaics. While Pictometry works to minimize such artifacts, the Pictometry standard ortho mosaic products are provided on an 'AS IS' basis with respect to visible cutlines along mosaic seams resulting from the following types of artifacts:

- Disconnects in non-elevated surfaces generally caused by inaccurate elevation data;
- Disconnects in elevated surfaces (e.g., roadways, bridges, etc.) generally caused by elevated surfaces not being represented in the elevation data;
- Building intersect and clipping generally caused by buildings not being represented in the elevation data;
- Seasonal variations caused by images taken at different times during a season, or during different seasons;
- Ground illumination variations caused by images taken under different illumination (e.g., sunny, high overcast, morning light, afternoon light, etc.) within one flight day or during different flight days;
- Single GSD color variations caused by illumination differences or multiple-aircraft/camera captures;
- Mixed GSD color variations caused by adjacent areas being flown at different ground sample distances (GSDs); and
- Water body color variations caused by multiple individual frames being used to create a mosaic across a body of water (e.g., lakes, ponds, rivers, etc.).

Other Pictometry products may be available that are less prone to such artifacts than the Pictometry standard ortho mosaic products.

Geofences:

FIRST PROJECT

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

WA Whatcom (Primary)

SECOND PROJECT

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

WA Whatcom (Primary)

THIRD PROJECT

For the Pictometry Connect - CA - 50 product(s) in this project, the following geofences apply:

WA Whatcom (Primary)

RapidAccess—Disaster Response Program ("DRP")

Customer is eligible for DRP described below from the Effective Date through the second anniversary of the initial Project delivery. Following payment to Pictometry of amounts due with respect to each subsequent Project, Customer will be eligible for the then-current DRP for a period of two years from delivery of such subsequent Project. Customer must be in good-standing with Pictometry to maintain eligibility for DRP.

A. Disaster Coverage Imagery at No Additional Charge – Pictometry will, upon request of Customer and at no additional charge, provide standard quality imagery of up to 200 square miles of affected areas (as determined by Pictometry) upon the occurrence of any of the following events during any period Customer is eligible for DRP:

- ☐ **Hurricane:** areas affected by hurricanes of Category 2 and higher.
- ☐ **Tornado:** areas affected by tornados rated EF4 and higher.
- ☐ **Terrorist:** areas affected by damage from terrorist attack.
- ☐ **Earthquake:** areas affected by damage to critical infrastructure resulting from earthquakes measured at 6.0 or higher on the Richter scale.
- ☐ **Tsunami:** areas affected by damage to critical infrastructure resulting from tsunamis.

- B. Discounted Rate** – Coverage for areas affected by the events set forth above exceeding 200 square miles will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates. Also, coverage for areas affected by hurricanes below Category II, tornadoes below EF4 or earthquakes rated below 6.0 on the Richter scale will be, subject to Pictometry resource availability, offered to Customer at the then current DRP rates.
- C. Online Services – Use of Pictometry Connect Explorer™** – Pictometry’s DRP includes the use of Connect Explorer for a term of ninety days from the date of delivery of the DRP imagery. Customer shall have access to the DRP imagery for as long as they maintain an active Connect account.

FEES; PAYMENT TERMS

All amounts due to Pictometry pursuant to this Agreement (“Fees”) are expressed in United States dollars and do not include any duties, taxes (including, without limitation, any sales, use, ad valorem or withholding, value added or other taxes) or handling fees, all of which are in addition to the amounts shown above and, to the extent applicable to purchases by Customer, shall be paid by Customer to Pictometry without reducing any amount owed to Pictometry unless documents satisfactory to Pictometry evidencing exemption from such taxes is provided to Pictometry prior to billing. To the extent any amounts properly invoiced pursuant to this Agreement are not paid within thirty (30) days following the invoice due date, such unpaid amounts shall accrue, and Customer shall pay, interest at the rate of 1.5% per month (or at the maximum rate allowed by law, if less). In addition, Customer shall pay Pictometry all costs Pictometry incurs in collecting past due amounts due under this Agreement including, but not limited to, attorneys’ fees and court costs.

FIRST PROJECT

Due upon shipment of imagery	\$75,000.00
Due at First Anniversary of Shipment of Imagery	\$75,000.00
Total Payments	\$150,000.00

SECOND PROJECT

Due upon shipment of imagery	\$75,000.00
Due at First Anniversary of Shipment of Imagery	\$75,000.00
Total Payments	\$150,000.00

THIRD PROJECT

Due upon shipment of imagery	\$75,000.00
Due at First Anniversary of Shipment of Imagery	\$75,000.00
Total Payments	\$150,000.00

**PICTOMETRY DELIVERED CONTENT
TERMS AND CONDITIONS OF USE**

These Pictometry Delivered Content Terms and Conditions of Use (the "Delivered Content Terms and Conditions"), in combination with the corresponding Agreement into which these terms are incorporated, collectively set forth the terms and conditions that govern use of Delivered Content (as hereinafter defined) for use within computing environments operated by parties other than Pictometry. As used in the Delivered Content Terms and Conditions the terms "you" and "your" in uppercase or lowercase shall mean the Customer that entered into the Agreement into which the Delivered Content Terms and Conditions are incorporated.

1. DEFINITIONS

- 1.1 "Authorized Subdivision" means, if you are a county or a non-state consortium of counties, any political unit or subdivision located totally or substantially within your boundaries that you authorize to have access to Delivered Content pursuant to the Delivered Content Terms and Conditions.
- 1.2 "Authorized System" means a workstation or server that meets each of the following criteria (i) it is owned or leased by you or an Authorized Subdivision, (ii) it is located within and only accessible from facilities that are owned or leased by you or an Authorized Subdivision, and (iii) it is under the control of and may only be used by you or Authorized Subdivisions.
- 1.3 "Authorized User" means any employee of you or Authorized Subdivisions that is authorized by you to have access to the Delivered Content through an Authorized System.
- 1.4 "Delivered Content" means the images, metadata, data layers, models, reports and other geographic or structural visualizations or embodiments included in, provided with, or derived from the information delivered to you by or on behalf of Pictometry pursuant to the Agreement.
- 1.5 "Project Participant" means any employee or contractor of persons or entities performing services for compensation for you or an Authorized Subdivision that has been identified by written notice to Pictometry prior to being granted access to Delivered Content and, unless Pictometry expressly waives such requirement for any individual, has entered into a written agreement with Pictometry authorizing such access.

2. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 2.1 Subject to the terms and conditions of the Agreement, you are granted nonexclusive, nontransferable, limited rights to:
 - (a) install the Delivered Content on Authorized Systems;
 - (b) permit access and use of the Delivered Content through Authorized Systems by:
 - (i) Authorized Users for performance of public responsibilities of you or Authorized Subdivisions that are to be performed entirely within facilities of you or Authorized Subdivisions;
 - (ii) Project Participants under the supervision of Authorized Users for performance of tasks or preparation of materials using only hard copies (or jpg copies) of Delivered Content solely for fulfilling public responsibilities of you or Authorized Subdivisions to be performed entirely within facilities of you or Authorized Subdivisions; and
 - (iii) individual members of the public, but only through Authorized Users and solely for the purpose of making hard copies or jpg copies of images of individual properties or structures (but not bulk orders of multiple properties or structures) to the individual members of the public requesting them.
- 2.2 You may not reproduce, distribute or make derivative works based upon the Delivered Content in any medium, except as expressly permitted in the Delivered Content Terms and Conditions.
- 2.3 You may not offer any part of the Delivered Content for commercial resale or commercial redistribution in any medium.
- 2.4 You may not distribute or otherwise make available any Delivered Content to Google or its affiliates, either directly or indirectly.
- 2.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 2.6 You may not remove, alter or obscure copyright notices or other notices contained in the Delivered Content.
- 2.7 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in Delivered Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Delivered Content acquire any proprietary interest in the Delivered Content, or any copies thereof, except the limited use rights granted herein.

3. OBLIGATIONS OF CUSTOMER

- 3.1 **Geographic Data.** If available, you agree to provide to Pictometry geographic data in industry standard format (e.g., shape, DBF) including, but not limited to, digital elevation models, street centerline maps, tax parcel maps and centroids, which data, to the extent practicable, shall be incorporated into the Delivered Content. You agree that any of this data that is owned by you may be distributed and modified by Pictometry as part of its products and services, provided that at no time shall Pictometry claim ownership of that data.
- 3.2 **Notification.** You shall (a) notify Pictometry in writing of any claims or proceedings involving any of the Delivered Content within ten (10) days after you learn of the claim or proceeding, and (b) report promptly to Pictometry all claimed or suspected defects in Delivered Content.
- 3.3 **Authorized User Compliance.** You shall at all times be responsible for compliance by each Authorized User with the Delivered Content Terms and Conditions.
- 3.4 **Authorized Subdivision Compliance.** You shall at all times be responsible for compliance by each Authorized Subdivision with the Delivered Content Terms and Conditions.
- 3.5 **Project Participants.** Each notice to Pictometry identifying a potential Project Participant shall include a detailed description of the scope and nature of the Project Participants' planned work and the intended use of the Delivered Content in such work. Pictometry retains the right to restrict or revoke access to Delivered Content by any Project Participant who does not comply with the terms of the Delivered Content Terms and Conditions.

4. LICENSE DURATION; EFFECT OF TERMINATION

- 4.1 **Term.** The license granted to you in the Delivered Content Terms and Conditions is perpetual, subject to Pictometry's right to terminate the license in the event you do not pay in full the Fees specified elsewhere in the Agreement, the Agreement is terminated for any reason other than a breach of the Agreement by Pictometry, or as otherwise provided in the Agreement.
- 4.2 **Effect of Termination.** Upon termination of the license granted to you in the Delivered Content Terms and Conditions, you shall immediately cease all use of the Delivered Content, promptly purge all copies of the Delivered Content from all workstations and servers on which any of it may be stored or available at the time, and return hard drive/media containing Delivered Content to Pictometry.

5. TRADEMARKS; CONFIDENTIALITY

- 5.1 **Use of Pictometry's Marks.** You agree not to attach any additional trademarks, trade names, logos or designations to any Delivered Content or to any copies of any Delivered Content without prior written approval from Pictometry. You may, however, include an appropriate government seal and your contact

information so long as the seal and contact information in no way obscure or deface the Pictometry marks. You further agree that you will not use any Pictometry trademark, trade name, logo, or designation in connection with any product or service other than the Delivered Content. Your nonexclusive right to use Pictometry's trademarks, trade name, logos, and designations are coterminous with the license granted to you in the Delivered Content Terms.

- 5.2 Confidentiality of Delivered Content.** The Delivered Content consists of commercially valuable, proprietary products owned by Pictometry, the design and development of which reflect an investment of considerable time, effort, and money. The Delivered Content is treated by Pictometry as confidential and contains substantial trade secrets of Pictometry. You agree that you will not disclose, provide a copy of, or disseminate the Delivered Content (other than as expressly permitted in the Delivered Content Terms and Conditions) or any part thereof to any person in any manner or for any purpose inconsistent with the license granted to you in the Delivered Content Terms and Conditions. You agree to use your best efforts to assure that your personnel, and any others afforded access to the Delivered Content, protect the Delivered Content against unauthorized use, disclosure, copying, and dissemination, and that access to the Delivered Content and each part thereof will be strictly limited.

6. LIMITED WARRANTY; DISCLAIMER OF WARRANTIES

- 6.1 Limited Warranties; Exclusive Remedy.** Pictometry warrants that the Delivered Content will contain true and usable copies of the designated imagery as of the date of capture. As the sole and exclusive remedy for any breach of the foregoing warranty, Pictometry shall use reasonable efforts to correct any deficiency that precludes use of the Delivered Content in the manner intended.
- 6.2 Disclaimer of Other Warranties.** Except as provided in Section 6.1, above, THE DELIVERED CONTENT IS PROVIDED TO YOU "AS IS" AND "WITH ALL FAULTS." PICTOMETRY MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ACCURACY, ARE HEREBY DISCLAIMED AND EXCLUDED BY PICTOMETRY.
- 6.3 Limitation of Liability.** With respect to any other claims that you may have or assert against Pictometry on any matter relating to the Delivered Content, the total liability of Pictometry shall, in the aggregate, be limited to the aggregate amount received by Pictometry in payment for Delivered Content during the immediately preceding twenty-four (24) month period.

7. MISCELLANEOUS PROVISIONS

- 7.1 Restricted Rights.** Delivered Content acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable.
- 7.2 Governing Law.** This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles.

[END OF DELIVERED CONTENT TERMS AND CONDITIONS]

SECTION B

LICENSE TERMS

PICTOMETRY ONLINE SERVICES GENERAL TERMS AND CONDITIONS

These Pictometry Online Services General Terms and Conditions (the "General Terms and Conditions"), in combination with the corresponding Pictometry order form, if any, collectively constitute the license agreement (the "License Agreement") that governs your use of the Pictometry online services (the "Online Services"), the images available in the Online Services, and all associated metadata and data layers included in, provided with, or derived from those images (the "Licensed Content") provided by Pictometry International Corp. and its affiliated companies (collectively, "Pictometry"). The terms "you" and "your" in uppercase or lowercase shall mean the individual, entity (e.g., corporation, limited liability company, partnership, sole proprietor, etc.) or government agency entering into the License Agreement.

1. GRANT OF RIGHTS; RESTRICTIONS ON USE; OWNERSHIP

- 1.1 You are granted a nonexclusive, nontransferable, limited right to access and use the Online Services and the Licensed Content obtained or derived from the Online Services solely for your internal business purposes and not for resale or redistribution. The rights granted to you include, subject to the restrictions set forth below and on the Order Form, the right to copy limited portions of the Licensed Content onto your computer to facilitate preparation of hardcopies and work product records, and the right to make hardcopies of the Licensed Content, provided that the Licensed Content and the permitted copies thereof may not be sold, leased, loaned, distributed, or copied for use by anyone other than you.
- 1.2 You may not make the Online Services available to any other party.
- 1.3 You may not copy the Licensed Content or portions thereof onto any computer or storage device or media for the purpose of creating or maintaining one or more databases of that content for use in substitution for subsequent access to the content through the Online Services.
- 1.4 You may not distribute or otherwise make available any Licensed Content to Google or its affiliates, either directly or indirectly.
- 1.5 You may not exploit the goodwill of Pictometry, including its trademarks, service marks, or logos, without the express written consent of Pictometry.
- 1.6 You may not remove, alter or obscure copyright notices or other notices contained in the Licensed Content.
- 1.7 You may not offer any part of the Online Services or the Licensed Content for commercial resale or commercial redistribution in any medium.
- 1.8 You may not use the Online Services or the Licensed Content to compete with any businesses of Pictometry.
- 1.9 You may not use information included in the Online Services or the Licensed Content to determine an individual consumer's eligibility for (a) credit or insurance for personal, family, or household purposes; (b) employment; or (c) a government license or benefit. The term "consumer" is defined in the United States Fair Credit Reporting Act at 15 USC §1681.
- 1.10 You may not access the Online Services via mechanical, programmatic, robotic, scripted or any other automated means. Unless otherwise agreed by Pictometry in writing, use of the Online Services is permitted only via manually conducted, discrete, human-initiated individual search and retrieval activities.
- 1.11 All right, title, and interest (including all copyrights, trademarks and other intellectual property rights) in the Online Services and the Licensed Content in all media belong to Pictometry or its third party suppliers. Neither you nor any users of the Online Services or the Licensed Content acquire any proprietary interest in the Online Services, the Licensed Content, or any copies thereof, except the limited use rights granted herein.

2. ACCESS TO SERVICES

- 2.1 Only you, your employees, and temporary or contract employees dedicated to performing work exclusively for you (each, an "Eligible User" and collectively, the "Eligible Users") are eligible to access and use the Online Services and the Licensed Content pursuant to the License Agreement. Each Eligible User to be provided access to the Online Service shall be assigned a unique login/password ("Pictometry Credential") for purposes of accessing the Online Services. You agree that each Pictometry Credential shall only be used by the Eligible User to whom it was originally assigned and that Pictometry Credentials may not be shared with, or used by, any other person, including other Eligible Users. You will promptly deactivate an Eligible User's Pictometry Credential in the event the Eligible User no longer meets the eligibility requirements or you otherwise wish to terminate the Eligible User's access to the Online Services. You are responsible for all use of the Online Services accessed with Pictometry Credentials issued to your Eligible Users, including associated charges, whether by Eligible Users or others. You will use reasonable commercial efforts to prevent unauthorized use of Pictometry Credentials assigned to your Eligible Users and will promptly deactivate any Pictometry Credentials you suspect are lost, stolen, compromised, or misused.
- 2.2 The Online Services, the Licensed Content, and features and functionality within the Online Services may be enhanced, added to, withdrawn, or otherwise changed by Pictometry without notice.
- 2.3 You are aware and understand that any user data collected or stored by the Online Services may be accessed by US law enforcement agencies under the US PATRIOT Act. You hereby release, and agree to hold Pictometry harmless from, all claims against Pictometry with respect to such access.

3. DISCLAIMERS

- 3.1 The Online Services and the Licensed Content are provided for visualization purposes only, are not authoritative or definitive, and do not constitute professional engineering or surveying services.
- 3.2 The Online Services and the Licensed Content are not to be relied upon to precisely locate or determine property boundaries and should not be used in lieu of a professional survey where the accuracy of measurements, distance, height, angle, area and volume, may have significant consequences.
- 3.3 All measurements and reports generated by the Online Services or from the Licensed Content are based upon second order visualization and measurement data that do not provide authoritative or definitive measurement results suitable for professional engineering or surveying purposes.
- 3.4 Contour information obtained from the Online Services or contained in the Licensed Content is generated from undersampled elevation data, is provided for informational purposes only, and is not suitable for use as the basis for hydrographic computations, estimations or analyses.
- 3.5 While the Online Services and the Licensed Content may be considered useful supplements for life critical applications, they are not designed or maintained to support such applications and Pictometry and its third party suppliers of the Online Services and the Licensed Content hereby disclaim all liability for damages claims and expenses arising from such use.
- 3.6 Your reliance on the Online Services and the Licensed Content should only be undertaken after an independent review of their accuracy, completeness, efficacy, timeliness and adequacy for your intended purpose.
- 3.7 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content assume no responsibility for any consequences resulting from the use of the Online Services or the Licensed Content.
- 3.8 Pictometry and each third party supplier of any portion of the Online Services or the Licensed Content hereby disclaim all liability for damages, claims and expenses arising from or in any way related to the accuracy or availability of the Online Services and the Licensed Content.
- 3.9 By accepting these General Terms and Conditions or by using the Online Services or the Licensed Content, you waive any and all rights you may have against Pictometry, each third party supplier of any portion of the Online Services or the Licensed Content, and each of their directors, officers, members and employees, arising out of use of or reliance upon the Online Services or the Licensed Content.

4. LIMITED WARRANTY

- 4.1 Pictometry represents and warrants that it has the right and authority to make the Online Services and the Licensed Content available to you and your Eligible Users as authorized expressly by this License Agreement.
- 4.2 EXCEPT AS OTHERWISE PROVIDED IN SECTION 4.1, THE ONLINE SERVICES AND LICENSED CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PICTOMETRY AND EACH THIRD PARTY SUPPLIER OF LICENSED CONTENT EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. LIMITATION OF LIABILITY

- 5.1 No Covered Party (as defined below) shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from (a) any errors in or omissions from the Online Services or the Licensed Content, (b) the unavailability or interruption of the Online Services or any features thereof or the Licensed Content, (c) your or an Eligible User's use of the Online Services or the Licensed Content, (d) the loss or corruption of any data or equipment in connection with the Online Services or the Licensed Content, (e) the content, accuracy, or completeness of the Licensed Content, all regardless of whether you received assistance in the use of the Online Service from a Covered Party, (f) any delay or failure in performance beyond the reasonable control of a Covered Party, or (g) any content retrieved from the Internet even if retrieved or linked to from within the Online Services.
- 5.2 "Covered Party" means (a) Pictometry and any officer, director, employee, subcontractor, agent, successor, or assign of Pictometry; and (b) each third party supplier of any Licensed Content, third party alliance entity, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of any Licensed Content or third party alliance entity and their affiliates.
- 5.3 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE ONLINE SERVICES OR THE LICENSED CONTENT OR THIS LICENSE AGREEMENT EXCEED THE LESSER OF YOUR ACTUAL DIRECT DAMAGES OR THE AMOUNT YOU PAID FOR THE ONLINE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. YOUR RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH YOU MAY HAVE AGAINST ANY COVERED PARTY.
- 5.4 TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, NEITHER YOU NOR THE COVERED PARTIES WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE ONLINE SERVICES, THE LICENSED CONTENT, OR THE FAILURE OF ANY COVERED PARTY TO PERFORM ITS OBLIGATIONS. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS OR YOUR (AND YOUR ELIGIBLE USERS') INFRINGEMENT OF INTELLECTUAL PROPERTY OR MISAPPROPRIATION OF PROPRIETARY DATA BELONGING TO PICTOMETRY OR ITS THIRD PARTY SUPPLIERS.
- 5.5 Notwithstanding anything to the contrary in this Section 5:
- (a) If there is a breach of the warranty in Section 4.1 above, then Pictometry, at its option and expense, shall either defend or settle any action and hold you harmless against proceedings or damages of any kind or description based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to use of the Online Services or the Licensed Content, asserted against you by such third party provided: (i) all use of the Online Services and the Licensed Content was in accordance with this License Agreement; (ii) the claim, cause of action or infringement was not caused by you modifying or combining the Online Services or the Licensed Content with or into other products, applications, images or data not approved by Pictometry; (iii) you give Pictometry prompt notice of such claim; and (iv) you give Pictometry the right to control and direct the investigation, defense and settlement of such claim. You, at Pictometry's expense, shall reasonably cooperate with Pictometry in connection with the foregoing.
- (b) In addition to Section 5.5(a), if the Online Services, the operation thereof or the Licensed Content become, or in the opinion of Pictometry are likely to become, the subject of a claim of infringement, Pictometry may, at its option and expense, either: (i) procure for you the right to continue using the Online Services or the Licensed Content, (ii) replace or modify the Online Services or the Licensed Content so that they become non-infringing, or (iii) terminate the License Agreement on notice to you and grant you a pro-rata refund or credit (whichever is applicable) for any pre-paid fees or fixed charges.
- (c) The provisions of Sections 5.5(a) and (b) shall constitute your sole and exclusive remedy for the respective matters specified therein.

6. MISCELLANEOUS

- 6.1 The terms and conditions of this License Agreement may be changed from time to time immediately upon notice to you. If any changes are made to this License Agreement, such changes will: (a) only be applied prospectively; and (b) not be specifically directed against you or your Eligible Users but will apply to all similarly situated Pictometry customers using the Online Services. You may terminate this License Agreement upon written notice to Pictometry if any change to the terms and conditions of this License Agreement is unacceptable to you. For termination to be effective under this Section 6.1, written notice of termination must be provided to Pictometry within 90 days of the effective date of the change. Continued use of the Online Services following the effective date of any change constitutes acceptance of the change, but does not affect the foregoing termination right. Except as provided above, this License Agreement may not be supplemented, modified or otherwise revised unless signed by duly authorized representatives of both parties. Furthermore, this License Agreement may not be supplemented, modified or otherwise revised by email exchange, even if the email contains a printed name or signature line bearing signature-like font. The foregoing does not prohibit the execution of electronic contracts bearing electronic signatures of authorized representatives of both parties, provided such signatures include digital certifications or are otherwise authenticated.
- 6.2 In the event of a breach of this License Agreement by you, any Eligible User or someone using the Pictometry Credential of an Eligible User, Pictometry may temporarily suspend or discontinue providing access to the Online Services to any or all Eligible Users without notice and Pictometry may pursue any other legal remedies available to it.
- 6.3 All notices and other communications hereunder shall be in writing or displayed electronically in the Online Services by Pictometry. Notices shall be deemed to have been properly given on the date deposited in the mail, if mailed; on the date first made available, if displayed in the Online Services; or on the date received, if delivered in any other manner. Legal notices to Pictometry should be sent to Pictometry, Attn: General Counsel, 25 Methodist Hill Drive, Rochester, New York 14623.
- 6.4 The failure of you, Pictometry, or any third party supplier of the Online Services or any Licensed Content to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 6.5 Neither you nor any Eligible User may assign or otherwise transfer your rights or delegate your duties under this License Agreement without the prior written consent of Pictometry. Any attempt by you or any Eligible User to assign, transfer or delegate your rights or obligations under this License Agreement without Pictometry's consent shall be void, and shall also void the limited license granted to you by this License Agreement. This License Agreement and any amendment thereto shall be binding on, and will inure to the benefit of the parties and their respective successors and permitted assigns.
- 6.6 This License Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles. Unless you are a government entity, in the event that any legal proceedings are commenced with respect to any matter arising under this License Agreement, the parties specifically consent and agree that the courts of the State of New York or, in the alternative, the Federal Courts located in the State of New York shall have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings, and that the venue of any such action shall be in Monroe County, New York or the U.S. District Court for the Western District of New York, as applicable.

- 6.7 This License Agreement will be enforced to the fullest extent permitted by applicable law. If any provision of this License Agreement is held to be invalid or unenforceable to any extent, then (a) such provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent and (b) such invalidity or unenforceability will not affect any other provision of this License Agreement.
- 6.8 Where applicable, each affiliated company of Pictometry and each third party supplier of the Online Services or any Licensed Content has the right to assert and enforce the provisions of this License Agreement directly on its own behalf as a third party beneficiary.
- 6.9 In the event of a breach of your obligations under this License Agreement or your payment obligations with respect to access to the Online Services or the Licensed Content, you agree to pay all of Pictometry's costs of enforcement and collection, including court costs and reasonable attorneys' fees.
- 6.10 This License Agreement constitutes the entire agreement of the parties with respect to its subject matter and replaces and supersedes any prior written or verbal communications, representations, proposals or quotations relating to that subject matter.

[END OF ONLINE SERVICES GENERAL TERMS AND CONDITIONS]

SECTION B

LICENSE TERMS

PICTOMETRY SOFTWARE LICENSE AGREEMENT

PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("LICENSE") CAREFULLY BEFORE DOWNLOADING, INSTALLING OR USING THE SOFTWARE. BY USING THE SOFTWARE, YOU AGREE TO THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE.

1. **GENERAL.** The software ("Pictometry Software") and any written materials that accompany the software ("Documentation") in any media or form are licensed, not sold, to you by Pictometry International Corp. ("Pictometry") for use only under the terms of this License. Pictometry reserves all rights not expressly granted to you in this License.
2. **LICENSE.** Subject to the terms and conditions of this License, you are granted a limited, non-transferable, terminable, non-sublicenseable, non-exclusive license to install and use the Pictometry Software and the Documentation (collectively, the "Proprietary Materials") solely for internal use. Use of the functionality provided by the Pictometry Software other than for your internal use is prohibited, except with the prior written approval of Pictometry. You may make one copy of the Pictometry Software in machine-readable form for backup purposes only; provided that the backup copy must include all copyright and other proprietary notices contained in the original. You will not and will not enable others to decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, create derivative works of, or tamper with or disable any security or monitoring features within the Pictometry Software. Any attempt to do so is a violation of the rights of Pictometry and its licensors.
3. **TITLE.** The Proprietary Materials are confidential information of, trade secrets of, and are proprietary to Pictometry. Title to the Proprietary Materials is and will remain in Pictometry and its licensors. All applicable rights to patents, copyrights, trademarks, trade secrets, and other intellectual property rights in the Proprietary Materials are and will remain in Pictometry and its licensors. You will not assert any right, title or interest in the Proprietary Materials provided to you under this License, except for the express license granted to you hereunder. You will not remove any copyright or other proprietary notice or legend contained on or included in any Proprietary Materials and you will reproduce all such information on all copies made hereunder. You will keep the Proprietary Materials free of all claims, liens and encumbrances.
4. **DISCLAIMERS OF WARRANTY.** USE OF THE PICTOMETRY SOFTWARE IS AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PICTOMETRY SOFTWARE IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND PICTOMETRY HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE PICTOMETRY SOFTWARE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. PICTOMETRY DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN OR PROVIDED BY THE PICTOMETRY SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE PICTOMETRY SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE PROPRIETARY MATERIALS WILL BE CORRECTED.
5. **LIMITATION OF LIABILITY.** IN NO EVENT WILL PICTOMETRY BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE PICTOMETRY SOFTWARE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), EVEN IF PICTOMETRY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PICTOMETRY'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) CAUSED BY, ARISING OUT OF OR IN ANY WAY RELATED TO THE PICTOMETRY SOFTWARE EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
6. **TERMINATION.** This License will terminate automatically without notice from Pictometry if you fail to comply with any term of this License. Upon the termination of this License, you will cease all use of the Pictometry Software and destroy all copies, full or partial, of the Proprietary Materials.
7. **MISCELLANEOUS PROVISIONS.**
 - A. **Restricted Rights.** Pictometry Software acquired with United States Government funds or intended for use within or for any United States federal agency is provided with "Restricted Rights" as defined in DFARS 252.227-7013, Rights in Technical Data and Computer Software and FAR 52.227-14, Rights in Data-General, including Alternate III, as applicable. Pictometry must be notified in advance of any license grants to United States federal governmental entities. The Pictometry Software is developed for general use in a variety of applications and is not developed or intended for use in any inherently dangerous applications or applications that could lead to property damage, personal injury or death. If you use the Pictometry Software in such applications, then you will be responsible for taking all appropriate fail-safe, backup, redundancy, and other measures to ensure the safe use of the Pictometry Software in such applications, including but not limited to, in any nuclear, aviation, mass transit, public safety or medical applications.
 - B. **Foreign Trade Restrictions.** The parties acknowledge that certain information, software technology, accompanying documentation and technical information may be subject to United States export control laws. You will not directly or indirectly export or re-export the Pictometry Software in violation of the Export Administration Regulations of the U.S. Department of Commerce.
 - C. **Governing Law.** This License will be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflict of laws principles.
 - D. **Assignment.** You may not assign this License without Pictometry's prior written consent. Any assignment in violation of this License will be null, void and of no force and effect. For all purposes under this License, any merger, consolidation, spin-off, acquisition or change-in-control will be deemed an assignment.
 - E. **Partial Invalidity; Survival.** If any provision of this License is held invalid or unenforceable by competent authority, that provision will be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it will then appear. The total invalidity or unenforceability of any particular provision of this License will not affect its other provisions and this License will be construed in all respects as if the invalid or unenforceable provision were omitted. The provisions of this License that by their nature would survive its termination will survive indefinitely.
 - F. **Force Majeure.** Except with respect to Customer's payment obligations for services delivered, reports delivered or any ongoing subscription payment obligation, each party will be excused from performance under this Agreement, will not be deemed to be in breach hereof, and will have no liability to the other party whatsoever if either party is prevented from performing any of its obligations hereunder, in whole or in part, as a result of a Force Majeure Event.

A "Force Majeure Event" means an event or occurrence beyond the control of the nonperforming party, such as an act of God or of the public enemy, embargo or other act of government in either its sovereign or contractual capacity, government regulation, travel ban or request, court order, civil disturbance, terrorism, war, quarantine restriction, epidemic, virus, fire, weather, flood, accident, strike, slowdown, delay in transportation, electrical power outage, interruption or degradation in electronic communications systems, inability to obtain necessary labor, materials or manufacturing facilities, and other similar events. In the event of any delay resulting from a Force Majeure Event, any date of delivery hereunder will be extended for a period equal to the time lost because of the delay.

- G. **Waiver.** No waiver of a breach of any term of this License will be effective unless in writing and duly executed by the waiving party. No such waiver will constitute a waiver of any subsequent breach of the same or any other term of this License. No failure on the part of a party to exercise, and no delay in exercising any of its rights hereunder will operate as a waiver thereof, nor will any single or partial exercise by a party of any right preclude any other or future exercise thereof or the exercise of any other right. No course of dealing between the parties will be deemed effective to modify, amend or discharge any part of this License or the rights or obligations of any party hereunder.
- H. **Entire Agreement; Construction.** This License contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous understandings regarding that subject matter. No amendment to or modification of this License will be binding unless in writing and signed by Pictometry. There are no representations, warranties, or obligations of any party not expressly contained herein. The headings in this License are for convenience only. They do not constitute a portion of this License and will not be used in any construction of it.

[END OF SOFTWARE LICENSE AGREEMENT]

SECTION C

NON-STANDARD TERMS AND CONDITIONS

1. **Online Services Eligible Users:** Notwithstanding anything in the Online Services General Terms and Conditions incorporated in this Agreement to the contrary, the terms 'Eligible User' and 'Eligible Users' as defined in those Online Services General Terms and Conditions shall, for the purposes of this Agreement, also include each 'Authorized User' as that term is defined in the Delivered Content Terms and Conditions of Use incorporated in this Agreement.

2. **Applicable Law:** Notwithstanding anything to the contrary set forth elsewhere in this Agreement, this Agreement and any modifications, amendments or alterations shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Washington, excluding its conflicts of law principles. Each party irrevocably consents to the exclusive jurisdiction of the courts of the State of Washington in connection with any action to enforce the provisions of this Agreement, to recover damages or other relief for breach or default under this Agreement, or otherwise arising under or by reason of this Agreement.

3. **Non-Appropriation of Funds:** Long Term Incentives ('LTI') have been applied to the imagery fees shown in Section A. Non-Appropriation of funds is applied to the Second and Third Projects. If such funds are not appropriated, Customer shall provide Pictometry with written documentation of non-appropriation from the funding source. Such notification shall be 90-days prior to any pending project commencement. If funds are not appropriated for subsequent Projects, the Agreement shall stay in force but subsequent Projects shall not be commenced or delivered until outstanding balances due have been paid.

4. Customer shall own the copy of the orthogonal imagery delivered to it by Pictometry pursuant to this Agreement. Customer is free to use, reproduce and redistribute copies of the orthogonal imagery so delivered in any manner without any accounting to Pictometry. Pictometry shall own those copies of the orthogonal imagery delivered pursuant to this Agreement that are in Pictometry's possession. Pictometry is free to use, reproduce and redistribute copies of the orthogonal imagery delivered pursuant to this Agreement in any manner without any accounting to Customer. Except for the copy of the orthogonal imagery delivered to Customer by Pictometry pursuant to this Agreement, all imagery (including associated metadata) and software delivered or otherwise made available to Customer pursuant to this Agreement constitute Delivered Content or Pictometry Software, as appropriate, and are and shall remain the exclusive property of Pictometry, subject to the rights of Customer to use the Delivered Content and the Pictometry Software pursuant to the licenses granted by Pictometry elsewhere in this Agreement.

5. It is acknowledged and agreed that this Agreement is between Pictometry International Corp and Whatcom County, provided, however, Whatcom County has agreed to allow the following entities to become Authorized Users for the products contained within this Agreement:

- Birch Bay Water & Sewer
- City of Bellingham
- City of Blaine
- City of Everson
- City of Ferndale
- City of Lynden
- City of Nooksack
- City of Sumas
- Lake Whatcom Water & Sewer
- Lummi Nation
- Nooksack Tribe
- Port of Bellingham
- Public Utilities District
- Whatcom Conservation District
- Whatcom Council of Governments
- Whatcom Transportation Authority

6. **Public Disclosure:** Pictometry acknowledges that Whatcom County is a public agency and as such is required to allow members of the public access to public records in accordance with Washington State public records laws. In the event that the Whatcom County Public Records Officer receives a public records request for information or intellectual property belonging to Pictometry, within five days of receiving such request and prior to providing any materials to the Requestor, Whatcom County will notify Pictometry of such request for information and will make attempts to provide Pictometry with adequate time to seek a protective order under applicable law, provided, nothing herein shall prohibit or preclude Whatcom County from complying with the Washington State Public Records Act, Chapter 42.56, RCW, and making all requested information available as shall be required by law.

7. Pictometry shall use commercially reasonable efforts to complete each image capture for the intended calendar year referenced herein. This is a target date only because the image capture process and the delivery dates may be affected by numerous conditions outside of Pictometry's control including weather and airspace permissions.

8. The initial term of this Agreement shall commence upon the Effective Date (noted in the Pictometry Signature Block of the Order Form), and coincide with the Fees and Payment Term section stated in Section A of the Agreement for a period of nine (9) years, (the "Initial Term") unless the parties enter into a written agreement extending or changing that Initial Term.

[END OF NON-STANDARD TERMS AND CONDITIONS]

APPENDIX 1**PHOTOGRAMMETRIC PRODUCT SPECIFICATIONS**

Essentials+ Community deliverables

Product	Essentials+ Community
Orthomosaic Specifications	<ul style="list-style-type: none"> • Typical Positional Horizontal Accuracy: 1m at a 95% confidence level • Fully automated photogrammetric orthomosaic. Imagery may contain seamlines • Project-wide color and contrast balancing
Oblique Imagery	Nominal 9in GSD oblique imagery or better: <ul style="list-style-type: none"> • Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines
Metadata and Reporting	Metadata: <ul style="list-style-type: none"> • Metadata generated that meets FGDC Standards upon request • Shapefile(s) with discrete deliverable boundaries and directional metadata
Orthomosaic Deliverable Format (Online)	Resolution: <ul style="list-style-type: none"> • Nominal 9in GSD Access Methods: <ul style="list-style-type: none"> • Available via web-based viewer (Connect) - Contracted separately • Also available via WMS/WMTS (Image Service) - Contracted separately
Orthomosaic Deliverable Format (Physical)	Resolution: <ul style="list-style-type: none"> • Nominal 9in GSD Projection/Coordinate System: <ul style="list-style-type: none"> • Customer Selectable Datum: <ul style="list-style-type: none"> • Customer Selectable File Format: <ul style="list-style-type: none"> • Mosaic Tiles <ul style="list-style-type: none"> ○ Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file ○ Includes separate Pictometry Map Image (PMI) trailer file • Project-Wide Mosaic <ul style="list-style-type: none"> ○ Available in ECW, MrSID (All versions) format
Oblique Imagery Deliverable Format	Access methods: <ul style="list-style-type: none"> • Available via web-based viewer (Connect) - Contracted separately
Delivery Timeline	<ul style="list-style-type: none"> • Best efforts to make ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion

Essentials+ Neighborhood deliverables

Product	Essentials+ Neighborhood
Orthomosaic Specifications	<ul style="list-style-type: none"> • Typical Positional Horizontal Accuracy: 1m at a 95% confidence level • Fully automated photogrammetric orthomosaic. Imagery may contain seamlines • Project-wide color and contrast balancing
Oblique Imagery	Nominal 6in GSD oblique imagery or better: <ul style="list-style-type: none"> • Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines
Metadata and Reporting	Metadata: <ul style="list-style-type: none"> • Metadata generated that meets FGDC Standards upon request

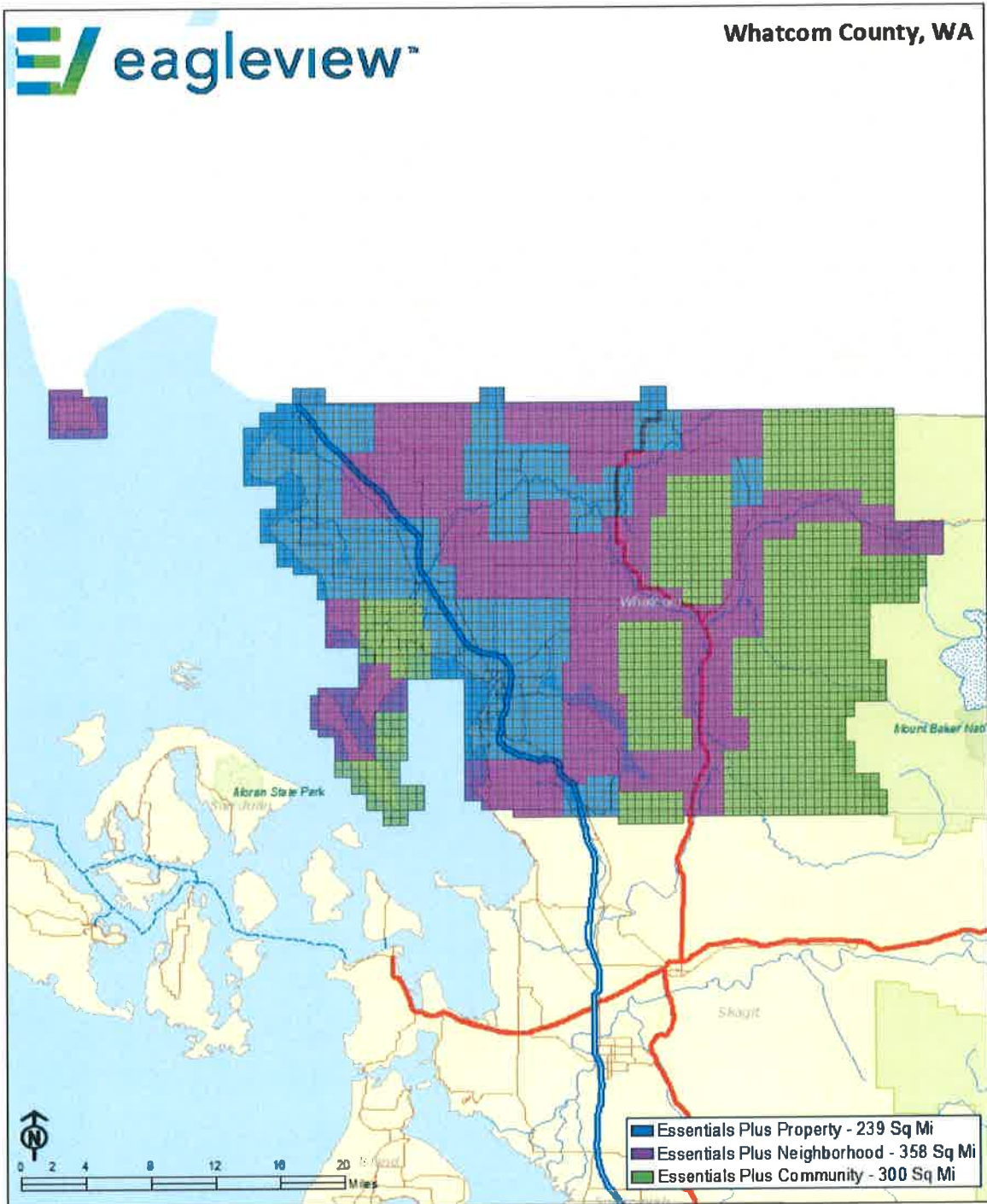
	<ul style="list-style-type: none"> Shapefile(s) with discrete deliverable boundaries and directional metadata
Orthomosaic Deliverable Format (Online)	Resolution: <ul style="list-style-type: none"> Nominal 6in GSD Access Methods: <ul style="list-style-type: none"> Available via web-based viewer (Connect) - Contracted separately Also available via WMS/WMTS (Image Service) - Contracted separately
Orthomosaic Deliverable Format (Physical)	Resolution: <ul style="list-style-type: none"> Nominal 6in GSD Projection/Coordinate System: <ul style="list-style-type: none"> Customer Selectable Datum: <ul style="list-style-type: none"> Customer Selectable File Format: <ul style="list-style-type: none"> Mosaic Tiles <ul style="list-style-type: none"> Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file Includes separate Pictometry Map Image (PMI) trailer file Project-Wide Mosaic <ul style="list-style-type: none"> Available in ECW, MrSID (All versions) format
Oblique Imagery Deliverable Format	Access methods: <ul style="list-style-type: none"> Available via web-based viewer (Connect) - Contracted separately
Delivery Timeline	<ul style="list-style-type: none"> Best efforts to make ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion

Essentials+ Property deliverables

Product	Essentials+ Property
Ortho Frame Imagery	<ul style="list-style-type: none"> Nominal 2in GSD ortho imagery, Imagery as good as 1.2in and no worse than 3in
Orthomosaic Specifications	<ul style="list-style-type: none"> Typical Positional Horizontal Accuracy: 1m at a 95% confidence level Fully automated photogrammetric orthomosaic. Imagery may contain seamlines Project-wide color and contrast balancing
Oblique Imagery	Nominal 2.6in GSD oblique imagery ranging from 1.7in to 3.5in GSD: <ul style="list-style-type: none"> Where available fully automated photogrammetric mosaiced imagery. Imagery may contain seamlines
Metadata and Reporting	Metadata: <ul style="list-style-type: none"> Metadata generated that meets FGDC Standards upon request Shapefile(s) with discrete deliverable boundaries and directional metadata
Orthomosaic Deliverable Format (Online)	Resolution: <ul style="list-style-type: none"> Nominal 2in GSD, no worse than 3in (Best Available Provided) Access Methods: <ul style="list-style-type: none"> Available via web-based viewer (Connect) - Contracted separately Also available via WMS/WMTS (Image Service) - Contracted separately
Orthomosaic Deliverable Format (Physical)	Resolution: <ul style="list-style-type: none"> Nominal 2in GSD, no worse than 3in (Best Available Provided) Projection/Coordinate System: <ul style="list-style-type: none"> Customer Selectable Datum: <ul style="list-style-type: none"> Customer Selectable File Format: <ul style="list-style-type: none"> Mosaic Tiles <ul style="list-style-type: none"> Available as JPEG, GeoTIFF, JPEG2000, PNG, ECW, MrSID (All versions) with world file Includes separate Pictometry Map Image (PMI) trailer file

	<ul style="list-style-type: none"> • Project-Wide Mosaic <ul style="list-style-type: none"> ◦ Available in ECW, MrSID (All versions) format
Oblique Imagery & Frame Imagery Deliverable Format	Access methods: <ul style="list-style-type: none"> • Available via web-based viewer (Connect) - Contracted separately
Delivery Timeline	<ul style="list-style-type: none"> • Best efforts to make frame imagery available online within 20 days of capture complete • Best efforts to make ortho and oblique imagery available online and/or ready for physical delivery within 30 days of capture completion

MAP(S)





Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-738

File ID:	AB2021-738	Version:	1	Status:	Agenda Ready
File Created:	11/29/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Tschroed@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Allison Hunt, M.D. for fulfilling the duties of Whatcom County Medical Examiner in the amount of \$1,838,739

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into a contract between Whatcom County and Allison Hunt, M.D. for fulfilling the duties of Whatcom County Medical Examiner in the amount of \$1,838,739

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Contract, Routing Form



MEMORANDUM

TO: County Council

FROM: Tyler Schroeder, Deputy Executive
Through: Satpal Sidhu, County Executive

RE: New Medical Examiner contract between Whatcom County and Hunt Forensics

DATE: November 29, 2021

Enclosed is a contract amendment between Hunt Forensics and Whatcom County for Medical Examiner (ME) services.

▪ **Background and Purpose**

In June of 2021, Whatcom County solicited for a new Medical Examiner due to the impending retirement of our current ME. After a successful interview process, Dr. Allison Hunt doing business as Hunt Forensics was chosen to fill the role of Whatcom County ME. This contract is for the provision of Medical Examiner services for Whatcom County.

January 1, 2022 thru December 31, 2022 \$588,400 + (6-month transition staff \$38,000)
January 1, 2023 thru December 31, 2023 \$600,168 includes 2% annual adjustment
January 1, 2024 thru December 31, 2024 \$612,171 includes 2% annual adjustment

▪ **Funding Amount and Source**

The funding source is the General Fund.

▪ **Differences from Previous Contract**

This contract is similar to the historical agreement the county previously had with Dr. Goldfogel for over three decades with exception to some expanded language in the scope of services. The compensation is aligned with the Hunt Forensics budget proposal and our previous Medical Examiner service agreements.

Please contact Tyler Schroeder at extension 5207, if you have any questions or concerns regarding the terms of this agreement.

Encl.

CONTRACT FOR PROFESSIONAL SERVICES
Between Whatcom County and Hunt Forensics

Hunt Forensics, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 12,
 Exhibit A (Scope of Work), pp. 13 to 14,
 Exhibit B (Compensation), p. 15,
 Exhibit C (Budget), p. 16,
 Exhibit D (Certificate of Insurance), p. 17,
 Exhibit E (E-Verify Declaration), p. 18.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31 day of December, 2024.

The general purpose or objective of this Agreement is to: provide Medical Examiner services as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$1,838,739. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each person signing this Contract represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Contract.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 20 ____.

CONTRACTOR:

Hunt Forensics

 Allison Hunt, M.D.

STATE OF WASHINGTON)
) ss.
 COUNTY OF _____)

On this ____ day of _____, 20 __, before me personally appeared _____ to me known to be the _____ (title) of _____ (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

 NOTARY PUBLIC in and for the State of Washington, residing at _____.
 My commission expires _____.

WHATCOM COUNTY:
Recommended for Approval:

Department Director Date

Approved as to form:

Prosecuting Attorney
Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Satpal Singh Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at _____
_____. My commission expires _____.

CONTRACTOR INFORMATION:

Hunt Forensics

Allison Hunt, M.D.

Address:
19206 SE 342nd Street
Auburn, WA 98092

Mailing Address:
Same

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages,

minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure

pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall agree to the following requirements relating to insurance coverage.

1. Liability Insurance

The Contractor shall purchase and maintain in a company or companies licensed to do business in the state of Washington, with an A.M. Best rating of A/VIII or better and reasonably satisfactory to Owner, such insurance as will protect Contractor and Owner from claims set forth below, which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All reinsurers that may be called upon to support or share in an insurer's obligations specified in connection with insurance required of the Contractor by the Contract Documents must also have an A.M. Best rating of A/IX or better.

- a. Claims under workers' or workmen's compensation, disability benefit, and other similar employee benefit acts which is applicable to Work to be performed;
- b. Claims for damages, because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;

- c. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- d. Claims for damages insured by usual personal injury liability coverage, which are sustained (1) by a person as a result of an act or omission directly or indirectly related to employment of such person by the Contractor, or (2) by another person;
- e. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- f. Claims for damages because of bodily injury, death of a person, or property damage arising out of ownership, maintenance, or use of a motor vehicle;
- g. Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:
 - i. Premises operations (including X, C, and U as applicable);
 - ii. Independent Contractor's protective;
 - iii. Products and completed operations;
 - iv. Personal injury liability with employment exclusion deleted;
 - v. Owned, non-owned, and hired motor vehicles;
 - vi. Broad form property damage including completed operations; and
 - vii. Umbrella excess liability.

The insurance required herein shall be written for not less than limits of liability specified below or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

- a. Comprehensive General Liability (Including Premises Independent Contractor's Protective; Products and Completed Operations; Broad Form Property Damage):
 - i. Bodily Injury:
 - \$1,000,000.00. Each occurrence.
 - \$2,000,000.00. Annual aggregate.
 - ii. Property Damage:
 - \$1,000,000.00. Each occurrence.
 - \$2,000,000.00. Annual aggregate.
 - iii. Products and completed operations to be maintained for three (3) years after final payment.
 - iv. Property Damage Liability Insurance shall provide X, C, or U coverage as applicable.
- b. Professional Liability:
 - \$1,000,000.00. Each occurrence.
- c. Personal Injury, with employment exclusive deleted:
 - \$1,000,000.00. Annual aggregate.
- d. Comprehensive Automobile Liability:
 - i. Bodily Injury:
 - \$1,000,000.00. Each person.
 - \$1,000,000.00. Each occurrence.
- e. Umbrella Excess Liability:
 - \$10,000,000.00. Over primary insurance.
 - \$50,000.00. Retention for self-insured hazards each occurrence.
- f. WA Stop Gap Liability
 - \$1,000,000.00. Each occurrence.

Certificates of Insurance and Endorsements acceptable to Whatcom County shall be filed with Whatcom County prior to commencement of the Work. These Certificates and the insurance policies required shall contain a provision that coverages afforded under the policies will not be reduced, canceled, or allowed to expire until at least 30 days' prior written notice has been given to Whatcom County. Whatcom County shall be included as an additional insured on all such policies. Information concerning reduction of coverage shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief. The Contractor shall furnish one (1) copy of certificates of insurance herein required. The Contractor shall furnish to Whatcom County copies of any endorsements that are subsequently issued amending coverage or limits.

2. Workers' Compensation

The Contractor shall take out and maintain during the life of this Contract Workers' Compensation insurance for all its employees engaged in Work under or pursuant to this Contract who are required to be so covered by the laws of the state in which the Contractor's employees are working, and in case any work is sublet, the Contractor shall require the subcontractor to provide Workers' Compensation insurance for all its employees, unless or to the extent that such employees are covered by the protection provided by the Contractor.

Coverage for Contractor's employees must be afforded on a reciprocal basis when the employees are working in the State of Washington.

- 34.3 Defense & Indemnity Agreement. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent Negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Insert here: Tawni Helms, Administrative Coordinator
 Whatcom County Executive Office
 311 Grand Avenue, Suite 108
 Bellingham, WA 98225

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

To: Hunt Forensics
 19206 SE 342nd Street
 Auburn, WA 98092
 Attention: Allison Hunt, M.D.
 Telephone: (951) 212-4869
 Email: morguechic@icloud.com

To: Whatcom County Executive Office
 311 Grand Avenue, Suite 108
 Bellingham, WA 98225
 Attn: Tawni Helms
 360-778-5208
 thelms@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of

this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

The Contractor shall fulfill the responsibilities of the office and function of the ME as established by the Revised Code of Washington (RCW) 68.50. There are several reasons why a ME is to be utilized in the determination of the cause and manner of death. They include: (1) murder shall be determined and recognized; (2) the innocent shall be exonerated; (3) criminal and civil court proceedings will be provided with documented and impartial medical advice; (4) unrecognized hazards to public health shall be revealed; and (5) industrial and/or workplace hazards shall be made known to the public.

In order to reach and provide these services, the ME by statute assumes jurisdiction over human remains in these cases. The ME, after a thorough investigation, is to determine the cause and manner of death.

RESPONSIBILITIES OF MEDICAL EXAMINER

The ME shall be available personally to provide ME services under this Agreement or when unavailable will contract for those services at their expense. ME will provide services ME coverage 24 hours per day, 365 days per year. The ME shall perform ME services including but not limited to the following:

1. Arrange for the transportation of bodies.
2. Investigate all deaths pursuant to RCW 68.50.
3. Be available to law enforcement and in turn have access to law enforcement expertise, experience and personnel and assistance.
4. Create and file such medical records as are needed or required by statute and good medical procedure.
5. Extend and receive the full cooperation from all levels of county government appropriate to the investigation of death as determined by the ME.
6. Authority and duty to serve as a representative to the trauma quality assurance committee of St. Joseph Hospital.
7. Teach paramedics and emergency technicians, police and fire department trainees regarding any techniques and/or requirements of death investigations.
8. Liaison and work with the County Health Department regarding issues of public health, infectious diseases, toxins and poisons.
9. Be a representative on the Whatcom County Disaster Management Committee.
10. Provide courtroom testimony and consultation services for the prosecuting attorney, public defender, and law enforcement agencies on autopsies, interpretation of injuries on both living and deceased, toxicology testing and interpretation (including legal ethanol analyses).
11. Maintain and oversee the personnel, equipment, supplies, etc. to perform the duties of the Medical Examiner Office.
12. Obtain and oversee substitute professional coverage when the ME is unavailable for any reason. Any such coverage shall be consistent with this contract and the standards of the College of American Pathology for autopsies.
13. Administration of indigent cremation burial program on behalf of Whatcom County.
14. Create and maintain all documents, reports, and evidence necessary to perform the function of the Medical Examiner Office in accordance with relevant legal and professional standards.
15. Maintain current certification, stature, and licensure to perform the duties of Medical Examiner.
16. Maintain and oversee the morgue facility.
17. Makes recommendations as necessary as a member of Child Death Review Committee along with DSHS, Health Department, schools, courts, Prosecutor, Sheriff, and Police Department.
18. The ME shall perform all duties consistent with and pursuant to all applicable federal, state, and local laws and regulations.

The ME shall not have authority or responsibility over the personal effects of the deceased or the responsibility or authority for notifying the next of kin to the deceased. These functions shall remain with the appropriate police and/or law enforcement agency. The ME shall not have authority or responsibility for making probate arrangements of the deceased.

Subject to all applicable laws, the Whatcom County Medical Examiner shall work collaboratively with a variety of important community stakeholders such as Law Enforcement, Emergency Medical Services, Prosecuting Attorneys, Funeral Home Directors, Physicians, and family support officers to ensure professional and responsive engagement with the Medical Examiner Office that serves our community and its citizens with integrity and professionalism.

The ME shall also strive to accommodate the religious needs of families whose religious faiths may require special services surrounding autopsies. This effort will be made in good faith to serve Whatcom County's diverse community without compromising the lawful duties and obligations of the Medical Examiner.

The Medical Examiner will work with the County to develop specific procedures that assure ongoing and adequate Medical Examiner

Services should the existing contractor be unable to perform the services of a Medical Examiner. The Medical Examiner will cooperate with the County to the fullest extent possible in the development of the procedures. The Medical Examiner shall be responsible for completing workload reports on a quarterly basis to include the number of autopsies and respective completed reports. For auditing purposes, the Medical Examiner will submit on a bi-annual basis, an autopsy report with the number of autopsies performed and the corresponding case number for each to allow for state reimbursement as per RCW 43.79.445.

The Whatcom County Medical Examiner agrees to prioritize the Whatcom County Medical Office and all of its obligations over and above any other jurisdictional request for services. Should the ME agree to perform work outside the scope of this contract, the work will occur with the mutual consent of both parties to this agreement. Such work shall be deemed to be a gratuitous effort on the part of the ME and ME shall not claim against the County for such work.

EXHIBIT "B"
(COMPENSATION)

As consideration for the services provided pursuant to Exhibit A, Scope of Work, the county agrees to compensate the contractor \$48,420 per month consistent with Exhibit "C" Budget. Contractor will provide quarterly activity reports and upon request provide source documents such as payroll summaries identifying employee, hours worked and amount of compensation. This contract allows for an annual cost adjustment of 2% as noted in years 2023 and 2024. Except as outlined below, maximum consideration for Medical Examiner Services shall not exceed \$588,400 for year 2022.

For the period of January 1, 2022 through December 31, 2022	\$588,400 + payroll costs for 6-month transition staff (\$38,000)
For the period of January 1, 2023 through December 31, 2023	\$600,168 includes 2% annual adjustment
For the period of January 1, 2024 through December 31, 2024	\$612,171 includes 2% annual adjustment

TRANSITION SCOPE:

In addition to the above amounts, Whatcom County will, upon invoice, reimburse the Medical Examiner for costs associated with the continued employment of the current Office Manager and Investigator for a duration of no more than six months. The intent to retain current personnel over and above Medical Examiner new hires is to provide for the transfer of institutional knowledge regarding the operations of the Medical Examiner Office and Morgue. The transition will also include the re-organization of historical recordkeeping onto updated electronic platforms.

Current Office Manager:	\$2,500/mo. x 6 months = \$15,000
Investigator:	\$3,833/mo. x 6 months = \$22,998

The continued employment of these long-term employees is essential to ensuring a smooth transition for the new Medical Examiner with minimal interruption to the community. The additional employment costs for these two employees to be retained for 6 months shall not exceed \$38,000.

EXTRAORDINARY EVENT:

In the event a catastrophe should occur in Whatcom County, with multiple deaths in excess of any reasonable expectation (for these purposes four or more deaths happening in or around the same event), the Contractor shall be permitted to request the contract be reopened to review the possible need for additional compensation, and the parties shall in good faith seek to address the request for additional compensation.

INVOICING:

The ME will provide the County with monthly invoices for Medical Examiner services. The ME will bill actual cost for transitional staff for up to six months of employment. Payment is reimbursement only and shall not exceed \$38,000. Copies of receipts must be attached to invoice for reimbursement. Payment will be made no more than one time per month. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

EXHIBIT "C" - Budget

Hunt Forensics		
Whatcom County Medical Examiner's Office Budget		
DESCRIPTION	PURPOSE	AMOUNT
Medical Examiner - Forensic Pathology	Forensic Pathology and Medical Examiner Services, ME substitute coverage, insurance, and benefits	\$300,000.00
Officer Manager	salary - including benefitis - full time position	\$90,000.00
Office Assstant	part- time position; no benefitis; M-F 9:00-2:00	\$32,500.00
INVESTIGATORS:		
On Call Pay	365/24/7 Coverage; \$32/hr (x 2) - paid for 2hours to be on call)	\$23,360.00
Scene Response Pay	\$32/hour; based on 1 scene every 2 days; 187.5/year*	\$23,360.00
Reserve		\$1,480.00
Technician	Part-time position** no benefitis; M-F 9:00-2:00; \$31/hour	\$40,300.00
Transportation	Transport services contract	\$15,000.00
Professional Services	toxicology, histology, x-rays, genetics, neuropathology; etc	\$20,000.00
Funeral home Services	Contractual services	\$9,000.00
Office Supplies and Postage	Administrative Supplies	\$2,400.00
Operating Supplies	body bags, seals	\$12,000.00
Small Tools & PPE		\$3,500.00
Staff Cell Phone and Computer		\$4,500.00
Education and Training	Professional Development - Staff	\$5,000.00
Internet and Office Phone	access high-speed internet - phone	\$6,000.00
	Total Budget	\$588,400.00

EXHIBIT "D"

(CERTIFICATE OF INSURANCE)

EXHIBIT "E"

E-Verify Declaration

I. CONTRACTOR INFORMATION

Contractor Name:		Phone:	
Contact Person:		Fax:	
Address:			

II. E-VERIFY ENROLLMENT (check box and submit copy of MOU for verification)

Contractors with funded contracts of \$100,000 or more must be enrolled in E-Verify system. Work related subcontract is \$25,000. or higher.

www.uscis.gov/e-verify

☐ **Contractor is enrolled in E-Verify; copy of the signed E-Verify Memorandum of Understanding is attached.**

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature

Name

Date

Title

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: (i.e. Dept. Division and Program) _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <p><input type="checkbox"/> Professional services agreement for certified/licensed professional. Goods and services provided due to an emergency</p> <p><input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</p> <p><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.</p> <p><input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</p>	
<p>Contract Amount:(sum of original contract amount and any prior amendments):</p> <p>\$ _____</p> <p>This Amendment Amount:</p> <p>\$ _____</p> <p>Total Amended Amount:</p> <p>\$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	
Expiration Date: _____	

Contract Routing:	1. Prepared by: _____	Date: _____
	2. Attorney signoff: _____	Date: _____
	3. AS Finance reviewed: _____	Date: _____
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-740

File ID:	AB2021-740	Version:	1	Status:	Agenda Ready
File Created:	11/29/2021	Entered by:	LReid@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: LReid@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Regional Council for nursing services in the jail in the amended amount of \$85,816.00 for a total contract amount of \$1,500,790.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Contract Amendment.pdf

**WHATCOM COUNTY
SHERIFF'S OFFICE**

**BILL ELFO
SHERIFF**



*PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4078
(360) 778-6600*

MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Bill Elfo, Sheriff
RE: Jail Nursing Services
DATE: October 22, 2021

Enclosed are two (2) originals of Amendment #3 renewing the contract between Whatcom County and Northwest Regional Council for your review and signature.

▪ **Background and Purpose**

NWRC was awarded the bid for Nursing Services via the RFP process in 2019. They have provided us with Nursing Services since December of 2013. This Amendment renews the contract for another year and increases the annual compensation. This increase will keep salaries for the nurses' mid-range for RN's in our area and reflects the compensation increase negotiated as part of the CBA. It also reflects a significant increase in the amount of work done by the Nursing staff in order to support the efforts to respond to the COVID-19 pandemic and the Medication for Opioid Use Disorder (MOUD) program in the jail.

▪ **Funding Amount and Source**

The funding, in the amount of \$1,500,790.00, will come from the Corrections Bureau.

▪ **Differences from Previous Contract**

The hourly rate for Nursing Services changed from \$58.47 to \$67.30 and the number of hours worked from 24,200 to 22,300. This increases the maximum annual compensation by \$85,816.00 to a total consideration of 1,500,790.00.

Please contact Wendy Jones x6505 if you have any questions or concerns regarding this agreement.

Encl. (2)

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
201911036-3

Originating Department:	Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	Corrections Bureau/In Custody
Contract or Grant Administrator:	Wendy Jones
Contractor's / Agency Name:	Northwest Regional Council

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes ☒ No ☐
 Yes ☐ No ☒ If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201911036

Does contract require Council Approval? Yes ☒ No ☐ If No, include WCC: _____
 Already approved? Council Approved Date: 12/03/19 (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?
 Yes ☐ No ☒ If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded?
 Yes ☐ No ☒ If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Contract
 Yes ☒ No ☐ If yes, RFP and Bid number(s): 19-58 Cost Center: 118160

Is this agreement excluded from E-Verify? No ☐ Yes ☒ If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. | <input type="checkbox"/> Goods and services provided due to an emergency |
| <input type="checkbox"/> Contract work is for less than \$100,000. | <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). |
| <input type="checkbox"/> Contract work is for less than 120 days. | <input type="checkbox"/> Work related subcontract less than \$25,000. |
| <input type="checkbox"/> Interlocal Agreement (between Governments). | <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. |

Contract Amount:(sum of original contract amount and any prior amendments):
 \$ 1,414,974.00
 This Amendment Amount:
 \$ 88,101.00 35,816.00
 Total Amended Amount:
 \$ 1,503,075.00 1,500,790.00

Council approval required for; all property leases, contracts or bid awards **exceeding \$40,000**, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, **except when**:

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit "B" of the Budget Ordinance.
5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope:

Northwest Regional Council provides nursing services to inmates at the Jail and Work Center and to detainees in Juvenile Detention (Juvenile pays a flat monthly rate of \$3,468.00 which comes from their budget and was approved 12/03/2019).

Term of Contract: 1 year Expiration Date: 12/31/22

Contract Routing:	1. Prepared by: <u>LR</u>	Date: <u>10/19/21</u>
	2. Attorney signoff: _____	Date: <u>11/1/2021</u>
	3. AS Finance reviewed: _____	Date: <u>11/4/21</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

Amendment No. 3
 Whatcom County Contract No. 201911036
 CONTRACT BETWEEN WHATCOM COUNTY
 AND NORTHWEST REGIONAL COUNCIL (NWRC)

THIS AMENDMENT is to the Contract between Whatcom County and Northwest Regional Council (NWRC), dated November 26, 2019 and designated "Whatcom County Contract No. 201911036". In consideration of the mutual benefits to be derived, the parties agree to the following:

This Amendment extends the term of this Agreement through December 31, 2022 and changes the hourly rate for Nursing Services in the Jail and Work Center from \$58.47 to \$67.30 and changes the number of hours worked from 24,200 to 22,300. This increases the maximum annual compensation by \$85,816.00 to a total consideration of 1,500,790.00.

Unless specifically amended by this agreement, all other terms and conditions of the original Contract and any other Amendments shall remain in full force and effect.

This Amendment takes effect: January 1, 2022 regardless of the date of signature.

IN WITNESS WHEREOF, Whatcom County and Northwest Regional Council (NWRC) have executed this Amendment on the date and year below written.

CONTRACTOR:

Northwest Regional Council (NWRC)


 Dan Murphy, Executive Director

Date

11.29.2021

STATE OF WASHINGTON)
) ss.
 COUNTY OF Whatcom)

On this 29 day of November 20 21, before me personally appeared Dan Murphy to me known to be the Executive Director of Northwest Regional Council (NWRC) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.




 NOTARY PUBLIC in and for the State of Washington, residing at _____
 My commission expires 9-12-2022

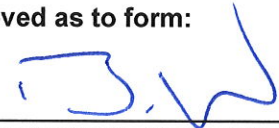
WHATCOM COUNTY:

Recommended for Approval:

WS  10/28/21

Sheriff Bill Elfo Date

Approved as to form:

 11/1/21

Brandon Waldron, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20____, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____.

CONTRACTOR INFORMATION:

Northwest Regional Council (NWRC)
Dan Murphy, Executive Director

Address:
600 Lakeway Drive, Suite 100
Bellingham, WA 98225

Mailing Address:
Same as above

Contact Phone: 360-676-6749
Contact Fax: 360-738-2451

Contact Email: MurphDK@dshs.wa.gov



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-685

File ID:	AB2021-685	Version:	1	Status:	Agenda Ready
File Created:	11/10/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Catholic Community Services to provide housing case management services in the amount of \$336,678 for a total amended contract amount of \$505,017

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Catholic Community Services – Housing Case Management Contract Amendment #1

DATE: November 10, 2021

Attached is a contract amendment between Whatcom County and Catholic Community Services for your review and signature.

- **Background and Purpose**

This contract funds the provision of housing case management services for individuals and families that may be experiencing homelessness or residing in scattered units as well as staffed housing programs. The majority of clients served by this contract have a history of behavioral health disorders and/or medical problems that require intensive case management services. Case management improves housing stability and promotes housing retention, thereby reducing homelessness in Whatcom County. The purpose of this amendment is to extend the contract for an additional year and increase funding based on an annual budget rather than the previously approved 6-month budget.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$336,678, is provided by local document recording fees, HB 1590 and the Washington State Department of Commerce Emergency Solutions COVID-19 Grant (CFDA 14.231). These funds will be included in the 2022 budget. Council approval is required as funding for this extended contract period exceeds 10% of the approved budget.

Please contact Ann Beck, Human Services Supervisor at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202106040 – 1

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Chris D'Onofrio	
Contractor's / Agency Name:		Catholic Community Services	

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	202106040	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?	If yes, grantor agency contract number(s):	CFDA#:	14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			

Is this contract grant funded?	If yes, Whatcom County grant contract number(s):	202008014
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):	21-04	Contract Cost Center:	122200 / 122800 / 133
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				

Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.
<input type="checkbox"/> Interlocal Agreement (between Governments).	

Contract Amount:(sum of original contract amount and any prior amendments):	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
\$ 168,339	
This Amendment Amount:	
\$ 336,678	
Total Amended Amount:	
\$ 505,017	

Summary of Scope: This contract provides funding for case management services in association with the Whatcom Homeless Service Center in an effort to improve housing stability and reduce homelessness in Whatcom County.

Term of Contract:	1 Year	Expiration Date:	12/31/2022
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Contract Routing:	1. Prepared by:	JT	Date:	09/07/2021
	2. Health Budget Approval	KR/JG	Date:	11/01/2021
	3. Attorney signoff:	RB	Date:	11/03/2021
	4. AS Finance reviewed:	M Caldwell	Date:	11/1/21
	5. IT reviewed (if IT related):		Date:	
	6. Contractor signed:		Date:	
	7. Executive Contract Review:		Date:	
	8. Council approved (if necessary):	AB2021-685	Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Catholic Community Services
1918 Everett Avenue
Everett, WA 98201

CONTRACT PERIODS:

Original: 07/01/2021 – 12/31/2021
Amendment #1: 01/01/2022 – 12/31/2022

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit B – Compensation, to reflect a 1-year budget for the extended contract period.
3. Funding for this contract period (01/01/2022 – 12/31/2022) is not to exceed \$336,678.
4. Funding for the total contract period (07/01/2021 – 12/31/2022) is not to exceed \$505,017.
5. All other terms and conditions remain unchanged.
6. The effective start date of the amendment is 01/01/2022.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Manager Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

Will Rice, Vice President		
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
--------------------------------------	------

CONTRACTOR INFORMATION:

Catholic Community Services
1918 Everett Avenue
Everett, WA 98201
willr@ccsww.org

Exhibit B – Amendment #1
(COMPENSATION)

- I. **Source of Funding and Budget:** The source of funding for this contract, in an amount not to exceed \$336,678, is local document recording fees, HB 1590, and the Washington State Department of Commerce Emergency Solutions COVID-19 Grant (CFDA 14.231). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

*Cost Description (Funded by Document Recording Fees):	Documents Required with Invoices	Budget
Housing Case Managers	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$229,390
Homeless Housing Program Director		\$17,598
Supplies	GL Detail	\$2,400
Cell Phone/Data Processing/IT Support		\$5,607
Mileage	Mileage log to include: name of staff member, date of travel, starting point and destination of travel, number of miles traveled, federal reimbursement rate (per www.gsa.gov) and a brief description of the purpose of travel	\$6,000
Travel/Training	Ground transportation, coach airfare and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, brief description of the purpose. Receipts for registration fees or other documentation of professional training expenses. Lodging and meal costs for training are not to exceed the U.S General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Receipts for meals are not required.	\$3,750
Occupancy	GL Detail	\$4,176
Rental History/Background Checks		\$900
Flex Funds	Flex Fund Spreadsheet plus copies of receipts	\$1,000
SUBTOTAL		\$270,821
**Indirect Costs (Document Recording Fee Funds) @ 13.3%		\$36,019
Document Recording Fee Funding Total		\$306,840
Cost Description (Funded by ESG-CV):		Budget
Case Aide	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$25,676
Cell Phone & Data Plan for Case Aide	GL Detail	\$658
SUBTOTAL		\$26,334
**Indirect Costs (ESG-CV Funds) @ 7%		\$1,844
ESG-CV Funding Total		\$28,178
**Indirect Costs from Document Recording Fees to Supplement ESG-CV Indirect (6.3%)		\$1,660
TOTAL BUDGET:		\$336,678

*Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County.

**Indirect costs shall not exceed the currently approved indirect cost allocation plan.

II. **Invoicing:**

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month, following the month of service. Invoices submitted for payment must include the items identified in the table above.
2. The Contractor shall submit invoices to HL-BusinessOffice@co.whatcom.wa.us.
3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The county may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-687

File ID:	AB2021-687	Version:	1	Status:	Agenda Ready
File Created:	11/10/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide housing case management services in the amount of \$377,158 for a total amended contract amount of \$600,839

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Lydia Place – Housing Case Management Contract Amendment #2

DATE: November 10, 2021

Attached is a contract amendment between Whatcom County and Lydia Place for your review and signature.

- **Background and Purpose**

This contract funds the provision of housing case management services in association with the Whatcom Homeless Service Center. The purpose of this contract is to provide funding for case management and supportive services to families with children and individuals experiencing homelessness or who are newly housed, in order to improve housing stability and reduce homelessness in Whatcom County. The purpose of this amendment is to extend the contract for an additional year, revise outcomes, and increase funding based on an annual budget rather than the previously approved 6-month budget.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$377,158, is provided by local document recording fees and the Washington State Department of Commerce Consolidated Homeless and Emergency Solutions COVID-19 (CFDA 14.231) Grants. These funds will be included in the 2022 budget. Council approval is required as funding for the extended contract period exceeds 10% of the approved budget.

Please contact Ann Beck, Human Services Supervisor at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202106042 – 2

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Chris D'Onofrio	
Contractor's / Agency Name:		Lydia Place	

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	202106042	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?	If yes, grantor agency contract number(s):	CFDA#:	14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			

Is this contract grant funded?	If yes, Whatcom County grant contract number(s):	202008014 / 202107011
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):	21-04	Contract Cost Center:	122200 / 122300 / 122800
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				

Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.
<input type="checkbox"/> Contract work is for less than \$100,000.
<input type="checkbox"/> Contract work is for less than 120 days.
<input type="checkbox"/> Interlocal Agreement (between Governments).
<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Work related subcontract less than \$25,000.
<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments):	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
\$ 223,681	
This Amendment Amount:	
\$ 377,158	
Total Amended Amount:	
\$ 600,839	

Summary of Scope: This contract provides funding for case management services in association with the Whatcom Homeless Service Center in an effort to improve housing stability and reduce homelessness in Whatcom County.

Term of Contract:	1 Year	Expiration Date:	12/31/2022
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Contract Routing:	1. Prepared by:	JT	Date:	09/07/2021
	2. Health Budget Approval	KR/JG	Date:	11/10/2021
	3. Attorney signoff:	RB	Date:	11/08/2021
	4. AS Finance reviewed:	M Caldwell	Date:	11/10/21
	5. IT reviewed (if IT related):		Date:	
	6. Contractor review:		Date:	
	7. Executive Contract Review:		Date:	
	8. Council approved (if necessary):	AB2021-687	Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:

Lydia Place
PO Box 28487
Bellingham, WA 98228

CONTRACT PERIODS:

Original: 07/01/2021 – 12/31/2021
Amendment #1: 07/01/2021 – 12/31/2021
Amendment #2: 01/01/2022 – 12/31/2022

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit A – Scope of Work (IV.) to increase program outcomes based on a 1-year period.
3. Amend Exhibit B – Compensation, to reflect a 1-year budget for the extended contract period.
4. Funding for this extended contract period (01/01/2022 – 12/31/2022) is not to exceed \$377,158.
5. Funding for the total contract period (07/01/2021 – 12/31/2022) is not to exceed \$600,839.
6. All other terms and conditions remain unchanged.
7. The effective start date of the amendment is 01/01/2022.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Supervisor Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

	Kate Robertson, Associate Director	
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
--------------------------------------	------

CONTRACTOR INFORMATION:

Lydia Place
PO Box 28487
Bellingham, WA 98228
KateR@LydiaPlace.org

EXHIBIT "A" – Amendment #2
(SCOPE OF WORK)

I. Background

According to the annual Point In Time Count of homeless persons conducted in January 2021, at least 859 people in Whatcom County were homeless. Throughout the year, more may face the prospect of losing their homes. Whatcom County's Plan to End Homelessness provides a blueprint for how our community will work together to prevent and end homelessness. The provision of housing assistance and case management services are key strategies of the Plan.

Housing case management includes both rental subsidy and housing case management components. Through this contract, Lydia Place will serve as one of the WHSC's partner agencies providing housing case management. The WHSC staff determines client eligibility for services and authorizes and distributes rent subsidies to local landlords on behalf of participating clients, makes referrals for case management to partner agencies, and coordinates required data collection efforts.

The purpose of this contract is to provide case management for individuals and families experiencing homelessness in order to improve housing stability and reduce homelessness in Whatcom County.

II. Definitions

Housing Interest Pool (HP)	Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
HMIS	Washington's Homeless Management Information System Database
Permanent Supportive Housing (PHS)	Chronically homeless individuals/households with significant barriers to permanent housing; will receive deep rent subsidies and intensive housing case management.
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1). centralized coordinated system of access, (2). targeted prevention assistance to reduce the number of households that become homeless, (3). re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5). data management and tracking information for people receiving homeless housing services in Whatcom county and according to Washington State Department of Commerce HMIS data collection requirements.

III. Statement of Work

The Contractor will provide housing case management services. Housing case management activities include arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of households and helping them obtain housing stability. Services and activities include:

1. Developing, securing, coordinating, and retaining services and suitable housing. Services include but are not limited to:
 - a. Tenant counseling;
 - b. Assisting individuals and households with understanding leases;
 - c. Securing utilities;
 - d. Making moving arrangements;
 - e. Representative payee services concerning rent and utilities;
 - f. Mediation and outreach to property owners related to locating or retaining housing.

2. Monitoring and evaluating household progress;
3. Assuring that household rights are protected;
4. Developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance.

Services will be provided to low-income and/or homeless individuals and households residing in Whatcom County. Eligible individuals and households served shall have income at or below 50% Area Median Income (AMI). Income eligibility will be determined by the funding source used for case management.

IV. Program Outcomes

During this contract period, the housing case management services provided by the Contractor will deliver the following outcomes:

1. Four (4) households will receive CM during the year while unsheltered.
2. Four (4) individuals will receive CM during the year while unsheltered.
3. Thirty-eight (38) households will receive CM during the year while in emergency/temporary housing.
4. Ninety-four (94) individuals will receive CM during the year while in emergency/temporary housing.
5. Eighteen (18) households will receive CM during the year in PSH.
6. Forty-four (44) households will receive CM during the year in RRH.
7. Thirty-eight (38) unduplicated, new households will receive CM during the year.
8. Ninety-five (95) unduplicated total individuals will receive CM during the year.
9. The average length of time receiving CM while homeless prior to permanent housing will be 80 days.
10. The median length of time receiving CM while homeless prior to permanent housing will be 65 days.
11. Fifty (50) households receiving CM will be stably housed for at least 6 months.
12. Forty-five (45) case managed households will be stably housed for at least 12 months.
13. Zero (0) households receiving case management will exit to homelessness.
14. Twenty (20) households will achieve stable housing while receiving case management.

V. Additional Requirements

The Contractor will:

1. Comply with:
 - a. Special Terms & Conditions of Commerce Grants, herein incorporated as Exhibit D.
 - b. Comply with all State of Washington Department of Commerce Consolidated Homeless Grant (CHG) requirements, policies and procedures in the CHG Guidelines including periodic updates to the Guidelines which can be accessed at the following link:
<https://deptofcommerce.app.box.com/s/4d1ilui45uqljmhseufez4flxqv1q6b>
 - c. Commit to ending homelessness in Whatcom County, by:
 1. Assessing each household's needs and facilitating housing stability with the goal of obtaining or maintaining permanent housing.
 2. Employing a progressive engagement service model.

3. Prioritizing households likely to become homeless when using prevention rental assistance.
- d. Ensure that all costs incurred comply with funding guidelines.
- e. Commit to reporting complete quality data that is timely, truthful and accurate (per funding guidelines and HMIS Partner Agreement <http://www.commerce.wa.gov/wp-content/uploads/2018/06/hau-hmis-agency-partner-agreement-2018.pdf>).
- f. Consequences of non-compliance with guidelines, as per the Department of Commerce, include:
 1. If Commerce determines that a Grantee is failing to comply with the Guidelines, Terms and Conditions, Commerce will notify Grantee that Grantee will receive technical assistance and be required to respond to a corrective action plan to address and remedy the non-compliance.
 2. If the Grantee is still out of compliance after the technical assistance, Commerce may move the Grantee into a probationary period with a second corrective action plan and may reduce the grant total by 20%.
 3. If the Grantee remains out of compliance after the probation period, Commerce may terminate the grant per the General Terms and Conditions TERMINATION FOR CAUSE.
2. Comply with relevant State of Washington Department of Commerce Emergency Solutions COVID-19 Grant requirements and guidelines, including periodic updates to the guidelines, which can be accessed at the following links:
<https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV-Overview-.pdf> and <https://deptofcommerce.app.box.com/s/fsmf4pmwkroszjt702j1l9cfvkv5ixmq>
3. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services – including deposits, rental payments, and completed home visits.
4. Comply with the following Housing Pool (HP) referral procedure. When Contractor staff believes a referral from the HP is not a good fit for their program, a situation that should be rare, the following procedure must be followed:
 - a. Contractor will submit a written description of the situation that justifies returning the client to the HP.
 - b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HP case management services coordinator (or designee).
 - c. The course of action mutually agree to at the case conference will be recorded in writing, constituting a binding agreement.
 - d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.
5. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
 - a. Informing clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system.
 - b. Informing clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons.
 - c. Informing clients/tenants that damages to their unit may result in eviction and loss of the unit in the future for our homeless housing system.

- d. In scattered sites, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address the issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide case managers with free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated, whenever requested.
 - e. Documenting in each client file that these expectations were communicated to the client/tenant.
- 6. Requiring professional development training for direct service staff and supervisors.
- 7. Attending Whatcom County Coalition to End Homelessness meetings and sponsored activities.
- 8. Attending meetings and events coordinated by WHSC.

VI. Reporting Requirements

1. The Contractor shall submit quarterly reports* to the WCHD utilizing HMIS data by using the quarterly reporting template accessed on the County website, as noted below. Reports will demonstrate the Contractor's progress toward achieving the program outcomes identified above. Quarterly reports are due on April 15, July 15, October 15, and January 15.

*Contractors will be notified via email of updates to quarterly reporting templates. Current reporting templates will be posted on the Whatcom County Health Department Housing Program website which may be accessed at: <http://www.whatcomcounty.us/DocumentCenter/View/37570/WCHDquarterlyCMreportLP>.

2. Reports will include data for only those clients served under this contract and include:
 - a. Number of homeless households that received case management during the quarter.
 - b. Number of homeless individuals that received case management during the quarter.
 - c. Number of households in permanent supportive housing that received case management services during the quarter.
 - d. Number of households in rapid re-housing programs that received case management services during the quarter.
 - e. Average length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (in RRH, PSH, or other stable housing situation).
 - f. Median length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (in RRH, PSH, or other stable housing situation).
 - g. Number of case managed households that lost stable housing or exited case management while homeless.
 - h. Number of case managed households that achieved housing stability while receiving case management services.

Exhibit B – Amendment #2
(COMPENSATION)

- I. **Source of Funding and Budget:** The source of funding for this contract, in an amount not to exceed \$377,158, is local document recording fees, the Washington State Department of Commerce Consolidated Homeless Grant, and the Washington State Department of Commerce Emergency Solutions COVID-19 Grants (CFDA 14.231). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

*Cost Description	Documents Required with Invoices	Budget
Document Recording Fee Funding		
Case Management Staff	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$216,503
Program Management Staff		\$43,588
Mileage	Mileage log to include: name of staff member, date of travel, starting point and destination of travel, number of miles traveled, federal reimbursement rate (per www.gsa.gov) and a brief description of the purpose of travel.	\$3,000
Direct Service Staff Training	Ground transportation, coach airfare and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, brief description of the purpose. Receipts for registration fees or other documentation of professional training expenses. Lodging and meal costs for training are not to exceed the U.S General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Receipts for meals are not required.	\$1,000
Program Specific Occupancy Costs	GL Detail	\$8,000
Program Specific Supplies & Postage		\$2,000
Program Specific Utilities & Phone		\$2,000
Professional Services		\$3,000
SUBTOTAL		\$279,091
*Consolidated Homeless Grant (CHG)		
Rental Assistance for Families with Children in PSH	For Rental Assistance – itemize payee for-profit/non-profit status. Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment.	\$20,000
Case Management for Families with Children in PSH	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$16,507
SUBTOTAL		\$36,507
*Emergency Solutions Grant COVID Funding		
Case Management Staff	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$24,052
Program Management Staff		\$3,986
SUBTOTAL		\$28,038
**Document Recording Fee Indirect Costs @ 10%		\$27,909
**CHG Indirect Costs @ 10%		\$3,651
**ESG-CV Indirect Costs @ 7%		\$1,962
SUBTOTAL		\$33,522
TOTAL BUDGET		\$377,158

*Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County.

**In no instance shall indirect costs indicated in the table above exceed the identified rate.

II. **Invoicing:**

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month, following the month of service. Invoices submitted for payment must include the items identified in the table above.
2. The Contractor shall submit invoices to HL-BusinessOffice@co.whatcom.wa.us.
3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The county may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.
5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-688

File ID:	AB2021-688	Version:	1	Status:	Agenda Ready
File Created:	11/10/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Abeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Youth Services to provide housing case management services in the amount of \$357,542 for a total amended contract amount of \$565,310

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Northwest Youth Services – Housing Case Management Contract Amendment #2

DATE: November 10, 2021

Attached is a contract amendment between Whatcom County and Northwest Youth Services for your review and signature.

- **Background and Purpose**

This contract provides funding to support housing case management and supportive services to youth through age 24, who are referred by the Whatcom Homeless Service Center. The goal of these services is to improve housing stability and reduce homelessness in Whatcom County. The purpose of this amendment is to extend the contract for an additional year and increase funding based on an annual budget rather than the previously approved 6-month budget.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$357,542, is provided by local document recording fees and the Washington State Department of Commerce Emergency Solutions COVID-19 Grant (CFDA 14.231). These funds will be included in the 2022 budget. Council approval is required as funding provided by this amendment exceeds 10% of the approved budget.

Please contact Ann Beck, Human Services Supervisor at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202106043 – 2

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Chris D'Onofrio	
Contractor's / Agency Name:		Northwest Youth Services	
Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		202106043
Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement?	If yes, grantor agency contract number(s):		CFDA#: 14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		202008014
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):		Contract Cost Center: 122200 / 122800
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	21-04		
Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>		
If YES, indicate exclusion(s) below:			
<input type="checkbox"/> Professional services agreement for certified/licensed professional.			
<input type="checkbox"/> Contract work is for less than \$100,000.		<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	
<input type="checkbox"/> Contract work is for less than 120 days.		<input type="checkbox"/> Work related subcontract less than \$25,000.	
<input type="checkbox"/> Interlocal Agreement (between Governments).		<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments):		Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.	
\$ 207,768			
This Amendment Amount:			
\$ 357,542			
Total Amended Amount:			
\$ 565,310			
Summary of Scope: This contract provides funding for case management and supportive services to youth in association with the Whatcom Homeless Service Center in an effort to improve housing stability and reduce homelessness in Whatcom County			
Term of Contract:	1 Year	Expiration Date:	12/31/2022
Contract Routing:	1. Prepared by:	JT	Date: 09/07/2021
	2. Health Budget Approval	KR/JG	Date: 11/01/2021
	3. Attorney signoff:	RB	Date: 11/03/2021
	4. AS Finance reviewed:	M Caldwell	Date: 11/4/21
	5. IT reviewed (if IT related):		Date:
	6. Contractor signed:		Date:
	7. Executive Contract Review:		Date:
	8. Council approved (if necessary):	AB2021-688	Date:
	9. Executive signed:		Date:
	10. Original to Council:		Date:

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Northwest Youth Services
108 Prospect Street
Bellingham, WA 98225

CONTRACT PERIODS:

Original: 07/01/2021 – 12/31/2021
Amendment #1: 09/29/2021 – 12/31/2021
Amendment #2: 01/01/2022 – 12/31/2022

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit A – Scope of Work (IV.) to increase program outcomes based on a 1-year contract period.
3. Amend Exhibit B – Compensation, to reflect a 1-year budget for the extended contract period.
4. Funding for the extended contract period (01/01/2022 – 12/31/2022) is not to exceed \$357,542.
5. Funding for the total contract period (07/01/2021 – 12/31/2022) is not to exceed \$565,310.
6. All other terms and conditions remain unchanged.
7. The effective start date of the amendment is 01/01/2022.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Supervisor Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

Jason McGill, Executive Director		
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
--------------------------------------	------

CONTRACTOR INFORMATION:

Northwest Youth Services
108 Prospect Street
Bellingham, WA 98225
jasonm@nwys.org

EXHIBIT "A" – Amendment #2
(SCOPE OF WORK)

I. Background

Whatcom County's Plan to End Homelessness identifies youth, aged up to 24, as a population impacted by homelessness and lists the provision of safe, affordable housing with supportive services as a way to reduce and end youth homelessness. Provision of services at shelters and other interim housing options is also a component of the service continuum that increases success in reaching housing stability. Northwest Youth Services (NWYS) is the only non-tribal agency serving youth in Whatcom County by offering housing services for homeless youth. NWYS has had a significant backlog of young people awaiting housing and services due to limited operating capacity.

Through this contract, NWYS will serve as one of the Whatcom Homeless Service Center (WHSC) partner agencies providing housing case management and will serve as a specialized portal of entry into WHSC housing services for youth. The purpose of this contract is to provide housing case management for youth waiting for housing services in order to achieve housing stability and reduce youth homelessness in Whatcom County.

II. Definitions

Housing Pool (HP)	Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
HMIS	Washington's Homeless Management Information System Database
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1). centralized coordinated system of access, (2). targeted prevention assistance to reduce the number of households that become homeless, (3). re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5). data management and tracking information for people receiving homeless housing services in Whatcom county and according to Washington State Department of Commerce HMIS data collection requirements.

III. Statement of Work

The Contractor will provide housing case management services. Housing case management activities include arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of households and helping them obtain housing stability. Services and activities include:

1. Developing, securing, coordinating, and retaining services and suitable housing. Services include but are not limited to:
 - a. Tenant counseling;
 - b. Assisting individuals and households with understanding leases;
 - c. Securing utilities;
 - d. Making moving arrangements;

- e. Representative payee services concerning rent and utilities;
 - f. Mediation and outreach to property owners related to locating or retaining housing;
 - g. Monitoring and evaluating household progress;
 - h. Assuring that household rights are protected;
 - i. Developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance.
2. Intake – Contractor will provide intake services to youth in Whatcom County seeking housing to collect client information, assess barriers to stable housing, and eligibility for housing programs. Services will be provided to low-income and/or homeless youth residing in Whatcom County.
 3. Youth Housing Pool (YHP) – Youth housing pool case management includes services designed to educate youth who are homeless or almost homeless, about available programs, provide them with a point of access to housing services by working collaboratively with the WHSC, and engage with them to address barriers to housing.

Individuals and households served shall have incomes at or below 50% Area Median Income (AMI). Income eligibility will be determined by the funding sources used for case management.

IV. Program Outcomes

During this contract period, the housing case management services provided by the Contractor will deliver the following outcomes:

1. At least thirty-five (35) unsheltered youth households will receive case management services.
2. At least thirty (30) youth in emergency shelters or transitional housing will receive case management services.
3. At least thirty-five (35) youth in permanent housing will receive case management services.
4. At least forty (40) youth will achieve housing stability while receiving case management services.
5. At least 85% of youth households who obtained housing will remain stably housed six months after existing case management services.

V. Additional Requirements

The Contractor will:

1. Comply with:
 - a. Relevant State of Washington Department of Commerce Emergency Solutions COVID-19 Grant guidelines, including periodic updates to the guidelines, which can be accessed at the following links:
<https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV-Overview-.pdf> and <https://deptofcommerce.box.com/s/fsmf4pmwkroszjt702j1l9cfnvk5ixmq>

- b. Special Terms and Conditions of Commerce Emergency Solutions – COVID-19 (ESG-CV) Grant, herein incorporated as Exhibit E.
2. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services – including deposits, rental payments, and completed home visits.
3. Comply with the following Housing Pool (HP) Referral procedure. When Contractor staff believes a referral from the HP is not a good fit for their program, a situation which should be rare, the following procedures must be followed:
 - a. Contractor will submit a written description of the situation that justifies returning the client to the HP, and
 - b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HP case management services coordinator (or designee).
 - c. The course of action mutually agreed to at the case conference will be recorded in writing, constituting a binding agreement.
 - d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.
4. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
 - a. Informing clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system.
 - b. Informing clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons.
 - c. Informing clients/tenants that damages to their unit may result in eviction and loss of the unit in the future for our homeless housing system.
 - d. Informing prospective tenants that they need to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing.
 - e. In scattered sites, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address the issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide case managers with free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated, whenever requested.
 - f. Documenting in each client file that these expectations were communicated to the client/tenant.
5. Require professional development training for direct service staff and supervisors.
6. Attend Whatcom County Coalition to End Homelessness meetings and sponsored activities.

7. Attend meetings and events coordinated by the WHSC.

VI. Reporting Requirements

The Contractor shall submit quarterly reports* to the WCHD utilizing HMIS data by using the quarterly reporting template accessed on the County website, as noted below. Reports will demonstrate the Contractor's progress toward achieving the program outcomes identified above. Quarterly reports are due on April 15, July 15, October 15, and January 15.

*Contractors will be notified via email of updates to quarterly reporting templates. Current reporting templates will be posted on the Whatcom County Health Department Housing Program website which may be accessed at: <https://www.whatcomcounty.us/DocumentCenter/View/56308/Reporting-Tool---Case-Management-NWYS-2021>.

Reports will include data for only those clients served under this contract and include:

1. Number of unsheltered households that received case management during the quarter.
2. Number of sheltered households that received case management during the quarter.
3. Number of individuals in permanent supportive housing that received case management services during the quarter.
4. Average length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (RRH, PSH, or other stable housing situation).
5. Median length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (in RRH, PSH, or other stable housing situation).
6. Number of case managed households that have been stably housed for six (6) months.
7. Number of case managed households that have been stably housed for twelve (12) months or more.
8. Number of case managed households that lost stable housing or exited case management while homeless.
9. Number of case managed households that achieved housing stability while receiving case management services.

VII. Flex Funding

Flex funds must follow the Guidelines established by the County and be reported on the spreadsheet provided by the County (Exhibit D) and signed by an authorized agency signatory. In addition, all flex funds must be accompanied by receipts.

Exhibit B – Amendment #2
(COMPENSATION)

- I. **Source of Funding and Budget:** The source of funding for this contract, in an amount not to exceed \$357,542, is local document recording fees, and the Washington State Department of Commerce Emergency Solutions COVID-19 Grant (CFDA 14.231). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

*Cost Description	Documents Required with Invoices	Amount
Document Recording Fee Funding		
Scattered Site Housing Program Manager (.5 FTE)	Approved composite billing rate worksheet for each staff member and timesheets for the period.	\$35,016
Housing Program Director (.25 FTE)		\$14,242
Assistant Director of Housing (.5 FTE)		\$45,167
Housing Program Coordinator (.5 FTE)		\$32,708
Case Managers (2 FTE)		\$107,425
Data Analytics and Reporting (.1 FTE)		\$6,516
Data Entry Assistant (.05 FTE)		\$1,907
Travel/Training	Include name of traveler, dates, start & end point, and purpose. Receipts are required for transportation costs, registration fees, etc. Lodging & meal costs follow federal guidelines (www.gsa.gov). Receipts for meals are not required.	\$4,000
Program Specific Rent/Occupancy Costs	GL Detail	\$5,000
Program Specific Phones, Supplies, Printing/Copier, Postage		\$5,887
Flex Funds	Flex fund spreadsheet and copies of receipts	\$3,000
SUBTOTAL		\$260,868
Emergency Solutions Grant COVID Funding		
Scattered Site Housing Program Manager (.1 FTE)	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$6,249
Case Manager (.5 FTE)		\$25,213
Housing Program Coordinator (.5 FTE)		\$32,708
SUBTOTAL		\$64,170
**Indirect Costs – shall not exceed the rates indicated below:		
Document Recording Fee Indirect Costs @ 10%		\$26,087
ESG-CV Indirect Costs at 7%		\$4,492
Additional Document Recording Fee Indirect (3% of ESG-CV Costs)		\$1,925
SUBTOTAL Indirect		\$32,504
TOTAL BUDGET:		\$357,542

*Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County.

**In no instance shall indirect rates exceed those indicated in the table above.

II. **Invoicing:**

- The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month, following the month of service. Invoices submitted for payment must include the items identified in the table above.
- The Contractor shall submit invoices to HL-BusinessOffice@co.whatcom.wa.us.

3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The county may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
4. Invoices must include the following statement, with an authorized signature and date:
I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.
5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-690

File ID:	AB2021-690	Version:	1	Status:	Agenda Ready
File Created:	11/10/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and YWCA Bellingham to provide housing case management services in the amount of \$78,565 for a total amended contract amount of \$117,498

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: YWCA Bellingham – Housing Case Management Contract Amendment #1

DATE: November 10, 2021

Attached is a contract amendment between Whatcom County and YWCA Bellingham for your review and signature.

- **Background and Purpose**

This contract funds the provision of housing case management services in association with the Whatcom Homeless Service Center. The purpose of this contract is to provide case management and supportive services to those individuals experiencing homelessness or who are newly housed, in order to improve housing stability and reduce homelessness in Whatcom County. The purpose of this amendment is to extend the contract for an additional year and increase funding based on an annual budget rather than the previously approved 6-month budget.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$78,565, is provided by the Washington State Department of Commerce Emergency Solutions COVID-19 Grant (CFDA 14.231) and local document recording fees. These funds will be included in the 2022 budget. Council approval is required as funding exceeds \$40,000.

Please contact Ann Beck, Human Services Supervisor at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202106025 – 1

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Chris D'Onofrio	
Contractor's / Agency Name:		YWCA Bellingham	
Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		202106025
Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement?	If yes, grantor agency contract number(s):		CFDA#: 14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		202008014
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):		Contract Cost Center: 122200 / 122800
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	21-04		
Is this agreement excluded from E-Verify?	No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>		
If YES, indicate exclusion(s) below:			
<input type="checkbox"/> Professional services agreement for certified/licensed professional.			
<input checked="" type="checkbox"/> Contract work is for less than \$100,000.		<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	
<input type="checkbox"/> Contract work is for less than 120 days.		<input type="checkbox"/> Work related subcontract less than \$25,000.	
<input type="checkbox"/> Interlocal Agreement (between Governments).		<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments):		Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. 	
\$ 38,933			
This Amendment Amount:			
\$ 78,565			
Total Amended Amount:			
\$ 117,498			
Summary of Scope: This contract provides funding for case management services in association with the Whatcom Homeless Service Center in an effort to improve housing stability and reduce homelessness in Whatcom County.			
Term of Contract:	1 Year	Expiration Date:	12/31/2022
Contract Routing:	1. Prepared by:	JT	Date: 09/08/2021
	2. Health Budget Approval	KR/JG	Date: 11/01/2021
	3. Attorney signoff:	RB	Date: 11/03/2021
	4. AS Finance reviewed:	M Caldwell	Date: 11/2/21
	5. IT reviewed (if IT related):		Date:
	6. Contractor signed:		Date:
	7. Submitted to Exec.:		Date:
	8. Council approved (if necessary):	AB2021-690	Date:
	9. Executive signed:		Date:
	10. Original to Council:		Date:

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
YWCA Bellingham
1026 N Forest Street
Bellingham, WA 98225

CONTRACT PERIODS:

Original: 07/01/2021 – 12/31/2021
Amendment #1: 01/01/2022 – 12/31/2022

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit B – Compensation, to reflect a 1-year budget for the extended contract period.
3. Funding for this contract period (01/01/2022 – 12/31/2022) is not to exceed \$78,565.
4. Funding for the total contract period (07/01/2021 – 12/31/2022) is not to exceed \$117,498.
5. All other terms and conditions remain unchanged.
6. The effective start date of the amendment is 01/01/2022.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Supervisor Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

	Karen Burke, Executive Director	
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
--------------------------------------	------

CONTRACTOR INFORMATION:

YWCA Bellingham
1026 N Forest Street
Bellingham, WA 98225
360-734-4820
Karen.Burke@ywcabellingham.org

Exhibit B – Amendment #1
(COMPENSATION)

- I. **Source of Funding and Budget:** The source of funding for this contract, in an amount not to exceed \$78,565, is the Washington State Department of Commerce Emergency Solutions Grant (ESG-CV) (\$38,151) and local document recording fees (\$40,414). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

*Item Description:	Documents Required with Invoices	Budget
Housing Case Management for Clients in Emergency Shelter	County approved hourly billing rate and timesheet showing total hours and hours charged to this contract.	\$55,028
Transportation: Costs of participant's travel to and from medical care, employment, child care, certain legal services, or other eligible essential service facilities. These costs include the following: travel on public transportation, mileage allowance for service workers to visit program participants, travel costs of staff to accompany or assist program participants to use public transportation, transporting staff or participants to/from vaccine events.	Mileage log to include: name of staff member, date of travel, starting point and destination of travel, number of miles traveled, federal reimbursement rate (per www.gsa.gov) and a brief description of the purpose of travel. Ground transportation will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member or participant ID number, dates of travel, starting point and destination, brief description of the purpose.	\$600
Shelter Operations: Computer and technology equipment, insurance, security, food, furnishings, utilities, maintenance (including minor and routine repairs), and other supplies necessary for the operation of the emergency shelter.	Paid invoices or receipts	\$15,795
SUBTOTAL		\$71,423
**Indirect costs at 7% of ESG-CV funded items (\$35,650)		\$2,495.50
**Indirect costs not covered by ESG-CV (3% of \$35,650 and paid with DRF)		\$1,069.50
**Indirect costs at 10% of DRF funded items (\$35,773)		\$3,577
Subtotal Indirect Costs		\$7,142
TOTAL		\$78,565

*Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County.

**Indirect costs shall not exceed the currently approved indirect cost allocation plan.

II. **Invoicing:**

- The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month, following the month of service. Invoices submitted for payment must include the items identified in the table above.
- The Contractor shall submit invoices to HL-BusinessOffice@co.whatcom.wa.us.
- Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The county may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
- Invoices must include the following statement, with an authorized signature and date: **I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.**
- Duplication of Billed Costs or Payments for Service:** The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-691

File ID:	AB2021-691	Version:	1	Status:	Agenda Ready
File Created:	11/10/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Abeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide emergency housing for families in the amount of \$493,074 for a total amended contract amount of \$847,996

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Lydia Place – Shelter Grant Contract Amendment #4

DATE: August 11, 2021

Attached is a contract amendment between Whatcom County and Lydia Place for your review and signature.

▪ **Background and Purpose**

This contract provides year-round funding for four motel rooms to be used as emergency housing for families experiencing unsheltered homelessness as well as a variable number of additional motel rooms to be used on an as-needed basis for families with children who would otherwise experience unsheltered homelessness. A portion of the funds will be used to provide supportive services to help those families exit motel rooms into permanent, stable housing. This amendment extends the contract for an additional year and increases funding by \$288,000 from the Washington State Department of Commerce Consolidated Homeless Grant's (CHG) new Hotel Leasing and Rapid ReHousing funds, intended to support an estimated 45 families in a variable number of additional motel rooms.

▪ **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$493,074, is provided by the Washington State Department of Commerce Shelter, Consolidated Homeless, and Emergency Solutions COVID-19 (CFDA 14.231) Grants and local Document Recording Fees. These funds will be included in the 2022 budget. Council approval is required as the additional funding provided by this amendment exceeds 10% of the approved budget.

Please contact Ann Beck, Human Services Supervisor at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202012021 – 4

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Chris D'Onofrio	
Contractor's / Agency Name:		Lydia Place	

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	202012021	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement?	If yes, grantor agency contract number(s):	CFDA#:	14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			

Is this contract grant funded?	If yes, Whatcom County grant contract number(s):	202009003 / 202008014 / 202107011
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):	Contract Cost Center:	122900 / 122800 / 122300
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	20-53		

Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.
<input type="checkbox"/> Interlocal Agreement (between Governments).	

Contract Amount:(sum of original contract amount and any prior amendments):	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
\$ 354,922	
This Amendment Amount:	
\$ 493,074	
Total Amended Amount:	
\$ 847,996	

Summary of Scope: This contract provides funding for four motel rooms to be used as emergency housing for families experiencing unsheltered homelessness.

Term of Contract:	1 Year	Expiration Date:	12/31/2022
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Contract Routing:	1. Prepared by:	JT	Date:	09/07/2021
	2. Health Budget Approval	KR/JG	Date:	11/05/2021
	3. Attorney signoff:	RB	Date:	11/05/2021
	4. AS Finance reviewed:	M Caldwell	Date:	11/10/21
	5. IT reviewed (if IT related):		Date:	
	6. Contractor review:		Date:	
	7. Executive Contract Review:		Date:	
	8. Council approved (if necessary):	AB2021-691	Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:

Lydia Place
PO Box 28487
Bellingham, WA 98228

CONTRACT PERIODS:

Original: 10/01/2020 – 12/30/2021
Amendment #1: 10/01/2020 – 12/31/2021
Amendment #2: 01/01/2021 – 12/31/2021
Amendment #3: 08/11/2021 – 12/31/2021
Amendment #4: 01/01/2022 – 12/31/2022

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract “General Terms, Section 10.2, Extension”.
2. Replace Exhibit A – Scope of Work to change the number of variable households served to 45 families annually, which is reduced due to a significant increase in motel rates.
3. Replace Exhibit B – Compensation to reflect the 2022 budget.
4. Funding for the extended contract period (01/01/2022 – 12/31/2022) is not to exceed \$493,074.
5. Funding for the total contract period (10/01/2020 – 12/31/2022) is not to exceed \$847,996.
6. All other terms and conditions remain unchanged.
7. The effective start date of the amendment is 01/01/2022.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Supervisor Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

Kate Robertson, Associate Director		
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
--------------------------------------	------

CONTRACTOR INFORMATION:

Lydia Place
PO Box 28487
Bellingham, WA 98228
KateR@LydiaPlace.org

EXHIBIT "A" – Amendment #4
(SCOPE OF WORK)

I. Background

The 2021 Whatcom County Point In Time Count confirmed that unsheltered homelessness continues to be detrimental to the wellbeing of families with children in Whatcom County. The Whatcom Homeless Service Center's monthly housing pool reports have shown that the number of families waiting for permanent housing placements, including families living in cars and other places not meant for human habitation, has grown in recent years. Homelessness is a traumatic experience that is associated with a wide range of negative health outcomes; however, there are very few resources in our community dedicated to families who are experiencing homelessness together. This contract provides year-round funding for four motel rooms and additional funding for as-needed motel rooms to be used as emergency housing for families experiencing unsheltered homelessness and also funds supportive services to help those families exit their motel rooms into permanent housing. The shelter provided to these families, as well as the case management services, will allow them to avoid the dangerous conditions of unsheltered homelessness and give them opportunities to connect with services that improve their odds of achieving long term housing stability.

II. Statement of Work

Lydia Place will utilize funding in this contract to make four motel rooms available throughout the year, and more rooms on an as-needed basis to local families with children who are experiencing unsheltered homelessness. The anticipated number of families to be served annually is 45 households. While the families are staying in the motel rooms, they will benefit from supportive services from Lydia Place staff who will help the families identify and overcome their barriers to stable housing.

Lydia Place staff will connect clients to case managers within 48 hours of their referral from Whatcom County's coordinated entry homelessness response system. Weekly meetings between families and Lydia Place staff will outline goals and objectives that are important to the client. The program will strive to find permanent housing within 30 days, although some families will require more time to locate appropriate housing and resolve challenges to housing placement.

III. Program Requirements

Client referrals will be issued by the Whatcom Homeless Service Center's coordinated entry homelessness response system. All services will be provided in compliance with:

1. Washington State Department of Commerce Shelter Program Grant Guidelines:
<https://www.commerce.wa.gov/serving-communities/homelessness/office-of-family-and-adult-homelessness/shelter-program-grant/>
2. Washington State Department of Commerce ESG-CV Emergency Solutions Grant Guidelines, including periodic updates to the guidelines which can be accessed at:
[https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV - Overview.pdf](https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV-Overview.pdf) and <https://www.commerce.wa.gov/wp-content/uploads/2016/10/hau-esg-guidelines-2017-2019.pdf>.
3. Washington State Department of Commerce Consolidated Homeless Grant Guidelines, including periodic updates to the guidelines which can be accessed at:
<https://deptofcommerce.app.box.com/s/4d1ilui45uqljmhseufez4flxqv1q6b>

IV. Reporting Requirements

The contractor shall submit quarterly reports* utilizing the Interim Housing Facility Report template accessed on the Whatcom County Health Department Housing Program website at the following link: <https://www.whatcomcounty.us/DocumentCenter/View/51905/WCHDQuarterlyESreportLPmotelshelter>

Quarterly reports are due April 15th, July 15th, October 15th, and January 15th.

*Contractors will be notified via email of updates to this quarterly reporting template, which will be posted on the website.

Reports will include the following information:

- A. Unique households sheltered over the quarter.
- B. Number of nights that the four rooms were in use.
- C. Length of stay for each household at their time of exit (mean and median).
- D. Percent of exiting guests that are enrolled or participated in new activities/programs that have been shown to increase housing retention.
- E. Number of exits over the quarter and the destination type for each exiting household.
- F. Number of new households that became sheltered over the quarter and the type of housing condition they were in prior to entry to motel room.

EXHIBIT “B” – Amendment #4
(COMPENSATION)

- I. **Budget and Source of Funding:** The source of funding for this contract, in an amount not to exceed \$493,074 is the Washington State Department of Commerce Shelter Program, Consolidated Homeless and Emergency Solutions COVID-19 (CFDA 14.231) Grants as well as local Document Recording Fees (DRF). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor’s performance of this contract. The budget for this contract is as follows:

*Cost Description	Documents Required Each Invoice	Budget
ESG Funding – Personnel	GL Detail	\$13,030
ESG Funding – Operating resources (including office/program supplies, phone service, internet, utilities, etc.)		\$1,083
ESG Funding – As Needed Motel Rooms		\$100,000
Subtotal		\$114,113
**Indirect @ 7%		\$7,987
ESG-CV Total		\$122,100
DRF Funding – Case Management and Supportive Services (Personnel)	GL Detail	\$5,358
**Indirect (DRF Funding @ 10%)		\$536
DRF Total		\$5,894
Shelter Grant Funding – Four Annual Motel Rooms (does not include indirect costs)	GL Detail	\$81,760
Shelter Grant Total		\$81,760
CHG Funding – Hotel Leasing and Rapid Re-housing: As-Needed Hotel/Motel Rooms (Room Rental Costs Only)	GL Detail	\$241,200
**Indirect (CHG Funding @ 10%)		\$24,120
Reimbursement to motels for damages over and above normal wear and tear		\$18,000
CHG Total		\$283,320
TOTAL		\$493,074

* The Contractor may transfer funds among budget line items in an amount up to 10% of the total budget. Changes to the line item budget that exceed 10% of the contract amount must be approved in writing by the County.

** In no instance shall indirect costs exceed the amount indicated above.

II. **Invoicing**

- The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month, following the month of service. Invoices submitted for payment must include the items identified in the table above.
- Contractor shall submit invoices to (include contract/PO#) to HL-BusinessOffice@co.whatcom.wa.us.
- Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.
- Invoices must include the following statement, with an authorized signature and date: **I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.**
- Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-698

File ID:	AB2021-698	Version:	1	Status:	Agenda Ready
File Created:	11/16/2021	Entered by:	MKeeley@co.whatcom.wa.us		
Department:	Human Resources Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: mkeeley@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization to amend and extend the Master Collective Bargaining Agreement for the period
January 1, 2022 - December 31, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please see staff memo for background

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Amendment

MEMO TO: County Council Members

CC: Satpal Sidhu, County Executive
Tyler Schroeder, Deputy Executive

FROM: Melissa Keeley, Human Resources Manager

DATE: November 24, 2021

SUBJECT: Teamsters Local 231 – Master Collective Bargaining Agreement Amendment 2022

The County and Union have agreed to renew all terms and conditions of the 2019-2021 Collective Bargaining Agreement through 2022 with a few amendments. We are pleased to have reached a quick settlement agreement consistent with budget authority.

This amendment represents 453 employees throughout the County and includes Administrative Services, the Elected Offices, the Courts staff, clerical staff in the Health Department, Parks & Recreation, Planning, Public Defender, Public Works, clerical staff in the Sheriff's Office, and clerical staff in the WSU Extension office.

Highlights are summarized below:

Wages

3% across the board wage increase in January 2022

Health and Welfare Benefits

Monthly County contribution to medical increased from \$1,291 to \$1,313.20

Holidays

Observation of 11 holidays following State holiday schedule to include the addition of Juneteenth National Independence Day

Lump Sum

The first full pay period in April 2022, each active employee on payroll will receive a one-time lump sum payment in the amount of \$1,000.

Market Study

The parties agree to work on a collaborative market/comparable study during 2022.

Should you have any questions, I am available by email at mkeeley@co.whatcom.wa.us or at extension 5305

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Administrative Services
Division/Program: (i.e. Dept. Division and Program)	Human Resources (HR)
Contract or Grant Administrator:	Melissa Keeley, Employee Relations Manager
Contractor's / Agency Name:	Collective Bargaining Agreement between Whatcom County and Teamsters' Local 231 MCBA
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: 201904010	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: _____	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ _____ This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope:	
2022 Extension of 2019-2021 Collective Bargaining Agreement between Whatcom County and General Teamsters' Local Union 231 Master Collective Bargaining Agreement	
Term of Contract: One year	Expiration Date: 12/31/2022

Contract Routing:	1. Prepared by: Melissa Keeley	Date: 11/15/21
	2. Attorney signoff: George Roche	Date: 11/15/21
	3. AS Finance reviewed:	Date:
	4. IT reviewed (if IT related):	Date:
	5. Contractor signed:	Date:
	6. Submitted to Exec.:	Date:
	7. Council approved (if necessary):	Date:
	8. Executive signed:	Date:
	9. Original to Council:	Date:

**LETTER OF UNDERSTANDING
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
AND
TEAMSTERS LOCAL 231**

This Letter of Understanding is by and between Whatcom County ("the County") and Teamsters Local 231 ("the Union") regarding the Master Collective Bargaining Agreement ("CBA") dated April 23, 2019 - December 31, 2021.

The parties have met, conferred, and bargained as required by law to extend the CBA through December 31, 2022 as follows:

The parties agree to renew all terms and conditions of the 2019-2021 CBA as provided below:

1. Effective the first full pay period in January 2022, each wage step in all ranges of the 2021 hourly matrix shall increase by 3%.
2. Section **8.04a(1) County Contribution** will be modified as follows:
For the calendar year 2022, based on the preceding month's hours, the County shall pay the monthly premium cost of \$1,313.20 to fund the Washington Teamsters Welfare Trust Plan "B" and optional Plan "D" Time Loss Plan.
3. Section **15.02 Holiday Schedule** will be modified as follows:

New Year's Day	Veteran's Day
Martin Luther King's Birthday	Thanksgiving Day
President's Day	Day after Thanksgiving
Memorial Day	Day before Christmas
<i>Juneteenth National Independence Day (NEW)</i>	Christmas Day
Independence Day	Personal Holiday
Labor Day	
4. Effective the first full pay period in April 2022, each active employee on payroll will receive a one-time lump sum payment in the amount of one thousand dollars (\$1,000).

During the life of this agreement, should the County provide a lump sum payment to any other group of employees represented or non-represented, not including interest arbitration and the newly certified Public Defenders unit who have not received a wage increase since January 2020, that is greater than the one thousand-dollar (\$1000.00) lump sum payment as referenced in #4 of this agreement, the County shall provide the same lump sum payment to employees covered by this agreement.

5. In 2022, the parties agree to work on a collaborative market/comparable study for positions covered under the Whatcom County Master Collective Bargaining Agreement between Whatcom County and Teamsters Union Local 231. The Union and the County shall create a committee. The committee shall include two (2) Union Representatives, and up to three (3) Union bargaining unit members appointed by the Union. The County may appoint up to an equal number of County representatives for the committee.
 - a. The Committee will work collaboratively in an effort to establish comparables, define a methodology, and determine the appropriate number of benchmark positions necessary to provide a comprehensive study of Whatcom County Master Bargaining Unit positions.

- b. The Committee will collect data, research and perform the market/comparable study together and shall establish a meeting format and location for work sessions.
 - c. The parties agree that the market/comparable study will be relevant information in negotiations for a successor agreement and as referenced in section 6 below, although neither party is bound by the results of the study regarding any specific proposals or positions taken during negotiations.
6. The Parties agree to continue negotiations in good faith during 2022 for a 2023 Agreement.
 7. During the life of this agreement, should the County provide a cost of living increase to any group of employees not currently bound by a collective bargaining agreement, represented or non-represented, not including interest arbitration and the newly certified Public Defenders unit who have not received a cost of living increase since January 2020, greater than the increase specified in this agreement, the County shall apply the same cost of living increase to employees covered by the Teamsters Master CBA.
 8. Any disputes regarding application of this LOU are subject to the CBA grievance procedure.
 9. This LOU may be amended at any time with mutual agreement of the County and the Union.

The foregoing being the agreement of the Parties is in addition to such other provisions in the CBA. This Letter of Understanding shall be effective as of the date of Council approval and shall supersede any conflicting provision in the CBA.

Name	Signature	Date
Melissa Keeley, HR Manager	<small>DocuSigned by:</small> <i>Melissa Keeley</i>	11/24/2021
Rich Ewing, Teamsters Local 231	<small>39CB3D6E2C73409...</small> <small>DocuSigned by:</small> <i>Richard J Ewing</i>	11/24/2021
Satpal Sidhu, County Executive	<small>1F388CD0519F472...</small> <small>DocuSigned by:</small> <i>Satpal Singh Sidhu</i>	11/29/2021

Approved as to Form:

DocuSigned by:
George Roche
650516898582445
George Roche, Senior Civil Deputy Prosecuting Attorney

11/29/2021

Date

Date Approved by Council: _____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-701

File ID:	AB2021-701	Version:	1	Status:	Agenda Ready
File Created:	11/16/2021	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to operate the Whatcom Homeless Service Center in the amount of \$1,650,248 for a total amended contract amount of \$4,158,271

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Opportunity Council – Whatcom Homeless Service Center Contract Amendment #7

DATE: November 16, 2021

Attached is a contract amendment between Whatcom County and Opportunity Council for your review and signature.

- **Background and Purpose**

The Whatcom Homeless Service Center (WHSC) provides coordinated entry for the homeless housing system. The WHSC makes referrals to partner agencies for housing case management services, cultivates and maintains relationships with local landlords, and serves as liaison for homeless housing activities to the network of service providers and other community stakeholders. The purpose of this amendment is to extend the contract for an additional year and increase funding and program outcomes and measures to support an annual budget, outcomes, and measures, rather than those indicated in the previously approved six-month budget.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$1,650,248 is provided by the Washington State Department of Commerce Consolidated Homeless Grant, (including supplemental Shelter and RRH Grant), the federal Emergency Solutions-CV Grant (CFDA 14.231), local document recording fees, the Veteran's Assistance Fund, and HB 1406. These funds will be included in the 2022 budget. Council approval is required as funding for this amendment exceeds 10% of the approved budget.

Please contact Ann Beck, Human Services Supervisor at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202012017 – 7

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing Program	
Contract or Grant Administrator:		Barbara Johnson-Vinna	
Contractor's / Agency Name:		Opportunity Council	
Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	202012017	
Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement?	If yes, grantor agency contract number(s):	CFDA#:	14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):	202008014 / 201907017	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	Sole Source	Contract Cost Center:	122200 / 122300 / 114 / 122800 / 129100
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):		
Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>		
If YES, indicate exclusion(s) below:			
<input type="checkbox"/> Professional services agreement for certified/licensed professional.			
<input type="checkbox"/> Contract work is for less than \$100,000.		<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	
<input type="checkbox"/> Contract work is for less than 120 days.		<input type="checkbox"/> Work related subcontract less than \$25,000.	
<input type="checkbox"/> Interlocal Agreement (between Governments).		<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments):		Council approval required for: all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:	
\$ 2,508,023		1. Exercising an option contained in a contract previously approved by the council.	
This Amendment Amount:		2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.	
\$ 1,650,248		3. Bid or award is for supplies.	
Total Amended Amount:		4. Equipment is included in Exhibit "B" of the Budget Ordinance	
\$ 4,158,271		5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.	
Summary of Scope: This contract provides funding for the Whatcom Homeless Service Center (WHSC), a centralized point of entry for homeless prevention and re-housing services for Whatcom County residents.			
Term of Contract:	1 Year	Expiration Date:	12/31/2022
Contract Routing:	1. Prepared by:	JT	Date: 09/07/2021
	2. Health Budget Approval	KR/JG	Date: 11/16/2021
	3. Attorney signoff:	RB	Date: 11/15/2021
	4. AS Finance reviewed:	M Caldwell	Date: 11/16/21
	5. Contractor Program Manager:		Date:
	6. Contractor Fiscal Representative:		Date:
	7. Executive Contract Review.:		Date:
	8. Council approved (if necessary):	AB2021-701	Date:
	9. Executive signed:		Date:
	10. Original to Council:		Date:

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225

CONTRACT PERIODS:

Original and Amendments #1 through #3:	01/01/2021 – 06/30/2021
Amendments #4 & #5:	07/01/2021 – 12/31/2021
Amendment #6:	09/29/2021 – 12/31/2021
Amendment #7:	01/01/2022 – 12/31/2022

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Extend the duration and other terms of this contract for 1 year, as per the original contract “General Terms, Section 10.2, Extension”.
2. Amend Exhibit A – Scope of Work (V). to increase and update program outcomes and (VI). measures based on a 1-year contract period.
3. Amend Exhibit B – Compensation, to reflect a 1-year budget for the extended contract period.
4. Funding for this contract period (01/01/2022 – 12/31/2022) is not to exceed \$1,650,248.
5. Funding for the total contract period (01/01/2021 – 12/31/2022) is not to exceed \$4,158,271
6. All other terms and conditions remain unchanged.
7. The effective start date of the amendment is 01/01/2022.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Supervisor Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Prosecuting Attorney Date

FOR THE CONTRACTOR:

	Greg Winter, Executive Director	
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

Satpal Singh Sidhu, County Executive	Date
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CONTRACTOR INFORMATION:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225
360-734-5121
Greg.Winter@oppco.org

EXHIBIT “A” – Amendment #7
(SCOPE OF WORK)

I. Background

The annual Point in Time Count of homelessness conducted in January 2021, counted 859 people in Whatcom County who were experiencing homeless. Throughout the year, hundreds more face the prospect of losing their homes. The Whatcom Homeless Service Center (WHSC) was established in 2008 to serve as a centralized point of entry for homelessness prevention and re-housing services for Whatcom County residents. The WHSC implements programs and services identified in Whatcom County’s Plan to End Homelessness. The WHSC authorizes and coordinates service delivery among partner agencies.

The WHSC is modeled upon evidence-based approaches to homelessness diversion, permanent supportive housing and rapid re-housing (RRH). WHSC housing services work to shift the focus from reliance upon night-by-night emergency shelters and costly institutional facilities in meeting the needs of those experiencing or at risk of homelessness to diversion and permanent housing. By serving as a centralized coordinating system of access to homeless services and by transitioning homeless individuals and families as quickly as possible to permanent housing, WHSC will improve outcomes for homeless individuals and families and ensure more efficient use of public resources.

WHSC programs include both rental assistance and case management components. WHSC staff manages the Housing Pool list, authorizes and distributes rent subsidies to local landlords on behalf of participating clients, makes referrals to partner agencies for housing case management services, manages the Homeless Management Information Services (HMIS) data collection and reporting requirements, cultivates and maintains relationships with local landlords, and serves as liaison for homeless housing activities to the network of service providers and other community stakeholders.

Services will be provided to low-income and/or homeless individuals and households residing in Whatcom County. Individuals and households served must meet the eligibility requirements of the program funding sources as further referenced in Section IV. – Program Requirements.

II. Definitions

Diversion	Diversion can be the first response to resolving a homelessness episode by focusing on re-housing without a family entering a longer-term housing program. Diversion starts with problem-solving conversations to identify a household’s own strengths and resources, and services are tailored to meet each family’s most critical needs to quickly move into housing. Diversion services can include short-term/one-time financial support (i.e., deposit assistance, flex funding, etc.).
Housing Pool	Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
HMIS	Washington’s Homeless Management Information Services – A database used by housing service providers to collect and manage data gathered during the course of providing housing assistance to homeless people or households at risk of losing their housing.
Partner Agencies	Agencies that contract with Whatcom County for the delivery of housing case management services, in connection with the WHSC.
Permanent Supportive Housing Population	Chronically homeless individuals/households with significant barriers to permanent housing; will receive deep rent subsidies and intensive housing case management. Chronically Homeless Families (CHF) have one head of household that meets the definition of chronic homelessness (as stated in CHG Guidelines), and one or more dependents defined as minor children, disabled dependents, or full-time students. Household income may not exceed 50% of area median gross income as defined by HUD.

ESG-CV Prevention	An intervention providing financial assistance including rent, utilities, and case management, for households at imminent risk of or at-risk of, homelessness.
Rapid Re-housing (RRH)	An intervention in which families and individuals experiencing homelessness are rapidly connected to permanent housing through a tailored package of assistance that may include the use of time-limited financial assistance including rent and utilities, and targeted supportive services including case management.
ESG-CV Rapid Rehousing and Prevention; Other Financial Assistance	Inclusive of: rental application fees charge by the owner to all applicants; security deposits; last month's rent; moving costs; utility deposits; utility payments; landlord and volunteer incentives.
SHB 1406	SHB 1406 legislation passed in 2019 provides the ability for local communities to retain a portion of sales tax collections to use for rental assistance, operations of new units of supportive and affordable housing, and acquiring, rehabilitating, or construction of affordable housing, for residents with an income of 60% or less of the area median income.
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1) centralized coordinated system of access (2) re-housing of those who become homeless (3) supportive services promoting housing stability and self-sufficiency, and (4) data management and tracking information for people receiving homeless housing services in Whatcom County and according to the Washington State Department of Commerce HMIS data collection requirements. WHSC works in conjunction with Partner Agencies to operate all activities necessary to operate as a system.

III. Statement of Work

The Contractor will be responsible for programmatic and administrative services associated with the operation of the Whatcom Homeless Service Center. Administrative and programmatic services include all activities necessary to operate the WHSC as set forth in Sections 1 and 2, below:

1. Administrative Responsibilities

The Contractor will:

- A. Provide all Human Resource and administrative services to WHSC employees (e.g., payroll, office supplies and equipment, space rental, IT support, etc.).
- B. Perform all disbursement, accounting, financial management, and reporting functions necessary to manage the funds allocated to WHSC operations. Contractor will maintain a strong internal control system over rental subsidy disbursements to assure funds are used as intended by this contract. Contractor will maintain written policies and procedures describing how these transactions are processed.
- C. Support WHSC and other housing partners in the management of the HMIS, providing troubleshooting and technical assistance, as needed.
- D. Maintain all client financial and eligibility documentation as described/referenced in Exhibit E.
- E. Maintain all financial documentation as required in Exhibits B and E.
- F. Ensure that the processes and internal controls are operating as planned and make policy adjustments, as needed.

- G. Conduct program evaluation as directed by the Whatcom County Health Department to ensure WHSC programs are meeting the Whatcom County Plan to End Homelessness and subsequent Local Plan Updates.
- H. Send staff to trainings, conferences, and technical assistance events related to carrying out the functions of WHSC and the goals of Whatcom County's Plan to End Homelessness and subsequent Local Plan Updates.

2. Programmatic Services

The Contractor will:

- A. Manage a coordinated, centralized homeless housing intake system working collaboratively with Opportunity Council's Community Service Division and Northwest Youth Services intake staff.
- B. Maintain a Housing Pool, which includes prioritizing households for services according to need and available resources and managing a wait list.
- C. Determine and document client eligibility for WHSC rent subsidies and case management services based on funding source requirements.
- D. Refer eligible clients to partner agencies for housing case management services.
- E. Administer rental assistance – authorize and disburse subsidies based on housing assessment and determination of need and eligibility. Authorize and disburse emergency assistance per procedures as outlined in the WHSC Policies and Procedures Manual.
- F. Develop the local permanent housing inventory component of the homeless housing system – Search out new housing stock, cultivate and maintain relationships with participating landlords; provide housing search assistance to partner agencies as needed; work to create innovative housing models using best and promising practices as identified by the National Alliance to End Homelessness or other nationally recognized homeless housing organizations.
- G. Manage the community-wide HMIS data system in compliance with the standards set forth by the Washington State Department of Commerce.
- H. Provide guidance to the partner agency staff to ensure effective operations of the WHSC system; keeping partner agencies updated in policies and procedures, HMIS requirements, research and best practices related to homeless housing, specific program requirements, and confidentiality laws.
- I. Provide leadership to community stakeholders regarding activities focused on homelessness and housing stability.
- J. Compile and keep up-to-date WHSC Policies and Procedures Manual consistent with the Washington State Department of Commerce Consolidated Homeless Grant and the Emergency Solutions Grant-CV.
- K. Chair Whatcom County Coalition to End Homelessness meetings and sponsored activities in partnership with Whatcom County Health Department.
- L. Complete the Whatcom County Coalition to End Homelessness Annual Report (Point In Time Count Report). This annual report shall be completed and ready for distribution no later than June

1. An exception to this will be made in extenuating circumstances when the annual Point in Time Count is not required by the WA State Department of Commerce.

IV. Program Requirements

Under the terms of this contract, the Contractor will:

1. Comply with all Washington State Department of Commerce Consolidated Homeless Grant requirements, policies and procedures in the Consolidated Homeless Grant Guidelines including periodic updates to the Guidelines which can be accessed at: <http://www.commerce.wa.gov/serving-communities/homelessness/consolidated-homeless-grant/>
2. Comply with all of the Department of Housing and Urban Development (HUD) coordinated entry requirements as per the HUD Notice Establishing Additional Requirements for a Continuum of Care Centralized or Coordinated Assessment System regarding the development and implementation of coordinated entry. This Notice, under the authority of 24 CFR 578.7(a)(8), establishes new requirements that Continuums of Care (CoC) and recipients of CoC Program and Emergency Solutions Grant (ESG) Program funding must meet and relate to development and use of a coordinated entry system. This Notice can be accessed at: <https://www.hudexchange.info/resource/5208/notice-establishing-additional-requirements-for-a-continuum-of-care-centralized-or-coordinated-assessment-system/>
3. Comply with relevant State of Washington, Department of Commerce Emergency Solutions COVID-19 Grant guidelines, including periodic updates to the guidelines which can be accessed at: <https://deptofcommerce.app.box.com/s/s2w7o65zm4buhz2bk7t0n3femanl7tml> and <https://deptofcommerce.app.box.com/s/fsmf4pmwkroszjt702j1l9cfvkv5ixmq>
 - a. Per ESG-CV Guideline 3.3.1 Landlord Incentives funding may be used to pay for landlord incentives that are reasonable and necessary to assist households in obtaining housing.
 - i. Grantees may not use ESG-CV funds to pay landlord incentives an amount that exceeds three times the rent charged for the unit.
 - ii. Landlord incentives can include signing bonuses, security deposits, costs to repair damages, and extra cleaning fees.
 - iii. Grantee must maintain program records that document that program costs are reasonable.
4. Commit to ending homelessness in Whatcom County by:
 - a. Prioritizing unsheltered homeless households for services (as per CHG Guidelines)
 - b. Assessing each household's housing needs and facilitating housing stability with the goal of obtaining or maintaining a permanent housing (as per CHG Guidelines)
 - c. Employing a progressive engagement service model (as per CHG Guidelines)
 - d. Prioritizing households that are literally homeless when using diversion rent assistance
5. Comply with eligibility requirements for serving veterans as set forth in Whatcom County Code 2.150 and 2.152, and RCW 73.08.005 and incorporated into this contract by reference. Contractor shall determine eligibility based on Items A and B of WCC 2.150.025 and shall not have utilization of Item C for determining veteran eligibility. The point of contact for the Veteran's Assistance Fund is:

Elizabeth Witowski, Veterans Specialist

Whatcom County Health Department
360-778-6050
EWitowsk@co.whatcom.wa.us

6. Comply with eligibility requirements for serving people with rental assistance that are at risk of homelessness as set forth in Substitute House Bill 1406, and RCW 82.14.540, to include an area median income of 60% or less for those served.
7. Comply with Special Conditions of Commerce Grants incorporated herein as Exhibit E.
8. Comply with Special Terms and Conditions of Washington State Department of Health COVID-19 Local CARES Grant, incorporated herein as Exhibit G.
9. Comply with Business Associate Agreement incorporated herein as Exhibit D.
10. Comply with state confidentiality laws and regulations.
11. Ensure that all costs incurred comply with CHG Guidelines as specified in Section IV.(A.) and IV.(C.) above and Exhibit E.
12. Commit to reporting complete quality data that is timely, truthful and accurate (as per CHG Guidelines and HMIS User Agreement).
13. Consequences of non-compliance with CHG and ESG-CV Guidelines as per the WA State Department of Commerce:
 - a. If Commerce determines that a Grantee is failing to comply with Guidelines, Terms and Conditions, Commerce will notify Grantee that Grantee will receive technical assistance and be required to respond to a corrective action plan to address and remedy the non-compliance.
 - b. If the Grantee is still out of compliance after the technical assistance, Commerce may move the Grantee into a probationary period with a second corrective action plan and may reduce the grant total by 20%.
 - c. If the Grantee remains out of compliance after the probation period, Commerce may terminate the grant per the General Terms and Conditions TERMINATION FOR CAUSE.
14. 1406 Rental Assistance Guidelines:
 - a. 1406 will be used to fund rental assistance only for households meeting 1406 eligibility criteria as outlined in RCW 82.14.540 who have been prioritized by the coordinated entry process.
 - b. Funding is to be used to in accordance with the recommendations of the Whatcom County Housing Advisory Committee.
 - c. Households must have an income of 60% or less of the area median income.
 - d. Rental assistance can be provided for up to 6 months per households, with the option to request extensions.
 - e. Case management services are not an allowable expense of this funding.

V. Program Outcomes

The following are the expected outcomes of WHSC in conjunction with its partner agencies. These outcomes are for a calendar year period. The WHSC must ensure rental subsidies are available to support the expected numbers of households served as follows:

1. Re-Housing

- A. At least 217 new households that have become homeless receive short term rent subsidies and case management.
 - B. Fewer than 15% of re-housing households will re-enter homelessness one year after stable exit from the program.
2. Permanent Supportive Housing Population
- A. At least 62 households receive housing subsidies and case management.
 - a. Two units will be from Opportunity Council owned housing units.
 - B. Up to 4 chronically homeless (CH) families with children (FWC) will receive housing subsidies funded by a subcategory of CHG funding designated specifically for permanent supportive housing for CH FWC. Case management for these families will be funded separately and provided by the Opportunity Council Community Services Program.
 - C. At least 85% retain their housing for six months.
3. Emergency Shelter
- A. At least 72 households will receive emergency shelter assistance.
 - B. At least 50% of those households are placed in permanent housing after receiving shelter services.
4. Veterans
- A. At least 110 Veterans will receive housing subsidies and case management support. These outcomes will be achieved by leveraging additional funding resources.
 - B. Fewer than 15% of Veterans served will re-enter homelessness one year after stable exit from the program.
5. 1406 Funds
- A. At least 15 households will receive rental assistance for permanent housing projects to prevent or end homelessness.

VI. Reporting Requirements

1. The Contractor shall submit two quarterly reports in formats approved by the County showing the Contractor's progress toward achieving the outcomes identified above. Quarterly reports are due on April 30th, July 31st, October 31st, and January 31st.

The quarterly fund reports will include:

- A. Re-Housing:
 - i. # of households that have received short term rent subsidies and case management this quarter and year to date
 - ii. # of households who re-enter homelessness after stably exiting from re-housing services
 - iii. # of households that are Veterans
 - iv. # and % of households who re-enter homelessness within one year after stably exiting from re-housing services
- B. Permanent Supportive Housing Assistance

- i. # of households receiving housing subsidies and case management this quarter and year to date
 - ii. # of units will be from Opportunity Council owned housing units
 - iii. # and % who retain their housing for six months
- C. Permanent Supportive Housing for Chronically Homeless Families with Children
 - i. # of households receiving housing subsidies and case management this quarter and year to date
 - ii. # and % who retain their housing for six months
 - iii. # of households who re-entered homelessness after receiving PSH for CH FWC subsidies
- D. Emergency Shelter
 - i. # of households who received emergency shelter assistance this quarter and year to date
 - ii. # and % of households who received emergency shelter were placed in permanent housing
- E. Veterans
 - i. # of Veterans who received housing assistance this quarter and year to date
 - ii. # of Veterans who re-enter homelessness one y
 - iii. ear after stably exiting the program
 - iv. # of honorably discharged Veterans with at least 180 days of service provided housing assistance
 - v. # of honorably discharged Veterans with less than 180 days of service provided housing assistance
 - vi. # of general or under-honorably discharged Veterans with at least 180 days of service provided housing assistance

2. The quarterly coordinated entry reports will include the following measures and targets:

- A. Number of households (HHs) added to Housing Pool (HP): Annual Target 600
- B. Number of households (HHs) added to Housing Pool (HP) this quarter:
- C. Number of HHs removed from HP due to successful project referral: Annual Target 485
- D. Number of HHs removed from HP due to inactivity: Annual Target 150
- E. Of all HHs removed from HP over reporting quarter, the percent that accepted a project referral: Annual Target 75%
- F. Number of partner agency referral requests made for households that included minors: Annual Target 150
- G. Number of partner agency referral requests made for households that did not include minors: Annual Target 200
- H. Number of partner agency referral requests made during this quarter (total): Annual Target 350
- I. Mean number of days to complete referral requests for households that include minors: 3
- J. Median number of days to complete referral requests for households that include minors: 1

- K. Mean number of days to fill referral for households that do not include minors: 4
- L. Median number of days to fill referral for households that do not include minors: 1
- M. Number of new staff trained to conduct intake assessments: 5
- N. Number of multi-agency housing partner meetings to improve function of local homeless/housing system with participation from WHSC staff: 36
- O. Number of community stakeholder meetings with participation from WHSC staff: 36
- P. Amount of rental assistance (including eviction prevention, motel rentals, and other stabilizing financial services) dispersed on behalf of partner agency's low-income households: Annual Target is \$950,000
- Q. Cumulative number of homeless households provided with emergency shelter in the form of motel stays between January 1, 2022 – December 31, 2022: 80
- R. Dates and descriptions of community or partner meetings with significant input from WHSC staff

Additionally, projects falling under specific intervention types and funded by the Consolidated Homeless Grant (CHG) will be expected to meet or make progress meeting the System Performance Measures and benchmarks as required by the Washington State Department of Commerce. System-wide performance measures and benchmarks specific to intervention type (HMIS Project type) are provided on the CHG System Performance Measures Chart on our website at: http://www.whatcomcounty.us/910/Housing_Program. Changes to the CHG System-wide Mandatory Performance Measures may be made without contract amendment. In the event of an update, the County will provide email notification with a link to the current chart on the County's website. CHG Grantees must meet or demonstrate progress towards established performance measure targets by meeting the indicated benchmarks. Targeted Prevention performance measures are exempted from the Department of Commerce's "Consequences of Non-Compliance" listed in IV.(K.) above wherein "Grantee" refers to the County being the CHG recipient.

EXHIBIT “B” – Amendment #7
(COMPENSATION)

- I. **Budget and Source of Funding:** Funding for this contract may not exceed \$1,650,248. The source of funding is local document recording fees (\$212,881), Washington State Department of Commerce Consolidated Homeless and Hotel & RRH Grants (\$808,547), Emergency Solutions COVID-19 (CFDA 14.231) Grant (\$402,320), the Veterans Assistance Fund (\$76,500), and HB 1406 (\$150,000). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor’s performance of this contract. The budget for this contract period (01/01/2022 – 12/31/2022) is as follows:

2022 Whatcom Homeless Service Center Contract Budget		
*Line Item	Documentation Required with Invoice	Budget
**Consolidated Homeless Grant Funding		
Housing Retention Manager	Expanded GL Report for the period plus documentation including client ID, payee, amount of payment, and federally approved fringe rate	\$47,845
Project Manager		\$38,155
HMIS Coordinator		\$21,000
50% Fringe Benefits Rate		\$53,500
Rent Payments: <i>Includes all eligible expenses under Consolidated Homeless Grant Guidelines</i>		\$183,500
Supportive Housing Rental Assistance for Families with Children		\$43,096
Motels for FWC (Hotel & RRH Fund)		\$334,821
CHG Subtotal:		\$721,917
Document Recording Fees		
Housing Resource Coordinator	Expanded GL Report for the period plus documentation including client ID, payee, amount of payment, and federally approved fringe rate	\$85,010
Project Manager		\$5,000
50% Fringe Benefits Rate		\$45,005
Direct Program Supplies, Telephone, Postage and Printing		\$2,700
Travel & Training		\$1,500
Rental Assistance		\$18,000
Document Recording Fees Subtotal:		\$157,215
Veteran's Funding		
Rental Assistance – Veteran's Funds	Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment	\$68,304
Veteran's Fund Total		\$68,304

ESG COVID-19 Funding			
RRH & Prevention Rental Assistance:		Expanded GL Report for the period plus documentation including client ID, payee, amount of payment, and federally approved fringe rate	\$165,000
Rental assistance, rental arrears, late fees			
RRH & Prevention Other Financial Assistance:			\$90,000
Application fees, security deposits, last month's rent, moving costs, utility deposits/payments, and landlord incentives allowable in 24CFR576.105			
Housing Stability Case Management:			\$15,000
Case Manager	\$10,000		
50% Fringe Benefit Rate	\$5,000		
Total Housing Stability Case Management			\$6,000
HMIS Coordination:			
HMIS Coordinator	\$4,000		
50% Fringe Benefit Rate	\$2,000		
Total HMIS Coordination		\$100,000	
Emergency Shelter Operations:			
Motel room rentals, minor repairs, damages, or cleaning fees	\$100,000		
Total Emergency Shelter Operations			
ESG-CV Subtotal		\$376,000	
1406 Funding			
Rental Assistance for Low-Income Households	Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment	\$150,000	
1406 Funding Subtotal:		\$150,000	
Subtotal of all above expenses:		\$1,473,436	
Indirect and Admin. Expenses			
CHG Funding (12%)		\$86,630	
DRF Funding (12%)		\$18,866	
ESG-CV Funding (Admin. 7%)		\$26,320	
1406 Indirect Supplement (Paid by local document recording fees @ 12%)		\$18,000	
DRF Funding to cover ESG-CV indirect shortfall (5% of ESG-CV direct costs)		\$18,800	
Veteran's Fund (Admin. 12%)		\$8,196	
Indirect and Admin. Subtotal:		\$176,812	
TOTAL BUDGET:		\$1,650,248	

*Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County. Indirect and fringe benefit cost rates shall not exceed the current federally approved rates. All allocated direct costs must be based on approved cost allocation plan.

**During this grant period, a minimum of 36% of Rental Assistance – CHG Funds - must be paid out to for-profit or nonprofit private landlords, as required by the Washington Department of Commerce.

II. Invoicing

1. The Contractor shall submit invoices to (include contract/PO #) HL-BusinessOffice@co.whatcom.wa.us.
2. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above. Send invoice-related communication to Barbara Johnson-Vinna.
3. The Contractor shall submit the following monthly deliverables on time with truthful, accurate information:
 - a. 2021-23 Report from HMIS included with the Invoice (refer to related section of the CHG Guidelines addressing this requirement).
4. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

This is not research and development.

5. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

6. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-702

File ID:	AB2021-702	Version:	1	Status:	Agenda Ready
File Created:	11/17/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: THelms@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Mount Baker Foothills Chamber and Visitor Center for operations and tourism, in the amount of \$110,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into a contract between Whatcom County and Mount Baker Foothills Chamber and Visitor Center for operations and tourism, in the amount of \$110,000

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Proposed contract, Routing Form



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Tawni Helms, Administrative Coordinator

RE: Mount Baker Foothills Chamber of Commerce

DATE: November 17, 2021

Enclosed is the Contract for Services between Whatcom County and Mount Baker Foothills Chamber of Commerce for your review and signature.

- **Background and Purpose**

Contractor has received Convention Center funding to pay for the operations of the Mount Baker Foothills Visitor Center.

- **Funding Amount and Source**

Funding in the amount of \$110,000 will come from the Convention Center Fund (aka Lodging Tax) as recommended by the Lodging Tax Advisory Committee and approved on September 14, 2021 by the Whatcom County Council through Resolution No. 2021-037.

- **Differences from Previous Contract**

No substantive changes.

Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.

Encl.

CONTRACT FOR SERVICES
Between Whatcom County and Mount Baker Foothills Chamber of Commerce

Mount Baker Foothills Chamber of Commerce, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,
Exhibit A (Scope of Work), p. 14
Exhibit B (Compensation), p. 15
Exhibit C (Sample Survey), p. 16
Exhibit D (Certificate of Insurance) p. 17.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2022.

The general purpose or objective of this Agreement is to: support Mount Baker Foothills Chamber for the operational costs associated with the Visitor Center, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed **\$110,000**. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

CONTRACTOR:

Mount Baker Foothills Chamber of Commerce

Paul Engel, President

CONTRACTOR INFORMATION:

Mount Baker Foothills Chamber & Visitor Information Center

Address:
P.O. Box 866
Maple Falls, WA 98266

Mailing Address:
Same

Contact: Rebecca Boonstra, Executive Director
Phone: 360-599-1518
Email: info@mtbakerchamber.org

WHATCOM COUNTY:
Recommended for Approval

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages,

minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure

pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Professional Liability

Professional Liability - \$1,000,000 per occurrence

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

3. Business Automobile Liability

\$1,000,000.00 Minimum, per occurrence

\$2,000,000.00 Minimum, Annual Aggregate

Contractor shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

4. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy

are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.

- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.
- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 Defense & Indemnity Agreement. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County

and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to ensure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

PARTY 1: Mount Baker Foothills Chamber of Commerce and Visitor Information Center
Rebecca Boonstra, Executive Director
P.O. Box 866
Maple Falls, WA 98266
360-371-5004
info@mtbakerchamber.org

PARTY 2: Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225
360-778-5208
thelms@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working

day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

The Mount Baker Foothills Chamber of Commerce will use tourism promotion funds to:

1. Fund the operations of the Visitor Center
2. Expenses will include salaries, benefits and marketing/promotion and travel.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Chamber shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$110,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

Allowable Expenses include:

Wages and benefits	\$ 88,860
Administration (rent, janitor, taxes, office supplies, travel)	\$ 17,600
Marketing/Promotion (website design, maint. & hosting)	<u>\$ 3,540</u>
TOTAL	\$110,000

Mount Baker Foothills Chamber and Visitor Information Center will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices. Payment will be made no more than one time per month.

Mount Baker Chamber and Visitor Information Center will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

EXHIBIT "C"
(Certificate of Insurance)

ATTACHMENT D
Whatcom County Contractor's E-Verify Declaration Form

I. CONTRACTOR INFORMATION

Contractor Name:		Phone:	
Contact Person:		Fax:	
Address:			

II. E-VERIFY ENROLLMENT (check box and submit copy of MOU for verification)

Contractors with funded contracts of \$100,000 or more must be enrolled in E-Verify system. Work related subcontract is \$25,000 or higher. www.uscis.gov/e-verify

☐ Contractor is enrolled in E-Verify; copy of the signed E-Verify Memorandum of Understanding is attached.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature

Name

Date

Title

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <p><input type="checkbox"/> Professional services agreement for certified/licensed professional. Goods and services provided due to an emergency</p> <p><input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</p> <p><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.</p> <p><input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</p>	
<p>Contract Amount:(sum of original contract amount and any prior amendments):</p> <p>\$ _____</p> <p>This Amendment Amount:</p> <p>\$ _____</p> <p>Total Amended Amount:</p> <p>\$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-705

File ID:	AB2021-705	Version:	1	Status:	Agenda Ready
File Created:	11/18/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Tschroed@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Tune-Up Events, LLC to promote Whatcom County tourism in the amount of \$50,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into a contract between Whatcom County and Tune-Up Events, LLC to promote Whatcom County tourism in the amount of \$50,000

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Agreement, Memo, Routing Form

CONTRACT FOR SERVICES
Between Whatcom County and Tune-Up Events, LLC

Tune-Up Events, LLC, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,
Exhibit A (Scope of Work), p. 14
Exhibit B (Compensation), p. 15
Exhibit C (Sample Survey), p. 16
Exhibit D (Certificate of Insurance) p. 17.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2022.

The general purpose or objective of this Agreement is to: support Northwest Tune-Up for marketing and operational costs associated with the Northwest Tune-Up tourism event, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed **\$50,000**. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

CONTRACTOR:

Tune-Up Events, LLC

Brandon Watts, Managing Director

CONTRACTOR INFORMATION:

Tune-Up Events, LLC

Address:
501 Meador Avenue, Suite 104
Bellingham, WA 98225

Mailing Address:
Same

Contact: Brandon Watts, Managing Director
Phone: 360-441-4871
Email: brandon@freehubmag.com

WHATCOM COUNTY:
Recommended for Approval

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages,

minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure

pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Business Automobile Liability

\$1,000,000.00 Minimum, per occurrence
\$2,000,000.00 Minimum, Annual Aggregate

Contractor shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

4. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.
- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.

- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 Defense & Indemnity Agreement. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors,

employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to ensure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

PARTY 1: Tune-Up Events, LLC
Brandon Watts, Managing Director
501 Meador Avenue, Suite 104
Bellingham, WA 98225
360-441-4871
brandon@freehubmag.com

PARTY 2: Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225
360-778-5208
thelms@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

- 38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. **Notice of Potential Claims:**

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. **Detailed Claim:**

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. **Arbitration:**

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 **Venue and Choice of Law:**

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 **Survival:**

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 **Entire Agreement:**

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

Tune-Up Events, LLC will use tourism promotion funds to:

1. Fund the marketing and promotional expenses incurred for the Northwest Tune-Up Event.
 - Creative services and assets creation (graphic design, photography and production)
 - Printing of promotional materials designed to attract overnight visitors
 - Mailing of promotional materials outside of Whatcom County in an effort to attract overnight visitors
 - Advertising of the event through media outlets outside of Whatcom County, including social media and internet advertising, for the purposes of bringing visitors to Whatcom County
2. Up to 25% of the Lodging Tax Funding allocation can be used to fund operational costs associated with the Northwest Tune-Up Event.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Chamber shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$50,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

GENERAL LEDGER DETAIL for OPERATIONS STAFF not to exceed 25% (\$12,500) of the LTAC funding allocation:

- Salaries
- Payroll taxes
- Health insurance

RECIEPTS:

- Marketing, promotional
- Creative services and asset creation (graphic design, photography and production)
- Printing of promotional materials (*for annual multi-day events designed to encourage tourism and overnight stays*)
- Advertising
- Postage costs

Tune-Up Events, LLC will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices.

Invoices will be certified by the Executive Director with the following certification:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

Payment will be made no more than one time per month.

Tune-Up Events, LLC will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

EXHIBIT "C"
(Certificate of Insurance)

CONTRACT FOR SERVICES
Between Whatcom County and Tune-Up Events, LLC

Tune-Up Events, LLC, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,
Exhibit A (Scope of Work), p. 14
Exhibit B (Compensation), p. 15
Exhibit C (Sample Survey), p. 16
Exhibit D (Certificate of Insurance) p. 17.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2022.

The general purpose or objective of this Agreement is to: support Northwest Tune-Up for marketing and operational costs associated with the Northwest Tune-Up tourism event, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed **\$50,000**. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

CONTRACTOR:

Tune-Up Events, LLC

Brandon Watts, Managing Director

CONTRACTOR INFORMATION:

Tune-Up Events, LLC

Address:
501 Meador Avenue, Suite 104
Bellingham, WA 98225

Mailing Address:
Same

Contact: Brandon Watts, Managing Director
Phone: 360-441-4871
Email: brandon@freehubmag.com

WHATCOM COUNTY:
Recommended for Approval

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages,

minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure

pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Business Automobile Liability

\$1,000,000.00 Minimum, per occurrence
\$2,000,000.00 Minimum, Annual Aggregate

Contractor shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

4. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.
- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.

- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 Defense & Indemnity Agreement. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors,

employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to ensure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

PARTY 1: Tune-Up Events, LLC
Brandon Watts, Managing Director
501 Meador Avenue, Suite 104
Bellingham, WA 98225
360-441-4871
brandon@freehubmag.com

PARTY 2: Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225
360-778-5208
thelms@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

- 38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. **Notice of Potential Claims:**

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. **Detailed Claim:**

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. **Arbitration:**

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 **Venue and Choice of Law:**

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 **Survival:**

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 **Entire Agreement:**

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

Tune-Up Events, LLC will use tourism promotion funds to:

1. Fund the marketing and promotional expenses incurred for the Northwest Tune-Up Event.
 - Creative services and assets creation (graphic design, photography and production)
 - Printing of promotional materials designed to attract overnight visitors
 - Mailing of promotional materials outside of Whatcom County in an effort to attract overnight visitors
 - Advertising of the event through media outlets outside of Whatcom County, including social media and internet advertising, for the purposes of bringing visitors to Whatcom County
2. Up to 25% of the Lodging Tax Funding allocation can be used to fund operational costs associated with the Northwest Tune-Up Event.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Chamber shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$50,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

GENERAL LEDGER DETAIL for OPERATIONS STAFF not to exceed 25% (\$12,500) of the LTAC funding allocation:

- Salaries
- Payroll taxes
- Health insurance

RECIEPTS:

- Marketing, promotional
- Creative services and asset creation (graphic design, photography and production)
- Printing of promotional materials *(for annual multi-day events designed to encourage tourism and overnight stays)*
- Advertising
- Postage costs

Tune-Up Events, LLC will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices.

Invoices will be certified by the Executive Director with the following certification:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

Payment will be made no more than one time per month.

Tune-Up Events, LLC will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

EXHIBIT "C"
(Certificate of Insurance)

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <p><input type="checkbox"/> Professional services agreement for certified/licensed professional. Goods and services provided due to an emergency</p> <p><input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</p> <p><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.</p> <p><input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</p>	
<p>Contract Amount:(sum of original contract amount and any prior amendments):</p> <p>\$ _____</p> <p>This Amendment Amount:</p> <p>\$ _____</p> <p>Total Amended Amount:</p> <p>\$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____	Date: _____
	2. Attorney signoff: _____	Date: _____
	3. AS Finance reviewed: _____	Date: _____
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-706

File ID:	AB2021-706	Version:	1	Status:	Agenda Ready
File Created:	11/18/2021	Entered by:	DDuling@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: dduling@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington Traffic Safety Commission for high visibility enforcement patrols, in the amount of \$7,800.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Staff Memo, Proposed Interagency Agreement.pdf

WHATCOM COUNTY
SHERIFF'S OFFICE

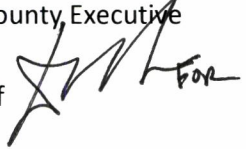
BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

MEMORANDUM

To: Satpal Sidhu, County Executive

From: Bill Elfo, Sheriff 

Date: November 15, 2021

Subject: Interagency Agreement
Washington Traffic Safety Commission
High Visibility Enforcement (HVE) Patrols FY22
2022-HVE-4452-Region 11 Target Zero Task Force

Enclosed for your review and signature is one (1) original agreement between Whatcom County Sheriff's Office and the Washington Traffic Safety Commission for High Visibility Enforcement (HVE) Patrols to address distracted driving and motorcycle safety.

Background and Purpose

This agreement provides funding for the Whatcom County Sheriff's Office to conduct overtime high visibility enforcement (HVE) traffic safety emphasis patrols to address distracted driving and motorcycle safety with the goal of reducing traffic accidents.

Funding Amount and Source

Whatcom County Sheriff's Office allocation is \$7,800 (approximately 10.06% of the total Region 11 award of \$77,500) from Washington Traffic Safety Commission. Funds originate from the United States Department of Transportation (USDOT) National Highway Traffic Safety Administration.

Differences from Previous Contract

There is no change in dollar amount from the previous grant.

Please contact Undersheriff Chadwick at extension 6618 if you have any questions or concerns regarding the terms of this agreement.

Thank you.

enclosure

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	35 Whatcom County Sheriff's Office
Division/Program: <i>(i.e. Dept. Division and Program)</i>	3520 Bureau of LE & Investigations / 352030 Traffic
Contract or Grant Administrator:	Doug Chadwick, Undersheriff
Contractor's / Agency Name:	Washington Traffic Safety Commission
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): <u>2022-HVE-4452</u> CFDA#: <u>20.600 and 20.608</u>	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract _____ Cost Center: <u>2965</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>7,800.00</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>7,800.00</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
This agreement provides funding for the Sheriff's Office to conduct high visibility enforcement (HVE) traffic safety emphasis overtime patrols to address distracted driving and motorcycle safety with the goal of reducing traffic accidents. Whatcom County Sheriff's Office allocation is \$7,800 (approximately 10.06% of the total Region 11 award of \$77,500).	
Term of Contract: 10/1/21 Expiration Date: 9/30/22	

Contract Routing:	1. Prepared by: <u>Donna Duling</u>	Date: <u>11/8/21</u>
	2. Attorney signoff: <u>Approved via email BW/dd</u>	Date: <u>11/5/21</u>
	3. AS Finance reviewed: <u>Approved via email BB/dd</u>	Date: <u>11/8/21</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

INTERAGENCY AGREEMENT

BETWEEN THE

Washington Traffic Safety Commission

AND

Whatcom County Sheriff's Office

THIS AGREEMENT is made and entered into by and between the Washington Traffic Safety Commission, hereinafter referred to as "WTSC," and Whatcom County Sheriff's Office, hereinafter referred to as "SUB-RECIPIENT."

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the Parties mutually agree as follows:

1. PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to provide funding, provided by the United States Department of Transportation (USDOT) National Highway Traffic Safety Administration (NHTSA) and allowed under the Assistance Listings Catalog of Federal Domestic Assistance (CFDA) numbers 20.600 and 20.608, for traffic safety grant project **2022-HVE-4452-Region 11 Target Zero Task Force**, specifically to provide funding for the law enforcement agencies in WTSC Region 11 to conduct overtime high-visibility enforcement (HVE) traffic safety emphasis patrols as outlined in the Statement of Work (SOW), in support of Target Zero priorities. The Target Zero Manager (TzM) and/or the Law Enforcement Liaison (LEL) shall coordinate the SOW with the SUB-RECIPIENT with the goal of reducing traffic crashes.

Grant **2022-HVE-4452-Region 11 Target Zero Task Force** was awarded to the **Region 11** to support collaborative efforts to conduct HVE activities. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved overtime expenses incurred as a participant in the region's HVE grant.

2. PERIOD OF PERFORMANCE

The period of performance of this Agreement shall commence upon the date of execution by both Parties, but not earlier than October 1, 2021, and remain in effect until September 30, 2022 unless terminated sooner, as provided herein.

3. STATEMENT OF WORK

SCOPE OF WORK:

Problem and Opportunity Statement / Project Overview

The main causes of serious injury and fatality collisions on Washington's roadways are driver impairment through drug and/or alcohol use, and distracted driving. Motorcyclists also represent a high number of injured and killed as a result of unsafe and poorly trained riders and the challenges vehicle drivers face in observing motorcycles on the road.

This project will fund locally coordinated high visibility enforcement mobilizations for distracted driving and motorcycle safety. Selected regions will also be given funding for Impaired Driving HVE. Overtime patrols will be organized by local Target Zero Managers (TZMs) & the statewide Law Enforcement Liaison networks and their local Target Zero Task Force. These patrols will also be coordinated with the Washington State Patrol (WSP). Target Zero Managers will establish or strengthen relationships with key WSP district personnel to improve interagency coordination.

Goal

Prevent traffic crashes to reduce traffic related deaths and serious injuries through active, visible, consistent, and targeted traffic law enforcement.

Strategy

Prevent drivers from engaging in high-risk behaviors by increasing their perception of the risk of receiving a citation through high visibility enforcement campaigns (HVE).

HVE Campaigns influence driver behavior by creating the perception that there is an increased risk of engaging in risky driving behaviors. This perception is achieved through 1) an increase in media messages about upcoming emphasis periods so that the targeted drivers know when the patrols will occur and what will be enforced and 2) drivers have the perception of increased enforcement because they can see a significant and noticeable increase in law enforcement presence (officers pulling cars over) that reinforces the media messages they received and influences them to modify their driving behavior.

Objectives and Requirements for All High Visibility Patrols

1. SUB-RECIPIENT will participate in their task force to plan and execute HVE events. The SUB-RECIPIENT in cooperation with the local task force will:
 - a. Conduct robust planning for each HVE event. WTSC recommends creating an operational plan developed by the local traffic safety task force for each HVE event that includes:
 - i. Goals for the event – For example, what behaviors is the event intended to influence?
 - ii. Summary of participating law enforcement agencies, target violations, and target locations.
 - iii. Summary of the public outreach that will be done to promote the event so that drivers in the targeted locations are forewarned and can anticipate it.
 - iv. Use data and information such as crash data, anecdotes of near misses, and professional judgement to pick target locations where the patrols will occur.

- b. The planning for HVE events will be data informed; based on crash data, anecdotal evidence, and the professional judgement of task force members.
- c. Execute the event using multiple officers (a minimum of three) at the same time in the same target areas to create a visible presence so that the driving public has the perception of law enforcement omnipresence on the targeted roads. Enforcement is highly visible – clearly more than a typical day.
- d. Participating officers should maximize their contacts during their patrols so that their activity contributes to the goals of the HVE event. See this requirement described below in the section called Other Considerations, Exceptions, And Notes Regarding HVE Events.
- e. Promote the event through all earned, owned and, if funded, paid media that is available so that the public is made aware of the event before, during, and after the enforcement takes place. Translate messages as needed to reach the majority of drivers in the targeted locations.
- f. Invite local media involvement in the effort to reach communities in which HVE will occur.
- g. Strive to actively enforce traffic safety laws focused on collision causing behaviors in priority areas throughout the year outside of HVE events.
- h. Ensure all participating personnel will use the WEMS system provided by the WTSC to record all activities in digital activity logs conducted by their commissioned officers pursuant to the HVE events. Participating officers will fill out all applicable fields of the digital activity log and use the comments field to provide details on an irregularities, challenges or other details that would help explain what was encountered during their shift. SUB-RECIPIENT will also ensure all supervisors and fiscal staff have the ability to review and edit those activity logs.
- i. Ensure all participating personnel will receive a briefing prior to the event so that every participant understands the purpose and goals of the HVE event. This can be done in person (preferred) or electronic via telephone or virtual software. Below is a recommended briefing checklist:
 - i. Event goals, and summary of participating law enforcement agencies and officers, target violations, and target locations.
 - ii. List of on-call DREs and request procedures
 - iii. How to fill out their digital activity log in WEMS
 - iv. Information on how the Mobile Impaired Driving Unit will be used (if applicable)
 - v. Dispatch information
 - vi. Spotter processes (if applicable)
 - vii. Available Draeger machines and locations

- j. Ensure all officers participating in these patrols is BAC certified and received and passed the SFST refresher training.
- k. Support the promotion of HVE events utilizing all of their owned media channels (i.e., Facebook, Twitter, website, email newsletters, or other social media).
- l. Ensure at least one individual available for weekend media contacts, beginning at noon on Fridays before HVE mobilizations.

Objectives and Requirements for Distracted Driving HVE Patrols

1. SUB-RECIPIENT must use the spotter method for all distracted driving HVE events. This method will utilize a team of no less than three officers – one spotter identifying violations and at least two officers responding to violations.
2. Participating officers will document, in the “Comments” box of their activity log, the names of the spotter and chasers with which they were working.
3. SUB-RECIPIENTS utilizing motorcycle officers are exempt from the spotter requirement.
4. SUB-RECIPIENT agrees that distracted driving patrols conducted without using the spotter method will not be compensated by the WTSC.
5. SUB-RECIPIENT will only expend funds for these HVE events in support of the national distracted driving campaign from April 4 to April 11.
6. SUB-RECIPIENT may expend funds outside of the April national campaign, but only when 1) the Target Zero Manager receives written approval from WTSC in advance and 2) the event is in support of a distracted driving focused HVE event organized by the Task Force. Patrols conducted outside of the campaign window, and without pre-approval from WTSC will not be reimbursed.

Objectives and Requirements for Motorcycle Safety HVE Patrols

1. SUB-RECIPIENT will focus on the illegal and unsafe driving actions of all other motor vehicles when relating to motorcycles. This includes speeding, failure to yield to a motorcycle, following too closely to a motorcycle, distracted driving, etc.
2. SUB-RECIPIENT ensures that enforcement will focus on the illegal and unsafe driving actions of motorcycles that are known to cause serious and fatal crashes. This includes impaired driving, speeding, and following too closely.
3. The SUB-RECIPIENT will utilize motorcycle officers in these patrols to the fullest extent possible.
4. The SUB-RECIPIENT will only expend funds for these motorcycle HVE events in support of the following campaigns:
5. It’s a Fine Line – (July 8-10, July 15-17, or July 22-24). Note: Patrols must take place Friday, Saturday, or Sunday during the campaign.

6. Oyster Run Event – Summer 2022 (Region 11 only).
7. ABATE Spring Opener – Summer 2022 (Region 12 only).
8. Hog Wild Ocean Shores Motorcycle Event – Summer 2022 (Region 2 only).
9. Motorcycle HVE Patrols must take place Friday, Saturday, or Sunday during the It's a Fine Line campaign, however the local Traffic Safety Task Force can request to conduct patrols during other days in the week if data shows the need for this or for special events. These requests must be sent to Mark Medalen via email (mmedalen@wtsc.wa.gov) at least one week in advance of the proposed event. During special events, patrols should be scheduled during the dates of the event and could start one day before the official event start date and end one day after the official event end date.

Other Considerations, Exceptions, And Notes Regarding HVE Events

Maximizing contacts: Participating law enforcement officers should make as many contacts as they can during their patrol in the spirit of changing driving behavior. Active, visible, consistent, and targeted traffic law enforcement has an impact on helping to modify driver behavior. A traffic stop affects future driving habits that has a positive influence on reducing the number and severity of collisions. People believe what they hear from each other and it influences what they do. Traffic stops act as a deterrent to risky driving behavior. This strategy has three primary purposes that traffic stops achieve:

- The first purpose is to stop a violation of the law for public safety. Officers will accomplish this purpose merely by stopping vehicles.
- The second purpose of the stop is to serve as a general deterrent to other drivers. Officers' visible presence with a vehicle at the roadside has this symbolic effect on other drivers.
- Finally, the third purpose is to change the drivers' future driving behavior.

Process Measures

- Percent of officers that receive a briefing prior to HVE events.
- Percent of HVE activity logs with a start date and end date / time within prescribed campaign windows.
- Percent of stops resulting in an infraction or citations issued for high-risk behaviors including but not limited to impaired driving, speeding, distracted driving, and aggressive driving.

Objectives and Requirements for Impaired Driving HVE Patrols

1. SUB-RECIPIENT will implement a data driven, sustained enforcement and education efforts.
 - a. Use local traffic crash data and any other useful data to identify the locations where the enforcement patrols should occur.
 - b. Education and local media efforts should incorporate a Positive Community Norms approach with the desired outcome of influencing drivers with the highest potential of causing traffic crashes.

- c. Commit to an increased level of sustained enforcement as outlined in the operations plan. *NOTE: These funds are meant to provide an increase in DUI enforcement efforts, not meant to replace current DUI enforcement.*
2. SUB-RECIPIENT will participate in national impaired driving HVE events including:
 - a. Holiday DUI Patrols (December 15 – January 1)
 - b. Drive Sober or Get Pulled Over (August 17 – September 5)
3. SUB-RECIPIENT will focus enforcement efforts on driving behaviors that are commonly exhibited by drivers operating a motor vehicle under the influence of alcohol/drugs or a combination. Stopping vehicles for “high discretionary” style stops should not be the priority.
4. SUB-RECIPIENT ensures all officers participating in these patrols has received the Advanced Roadside Impaired Driving Enforcement (ARIDE) training.
5. SUB-RECIPIENT should not supplant regular patrol officer activity during HVE events.

Scope of Work - Impaired Driving HVE Patrols

Contacts

Project Director:

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CLanham@wtscwa.com

Project Manager:

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Media Manager / PIO

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Additional Contacts

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360-815-1691

Chief Donnell Tanksley
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Blaine, WA 98230
360-332-6769

Sgt. Kyle Spevacek
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Lt. Dave Shackleton
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360-336-6271

Sgt. Eric Peter
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Friday Harbor, WA 98250
360-370-7621

Sgt. Dan Lindstrom
Swinomish Tribal Police Dept.
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La Conner, WA 98257
360-333-2045

Lt. Daniel McIlraith
Sedro Woolley Police Dept.
325 Metcalf
Sedro Woolley, WA 98284
360-661-6238

Sgt. Chris Garden
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Coupeville, WA 98239
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Sgt. Ron Carpenter
Western WA University Police
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Captain Bill Wilkie
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Whatcom County Sheriff's Office
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Sgt. Kevin Davis
Ferndale Police Dept
2220 Main St.
Ferndale, WA 98248
360-384-3390

Lt. Russ Martin
Lynden Police Department
PO Box 650
Lynden, WA 98264
360-354-2828

Operations

- The hours for the High Visibility Enforcement (HVE) patrols for community or holiday events will be determined by the nature of the event, the size of the event and when alcohol is being served.
- HVE patrols will be in the evening hours consistent with the National Mobilizations.
- National mobilizations will be scheduled in the dusk and evening hours as the data from the WSP Collision Analysis Tool indicates these are the times when most impaired driving crashes occur in Region 11.

- DUI Mentorship Policy will provide the guidelines for utilizing WTSC Impaired Driving funds. The DUI Mentorship Policy will utilize Regional Drug Recognition Experts (DREs) as mentors to help other officers gain the knowledge, experience, and confidence levels to more effectively pursue DUI Offenders.
- HVE Patrols will follow the standard 3 officers/deputies minimum but the enforcement officers will not be subject to the 3 stops per hour minimum.
- Traffic stops will focus on "low discretionary" stops that are categorized as collision-causing offenses such as suspected impaired drivers, distracted driving and aggressive driving, with an emphasis on the 24 Initial Visual DUI Detection Cues.
- To be eligible to participate in WTSC funded Impaired Driving HVEs, officers/deputies will go through a selection process. The Region 11 TQM will keep a roster of active officers approved to participate in the HVE patrols.
- DRE Training Officers, enforcement officers and dispatchers will receive overtime or straight time during the WTSC Funded HVE Patrols.
- HVE funds are meant to provide an increase DUI enforcement effort and not meant to replace current DUI enforcement or supplant regular patrols.

Schedule of Events

1st Quarter October 2021 through December 31, 2021	2nd Quarter January 1 to March 31, 2022	3rd Quarter April 1 to June 30, 2022	4th Quarter July 1 to September 30, 2022
Halloween, October 31	Super Bowl Sunday, February 7	Cinco de Mayo, May 5	Fourth of July Celebration, July 4
World Day of Remembrance for Road Traffic Victims, November 21	St. Patrick's Day, March 17	Ski to Sea, May 21- 25	Target Zero DUI Drive Sober or Get Pulled Over, August 20 - Sept 6
Target Zero - Holiday DUI emphasis, December 15 - 31			

Measures

In addition to officer activity logs, Region 11 will measure the output and effort of the impaired driving grant through the following metrics:

Activity	Planned/Expected	Actual
HVE patrols conducted	9	
Officers/deputies participating	62	
DUI arrests	25	
Educational flyers distributed to drivers	500	
Media releases distributed	18	
Social media content developed/shared	27	

Publicity/Earned Media Efforts/ Visibility Efforts

All HVEs will include publicity pre-event, during and post event. The publicity will utilize the Positive Community Norms (PCN) messaging where appropriate. Pre-event media releases will be shared with local media outlets and radio stations.

HVEs will utilize social media messaging advising that the HVEs are in progress. Post-event messaging will distribute the results of the HVE patrols to the public and stakeholders in the community through media releases and social media.

Media outreach efforts will be made to individuals in the community with limited English proficiency through rack cards that have been translated and distributed by officers during HVE patrols. The same translated information will be distributed on the NW Region Target Zero social media.

Earned Media

The following are some of the free earned media we plan to use to inform the community about our HVE efforts and the Target Zero vision and goals utilizing the Positive Community Norms (PCN) messaging.

- Press releases / Press events: Announcing the event; Pre-event; Post-event
- Letters to the editor
- Flyers, brochures
- Media ride-alongs
- Interviews

Social Media

Region 11 TZM or partner agency will post information on our Northwest Region Target Zero social media sites along with utilizing the regional Task Force's social media network to promote voluntary compliance of traffic laws, reporting results and relevant data and information from the WTSC. This messaging will also utilize the Positive Community Norms (PCN) messaging strategies.

High Visibility Features

Region 11 plans to utilize the following high visibility features to complement our publicity campaign. These visual prompts are intended to remind drivers of the serious consequence of driving impaired and create deterrence:

- Electronic reader boards
- Business reader boards
- Flyers/ brochures handed out to motorist

Budget and Budget Narrative

Region 11 consistently patrols and enforces impaired driving laws as staffing permits.

If an HVE is canceled due to the Covid Pandemic, insufficient law enforcement staffing or other unforeseen circumstance the TZM will consult with the Task Force to identify an event or date in Region 11 where the

funding can be utilized for an extra Impaired Driving HVE. These funds can also be used for DRE Mentoring which would not be restricted by the HVE minimum of 3 officers per patrol. The WTSC Program Manager will be kept informed as to any changes to the schedule or budget.

1st Quarter - October 2021 through December 31, 2021

Halloween, October 31	\$2,800
World Day of Remembrance for Road Traffic Victims, November 21	\$2,800
Target Zero - Holiday DUI emphasis, December 15 - 31	<u>\$10,450</u>
Sub Total:	\$16,050

2nd Quarter – January 1 to March 31, 2022

Super Bowl Sunday, February 7	\$ 2,800
St. Patrick's Day - March 17	<u>\$ 2,800</u>
Sub Total:	\$ 5,600

3rd Quarter – April 1 to June 30, 2022

Cinco de Mayo, May 5	\$ 2,800
Ski to Sea - May 21-25	<u>\$ 2,800</u>
Sub Total:	\$ 5,600

4th Quarter – July 1 to September 30, 2022

July 4th Celebration, July 4th	\$ 2,800
Target Zero DUI Drive Sober or Get Pulled Over, August 20 - Sept 6	<u>\$10,450</u>
Sub Total:	\$13,250

Grand Total: \$40,500

3.1. MILESTONES AND DELIVERABLES

Mobilization	Dates
Holiday DUI	December 15, 2021 – January 1, 2022
U Drive. U Text. U Pay.	April 4 – 11, 2022
It's a Fine Line	July 8 – 24, 2022
DUI Drive Sober or Get Pulled Over	August 17 – September 5, 2022

3.2. COMPENSATION

3.2.1. Compensation for the overtime work provided in accordance with this Agreement has been established under the terms of RCW 39.34. The cost of accomplishing the work described in the SOW will not exceed dollar total from amounts listed below. Payment for satisfactory performance of the overtime

work shall not exceed this amount unless the WTSC and SUB-RECIPIENT mutually agree to a higher amount in a written Amendment to this Agreement executed by both the WTSC and SUB-RECIPIENT. Comp-time is not considered overtime and will not be approved for payment. All law enforcement agencies who are active members of the Region 11 traffic safety task force with a fully executed grant agreement are eligible to participate in this grant.

3.2.2. WTSC will reimburse for personnel overtime expenses at 150 percent of the officer's normal salary rate plus SUB-RECIPIENT's contributions to employee benefits, limited to the following:

- FICA
- Medicare
- Any portion of L & I that is paid by the employer (SUB-RECIPIENT)
- Retirement contributions paid by the employer (SUB-RECIPIENT) can be included if the contribution is based on a percentage of their hours worked

Health insurance, or any other benefits not listed above, are not eligible for reimbursement.

The SUB-RECIPIENT will provide law enforcement officers with appropriate equipment (e.g., vehicles, radars, portable breath testers, etc.) to participate in the emphasis patrols.

3.2.3. Funding alterations are permitted as follows: Upon agreement by the regional TZM and all other parties impacted by a proposed budget alteration, the allocation amounts may be increased or decreased without amending this agreement. HVE grant funds should be managed collaboratively by the SUB-RECIPIENT and the TZM.

These alterations must be requested through email communication among all involved parties, including the TZM, and the WTSC Fiscal Analyst. This communication shall include an HVE Allocation Adjustment form, which details the funding alterations.

Funds within the same HVE campaign budget category only, can be increased and decreased across parties, so long as the modified total does not exceed the regional total allocation per funding category.

3.2.4. These funds, designated for salaries and benefits, are intended to pay for the hourly overtime costs and proportional amounts of fringe benefits of commissioned staff pursuing the activities described in the statement of work. These funds may not be used for any other purpose for example any work required to maintain a law enforcement commission including recertification trainings like firearm qualification.

3.2.5. Dispatch: WTSC will reimburse communications officers/dispatch personnel for work on this project providing SUB-RECIPIENT has received prior approval from their region's TZM. This activity must be overtime and only the expenses listed in section 3.2 and its subsections will be reimbursed.

3.2.6. Transport Officers: WTSC will reimburse transport officers for their work on this project providing SUB-RECIPIENT has received approval from their regions TZM. The TZM will work with the regional LEL to

determine if need is warranted for the type of HVE activity. This activity must be overtime and only the expenses listed in section 3.2 and its subsections will be reimbursed.

3.2.7. The law enforcement agency involved will not schedule individual officer overtime shifts for longer than eight hours. WTSC understands there may be instances when more than eight hours are billed due to DUI processing or other reasons and an explanation should be provided on the WEMS Officer Activity Log.

3.2.8. The law enforcement agency involved will ensure that any reserve officer for whom reimbursement is claimed has exceeded his/her normal weekly working hours when participating in an emphasis patrol and is authorized to be paid at the amount requested. Reserve officers may only be paid at the normal hourly rate and not at the 150 percent overtime rate.

3.3. SUMMARY OF PROJECT COSTS

The WTSC has awarded **\$77,500.00** to the **Region 11 Traffic Safety Task Force** for the purpose of conducting coordinated overtime HVE activities. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved overtime expenses incurred as a participant in this grant. All activity must be coordinated by the region's traffic safety task force and TZM in order to be eligible for reimbursement.

The funding for **Region 11** is as follows:

EMPHASIS PATROL

Impaired Driving Patrols (Section 402, CFDA 20.600)	\$40,500.00
Distracted Driving Patrols (Section 402, CFDA 20.600)	\$17,000.00
Motorcycle Safety (164 Funds, CFDA 20.608)	\$20,000.00
TOTAL	\$77,500.00

3.3.1. The funds issued under this Agreement are only to be used for the specified category and shall not be commingled between categories.

APPLICABLE STATE AND FEDERAL TERMS AND CONDITIONS:

4. ACTIVITY REPORTS

The SUB-RECIPIENT agrees to have all personnel who work HVE patrols submit a WEMS Officer Activity Log within 24 hours of the end of all shifts worked. These same logs will be associated with invoices as detailed

in the "BILLING PROCEDURE" section. Use of the Officer Activity Log in the WTSC's online grant management system, WEMS, is required. Supervisor review and accuracy certification will also be done in WEMS.

5. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Agreement shall be made by the WTSC.

6. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties in the form of a written request to amend this Agreement. Such amendments shall only be binding if they are in writing and signed by personnel authorized to bind each of the Parties. Changes to the budget, SUB-RECIPIENT'S Primary Contact, and WTSC Program Manager can be made through email communication and signatures are not required.

7. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

8. ASSIGNMENT

The SUB-RECIPIENT may not assign the work to be provided under this Agreement, in whole or in part, without the express prior written consent of the WTSC, which consent shall not be unreasonably withheld. The SUB-RECIPIENT shall provide the WTSC a copy of all third-party contracts and agreements entered into for purposes of fulfilling the SOW. Such third-party contracts and agreements must follow applicable federal, state, and local law, including but not limited to procurement law, rules, and procedures. If any of the funds provided under this Agreement include funds from NHTSA, such third-party contracts and agreements must include the federal provisions set forth in this Agreement in sections 34 through 42.

9. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the Agreement terms, each Party agrees to bear its own attorney fees and costs.

10. BILLING PROCEDURE

All invoices for reimbursement of HVE activities will be done using the WTSC's grant management system, WEMS. WEMS Officer Activity logs will be attached to invoices, directly linking the cost of the activity to the invoice. Because the activity, approval, and invoicing are all done within WEMS, no back up documentation is required in most cases.

Once submitted by the SUB-RECIPIENT, invoices are routed to the regional TZM for review and approval. The TZM will submit all approved invoices to the WTSC via WEMS within 10 days of receipt.

Payment to the SUB-RECIPIENT for approved and completed work will be made by warrant or account transfer by WTSC within 30 days of receipt of such properly documented invoices acceptable to WTSC. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 45 days after the expiration date of this Agreement. All invoices for goods received or services performed on or prior

to June 30, 2021, **must be received by WTSC no later than August 10, 2022.** All invoices for goods received or services performed between July 1, 2022 and September 30, 2022, **must be received by WTSC no later than November 15, 2022.**

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The SUB-RECIPIENT shall not use or disclose any information concerning the WTSC, or information which may be classified as confidential, for any purpose not directly connected with the administration of this Agreement, except with prior written consent of the WTSC, or as may be required by law.

12. COST PRINCIPLES

Costs incurred under this Agreement shall adhere to provisions of 2 CFR Part 200 Subpart E.

13. COVENANT AGAINST CONTINGENT FEES

The SUB-RECIPIENT warrants that it has not paid, and agrees not to pay, any bonus, commission, brokerage, or contingent fee to solicit or secure this Agreement or to obtain approval of any application for federal financial assistance for this Agreement. The WTSC shall have the right, in the event of breach of this section by the SUB-RECIPIENT, to annul this Agreement without liability.

14. DISPUTES

14.1. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the WTSC Deputy Director or designee. This decision shall be final and conclusive, unless within 10 days from the date of the SUB-RECIPIENT's receipt of WTSC's written decision, the SUB-RECIPIENT furnishes a written appeal to the WTSC Director. The SUB-RECIPIENT's appeal shall be decided in writing by the Director or designee within 30 days of receipt of the appeal by the Director. The decision shall be binding upon the SUB-RECIPIENT and the SUB-RECIPIENT shall abide by the decision.

14.2. Performance During Dispute. Unless otherwise directed by WTSC, the SUB-RECIPIENT shall continue performance under this Agreement while matters in dispute are being resolved.

15. GOVERNANCE

15.1. This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

15.2. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

15.2.1. Applicable federal and state statutes and rules

15.2.2. Terms and Conditions of this Agreement

15.2.3. Any Amendment executed under this Agreement

15.2.4. Any SOW executed under this Agreement

15.2.5. Any other provisions of the Agreement, including materials incorporated by reference

16. INCOME

Any income earned by the SUB-RECIPIENT from the conduct of the SOW (e.g., sale of publications, registration fees, or service charges) must be accounted for, and that income must be applied to project purposes or used to reduce project costs.

17. INDEMNIFICATION

17.1. To the fullest extent permitted by law, the SUB-RECIPIENT shall indemnify and hold harmless the WTSC, its officers, employees, and agents, and process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs of whatsoever kind ("claims") brought against WTSC arising out of or in connection with this Agreement and/or the SUB-RECIPIENT's performance or failure to perform any aspect of the Agreement. This indemnity provision applies to all claims against WTSC, its officers, employees, and agents arising out of, in connection with, or incident to the acts or omissions of the SUB-RECIPIENT, its officers, employees, agents, contractors, and subcontractors. Provided, however, that nothing herein shall require the SUB-RECIPIENT to indemnify and hold harmless or defend the WTSC, its agents, employees, or officers to the extent that claims are caused by the negligent acts or omissions of the WTSC, its officers, employees or agents; and provided further that if such claims result from the concurrent negligence of (a) the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors, and (b) the WTSC, its officers, employees, or agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors.

17.2. The SUB-RECIPIENT waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the WTSC, its officers, employees, or agents.

17.3. The indemnification and hold harmless provision shall survive termination of this Agreement.

18. INDEPENDENT CAPACITY

The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.

19. INSURANCE COVERAGE

19.1. The SUB-RECIPIENT shall comply with the provisions of Title 51 RCW, Industrial Insurance, if required by law.

19.2. If the SUB-RECIPIENT is not required to maintain insurance in accordance with Title 51 RCW, prior to the start of any performance of work under this Agreement, the SUB-RECIPIENT shall provide WTSC with proof of insurance coverage (e.g., vehicle liability insurance, private property liability insurance, or commercial property liability insurance), as determined appropriate by WTSC, which protects the SUB-RECIPIENT and WTSC from risks associated with executing the SOW associated with this Agreement.

20. LICENSING, ACCREDITATION, AND REGISTRATION

The SUB-RECIPIENT shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of this Agreement. The SUB-

RECIPIENT shall complete registration with the Washington State Department of Revenue, if required, and be responsible for payment of all taxes due on payments made under this Agreement.

21. RECORDS MAINTENANCE

21.1. During the term of this Agreement and for six years thereafter, the SUB-RECIPIENT shall maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended in the performance of the services described herein. These records shall be subject to inspection, review, or audit by authorized personnel of the WTSC, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration. The Office of the State Auditor, federal auditors, the WTSC, and any duly authorized representatives shall have full access and the right to examine any of these materials during this period.

21.2. Records and other documents, in any medium, furnished by one Party to this Agreement to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. The receiving Party will not disclose or make available this material to any third Parties without first giving notice to the furnishing Party and giving them a reasonable opportunity to respond. Each Party will utilize reasonable security procedures and protections to assure that records and documents provided by the other Party are not erroneously disclosed to third Parties.

22. RIGHT OF INSPECTION

The SUB-RECIPIENT shall provide right of access to its facilities to the WTSC or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement. The SUB-RECIPIENT shall make available information necessary for WTSC to comply with the right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The SUB-RECIPIENT shall upon request make available to the WTSC and the United States Secretary of the Department of Health and Human Services all internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of Personal Information obtained or used as a result of this Agreement.

23. RIGHTS IN DATA

23.1. WTSC and SUB-RECIPIENT agree that all data and work products (collectively called "Work Product") pursuant to this Agreement shall be considered works made for hire under the U.S. Copyright Act, 17 USC §101 et seq., and shall be owned by the state of Washington. Work Product includes, but is not limited to, reports, documents, pamphlets, advertisement, books, magazines, surveys, studies, computer programs, films, tapes, sound reproductions, designs, plans, diagrams, drawings, software, and/or databases to the extent provided by law. Ownership includes the right to copyright, register the copyright, distribute, prepare derivative works, publicly perform, publicly display, and the ability to otherwise use and transfer these rights.

23.2. If for any reason the Work Product would not be considered a work made for hire under applicable law, the SUB-RECIPIENT assigns and transfers to WTSC the entire right, title, and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

23.3. The SUB-RECIPIENT may publish, at its own expense, the results of project activities without prior review by the WTSC, provided that any publications (written, visual, or sound) contain acknowledgment of the support provided by NHTSA and the WTSC. Any discovery or invention derived from work performed under this project shall be referred to the WTSC, who will determine through NHTSA whether patent protections will be sought, how any rights will be administered, and other actions required to protect the public interest.

24. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to completion of the SOW under this Agreement, the WTSC may terminate the Agreement under the "TERMINATION FOR CONVENIENCE" clause, without the 30-day notice requirement. The Agreement is subject to renegotiation at the WTSC's discretion under any new funding limitations or conditions.

25. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

26. SITE SECURITY

While on WTSC premises, the SUB-RECIPIENT, its agents, employees, or sub-contractors shall conform in all respects with all WTSC physical, fire, or other security policies and applicable regulations.

27. TAXES

All payments of payroll taxes, unemployment contributions, any other taxes, insurance, or other such expenses for the SUB-RECIPIENT or its staff shall be the sole responsibility of the SUB-RECIPIENT.

28. TERMINATION FOR CAUSE

If the SUB-RECIPIENT does not fulfill in a timely and proper manner its obligations under this Agreement or violates any of these terms and conditions, the WTSC will give the SUB-RECIPIENT written notice of such failure or violation, and may terminate this Agreement immediately. At the WTSC's discretion, the SUB-RECIPIENT may be given 15 days to correct the violation or failure. In the event that the SUB-RECIPIENT is given the opportunity to correct the violation and the violation is not corrected within the 15-day period, this Agreement may be terminated at the end of that period by written notice of the WTSC.

29. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Agreement, either Party may terminate this Agreement, without cause

or reason, with 30 days written notice to the other Party. If this Agreement is so terminated, the WTSC shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

30. TREATMENT OF ASSETS

30.1. Title to all property furnished by the WTSC shall remain property of the WTSC. Title to all property furnished by the SUB-RECIPIENT for the cost of which the SUB-RECIPIENT is entitled to be reimbursed as a direct item of cost under this Agreement shall pass to and vest in the WTSC upon delivery of such property by the SUB-RECIPIENT. Title to other property, the cost of which is reimbursable to the SUB-RECIPIENT under this Agreement, shall pass to and vest in the WTSC upon (i) issuance for use of such property in the performance of this Agreement, or (ii) commencement of use of such property in the performance of this Agreement, or (iii) reimbursement of the cost thereof by the WTSC in whole or in part, whichever first occurs.

30.2. Any property of the WTSC furnished to the SUB-RECIPIENT shall, unless otherwise provided herein or approved by the WTSC, be used only for the performance of this Agreement.

30.3. The SUB-RECIPIENT shall be responsible for any loss or damage to property of the WTSC which results from the negligence of the SUB-RECIPIENT or which results from the failure on the part of the SUB-RECIPIENT to maintain and administer that property in accordance with sound management practices.

30.4. If any WTSC property is lost, destroyed, or damaged, the SUB-RECIPIENT shall immediately notify the WTSC and shall take all reasonable steps to protect the property from further damage.

30.5. The SUB-RECIPIENT shall surrender to the WTSC all property of the WTSC upon completion, termination, or cancellation of this Agreement.

30.6. All reference to the SUB-RECIPIENT under this clause shall also include SUB-RECIPIENT's employees, agents, or sub-contractors.

31. WAIVER

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement.

APPLICABLE CERTIFICATIONS AND ASSURANCES FOR HIGHWAY SAFETY GRANTS (23 CFR PART 1300 APPENDIX A):

32. BUY AMERICA ACT

The SUB-RECIPIENT will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using federal funds. Buy America requires the SUB-RECIPIENT to purchase only steel, iron, and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will

increase the cost of the overall project contract by more than 25 percent. In order to use federal funds to purchase foreign produced items, the WTSC must submit a waiver request that provides an adequate basis and justification, and which is approved by the Secretary of Transportation.

33. DEBARMENT AND SUSPENSION

Instructions for Lower Tier Certification

33.1. By signing this Agreement, the SUB-RECIPIENT (hereinafter in this section referred to as the “lower tier participant”) is providing the certification set out below and agrees to comply with the requirements of 2 CFR part 180 and 23 CFR part 1300.

33.2. The certification in this section is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

33.3. The lower tier participant shall provide immediate written notice to the WTSC if at any time the lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

33.4. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Covered Transactions sections of 2 CFR part 180.

33.5. The lower tier participant agrees by signing this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

33.6. The lower tier participant further agrees by signing this Agreement that it will include the clause titled “Instructions for Lower Tier Certification” including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions, and will require lower tier participants to comply with 2 CFR part 180 and 23 CFR part 1300.

33.7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

33.8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

33.9. Except for transactions authorized under paragraph 35.5. of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

33.10. The lower tier participant certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

33.11. Where the lower tier participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Agreement.

34. THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

34.1. The SUB-RECIPIENT shall:

34.1.1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and shall specify the actions that will be taken against employees for violation of such prohibition.

34.1.2. Establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the SUB-RECIPIENT's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug violations occurring in the workplace.

34.1.3. Make it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph 36.1.1. of this section.

34.1.4. Notify the employee in the statement required by paragraph 36.1.1. of this section that, as a condition of employment under the grant, the employee will abide by the terms of the statement, notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction, and notify the WTSC within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction.

34.1.5. Take one of the following actions within 30 days of receiving notice under paragraph 36.1.3. of this section, with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination, and/or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

34.1.6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

35. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

In accordance with FFATA, the SUB-RECIPIENT shall, upon request, provide WTSC the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

36. FEDERAL LOBBYING

36.1. The undersigned certifies, to the best of his or her knowledge and belief, that:

36.1.1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

36.1.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

36.1.3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grant, loans, and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly.

36.2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

37. NONDISCRIMINATION (Title VI, 42 U.S.C. § 2000d et seq.)

37.1. During the performance of this Agreement, the SUB-RECIPIENT agrees:

37.1.1. To comply with all federal nondiscrimination laws and regulations, as may be amended from time to time.

37.1.2. Not to participate directly or indirectly in the discrimination prohibited by any federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR Part 21 and herein.

37.1.3. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the WTSC, USDOT, or NHTSA.

37.1.4. That, in the event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding Agreement, the WTSC will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies, and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part.

37.1.5. To insert this clause, including all paragraphs, in every sub-contract and sub-agreement and in every solicitation for a sub-contract or sub-agreement that receives federal funds under this program.

38. POLITICAL ACTIVITY (HATCH ACT)

The SUB-RECIPIENT will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

39. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

The SUB-RECIPIENT will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists. This Agreement does not include any aspects or elements of helmet usage or checkpoints, and so fully complies with this requirement.


40. STATE LOBBYING

None of the funds under this Agreement will be used for any activity specifically designed to urge or influence a state or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any state or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a state official whose salary is supported with NHTSA funds from engaging in direct communications with state or local legislative officials, in accordance with customary state practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

41. DESIGNATED CONTACTS

The following named individuals will serve as designated contacts for each of the Parties for all communications, notices, and reimbursement regarding this Agreement:

WHATCOM COUNTY:
Recommended for Approval:



Bill Elfo, Sheriff

11/17/21

Date

Approved as to form:

Approved via email BW/AD 11/5/21

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive Date

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 ____, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington, residing at Bellingham.
My commission expires _____.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-707

File ID:	AB2021-707	Version:	1	Status:	Agenda Ready
File Created:	11/18/2021	Entered by:	DDuling@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: dduling@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington Traffic Safety Commission for high visibility enforcement patrols, in the amount of \$15,000.00.

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Interagency Agreement..pdf



MEMORANDUM

To: Satpal Sidhu, County Executive

From: Bill Elfo, Sheriff 

Date: November 15, 2021

Subject: Interagency Agreement
Washington Traffic Safety Commission
High Visibility Enforcement (HVE) Patrols FY22
2022-AG-4305-Bellingham Protecting Mobility for All

Enclosed for your review and signature is one (1) original agreement between Whatcom County Sheriff's Office and the Washington Traffic Safety Commission for High Visibility Enforcement (HVE) Patrols to address road safety for pedestrians and bicyclists.

Background and Purpose

This agreement provides funding for the Whatcom County Sheriff's Office to conduct overtime high visibility enforcement (HVE) traffic safety emphasis patrols to address road safety for vulnerable road users such as pedestrians and bicyclists.

Funding Amount and Source

Whatcom County Sheriff's Office allocation is \$15,000 (approximately 41.66% of the total Region 11 award of \$36,000) from Washington Traffic Safety Commission. Funds originate from the United States Department of Transportation (USDOT) National Highway Traffic Safety Administration.

Differences from Previous Contract

This is a new grant from Washington Traffic Safety Commission.

Please contact Undersheriff Chadwick at extension 6618 if you have any questions or concerns regarding the terms of this agreement.

Thank you.

enclosure

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	35 Whatcom County Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	3520 Bureau of LE & Investigations / 352030 Traffic
Contract or Grant Administrator:	Doug Chadwick, Undersheriff
Contractor's / Agency Name:	Washington Traffic Safety Commission
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): <u>2022-AG-4305</u> CFDA#: <u>20.616</u>	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: <u>2965</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>15,000.00</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>15,000.00</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
This agreement provides funding for the Sheriff's Office to conduct high visibility enforcement (HVE) traffic safety emphasis overtime patrols to address road safety for vulnerable road users such as pedestrians and bicyclists. Whatcom County Sheriff's Office allocation is \$15,000 (approximately 41.66% of the total Region 11 award of \$36,000).	
Term of Contract: 10/1/21	Expiration Date: 9/30/22

Contract Routing:	1. Prepared by: Donna Duling	Date: 11/8/21
	2. Attorney signoff: Approved via email BW/dd	Date: 11/5/21
	3. AS Finance reviewed: Approved via email BB/dd	Date: 11/8/21
	4. IT reviewed (if IT related):	Date: _____
	5. Contractor signed:	Date: _____
	6. Submitted to Exec.:	Date: _____
	7. Council approved (if necessary):	Date: _____
	8. Executive signed:	Date: _____
	9. Original to Council:	Date: _____

INTERAGENCY AGREEMENT

BETWEEN THE

Washington Traffic Safety Commission

AND

Whatcom County Sheriff's Office

THIS AGREEMENT is made and entered into by and between the Washington Traffic Safety Commission, hereinafter referred to as "WTSC," and Whatcom County Sheriff's Office, hereinafter referred to as "SUB-RECIPIENT."

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the Parties mutually agree as follows:

1. PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to provide funding, provided by the United States Department of Transportation (USDOT) National Highway Traffic Safety Administration (NHTSA) and allowed under the Assistance Listings Catalog of Federal Domestic Assistance (CFDA) number 20.616, for traffic safety grant project **2022-AG-4305-Bellingham Protecting Mobility for All**, specifically to provide funding for the law enforcement agencies in **WTSC Region 11** to conduct overtime high-visibility enforcement (HVE) traffic safety emphasis patrols as outlined in the Statement of Work (SOW), in support of Target Zero priorities. The Target Zero Manager (TQM) and/or the Law Enforcement Liaison (LEL) shall coordinate the SOW with the SUB-RECIPIENT with the goal of reducing traffic crashes.

Grant **2022-AG-4305-Bellingham Protecting Mobility for All** was awarded to **Region 11** to conduct education and HVE activities. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved overtime expenses incurred as a participant in the region's grant.

2. PERIOD OF PERFORMANCE

The period of performance of this Agreement shall commence upon the date of execution by both Parties, but not earlier than October 1, 2021, and remain in effect until September 30, 2022 unless terminated sooner, as provided herein.

3. STATEMENT OF WORK

SCOPE OF WORK:

Problem ID and Opportunity

Between 2016-2020, there were four walkers killed and 32 others seriously injured on Bellingham's roadways. During that same time, there were three bicycle riders killed (all in the past two years) as well as 20 bicycle riders seriously injured on Bellingham's streets. That works out to be one fatality or serious injury for a walker or roller in Bellingham every month for the past five years. Proactive policing and community engagement is needed in priority areas to reduce risk of collisions involving school children and other people walking and rolling.

Goals

Positively change walker, roller, and motor vehicle driver behaviors through law enforcement patrols and media efforts.

Reduce the incidence of crashes involving pedestrians and bicyclists through a mix of communication and enforcement.

Increase the number of police officers trained to understand and enforce current state laws designed to protect vulnerable roadway users including walkers and rollers.

Increase the compliance of all Bellingham road users with rules and best practices that increase safety for vulnerable road users like walkers and rollers through positive community engagement that focuses on increasing key beliefs and knowledge about the issues.

Strategies

Law enforcement officers will gain skills to identify and focus on populations and locations with a higher proportion of walkers and rollers including school zones.

Use current best practices for community engagement (focus on positive messaging for drivers, walkers, and rollers) in priority locations.

The project team will use positive community norming messages to gain support and behavior change.

This project will narrow that focus further by concentrating on protecting walkers and rollers in areas where schools have a free and reduced lunch rate higher than 45 percent, major walking and biking routes, low-income housing and neighborhoods, and areas of the city where languages other than English are spoken.

This project will leverage the success of Bellingham's Travel With Care public safety campaign, by including public safety announcements and videos by local police officers and profiles of community members who walk and roll in Bellingham on a mix of paid and public media.

Objectives

The Project Team includes (but not limited to) members of the Region 11 Target Zero Task Force including Bellingham PD and Whatcom County Sheriff's Office. The Project Team will deliver the Objectives listed in this SOW.

Enforcement Objectives

Engage multiple law enforcement agencies in the design and development of an enforcement plan, community outreach, and education activities for the project period.

Deliver training to all uniformed staff by July 1, 2022. This training time will be tracked by the Bellingham PD Training Division. This time will be documented and will apply to the mandatory training time as required by the WA State Criminal Justice Training Commission.

Law enforcement officers from agencies including Bellingham PD and Whatcom County Sheriff's Office will conduct proactive traffic safety emphasis patrols in identified problem locations.

Sub-recipient will collaborate with Public Works transportation planners to identify collision locations involving people walking and rolling. They will specifically look for common risk factors and safety countermeasures – including temporary or permanent infrastructure - to reduce collision risk.

Other Considerations, Exceptions, And Notes Regarding HVE Patrols

Maximizing contacts: Participating law enforcement officers should make as many contacts as they can during these patrols to positively influence driving behavior.

Process Measures

Number of enforcement patrols completed during the project period.

Activity logs and enforcement data of participating officers during enforcement patrols.

Observational studies of walker, roller, and driver behaviors at intersections before and after enforcement patrols.

Pre and post training surveys of participating law enforcement officers to determine understanding of current state laws, local crash data, and other issues related to walkers, rollers, and all vulnerable road users.

Reach and frequency results of media outreach and public awareness campaigns.

Number of times video aired on BTV.

Number of project stories aired by local radio stations.

Short Term Outcomes (Skills, knowledge, beliefs)

Increased number of drivers with knowledge of bike and pedestrian laws.

Increased number of police officers trained to understand and enforce current state laws designed to protect vulnerable roadway users.

Increased awareness by drivers and walker/rollers at intersections where enforcement events are focused as measured by observational studies.

Increased awareness and positive community norming by drivers towards walkers and rollers to include yielding to walkers and rollers in the intersections.

Increased public awareness of safety issues faced by walkers and rollers and other vulnerable roadway users.

Increased number of drivers with knowledge of school zone laws.

Increased number of drivers who comply with speed limits in school zones.

Walkers and rollers demonstrate best safety practices on all roadways.

School age children demonstrate safe walking and biking knowledge and skills.

Intermediate Outcomes (Behaviors)

Increased compliance of safety issues faced by walkers and rollers and other vulnerable roadway users.

Increased compliance of state laws designed to protect walkers and rollers and other vulnerable road users.

Increased number of drivers who park safely and legally when dropping off or picking up their children from school.

Increased number of students who practice safe walking and biking.

Increased number of drivers yielding to pedestrians in crosswalks.

Increased number of pedestrians using marked crosswalks when available.

Decreased number of pedestrians crossing mid-block and not in crosswalks.

Decreased number of rollers on the sidewalks in the downtown district.

Reduced number of complaints associated with rollers on the sidewalks.

Increased compliance with safe and legal speeds in school zones.

Long Term Outcomes (Crash involvement)

Decreased number of crashes that include both motor vehicles and vulnerable road users (walkers and rollers).

Projected Safety Impacts

Reduced number of crashes where both a motor vehicle and vulnerable road user (walkers and rollers) is involved.

3.2. COMPENSATION

3.2.1. Compensation for the overtime work provided in accordance with this Agreement has been established under the terms of RCW 39.34. The cost of accomplishing the work described in the SOW will not exceed dollar total from amounts listed below. Payment for satisfactory performance of the overtime work shall not exceed this amount unless the WTSC and SUB-RECIPIENT mutually agree to a higher amount in a written Amendment to this Agreement executed by both the WTSC and SUB-RECIPIENT. Comp-time is not considered overtime and will not be approved for payment. All law enforcement agencies who are active members of the traffic safety task force with a fully executed grant agreement are eligible to participate in this grant.

3.2.2. WTSC will reimburse for personnel overtime expenses at 150 percent of the officer's normal salary rate plus SUB-RECIPIENT's contributions to employee benefits, limited to the following:

- FICA
- Medicare
- Any portion of L & I that is paid by the employer (SUB-RECIPIENT)
- Retirement contributions paid by the employer (SUB-RECIPIENT) can be included if the contribution is based on a percentage of their hours worked

Health insurance, or any other benefits not listed above, are not eligible for reimbursement.

The SUB-RECIPIENT will provide law enforcement officers with appropriate equipment (e.g., vehicles, radars, portable breath testers, etc.) to participate in the emphasis patrols.

3.2.3. Funding alterations are permitted as follows: Upon agreement by the regional TZM and all other parties impacted by a proposed budget alteration, the allocation amounts may be increased or decreased

without amending this agreement. HVE grant funds should be managed collaboratively by the SUB-RECIPIENT and the TZM.

These alterations must be requested through email communication among all involved parties, including the TZM, and the WTSC Fiscal Analyst. This communication shall include an HVE Allocation Adjustment form, which details the funding alterations.

Funds within the same HVE campaign budget category only, can be increased and decreased across parties, so long as the modified total does not exceed the regional total allocation per funding category.

3.2.4. These funds, designated for salaries and benefits, are intended to pay for the hourly overtime costs and proportional amounts of fringe benefits of commissioned staff pursuing the activities described in the statement of work. These funds may not be used for any other purpose for example any work required to maintain a law enforcement commission including recertification trainings like firearm qualification.

3.2.5. Dispatch: WTSC will reimburse communications officers/dispatch personnel for work on this project providing SUB-RECIPIENT has received prior approval from their region's TZM. This activity must be overtime and only the expenses listed in section 3.2 and its subsections will be reimbursed.

3.2.6. Transport Officers: WTSC will reimburse transport officers for their work on this project providing SUB-RECIPIENT has received approval from their regions TZM. The TZM will work with the regional LEL to determine if need is warranted for the type of HVE activity. This activity must be overtime and only the expenses listed in section 3.2 and its subsections will be reimbursed.

3.2.7. The law enforcement agency involved will not schedule individual officer overtime shifts for longer than eight hours. WTSC understands there may be instances when more than eight hours are billed due to DUI processing or other reasons and an explanation should be provided on the WEMS Officer Activity Log.

3.2.8. The law enforcement agency involved will ensure that any reserve officer for whom reimbursement is claimed has exceeded his/her normal weekly working hours when participating in an emphasis patrol and is authorized to be paid at the amount requested. Reserve officers may only be paid at the normal hourly rate and not at the 150 percent overtime rate.

3.3. SUMMARY OF PROJECT COSTS

The WTSC has awarded \$36,000 to the **Region 11 Target Zero Task Force** for the purpose of conducting coordinated walker roller safety overtime HVE patrols. **The Region 11 Target Zero Task Force Coordinator** will distribute the funding allotment to the participating and eligible law enforcement agencies. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved overtime expenses incurred as a participant in this grant.

APPLICABLE STATE AND FEDERAL TERMS AND CONDITIONS:

4. ACTIVITY REPORTS

The SUB-RECIPIENT agrees to have all personnel who work HVE patrols submit a WEMS Officer Activity Log within 24 hours of the end of all shifts worked. These same logs will be associated with invoices as detailed in the "BILLING PROCEDURE" section. Use of the Officer Activity Log in the WTSC's online grant management system, WEMS, is required. Supervisor review and accuracy certification will also be done in WEMS.

5. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Agreement shall be made by the WTSC.

6. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties in the form of a written request to amend this Agreement. Such amendments shall only be binding if they are in writing and signed by personnel authorized to bind each of the Parties. Changes to the budget, SUB-RECIPIENT'S Primary Contact, and WTSC Program Manager can be made through email communication and signatures are not required.

7. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

8. ASSIGNMENT

The SUB-RECIPIENT may not assign the work to be provided under this Agreement, in whole or in part, without the express prior written consent of the WTSC, which consent shall not be unreasonably withheld. The SUB-RECIPIENT shall provide the WTSC a copy of all third-party contracts and agreements entered into for purposes of fulfilling the SOW. Such third-party contracts and agreements must follow applicable federal, state, and local law, including but not limited to procurement law, rules, and procedures. If any of the funds provided under this Agreement include funds from NHTSA, such third-party contracts and agreements must include the federal provisions set forth in this Agreement in sections 34 through 42.

9. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the Agreement terms, each Party agrees to bear its own attorney fees and costs.

10. BILLING PROCEDURE

All invoices for reimbursement of HVE activities will be done using WTSC's Enterprise Management System (WEMS). WEMS Officer Activity logs will be attached to invoices, directly linking the cost of the activity to the invoice. Because the activity, approval, and invoicing are all done within WEMS, no back up documentation is required in most cases.

Once submitted by the SUB-RECIPIENT, invoices are routed to the regional TZM for review and approval. The TZM will submit all approved invoices to the WTSC via WEMS within 10 days of receipt.

Payment to the SUB-RECIPIENT for approved and completed work will be made by warrant or account transfer by WTSC within 30 days of receipt of such properly documented invoices acceptable to WTSC. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 45 days after the expiration date of this Agreement. All invoices for goods received or services performed on or prior to June 30, 2022, **must be received by WTSC no later than August 10, 2022.** All invoices for goods received or services performed between July 1, 2022 and September 30, 2022, **must be received by WTSC no later than November 15, 2022.**

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The SUB-RECIPIENT shall not use or disclose any information concerning the WTSC, or information which may be classified as confidential, for any purpose not directly connected with the administration of this Agreement, except with prior written consent of the WTSC, or as may be required by law.

12. COST PRINCIPLES

Costs incurred under this Agreement shall adhere to provisions of 2 CFR Part 200 Subpart E.

13. COVENANT AGAINST CONTINGENT FEES

The SUB-RECIPIENT warrants that it has not paid, and agrees not to pay, any bonus, commission, brokerage, or contingent fee to solicit or secure this Agreement or to obtain approval of any application for federal financial assistance for this Agreement. The WTSC shall have the right, in the event of breach of this section by the SUB-RECIPIENT, to annul this Agreement without liability.

14. DISPUTES

14.1. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the WTSC Deputy Director or designee. This decision shall be final and conclusive, unless within 10 days from the date of the SUB-RECIPIENT's receipt of WTSC's written decision, the SUB-RECIPIENT furnishes a written appeal to the WTSC Director. The SUB-RECIPIENT's appeal shall be decided in writing by the Director or designee within 30 days of receipt of the appeal by the Director. The decision shall be binding upon the SUB-RECIPIENT and the SUB-RECIPIENT shall abide by the decision.

14.2. Performance During Dispute. Unless otherwise directed by WTSC, the SUB-RECIPIENT shall continue performance under this Agreement while matters in dispute are being resolved.

15. GOVERNANCE

15.1. This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

15.2. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

15.2.1. Applicable federal and state statutes and rules

15.2.2. Terms and Conditions of this Agreement

15.2.3. Any Amendment executed under this Agreement

15.2.4. Any SOW executed under this Agreement

15.2.5. Any other provisions of the Agreement, including materials incorporated by reference

16. INCOME

Any income earned by the SUB-RECIPIENT from the conduct of the SOW (e.g., sale of publications, registration fees, or service charges) must be accounted for, and that income must be applied to project purposes or used to reduce project costs.

17. INDEMNIFICATION

17.1. To the fullest extent permitted by law, the SUB-RECIPIENT shall indemnify and hold harmless the WTSC, its officers, employees, and agents, and process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs of whatsoever kind ("claims") brought against WTSC arising out of or in connection with this Agreement and/or the SUB-RECIPIENT's performance or failure to perform any aspect of the Agreement. This indemnity provision applies to all claims against WTSC, its officers, employees, and agents arising out of, in connection with, or incident to the acts or omissions of the SUB-RECIPIENT, its officers, employees, agents, contractors, and subcontractors. Provided, however, that nothing herein shall require the SUB-RECIPIENT to indemnify and hold harmless or defend the WTSC, its agents, employees, or officers to the extent that claims are caused by the negligent acts or omissions of the WTSC, its officers, employees or agents; and provided further that if such claims result from the concurrent negligence of (a) the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors, and (b) the WTSC, its officers, employees, or agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors.

17.2. The SUB-RECIPIENT waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the WTSC, its officers, employees, or agents.

17.3. The indemnification and hold harmless provision shall survive termination of this Agreement.

18. INDEPENDENT CAPACITY

The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.

19. INSURANCE COVERAGE

19.1. The SUB-RECIPIENT shall comply with the provisions of Title 51 RCW, Industrial Insurance, if required by law.

19.2. If the SUB-RECIPIENT is not required to maintain insurance in accordance with Title 51 RCW, prior to the start of any performance of work under this Agreement, the SUB-RECIPIENT shall provide WTSC with proof of insurance coverage (e.g., vehicle liability insurance, private property liability insurance, or

commercial property liability insurance), as determined appropriate by WTSC, which protects the SUB-RECIPIENT and WTSC from risks associated with executing the SOW associated with this Agreement.

20. LICENSING, ACCREDITATION, AND REGISTRATION

The SUB-RECIPIENT shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of this Agreement. The SUB-RECIPIENT shall complete registration with the Washington State Department of Revenue, if required, and be responsible for payment of all taxes due on payments made under this Agreement.

21. RECORDS MAINTENANCE

21.1. During the term of this Agreement and for six years thereafter, the SUB-RECIPIENT shall maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended in the performance of the services described herein. These records shall be subject to inspection, review, or audit by authorized personnel of the WTSC, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration. The Office of the State Auditor, federal auditors, the WTSC, and any duly authorized representatives shall have full access and the right to examine any of these materials during this period.

21.2. Records and other documents, in any medium, furnished by one Party to this Agreement to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. The receiving Party will not disclose or make available this material to any third Parties without first giving notice to the furnishing Party and giving them a reasonable opportunity to respond. Each Party will utilize reasonable security procedures and protections to assure that records and documents provided by the other Party are not erroneously disclosed to third Parties.

22. RIGHT OF INSPECTION

The SUB-RECIPIENT shall provide right of access to its facilities to the WTSC or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement. The SUB-RECIPIENT shall make available information necessary for WTSC to comply with the right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The SUB-RECIPIENT shall upon request make available to the WTSC and the United States Secretary of the Department of Health and Human Services all internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of Personal Information obtained or used as a result of this Agreement.

23. RIGHTS IN DATA

23.1. WTSC and SUB-RECIPIENT agree that all data and work products (collectively called "Work Product") pursuant to this Agreement shall be considered works made for hire under the U.S. Copyright Act, 17 USC §101 et seq., and shall be owned by the state of Washington. Work Product includes, but is not limited to, reports, documents, pamphlets, advertisement, books, magazines, surveys, studies, computer programs,

films, tapes, sound reproductions, designs, plans, diagrams, drawings, software, and/or databases to the extent provided by law. Ownership includes the right to copyright, register the copyright, distribute, prepare derivative works, publicly perform, publicly display, and the ability to otherwise use and transfer these rights.

23.2. If for any reason the Work Product would not be considered a work made for hire under applicable law, the SUB-RECIPIENT assigns and transfers to WTSC the entire right, title, and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

23.3. The SUB-RECIPIENT may publish, at its own expense, the results of project activities without prior review by the WTSC, provided that any publications (written, visual, or sound) contain acknowledgment of the support provided by NHTSA and the WTSC. Any discovery or invention derived from work performed under this project shall be referred to the WTSC, who will determine through NHTSA whether patent protections will be sought, how any rights will be administered, and other actions required to protect the public interest.

24. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to completion of the SOW under this Agreement, the WTSC may terminate the Agreement under the "TERMINATION FOR CONVENIENCE" clause, without the 30-day notice requirement. The Agreement is subject to renegotiation at the WTSC's discretion under any new funding limitations or conditions.

25. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

26. SITE SECURITY

While on WTSC premises, the SUB-RECIPIENT, its agents, employees, or sub-contractors shall conform in all respects with all WTSC physical, fire, or other security policies and applicable regulations.

27. TAXES

All payments of payroll taxes, unemployment contributions, any other taxes, insurance, or other such expenses for the SUB-RECIPIENT or its staff shall be the sole responsibility of the SUB-RECIPIENT.

28. TERMINATION FOR CAUSE

If the SUB-RECIPIENT does not fulfill in a timely and proper manner its obligations under this Agreement or violates any of these terms and conditions, the WTSC will give the SUB-RECIPIENT written notice of such failure or violation and may terminate this Agreement immediately. At the WTSC's discretion, the SUB-RECIPIENT may be given 15 days to correct the violation or failure. In the event that the SUB-RECIPIENT is

given the opportunity to correct the violation and the violation is not corrected within the 15-day period, this Agreement may be terminated at the end of that period by written notice of the WTSC.

29. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Agreement, either Party may terminate this Agreement, without cause or reason, with 30 days written notice to the other Party. If this Agreement is so terminated, the WTSC shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

30. TREATMENT OF ASSETS

30.1. Title to all property furnished by the WTSC shall remain property of the WTSC. Title to all property furnished by the SUB-RECIPIENT for the cost of which the SUB-RECIPIENT is entitled to be reimbursed as a direct item of cost under this Agreement shall pass to and vest in the WTSC upon delivery of such property by the SUB-RECIPIENT. Title to other property, the cost of which is reimbursable to the SUB-RECIPIENT under this Agreement, shall pass to and vest in the WTSC upon (i) issuance for use of such property in the performance of this Agreement, or (ii) commencement of use of such property in the performance of this Agreement, or (iii) reimbursement of the cost thereof by the WTSC in whole or in part, whichever first occurs.

30.2. Any property of the WTSC furnished to the SUB-RECIPIENT shall, unless otherwise provided herein or approved by the WTSC, be used only for the performance of this Agreement.

30.3. The SUB-RECIPIENT shall be responsible for any loss or damage to property of the WTSC which results from the negligence of the SUB-RECIPIENT or which results from the failure on the part of the SUB-RECIPIENT to maintain and administer that property in accordance with sound management practices.

30.4. If any WTSC property is lost, destroyed, or damaged, the SUB-RECIPIENT shall immediately notify the WTSC and shall take all reasonable steps to protect the property from further damage.

30.5. The SUB-RECIPIENT shall surrender to the WTSC all property of the WTSC upon completion, termination, or cancellation of this Agreement.

30.6. All reference to the SUB-RECIPIENT under this clause shall also include SUB-RECIPIENT's employees, agents, or sub-contractors.

31. WAIVER

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement.

APPLICABLE CERTIFICATIONS AND ASSURANCES FOR HIGHWAY SAFETY GRANTS (23 CFR PART 1300 APPENDIX A):

32. BUY AMERICA ACT

The SUB-RECIPIENT will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using federal funds. Buy America requires the SUB-RECIPIENT to purchase only steel, iron, and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use federal funds to purchase foreign produced items, the WTSC must submit a waiver request that provides an adequate basis and justification, and which is approved by the Secretary of Transportation.

33. DEBARMENT AND SUSPENSION

Instructions for Lower Tier Certification

33.1. By signing this Agreement, the SUB-RECIPIENT (hereinafter in this section referred to as the "lower tier participant") is providing the certification set out below and agrees to comply with the requirements of 2 CFR part 180 and 23 CFR part 1300.

33.2. The certification in this section is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

33.3. The lower tier participant shall provide immediate written notice to the WTSC if at any time the lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

33.4. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Covered Transactions sections of 2 CFR part 180.

33.5. The lower tier participant agrees by signing this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

33.6. The lower tier participant further agrees by signing this Agreement that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions, and will require lower tier participants to comply with 2 CFR part 180 and 23 CFR part 1300.

33.7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4,

debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

33.8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

33.9. Except for transactions authorized under paragraph 35.5. of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

33.10. The lower tier participant certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

33.11. Where the lower tier participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Agreement.

34. THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

34.1. The SUB-RECIPIENT shall:

34.1.1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and shall specify the actions that will be taken against employees for violation of such prohibition.

34.1.2. Establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the SUB-RECIPIENT's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug violations occurring in the workplace.

34.1.3. Make it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph 36.1.1. of this section.

34.1.4. Notify the employee in the statement required by paragraph 36.1.1. of this section that, as a condition of employment under the grant, the employee will abide by the terms of the statement, notify

the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction, and notify the WTSC within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction.

34.1.5. Take one of the following actions within 30 days of receiving notice under paragraph 36.1.3. of this section, with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination, and/or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

34.1.6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

35. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

In accordance with FFATA, the SUB-RECIPIENT shall, upon request, provide WTSC the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

36. FEDERAL LOBBYING

36.1. The undersigned certifies, to the best of his or her knowledge and belief, that:

36.1.1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

36.1.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

36.1.3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grant, loans, and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly.

36.2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the

required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

37. NONDISCRIMINATION (Title VI, 42 U.S.C. § 2000d et seq.)

37.1. During the performance of this Agreement, the SUB-RECIPIENT agrees:

37.1.1. To comply with all federal nondiscrimination laws and regulations, as may be amended from time to time.

37.1.2. Not to participate directly or indirectly in the discrimination prohibited by any federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR Part 21 and herein.

37.1.3. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the WTSC, USDOT, or NHTSA.

37.1.4. That, in the event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding Agreement, the WTSC will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies, and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part.

37.1.5. To insert this clause, including all paragraphs, in every sub-contract and sub-agreement and in every solicitation for a sub-contract or sub-agreement that receives federal funds under this program.

38. POLITICAL ACTIVITY (HATCH ACT)

The SUB-RECIPIENT will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

39. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

The SUB-RECIPIENT will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists. This Agreement does not include any aspects or elements of helmet usage or checkpoints, and so fully complies with this requirement.

40. STATE LOBBYING

None of the funds under this Agreement will be used for any activity specifically designed to urge or influence a state or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any state or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a state official whose salary is supported with NHTSA funds from engaging in direct communications with state or local legislative officials, in accordance with customary state practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

41. DESIGNATED CONTACTS

The following named individuals will serve as designated contacts for each of the Parties for all communications, notices, and reimbursement regarding this Agreement:

The Contact for the SUB-RECIPIENT is:	The Target Zero Manager for Region 14 is:	The Contact for WTSC is:
Donna Duling dduling@co.whatcom.wa.us Dawn Pierce dpierce@co.whatcom.wa.us	Carr Lanham Region 11 Target Zero Manager clanham@wtscwa.com 360-815-4243	Mark Medalen WTSC Program Manager mmedalen@wtsc.wa.gov 360-725-9878


42. AUTHORITY TO SIGN

The undersigned acknowledges that they are authorized to execute this Agreement and bind their respective agencies or entities to the obligation set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement.

<hr/> Signature See Attached <hr/> Printed Name <hr/> Title <hr/> Date	WASHINGTON TRAFFIC SAFETY COMMISSION <hr/> Signature <hr/> Printed Name <hr/> Title <hr/> Date
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WHATCOM COUNTY:
Recommended for Approval:



Bill Elfo, Sheriff

11/17/21

Date

Approved as to form:

Approved via email Bw/DO 11/5/21

Prosecuting Attorney

11/5/21

Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

Date

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 ____, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington, residing at Bellingham.
My commission expires _____.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-710

File ID:	AB2021-710	Version:	1	Status:	Agenda Ready
File Created:	11/18/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: THelms@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Bellingham Whatcom County Tourism for operational and tourism related activities in the amount of \$290,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Bellingham Whatcom County Tourism for operational and tourism related activities in the amount of \$290,000

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Agreement, Routing Form



MEMORANDUM

TO: Whatcom County Council

FROM: Tawni Helms, Administrative Coordinator

RE: Bellingham Whatcom County Tourism

DATE: November 10, 2021

Enclosed is a Contract for Services between Whatcom County and Bellingham Whatcom County Tourism for your review and approval.

▪ **Background and Purpose**

Contractor has received Lodging Tax funding for the purposes of marketing and operational costs associated with the tourism promotion activities and special projects delivered by Bellingham Whatcom County Tourism.

▪ **Funding Amount and Source**

Funding in the amount of \$290,000 will come from the Lodging Tax Fund as recommended by the Lodging Tax Advisory Committee and presented to the Whatcom County Council for approval on December 7, 2021.

▪ **Differences from Previous Contract**

No changes from the previous contract.

Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.

CONTRACT FOR SERVICES
Between Whatcom County and Bellingham, Whatcom County Tourism

Bellingham Whatcom County Tourism, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,

Exhibit A (Scope of Work), p. 14

Exhibit B (Compensation), p. 15

Exhibit C (Sample Survey), p. 16

Exhibit D (Certificate of Insurance) p. 17.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2022.

The general purpose or objective of this Agreement is to: support Bellingham Whatcom County Tourism marketing and operations costs associated with tourism efforts, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed **\$290,000**. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

CONTRACTOR:

Bellingham Whatcom County Tourism

 Sandy Ward, President

CONTRACTOR INFORMATION:

Bellingham Whatcom County Tourism

Address:

904 Potter Avenue

Bellingham, WA 98229

Mailing Address:

Same

Contact: Sandy Ward, President

Phone: 360-671-3990

Email: Sandy@bellingham.org

WHATCOM COUNTY:
Recommended for Approval

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages,

minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure

pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Professional Liability

Professional Liability - \$1,000,000 per occurrence

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

3. Business Automobile Liability

\$1,000,000.00 Minimum, per occurrence

\$2,000,000.00 Minimum, Annual Aggregate

Contractor shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

4. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy

are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.

- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.
- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 Defense & Indemnity Agreement. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County

and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to ensure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

PARTY 1: Bellingham Whatcom County Tourism
Sandy Ward, President
904 Potter Avenue
Bellingham, WA 98229
360-671-3990
Sandy@bellingham.org

PARTY 2: Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225
360-778-5208
thelms@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working

day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

The Bellingham Whatcom County Tourism will use tourism promotion funds to:

Funding provided by Whatcom County is used to provide year-round services to promote tourism in Whatcom County and support other projects that promote countywide tourism.

Projects include:

- Coordinate COVID-19 pandemic recovery efforts to support the travel tourism and hospitality industry in Whatcom County
- Continue Cultural Heritage Tourism Strategic Plan Implementation
- Create a Strategic Tourism Master Plan for the Future
- Continue data collection to include AirDNA (comparable to the STR occupancy/ADR/RevPAR report)
- Support countywide VIC efforts provided by Chambers of Commerce in Blaine, Birch Bay, Ferndale, Lynden, Mt. Baker Foothills, and Point Roberts
- Collect visitor data via SeeSource
- Develop, promote and gamify several trails such as the Culture and Arts Trail, Oyster Trail, Voyagers Welcome (private boaters) Trail and more via Bandwango

This includes staffing and operating information centers that serve and/or interact with more than one million existing and potential visitors each year, referrals to local agencies and businesses plus the publication and distribution of community information in an effort to promote tourism. Maximum consideration for this agreement is \$290,000.

Allowable expenses under RCW 67.28.210, tourism promotion includes daily tourism operations:

Rent
Utilities
Salaries
Payroll taxes
Health insurance
Telephone service
Printing of promotional materials
Postage costs

Facilities will be open to the public seven days a week, 9:00 a.m. to 5:00 p.m. (except holidays). Advertising, promotional brochures and marketing of special events and festivals designed to attract visitors and encourage tourist expansion.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Festival shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and major accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$290,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

GENERAL LEDGER DETAIL:

Salaries
Payroll taxes
Health insurance

RECIEPTS:

Rent
Utilities
Telephone service
Printing of promotional materials
Postage costs

Bellingham Whatcom County Tourism will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices. Payment will be made no more than one time per month.

Bellingham Whatcom County Tourism will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

EXHIBIT "C"
(Certificate of Insurance)

ATTACHMENT D
Whatcom County Contractor's E-Verify Declaration Form

I. CONTRACTOR INFORMATION

Contractor Name:		Phone:	
Contact Person:		Fax:	
Address:			

II. E-VERIFY ENROLLMENT (check box and submit copy of MOU for verification)

Contractors with funded contracts of \$100,000 or more must be enrolled in E-Verify system. Work related subcontract is \$25,000 or higher. www.uscis.gov/e-verify

☐ Contractor is enrolled in E-Verify; copy of the signed E-Verify Memorandum of Understanding is attached.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature

Name

Date

Title

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-711

File ID:	AB2021-711	Version:	1	Status:	Agenda Ready
File Created:	11/18/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: THelms@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Birch Bay Chamber of Commerce for operational costs associated with the visitor center in the amount of \$110,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Birch Bay Chamber of Commerce for operational costs associated with the visitor center in the amount of \$110,000

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
--------------	---------------------	----------------	-----------------

Attachments: Memo, Agreement, Routing Form



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Tawni Helms, Administrative Coordinator

RE: Birch Bay Chamber of Commerce

DATE: November 17, 2021

Enclosed is the Contract for Services between Whatcom County and Birch Bay Chamber of Commerce for your review and signature.

- **Background and Purpose**

Contractor has received Convention Center funding to pay for the operations of the Birch Bay Visitor Center.

- **Funding Amount and Source**

Funding in the amount of \$110,000 will come from the Convention Center Fund (aka Lodging Tax) as recommended by the Lodging Tax Advisory Committee and approved on September 14, 2021 by the Whatcom County Council through Resolution No. 2021-037.

- **Differences from Previous Contract**

No substantive changes.

Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.

Encl.

CONTRACT FOR SERVICES
Between Whatcom County and Birch Bay Chamber of Commerce

Birch Bay Chamber of Commerce, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,

Exhibit A (Scope of Work), p. 14

Exhibit B (Compensation), p. 15

Exhibit C (Sample Survey), p. 16

Exhibit D (Certificate of Insurance) p. 17.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2022.

The general purpose or objective of this Agreement is to: support Birch Bay Chamber for the operational costs associated with the Visitor Center, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed **\$110,000**. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

CONTRACTOR:

Birch Bay Chamber of Commerce

Danielle Gaughen, Executive Director

CONTRACTOR INFORMATION:

Birch Bay Chamber of commerce & Visitor Information Center

Address:
7900 Birch Bay Drive
Blaine, WA 98230

Mailing Address:
Same

Contact: Danielle Gaughen, Executive Director
Phone: 360-371-5004
Email: director@birchbaychamber.com

WHATCOM COUNTY:
Recommended for Approval

Approved as to form:

Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages,

minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure

pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Professional Liability

Professional Liability - \$1,000,000 per occurrence

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

3. Business Automobile Liability

\$1,000,000.00 Minimum, per occurrence

\$2,000,000.00 Minimum, Annual Aggregate

Contractor shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

4. Additional Insurance Requirements and Provisions

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Contractor's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy

are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.

- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.
- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 Defense & Indemnity Agreement. To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold the County

and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to ensure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

PARTY 1: Birch Bay Chamber of Commerce and Visitor Information Center
Danielle Gaughen, Executive Director
7900 Birch Bay
Birch Bay, WA 98230
360-371-5004
director@birchbaychamber.com

PARTY 2: Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225
360-778-5208
thelms@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working

day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
(SCOPE OF WORK)

The Birch Bay Chamber of Commerce will use tourism promotion funds to:

1. Fund the operations of the Visitor Center
2. Fund the advertising and marketing for annual multi-day events designed to promote tourism and overnight stays.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Chamber shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$110,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

GENERAL LEDGER DETAIL:

Salaries
Payroll taxes
Health insurance

RECIEPTS:

Rent
Utilities
Telephone service
Printing of promotional materials (*for annual multi-day events designed to encourage tourism and overnight stays*)
Postage costs

Birch Bay Chamber and Visitor Information Center will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices. Payment will be made no more than one time per month.

Birch Bay Chamber and Visitor Information Center will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

EXHIBIT "C"
(Certificate of Insurance)

ATTACHMENT D
Whatcom County Contractor's E-Verify Declaration Form

I. CONTRACTOR INFORMATION

Contractor Name:		Phone:	
Contact Person:		Fax:	
Address:			

II. E-VERIFY ENROLLMENT (check box and submit copy of MOU for verification)

Contractors with funded contracts of \$100,000 or more must be enrolled in E-Verify system. Work related subcontract is \$25,000 or higher. www.uscis.gov/e-verify

☐ Contractor is enrolled in E-Verify; copy of the signed E-Verify Memorandum of Understanding is attached.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature

Name

Date

Title

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ 2. Attorney signoff: _____ 3. AS Finance reviewed: _____ 4. IT reviewed (if IT related): _____ 5. Contractor signed: _____ 6. Submitted to Exec.: _____ 7. Council approved (if necessary): _____ 8. Executive signed: _____ 9. Original to Council: _____	Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-739

File ID:	AB2021-739	Version:	1	Status:	Agenda Ready
File Created:	11/29/2021	Entered by:	PRice@co.whatcom.wa.us		
Department:	Information Technology Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: dlaplant @ co.whatcom.wa.us OR price @ co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a three-year agreement, using the State of Washington contract, between Whatcom County and Insight Public Sector for the NeoGov Insight online recruitment software, in the amount of \$47,610.25

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Contract



PERRY L. RICE
IT Manager

MEMORANDUM

TO: Satpal Singh Sidhu, County Executive
Whatcom County Council

Through: Tyler Schroeder, Deputy Executive \ Director of Administrative Services

FROM: Perry Rice, IT Manager *PJR*
Donnie LaPlante, HR Associate Manager *DL*

RE: Agreement for NeoGov Human Resources Recruiting Software

DATE: November 28, 2021

Enclosed is a proposed agreement between Whatcom County and Insight Public Sector for the NeoGov Insight online recruitment software.

■ Background and Purpose

Recruitment activity has increased dramatically over the last year due to the pandemic with continued activity expected for growth and retirements. Recruitment work is becoming more challenging and time consuming as the labor market changes. Our current system has not been able to meet these expanded needs and does not have additional modules such as onboarding, training and performance management / evaluation. A new recruitment system is needed that can also be expanded to meet other areas of Human Resources for a more integrated approach.

This proposed agreement is for the NeoGov Insight online recruitment platform pursuant to State of Washington Master Contract No. 06016 which expires 1/7/2022. Insight Public Sector is a Software Value Added Reseller under this agreement. The purposed agreement is for a 3-year subscription along with professional services to assist with the implementation. As a new customer, entering into a 3-year agreement will save the first year of subscription at a savings of approximately \$19,000.

■ Funding Amount and Source

This agreement is for a total of \$47,610.25 for a 3-year subscription for the NeoGov Insight online recruiting software along with implementation services. In the recent 2021–2022 Mid Biennium Review, Council approved ASR #2021-3517 to fund enhanced recruitment software.

Please contact Donnie LaPlante (x5306) or Perry Rice at x5235 if you have any questions or concerns regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Human Resources
Division/Program: (i.e. Dept. Division and Program)	AS - Human Resources
Contract or Grant Administrator:	Donnie LaPlante / Perry Rice
Contractor's / Agency Name:	Insight Public Sector
Is this a New Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ State Contract _____ Contract _____ Cost Center: 507140.6625 & .6630	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input checked="" type="checkbox"/> Contract work is for less than \$100,000. <input checked="" type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 47,610.25 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Request authorization for the County Executive to enter into a three-year agreement, using the State of Washington contract, between Whatcom County and Insight Public Sector for the NeoGov Insight online recruitment software, in the amount of \$47,610.25.	
Term of Contract: 3-Year	Expiration Date: ~ November 2024

Contract Routing:	1. Prepared by: D.LaPlante / P. Rice	Date: 11/28/2021
	2. Attorney signoff: <i>[Signature]</i>	Date: 11/29/21
	3. AS Finance reviewed: <i>[Signature]</i>	Date: 11/29/21
	4. IT reviewed (if IT related): P. Rice	Date: 11/28/2021
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



INSIGHT PUBLIC SECTOR SLED
6820 S HARL AVE
TEMPE AZ 85283-4318
Tel: 800-467-4448

SOLD-TO PARTY 11132459

WHATCOM COUNTY
311 GRAND AVE STE 401
BELLINGHAM WA 98225-4046

SHIP-TO

WHATCOM COUNTY
311 GRAND AVE STE 401
BELLINGHAM WA 98225-4046

Quotation

Quotation Number : 224357702
Document Date : 10-NOV-2021
PO Number : 0
PO Release :
Sales Rep : Bob Duncan
Email : BOB.DUNCAN@INSIGHT.COM
Telephone : +14803333000X5995 X 5995

We deliver according to the following terms:

Payment Terms : Net 30 days
Ship Via : Insight Assigned Carrier/Ground
Terms of Delivery : FOB ORIGIN
Currency : USD

Material	Material Description	Quantity	Unit Price	Extended Price
PARTNER-MDS-PO	MANUAL PO - SALES NOTES TO PURCHASING OPEN MARKET	1	44,270.19	44,270.19
<i>Solution includes the following:</i>				
NEO-IN-CTM-GJ-WC	WHATCOM COUNTY NEOGOV INSIGHT ENTERPRISE (IN) CANDIDATE TEXTING (CTM) GOVERNMENT JOBS (GJ) Coverage Dates: 10-NOV-2021 - 10-NOV-2022 STATE OF WASHINGTON - NASPO SOFTWARE VAR CONTRACT(# ADSP016-138244/06016)	1	18,977.60	18,977.60
NEO-IN-CTM-GJ-WC	WHATCOM COUNTY NEOGOV INSIGHT ENTERPRISE (IN) CANDIDATE TEXTING (CTM) GOVERNMENT JOBS (GJ) Coverage Dates: 10-NOV-2022 - 10-NOV-2023 STATE OF WASHINGTON - NASPO SOFTWARE VAR CONTRACT(# ADSP016-138244/06016)	1	18,977.60	18,977.60
NEO-IN-CTM-GJ-WC	WHATCOM COUNTY NEOGOV INSIGHT ENTERPRISE (IN) CANDIDATE TEXTING (CTM) GOVERNMENT JOBS (GJ) Coverage Dates: 10-NOV-2023 - 10-NOV-2024 STATE OF WASHINGTON - NASPO SOFTWARE VAR CONTRACT(# ADSP016-138244/06016)	1	0.00	0.00
NEO-SVC-TRNG-WC	WHATCOM COUNTY NEOGOV PROF SVCS – IMPLEMENTATION AND TRNG STATE OF WASHINGTON - NASPO SOFTWARE VAR CONTRACT(# ADSP016-138244/06016)	1	6,314.99	6,314.99
Product Subtotal				44,270.19
TAX				3,340.06
Total				47,610.25

Thank you for considering Insight. Please contact us with any questions or for additional information about Insight's complete IT solution offering.

Sincerely,

Bob Duncan
+14803333000X5995 X 5995
BOB.DUNCAN@INSIGHT.COM
Fax 4807607689

Insight Global Finance has a wide variety of flexible financing options and technology refresh solutions. Contact your Insight representative for an innovative approach to maximizing your technology and developing a strategy to manage your financial options.

This purchase is subject to Insight's online Terms of Sale unless you have a separate purchase agreement signed by you and Insight, in which case, that separate agreement will govern. Insight's online Terms of Sale can be found at the "terms-and-policies" link below.

Effective Oct. 1, 2018, the U.S. government imposed tariffs on technology-related goods. Technology manufacturers are evaluating the impact on their cost and are providing us with frequent cost updates. For this reason, quote and ecommerce product pricing is subject to change as costs are updated. If you have any questions regarding the impact of the tariff on your pricing, please reach out to your sales team.

SOFTWARE AND CLOUD SERVICES PURCHASES: If your purchase contains any software or cloud computing offerings ("Software and Cloud Offerings"), each offering will be subject to the applicable supplier's end user license and use terms ("Supplier Terms") made available by the supplier or which can be found at the "terms-and-policies" link below. By ordering, paying for, receiving or using Software and Cloud Offerings, you agree to be bound by and accept the Supplier Terms unless you and the applicable supplier have a separate agreement which governs.
<https://www.insight.com/terms-and-policies>

**Approval for Purchase of NEOGOV
(Insight Public Sector Quote # 224357702)**

STATE OF WA CONTRACT VENDOR:

Insight Public Sector

**WHATCOM COUNTY:
Recommended for Approval:**

R. J. R. 11/29/2021
IT Manager Date

M. Healy 11/29/21
HR Manager Date

Approved as to form:

[Signature] 11/29/21
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Satpal Singh Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at
_____. My commission expires
_____.

NEOGOV: Governmentjobs.com, Inc. (dba "NEOGOV") 300 Continental Blvd., Suite 565 El Segundo, CA 90245 accounting@neogov.com		Customer Name & Address: Whatcom, County of (WA) 311 Grand Ave. Suite 107 Bellingham, WA 98225 Via: Insight Public Sector	
Quote Creation Date:	Oct. 28 th , 2021	Contact Name:	Donnie LaPlant
Quote Expiration Date:	Dec. 31 st , 2021	Contact Email:	dlaplant@co.whatcom.wa.us
Payment Terms	Annual. Net 30 from NEOGOV invoice.		
Fee Summary			
Service Description	Term	Term Fees	
Insight Enterprise (IN) Candidate Texting (CTM) Government Jobs (GJ)	Year 1	Insight	
Insight Enterprise (IN) Candidate Texting (CTM) Government Jobs (GJ)	Year 2	Insight	
Insight Enterprise (IN) Candidate Texting (CTM) Government Jobs (GJ)	Year 3	Insight	
Professional Services – Implementation and Training	Year 1	Insight	
3 Yr. Contract Total:			Insight

A. Terms and Conditions

1. Agreement. This Ordering Document and the Services purchased herein are expressly conditioned upon the acceptance by Customer of the terms of the NEOGOV Services Agreement either affixed hereto or the version most recently published prior to execution of this Ordering Form available at <https://www.neogov.com/service-specifications>. Unless otherwise stated, all capitalized terms used but not defined in this Order Form shall have the meanings given to them in the NEOGOV Services Agreement.
2. Effectiveness & Modification. Neither Customer nor NEOGOV will be bound by this Ordering Document until it has been signed by its authorized representative (the "Effective Date"). Unless otherwise stated, all SaaS Subscriptions shall commence on the Effective Date. This Order Form may not be modified or amended except through a written instrument signed by the parties.
3. Summary of Fees. Listed above is a summary of Fees under this Order. Once placed, your order shall be non-cancelable and the sums paid nonrefundable, except as provided in the Agreement.
4. Order of Precedence. This Ordering Document shall take precedence in the event of direct conflict with the Services Agreement, applicable Schedules, and Service Specifications.

B. Special Conditions (if any).



1. *** Services procured through Insight Public Sector- NASPO Software Value- Added Reseller Co-Op Agreement. ***
2. Initial Term 36 months
3. After expiration of the Initial Term, Subscription Fees shall not Increase more than 5% from the previous annual Subscription.
4. Termination for Non-appropriations If Customer is subject to federal, state or local law which makes Customer's financial obligations under this Agreement contingent upon sufficient appropriation of funds by the applicable legislature (or other appropriate governmental body), and If such funds are not forthcoming or are insufficient due to failure of such appropriation, then Customer will have the right to terminate the Agreement at no additional cost and with no penalty by giving prior written notice documenting the lack of funding. Customer will provide at least thirty (30) days advance written notice of such termination. Customer will use reasonable efforts to ensure appropriated funds are available

IN WITNESS WHEREOF, the parties have caused this Order to be executed by their respective duly authorized officers as of the date set forth below, and consent to the Agreement.

Customer	Governmentjobs.com, Inc. (DBA "NEOGOV")
Entity Name: Whatcom, County of (WA) Via: Insight Public Sector.	
Signature: _____	Signature: _____
Print Name:	Print Name:
Date:	Date:



NEOGOV SERVICES AGREEMENT

V020121

You agree that by placing an order through a NEOGOV standard ordering document (the "Order" or "Ordering Document") you agree to follow and be bound by the terms and conditions set forth herein. "Governmentjobs.com", "NEOGOV", "we", and "our" means Governmentjobs.com, Inc.(dba "NEOGOV") and, where applicable, its affiliates; "Customer", "you", "your" means the Governmentjobs.com client, customer, or subscriber identified in the Ordering Document.

If you are placing such an Order on behalf of a legal entity, you represent that you have the authority to bind such entity to the terms and conditions of the Ordering Document and these terms and, in such event, "you" and "your" as used in these agreement terms shall refer to such entity. "Agreement" shall be used to collectively refer to this NEOGOV Services Agreement (the "Services Agreement"), documents incorporated herein including the applicable Ordering Document and Schedule(s), and Special Conditions (if any).

1. **Provision of Services.** Subject to the terms of this Agreement NEOGOV hereby agrees to provide Customer with access to its SaaS Applications and Professional Services (each defined below) included or ordered by Customer in the applicable Ordering Document (collectively referred to as the "Services"). Customer hereby acknowledges and agrees that NEOGOV's provision and performance of, and Customer's access to, the Services is dependent and conditioned upon Customer's full performance of its duties, obligations and responsibilities hereunder. This Agreement entered into as of the date of your signature on an applicable Ordering Document or use of the Services commences (the "Effective Date"). The Agreement supersedes any prior and contemporaneous discussions, agreements or representations and warranties.
2. **SaaS Subscription.**
 - a) **Subscription Grant.** "SaaS Applications" means each proprietary NEOGOV web-based software-as-a-service application that may be set forth on an Order and subsequently made available by NEOGOV to Customer, and associated components as described in the Service Specifications made available to Customer by NEOGOV. Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement, NEOGOV hereby grants to Customer a limited, non-exclusive, non-transferable, and non-sublicensable right to (a) access and use, and to permit Authorized Users to access and use, the SaaS Applications specified in the Order solely for Customer's internal, non-commercial purposes; (b) generate, print, and download Customer Data as may result from any access to or use of the SaaS Applications; and (c) train Authorized Users in uses of the SaaS Applications permitted hereunder (these rights shall collectively be referred to as the "SaaS Subscription"). "Authorized Users" means (i) Customer employees, agents, contractors, consultants who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Services Agreement and (ii) for whom access to the Services has been purchased hereunder. You may not access the SaaS Applications if you are a direct competitor of NEOGOV or its affiliates. In addition, you may not access the SaaS Applications for purposes of monitoring their availability, performance, or functionality, or for any other benchmarking or competitive purposes.
 - b) **Delivery and Subscription Term.** NEOGOV delivers each SaaS Application by providing Customer with online access. When you access NEOGOV SaaS Applications, you are accepting it for use in accordance with this Agreement. Unless otherwise specified in an applicable Ordering Document, SaaS Subscriptions shall commence on the Effective Date and remain in effect for twelve (12) consecutive months, unless terminated earlier in accordance with this Agreement (the "Initial Term"). Thereafter, SaaS Subscriptions shall automatically renew for successive twelve (12) month terms (each a "Renewal Term" and together with the Initial Term, collectively, the "Term") unless a party delivers to the other party, at least thirty (30) days prior to the expiration of the Initial Term or the applicable Renewal Term, written notice of such party's intention to not renew this Agreement, or unless terminated earlier in accordance with this Agreement. NEOGOV shall provide Customer access to the SaaS Applications within a reasonable time following the Effective Date unless otherwise agreed.
 - c) **Content and Program Documentation.** Should Customer purchase access to SaaS Applications containing audio-visual content ("Licensed Content"), NEOGOV grants to Customer a non-exclusive, non-transferable, and non-sublicensable license, during the applicable Term, for Authorized Users to access and view the Licensed Content within the SaaS Application. Customer shall not permit the Licensed Content to be, or appear to be, reproduced, performed, displayed, or distributed on, as part of or in connection with any website or other online area other than the SaaS Application. Customer shall not edit, alter, modify, combine with other

content, or create any derivative works of the Licensed Content. "Program Documentation" shall mean all user guides, training, and implementation material, and Service descriptions provided by NEOGOV to Customer in connection with the Services. NEOGOV hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use, print, and distribute internally via non-public platforms, the Program Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services.

3. Professional Services. "Professional Services" shall mean consulting, training services purchased by Customer in an applicable Ordering Document or NEOGOV Scope of Work (SOW) relating to assistance, training, deployment, usage, customizations, accessory data processing, and best practices of and concerning the SaaS Applications. NEOGOV shall provide the Professional Services purchased in the applicable Order Form or SOW, as the case may be. Professional Services may be ordered by Customer pursuant to a SOW and Service Specifications describing the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Order Forms or SOWs must be signed by both parties before NEOGOV shall commence work. If the parties do not execute a separate Statement of Work, the Services shall be provided as stated on the Order Form and this Agreement and documents incorporated herein shall control.
4. Payment Terms. Unless otherwise stated in an Ordering Document, Customer shall pay all Subscription fees ("Subscription Fees") and Professional Service fees ("Professional Service Fees", collectively the "Fees") within thirty (30) days of Customer's receipt of NEOGOV's invoice. Fees shall be invoiced annually in advance and in a single invoice for each Term. Invoices shall be delivered to the stated "Bill To" party on the Ordering Document. Unless explicitly provided otherwise, once placed the Ordering Document is non-cancellable and sums paid nonrefundable. Subscription Fees are based upon the Customer's employee count. Customer shall not exceed the employee amount its Subscription Fees are based off of unless applicable supplemental Subscription Fees are paid. The Term for the Services is a continuous and non-divisible commitment for the full duration regardless of any invoice schedule. The purchase of any Service is separate from any other order for any other Service. Customer may purchase certain Services independently of other Services. Your obligation to pay for any Service is not contingent on performance of any other Service or delivery of any other Service. If Customer issues a purchase order, then it shall be for the full amount set forth in the applicable NEOGOV invoice or Ordering Document. Failure to provide NEOGOV with a corresponding purchase order shall not relieve Customer of its payment obligations. Except as otherwise specifically stated in the Ordering Document, NEOGOV may change the charges for the Services with effect from the start of each Renewal Term by giving Customer at least thirty (30) day notice prior to commencement of a Renewal Term. Customer will pay all taxes, duties and levies imposed by all federal, state, and local authorities (including, without limitation, export, sales, use, excise, and value-added taxes) based on the transactions or payments under this Agreement, except those taxes imposed or based on NEOGOV's net income or those exempt by applicable state law. Customer shall provide NEOGOV with a certificate or other evidence of such exemption with ten (10) days of NEOGOV's request therefor.
5. Term and Termination.
 - a) Term. Unless otherwise specified in an applicable Ordering Document, this Agreement shall commence on the Effective Date. This Agreement shall remain in effect until all SaaS Subscriptions have expired and/or both parties have achieved full performance of Professional Services or other services detailed in a SOW, unless it is terminated earlier in accordance with this Agreement.
 - b) Termination for Cause; Effect of Termination. Either Party may terminate this Agreement immediately if the other is in material breach of this Agreement and such breach is not cured within thirty (30) days following non-breaching party's written specification of the breach. NEOGOV may suspend the Services or terminate this Agreement immediately in the event the Services or Customer's use of the Services provided hereunder become illegal or contrary to any applicable law, rule, regulation, or public policy. Upon expiration or any termination of this Agreement, Customer shall cease all use and refrain from all further use of the Services and other NEOGOV intellectual property. Additionally, Customer shall be obligated to pay, as of the effective date of such expiration or termination, all amounts due and unpaid to NEOGOV under this Agreement. Unless otherwise specified, after expiration or termination of this Agreement NEOGOV may remove Customer Data from NEOGOV Services and without Customer consent or notice.
6. Service Specifications. "Service Specifications" means Program Documentation, Service Schedules, Security Statements, and Service Level Warranties if applicable. The Service Specifications describe and govern the Services and are incorporated herein by reference. Online Service Specifications may be made available at <https://www.neogov.com/service-specifications> or provided upon Customer request. Excluding Service Schedules, NEOGOV may update the Service Specifications to reflect changes in, among other things, laws, regulations,

rules, technology, industry practices, patterns of system use, Updates and Upgrades, and availability of third-party services.

7. Maintenance; Modifications; Support Services.

- a) Maintenance, Updates, Upgrades. NEOGOV maintains NEOGOV's hardware and software infrastructure for the Services and is responsible for maintaining the NEOGOV server operation and NEOGOV database security. NEOGOV may in its sole discretion, periodically modify, Update, and Upgrade the features, components, and functionality of the Services during the Term. "Update" means any update, bug fix, patch or correction of the Services or underlying NEOGOV software that NEOGOV makes generally available to its customers of the same module, excluding Upgrades. Updates are automatic and available upon Customer's next login to the Services following an Update at no additional cost to Customer. "Upgrade" means any update of the Services or underlying NEOGOV software such as platform updates, and major product enhancements and/or new features that NEOGOV makes commercially available. NEOGOV shall have no obligation to provide Upgrades to customers and retains the right to offer Upgrades free of cost or on a per customer basis at additional cost. NEOGOV shall have no liability for, or any obligations to, investments in, or modifications to Customer's hardware, systems or other software which may be necessary to use or access the Services due to a modification, Update, or Upgrade of the Services.
- b) Training Materials; Support. Primary training of NEOGOV Services is conducted by self-review of online materials. NEOGOV's pre-built, online training consists of a series of tutorials to introduce the standard features and functions (the "Training Materials"). The Training Materials may be used as reference material by Customer Personnel conducting day-to-day activities.
- c) Implementation. For Services requiring implementation, NEOGOV implementation supplements the Training Materials and is conducted off-site unless otherwise agreed in the Ordering Document. NEOGOV personnel will provide consultation on best practices for setting up the Services, answer Customer questions during the implementation period, and ensure Authorized User Admins grasp the system.
- d) Support. Phone support for the Services is available to Customer Monday through Friday, excluding NEOGOV holidays. Online support for the Services is available 24 hours a day, seven days a week. The length of time for a resolution of any problem is dependent on the type of case.
- e) Limitations. Unless otherwise specified in the Ordering Document, this Agreement does not obligate NEOGOV to render any maintenance or support services that are not expressly provided herein, including, but not limited to data uploads, manual data entry, migration services, data conversion, refinement, purification, reformatting, SQL dump, or process consultation.

8. NEOGOV Intellectual Property. NEOGOV shall exclusively own all right, title and interest in and to all pre-existing and future intellectual property developed or delivered by NEOGOV including all Services, products, systems, software (including any source code or object code) or Service Specifications related thereto, Updates or Upgrades, trademarks, service marks, logos and other distinctive brand features of NEOGOV and all proprietary rights embodied therein (collectively, the "NEOGOV Intellectual Property"). This Agreement does not convey or transfer title or ownership of the NEOGOV Intellectual Property to Customer or any of its users. All rights not expressly granted herein are reserved by NEOGOV. Other than recommendation use or as required by law, all use of NEOGOV Trademarks must be pre-approved by NEOGOV prior to use. Trademarks shall include any word, name, symbol, color, designation or device, or any combination thereof that functions as a source identifier, including any trademark, trade dress, service mark, trade name, logo, design mark, or domain name, whether or not registered.

9. Data Processing and Privacy.

- a) Customer & Platform Data. "Customer Data" shall mean all data that is owned or developed by Customer, whether provided to NEOGOV by Customer or provided by a third party to NEOGOV in connection with NEOGOV's provision of Services to Customer, including Personnel or Job Seeker Profile Data collected, loaded into, or located in Customer data files maintained by NEOGOV. NEOGOV intellectual property, including but not limited to the Services and all derivative works thereof, NEOGOV Confidential Information, and Platform Data do not fall within the meaning of the term "Customer Data". Customer exclusively own all right, title, and interest in and to all Customer Data. Customer grants NEOGOV a license to host, use, process, display, create non-personal derivative works of, and transmit Customer Data to provide the Services. "Platform Data" shall mean any data reflecting the access or use of the Services by or on behalf of Customer or any user, including statistical or other analysis and performance information related to the provision and

NEOGOV

operation of the Services including any end user visit, session, impression, clickthrough or click stream data, as well as log, device, transaction data, or other analysis, information, or data based on or derived from any of the foregoing. NEOGOV shall exclusively own all right, title and interest in and to all Platform Data. NEOGOV grants to Customer a limited, non-perpetual, non-exclusive, non-transferable, and non-sublicensable license during the Term to use and access, and to permit Authorized Users to use and access, Platform Data of which NEOGOV makes available through the SaaS Applications solely for Customer's internal purposes. Customer acknowledges NEOGOV may compile Platform based on Customer Data input into the Services. Customer agrees that NEOGOV may (i) make Platform Data publicly available in compliance with applicable law, and (ii) use Platform Data to the extent and in the manner permitted under applicable law.

- b) Privacy Policy; Data Processing Agreement. NEOGOV shall process all data in accord with the NEOGOV Privacy Policy available at <https://www.neogov.com/privacy-policy>. The defined terms in the Privacy Policy shall have the same meaning in this Agreement unless otherwise specified herein. To the extent Customer uses the Services to target and collect personal information from users located in the European Union, European Economic Area, or Switzerland (the "EU"), or has Authorized Users accessing the Services from the EU, the NEOGOV Data Processing Addendum ("DPA") available at <https://www.neogov.com/service-specifications> is incorporated herein by reference.
 - c) Data Responsibilities. Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data. NEOGOV will have no responsibility or liability for the accuracy of the Customer Data prior to receipt of such data into the Services. Customer shall be solely responsible for and shall comply with all applicable laws and regulations relating to (i) the accuracy and completeness of all information input, submitted, or uploaded to the Services, (ii) the privacy of users of the Services, including, without limitation, providing appropriate notices to and obtaining appropriate consents from any individuals to whom Customer Data relates; and (iii) the collection, use, modification, alteration, extraction, retention, copying, external storage, disclosure, transfer, disposal, and other processing of any Customer Data. NEOGOV is not responsible for lost data caused by the action or inaction of Customer or Authorized Users. Unless vital to provide the Services or otherwise mutually agreed in writing, Customer shall not maintain any financial, health, payment card, or similarly sensitive data that imposes specific data security or data protection obligations within the Services.
 - d) Breach Notice. In the event of a data or security breach, as defined by applicable law, by anyone other than your employee, contractor, or agent, upon discovery of such breach, NEOGOV will initiate remedial actions and notify Customer of the breach as required by and in compliance with applicable law. NEOGOV's notification of, or response to, a data breach under this Section will not be construed as an acknowledgement by NEOGOV of any fault or liability with respect to the breach. In the event of a security breach, as defined by applicable law, by your Personnel, Authorized, or unauthorized user, contractor or agent, you shall have sole responsibility for initiating remedial actions and you shall notify NEOGOV of the breach and steps you will take to remedy the breach as soon as possible. Customer is solely responsible for complying with data breach notification laws applicable to the Customer and fulfilling any third-party notification obligations related to any data breach(es).
10. Subcontractors; Third Party Products. NEOGOV may from time to time in its discretion engage third parties to perform Services (each, a "Subcontractor"). "Third-Party Products" means any products, content, services, information, websites, or other materials that are owned by third parties and are incorporated into or accessible through the Services. The Services may permit access to Third-Party Products. For purposes of this Services Agreement, such Third-Party Products are subject to their own terms and conditions presented to you for acceptance by website link or otherwise. If you do not agree to abide by the applicable terms for any such Third-Party Products, then you should not install, access, or use such Third-Party Products. NEOGOV cannot guarantee the continued availability of such Third-Party Products and may cease providing them without entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third-Party Product ceases to make the third-party application available for interoperation with the corresponding NEOGOV Service in a manner acceptable to NEOGOV.
11. Nondisclosure. Through exercise of each party's rights under this Agreement, each party may be exposed to the other party's technical, financial, business, marketing, planning, and other information and data in written, oral, electronic, magnetic, photographic, and/or other forms, including, but not limited to (a) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified, (b) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be confidential or secret, and (c) trade secrets (collectively, "Confidential Information"). In recognition of the other party's need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each item of information or data

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constituting Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, (x) without the express prior written consent of the other party, (y) except as permitted or authorized herein or, (z) except as required by law including the Public Records Act of the Customer's State, redistribute, market, publish, disclose, or divulge to any other person, firm or entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other party's Confidential Information during the Term and for a period of three (3) years thereafter or, if later, from the last date Services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party's trade secrets at any time during which such information shall constitute a trade secret under applicable law. In association with NEOGOV's concern for the protection of trade secrets, Confidential Information, and fair market competition, Customer acknowledges all photos, "screen captures", videos, or related media of NEOGOV products, pages, and related documentation shall be approved by NEOGOV prior to any publicly accessible disclosure of such media.

12. Representations, Warranties, and Disclaimers.

- a) **Service Performance Warranty.** NEOGOV warrants that it provides the Services using a commercially reasonable level of care and skill. THE FOREGOING WARRANTY DOES NOT APPLY, AND NEOGOV STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.
- b) **No Other Warranty.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS WARRANTY SECTION, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY ERROR WILL BE CORRECTED.
- c) **Disclaimer of Actions Caused by and/or Under the Control of Third Parties.** NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIAL REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.
- d) **Services Do Not Constitute Advice or Credit Reporting.** NEOGOV does not provide its customers with legal advice regarding compliance, data privacy, or other relevant applicable laws in the jurisdictions in which you use the Services. YOU ACKNOWLEDGE AND AGREE THAT THE SERVICES PROVIDED HEREUNDER ARE NOT INTENDED TO BE AND WILL NOT BE RELIED UPON BY YOU AS EITHER LEGAL, FINANCIAL, INSURANCE, OR TAX ADVICE. TO THE EXTENT YOU REQUIRE ANY SUCH ADVICE, YOU REPRESENT THAT YOU WILL SEEK SUCH ADVICE FROM QUALIFIED LEGAL, FINANCIAL, INSURANCE, ACCOUNTING, OR OTHER PROFESSIONALS. YOU SHOULD REVIEW APPLICABLE LAW IN ALL JURISDICTIONS WHERE YOU OPERATE AND HAVE EMPLOYEES AND CONSULT EXPERIENCED COUNSEL FOR LEGAL ADVICE. YOU ACKNOWLEDGE THAT NEOGOV IS NOT A "CONSUMER REPORTING AGENCY" AS THAT TERM IS DEFINED IN THE FAIR CREDIT REPORTING ACT AS AMENDED.
- e) **Configurable Services.** The Services can be used in ways that do not comply with applicable laws and it is Customer's sole responsibility to monitor the use of the Services to ensure that such use complies with and is in accordance with applicable law. In no event shall NEOGOV be responsible or liable for Customer failure to comply with applicable law in connection with your use of the Services. NEOGOV is not responsible for any harm caused by users who were not authorized to have access to the Services but who were able to gain access because usernames, passwords, or accounts were not terminated on a timely basis by Customer. Customer acknowledges that NEOGOV exercises no control over specific human resource practices implemented using the Service or Customer's decisions as to employment, promotion, termination, or compensation of any personnel or Authorized User of the Services. Customer further agrees and acknowledge that NEOGOV does not have a direct relationship with Customer employees and that Customer is responsible for all contact, questions, Customer Data updates and collection, with Customer employees.

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13. **Customer Compliance.** Customer shall be responsible for ensuring that Customer's use of the Services and the performance of Customer's other obligations hereunder comply with all applicable rules, regulations, laws, codes, and ordinances. Customer is responsible for Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services equipment and facilities required to access the Services. All users of the Services are obligated to abide by the Terms of Use available at <https://www.neogov.com/terms-of-use>. Customer shall be responsible for procuring all licenses of third-party software necessary for Customer's use of the Services. Customer is responsible and liable for all uses of the Services, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement.
14. **Indemnification.**
- a) **Indemnity.** Subject to subsections (b) through (d) of this Section, if a third party makes a claim against Customer that any NEOGOV intellectual property furnished by NEOGOV and used by Customer infringes a third party's intellectual property rights, NEOGOV will defend the Customer against the claim and indemnify the Customer from the damages and liabilities awarded by the court to the third-party claiming infringement or the settlement agreed to by NEOGOV, if Customer does the following:
 - i) Notifies NEOGOV promptly in writing, not later than thirty (30) days after Customer receives notice of the claim (or sooner if required by applicable law);
 - ii) Gives NEOGOV sole control of the defense and any settlement negotiations; and
 - iii) Gives NEOGOV the information, authority, and assistance NEOGOV needs to defend against or settle the claim.
 - b) **Alternative Resolution.** If NEOGOV believes or it is determined that any of the Services may have violated a third party's intellectual property rights, NEOGOV may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use. If these alternatives are not commercially reasonable, NEOGOV may end the subscription or license for the Services and refund a pro-rata portion of any fees covering the whole months that would have remained, absent such early termination, following the effective date of such early termination.
 - c) **No Duty to Indemnify.** NEOGOV will not indemnify Customer if Customer alters the Service or Service Specifications, or uses it outside the scope of use or if Customer uses a version of the Service or Service Specifications which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Services or Service Specifications which was provided to Customer, or if the Customer continues to use the infringing material after the subscription expires. NEOGOV will not indemnify the Customer to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by NEOGOV. NEOGOV will not indemnify Customer for any portion of an infringement claim that is based upon the combination of Service or Service Specifications with any products or services not provided by NEOGOV. NEOGOV will not indemnify Customer for infringement caused by Customer's actions against any third party if the Services as delivered to Customer and used in accordance with the terms of the Agreement would not otherwise infringe any third-party intellectual property rights.
 - d) **Exclusive Remedy.** This Section provides the exclusive remedy for any intellectual property infringement claims or damages against NEOGOV.
15. **Limitations of Liability.**
- a) **EXCLUSION OF DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY OR PROFIT, OR LOSS OF REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

- b) CAP ON MONETARY LIABILITY. WITHOUT LIMITATION OF THE PREVIOUS SECTION, EXCEPT FOR DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, CUSTOMER'S OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF NEOGOV INTELLECTUAL PROPERTY RIGHTS, THE TOTAL LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS AGAINST THE OTHER PARTY UNDER THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL NOT EXCEED THE AMOUNT OF ALL PAYMENTS ACTUALLY RECEIVED BY NEOGOV FROM CUSTOMER DURING THE RELEVANT YEAR OF THIS AGREEMENT DURING WHICH THE CAUSE OF ACTION AROSE. THE FOREGOING LIMITATION OF LIABILITY IS CUMULATIVE WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES IN CONNECTION WITH THIS AGREEMENT BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS LIMITATION OF LIABILITY IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. EACH PARTY ACKNOWLEDGES THAT THIS LIMITATION OF LIABILITY REFLECTS AN INFORMED, VOLUNTARY ALLOCATION BETWEEN THE PARTIES OF THE RISKS (KNOWN AND UNKNOWN) THAT MAY EXIST IN CONNECTION WITH THIS AGREEMENT AND HAS BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.

16. E-Signatures.

- a) E-Signature Provisioning & Consent. NEOGOV E-Forms and other electronically signed services ("E-Signatures") are provided by NEOGOV for two counterparties (generally a government employer (the "sending party") subscribing to NEOGOV Services and Personnel or Job Seekers) to electronically sign documents. If you use E-Signatures offered by NEOGOV, you agree to the statements set forth in this Section. Whenever you sign a document using E-Signatures you affirmatively consent to using electronic signatures via the E-Signatures and consent to conducting electronic business transactions. You also confirm that you are able to access the E-Signatures and the document you are signing electronically. When using E-Signatures for a document, your consent applies only to the matter(s) covered by that particular document.
- b) Right to Opt-Out of E-Signatures. You are not required to use E-Signatures or accept electronic documents provided thereby. Personnel and Job Seekers can choose to not use E-Signatures and may sign the document manually instead by notifying the sending party they are choosing to do so and by obtaining a non-electronic copy of the document. NEOGOV assumes no responsibility for providing non-electronic documents. In the event a non-sending party elects to sign the document manually, do not use E-Signatures to sign the document.
- c) Electronic Download. If you have signed a document electronically using E-Signatures and transmitted it back to the sending party, NEOGOV provides the opportunity to download and print a paper copy of the document at no charge. If you later withdrawn your consent to using E-Signatures, please notify the sending party and stop using E-Signatures. Note that the decision to stop using E-Signatures after you have already used it does not change the legality of the documents you have previously signed using an electronic signature.
- d) E-Signature Validity. PLEASE NOTE THAT NEOGOV'S STATEMENTS CONTAINED HEREIN OR ELSEWHERE CONCERNING THE VALIDITY OF ELECTRONIC DOCUMENTS AND/OR THE SIGNATURE LINES OF DOCUMENTS THAT ARE ELECTRONICALLY SIGNED ARE FOR INFORMATIONAL PURPOSES ONLY; THEY SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. UNDER FEDERAL AND STATE LAWS GOVERNING ELECTRONIC SIGNATURES, ELECTRONIC SIGNATURES ON CERTAIN TYPES OF AGREEMENTS ARE NOT ENFORCEABLE. NEOGOV HEREBY DISCLAIMS ANY RESPONSIBILITY FOR ENSURING THAT DOCUMENTS ELECTRONICALLY SIGNED THROUGH E-SIGNATURE'S ARE VALID OR ENFORCEABLE UNDER THE LAWS OF THE UNITED STATES OF AMERICA, ANY PARTICULAR STATE, OR ANY OTHER LEGAL JURISDICTION. YOU SHOULD CONSULT WITH LEGAL COUNSEL CONCERNING THE VALIDITY OR ENFORCEABILITY OF ANY DOCUMENT YOU MAY SIGN ELECTRONICALLY USING NEOGOV'S E-SIGNATURE'S.

- 17. Text Message Communications. NEOGOV may offer Job Seekers and Personnel the opportunity to receive text messages regarding job application or hiring process reminders, applicant status updates, or other human resource related notices. Since these text message services depend on the functionality of third-party providers, there may

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be technical delays on the part of those providers. NEOGOV may make commercially reasonable efforts to provide alerts in a timely manner with accurate information, but cannot guarantee the delivery, timeliness, or accuracy of the content of any alert. NEOGOV shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on an alert. NEOGOV cannot vouch for the technical capabilities of any third parties to receive such text messages. NEOGOV MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY, OR IMPLIED AS TO: (i) THE AVAILABILITY OF TELECOMMUNICATION SERVICES; (ii) ANY LOSS, DAMAGE, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND (iii) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS, OR SETTINGS CONNECTED WITH THE SERVICES.

18. Cooperative Agreement. As permitted by law, it is understood and agreed by Customer and NEOGOV that any (i) federal, state, local, tribal, or other municipal government (including all administrative agencies, departments, and offices thereof); (ii) any business enterprise in which a federal, state, local, tribal or other municipal entity has a full, majority, or other controlling interest; and/or (iii) any public school (including without limitation K-12 schools, colleges, universities, and vocational schools) (collectively referred to as the "New Entity") may purchase the Services specified herein in accordance with the terms and conditions of this Agreement. It is also understood and agreed that each New Entity will establish its own contract with NEOGOV, be invoiced therefrom and make its own payments to NEOGOV in accordance with the terms of the contract established between the New Entity and NEOGOV. With respect to any purchases by a New Entity pursuant to this Section, Customer: (i) shall not be construed as a dealer, re-marketer, representative, partner or agent of any type of NEOGOV, or such New Entity; (ii) shall not be obligated, liable or responsible for any order made by New Entities or any employee thereof under the agreement or for any payment required to be made with respect to such order; and (iii) shall not be obliged, liable or responsible for any failure by any New Entity to comply with procedures or requirements of applicable law or to obtain the due authorization and approval necessary to purchase under the agreement. Termination of this Agreement shall in no way limit NEOGOV from soliciting, entering into, or continuing a contractual relationship with any New Entity.
19. Publicity. Each party hereto may advertise, disclose, and publish its relationship with the other party under this Agreement.
20. Force Majeure. NEOGOV shall not be liable for any damages, costs, expenses or other consequences incurred by Customer or by any other person or entity as a result of delay in or inability to deliver any Services due to circumstances or events beyond NEOGOV's reasonable control, including, without limitation: (a) acts of God; (b) changes in or in the interpretation of any law, rule, regulation or ordinance; (c) strikes, lockouts or other labor problems; (d) transportation delays; (e) unavailability of supplies or materials; (f) fire or explosion; (g) riot, military action or usurped power; or (h) actions or failures to act on the part of a governmental authority.
21. Independent Contractor; Third Party Agreements. The relationship of the parties shall be deemed to be that of an independent contractor and nothing contained herein shall be deemed to constitute a partnership between or a joint venture by the parties hereto or constitute either party the employee or agent of the other. Customer acknowledges that nothing in this Agreement gives Customer the right to bind or commit NEOGOV to any agreements with any third parties. This Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such party whether referred to herein or not.
22. Entire Agreement; Amendment. This Services Agreement and documents incorporated herein, the applicable Ordering Document, and Special Conditions (if any) constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous oral and written statements of any kind whatsoever made by the parties with respect to such subject matter. "Special Conditions" means individually negotiated variations, amendments and/or additions to this Service Agreement of which are either drafted, or incorporated by reference, into the Ordering Document. Any Customer proposal for additional or different terms, or Customer attempt to vary in any degree any of the terms of this Agreement is hereby objected to and rejected but such proposal shall not operate as a rejection of this Service Agreement and Ordering Document unless such variances are in the terms of the description, quantity, or price but shall be deemed a material alteration thereof, and this Service Agreement and the applicable Ordering Document shall be deemed accepted by the Customer without said additional or different terms. It is expressly agreed that the terms of this Agreement and any NEOGOV Ordering Document shall supersede the terms in any non-NEOGOV purchase order or other ordering document. Notwithstanding the foregoing, any conflict of terms shall be resolved by giving priority in accordance with the following order: 1) Special Conditions (if any), 2) NEOGOV Ordering Document, 3) the NEOGOV Services Agreement and incorporated documents, 4) Customer terms and conditions (if any). This Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Services. This

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Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the party to be bound.

23. General. This Agreement shall be governed by and construed in accordance with the laws of Customer's State, without giving effect to conflict of law rules. If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect. Provisions that survive termination or expiration are those relating to limitation of liability, payment, and others which by their nature are intended to survive. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by recognized overnight courier or electronic mail, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested. All such communications shall be sent to (i) Customer at the address set forth in the Ordering Document and (ii) NEOGOV at 300 Continental Blvd., Suite 565, El Segundo, CA 90245. The waiver, express or implied, by either party of any breach of this Agreement by the other party will not waive any subsequent breach by such party of the same or a different kind. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together shall constitute one and the same instrument. Delivery of a copy of this Agreement bearing an original signature by facsimile transmission, by electronic mail or by any other electronic means will have the same effect as physical delivery of the paper document bearing the original signature. Each party represents and warrants to the other party that (i) it has full power and authority under all relevant laws and regulations and is duly authorized to enter into this Agreement; and (ii) to its knowledge, the execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it. Customer may not assign this Agreement without the express written approval of NEOGOV and any attempt at assignment in violation of this Section shall be null and void. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-709

File ID:	AB2021-709	Version:	1	Status:	Agenda Ready
File Created:	11/18/2021	Entered by:	AReynold@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Public Works & Health Committee			Final Action:	
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: jhutchin@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Report from the Public Works Department

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Public Works Department Quarterly Report to Council

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
<hr/>			
<hr/>			

Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-713

File ID:	AB2021-713	Version:	1	Status:	Agenda Ready
File Created:	11/19/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution in the matter of considering vacating an unnamed alley within the Plat of Lummi Park on Lummi Island

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The attached resolution in the matter of considering vacating an unnamed alley within the Plat of Lummi Park on Lummi Island is submitted per RCW 36.87 and WCC 12-20. Adoption of this resolution will trigger the County Engineer to report on the proposed vacation at a future Council meeting. Once the County Engineer's report is submitted, the road vacation will be considered by Council under a separate resolution and a public hearing will need to be scheduled.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Resolution, Aerial Photo, Petition

MEMORANDUM

To: The Honorable County Executive Satpal Singh Sidhu and Honorable Members of the County Council

Through: Jon Hutchings, Director

From: Andrew Hester, Real Estate Coordinator

Date: November 19, 2021

Re: In the Matter of Considering Vacating an unnamed alley within the Plat of Lummi Park on Lummi Island

The attached petition asks for the vacation of a portion of an unnamed alley within the Plat of Lummi Park on Lummi Island.

Recommended Action

The attached petition for vacation meets all statutory requirements. It is recommended that the County Council direct the County Engineer to investigate and report his findings to the County Council.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.

SPONSORED BY: _____

PROPOSED BY: Public Works

INTRODUCTION DATE: _____

RESOLUTION NO. _____

IN THE MATTER OF CONSIDERING VACATING AN UNNAMED ALLEY WITHIN THE PLAT
OF LUMMI PARK ON LUMMI ISLAND

WHEREAS, on August 8, 2021; Patrick Timothy McEvoy and Marcia L. McEvoy, et. al. submitted a petition for the vacation of an unnamed alley within the plat of Lummi Park on Lummi Island (sometimes referred to as Baker Drive) lying within the unincorporated area of Whatcom County, accompanied by the penal sum of \$790.00, and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless the Whatcom County Council may declare its intention to formally consider vacation, by resolution.

WHEREAS, without pre-judging the result of its future consideration of this matter, the Whatcom County Council has received sufficient information to warrant consideration of vacation of the right-of-way identified in the above-referenced petition and described more fully below;

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to consider vacation of the following described right of way:

That 15-foot right of way immediately west of and abutting Lot 7, Block 1, Lummi Park on Lummi Island according to the Plat thereof recorded in Volume 6 of Plats, Page 5, records of Whatcom County, Washington (which is unnamed but is sometimes referred to as Baker Drive).

Subject to and/or together with all easements, covenants, restrictions and/or agreements of record or otherwise, and further subject to Whatcom County retaining an easement in respect to the portion of right-of-way proposed for vacation, for the construction, repair, and maintenance of any and all public utilities and services now located on or in the portion that may be vacated.

AND BE IT FURTHER RESOLVED that the County Engineer investigate and report to the County Council on the matter of the proposed vacation so that the Council may set a public hearing on the matter.

APPROVED this ____ day of _____, 2021

ATTEST:

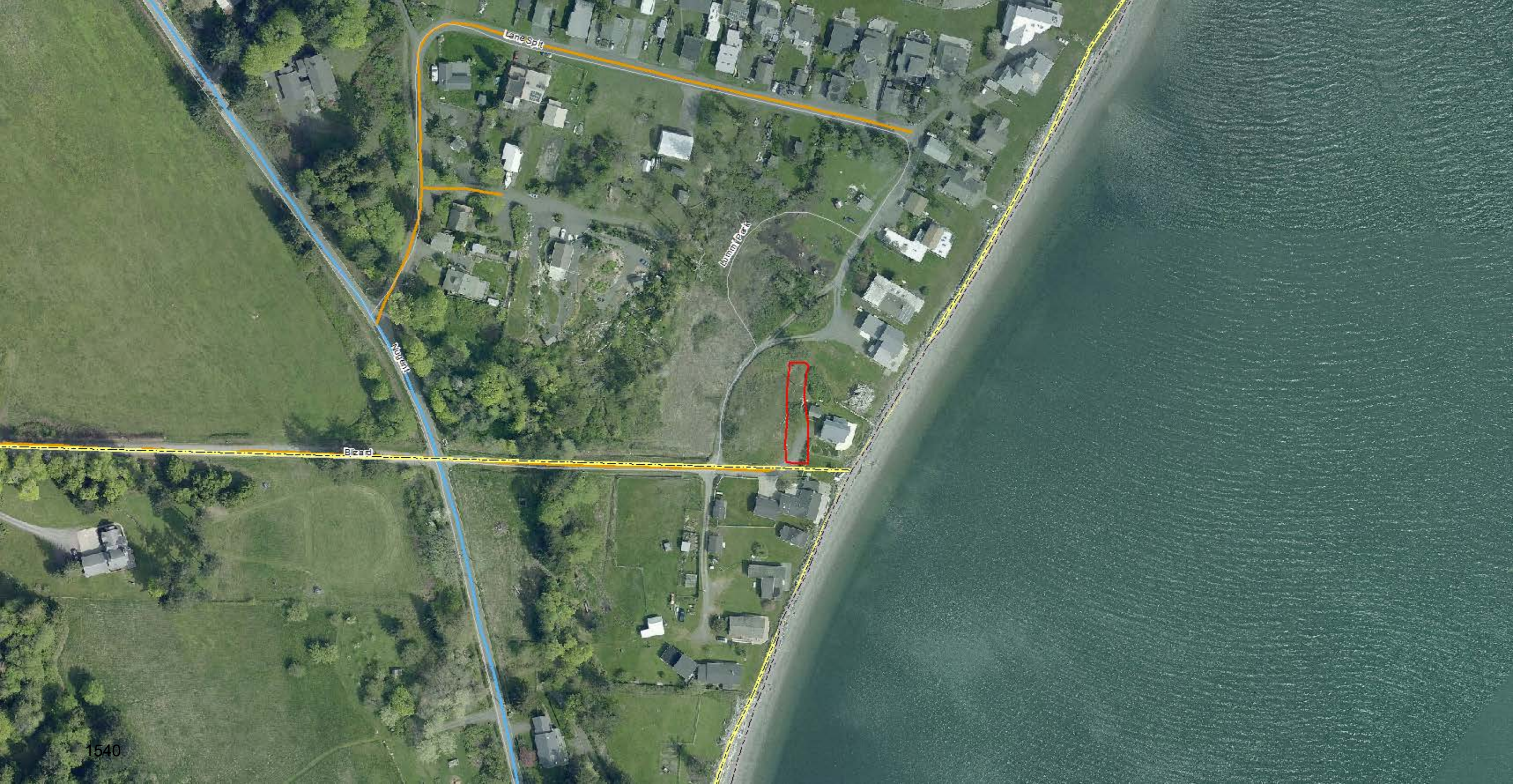
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, County Clerk

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 11/19/2021)



Laney Spit

Laney Spit

Blizard

Blizard

BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS

1) Unnamed Alleyway referred to as Baker Drive;
[REDACTED]

Petitioned for by:

Patrick Timothy McEvoy and Marcia L. McEvoy
et.al.

PETITION FOR VACATION
OF PLATTED ROAD

(RCW 58.17 AND 36.87)

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972,* the undersigned and those signing attached petition, which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

* (As subsequently amended and currently codified under WCC 12.20)

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.
2. The road sought to be vacated is legally described as follows:
The 15-foot right of way immediately west of and abutting Lot 7, Block 1, Lummi Park on Lummi Island, according to the Plat thereof recorded in Volume 6 of Plats, Page 5, Records of Whatcom County, Washington (which is unnamed but is sometimes referred to as Baker Drive); ~~the 50-foot right of way known as Snow View Drive immediately southeast of and abutting said Lot 7, Block 1, in said Plat.~~
3. The pertinent facts in support of this petition are:
See attached.
4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment.
5. Petitioners will pay all costs and expenses incurred by the Count in examination, report, notice and proceedings pertaining to this petition.
6. A bond in the penal sum of \$790.00, payable to Whatcom County Treasurer, accompanies this petition.
7. The application fee accompanies this petition.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Dannon C. Traxler
Langabeer & Traxler, P.S.
2701 Meridian Street
Bellingham, WA 98225
(360) 671-6460
dtraxler@langabeertraxler.com

Signed this 8th day of August, 2021.

Patrick Timothy McEvoy

Marcia L. McEvoy

Page 1

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

The following persons are the Petitioners and the owners of the real property immediately abutting the rights-of-way which are sought to be vacated, and who are agreeing to pay the costs of vacation, and who would receive title to the rights-of-way in question following vacation:

Patrick Timothy McEvoy and Marcia L. McEvoy, who are the owners of the following property located within Section 33, Township 38 North, Range 1 East of W.M.:

Lot 7, Block 1, Lummi Park on Lummi Island, Whatcom County, Washington, according to the Plat thereof, recorded in Volume 6 of Plats, Page 5, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

Assessor's Parcel Number ~~000109980001200000~~ PID 41150

3801333750070000

Marked as Property "A" on the Attached Exhibit A-1 (showing the immediate vicinity or the roads to be vacated) and Exhibit A-2 (showing the larger area and the properties of other owners supporting this Petition)

Separate pages containing the names, property descriptions, and signatures of other property owners within a mile, and who support vacation of the rights-of-way in question, are attached hereto and submitted herewith.

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2a

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

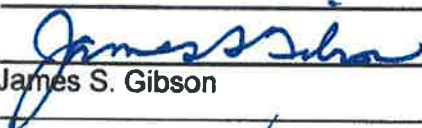
The following persons are the owners of the real property abutting and west of the 15-foot right-of-way which is sought to be vacated:

James S. Gibson and Jean E. Gibson; and
David Loeppky and Sharon Loeppky,

who are the owners of the property located within Section 33, Township 38 North, Range 1 East of W.M., delineated as Whatcom County Parcel Number 3801333580210000 / PID174854, which property is legally described on Exhibit B attached hereto and fully incorporated herein by this reference, and marked as Property "B" on the Attached Exhibit A-1 (showing the immediate vicinity of the roads to be vacated) and Exhibit A-2 (showing the larger area and the properties of other owners supporting this Petition).

Since the 15 feet immediately west of/abutting the 15 foot strip sought to be vacated was previously dedicated right of way which was vacated by official County proceedings in 1947, the undersigned property owners do not seek to receive title to any portion of the remaining unvacated 15-foot-strip.

However, the undersigned property owners DO SUPPORT the Petition for Vacation of Patrick Timothy McEvoy and Marcia L. McEvoy, in consideration of the previous vacation of the westerly 15 feet of-right-way as well as the McEvoy's agreement to pay the costs associated with this Petition for Vacation.


James S. Gibson


Jean E. Gibson


David Loeppky


Sharon Loeppky

(NOTE: There are no property owners other than the McEvoy's who own real property abutting Snow View Drive, the other right-of-way sought to be vacated)

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2b

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

The following persons are the owners of real properties located within one (1) mile of the 15-foot right of way immediately west of and abutting Lot 7, Block 1, Lummi Park on Lummi Island, according to the Plat thereof recorded in Volume 6 of Plats, Page 5, Records of Whatcom County, Washington (which is unnamed but is sometimes referred to as Baker Drive); ~~AND the 50-foot right of way known as Snow View Drive immediately south of and abutting said Lot 7, Block 1 in said Plat, and who support the Petition for Vacation of the same made by Patrick Timothy McEvoy and Marcia L. McEvoy (who have agreed to pay the costs of vacation, and who would receive title to the rights-of-way in question following vacation):~~

<u>Signatures</u>	<u>Print Owner Name(s)</u>	<u>Parcel Number Owned</u>
X 	Michael Hammes and	380133-404049, -412050
X 	Wendy Hammes	(PID 41164, 41163)

(See Exhibit B-1 for legal)

The properties of the above supporting neighbors located within a mile of the roads to be vacated are marked as Properties C and D on the attached Exhibit A-2.

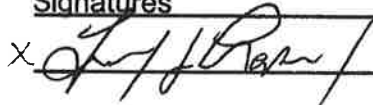
A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2c.1

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

The following persons are the owners of real properties located within one (1) mile of the 15-foot right of way immediately west of and abutting Lot 7, Block 1, Lummi Park on Lummi Island, according to the Plat thereof recorded in Volume 6 of Plats, Page 5, Records of Whatcom County, Washington (which is unnamed but is sometimes referred to as Baker Drive); ~~And the 50-foot right of way known as Snow View Drive immediately southeast of and abutting said Lot 7, Block 1, In said Plat;~~ and who support the Petition for Vacation of the same made by Patrick Timothy McEvoy and Marcia L. McEvoy (who have agreed to pay the costs of vacation, and who would receive title to the rights-of-way in question following vacation):

<u>Signatures</u>	<u>Print Owner Name(s)</u>	<u>Parcel Number Owned</u>
X 	Frank J. Repanich	380133-362071 (PID 41141)

(See Exhibit B-2 for legal)

The property of the above supporting neighbor located within a mile of the roads to be vacated is marked as Property E on the attached Exhibit A-2.



A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2 c.2

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

The following persons are the owners of real properties located within one (1) mile of the 15-foot right of way immediately west of and abutting Lot 7, Block 1, Lummi Park on Lummi Island, according to the Plat thereof recorded in Volume 6 of Plats, Page 5, Records of Whatcom County, Washington (which is unnamed but is sometimes referred to as Baker Drive); ~~and the 30-foot right of way known as Snow View Drive immediately southeast of and abutting said Lot 7, Block 1 in said Plat~~ and who support the Petition for Vacation of the same made by Patrick Timothy McEvoy and Marcia L. McEvoy (who have agreed to pay the costs of vacation, and who would receive title to the rights-of-way in question following vacation):

<u>Signatures</u>	<u>Print Owner Name(s)</u>	<u>Parcel Number Owned</u>
X 	John C. Ennen and	370104-367555
X 	Sharon J. Ennen	(PID 13795)



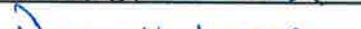

(See Exhibit B-3 for legal)

The properties of the above supporting neighbors located within a mile of the roads to be vacated are marked as Property F on the attached Exhibit A-2.

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2c.3

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Signatures	Print Owner Name(s)	Parcel Number Owned
	Robert I. Morse and	380133-258092
	Jeanette Morse	(PID 41102)
	Mary C. Little and	
	Erik R. Little	
	3919 Midden Lane	
	Lummi Island, WA 98262	

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

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**Index of Exhibits
To
Petition for Vacation**

Exhibit	Document Description
A-1	Map of Immediate Vicinity/Roads to Be Vacated
A-2	Map Showing Supporting Properties/Owners
B	Legal Description of Property B (Owned by Gibson/Loeppky)
B-1	Legal Description of Properties C and D (Owned by Hammes)
B-2	Legal Description of Property E (Owned by Repanich)
B-3	Legal Description of Property F (Owned by Ennen)
B-4	Legal Description of Property G (Owned by Cummins)
B-5	Legal Description of Property H (Owned by Morse)
C	Narrative Outline of History and Proposed Vacation
D-1	Lummi Park Plat (Dedicated 1910)
D-2	Commissioner's Record #22 (1918 Vacation of Lummi Park Plat)
E-1	Lummi Point Plat (Dedicated 1946)
E-2	Volume 36, Page 253 of Commissioner Proceedings (1947 Vacation of Lummi Point Plat)
F	Auditor's File No. 2019-400018 (recorded Easement governing private road)
G	Auditor's File No. 2018-0102095 (Record of Survey)

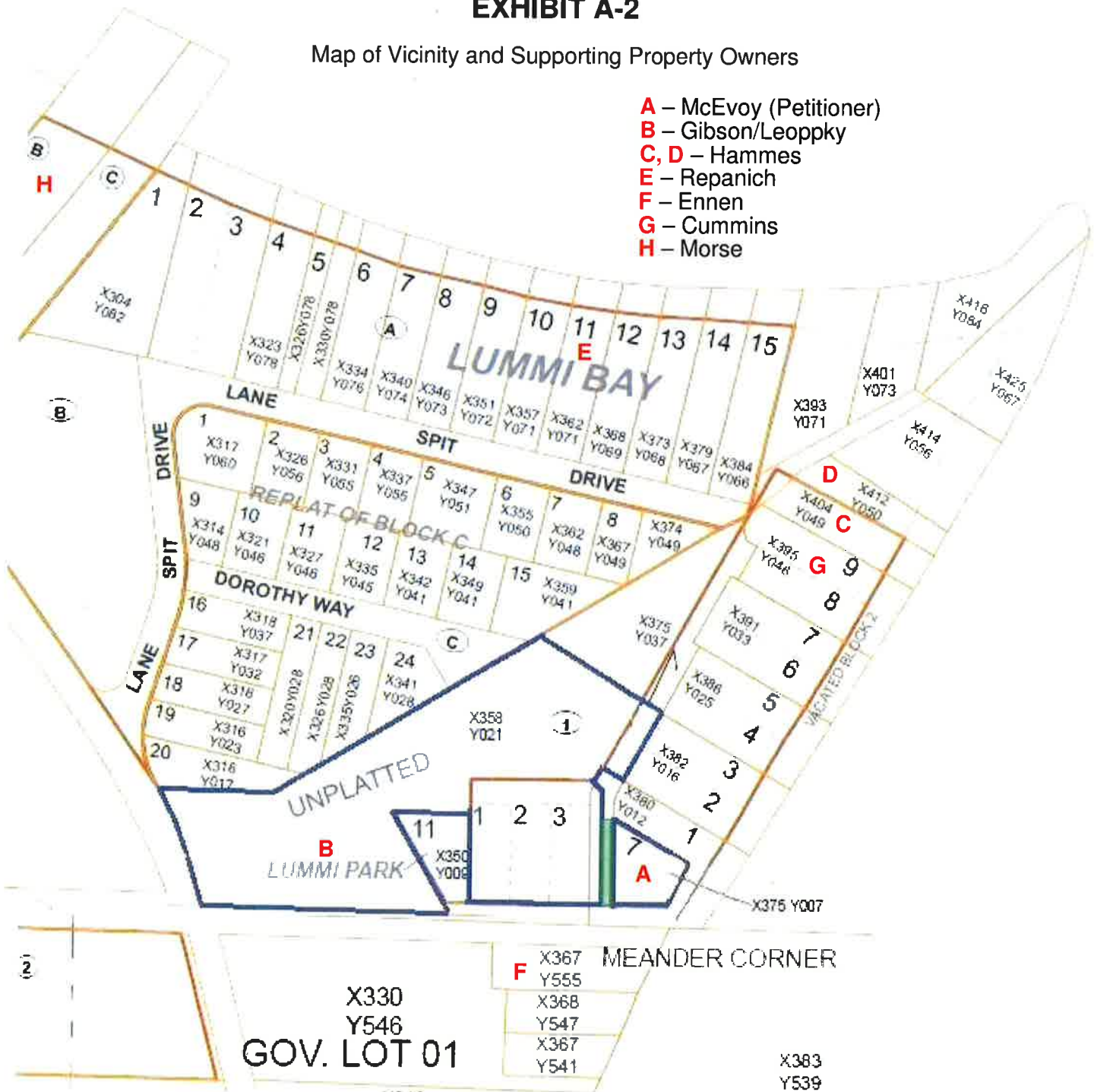
Rights-of-Way to Be Vacated/Immediately Abutting Properties



EXHIBIT A-2

Map of Vicinity and Supporting Property Owners

- A** – McEvoy (Petitioner)
- B** – Gibson/Leoppy
- C, D** – Hammes
- E** – Repanich
- F** – Ennen
- G** – Cummins
- H** – Morse



Abutting Properties:

Right-of-Way to be Vacated:

One-Quarter Mile

EXHIBIT B

Legal Description - Gibson/Loeppky Property (Property B)

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF COUNTY ROAD 285 AND THE EAST LINE OF COUNTY ROAD 510; THENCE EAST ALONG THE NORTH LINE OF SAID ROAD 285 TO THE SOUTHEAST CORNER OF LOT 3, BLOCK 1, OF THE VACATED LUMMI POINT PLAT; THENCE NORTH 145.00 FEET TO THE CENTER OF CEDAR ROAD; THENCE EAST 90°00'00", 6.00 FEET TO A MONUMENT IN THE CENTER OF BAKER DRIVE; THENCE NORTH 90°00'00", 270.00 FEET, MORE OR LESS, TO THE NORTHERLY BOUNDARY OF THE CARSON PROPERTY; THENCE SOUTH 57°47'00" WEST, 545.00 FEET, MORE OR LESS, TO A POINT 150.00 FEET NORTH OF THE SOUTH LINE OF GOVERNMENT LOT 3, SECTION 33; THENCE WEST AND PARALLEL TO THE SAID LINE TO THE EAST LINE OF SAID ROAD 510; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID ROAD 510 TO THE POINT OF BEGINNING. TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 3 IN SECTION 33, TOWNSHIP 38 NORTH, RANGE 1 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 3, BLOCK 2, OF VACATED LUMMI POINT PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE NORTH 60°46'00" WEST, AT RIGHT ANGLES, TO THE WESTERLY LINE OF SAID LOT 3, 86.48 FEET; THENCE DUE SOUTH, 114.49 FEET, SOUTH 60°46'00" WEST, 30.52 FEET TO THE SOUTHWESTERLY CORNER OF LOT 2, BLOCK 2, OF SAID LUMMI POINT PLAT; THENCE NORTH 29°14'00" EAST ALONG THE WESTERLY LINES OF LOTS 2 AND 3 OF SAID BLOCK 2, 100.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF GOVERNMENT LOT 3 IN SAID SECTION 33, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 3, BLOCK 2, OF SAID VACATED LUMMI POINT PLAT; THENCE NORTH 60°46'00" WEST AT RIGHT ANGLES TO THE WESTERLY LINE OF SAID LOT 3, 86.48 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 60°46'00" WEST, 115.58 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF BLOCK C OF LUMMI BAY PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE FOLLOWING SAID SOUTHEASTERLY LINE, NORTH 57°47'00" EAST, 119.21 FEET; THENCE DUE SOUTH 120.00 FEET TO THE POINT OF BEGINNING.

EXCEPT LOT 11, BLOCK 1, VACATED PLAT OF "LUMMI PARK", AS PER THE MAP THEREOF RECORDED IN BOOK 6 OF PLATS, PAGE 5, IN THE OFFICE OF THE AUDITOR, WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON

APN 3801333580210000/174854

EXHIBIT B-1

Legal Description – Hammes Properties

Property C (APN 3801334040490000/PID 41163)

LOT 10, BLOCK 2, VACATED LUMMI POINT PLAT, ACCORDING TO THE PLAT RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON, TOGETHER WITH SECOND CLASS TIDELANDS ADJOINING.

SITUATE IN WHATCOM COUNTY, WASHINGTON

Property D (APN 3801334120500000/PID 41164)

A TRACT OF LAND IN GOVERNMENT LOT 3, SECTION 33, TOWNSHIP 38 NORTH, RANGE 1 EAST OF W M , DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 43.53 FEET NORTH AND 57.97 FEET EAST OF THE SOUTHEAST CORNER OF LOT 15, BLOCK A, LUMMI BAY PLAT, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED IN BOOK 8 OF PLATS, PAGE 19, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE, THE SAID POINT OF BEGINNING BEING THE NORTH CORNER OF THE NORTHEASTERLY END OF BAKER DRIVE, AS SHOWN ON THE VACATED PLAT OF LUMMI POINT, RECORDED IN BOOK 7 OF PLATS, PAGE 80, THENCE NORTH 60°25' EAST, 43.88 FEET; THENCE SOUTH 60°46' EAST, PARALLEL TO THE NORTHEASTERLY LINE OF LOT 10, BLOCK 2, LUMMI POINT PLAT, TO THE EASTERLY LINE OF GOVERNMENT LOT 3; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF GOVERNMENT LOT 3 TO A POINT THAT BEARS SOUTH 60°46' EAST OF THE POINT OF BEGINNING; THENCE NORTH 60°46' WEST TO THE POINT OF BEGINNING, EXCEPT ANY PORTION OF THE ABOVE DESCRIBED TRACT LYING NORTHEASTERLY OF A LINE 37.5 FEET NORTHEASTERLY OF AND PARALLEL TO THE SOUTHWESTERLY LINE OF THE ABOVE DESCRIBED TRACT. TOGETHER WITH THE TIDELANDS OF THE SECOND CLASS ABUTTING THEREOF, LESS ROADS.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

EXHIBIT B-2

Legal Description – Repanich Property (Property E)

**LOT 11, BLOCK A, "LUMMI BAY PLAT," WHATCOM COUNTY, WASHINGTON,
RECORDED IN BOOK 8 OF PLATS, PAGE 19, IN THE AUDITOR'S OFFICE OF SAID
COUNTY AND STATE, TOGETHER WITH ALL TIDE LANDS OF THE SECOND
CLASS ABUTTING THEREON.**

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3801333620710000/PID 41141

EXHIBIT B-3

Legal Description – Ennen Property (Property F)

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF GOVERNMENT LOT 1 AND THE MEANDER LINE OF HALES PASSAGE; AND RUNNING THENCE WEST ALONG THE NORTH LINE OF GOVERNMENT LOT 1, 242.0 FEET; THENCE SOUTH 89.5 FEET; THENCE EAST TO SAID MEANDER LINE; THENCE NORTHERLY ALONG SAID MEANDER LINE TO THE POINT OF BEGINNING. EXCEPT RIGHT-OF-WAY LYING ALONG THE NORTHERLY LINE THEREOF, COMMONLY REFERRED TO AS BLIZZARD ROAD. ALL IN SECTION 4, TOWNSHIP 37 NORTH, RANGE 1 EAST OF W.M.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3701043675550000/PID 13795

EXHIBIT B-4**Legal Description – Cummins Property (Property G)**

LOTS 8 AND 9, BLOCK 2, OF VACATED LUMMI POINT PLAT, WHATCOM COUNTY, WASHINGTON, AS PER THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON, EXCEPTING THEREFROM ANY PART OF VACATED BAKER DRIVE; TOGETHER WITH ALL SECOND CLASS TIDELANDS IN FRONT OF AND ABUTTING THEREON. ALSO, TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 3 AND OF THE VACATED LUMMI POINT PLAT ALL IN SECTION 33, TOWNSHIP 38 NORTH, RANGE 1 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 15, BLOCK A, LUMMI BAY PLAT AS RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF THE WHATCOM COUNTY, WASHINGTON; THENCE SOUTH $11^{\circ}25'30''$ WEST ALONG THE SOUTH LINE OF SAID LOT 15 PROJECTED SOUTHWESTERLY, 14.16 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH $57^{\circ}47'00''$ EAST, 52.33 FEET; THENCE NORTH $29^{\circ}14'00''$ EAST, 33.78 FEET; THENCE SOUTH $60^{\circ}46'00''$ EAST, 30.00 FEET TO THE NORTHWEST CORNER OF LOT 10, BLOCK 2 OF SAID VACATED LUMMI POINT PLAT; THENCE SOUTH $29^{\circ}14'00''$ WEST ALONG THE NORTHWESTERLY LINE OF LOTS 10 AND 9 OF SAID BLOCK 2, 100.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH $60^{\circ}46'00''$ WEST, 30.00 FEET; THENCE NORTH $36^{\circ}57'12''$ WEST, 31.76 FEET; THENCE NORTH $57^{\circ}47'00''$ EAST, 8.46 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT OF LAND:

THAT PORTION OF GOVERNMENT LOT 3 AND OF THE VACATED LUMMI POINT PLAT ALL IN SAID SECTION 33, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 15, BLOCK A, LUMMI BAY PLAT AS RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF THE WHATCOM COUNTY, WASHINGTON; THENCE SOUTH $11^{\circ}25'30''$ WEST ALONG THE SOUTH LINE OF SAID LOT 15 PROJECTED SOUTHWESTERLY, 14.16 FEET; THENCE NORTH $57^{\circ}47'00''$ EAST, 52.33 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH $29^{\circ}14'00''$ EAST, 33.78 FEET; THENCE SOUTH $60^{\circ}46'00''$ EAST, 30.00 FEET TO THE NORTHWEST CORNER OF LOT 10, BLOCK 2 OF THE VACATED LUMMI POINT PLAT; THENCE SOUTH $29^{\circ}14'00''$ WEST, ALONG THE NORTHWESTERLY LINE OF LOT 10, 50.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10; THENCE NORTH $60^{\circ}46'00''$ WEST, 38.83 FEET; THENCE NORTH $57^{\circ}47'00''$ EAST, 18.47 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3801333950460000/PID 41160

EXHIBIT B-5

Legal Description – Morse Property (Property H)

LOT B, A.M. RICHARDSON SHORT PLAT, AS RECORDED IN BOOK 14 OF SHORT PLATS, PAGE 45, RECORDS OF WHATCOM COUNTY, WASHINGTON.

APN 3801332580920000/PID 41102

ATTACHMENT TO PETITION FOR ROAD VACATION

The Petitioners request that the right-of-way (highlighted in yellow in Figure 1) which abuts Lot 7, Block 1, Lummi Park on Lummi Island, according to the Plat thereof recorded in Volume 6 of Plats, Page 5, be vacated: (Correct map)

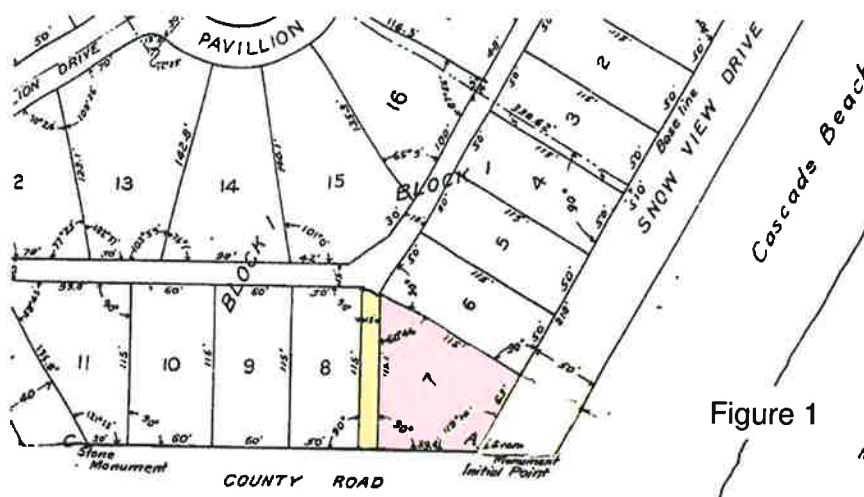


Figure 1

The plat of Lummi Park was recorded in 1910 and encompassed the entirety of Lummi Point in the northeasterly part of Lummi Island (Exhibit D-1). In 1918, the entire plat was vacated (under Commissioner's Record #22, attached as Exhibit D-2), EXCEPT Lot 7 of Block 1, and the street and alley on which Lot 7 immediately fronts/abuts.

The unnamed 15-foot alleyway located directly west of the said Lot 7 (sometimes referred to as a portion of Baker Drive as set forth below) is the right-of-way for which vacation is petitioned at this time.¹

In 1946, most of Block 1 of the 1910 Lummi Park plat was re-configured with the filing of the Lummi Point Plat under Volume 7 of Plats, Page 80 (Exhibit E-1). This plat dedicated 30-foot wide rights-of-way known as Cedar Road and Baker Drive, as shown in Figure 2. It also dedicated an additional 15 feet immediately west of the unvacated 15 feet abutting Lot 7, creating a public right-of-way totaling 30 feet in width running north from and perpendicular to Blizzard Road. It is not completely clear whether this segment was part of Baker Drive, but it has been referred to by that name.

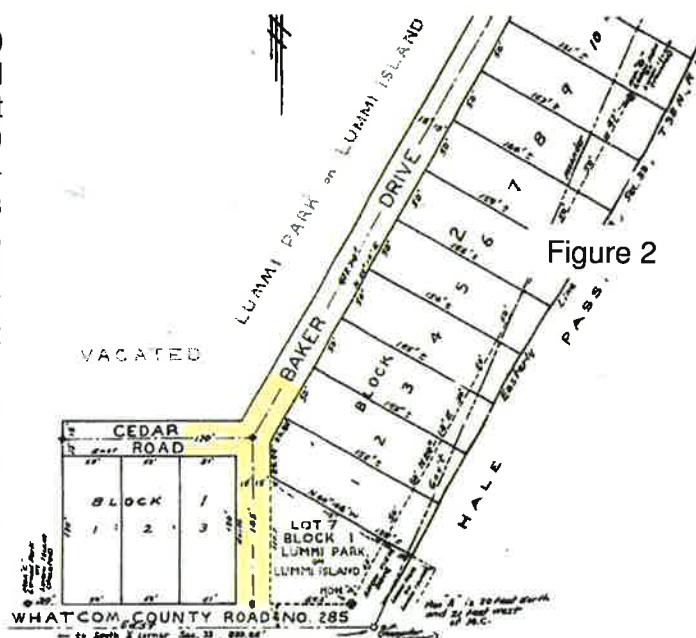
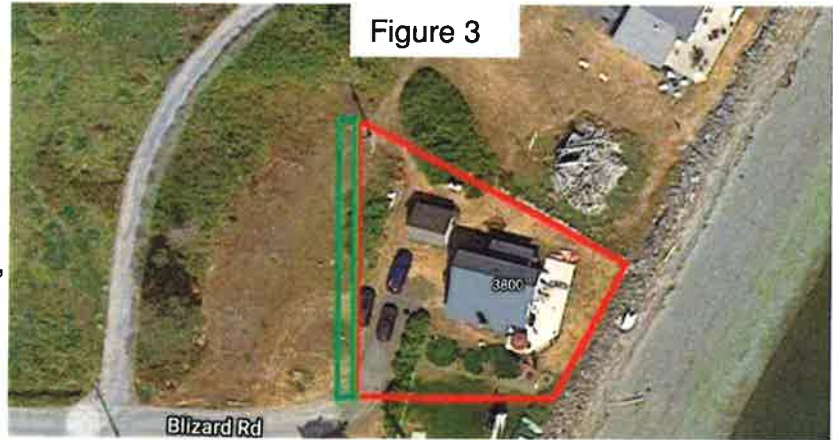


Figure 2

¹ The 50-foot wide street located directly southeast of Lot 7 and known as Snow View Drive is the only other portion of right-of-way which remains unvacated (and is not subject to this Petition for Vacation, pursuant to RCW 36.87.130).

In 1947 the *entire* Lummi Point Plat was vacated (under Volume 36, Page 253 of Commissioner proceedings, attached as Exhibit E-2), which vacated all of the additional right-of-way dedicated by the 1946 plat, so that only the original 15-foot alleyway immediately west of Lot 7 remained public.

The 15-foot alleyway has never been opened to or used by the public. There is a *private* road which connects to Blizzard Road and which is located considerably east of the dedicated 15-foot alleyway, as shown by aerial photos of the vicinity (see Figure 3).



The unvacated 15-foot alleyway serves no function or utility for Whatcom County or the public, particularly since the remainder of the right-of-way to which it would have connected (which were 15-foot wide alleys in the 1910 Plat and which were referred to as Cedar Road and Baker Drive in the 1946 Plat) were previously vacated. Further, all the properties that use the private road located far west of the dedicated strip are parties to a recorded easement agreement governing its use (recorded under Auditor's File No. 2019-400018, attached as Exhibit F).

NOTE: The mapping maintained by the Whatcom County Assessor and/or the County GIS system shows the two right-of-way segments as being a portion of Assessor's Parcel No. 3801333750370000/PID 41147, a non-contiguous parcel located north of the area in question. This mapping is incorrect, since these areas have remained, up until this point, unvacated public right-of-way and therefore cannot be part of any privately owned parcel. This County mapping also shows the westerly 15-foot wide previously vacated area as being part of PID 41147, which is again an error. While that 15-foot strip was properly vacated in 1947 and is now private property, it is *not* part of PID 41147, but rather is now a portion of APN 3801333580210000/PID 174854, as would attach by operation of law. There is a portion of vacated right-of-way which forms a discontinuous segment of PID 41147, but it is a much smaller area, as shown by the Record of Survey recorded under Auditor's File No. 2018-0102095 (Exhibit G).

LUMMI PARK

ON

LUMMI ISLAND

SCALE ONE INCH = FIFTY FEET
RECORDING SCALE: 1 INCH = 100 FEET.

E.C. LYLE.
CIVIL ENGINEER.
JUNE 22, 1909.

EXHIBIT D-1

DEDICATION.

KNOW ALL MEN BY THESE PRESENTS, that E.S. Hayes and Ethel K. Hayes, husband and wife, owners in fee simple of all the real estate described in the withinplat, hereby execute and file this plat, the same to be known as "LUMMI PARK". The real estate embraced in the within plat is located on LUMMI ISLAND, in the County of Whatcom, State of Washington, in Section Thirty-three, Township Thirty-eight (38) North; Range One (1) East, Willamette Meridian; in the eastern portion of lot Three (3) of aforesaid Section, and upon the tide lands adjacent thereto.

The initial point of the survey of this plat, is the Southeast Corner of Block One (1), upon this plat, and is marked by a Cross Cut in the top of a granite Stone set flush with the ground, said initial point being twenty (20) feet North and twenty-one (21) feet west of the Corner to fractional Sections Four, in Township Thirty-eight, North; Range One East, Willamette Meridian, on the shore at Hale's Passage.

The Base line of the Survey of this plat is a straight line extending from the Initial point of said plat Northeastly along the Northeast line of Snow View Drive a distance of five hundred ten (510) feet to a Cross Cut in the top of a granite stone set flush with the ground; Stone monuments similar to those above described are also set at points marked A, B & C, D, E, F.

All lots and blocks upon this plat are of such dimensions as are shown in figures upon the face of the plat.

The widths of Streets and Drives upon this plat are as follows: Wharf Street is forty (40) feet wide, Snow View Drive is fifty (50) feet wide, Pavilion Drive is thirty (30) feet wide, Opal Drive is thirty (30) feet wide, Cascade Vista is thirty (30) feet wide and Selkirk Vista is thirty (30) feet wide. The County Road on the South side of this plat extends North from the Section line a distance of twenty (20) feet.

Cascade Beach extends from the South line of this plat to the South line of Cascade Vista and is dedicated to the public forever to be used as a bathing beach, no buildings or structures of any kind will be allowed to be constructed upon this beach, and no piling will be allowed to be driven upon it.

The tract of land marked "Reserved for bath house" is hereby dedicated to the public forever to be used by bathers; the tract of land at the north end of Wharf Street marked "Reserved for Wharf" is to be used for Wharf purposes only, but is not dedicated to the public; the tract of land north of Cascade Vista marked "Public Play Ground" is hereby dedicated to the public forever as a public play ground.

All Streets, Drives, Vistas and all Alleys delineated hereon are hereby dedicated to the public forever as public highways.

All dotted lines upon this plat are shown as aids to future surveys within this plat.

Witness our hands and seals this 15th day of April A.D.1910.

Witnesses
W.A. Eckardt.
H.W. Eckardt.

E.S. Hayes.
Ethel K. Hayes.

ACKNOWLEDGMENT

STATE OF WASHINGTON }
COUNTY OF WHATCOM } ss.

On this 15th day of April A.D.1910 before me, the undersigned, a notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared E.S. Hayes and Ethel K. Hayes, husband and wife, to me known to be the individuals who executed the accompanying dedication and acknowledged to me that they, severally, signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned. Witness my hand and official seal the day and year in this certificate first above written.

W.A. Eckardt
Notary Public in and for the State of Washington,
residing at Bellingham, Wash.



I, Frank Wilson, County Treasurer of Whatcom County, State of Washington, do hereby Certify that all taxes due upon the real estate embraced within this plat have been fully paid as shown by the records in my office.
Witness my official signature and seal this 15th day of April, A.D.1910.

Frank Wilson
County Treasurer of Whatcom
County, Washington.



Approved April 18th A.D.1910.

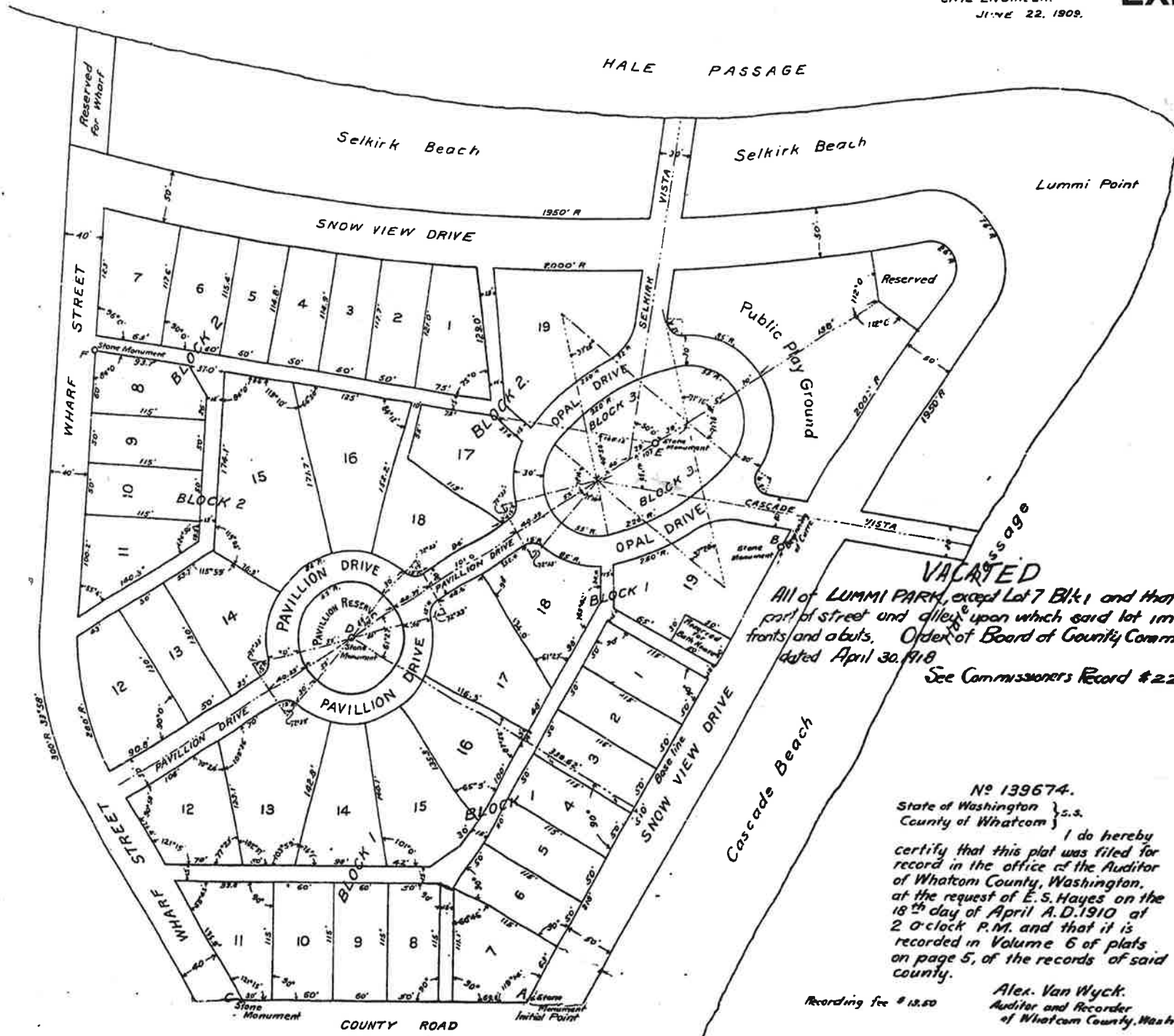
Thos. R. Kinsey
Chairman
Board of County Commissioners
of Whatcom County, Wash.

No 139674.
State of Washington } s.s.
County of Whatcom }

I do hereby certify that this plat was filed for record in the office of the Auditor of Whatcom County, Washington, at the request of E.S. Hayes on the 18th day of April A.D.1910 at 2 o'clock P.M. and that it is recorded in Volume 6 of plats on page 5, of the records of said county.

Alex. Van Wyck.
Auditor and Recorder
of Whatcom County, Wash.

Recording fee \$12.50



VACATED
All of LUMMI PARK, except Lot 7 Blk. 1 and that part of street and alley upon which said lot immediately fronts and abuts. Order of Board of County Commissioners dated April 30, 1918.
See Commissioners Record #22

At 11:15 AM Tuesday THE 30th DAY OF April 19 18

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF
WHATCOM COUNTY, WASHINGTON.

IN THE MATTER OF LATERALS 1, 7 & 8 OF DRAINAGE IMPROVEMENT DISTRICT NO. 7 OF WATSON COUNTY. ORDER FOR HEARING ON E. SINGLET'S REPORT.

Now, on this 30th day of April, 1918, is presented to said Board the final report of the County Engineer in this matter and it appearing from said report that said engineer has made a survey for said laterals to said Drainage Improvement District in accordance with instructions heretofore given him and in compliance with the provisions of law governing the same, and has submitted complete profiles and a plat of said Drainage Improvement District, together with the estimated cost of construction, a statement of expenses incurred in survey, general specifications and plans governing the manner and method of construction of ditches and structure and a schedule and estimate of all property that will be damaged, or damaged and benefited, properly arranged in columns as provided by law and has performed all other acts and reported the same, all as provided by law;

IT IS ORDERED that Tuesday, the 1st day of May, 1918, at 10 o'clock A.M. be and the same is hereby fixed as a date for a hearing on such report and the Clerk of this board is directed to give notice of said hearing by publication in three successive and weekly issues of the official newspaper of Whatcom County, Washington, at the times and in the manner provided by law.

IT IS ORDERED that said hearing take place in the Commissioners office at the Court House in Bellingham, Washington.

Said notice shall fix the time and place for said hearing and shall specify the territory to be included in the proposed improvement district, both by boundaries and also by Sections, or fractions thereof, such notice shall also designate with reasonable certainty the route and termini of the proposed improvement and shall state that the plat, report and schedule are in file in the office of the said Board of County Commissioners and shall show all property to be taken or damaged and the amount of damages proposed to be allowed therefor. The last publication of said notice shall be not less than seven or more than fourteen days before the date of said hearing.

Done in regular adjourned session of the Board this 30th day of April, 1916.

" Board of County Commis-
" sioners of Whatcom County "
" State of Washington "

J B McMillan
Chairman of the Board
Henry Slater
County Commissioner
Henry Shagren
County Commissioner

Attest: J A Miller
County Auditor and Clerk
of the Board.

IN THE MATTER OF THE VACATION OF A PORTION OF THE PLAT
OF LUCHI PARK, ON LUCHI ISLAND, WHATCOMB COUNTY, WASHINGTON, ORDER VACATING A PORTION OF PLAT
OF LUCHI ISLAND.

This matter coming on regularly for hearing before the Board of County Commissioners in regular session convened, and it appearing to the Board that the petition of Francis L. White and Jovita White, his wife; Roland G. Gamwell and Helen T. Gamwell, his wife; James R. Magill and Elvina Magill, his wife; John E. Rice and Martha Rice, his wife; Frank Coyle (a bachelor); T.G. Newman and Rita C. Newman, his wife; Joseph M. Dunn and Zora Dunn, his wife, and Lured Bay Packing Company, a corporation, was on the 25th day of March,

APRIL TERM "Session" THE 30th DAY OF APRIL 1918

AND the board and the clerk thereof having fixed the time for the hearing of said petition for the 30th day of April, 1913, at 10 o'clock in the forenoon of said day, and said clerk having issued notice of such hearing under his hand and the seal of said County, as by law in such case made and provided; and it further appearing that said notice was personally served by the sheriff of said Whatecom County on the 26th day of March, 1913, upon Marie D. Engberg and Henry C. Engberg, her husband, owners of said Lot 7 Block 1 and that copies of such notice were duly posted in three of the most public places on the land embraced within said plat on the 27th day of March, 1913, and that return and affidavit of such service and posting of notice has been heretofore filed with the clerk of this board,

IT IS HEREBY ORDERED that all of the plat of Lummi Park, on Lummi Island, in Whatcom County, Washington, together with all streets, alleys, drives, vistas, beach, bath house reserve, play ground and common included in said plat, except Lot 7 Block 1, and that portion of the street and alley upon which said lot immediately fronts and abuts, be and the same is hereby vacated, that portion of the plat so vacated being included within the following boundaries:

That there is attached hereto and filed herewith a plat, drafted upon a copy of the existing plat of said Lummis Park, showing that portion of said plat to be vacated, marked Exhibit "A".

Done in regular session this 30th day of April, 1918.

*Board of County Commis-
sioners of Whatcom County
State of Washington

J B McMillan
Chairman Board of County Comm-
issioners, Whatcom County,
Washington,
Henry Slater
Commissioner
Henry Shagren
Commissioner

Attest: J. A. Miller
County Auditor and Ex-Officio
Clerk of the Board of County
Commissioners.

✓ 674 58 & 59 consolidated forming S D #816. Election held Apr 27, 1918.

LUMMI POINT PLAT

EXHIBIT E-1

SCALE 1"=60'

DEDICATION

STATE OF WASHINGTON } S.S.
COUNTY OF WHATCOM }

KNOW ALL MEN BY THESE PRESENTS: That we, R.G. Stewart, D.R. Bourque and Emil J. Bourque, all bachelors, and the Peoples National Bank at Washington in Seattle, a national banking association, owner in fee simple of the real estate embraced in this plat of LUMMI POINT PLAT, do hereby declare and acknowledge this Plat, and dedicate to the public use forever the streets shown thereon.

R.G. Stewart
D.R. Bourque
Emil J. Bourque

IN WITNESS WHEREOF, the said banking association has caused these presents to be executed by its President and its duly authorized officers and it has caused its corporate seal to be hereunto affixed this 28 day of May, A.D. 1946.

Attest: [Signature] Asst. Cashier
[Signature] President

ACKNOWLEDGMENT

STATE OF WASHINGTON } S.S.
COUNTY OF WHATCOM }

On this 28 day of May, A.D., 1946, before me the undersigned, a Notary Public in and for the County and State, personally appeared R.G. Stewart, D.R. Bourque, and Emil J. Bourque, to me known to be the individuals who executed the foregoing dedication and acknowledged to me that they signed the same for the uses and purposes therein set forth. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Salmon L. Linn
Notary Public in and for the State of Washington
Residing at Bellingham, Washington.

DESCRIPTION

This plat covers and embraces a tract of land in Sec. 33, Township 38 North, Range 1 East, W.M., being part of the vacated part of LUMMI PARK on LUMMI ISLAND, filed for record in the office of the Auditor of Whatcom County, Washington, in Book 6 of Plats, page 5, the extent and location of the said tract being as shown on this plat.

CERTIFICATE

I hereby certify that this plat is drawn from an actual survey made by me of the monuments placed for the plat of LUMMI PARK on LUMMI ISLAND, (now mostly vacated), and their relationship to the South Quarter Corner of Sec. 33, Township 38 North, Range 1 East, W.M.; that monuments have been placed in all places shown on this plat and that distances and bearings shown are true and correct.

Fred M. McShum
Registered Professional Engineer
State of Washington

STATE OF WASHINGTON } S.S.
COUNTY OF WHATCOM }

I hereby certify that this plat was filed for record in the office of the Auditor of Whatcom County, Washington at the request of R.G. Stewart on this 7 day of May, A.D. 1946, at 1:14, and that it is recorded in Volume 17 of Plats, on page 5 of the records of said County.

Clifford J. Snyder
County Auditor
Whatcom County, Washington.

Orland Iverson, County Treasurer of Whatcom County, Washington, do hereby certify that all taxes required by law to be paid upon that portion of the real estate embraced within this Plat have been fully paid as shown by records in my office.

Orland Iverson
Treasurer of Whatcom County, Wash.

ACKNOWLEDGMENT

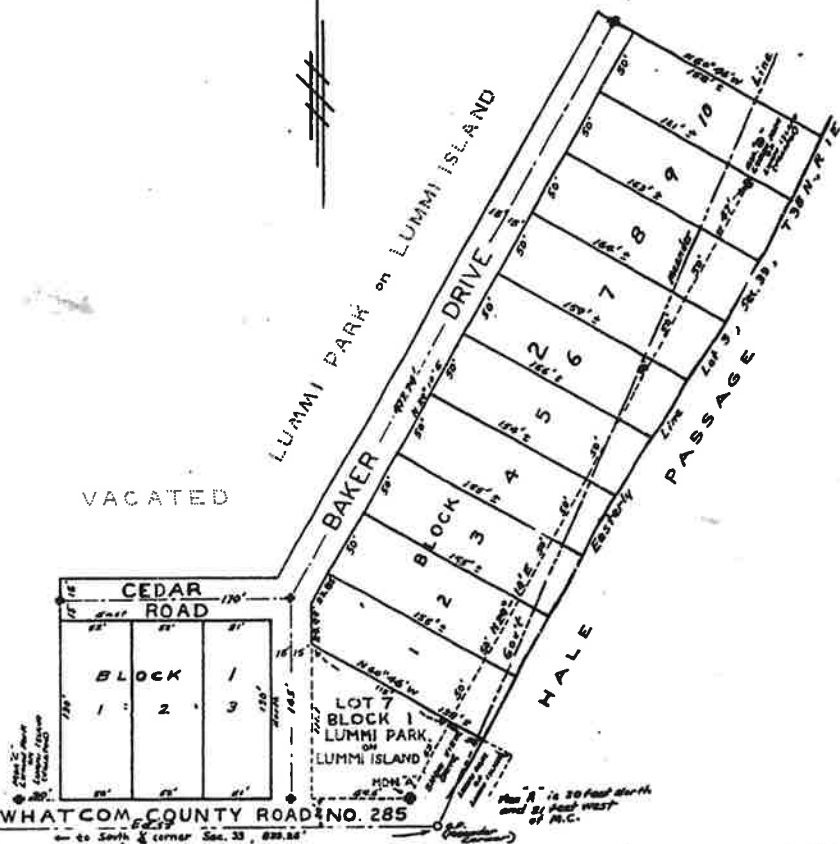
STATE OF WASHINGTON } S.S.
COUNTY OF WHATCOM }

This is to certify that on this 28 day of May, A.D. 1946, before me the undersigned, a Notary Public in and for the said County and State, personally appeared C.E. Jenks and C.R. Herch, to me known to be the President and Asst. Cashier respectively of the Peoples National Bank at Washington in Seattle, the banking association that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said banking association for uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument and the seal affixed is the corporate seal of said association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Marion B. Schmalzer
Notary Public in and for the State of Washington
Residing at Seattle, Washington.

VACATED



RECORD OF COMMISSIONERS PROCEEDINGS

JULY TERM FRIDAY THE 11th DAY OF JULY 1947

PUBLIC ASSISTANCE, Continued:

Dorothy J. Hubert	\$ 2.35
Helen L. Lavolette	4.85
Edith R. Legoe	28.10
Margaret Maloy	3.65
Katheryn Rogers	2.25
Shirley Rogers	34.30
Jacqueline E. Swanson	23.80
Alice Szymanski	9.15
Golda Thompson	19.70
Maud Turner	19.40
Ray S. Wagoner	13.35
N. J. Warren	3.15
Anne Winslow	17.60
Ann Draycott	2.36
Nonabell Hall Haws	16.55
Baker's Grocery	34.40
Beach Grocery	32.00
L. D. Bulman	14.00
Chuckanut Court	89.26
City of Bellingham - Veterans' Housing Dept.	25.00
Clair's Super Market	231.79
Corner Grocery	62.56
Everson Mercantile Co.	32.14
Grenier Distributing Co., Inc.	7.47
Mrs. Henry Harshman	4.50
J. B. Hudson	6.00
Ireland Service Station	16.80
MacDougall-southwick Co.	12.25
Puget Sound Power & Light Co.	2.00
Sayers Thriftee Market	62.77
Shell Oil Co., Inc.	8.06
Wanamakers General Mdse.	102.31
Mrs. Laurine Needham	56.00
Evergreen Pharmacy	18.34
Fairhaven Pharmacy	26.35
Gibb Clinical Laboratory	155.50
Owl Pharmacy	11.80
Star Drug Company	3.35
" "	8.60
	\$ 2,143.00

LAW LIBRARY FUND:

West Publishing Company	\$ 100.00	\$ 100.00
Total of Claims Allowed		\$ 8,317.69

This being the time fixed for a hearing in the matter of a petition for the vacation of Lummi Point Plat, the hearing was duly held, and no objections being voiced, an order was signed as follows:

In the Matter of the Petition of)
Don Carson, et al, for Vacation of (ORDER VACATING COUNTY PLAT
Lummi Point Plat)

In the matter of the vacation of a County Plat petitioned for by Don Carson and others, the Board finds as follows:

First. That the petition therefor was filed on the 6th day of June, 1947, and that said petition was signed by at least ten freeholders of the County, residing in the vicinity of the said plat.

Second. That said petition was accompanied by a bond in the sum of \$100.00, which said bond was found to be good and sufficient, and was duly approved by the Chairman of the Board on the 6th day of June, 1947.

Third. That on the 8th day of June, 1947, the County Engineer was duly directed to examine said road and make a report in writing on the same.

Fourth. That on the 19th day of June, 1947, the County Engineer filed in the office of the Board his report in writing, as provided by law.

Fifth. That by an order duly passed by this Board on the 17th day of June, 1947, the 11th day of July, 1947, was set for hearing the report of the Engineer, and the consideration thereof, and that notice of the time and place where said hearing would be held was given by publication and posting as provided by law.

Sixth. That said report of the County Engineer shows: That in his opinion said plat should be vacated; that said plat is not now in use; that it will not be advisable to preserve the same for a general road system in the future; that the public will be benefited by its vacation, and

The Board having examined the report of the Engineer, and all other papers on file in the proceedings, and heard and considered all testimony and documentary evidence adduced for and against the vacation of the plat, and the Board being satisfied that the public will be benefited by its vacation,

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RECORD OF COMMISSIONERS PROCEEDINGS

JULY
 TERM FRIDAY THE 11th DAY OF JULY 1947

IT IS ORDERED BY THE BOARD, all the members concurring, that the County Plat petitioned to be vacated by Don Carson and others, be vacated upon payment of all costs by the principal petitioner, and the Clerk of this Board is directed to make a statement in writing of all costs and expenses incurred in the proceedings and file the same with the County Treasurer, who shall proceed to collect the same.

DONE this 11th day of July, 1947.

(SEAL OF THE BOARD OF COUNTY COMMISSIONERS)

Attest: WILL D. PRATT
 County Auditor

By L. COZIER
 Deputy

CLAUDE MANLEY

GERRIT VELEKE

CHARLES E. KING

Board of County Commissioners
 of Whatcom County, Washington

In the Matter of the Petition of Don Carson)
 et al, for Vacation of a County plat known ()
 as the Lummi Point Plat)

FINAL ORDER OF VACATION

The Board having on the 11th day of July, 1947, ordered the vacation of said Plat upon payment by the principal petitioner of all costs and expenses incurred in the proceedings, and said costs and expenses, amount to the sum of \$3.00, having been paid to the County Treasurer of this County on the 11th day of July, 1947,

IT IS ORDERED BY THE BOARD, all the members concurring, that the County Plat petitioned to be vacated, by Don Carson and others, be vacated as follows:

Lummi Point Plat. This Plat covers and embraces a tract of land in Sec. 33, Twp. 38 North, Range 1 East, W.M., being a part of the vacated part of Lummi Park on Lummi Island, filed in County Auditor's office, Court House, Bellingham, Washington, in Vol. 6 of Plats, Page 5.

DONE this 11th day of July, 1947.

(SEAL OF THE BOARD OF COUNTY COMMISSIONERS)

Attest: WILL D. PRATT
 County Auditor

By L. COZIER
 Deputy

CLAUDE MANLEY

GERRIT VELEKE

CHARLES E. KING

Board of County Commissioners
 of Whatcom county, washington

An order was signed for the issuance of a duplicate Public Assistance warrant to Norco Paper Supply, Warrant No. 54120, in the amount of \$19.39, said duplicate warrant to replace one lost by fire.

Dance License Application No. 601, for public dances to be held at Hopewell Community Hall, between July 12, 1947 and October 12, 1947, was approved by the Board and the license issued to the Hopewell Community Club.

At 2:30 P. M. Commissioners Manley and Veleke were joined by Commissioner King.

There being no further business to come before the meeting, the same was duly adjourned until 9:30 A.M., Tuesday, July 15, 1947.

Approved

Claude Manley
 Chairman of the Board



EXHIBIT F

After recording, please return to:
Lángabeer & Traxler, P.S.
2701 Meridian Street
Bellingham, WA 98225



W-154226
19 pgs

EASEMENT AGREEMENT

Grantor: LIBBA'S LEGACY, L.L.C.
Grantees: DAVID M. CUMMINS and SHARI A. CUMMINS
JANE DIEVENY-HINKLE
AARON D. HAKEMAN and SUSAN M. HAKEMAN
JAMES S. GIBSON and JEAN E. GIBSON
DAVID LOEPPKY and SHARON LOEPPKY

Legal Descriptions/ Parcel Numbers:

Property Burdened: PTN SW¼ SE¼, §33, TWP 38N, R. 1 E.W.M.
Situate in Whatcom County, Washington.
3801333750370000/41147 ("Parcel A;" See Exhibit A)
Property Benefitted: LOT 8-9 VACATED LUMMI POINT; TIDELANDS
3801333950460000/41160 ("Lot 8/9;" See Exhibit B)
LOT 6-7 VACATED LUMMI POINT; TIDELANDS
3801333910330000/41156 ("Lot 6/7;" See Exhibit C)
LOT 4-5 VACATED LUMMI POINT; TIDELANDS
3801333860250000/41153 ("Lot 4/5;" See Exhibit D)
LOT 2-3 VACATED LUMMI POINT; TIDELANDS
3801333820160000/41151 ("Lot 2/3;" See Exhibit E)
PTN GOV. LOT 3, §33, TWP 38N, R. 1 E.W.M.
3801333580210000/174854 and 3801333500090000/174855
("Parcel C;" See Exhibit F)
All situate in Whatcom County, Washington.

This Easement Agreement (Agreement) is entered this 25th day of March, 2019, by LIBBA'S LEGACY, L.L.C. (a Washington limited liability company that took title as LIBBA'S PARK, L.L.C.) as Grantor, and the

following Grantees: DAVID M. CUMMINS and SHARI A. CUMMINS, husband and wife; JANE DIEVENY-HINKLE; AARON D. HAKEMAN and SUSAN M. HAKEMAN, husband and wife; JAMES S. GIBSON and JEAN E. GIBSON, husband and wife; and DAVID LOEPPKY and SHARON LOEPPKY, husband and wife, based on the following facts:

A. Grantor is a Washington limited liability company with Uniform Business Identifier No. 602 603 991, and owns the real property described on Exhibit A (Parcel A). Grantor took title to Parcel A as "Libba's Park, L.L.C.", but its name has since changed to "Libba's Legacy, L.L.C."

B. Grantees : DAVID M. CUMMINS and SHARI A. CUMMINS, JANE DIEVENY-HINKLE, AARON D. HAKEMAN and SUSAN M. HAKEMAN, and JAMES S. GIBSON and JEAN E. GIBSON, are members of the Grantor LLC. The Grantees are also owners of the following real properties that are adjacent to or nearby Parcel A:

i) DAVID M. CUMMINS and SHARI A. CUMMINS own the property described on Exhibit B (Lot 8/9).

ii) JANE DIEVENY-HINKLE owns the property described on Exhibit C (Lot 6/7).

iii) AARON D. HAKEMAN and SUSAN M. HAKEMAN own the property described on Exhibit D (Lot 4/5).

iv) JAMES S. GIBSON, JEAN E. GIBSON, own the property described on Exhibit E (Lot 2/3).

v) JAMES S. GIBSON, JEAN E. GIBSON, DAVID LOEPPKY, and SHARON LOEPPKY own the property described on Exhibit F ("Parcel C").

C. Lots 2/3, 4/5, 6/7, and 8/9 (collectively, Lots 2 through 9) are all portions of a Plat dedicated May 29, 1946, known as "Lummi Point Plat," and recorded in Volume 7 of Plats, Page 80, records of Whatcom County, Washington, under Auditor's File No. 623791 (Plat). The Plat also dedicated a roadway known as "Baker Drive," which fronted Lots 2 through 9 and served as their platted northwesterly boundary. The Plat (including all lots and dedicated roadways) was vacated by order of the Board of Commissioners of Whatcom County on July 11, 1947, as commemorated in Volume 36 of Commissioners' Proceedings, on Pages 253 and 254.

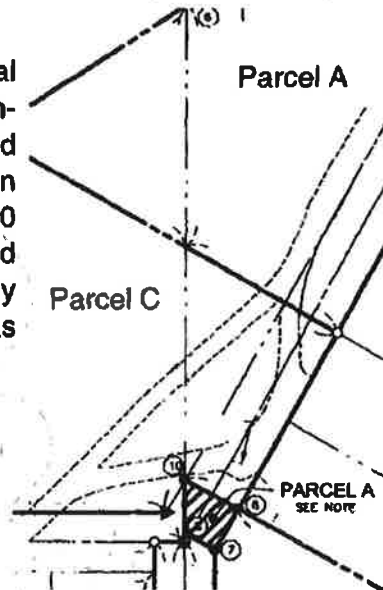
D. Notwithstanding the vacation of the Plat, the parcels comprised of Lots 2 through 9 were conveyed with reference to the lines in the Plat.

E. Pursuant to the provisions of Whatcom County Auditor's File No. 1351409, while vacated Baker Drive is part of the legal description of Parcel A, Lots 2 through 9 retain the right of access to and from the public road. That access is over and across an existing gravel road, which is only partially located within vacated Baker Drive. As shown by a survey of the properties, recorded under Whatcom County Auditor's File No. 2018-0102095 (Survey), portions of the existing gravel roadway (marked in the Survey and referred to herein as the "Gravel Drive"), which has provided access to Lots 2 through 9 for many decades, are located further northwest than the platted location of vacated Baker Drive.

F. The Gravel Drive has been observed as the occupational southeasterly boundary of Parcel A for many decades. The owners of Lots 2 through 9 have maintained and landscaped the areas located between the southeasterly boundary of vacated drive and the Gravel Drive that abut their respective parcels during that time period. There are also improvements located on Lots 6/7 and Lots 8/9 that encroach into vacated Baker Drive, as shown by the Survey.

G. The Survey also shows that the legal description for Parcel A includes a small, non-contiguous area (consisting of a portion of vacated Baker Drive located just northeast of its intersection with vacated Cedar Drive) lying approximately 100 feet southwest of the main portion of Parcel A and adjacent to Parcel C, and which has been historically used exclusively by and as a part of Parcel C, as follows (also see "Detail B" of Survey):

Non-Contiguous Area:



H. The parties wish to document the Grantees' continued rights to use the respective portions of Parcel A as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual benefits received by the parties, the sufficiency of which is acknowledged, Grantor and Grantees agree as follows:

1. Lot 8/9 Easement. Grantor LIBBA'S LEGACY, L.L.C. hereby grants, conveys, and covenants to DAVID M. CUMMINS and SHARI A. CUMMINS, for the benefit of Lot 8/9, an exclusive easement for use upon, over and under that portion of Parcel A abutting Lot 8/9 and lying between the platted northwesterly boundary of Lot 8/9 and the southeasterly edge of the Gravel Drive, in its current location as depicted in the Survey recorded under Whatcom County Auditor's File No. 2018-0102095 (Lot 8/9 Easement).

2. Lot 6/7 Easement. Grantor LIBBA'S LEGACY, L.L.C. hereby grants, conveys, and covenants to JANE DIEVENY-HINKLE, for the benefit of Lot 6/7, an exclusive easement for use upon, over and under that portion of Parcel A abutting Lot 6/7 and lying between the platted northwesterly boundary of Lot 6/7 and the southeasterly edge of the Gravel Drive, in its current location as depicted in the Survey recorded under Whatcom County Auditor's File No. 2018-0102095 (Lot 6/7 Easement).

3. Lot 4/5 Easement. Grantor LIBBA'S LEGACY, L.L.C. hereby grants, conveys, and covenants to AARON D. HAKEMAN and SUSAN M. HAKEMAN, for the benefit of Lot 4/5, an exclusive easement for use upon, over and under a portion of Parcel A abutting Lot 4/5 and lying between the platted northwesterly boundary of Lot 4/5 and the southeasterly edge of the Gravel Drive, in its current location as depicted in the Survey recorded under Whatcom County Auditor's File No. 2018-0102095 (Lot 4/5 Easement).

4. Parcel C Easement. Grantor LIBBA'S LEGACY, L.L.C. hereby grants, conveys, and covenants to JAMES S. GIBSON, JEAN E. GIBSON, DAVID LOEPPKY, and SHARON LOEPPKY, for the benefit of Parcel C, an exclusive easement for use upon, over and under that portion of Parcel A, located within vacated Baker Drive per the vacated Lummi Point Plat as generally described in Recital D above and as depicted in "Detail B" of the Survey recorded under Whatcom County Auditor's File No. 2018-0102095, and legally described as follows (Parcel C Easement):

Beginning at the northernmost corner of Lot 1, Block 2, vacated Lummi Point Plat (recorded in Volume 7 of Plats, Page 80, records of Whatcom County); thence North 60°45'00" West, a distance of 30.55 feet, to the northwest line of vacated Baker Drive; thence South a distance of 27.36 feet; thence South 60°45'00" East a distance of 17.19 feet, more or less, to the Northwest line of said Lot 1, Block 2; thence northeasterly along said Northwest line of Lot 1 a distance of 23.87 feet, more or less, to the point of beginning.

This Parcel C Easement shall be for the exclusive use of Parcel C; provided, however, that the owner of Parcel C shall also have the right to grant and convey, to other properties, non-exclusive easements over and across the Parcel C Easement area.

5. Road Easement. Grantor LIBBA'S LEGACY, L.L.C. hereby grants, conveys, and covenants to DAVID M. CUMMINS and SHARI A. CUMMINS, JANE DIEVENY-HINKLE, AARON D. HAKEMAN and SUSAN M. HAKEMAN, and JAMES S. GIBSON and JEAN E. GIBSON for the benefit of Lots 8/9, Lots 6/7, Lots 4/5, and Lots 2/3 respectively, a non-exclusive easement for ingress, egress and utilities over and across Parcel A, in the location of the existing "Gravel Drive" as shown and depicted in the Survey recorded under Whatcom County Auditor's File No. 2018-0102095 (Road Easement). This Road Easement is granted in connection with and to give full force and effect to the right of access contained in Whatcom County Auditor's File No. 1351409. In the event the location of the existing roadway shifts or is relocated by the owner of Parcel A, Lots 2 through 9 will continue to enjoy a right of access and easement over, under and across the actual location of the roadway. The areas of the exclusive use Easements set forth in Paragraphs 1 through 4 shall not be expanded or reduced as a result of any such shifting or relocation, unless the expansion or reduction is approved by the owners of all parcels impacted by such expansion or reduction.

6. Duration and Exclusivity of Easement; Amendment; Covenant Running with the Land. The easements granted by this Agreement shall be perpetual. Lot 8/9, Lot 7/8, Lot 4/5, and Parcel C shall each have exclusive use of the easement benefitting that property, as set forth in Paragraphs 1, 2, 3, and 4 respectively.

This Agreement can only be amended by a written and notarized amendment signed by the owners of all properties burdened by or benefitted by this Agreement.

The rights and obligations contained in this Agreement shall be binding upon and inure to the benefit of all assignees, devisees, or transferees of the respective properties, and shall in all respects attach to the individual properties burdened and served by the respective easements.

7. Maintenance Obligations. The Grantor is not responsible for and has no liability to any of the Grantees associated with the location, design, construction, use, maintenance, repair or replacement of any improvements located in the easements described in Paragraphs 1 through 4 above.

Each owner of property benefitted by one of the easements set forth in Paragraphs 1 through 4 shall have sole responsibility to maintain the respective easements benefitting the specific parcel, including improvements within the easements, and shall maintain the easement area and improvements in a neat and orderly condition, kept in good repair and otherwise not left to become unsightly, decrepit, dangerous, or a nuisance. Nothing in this Agreement shall be construed to require any of the owners to contribute to the cost of maintaining improvements that do not benefit that owner's property.

The costs of maintaining the Road Easement shall be borne by the owner of Parcel A; provided, however, that Lot 8/9, Lot 7/8, Lot 4/5, and Lot 2/3 shall each contribute equitably towards the actual cost of maintenance, in an amount not to exceed \$100.00 annually for each of the four (4) parcels that benefit from the Road Easement. If not expended each year, the \$100.00 annual obligation may accumulate for a maximum of three (3) years to accommodate maintenance performed less than annually, so that the maintenance obligation of each of the four parcels shall not exceed an aggregate total of \$300.00 per parcel over a three-year calendar period. The costs of repairs caused by extraordinary circumstances of one or more property, such as utility installation or damage to the road by heavy equipment requiring repairs for reasons other than normal wear and tear, shall be paid by the owner that caused the damage or created the circumstances.

8. Indemnification. Each owner of property burdened or benefitted by this Agreement (Indemnifying Owner) shall indemnify the others with respect to any and all damages or claims relating to the Indemnifying Owner's (or the Indemnifying Owner's agents' or invitees') use of, or activities within, the Indemnifying Owner's property and the easement benefitting the same. This indemnification includes but is not limited to claims, legal proceedings or judgments, and attorney fees and legal costs, arising out of claims or proceedings for bodily injuries, deaths and emotional claims or property damages of any kind. In entering this Agreement, the parties further acknowledge that the easements contained in this Agreement address and resolve all discrepancies and issues of unwritten title that existed between Parcel A and Grantees' properties prior to entry of the Agreement, and agree that the boundaries between Grantees' properties and Parcel A reflected in the Survey are accurate, subject only to the rights of exclusive use created by this Agreement.

9. Incorporation of Survey. The Survey recorded under Whatcom County Auditor's File No. 2018-0102095 is fully incorporated and made a part of this Agreement.

10. No Third Party Beneficiaries or Public Dedication. This Agreement confers no rights or remedies on any third party, other than the parties to this Agreement and their successors and assigns. Nothing in this Agreement shall be considered a gift or dedication of any real property to the general public, or for any public use or purpose whatsoever.


11. Severability. Each provision of this Agreement shall be interpreted in a way that is valid under applicable law. If any provision is held invalid, the rest of the Agreement will remain in full effect.

12. Governing Law; Attorneys' Fees; Jurisdiction and Venue. This Agreement will be governed and interpreted by Washington law. If a dispute arises out of this Agreement, then the prevailing party will be entitled to actual attorney

fees and costs. Any lawsuit arising directly or indirectly out of this Agreement will be litigated in Whatcom County Superior Court.

IN WITNESS WHEREOF, the owners of all real property either burdened or benefitted by this Agreement have hereunto set their hand and seal on the day and year first above written.

Grantor:


LIBBA'S LEGACY, L.L.C.
By: James S. Gibson, Manager

Grantees/Members Continued:


AARON D. HAKEMAN

Grantees/Members of Grantor LLC:


DAVID M. CUMMINS


Hakeman m
SUSAN M. HAKEMAN


SHARI A. CUMMINS


JAMES S. GIBSON


JANE DIEVENEY-HINKLE


JEAN E. GIBSON


DAVID LOEPPKY


SHARON LOEPPKY

STATE OF WASHINGTON

County of Whatcom

ss.

On this day personally appeared before me James S. Gibson, to me known to be the Manager of LIBBA'S LEGACY, L.L.C., the limited liability partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said partnership for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of the partnership.

GIVEN under my hand and official seal this 7th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON

County of Whatcom

ss.

On this day personally appeared before me DAVID M. CUMMINS, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON

County of Whatcom

ss.

On this day personally appeared before me SHARI A. CUMMINS, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 11th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON

County of Whatcom

ss.

On this day personally appeared before me JANE DIEVENY-HINKLE, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

Easement Agreement
Page 9

STATE OF WASHINGTON

} ss.

County of Whatcom

On this day personally appeared before me AARON D. HAKEMAN, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 6th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON

} ss.

County of Whatcom

On this day personally appeared before me SUSAN M. HAKEMAN, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned:

GIVEN under my hand and official seal this 6th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON

County of Whatcom

} ss.

On this day personally appeared before me JAMES S. GIBSON, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON.

County of Whatcom

} ss.

On this day personally appeared before me JEAN E. GIBSON, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 7th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON

County of Whatcom

ss.

On this day personally appeared before me DAVID LOEPPKY, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 25th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

STATE OF WASHINGTON

County of Whatcom

ss.

On this day personally appeared before me SHARON LOEPPKY, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 25th day of March, 2019.



Cristy C. Sears
NOTARY PUBLIC in and for the State of
Washington, Residing at Bellingham
My commission expires 02/19/2023

Exhibit A

PARCEL A:

A TRACT OF LAND LYING WITHIN A PORTION OF PARTIALLY VACATED LUMMI PARK PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 6 OF PLATS, PAGE 5, IN SECTION 33, TOWNSHIP 38 NORTH, RANGE 1 EAST OF W.M., AND FURTHER DESCRIBED AS FOLLOWS:
BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF ROAD NO. 285 AND THE EAST LINE OF ROAD NO. 510;
THENCE EAST ALONG SAID NORTH LINE TO THE SOUTHWEST CORNER OF LOT 1, BLOCK 1, VACATED LUMMI POINT PLAT, AS RECORDED IN VOLUME 7 OF PLATS, PAGE 80;
THENCE NORTH 160 FEET;
THENCE EAST ALONG THE NORTH LINE OF CEDAR STREET IN SAID VACATED LUMMI POINT PLAT 161 FEET TO THE NORTHWEST LINE OF BAKER DRIVE IN SAID PLAT;
THENCE NORTHEASTERLY ALONG SAID NORTHWEST LINE 435.17 FEET;
THENCE SOUTH 57°47' WEST 768.59 FEET MORE OR LESS TO A POINT 150 FEET NORTH OF SOUTH LINE OF GOVERNMENT LOT 3 OF SAID SECTION;
THENCE WEST PARALLEL WITH SOUTH LINE OF THE EASTERLY LINE OF ROAD NO. 510;
THENCE SOUTHERLY ALONG SAID EASTERLY LINE TO BEGINNING;

TOGETHER WITH THAT PORTION OF VACATED BAKER STREET ABUTTING SAID PREMISES AS WOULD ATTACH BY OPERATION OF LAW,

ALSO LOT 11, BLOCK 1, VACATED LUMMI PARK PLAT, AS RECORDED IN VOLUME 6 OF PLATS, PAGE 5, ALSO BLOCK 1 OF VACATED LUMMI POINT PLAT, AS RECORDED IN VOLUME 7 OF PLATS, PAGE 80,

EXCEPT THAT PORTION THEREOF FURTHER DESCRIBED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 872908.

EXCEPT THAT PORTION OF GOVERNMENT LOT 3 AND THE VACATED LUMMI POINT PLAT ALL IN SAID SECTION 33, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 15, BLOCK A, LUMMI BAY PLAT, AS RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF WHATCOM COUNTY, WASHINGTON;

THENCE SOUTH 11°25'30" WEST ALONG THE SOUTH LINE OF SAID LOT 15 PROJECTED SOUTHWESTERLY, 14.16 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 57°47'00" EAST, 52.33 FEET;
THENCE NORTH 29°14'00" EAST, 33.78 FEET;
THENCE SOUTH 60°46'00" EAST, 30.00 FEET TO THE NORTHWEST CORNER OF LOT 10, BLOCK 2 OF THE VACATED LUMMI POINT PLAT; THENCE SOUTH 29°14'00" WEST, ALONG THE NORTHWESTERLY LINE OF LOTS 10 AND 9 OF SAID BLOCK 2, 100.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9;
THENCE NORTH 60°46'00" WEST, 30.00 FEET;
THENCE NORTH 36°57'12" WEST, 31.76 FEET;
THENCE NORTH 57°47'00" EAST, 8.48 FEET TO THE POINT OF BEGINNING.

Exhibit A, Continued

Parcel A legal description, continued:

AND EXCEPT THE SOUTHEAST 7.5 FEET OF VACATED BAKER DRIVE, LYING ADJACENT TO LOTS 6 AND 7, BLOCK 2, VACATED LUMMI POINT PLAT, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON. AND EXCEPT THAT PORTION OF GOVERNMENT LOT 3 IN SAID SECTION 33, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 3, BLOCK 2 OF VACATED LUMMI POINT PLAT, AS RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON;
THENCE NORTH 60°46'00" WEST, AT RIGHT ANGLES TO THE WESTERLY LINE OF SAID LOT 3, 86.48 FEET;
THENCE DUE SOUTH 114.49 FEET, SOUTH 60°46'00" WEST, 30.52 FEET TO THE SOUTHWESTERLY CORNER OF LOT 2, BLOCK 2 OF SAID LUMMI POINT PLAT;
THENCE NORTH 29°14'00" EAST, ALONG THE WESTERLY LINES OF LOTS 2 AND 3 OF SAID BLOCK 2, 100 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 3 IN SAID SECTION 33, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 3, BLOCK 2 OF VACATED LUMMI POINT PLAT, AS RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON;
THENCE NORTH 60°46'00" WEST, AT RIGHT ANGLES TO THE WESTERLY LINE OF SAID LOT 3, 86.48 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING NORTH 60°46'00" WEST, 115.58 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF BLOCK C OF LUMMI BAY PLAT AS RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF WHATCOM COUNTY, WASHINGTON;
THENCE FOLLOWING SAID SOUTHEASTERLY LINE, NORTH 57°47'00" EAST, 119.21 FEET;
THENCE DUE SOUTH 120.00 FEET TO THE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3801333750370000/41147

"Lots 8/9"

LOTS 8 AND 9, BLOCK 2, OF VACATED LUMMI POINT PLAT, WHATCOM COUNTY, WASHINGTON, AS PER THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80; RECORDS OF WHATCOM COUNTY, WASHINGTON, EXCEPTING THEREFROM ANY PART OF VACATED BAKER DRIVE; TOGETHER WITH ALL SECOND CLASS TIDELANDS IN FRONT OF AND ABUTTING THEREON. ALSO, TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 3 AND OF THE VACATED LUMMI POINT PLAT ALL IN SECTION 33, TOWNSHIP 38 NORTH, RANGE 1 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 15, BLOCK A, LUMMI BAY PLAT AS RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF THE WHATCOM COUNTY, WASHINGTON; THENCE SOUTH $11^{\circ}25'30''$ WEST ALONG THE SOUTH LINE OF SAID LOT 15 PROJECTED SOUTHWESTERLY, 14.16 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH $57^{\circ}47'00''$ EAST, 52.33 FEET; THENCE NORTH $29^{\circ}14'00''$ EAST, 33.78 FEET; THENCE SOUTH $60^{\circ}46'00''$ EAST, 30.00 FEET TO THE NORTHWEST CORNER OF LOT 10, BLOCK 2 OF SAID VACATED LUMMI POINT PLAT; THENCE SOUTH $29^{\circ}14'00''$ WEST ALONG THE NORTHWESTERLY LINE OF LOTS 10 AND 9 OF SAID BLOCK 2, 100.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH $60^{\circ}46'00''$ WEST, 30.00 FEET; THENCE NORTH $36^{\circ}57'12''$ WEST, 31.76 FEET; THENCE NORTH $57^{\circ}47'00''$ EAST, 8.46 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT OF LAND:

THAT PORTION OF GOVERNMENT LOT 3 AND OF THE VACATED LUMMI POINT PLAT ALL IN SAID SECTION 33, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 15, BLOCK A, LUMMI BAY PLAT AS RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF THE WHATCOM COUNTY, WASHINGTON; THENCE SOUTH $11^{\circ}25'30''$ WEST ALONG THE SOUTH LINE OF SAID LOT 15 PROJECTED SOUTHWESTERLY, 14.16 FEET; THENCE NORTH $57^{\circ}47'00''$ EAST, 52.33 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH $29^{\circ}14'00''$ EAST, 33.78 FEET; THENCE SOUTH $60^{\circ}46'00''$ EAST, 30.00 FEET TO THE NORTHWEST CORNER OF LOT 10, BLOCK 2 OF THE VACATED LUMMI POINT PLAT; THENCE SOUTH $29^{\circ}14'00''$ WEST, ALONG THE NORTHWESTERLY LINE OF LOT 10, 50.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10; THENCE NORTH $60^{\circ}46'00''$ WEST, 38.83 FEET; THENCE NORTH $57^{\circ}47'00''$ EAST, 18.47 FEET TO THE TRUE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3801333950460000/41160

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Exhibit C

"Lots 6/7"

LOTS 6 AND 7, BLOCK 2, VACATED "LUMMI POINT PLAT", WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

TOGETHER WITH SECOND CLASS TIDELANDS LYING IN FRONT OF AND ABUTTING THEREON.

AND:

THE SOUTHEAST 7.5 FEET OF VACATED BAKER DRIVE LYING ADJACENT TO LOTS 6 AND 7, BLOCK 2, VACATED "LUMMI POINT PLAT", WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80, IN THE AUDITOR'S OFFICE OF SAID COUNTY AND STATE.

AND A PORTION OF VACATED LOT 5, BLOCK 2, LUMMI POINT PLAT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHERE THE BOUNDARY LINE OF BAKER DRIVE AND BOUNDARY LINE BETWEEN LOTS 5 AND 6, BLOCK 2 OF SAID LUMMI POINT PLAT INTERSECT; THENCE SOUTHEAST 36 FEET ALONG SAID BOUNDARY LINE BETWEEN LOTS 5 AND 6; THENCE NORTHWEST TO A POINT ON BAKER DRIVE 18 INCHES SOUTHWEST OF THE POINT OF BEGINNING; THENCE 18 INCHES NORTHEAST TO THE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3801333910330000/41156

Exhibit D

"Lots 4/5"

A TRACT OF LAND LYING WITHIN LUMMI POINT PLAT AS RECORDED IN VOLUME 7 OF PLATS, PAGE 80, BEING VACATED LOTS 4 AND 5, BLOCK 2 OF SAID PLAT.

ALSO SECOND CLASS TIDELANDS ABUTTING.

EXCEPT PORTION WITHIN VACATED BAKER DRIVE; ALSO EXCEPT TRACT DEFINED AS FOLLOWS:

BEGINNING AT A POINT WHERE THE BOUNDARY LINE OF BAKER DRIVE AND BOUNDARY LINE BETWEEN LOTS 5 AND 6, BLOCK 2 OF SAID LUMMI POINT PLAT INTERSECT; THENCE SOUTHEAST 36 FEET ALONG SAID BOUNDARY LINE BETWEEN LOTS 5 AND 6; THENCE NORTHWEST TO A POINT ON BAKER DRIVE 18 INCHES SOUTHWEST OF THE POINT OF BEGINNING; THENCE 18 INCHES NORTHEAST TO THE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3801333860250000/41153

Exhibit E

"Lots 2/3"

LOTS 2 AND 3, BLOCK 2, OF VACATED LUMMI POINT PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON, TOGETHER WITH ALL SECOND CLASS TIDELANDS IN FRONT OF AND ABUTTING THEREON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

APN 3801333820160000/41.151

Exhibit F

"Parcel C"

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF COUNTY ROAD 285 AND THE EAST LINE OF COUNTY ROAD 510; THENCE EAST ALONG THE NORTH LINE OF SAID ROAD 285 TO THE SOUTHEAST CORNER OF LOT 3, BLOCK 1, OF THE VACATED LUMMI POINT PLAT; THENCE NORTH 145.00 FEET TO THE CENTER OF CEDAR ROAD; THENCE EAST 90°00'00", 6.00 FEET TO A MONUMENT IN THE CENTER OF BAKER DRIVE; THENCE NORTH 90°00'00", 270.00 FEET, MORE OR LESS, TO THE NORTHERLY BOUNDARY OF THE CARSON PROPERTY; THENCE SOUTH 57°47'00" WEST, 545.00 FEET, MORE OR LESS, TO A POINT 150.00 FEET NORTH OF THE SOUTH LINE OF GOVERNMENT LOT 3, SECTION 33; THENCE WEST AND PARALLEL TO THE SAID LINE TO THE EAST LINE OF SAID ROAD 510; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID ROAD 510 TO THE POINT OF BEGINNING. TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 3 IN SECTION 33, TOWNSHIP 38 NORTH, RANGE 1 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 3, BLOCK 2, OF VACATED LUMMI POINT PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 80, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE NORTH 60°46'00" WEST, AT RIGHT ANGLES, TO THE WESTERLY LINE OF SAID LOT 3, 86.48 FEET; THENCE DUE SOUTH, 114.49 FEET, SOUTH 60°46'00" WEST, 30.52 FEET TO THE SOUTHWESTERLY CORNER OF LOT 2, BLOCK 2, OF SAID LUMMI POINT PLAT; THENCE NORTH 29°14'00" EAST ALONG THE WESTERLY LINES OF LOTS 2 AND 3 OF SAID BLOCK 2, 100.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF GOVERNMENT LOT 3 IN SAID SECTION 33, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF LOT 3, BLOCK 2, OF SAID VACATED LUMMI POINT PLAT; THENCE NORTH 60°46'00" WEST AT RIGHT ANGLES TO THE WESTERLY LINE OF SAID LOT 3, 86.48 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 60°46'00" WEST, 115.58 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF BLOCK C OF LUMMI BAY PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 8 OF PLATS, PAGE 19, RECORDS OF WHATCOM COUNTY, WASHINGTON; THENCE FOLLOWING SAID SOUTHEASTERLY LINE, NORTH 57°47'00" EAST, 419.21 FEET; THENCE DUE SOUTH 120.00 FEET TO THE POINT OF BEGINNING.

EXCEPT Lot 11, Block 1, vacated Plat of "Lummi Park", as per the map thereof recorded in Book 6 of Plats, Page 5, in the office of the Auditor, Whatcom County, Washington.

SITUATE IN WHATCOM COUNTY, WASHINGTON

APN 3801333580210000/174854

RECORD OF SURVEY

MONUMENTATION TABLE:

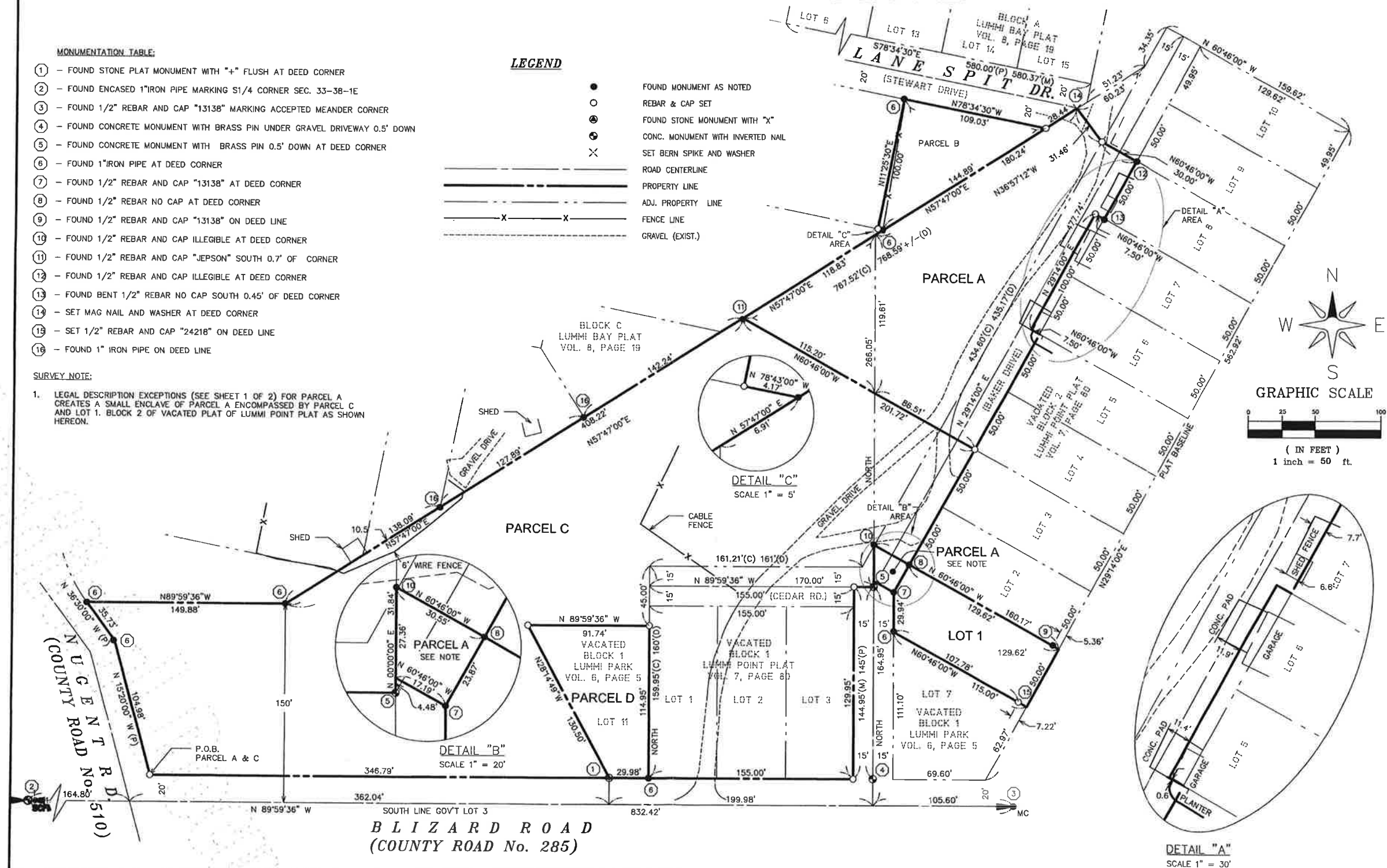
- ① - FOUND STONE PLAT MONUMENT WITH "+" FLUSH AT DEED CORNER
- ② - FOUND ENCASED 1" IRON PIPE MARKING S1/4 CORNER SEC. 33-38-1E
- ③ - FOUND 1/2" REBAR AND CAP "13138" MARKING ACCEPTED MEANDER CORNER
- ④ - FOUND CONCRETE MONUMENT WITH BRASS PIN UNDER GRAVEL DRIVEWAY 0.5' DOWN
- ⑤ - FOUND CONCRETE MONUMENT WITH BRASS PIN 0.5' DOWN AT DEED CORNER
- ⑥ - FOUND 1" IRON PIPE AT DEED CORNER
- ⑦ - FOUND 1/2" REBAR AND CAP "13138" AT DEED CORNER
- ⑧ - FOUND 1/2" REBAR NO CAP AT DEED CORNER
- ⑨ - FOUND 1/2" REBAR AND CAP "13138" ON DEED LINE
- ⑩ - FOUND 1/2" REBAR AND CAP ILLEGIBLE AT DEED CORNER
- ⑪ - FOUND 1/2" REBAR AND CAP "JEPSON" SOUTH 0.7' OF CORNER
- ⑫ - FOUND 1/2" REBAR AND CAP ILLEGIBLE AT DEED CORNER
- ⑬ - FOUND BENT 1/2" REBAR NO CAP SOUTH 0.45' OF DEED CORNER
- ⑭ - SET MAG NAIL AND WASHER AT DEED CORNER
- ⑮ - SET 1/2" REBAR AND CAP "24218" ON DEED LINE
- ⑯ - FOUND 1" IRON PIPE ON DEED LINE

SURVEY NOTE:

1. LEGAL DESCRIPTION EXCEPTIONS (SEE SHEET 1 OF 2) FOR PARCEL A CREATES A SMALL ENCLAVE OF PARCEL A ENCOMPASSED BY PARCEL C AND LOT 1. BLOCK 2 OF VACATED PLAT OF LUMMI POINT PLAT AS SHOWN HEREON.

LEGEND

- FOUND MONUMENT AS NOTED
- REBAR & CAP SET
- ⊙ FOUND STONE MONUMENT WITH "X"
- ⊙ CONC. MONUMENT WITH INVERTED NAIL
- ⊙ SET BERN SPIKE AND WASHER
- ROAD CENTERLINE
- PROPERTY LINE
- ADJ. PROPERTY LINE
- FENCE LINE
- GRAVEL (EXIST.)



AUDITOR'S CERTIFICATE

Filed for record this 19th day of January, 2018 at 11:31 AM

In official records under Auditor's File Number

2018-0102095

at the request of

LDES Inc.

Debbie Adelman by [Signature]
County Auditor

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of David Loeppky and Jim Gibson in 2018

[Signature] 01/18/2018
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**LAND DEVELOPMENT
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RECORD OF SURVEY FOR:
David Loeppky & Jim Gibson
SITUATE IN A PORTION OF THE SW 1/4, SE 1/4
SEC. 33, T 38 N, R 1 E, W.M.
WHATCOM COUNTY, WASHINGTON

DRAWN BY: SL/NC	DATE: 01/08/2018	JOB#: 1777
CHECKED BY: KTH	SCALE: 1" = 50'	SHEET: 2 OF 2



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
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Agenda Bill Master Report

File Number: AB2021-694

File ID:	AB2021-694	Version:	1	Status:	Agenda Ready
File Created:	11/12/2021	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Criminal Justice and Public Safety Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: chalka@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion and updates on the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion and updates on the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
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Agenda Bill Master Report

File Number: AB2021-717

File ID:	AB2021-717	Version:	1	Status:	Agenda Ready
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Department:	Planning and Development Services Department	File Type:	Presentation		
Assigned to:	Council Planning and Development Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: maamot@whatcomcounty.us

TITLE FOR AGENDA ITEM:

Briefing on the draft Whatcom County Review and Evaluation Program Methodology to implement provisions of the Growth Management Act

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The City/County Planner Group, with the assistance of a consultant, has developed a draft Whatcom County Review and Evaluation Program Methodology to implement provisions of the Growth Management Act. Staff will brief Council on the draft Methodology.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Draft Methodology

WHATCOM COUNTY

Planning & Development Services
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Mark Personius
Director

Memorandum

November 22, 2021

To: The Honorable Satpal Sidhu, Whatcom County Executive
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Mark Personius, Director

RE: Review & Evaluation (Buildable Lands) Program - Methodology

The Washington State legislature amended the Growth Management Act (GMA) in 1997 to include a "review and evaluation program," also known as the buildable lands program (RCW 36.70A.215). At that time, the review and evaluation program applied to six counties: Clark, King, Kitsap, Pierce, Snohomish, and Thurston. The State legislature amended the GMA in 2017 to add Whatcom County to the list of counties required to undertake a review and evaluation program ([ESSSB 5254](#)).

The review and evaluation program has several main components, which are summarized below:

- Determining whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions contained in the county and city comprehensive plans with actual growth and development that has occurred;
- Determining whether there is sufficient land that is suitable for development in the future; and
- Identifying reasonable measures, if necessary, to reduce the differences between growth assumptions contained in comprehensive plans and actual development patterns ([RCW 36.70A.215](#)).

The 2017 State legislation (ESSSB 5254) imposes new requirements that Whatcom County must address, in close coordination with the cities, by June 30, 2022.

The City/County Planner Group, with the assistance of a consultant, has developed a draft *Whatcom County Review and Evaluation Program Methodology* to implement the 2017 state amendments to the GMA. The Methodology addresses several main topics:

- ✓ State Requirements
- ✓ Data Collection
- ✓ Evaluation of Land Suitable for Development
- ✓ Buildable Lands Report format
- ✓ Reasonable Measures

The Public Participation Plan (April 2020) indicates that staff will brief the Council on the draft Methodology. However, since the Methodology is a technical document that will be adopted administratively by the County Planning Director, we are not asking for a Council motion.

The Cities and County are conducting analyses of buildable lands in accordance with the Methodology. The City/County Planner Group will issue a comprehensive Buildable Lands Report, summarizing the results of these analyses, in 2022. The Planning Commission will hold a public hearing on the Buildable Lands Report next year and make a recommendation to the County Council, who will take action to formally approve the Report.

Thank you for your assistance in this matter. We look forward to discussing it with you.

DRAFT

Whatcom County Review and Evaluation Program

Methodology

November 12, 2021

Prepared for:

Whatcom County



Prepared by:





*Community Attributes Inc. tells data-rich stories about communities
that are important to decision makers.*

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1. INTRODUCTION

Background and Purpose

The Review and Evaluation Program, which is also known as the Buildable Lands program, is part of Washington State’s Growth Management Act (GMA). The program requires that certain counties and cities review the growth and development that has occurred within their jurisdictions in the years since the last updates to their State mandated Comprehensive Plans. Past growth is compared with the growth and development assumptions, targets, and objectives that are contained in the current plans. Where actual growth diverges from growth and development assumptions adopted in the countywide planning policies or comprehensive plan, the State calls on the jurisdiction to implement “reasonable measures” in the next comprehensive plan update to maintain consistency with GMA requirements (RCW 36.70A.215(1)).

The GMA’s Buildable Lands program was established in 1997 and originally applied to all jurisdictions within six counties. The first major revision to the program was completed in 2017, in accordance with E2SSB 5254. As part of this revision, Whatcom County was added as the seventh Buildable Lands county. The County contracted with Community Attributes Inc. (CAI) to assist developing methods for completing its new Buildable Lands program. Whatcom County’s first Buildable Lands Report (BLR) will be due in June 2022. This report outlines recommended methods to be used by the County and cities in meeting state requirements for its Buildable Lands analysis and program.

Methods

The recommended methods in this report were informed by the following sources:

- **State Guidelines:** The Department of Commerce’s 2018 Buildable Lands Guidelines provided guidance on key program elements, including incorporating the 2017 updates to State law (RCW 36.70A.215).
- **Existing Land Capacity Analysis Methodology:** Whatcom County has a Land Capacity Analysis (LCA) Methodology that was used in the 2016 Comprehensive Plan updates. While the BLR and LCA have separate purposes, they have many analysis steps in common.
- **Key Issues Research:** CAI conducted research on topics with important implications for the buildable lands report, including local

regulations, infrastructure, housing affordability, and growth trends. This included reviewing relevant portions of the Revised Code of Washington and Washington Administrative Code. This information was compiled in a *Background Information and Key Issues Report* (CAI, June 2019).

- **Stakeholder Input:** CAI held interviews with representatives of each jurisdiction and several key community stakeholders. These interviews provided context on priorities for the methodology and staff capacity available to support the analysis. This information was compiled in a *Stakeholder Interview Summary* (CAI, May 2019). Additionally, stakeholders reviewed and provided comments on preliminary draft versions of this Methodology in 2021.
- **Technical Committee:** A technical committee with representatives of the County and each city met in 2019-2021 to discuss key elements of the program. The committee also reviewed all project deliverables.
- **Review of Other Counties:** CAI reviewed other Buildable Lands counties' methods and worked with the Technical Committee to select methods most appropriate for Whatcom County.
- **Public Hearing:** The Whatcom County Planning Commission held a public hearing on the draft Methodology on October 28, 2021. Notice of the hearing was published in the newspaper, posted on the County's website, sent to the County's e-mail list, and sent to stakeholders.

Organization of this Report

This report includes the following sections:

- **State Requirements:** Outlines the key requirements for a Buildable Lands program under state law and where Whatcom County's and the cities' approach to meeting the requirements is documented.
- **Data Collection:** A recommended approach to annually gathering all required and necessary data for the Buildable Lands Report.
- **Review and Evaluation of Land Suitable for Development:** Recommended analysis methods to complete the Buildable Lands evaluation.
- **Reports and Implementation:** Structure of the Buildable Lands Report and implementation steps, including reasonable measures. This section also references the methods for resolving disputes between jurisdictions.
- **Land Capacity Analysis:** Describes the relationship between Land Capacity Analysis and the Buildable Lands Report.
- **Definitions:** Defines important terms used in this report.

2. STATE REQUIREMENTS

2.1. Program Purpose

The Review and Evaluation Program, also referenced as the Buildable Lands Program, is intended to evaluate the performance of the current comprehensive plans and identify important issues to be addressed in the next plan updates. This purpose is described in *RCW 36.70A.215 (1)* as follows:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter. Reasonable measures are those actions necessary to reduce the differences between growth and development assumptions and targets contained in the countywide planning policies and the county and city comprehensive plans with actual development patterns. The reasonable measures process in subsection (3) of this section shall be used as part of the next comprehensive plan update to reconcile inconsistencies.

2.2. Required Elements

State law allows for flexibility in individual county Buildable Lands methodologies, provided that major requirements are met and counties and cities document the rationale for their choices. This section describes the most critical requirements under state law, and identifies where Whatcom County's and the cities' approach to meeting each requirement can be found.

Countywide Planning Policies

Counties must adopt countywide planning policies to establish the Review and Evaluation, or Buildable Lands, Program (*RCW 36.70A.215(1)*). This is fulfilled by Whatcom County Countywide Planning Policy Q: *Review and Evaluation Program*.

Annual Data Collection

The program must provide for annual collection of data on “urban and rural land uses, development, zoning and development standards, environmental regulations including but not limited to critical areas, stormwater, shoreline, and tree retention requirements; and capital facilities to determine the quantity and type of land suitable for development, both for residential and employment-based activities” (*RCW 36.70A.215 (2)(a)*). The approach to

collecting and sharing data between the County and cities is outlined in this report in **Section 3**.

Review Achieved Densities

The evaluation must review densities achieved by development in the County and its cities since the adoption of the comprehensive plan or since the last buildable lands report. Achieved densities are compared to growth and development assumptions contained in the countywide planning policies and County and city comprehensive plans (*RCW 36.70A.215 (1)(a), 36.70A.215 (3)(d)*). Whatcom County's and the cities' approach to this analysis is outlined in this report in **Section 4.1**.

Evaluate Impact to Developable Land

Counties and cities must update the inventory of land available for development during the current 20-year planning period, and determine how much projected population and employment growth still remains to be accommodated during the current planning period. Counties and cities must also estimate how much land will be required to serve remaining projected population and employment growth, based on achieved development densities (see "Review Achieved Densities"). The updated developable land inventory is then compared to the land required to serve growth to determine if there is sufficient developable land to serve that growth (*RCW 36.70A.215(3)*). Whatcom County's and the cities' approach to this evaluation is described in **Sections 4.2-4.4**.

Methods to Resolve Disputes

Counties must provide for methods to resolve disputes between jurisdictions and to resolve inconsistencies in data collection and analysis (*RCW 36.70A.215 (2)(c)*). This is addressed in Whatcom Countywide Planning Policies Q.7 and R.

Reasonable Measures

In the event that there are inconsistencies between actual development patterns & growth and development assumptions & targets adopted in the countywide planning policies or comprehensive plan, the County and the cities must determine if reasonable measures are required to increase consistency. If necessary, reasonable measures must be adopted into the countywide planning policies, County and city comprehensive plans, and/or development regulations, as appropriate, during the next scheduled update (*RCW 36.70A.215 (2)(d)*). Whatcom County's and the cities' approach to reasonable measures is addressed in **Section 5.3**, and examples of reasonable measures that have been adopted in other jurisdictions is provided in **Appendix A**.

2.3. Relationship to Land Capacity Analysis

While only select Washington counties and cities are subject to the Buildable Lands requirements, all counties and cities that are required or choose to plan under the Growth Management Act must complete a Land Capacity Analysis (LCA) as part of any periodic Comprehensive Plan update (*RCW 36.70A.115*). The purpose of an LCA is to determine if there is sufficient capacity for development within Urban Growth Areas (UGAs) during the 20-year planning period in the next comprehensive plan update. The purpose of the BLR is to evaluate the growth and development assumptions adopted in the existing countywide planning policies and comprehensive plans and compare them against actual growth. The BLR also includes an estimate of land capacity in the remaining portion of the existing 20-year planning period.

The methods used for the BLR are similar to those used for the LCA, but the planning horizons are different. The existing comprehensive plan planning horizon (for the BLR) is through the year 2036. The next comprehensive plan horizon (for the LCA) will extend through the year 2045. Additionally, the BLR uses achieved densities to determine the amount of land needed for the remaining portion of the 20-year planning period in the most recently adopted comprehensive plans (*RCW 36.70A.215(3)(e)*). In contrast, the LCA may use assumed densities (*WAC 365-196-210(6)* and *WAC 365-196-300(2)* and (3)). This report addresses the relationship between the Buildable Lands Report and the Land Capacity Analysis in **Section 6**.

3. DATA COLLECTION

3.1. Review and Evaluation Period

For the first Buildable Lands Report due in June 2022, Whatcom County and the cities will assess data from the years following the adoption of the most recent comprehensive plan update, which was completed in 2016. The first Report will review development data from April 1, 2016 to March 31, 2021.

For subsequent Buildable Lands Reports, the Review and Evaluation Period will include the years since the adoption of the latest comprehensive plan or the previous Buildable Lands analysis (RCW 36.70A.215(3)(d)). Each report is due no later than three years prior to the deadline for the next comprehensive plan, resulting in an eight-year Buildable Lands cycle. For any year selected as a base or end point for study, Whatcom County and the cities have selected April 1 as the breaking point in order to align with the Washington State Office of Financial Management's (OFM) population estimates.

3.2. Study Area Boundaries

The Buildable Lands Analysis includes the portion of Whatcom County located west of the National Forest with a particular focus on UGAs, including land within city limits.

3.3. Annual Data

Data Collection and Evaluation Overview

Each Whatcom County jurisdiction will be responsible for collecting key data on development in their jurisdiction during the Review and Evaluation Period. These data will be inserted in Data Reporting Tools, which are spreadsheets intended to facilitate consistency across the jurisdictions. The Data Reporting Tools will be shared with Whatcom County, which will lead the evaluation. Whatcom County will also gather data for unincorporated UGAs and rural areas.

The County and the cities will work together to complete the evaluation. The County and cities will engage at key points to review work in progress. The County and cities may need to formalize arrangements for data sharing responsibilities through memorandums of understanding (MOUs), interlocal agreements, or other contracts. Alternatively, informal cooperative data sharing may continue without formal agreements, as in the past.

Types of Data to Collect

While the following types of data should be collected annually, data collection is only required to the extent necessary to determine compliance with RCW

36.70A.215 (including achieved densities and the remaining quantity and types of land available for development during the current planning period). On an annual basis, jurisdictions should collect following types of data:

1. **Development activity** and other land use changes, including:
 - Building permits and plats
 - Renovations, if adding capacity
 - New construction – new units, new industrial space, new commercial space, and quantities of land developed
 - Demolition data – units and space removed
 - Annexations
 - Changes to UGAs
 - Changes to the amount of land zoned for residential, commercial, and industrial development
2. Changes to **zoning and development standards** which could impact future land capacity
3. Changes to **environmental regulations** which could impact future land capacity
4. Changes to **planned capital facilities** which could impact future land capacity
5. **Adopted reasonable measures**

3.4. Data Reporting Tools

With the assistance of CAI, the County and cities have developed spreadsheet-based Data Reporting Tools for the jurisdictions to use to capture all required data between April 1, 2016 and March 31, 2021. Detailed guidance on how to use the tools is provided on the “Instructions” documents associated with the spreadsheets. Four separate Data Reporting Tools have been developed:

- City of Bellingham;
- Small Cities and UGAs (identical to City of Bellingham spreadsheet, except with fewer columns for data);
- Non-UGAs (simplified spreadsheet for rural and resource lands); and
- Countywide (addresses annexations, UGA expansions, and zoning map changes).

Each jurisdiction will fill out a Data Report Tool. The city data will be maintained separately from the unincorporated UGA data (relating to development in the UGA, but outside city limits). This is because urban

density development is anticipated within city limits, where public water and sewer are typically available. However, the cities in Whatcom County generally do not extend public water and sewer for new developments prior to annexation. Therefore, urban residential development will generally not occur in the unincorporated UGAs associated with cities until annexation (except on existing platted lots). In fact, the County zoning typically limits new subdivisions in UGAs to a density of one dwelling/ten acres in urban residential zoning districts until public water and sewer are available.

The City of Bellingham and the Small Cities/UGA tools include the following sections:

1. **Buildable Lands Summary:** UGA-level summary of new development during the Review and Evaluation Period and remaining growth to accommodate. Calculates achieved densities by city or UGA for comparison with planned densities in the comprehensive plan, which will be considered by each jurisdiction when evaluating compliance with RCW 36.70A.215(1)(a).
2. **Planned v. Achieved:** Comparison of planned and achieved densities by use and zoning designation, which will result in useful information that may be considered by local jurisdictions in their next comprehensive plan update.
3. **Land Development Summary:** Development totals by use and zoning designation in terms of land developed and built area developed (Commercial/industrial square footage and residential units).
4. **Land Development Detail:** Detailed calculations for net area developed, achieved densities, and portion of developable area devoted to rights-of-way and other infrastructure by use and zoning designation.
5. **Building Permit Data:** Information on building permits that received a final inspection (i.e. construction has been completed) by development type (single family, multifamily, commercial, industrial, or mixed use).
6. **Plat Data:** Information on short plat, long plat, and binding site plan activity by development type (single family, multifamily, commercial, industrial, or mixed use).
7. **Planned Densities:** Planned densities by use for relevant zoning designations to provide a comparison against achieved densities. If planned densities have not been adopted for a certain area, this field may be left blank (or “N/A” may be inserted).
8. **Planned Capital Facilities:** Planned future capital facilities.

9. **Regulatory Updates:** Information on regulatory changes with potential to impact future land capacity. The regulatory update information for the unincorporated portion of city UGAs will be based upon (reference) the changes to city regulations, since these unincorporated areas will primarily be developed with urban land uses when city water and sewer become available after annexation.
10. **Reasonable Measures:** Tracks any adopted reasonable measures.

4. REVIEW AND EVALUATION OF LAND SUITABLE FOR DEVELOPMENT

The GMA requires counties and cities to identify land suitable for development or redevelopment and determine whether there is sufficient suitable land to accommodate future growth (RCW 36.70A.215(3)). This section outlines necessary steps and recommended methods to complete a Buildable Lands analysis. The basic steps for cities and UGAs are as follows:

1. **Review Achieved Densities:** using the Data Reporting Tools, calculate the net residential and employment density of development that occurred during the review and evaluation period and compare to growth and development assumptions adopted in the countywide planning policies or comprehensive plans.
2. **Assemble Net Developable Land Inventory:** update the supply of vacant, partially used, and under-utilized land which will be available for development during the remainder of the current planning period.
3. **Estimate Population and Employment Capacity:** using the Suitable Land Tools, which are spreadsheets intended to facilitate consistency across the jurisdictions, determine the population and employment capacity of the current developable land inventory, based on achieved densities.
4. **Evaluate Land Capacity:** using the Suitable Land Tools, compare population and employment growth projections to current capacity determined in previous step and identify the potential capacity surplus or deficit.

If the analysis identifies deficits in land capacity, or if recent development has diverged from growth and developments assumptions adopted in the countywide planning policies or comprehensive plan, there is an additional requirement to determine if **reasonable measures** are required to improve consistency (See **Section 5.3**).

4.1. Review Assumptions and Achieved Densities

Several key components of the Buildable Lands analysis rely on calculating the achieved net density of new residential, commercial, and industrial development in cities and UGAs during the Review and Evaluation Period (2016-2021). Final calculations for these factors are expressed in terms of dwelling units per net acre for residential development, and floor area ratios (FARs) for commercial and industrial development.

Develop Population and Employment Assumptions

Calculating future population capacity requires assumptions about occupancy rates and average household size. Calculating future employment capacity requires assumptions about occupancy rates and building square feet per employee. These assumptions are used to translate built commercial and industrial building area into an estimate of the number of employees that can be accommodated in that area. Separate building square feet per employee assumptions should be developed for commercial and industrial land uses.

The City of Bellingham has an existing data sharing agreement with the Washington State Employment Security Department (ESD) that provides the City with access to countywide employment data. Additionally, the Assessor's Office has provided commercial and industrial square footage statistics by parcel. Using this information, the City of Bellingham conducted an analysis and issued a *Technical Memo Estimating Square Feet Per Job for Commercial and Industrial Lands in Whatcom County* (October 20, 2020), which produced the following estimates:

Exhibit 1.A. 2020 Whatcom County Sq Ft Per Job Summary by Individual Jurisdiction

Analysis Area	Record Count (tax parcels)	Adjusted Mean Commercial Sq Ft/Job	Adjusted Mean Industrial Sq Ft/Job	Adjusted Median Commercial Sq Ft/Job	Adjusted Median Industrial Sq Ft/Job
Bellingham UGA	1,116	583	974	436	661
Birch Bay UGA	21	992	884	952	884
Blaine UGA	98	587	1,099	531	739
Cherry Point UGA	9	205	1,779	205	1,689
Columbia Valley UGA *	2	-	-	-	-
Everson UGA	35	800	1,501	751	1,202
Ferndale UGA	186	580	1,129	498	825
Lynden UGA	164	721	1,037	531	807
Nooksack UGA	12	605	795	468	621
Sumas UGA	30	669	890	473	563

Rural Areas	228	691	1,039	500	717
All Whatcom County	1,901	616	1,036	462	717

** The terms stipulated in the data access contract by ESD restrict sharing statistics that may violate employer confidentiality. Specifically, the "3/80" rule must be adhered to. This rule states that any statistical summary category must have no fewer than three employers, and that no single employer can represent more than 80% of the jobs in a category. The summary categories for this analysis met these criteria with the exception of the individual breakout for the Columbia Valley UGA.*

Exhibit 1.B. 2020 Whatcom County Sq Ft Per Job Summary by Grouped Areas

Analysis Area	Record Count (tax parcels)	Adjusted Mean Commercial Sq Ft/Job	Adjusted Mean Industrial Sq Ft/Job	Adjusted Median Commercial Sq Ft/Job	Adjusted Median Industrial Sq Ft/Job
Bellingham UGA	1,116	583	974	436	661
Small City UGAs	525	652	1,097	531	795
Non-City UGAs *	32	899	1,513	772	1,326
Small City & Non-City UGAs	557	665	1,118	532	812
All UGA Areas	1,673	607	1,035	460	718
Rural Areas	228	691	1,039	500	717
All Whatcom County	4,131	616	1,036	462	717

** Non-city UGAs include Birch Bay, Cherry Point, and Columbia Valley.*

Data sources: 4th Quarter 2019 WA State Employment Security data and August 2020 W.C. Assessor's Bldg Details data. Note: building sq ft for Cherry Point UGA - BP and Philips 66 refineries and Intalco aluminum plant calculated from 2019 aerial imagery (missing from Bldg Details data).

The County and cities can use these statistics when developing employment density (square footage per employee) assumptions for commercial and industrial development.

Once employment density assumptions have been selected, the next step is to determine achieved densities.

Determine Achieved Densities

The purpose of this step is to determine the actual density of residential and employment development that occurred during the Review and Evaluation Period. Final calculations are expressed in terms of dwelling units per net acre for residential development and floor area ratios for commercial and industrial development. In **Section 4.3**, achieved net density data is used to convert developable land into future population and employment capacity for cities and UGAs.

Data Needed

- **Output from previous step:** Population and employment assumptions.
- All development activity in each UGA during the Review and Evaluation Period (gathered with Data Reporting Tool, described in **Section 3.4**).

Steps

1. Each jurisdiction is responsible for gathering data on its development activity, as described in **Section 3** of this report.
2. The County will gather updated Data Reporting Tools from all jurisdictions. The Data Reporting Tools employ the following steps to arrive at achieved densities:
 - 2.1. Jurisdictions input parcel- and plat-level data on individual developments that occurred during the Review and Evaluation Period. The following details are required for each permit or plat record in order to calculate achieved densities:
 - Zoning designation and jurisdiction
 - Development type (single family, multifamily, commercial, industrial, or mixed use)
 - Gross site area
 - Portions of sites to be removed from buildable area in cities and UGAs (critical areas, rights-of-way, other infrastructure, and other land for public purposes)
 - New residential units
 - Total building square footage for commercial, industrial, and mixed use development
 - Year built
 - 2.2. The tool calculates the net area on sites that have been developed in each zoning designation by use in cities and UGAs. This requires adding the gross area, in acres, and subtracting acreage dedicated to critical areas, rights-of-way, other infrastructure, and public purposes.
 - 2.3. The tool adds the amount of development (units for residential uses or floor area for commercial and industrial uses) in each zoning designation by use.

- 2.4. Finally, achieved densities by use are calculated for each zoning designation using the calculations shown in **Exhibit 2**. Achieved densities are also calculated for each UGA.

Exhibit 2. Basic Achieved Density Calculations by Development Type

Development Type	Achieved Density Calculation
Residential - Single Family and Multifamily	Units / Net Acre (cities and UGAs) Units / Gross Acre (non-UGAs)
Commercial and Industrial	Floor Area / Net Site Area (cities and UGAs) Floor Area / Gross Site Area (non-UGAs)

Note: For mixed-use development, the site area is apportioned between residential and commercial uses based on the share of building square footage dedicated to each use.

3. The tool also calculates the portion of land dedicated to rights-of-way and infrastructure in cities and UGAs, to be applied in **Section 4.2.**, “Deductions for Future Infrastructure”.

4.2. Assemble Net Developable Land Inventory

The Net Developable Land Inventory for UGAs (including land within city limits) and UGA Reserves consists of all land which, as of April 1, 2021, is considered vacant, partially used, or under-utilized and which is expected to be available for development and served by infrastructure during the current planning period. This process includes the following steps, described in detail in the following sections:

- **Compile Gross Developable Land Inventory:** Identify parcels zoned for residential and employment development which are considered vacant, partially used, or under-utilized.
- **Deduct Critical Areas and Other Areas with Reduced Development Potential:** Remove the parcels and portions of parcels which are impacted by critical areas or other issues that, it is assumed, will not be developable during the planning period.

- **Deduct Land for Future Public Uses:** Remove any land already planned for future capital facilities and quasi-public uses.
- **Infrastructure Gaps:** Determine if there are infrastructure gaps that would prevent urban density development on vacant, partially used, and/or under-utilized lands over the remainder of the planning period.
- **Deduct Land for Future Infrastructure:** Remove any land required for future infrastructure.
- **Local Jurisdiction Review:** Work with jurisdictions to review and adjust the developable land inventory.
- **Deduct Market Factor:** Apply a reasonable market factor to account for lands that are not likely to be available for development because of land owner preferences or other reasons not accounted in the previous deduction steps.
- **Calculate Net Developable Land:** The result once the market factor has been applied.

Compile Gross Developable Land Inventory

The purpose of this step is to identify all lands within UGAs, including lands within city limits, that are considered vacant, partially used, or under-utilized. These lands comprise the Gross Developable Land Inventory.

Data Needed

- GIS shapefile of Whatcom County Assessor's Office countywide parcel data. Shapefile must include the following attributes for each parcel:
 - Assessed improvement value
 - Assessed land value
 - GIS acreage per parcel
- GIS shapefiles from cities and the County including:
 - Boundaries for all UGAs and incorporated cities
 - Zoning for all jurisdictions (and city future zoning or land use designations for UGAs).
 - Critical areas deduction acreage per parcel
 - Dividing of split-zoned and split-jurisdiction parcels
- Compiled recent plat and permit activity data (gathered per **Section 3**).

Steps

1. Identify and remove parcels not classified for residential, commercial, or industrial uses.
2. Identify and remove parcels less than 2,400 square feet in size, unless specifically identified by the jurisdiction as developable land.
3. Identify and code parcels as vacant, partially used, or under-utilized. Use GIS processes and database queries to apply the definitional thresholds listed in **Exhibit 3**.

Exhibit 3. Criteria for Classifying Developable Land

Category	Parcel Zoning	Criteria for Classification
Vacant	All Residential, Commercial, Industrial	Improvement value less than \$10,000
Partially Used	Single Family	Parcel size greater than three (3) times minimum allowed under zoning. ¹ This may be lowered to between two (2) and three (3) times the minimum allowed under zoning at the discretion of the jurisdiction.
		Jurisdictions may propose to exclude parcels with current assessed improvement value > 93 rd percentile ² of jurisdiction improvement values if the parcel size is less than five acres
	Multifamily, Commercial, Industrial	Ratio between improvement value and land value less than 1.0 ³ Jurisdictions can identify existing development, such as gas stations or uses that preclude significant development on the site,

¹ This threshold accounts for parcels less than three times the minimum size that due to parcel configuration, location of existing development on the site, or other factors are not likely to be divided to their maximum potential.

² The option to exclude parcels with high improvement values is meant to account for large single family parcels with high-end homes that are unlikely to be subdivided. The 93rd percentile threshold was determined by analyzing the distribution of housing values in the County and selecting a reasonable value that could be applied across all jurisdictions.

³ The Department of Commerce's Buildable Lands Guidelines (2018) state ". . . When the value of the land is near or higher than the value of the improvement on the land, the property is generally going to be more favorable for redevelopment. . ." (p. 34).

Category	Parcel Zoning	Criteria for Classification
		as fully developed when the ratio of improvement value to land value is less than 1.0. If identified as fully developed, the parcel will be subtracted from the inventory.
Under-Utilized	Single Family	N/A
	Multifamily	Parcels occupied by nonconforming single-family residential uses
	Commercial and Industrial	Parcels occupied by nonconforming residential uses or other nonconforming uses.

4. Cross-reference parcels classified as vacant, partially used, or under-utilized with local permit and plat data. Identify any parcels with multifamily permits, commercial/industrial permits and binding site plans, and preliminary and final plats that have not yet been constructed. This includes master planned projects that have not been completely built out but have received approval, as determined by the applicable jurisdiction, for a certain number of dwelling units or commercial/industrial square footage. Only projects that have received preliminary approval will be included in this list. These parcels should be set aside and classified as “pending”, but not included in the gross developable land inventory. Pending capacity will be added to the final land capacity total in **Section 4.3**.
5. Make adjustments for mobile homes. The primary concern is that some mobile home parks may show up as vacant if the mobile home value is not captured in the Assessor’s improvement value data. Staff will use aerial imagery to truth check developable parcel designations in their respective jurisdictions against known areas with mobile home developments. If mischaracterized mobile home parks are identified, manually adjust the developable category designation in the land inventory database.
6. Partially used parcels in commercial and industrial zones may be split into fully developed and vacant portions for purposes of land capacity analysis.
7. Following this process, the remaining parcels classified as vacant, partially used, or under-utilized constitute the Gross Developable Land Inventory.

Deduct Critical Areas and Other Areas with Reduced Development Potential

In the next step of the process, subtract all critical areas and other lands with reduced development potential from the Gross Developable Land Inventory. Each city will be responsible for determining and making spatial deductions from the developable land supply within their city limits and the associated UGA (the County may provide assistance for those jurisdictions that do not have in-house GIS capabilities). The County will be responsible for determining and making spatial deductions from the developable land supply within non-city UGAs.

Data Needed

- **Output from previous step:** Shapefile of parcels in Gross Developable Land Inventory.
- Critical areas GIS data relating to wetlands, rivers, streams, steep slopes, geologically hazardous areas, floodplains.
- Local critical area and shoreline buffers, identifying areas to be removed from buildable capacity.
- Information relating to naturally occurring asbestos.

Steps

1. Each jurisdiction will include the following types of critical areas in the analysis:

Wetlands

The County and cities will use wetland inventories and buffers from their respective jurisdictions, as described below.

Streams and Rivers

The County and cities will use stream inventories and buffers from their respective jurisdictions, as described below.

Steep Slopes and Hazard Areas

The County and cities will subtract all areas with slopes greater than 35% or a percentage consistent with the jurisdiction's critical areas ordinance. Land impacted by alluvial fan hazard areas, where regulations restrict land division, will also be subtracted. For city UGAs, other hazard areas identified by the city may be subtracted. For non-city UGAs, other hazard areas identified by the County may be subtracted.

Floodplain

All land in the floodway will be removed from the inventory. All lands within 100-year floodplains of non-city UGAs will also be removed

from the inventory. All lands within floodplains of city UGAs will be removed from the inventory where regulations would prohibit or significantly limit development, as determined by the applicable City.

Naturally Occurring Asbestos

Land with documented naturally occurring asbestos will be removed from the inventory.

Other Undevelopable Areas

Deduct other areas, such as mitigations sites and old dump sites, that are not available or suited to development.

2. Deduct critical areas and other areas with reduced development potential for residential parcels. Critical area buffers will be deducted from the residential land supply unless the jurisdiction, based upon their knowledge of local codes and circumstances, determines that some of the buffers should be included in the residential land supply. For city UGAs, buffer distances will be based on city critical area regulations. For non-city UGAs, buffer distances will be based on County critical area regulations.
3. Deduct critical areas, critical area buffers, land use buffers and other areas with reduced development potential for commercial and industrial parcels. For city UGAs, buffer distances will be based on city critical area regulations. For non-city UGAs, buffer distances will be based on County critical area regulations.
4. The resulting selection of developable parcels unconstrained by these areas will be used as the land base to calculate deductions for future public uses, future infrastructure and market factors.

Deduct Land for Future Public Uses

Next, parcels that are intended for public uses should be deducted from the developable land totals, including schools, police and fire stations, recreation facilities and open space.

Data Needed

- **Output from previous step:** Shapefile of parcels in Gross Developable Land Inventory with critical areas removed.
- “Planned Capital Facilities” sections from Data Reporting Tools.
- Capital facilities plans for public facilities (water, sewer, stormwater, parks, schools) and public services (police, fire), particularly if they include plans for land usage and property acquisition.

Steps

1. Review “Planned Capital Facilities” from the jurisdiction’s capital facility plans and Data Reporting Tool. Remove parcels identified for future capital facilities from the inventory. This should include any property already owned by public entities and designated for future expansion as well as any known public uses in master planned areas.
2. Identify any additional acreage for future capital facility purposes that should be deducted from the inventory that is not yet associated with specific parcels. Deduct these acreage totals manually from the inventory if within a jurisdiction’s or special purpose district’s proposed or approved capital facilities plan.
3. If appropriate, analyze ownership information for parcels in the developable land inventory and exclude those owned by public entities that will not likely accommodate housing or employment. This step may not be necessary if future public use parcels were already excluded when the first residential, commercial, and industrial parcels were selected.
4. In order to account for other future quasi-public uses (e.g. community centers, daycare centers, churches, etc.) apply a five percent (5%) deduction on developable land. The deduction should be applied to the Developable Land Inventory after critical areas are removed but before any other deductions for infrastructure or market factors.
5. During the local jurisdiction review process, adjustments to the 5% other quasi-public uses deduction may be considered to account for local conditions and data availability.

Infrastructure Gaps

Assessment of land suitable for development must include identification of infrastructure gaps (including transportation, water, sewer, and stormwater) that could prevent assigned densities from being achieved. Local jurisdictions should be able to rely on adopted capital facility plans when completing their assessment of land suitable for development (*State Buildable Lands Guidelines*, 2018, p. 31).

Data Needed

- **Output from previous step:** Shapefile of parcels in Gross Developable Land Inventory with previous deductions.
- Capital facility plans.

Steps

1. Each jurisdiction will review capital facilities plans to determine whether developable land in the UGA will likely be served by existing or planned infrastructure (including transportation, water, sewer, and stormwater facilities) within the remaining portion of the planning period. In conducting this review, the jurisdiction will consider whether significant delays, funding lapses, or difficulties acquiring sufficient land for capital facilities will prevent the service provider from supplying planned capital facilities to developable land within the planning period.
2. If the jurisdiction determines that no infrastructure gaps exist because there likely will be adequate infrastructure to serve the developable land in the UGA within the planning period, this finding will be documented in the Buildable Lands Report.
3. If the jurisdiction determines that infrastructure gaps exist because there will not likely be adequate infrastructure to serve certain developable parcels in the UGA, the jurisdiction will:
 - a. Document the infrastructure gaps, including a map showing the area(s) with the infrastructure gaps. This documentation will be incorporated into the Buildable Lands Report.
 - b. Identify the capital facility plans that need to be updated to address the infrastructure gaps and the timeline for updating these capital facility plans; and
 - c. Identify areas already in capital facility plans that are waiting on developer infrastructure improvements and differentiate from gaps in publically provided infrastructure; and
 - d. Determine if the planned capacity of the land subject to infrastructure gaps should be reduced while the infrastructure gaps are being addressed. Determine, as appropriate, how much the planned capacity should be reduced for the remainder of the planning period (2021-2036).

Deduct Land for Future Infrastructure (Rights-of-Way and Other Development Requirements)

Deductions for future infrastructure, including rights-of-way (ROW) and other development requirements, will be based on the percentage of land dedicated to infrastructure in recent plats, permits, and developments. This percentage is calculated in the Data Reporting Tool, and is calculated after critical areas and land for future public uses are removed.

If there is insufficient data to calculate deduction for infrastructure, then standard deductions based on reasonable assumptions may be used.

Data Needed

- **Output from previous step:** Shapefile of parcels in Gross Developable Land Inventory with critical areas and future public uses removed.
- Results from recent development activity analysis – percentage of developable area (minus critical areas, associated open space and public uses) devoted to ROWs and other infrastructure.

Steps

1. Summarize acreage of developable land minus critical area and public use deductions by zoning designation for each UGA.
2. Analyze recent development activity to determine infrastructure percentage deduction factors by UGA (see **Section 4.1**).
3. Apply these deduction factors to the inventory of developable land unconstrained by critical areas to calculate the acreage deduction for infrastructure. The infrastructure deduction may be applied by UGA or by specific zoning designation depending on the quantity and quality of recent development activity data.

Local Jurisdiction Review

Local jurisdictions will review developable parcel designations and other deductions through communications and/or meetings, if necessary, between County and City staff. The number of communications and/or meetings will depend on the complexity of the jurisdiction's land supply issues.

Data Needed

- **Output from previous step:** Shapefile of parcels in Gross Developable Land Inventory with critical areas, future public uses, and future infrastructure removed.
- All other geospatial data used up to this point.

Steps

1. The County will prepare maps for each UGA showing vacant, partially used, and under-utilized parcels overlaid on aerial imagery. Some larger UGAs may need to be presented in multiple maps.
2. The maps, along with tabular parcel data underlying the maps will be sent to each city for review. If appropriate, County staff will meet with city staff to discuss issues such as any adjustments to developable land classification, critical areas, infrastructure deductions, public use deductions, assumed density assumptions, market factor assumptions, and other jurisdiction-specific assumptions described elsewhere in this methodology.

The range of additional issues that can be considered during the local jurisdiction review process include but are not limited to the following:

- Critical areas not identified through GIS analysis
- Known interest in development or redevelopment of particular parcels/areas
- Parking and outdoor storage associated with adjacent uses
- Other associated/related uses spanning multiple parcels
- Irregular parcel shapes making development unlikely

Deduct Market Factor

The market factor is a final deduction to account for lands assumed not to be available for development during the remainder of the planning period. It is expected that over the remaining 20-year planning period some lands will be kept off the market due to speculative holding, land banking, and personal use, among other reasons.

The market factor assumptions referenced below were used in the *Whatcom County Land Capacity Analysis Detailed Methodology* (2015). Whatcom County and the cities are undertaking additional analysis to develop more refined local market factors, as described in **Appendix B**. Market factors used by other buildable land counties in the past are set forth in the State's 2018 *Buildable Lands Guidelines* (p. 49).

Data Required

- **Output from previous step:** Shapefile of parcels in Gross Developable Land Inventory with critical areas, future public uses, and future infrastructure removed, as reviewed and approved by all jurisdictions.
- Market factor assumptions.

Steps

1. Summarize acreage in the Developable Land Inventory by zoning designation, by land use (residential and commercial/industrial) and developable land designation (vacant, partially used, and under-utilized). This acreage should represent developable land after critical areas, infrastructure, and public uses have been deducted.
2. The base market factors listed below are consistent with those used in the 2016 UGA Review LCA, and accepted practice elsewhere in western Washington. During the local jurisdiction review process, the base market factors may be adjusted to account for local conditions

and future plans. If market factors are adjusted, the final overall average market factor for a UGA should not exceed 25%, except where the jurisdiction has well-documented support for why a larger market factor is appropriate.

Start with the following default deduction factors to the developable acreage for each zoning designation:

- For vacant residential and commercial/industrial zones: 15% market factor
 - For partially used and under-utilized residential and commercial/industrial zones: 25% market factor
3. Use the “Analysis Method” steps in Appendix B (p. 74) to determine whether to use the default market factors or adjust these market factors.
 4. As a reference point, the overall average market factor for all developable land should be calculated for each UGA (total acres deducted based on market factor percentage divided by total acres in the Developable Land Inventory after critical areas, infrastructure, and public uses have been deducted).
 5. A market factor may be applied to master planned projects by the jurisdiction.

Calculate Net Developable Land

After applying the market factor, the final acreage totals by zoning designation and UGA represent the updated Net Developable Land Inventory – the land expected to be available to accommodate future population and employment over the remaining planning period.

4.3. Estimate Population and Employment Capacity

In this step, Net Developable Land Inventory is converted into population and employment capacity. The final product is an estimate of the number of people and employees that can be accommodated in each UGA on developable land. This process includes the following steps, described in detail in the following sections:

- **Determine Assumed Future Densities:** Use achieved densities (**Section 4.1**) as the baseline assumed densities for future development in the UGA over the remaining portion of the current 20-year planning period. If there is little or no data on achieved densities,

or the achieved densities are clearly not reflective of future development that is anticipated in the UGA then, based on a review of achieved densities in comparable areas and other analysis, develop assumptions for future development densities by UGA and land use.

- **Determine Population Capacity:** Apply residential density assumptions to the residential Net Developable Land Inventory to estimate current capacity for new residential development in UGAs and UGA Reserves.
- **Determine Employment Capacity:** Apply employment development density assumptions to the commercial and industrial Net Developable Land Inventory to estimate current capacity for new commercial and industrial development. Based on employee densities developed in **Section 4.1**, translate capacity for physical space into capacity for employees.

Determine Assumed Future Densities

The purpose of this step is to select appropriate assumed densities that are supported by analysis as being representative of how development might occur during the remainder of the planning period. Per *RCW 36.70A.215(3)(a)*, “zoned capacity of land alone is not a sufficient standard to deem land suitable for development or redevelopment within the 20-year period”.

RCW 36.70A.215(3) requires local jurisdictions to determine actual densities and use these densities to determine the amount of land needed for growth over the remaining portion of the 20-year planning period used in the most recently adopted comprehensive plan. For Whatcom County, the 20-year planning period in the adopted comprehensive plan extends through the year 2036. Achieved densities, as calculated in **Section 4.1**, serve as the basis for future densities and should be used for assumed future densities unless there is a justifiable reason why they are not appropriate. If there is insufficient data for a specific area, the jurisdiction may use achieved densities from comparable areas, as indicated below:

- Within city limits, the city will determine assumed densities;
- Within a city UGA, the city and County will collaboratively determine assumed densities; and
- Within a non-city UGA, the County will determine assumed densities.

If alternate future densities are used, the rationale for deviating from achieved densities must be clearly stated in the Buildable Lands Report (see *State Buildable Lands Guidelines*, 2018, p. 40).

Determine Population Capacity

This section describes how to derive future population growth capacity from the Net Developable Land Inventory in residential zones and the residential portion of mixed-used zones.

Data Needed

- The Net Developable Land Inventory of residential and the residential portion of mixed-use zones calculated under **Section 4.2**.
- Assumed future densities for residential and mixed-use zones.
- Whatcom County Assessor's Office data on numbers of dwelling units on partially used and under-utilized parcels.
- Parcels with pending residential capacity identified in **Section 4.2**.
- Data from the Washington State Office of Financial Management (OFM) and/or the US Census on occupancy rates and average household sizes.

Steps

Determine Total Dwelling Unit Capacity by Zoning Designation

1. Multiply residential acres from the Net Developable Land Inventory in each zoning designation by the assumed density (dwelling units/net acre) for each zoning designation. Only the residential portion of the mixed use acres will be included in this calculation. The result is the total dwelling unit capacity available in each zone before accounting for existing development on partially used and under-utilized parcels.
2. Remove existing units on partially used and under-utilized parcels by zoning designation from the totals from the previous step so that existing units are not counted as part of partially used or under-utilized parcel capacity.
3. In **Section 4.2**, parcels with pending developments were set aside. These parcels included preliminary or final plats, permits, and binding site plans for developments that have received preliminary approval but have not yet been constructed. Master planned projects that have not been completely built out but have received approval for a certain number of dwelling units are also included.

The estimated capacity in these developments is more accurate than calculated theoretical capacity. Summarize total dwelling units in these pending developments by zone. Add these units to subtotal dwelling units from Step 2. The output will be total dwelling units of capacity available in each zone.

Calculate Total Occupied Dwelling Unit Capacity by Zoning Designation

1. Select occupancy rate assumptions for each UGA by using data from OFM and/or the US Census.⁴
2. Multiply the total dwelling units of capacity in each zoning designation by selected occupancy rate assumptions. The output will be total potential occupied dwelling units in each zone.

Calculate Total Population Capacity by UGA

1. Select average household size assumptions for each UGA by using data from OFM and/or the US Census.
2. The local jurisdiction will categorize each zoning designation as either a single family zone or multifamily zone. The distinction between single family and multifamily zones is important because there are different occupancy rates and average household sizes for single family and multifamily development.
3. Multiply total occupied dwelling units in the single family and multifamily categories in each zone by average household size assumptions for these categories. Separately calculate the single family population capacity and the multifamily population capacity. Combine the single family and multifamily population capacities to obtain the total population capacity within each UGA.

Determine Employment Capacity

This section describes how capacity to accommodate future employment growth is derived from the Net Developable Land Inventory for commercial and industrial zones and the commercial portion of mixed-used zones.

Data Needed

- The Net Developable Land Inventory of commercial, industrial, and mixed-use zones (see **Section 4.2**).
- Assumed Floor Area Ratio (FAR) values for future development in commercial, industrial, and mixed-use zones.
- Assumed square feet per employee (FTE) for commercial or industrial space (employment density).
- Whatcom County Assessor's Office data for partially used and under-utilized parcels.

⁴ Seasonal housing is considered vacant according to Census definitions. These housing units are not included in the occupied housing unit category and are not folded into Census calculations of average household size.

- Parcels with pending commercial or industrial capacity identified in **Section 4.2.**

Steps

Determine Total Building Square Footage Capacity by Zone

1. Multiply commercial and industrial acres from the Net Developable Land Inventory in each zone (converted to square feet) by the assumed FAR for each zone. Only the commercial and industrial portions of the mixed use acres will be included in this calculation. The output will be the total building square footage capacity available in each zone before accounting for existing development on partially used and under-utilized parcels.
2. Summarize total existing commercial and industrial building square footage on partially used and under-utilized parcels by zone. Subtract this square footage from the totals from the previous step so that existing buildings are not counted as part of partially used or under-utilized parcel capacity.
3. In **Section 4.2**, parcels with pending developments were set aside. These parcels included commercial and industrial permits or binding site plans for developments that have received preliminary approval but have not yet been constructed. Master planned projects that have not been completely built out but have received approval for a certain amount of commercial/industrial square footage are also included. The estimated capacity in these developments is more accurate than calculated theoretical capacity. Summarize total commercial and industrial building square footage in these pending developments by zone. Add this square footage to the totals from Step 2. The output will be total commercial and industrial square footage capacity available in each zone.

Determine Total Occupied Square Footage by Zone

1. Multiply the total square footage capacity in each zone by a 95% occupancy rate assumption. The occupancy rate assumption can be adjusted based on current and accurate data provided by local jurisdictions (e.g. real estate market reports). The output will be total potential occupied commercial and industrial square footage in each zone.

Determine Total Employment Capacity by UGA

1. Aggregate the occupied commercial and industrial square footage capacity by zone into the two categories used in the future

employment allocation process: Commercial and Industrial. **Exhibit 3** in **Section 7** provides definitions for each category by North American Industry Classification System (NAICS) code.

2. Determine employment density (square footage of floor-space per employee) assumptions for future commercial and industrial development. Employment density will be based upon one of the following:
 - a. The employment density recommended by the local jurisdiction, provided that their recommendation is based upon achieved employment densities or other relevant data.
 - b. Employment densities derived from the City of Bellingham's *Technical Memo Estimating Square Feet Per Job for Commercial and Industrial Lands in Whatcom County* (October 20, 2020), which are shown in Exhibits 1.A and 1.B.
3. Divide the total occupied commercial and industrial square footage in each category by the employment density assumptions. The final output will be total employment capacity within each UGA.

4.4. Evaluate Land Capacity

The final step is to evaluate whether there is currently enough land capacity in UGAs to accommodate projected growth through the remainder of the current 20-year planning period (2021-2036). This includes the following steps:

- **Compare Population Capacity to Remaining Projected Growth:** Compare the population growth capacity estimated in **Section 4.3** to the remaining projected population growth. Identify any inconsistencies.
- **Compare Employment Capacity to Remaining Projected Growth:** Compare the employment growth capacity estimated in **Section 4.3** to remaining projected growth in employees. Identify any inconsistencies.

Compare Population Capacity to Remaining Projected Growth

This section describes how to determine if there is sufficient capacity in each UGA to accommodate remaining population growth in the current 20-year planning period.

Data Needed

- Population growth estimates by UGA from 2016-2021 calculated based upon building permits.
- Current 20-year population projections by UGA.
- Current population capacity by UGA, as calculated in **Section 4.3**.

Steps

1. Subtract the population growth estimates (2016-2021) by UGA from the current 20-year population growth projections to determine remaining growth to be accommodated in each UGA (2021-2036). The Data Reporting Tool performs this calculation.
2. Compare remaining projected population growth to be accommodated (from Data Reporting Tool) to current population growth capacity for each UGA. This calculation is accomplished in the Suitable Land Tool.
3. If remaining projected growth is greater than current capacity, determine if reasonable measures are required. This process is described in **Section 5.2**.

Compare Employment Capacity to Remaining Projected Growth

This section describes how to determine if there is sufficient capacity in each UGA to accommodate remaining employment growth in the current 20-year planning period.

Data Needed

- Employment growth estimates by UGA from 2016-2021 calculated based upon building permits.
- Current 20-year employment projections by UGA.
- Current employment capacity by UGA, as calculated in **Section 4.3**.

Steps

1. Subtract the employment growth estimates (2016-2021) by UGA from the current 20-year employment growth projection to determine remaining growth to be accommodated in each UGA (2021-2036). The Data Reporting Tool performs this calculation.
2. Compare remaining projected employment growth to be accommodated (from Data Reporting Tool) to current employment growth capacity for each UGA. This calculation is accomplished in the Suitable Land Tool.
3. If remaining projected growth is greater than current capacity, determine if reasonable measures are required. This process is described in **Section 5.2**.

5. REPORTS AND IMPLEMENTATION

5.1. Dispute Resolution Methods

Whatcom County's procedures for resolving disputes between jurisdictions are provided in Countywide Planning Policies Q.7 and R. These methods are intended to address resolving any dispute related to implementing the Countywide Planning Policies, including disputes related to data collection and analysis for the Buildable Lands Program.

5.2. Reasonable Measures

When Reasonable Measures are Required

The State's Buildable Lands Guidelines (2018) includes a section entitled "When Are Reasonable Measures Necessary?" This section states:

The RCW and the WAC do not provide specifics regarding when reasonable measures are required . . . RCW 36.70A.215(1)(b) describes reasonable measures as actions to reduce differences between planned and realized growth. This implies that an analysis to determine whether reasonable measures are needed is required when:

- *Planned densities are not being achieved;*
- *There is insufficient capacity to accommodate the remaining portion of the planning period; and/or*
- *Actual development patterns are inconsistent with growth and development assumptions in the county-wide planning policies and/or comprehensive plan (p. 43).*

If planned densities are not being achieved, there is not sufficient capacity to accommodate remaining projected population and/or employment growth, or development patterns are not occurring as planned, the County and relevant jurisdictions should work together to determine if reasonable measures are necessary to address the issue.

First, the County and cities should consider why the issue has occurred. This includes reviewing County and/or city development assumptions, targets, and objectives contained in the Countywide Planning Policies, County Comprehensive Plan, and/or city comprehensive plans (*RCW 36.70A.215(1)(b)*). There are cases where reasonable measures are not required, such as when an economic recession occurs during the evaluation period, or if planned infrastructure development will make up for identified shortfalls in the future (*State Buildable Lands Guidelines*, 2018, p. 42). The County and cities should work together to establish processes for

determining when reasonable measures are required. Ultimately, each jurisdiction will individually perform the analysis and determine whether reasonable measures are required.

If this analysis results in a decision that reasonable measures are necessary, the County and cities should work together to identify possible actions, other than expanding UGAs, to reduce the difference between planned and achieved growth. Where appropriate, discussion regarding such actions (possible reasonable measures) may be incorporated into the Buildable Lands Report. The reasons why reasonable measures were deemed necessary or not necessary, and the process used to make these decisions, should be clearly documented in the County and city resolutions/ordinances adopting the Buildable Lands Report.

Selecting Reasonable Measures

Reasonable measures should, if necessary, be selected by the jurisdiction based on the nature of the inconsistency that has occurred. The measures should be reasonably likely to increase consistency during the succeeding review and evaluation period.

Adopting Reasonable Measures

Reasonable measures must be adopted, as applicable, into individual County and city comprehensive plans and implementing regulations.

Tracking Performance

Jurisdictions should track the performance of adopted reasonable measures and share this information with the County as part of the data reporting process. The County and cities will collaborate to determine appropriate methods for tracking performance, and document results in future Buildable Lands Reports.

5.3. Buildable Lands Report Structure

The Buildable Lands Report should include the following content:

- **Executive Summary:** High level overview of remaining projected growth to be accommodated and results from analysis.
- **Introduction:** Introduction to the document's purpose and content, with background on regulatory framework and local process.
- **Policy Framework:** Overview of Countywide Planning Policies, population allocations, and employment allocations.

- **Methods:** Overview of the analysis process and major assumptions, with reference to this Methodology for full detail.
- **Countywide Findings:** Summarize population & employment growth, development activity, planned and achieved densities, and land suitable for development.
- **Jurisdictional Profiles:** Provide detailed information relating to achieved densities, assumed densities, land supply, and land capacity for the 10 UGAs.
- **Infrastructure Gaps:** Each jurisdiction will document any infrastructure gaps in the UGA, including a map showing the area(s) with the infrastructure gaps. If there are infrastructure gaps, the jurisdiction will:
 - Identify the capital facility plans that need to be updated to address the infrastructure gaps and the timeline for updating these capital facility plans; and
 - Identify areas already in capital facility plans that are waiting on developer infrastructure improvements and differentiate from gaps in publically provided infrastructure; and
 - Determine if the planned capacity of the land subject to infrastructure gaps should be reduced while the infrastructure gaps are being addressed.
 - Determine, as appropriate, how much the planned capacity should be reduced for the remainder of the planning period (2021-2036).
- **Development Regulations:** Each jurisdiction will evaluate development regulations adopted in the review period (2016-2021) that could prevent assigned densities from being achieved or impact the quantity of land suitable for development in the remainder of the 20-year planning period (2021-2036).
- **Reasonable Measures:** If necessary, this section should identify potential reasonable measures that may be taken based on findings from this report. The County and city resolutions/ordinances adopting the BLR will document each respective jurisdiction's determination of whether or not reasonable measures are required. Reasonable measures, if required, must be adopted by the jurisdiction by the June 2025 deadline for adopting comprehensive plan and development regulation updates (RCW 36.70A.215(2)(d)). In future Buildable Lands Reports, this section should also report on the performance of any measures implemented previously.

6. LAND CAPACITY ANALYSIS

6.1. Relationship Between BLR and LCA

The Buildable Lands Report (BLR) **looks back** to compare adopted development assumptions against actual development, and based on a review of the achieved densities and the amount of development that has taken place, determines if there is still sufficient capacity to accommodate growth through the remainder of the current planning period (through the year 2036). This analysis is performed between comprehensive plan updates, and is intended to evaluate the performance of the current comprehensive plans and surface any capacity issues that may need to be addressed in the next comprehensive plan updates.

The Land Capacity Analysis (LCA) **looks forward** to determine if there is sufficient capacity to accommodate new 20-year growth projections (through the year 2045) in advance of the next comprehensive plan updates. Under state law, the LCA is used to inform updates of County and city comprehensive land use plans and development regulations required by *RCW 36.70A.130(1)* and the review of Urban Growth Areas required by *RCW 36.70A.130(3)*.

While the BLR and LCA serve different statutory purposes and use different planning horizons, the methods and data sources required are very similar.

7. DEFINITIONS

Land Use Categories

Mixed-use: Developments incorporating both residential and non-residential uses.

Residential: Includes single-family and multifamily development.

Commercial: Includes the commercial and retail uses listed in **Exhibit 3** below.

Industrial: Includes the industrial uses listed in **Exhibit 3** below.

Exhibit 3. Suggested Industry Classifications for Employment Allocation Process

Commercial	Industrial
Accommodations (NAICS 721)	Construction (NAICS 23)
Administrative and Support and Waste Management and Remediation Services (NAICS 56)	Manufacturing (NAICS 31-33)
Arts, Entertainment, and Recreation (NAICS 71)	Transportation and Warehousing (NAICS 48-49)
Educational Services (NAICS 61)	Utilities (NAICS 22)
Finance and Insurance (NAICS 52)	
Information (NAICS 51)	
Healthcare and Social Assistance (NAICS 62)	
Management of Companies and Enterprises (NAICS 55)	
Other Services (NAICS 81)	
Professional, Scientific, and Technical Services (NAICS 54)	
Public Administration (NAICS 92)	
Real Estate and Rental and Leasing (NAICS 53)	
Food Service and Drinking Places (NAICS 722)	
Retail Trade (NAICS 44-45)	

Note: NAICS stands for North American Industry Classification System.

Development Status Categories

Vacant: Property with little or no building improvements (see **Exhibit 3** for detailed criteria).

Under-Utilized: Property zoned for a more intensive use than that which currently occupies it, such as a single-family home on commercially zoned land (see **Exhibit 3** for detailed criteria).

Partially Used: Property occupied by a use consistent with zoning but containing enough land to be further subdivided or developed without need of rezoning, such as a single-family home on a very large lot (see **Exhibit 3** for detailed criteria).

Fully Developed: Property that is assumed to have no further development capacity during the current planning period.

Other Terms

Achieved Density: Density of residential development (dwelling units per net acre for UGAs) and commercial/industrial development (net FAR for UGAs) achieved during the Review and Evaluation Period.

Assumed Density: Assumption of residential density (dwelling units per net acre) and commercial/industrial development (net FAR) expected on developable land over the remainder of the 20-year planning period.

Average Household Size: The average number of people per occupied housing unit (this is the same definition used by the U.S. Census).

City UGA: Land within a city and the associated unincorporated UGA.

Data Reporting Tool: Spreadsheet jurisdictions use to report development data required for the Buildable Lands analysis, calculate growth to be accommodated in the remaining portion of the 20-year planning period, and calculate achieved densities. Described in **Section 3.4**.

Developable Parcels or Developable Land: All parcels that are classified as vacant, partially used, or under-utilized.

Employment Density: The average amount of floor-space required to accommodate an employee. For the purposes of this study, expressed as square feet per employee.

Floor Area Ratio (FAR): Total building square footage divided by lot square footage.

Gross Developable Land Inventory: Total area of developable parcels before deductions for critical areas, infrastructure, public uses, and market factors are taken.

Market Factor: The estimated portion of developable land which will not be available for development or redevelopment during the current 20-year planning period. The market factor recognizes that not all developable land will be put to its maximum use because of owner preference, cost, stability, quality, and location.

Net Density: The density of development, expressed as either residential units per acre or commercial/industrial floor area ratio, calculated based on Net Developable Land Inventory.

Net Developable Land Inventory: Total area of developable parcels after deductions for critical areas, infrastructure, public uses, and market factors are taken into account.

Net Plat Area: Total area of plats after deductions for critical areas, infrastructure, and public uses are taken into account.

Net Site Area: Total area of commercial, industrial and multifamily development sites after deductions for critical areas, infrastructure, and public uses are taken into account. Site area will sometimes not be equal to parcel area (e.g. when multiple buildings are on one parcel).

Non-City UGAs: The Birch Bay, Columbia Valley, and Cherry Point UGAs.

Review and Evaluation Period: The period of time during which development activity will be reviewed for the Buildable Lands Report.

Suitable Land Tool: Spreadsheet jurisdictions use to determine the population and employment capacity of the current developable land inventory and compare this capacity to population and employment growth projections.

Unincorporated UGA: Any UGA or portion of a UGA that is not within city limits. Unincorporated UGAs are under the County's jurisdiction, but may be annexed by the adjacent city or incorporate in the future.

APPENDIX A. POTENTIAL REASONABLE MEASURES

The following table compiles examples of actual reasonable measures that have been utilized in other Buildable Lands counties and were referenced in the 2018 *Washington State Buildable Lands Guidelines*. This list is intended to provide context and does not represent every possible appropriate reasonable measure. Individual jurisdictions will determine what reasonable measure(s) to apply, depending on the specific circumstances of the jurisdiction and the issues it is experiencing.

Exhibit 1. Examples of Reasonable Measures Used in Buildable Lands Counties

Reasonable Measure	Explanation
Create Annexation Plans	In an Annexation Plan, cities identify outlying areas that are likely to be eligible for annexation. The Plan identifies probable timing of annexation, needed urban services, effects of annexation on current service providers, and other likely impacts of annexation.
Encourage Transportation- Efficient Land Use	Review and amend comprehensive plans to encourage patterns of land development that encourage pedestrian, bike, and transit travel. This policy is typically implemented at the development review level.
Environmental Review and Mitigation Built into the Sub area Planning Process	Building environmental review and mitigation into the sub area planning process can address key land use concerns at a broader geographic scale, streamlining review and approval of individual developments.
Urban Growth Area Management Agreements	Urban Growth Area Management Agreements define lead responsibility for planning, zoning, and urban service extension within these areas. The agreements exist between various government jurisdictions and specify jurisdiction over land use decisions, infrastructure provision, and other elements of urban growth.
Capital Facilities Investments	Give priority to capital facility projects (e.g., regional storm water facilities and sanitary sewers) that most support urban growth at urban densities. Provide urban services to help reduce sprawl development and maintain the edge of the urban growth boundary.

Economic Development Strategy	Include strategy for sustainable economic development in local comprehensive plan. This strategy could include: downtown revitalization program; incentives for development that meet local goals; transit and transportation system upgrades; enhancement of the natural resource base; an industrial needs assessment.
Phasing/tiering Urban Growth	Incorporate strategies in comprehensive plans and capital facilities plans to phase urban growth as a way to provide for orderly development and encourage infill ahead of “urban fringe” development.
Downtown Revitalization	Develop a strategy to encourage downtown vitality. Include techniques such as promoting mixed residential and commercial uses, reuse of existing buildings rather than tearing down and rebuilding, and alternative urban landscaping and infrastructure that encourage pedestrian use.
Multifamily Housing and Tax Credits	Provide tax incentives (e.g., property tax exemption program) for multiple-unit housing for targeted areas in urban centers.
Transfer/ Purchase of Development Rights	Develop a program to encourage the purchase or transfer of development authority in order to increase urban densities and decrease non-urban densities within UGAs.
Implement a program to identify and redevelop vacant and abandoned buildings	Many buildings sit vacant for years before the market facilitates redevelopment. This policy encourages demolition and would clear sites, making them more attractive to developers and would facilitate redevelopment.
Creative use of Impact Fees	Adjust impact fees so that lower fees are required in the UGAs than in rural areas, while still contributing to the cost of development within the urban area.
Develop or strengthen local brownfields programs	Local jurisdictions provide policies or incentives to encourage the redevelopment of underused industrial sites, known as brownfields. Incentives for redevelopment of brownfields such as expedited permitting, reduced fees or targeted public investments can be implemented through local zoning ordinances.

Require Adequate Public Facilities	Local jurisdictions require developers to provide adequate levels of public services, such as roads, sewer, water, drainage, schools, and parks, as a condition of development. (Requirement by Growth Management Act)
Promote Vertical Growth	Allow modifications to the building height restrictions in the Urban Growth Areas.
Accessory Dwelling Units	Accessory dwelling units provide another housing option by allowing a second residential unit on a tax lot.
Clustering	Clustering allows developers to increase density on portions of a site, while preserving other areas of the site. Clustering is a tool most commonly used to preserve natural areas or avoid natural hazards during development. Clustering can also be used in conjunction with increased density to preserve the aesthetic of less dense development while increasing actual density. It uses characteristics of the site and adjacent uses as a primary consideration in determining building footprints, access, etc.
Duplexes, Town homes, and Condominiums	Permit duplexes, town homes, and condominiums in both mixed-use and residential districts of UGAs.
Density Bonuses	Some communities allow bonus densities in certain areas as an incentive for achieving other community values such as affordable housing, mixed-use developments, infill, rehabilitating existing structures and open space preservation.
Higher Allowable Densities	Where appropriate (and supported by companion planning techniques), allow more housing units per acre.
Industrial Zones	Limit non-industrial uses in industrial zones. For example, require that any commercial use be sized to primarily serve the industrial needs in the zone. Preclude residential use unless it is accessory to the industrial use.

Minimum Density Requirements	Zoning ordinances can establish minimum and maximum densities in each zone to ensure that development occurs as envisioned for the community.
Mixed Use	Allow residential and commercial development to occur in many of the same buildings and areas within UGAs.
Small Lot/Cottage Housing	Allow or require small lots (5,000 square feet or less) for single-family neighborhoods within UGAs.
Allow Small Residential Lots	Allow a range of single-family lot sizes ranging from 3,600 to 9,600 square feet.
Transit- Oriented Development	Encourage convenient, safe and attractive transit-oriented development; including the possibility of reduced off street parking that could encourage more efficient use of urban lands.
Urban Centers and Urban Villages	Use urban centers and urban villages to encourage mixed uses, higher densities, inter- connected neighborhoods, and a variety of housing types that can serve different income levels.
Lot Size Averaging	This technique is similar to clustering. If the zoning ordinance establishes a minimum lot size, the land use designation is calculated based on the average size of all lots proposed for development, within the range required for urban density. Development proposals may create a range of lot sizes both larger and smaller provided the average lot size is within the range consistent with the designation.
Allow Co-Housing	Co-housing communities balance the traditional advantages of home ownership with the benefits of shared common facilities and connections with neighbors.
Encourage Infill and Redevelopment	This policy seeks to maximize use of lands that are fully developed or underdeveloped by making use of existing infrastructure and by identifying and implementing policies that improve market opportunities and reduce impediments to development in areas suitable for infill or redevelopment.

Mandate Maximum Lot Sizes	This policy places an upper bound on lot size and a lower bound on density in single-family zones. For example, a residential zone with a 6,000 sq. ft. minimum lot size might have an 8,000 sq. ft. maximum lot size yielding an effective net density range between 5.4 and 7.3 dwelling units per net acre.
Enact inclusionary zoning ordinance for new housing developments	Inclusionary zoning requires developers to provide a certain amount of affordable housing in developments over a certain size. It is applied during the development review process.
Zone areas by performance or building type, not by use	A local jurisdiction can alter its zoning code so that zones define the physical aspects of allowed buildings, not the uses in those buildings. This zoning approach recognizes that many land uses are compatible and locate in similar building types.
Develop Manufactured Housing	Adopt standards to ensure compatibility between manufactured housing and surrounding housing design standards.
Specific Development Plans	Work with landowners, developers, and neighbors to develop a detailed site plan for development of an area. Allow streamlined approval for projects consistent with the plan. This policy results in a plan for a specific geographic area that is adopted as a supplement or amendment to the jurisdiction's comprehensive plan.
Encourage developers to reduce off-street surface parking	This policy provides incentives to developers to reduce the amount of off-street surface parking through shared parking arrangements, multi-level parking, use of alternative transportation modes, particularly in areas with urban-level transit service.
Implement a process to expedite plan & permit approval in UGAs	Streamlined permitting processes provide incentives to developers. This policy would be implemented at the development review phase.
Narrow Streets / Reduce Street Width	Encourage or require street widths that are the minimum necessary to ensure that transportation and affordable housing goals can be achieved.

Concentrate critical services near homes, jobs, transit	This policy would require critical facilities and services (e.g., fire, police, hospital) be located in areas that are accessible by all people. For example, a hospital could not be located at the urban fringe in a business park.
Urban Amenities for Increased Densities	Identify and provide amenities that will attract urban development in UGAs and enhance the quality of life for urban residents and businesses.
Locate civic buildings in existing communities rather than in Greenfield areas	Local governments, like private builders, are tempted to build on greenfield sites because it is less expensive and easier. However, local governments can “lead by example” by making public investments in desired areas, or redeveloping target sites.
Urban Holding Zones	Use low intensity zoning in certain areas adjacent to or within the UGA where municipal services will not be available within the near future. (For example: Urban Reserve)
Mandate Low Densities in Rural Resource Lands	This policy is intended to limit development in rural areas by mandating large lot sizes. It can also be used to preserve lands targeted for future urban area expansion. Low-density urban development in fringe areas can have negative impacts of future densities and can increase the need for and cost of roads and other infrastructure.
Impose Restrictions on Physically Developable Land	The local jurisdiction places restrictions on the type of development that can occur on vacant land. Restrictions can vary in strictness, from no development to limited development. This policy is implemented through city limit or UGA boundaries.

Allow for alternative sanitary sewer systems in unincorporated UGAs	To ensure urban-level sewer or equivalent wastewater service in all UGAs for the 20-year planning horizon. New proposed policies would allow for alternative systems such as package plants, membrane systems and community drainfields in areas where other sewer provision is not financially feasible, provide significant benefit to aquifer recharge and would enable Kitsap County to monitor and maintain those facilities to ensure their long-term effectiveness.
Remove pre-planning allowances in UGAs	Development regulations have allowed subdivisions to “shadow plat” and show how urban densities can be achieved in the future and how sanitary sewer can be accommodated to serve all lots when fully developed. In the meantime, portions of the “shadow plat” can be developed with on-site septic systems.
Provide for regional stormwater facilities in unincorporated UGAs	To increase development feasibility on small and/or development constrained parcels. New policy would allow for funding and construction of regional stormwater treatment facilities in areas where individual on-site treatment facilities are not financially feasible.
Strengthen and amend policies to promote low impact development	Policies support clustered development with surface water features that allow for minimal site disturbance. This could allow for innovative infrastructure resulting in more efficient use of developable land.
Consolidated comprehensive plan land use designations	Will make it easier to rezone urban parcels in the future without the additional time and expense of a comprehensive plan amendment process.
SEPA Categorical Exemptions for Mixed Use and Infill Development & Increased Thresholds for SEPA Categorical Exemptions	To streamline the development review process and encourage more efficient development within existing UGA boundaries.

Source: Washington State Department of Commerce, Buildable Lands Guidelines, 2018

APPENDIX B. MARKET FACTOR WHITE PAPER

INTRODUCTION

Background and Purpose

Each county planning under Washington’s Growth Management Act must, in conjunction with the cities, estimate the capacity of its cities and urban growth areas (UGAs) to accommodate projected population and employment growth over a 20-year period. One major consideration to avoid overestimating capacity is to estimate how much developable land will not actually be available for development due to owner preferences, market support, and other circumstances. This adjustment is referred to as the “Market Factor”, and the use of a “reasonable” land market supply factor is a required component of a Review and Evaluation (“Buildable Lands”) Program under state law (*RCW 36.70A.215 (3)(b)(ii)*).

Whatcom County and the cities are now required to develop a Buildable Lands Program, including methods for a market factor. In addition, 2017 legislation introduced new considerations for developing a market factor for all Buildable Lands counties (*E2SSB 5254*). While local jurisdictions have been given broad guidance on how to interpret these considerations, they are granted discretion in how they approach their own analysis. The purpose of this white paper is to provide Whatcom County and the cities with recommendations for analysis to develop market factors that meet legal requirements, are consistent with best practices, and can be accomplished with local resources.

Methods

The recommendations in this report were informed by the following sources:

- Review of Growth Management Act, Washington Administrative Code, and the Department of Commerce’s 2018 *Review & Evaluation Program Buildable Lands Guidelines* (hereinafter “*Buildable Lands Guidelines*”).
- Review of methods used in other Washington Buildable Lands counties.
- Review of applicable data availability in Whatcom County.
- Interviews with staff from the Washington State Department of Commerce and other buildable land counties.

Organization of this Report

This report includes the following sections:

- I. **Statutory Requirements and State Guidelines:** Outlines legal requirements for the market factor under state law and potential approaches in the State's *Buildable Lands Guidelines*.
- II. **Comparative Approaches:** Describes how other Buildable Lands counties have developed market factors.
- III. **Approach to New Market Factor Considerations:** Discusses considerations in establishing market factors. Also clarifies which considerations will be addressed through other components of the Buildable Lands Methodology, as opposed to the market factor itself.
- IV. **Local Data Availability:** Identifies data sources required for common analysis methods and reviews coverage for Whatcom County.
- V. **Recommended Analysis Methods:** Recommends approach to the market factor, including overview of required resources.

I. STATUTORY REQUIREMENTS AND STATE GUIDELINES

The Review and Evaluation Program, also known as the Buildable Lands Program, was established in 1997 as an amendment to the Growth Management Act (RCW 36.70A.215; WAC 365-196-315). In 2017, the Washington Legislature approved the first major revision to the Buildable Lands Program with the passage of E2SSB 5254. To assist local governments in meeting the requirements of the Review and Evaluation Program, the State's *Buildable Lands Guidelines* were completed in 2018.

The Review and Evaluation Program calculations are intended to determine if a county and its cities are achieving urban densities and the amount of land needed to accommodate growth projections over the remaining portion of the current 20-year planning period. These calculations include a variety of population, employment, and development-related data. One component of this analysis, the Market Supply Factor, estimates the portion of developable land within an urban growth area that is likely to remain unavailable over a 20-year planning period and which should, therefore, be deducted from the final calculation of land area suitable for development and redevelopment. Documenting this calculation in buildable land analysis enables a community to avoid overestimating capacity by considering the unique local conditions that may impact buildable land capacity. The market factor is applied after deductions for critical areas, public uses, and infrastructure.

GMA Guidance on Buildable Lands and the Use of a Market Supply Factor (RCW 36.70A.215; WAC 365-196-315)

The Market Supply Factor adjustment to Buildable Lands has two primary references in the Revised Code of Washington (RCW) and two in Washington Administrative Code (WAC) specifically guiding UGA planning.

1. **RCW 36.70A.215(3)(b)(ii).** "Use of a reasonable land market supply factor when evaluating land suitable to accommodate new development or redevelopment of land for residential development and employment activities. The reasonable market supply factor identifies reductions in the amount of land suitable for development and redevelopment. . ."
2. **RCW 36.70A.110(2).** "...An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth. . ."
3. **WAC 365-196-310(2)(e).** "The urban growth area may not exceed the areas necessary to accommodate the growth management planning

projections, plus a reasonable land market supply factor, or market factor. In determining this market factor, counties and cities may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth. . .”

4. **WAC 365-196-310(4)(b)(ii)(F).** “The land capacity analysis may also include a reasonable land market supply factor, also referred to as the ‘market factor.’ The purpose of the market factor is to account for the estimated percentage of developable acres contained within an urban growth area that, due to fluctuating market forces, is likely to remain undeveloped over the course of the twenty-year planning period. The market factor recognizes that not all developable land will be put to its maximum use because of owner preference, cost, stability, quality, and location. If establishing a market factor, counties and cities should establish an explicit market factor for the purposes of establishing the amount of needed land capacity. Counties and cities may consider local circumstances in determining an appropriate market factor. Counties and cities may also use a number derived from general information if local study data is not available.”

The state statute and administrative code authorize use of a market supply factor in calculating buildable land. The State’s *Buildable Lands Guidelines* (2018) also say:

1. **Market Supply Factors are appropriate and can be distinct for both new development and redevelopment.** Market Supply Factor is, in effect, a valid consideration for vacant, partially utilized or under-utilized land in UGAs (such as already-developed properties that are identified as appropriate for higher-intensity redevelopment).
2. **Distinct Market Supply Factors are appropriate for employment land and activities.** Market Supply Factor reductions can and should also be made for commercial and industrial land, which typically have different, more income-oriented ownership intent than residential property ownership.
3. **Market Supply Factors can and should be distinct for different counties and cities.** Statute does not intend for there to be uniformity in Market Supply Factor determination by counties and cities statewide. Variation and distinct differences to reflect unique local conditions are expected and protected.
4. **Market Supply Factors can and should be distinct for Urban Growth Areas.** UGA Market Supply Factors should reflect fluctuating market forces that leave different parcels undeveloped for twenty years. More specifically, UGA Market Supply Factors should reflect owner preference, cost, stability, quality, and location as

determinants of unavailability for development that may likely differ from parts of cities and counties that have long been developed.

5. **Urban growth area Market Supply Factors can be based on generally available information**, including Market Supply Factor methodology from other cities and counties, instead of purely local data. Jurisdictions may study local UGA Market Supply Factor determinants or study and potentially utilize UGA Market Supply Factor determination information and methodology from elsewhere in Washington (p. 48).

Senate Bill (E2SSB) 5254: Elaboration on Market Supply Factor

E2SSB-5254 recognized that, while the market supply factors used by buildable lands communities were consistent with past practices, there were likely data collection improvements that could enhance accuracy. RCW 36.70A.217 required the State Department of Commerce to analyze and provide recommendations on the following considerations when developing their guidelines for local governments:

1. Infrastructure costs, including but not limited to transportation, water, sewer, stormwater, and the cost to provide new or upgraded infrastructure if required to serve development.
2. Cost of development.
3. Timelines to permit and develop land.
4. Market availability of land.
5. The nexus between proposed densities, economic conditions needed to achieve those densities, and the impact to housing affordability for home ownership and rental housing.
6. Market demand when evaluating if land is suitable for development or redevelopment.

State Buildable Lands Guidelines

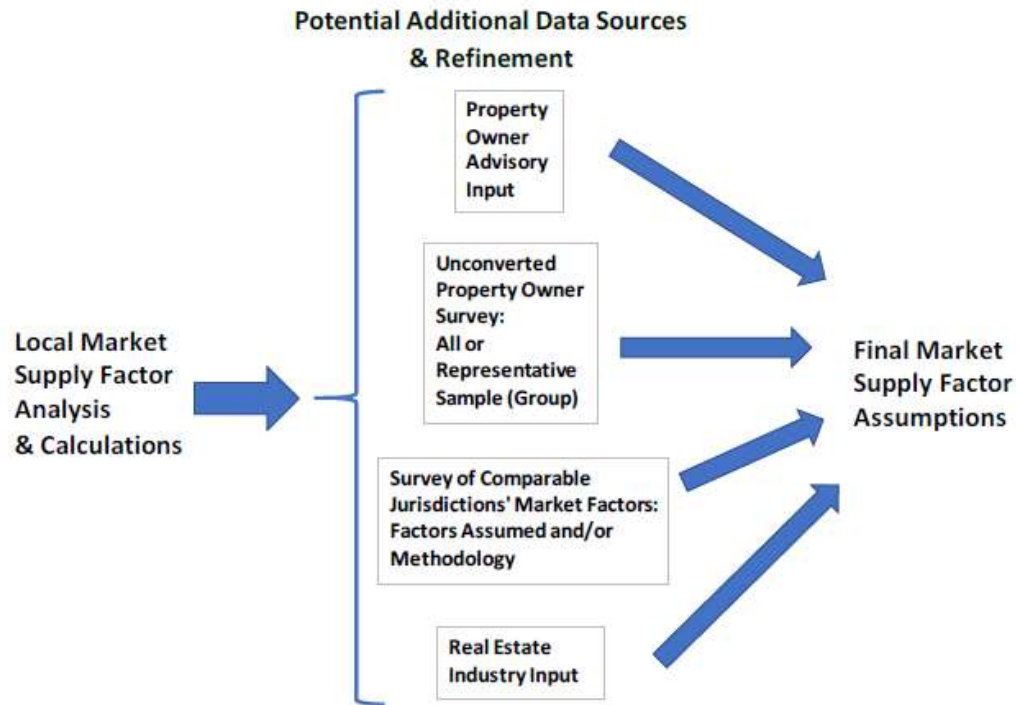
The State's *Buildable Lands Guidelines* document (2018) provides direction on how to incorporate these considerations into the market supply factor (pp. 52-58). In addition, the *Buildable Lands Guidelines* provide ideas and examples of how jurisdictions should "show their work" when addressing these various issues and offers sample hypothetical "analysis & calculations" approaches to calculating the Market Supply Factor (pp. 59-60).

Many data sources are appropriate to help shape robust Market Supply Factor assumptions. In addition to the hypothetical approaches listed in the *Guidelines*, other sources of information that may prove useful include

property owner input, property owner surveys, comparable jurisdictions' Market Supply Factor methodologies and findings, and input from real estate industry experts. Jurisdictions may identify other sources of information or considerations, so long as they document clear rationale for their use.

Exhibit 1 provides a general example of how data and other inputs can inform the final market factor. The three sections of this chart are explained in greater detail in the following text.

Exhibit 1. State Guidance on Market Factor Process



Source: *State Buildable Lands Guidelines* (2018, p. 61).

Local Market Supply Factor Analysis and Calculations

The *Buildable Lands Guidelines* provide three potential initial analyses for market factors. All three analyses would be performed on parcels in the geographic area and development type subject to a unique market factor.

Option 1: Improvement Value to Total Value

Divide each parcel's total assessed value by the assessed value of its improvements. It is assumed that properties with existing higher value improvements are less likely to convert/re-develop than other properties.

This approach is most useful for residential development. It is least useful for industrial development, where low improvement values are not always correlated with a lack of economic activity. This approach addresses

partially-used and under-utilized parcels, but does not address vacant parcels.

Option 2: Properties Without Transaction Activity

Identify how many parcels in the group have no recorded transactions for a specific period of time. The percentage of non-transacting parcels can be used to inform the market factor selection process.

This approach is useful because it may reflect both owners' willingness to sell and market appetite for land. It also provides objective evidence to weigh against property owner surveys. For this approach to be useful, the time period being studied should be similar to the conditions expected in the future. This approach is also dependent on the quality of property sale data. Additionally, this approach does not address existing land owners' willingness to develop their own properties in the 20-year planning period.

Option 3. Converted Properties

Calculate the percentage of properties that were developed or re-developed in a specific period of time. Use the percentage that did not have any activity to inform the market factor selection process.

This approach assesses development appetite and inherently reflects financial viability and market support. In addition, this approach can be used to assess how development responds to providing new infrastructure, or how a lack of infrastructure impacts development activity. This approach is dependent on having the ability to capture current and historic data for specific parcels, or having reliable historic development data (e.g. permit or Assessor's data).

Potential Additional Data Sources and Refinement

These initial analyses may be considered along with additional data and analysis. Several examples of additional data sources are provided in the *State Buildable Lands Guidelines*, detailed below.

Property Owner Advisory Input

Jurisdictions can identify property owners who own significant buildable lands and reach out to discuss their plans. Property owners' input can directly inform capacity assumptions for their parcels.

Property Owner Survey

Several counties have surveyed vacant and redevelopable property owners to understand their openness to development on their property. This approach is detailed further in **Section V**.

Survey of Comparable Jurisdictions

Jurisdictions may borrow market factors and methods from jurisdictions with similar conditions, provided they document the reasons why they believe the borrowed factors and/or methods are applicable.

Real Estate Industry Input

Experts on the local real estate market can provide additional insight on specific development barriers. This insight can inform the market in general (for example, providing guidance on development types that are not yet supported), and provide feedback on specific parcels (reviewing maps of buildable properties and identifying parcels with known significant issues).

Final Market Supply Factor Assumptions

The final market factors selected should be refined based on the evidence provided by completed analyses. There is no set minimum or maximum standard for analysis required to prepare a market factor. Counties and cities must simply use their best judgement in determining what will be useful in their case and document their rationale. The market factor should be derived with data and other documented evidence.

II. COMPARATIVE APPROACHES

As of May 2021, some of the other Buildable Lands counties have developed market factors and some counties are still in the process of formulating market factors to address RCW 36.70A.215 and the updated 2018 State *Buildable Lands Guidelines*. Thurston County was the first county to complete analysis to support revising its market factor. King, Pierce, and Snohomish have also completed their market factor assumptions. Clark and Kitsap have analysis and work in progress to support market factor assumptions.

Each jurisdiction has a unique approach to their market factors. King County's approach allows each city to select one or more applicable market factors and has identified a range of market factors for distinct product (development) types by different regional geographies. Pierce County reviewed their market factor assumptions and continue to use individual market factors for each jurisdiction. Snohomish County has updated their market factors based on observed market factors and has provided updated residential market factors for both South-West UGA (SWUGA) and non-SWUGA areas. Clark County's analysis confirmed the continued use of a 10% market factor for vacant land and 30% for underutilized land. A property owner survey in Thurston County has resulted in a recommended approach that developed separate market factors for partially developed and vacant residential parcels that vary based on the parcel's zoned development potential.

Exhibit 2. Recommended Market Factors by County

Buildable Lands County	Residential Market Supply Factors				Commercial / Industrial Market Supply Factors			
	Unincorporated UGA		Cities (Range)		Unincorporated UGA		Cities (Range)	
	Vacant	Underutilized	Vacant	Underutilized	Vacant	Underutilized	Vacant	Underutilized
Clark	10%	30%	0-10%	0-30%	20%	50%	0-10%	0-10%
King - Non-Seattle	0-30%	0-30%	1-50%	1-50%	10-35%	10-35%	1-50%	1-50%
King - Seattle	0-50%	0-50%	0-50%	0-50%	3-50%	3-50%	3-50%	3-50%
Kitsap	5-50%	5-50%	5-50%	5-50%	5-50%	5-50%	5-50%	5-50%
Pierce	15%	40%	0-50%	0-50%	20%	50%	0-50%	0-50%
Snohomish - SWUGA	6-11%	10-20%	6-11%	10-20%	15%	30%	15%	30%
Snohomish - Non-SWUGA	12-14%	16-23%	12-14%	16-23%	15%	30%	15%	30%
Thurston	10-20%	10-40%	10-20%	10-40%	10-20%	10-40%	10-20%	10-40%

Sources: Clark County, 2021; King County, 2021; Washington State Department of Commerce, 2021; Snohomish County, 2021; Thurston County, 2021; Kitsap County, 2021; Pierce County, 2021; Community Attributes Inc., 2021. Notes: King County Unincorporated UGA figures in this table are derived from and dependent on the cities with which Potential Annexation Areas (UGAs) are affiliated; residential Unincorporated UGA factors are higher for the highest density zones, while non-residential Unincorporated UGA factors are lower for industrial zones. Regional geography types include Core City, High Capacity Transit, Cities and Towns, and Metropolitan, with low to high market factor ranges for each. The market factor selected from the range for Thurston County depends on the current development status of a parcel, including whether the capacity type is One Unit, Short Plan, Long Plat, or Mixed Use.

King County

In a change from previous methods utilized to inform their 2014 Buildable Lands Report, King County has articulated new guidance for its jurisdictions regarding selection of market factors. Going forward, cities will have the flexibility to select one or more market factors that are applicable to them. For example, some smaller cities may choose a single residential market factor, while a larger city might select multiple market factors to reflect the zones in their city. Based upon consultant analysis, King County has identified a range of low, medium, and high market factors (**Exhibit 3**) for distinct product types by different regional geographies. In order to select within this range, each city must review their specific attributes, assumptions and market conditions and consider whether a higher or lower market factor is appropriate for that given product type.

Exhibit 3. Recommended King County Market Factor Ranges by Product

City Typology	Product Typology			
	Residential		Non-Residential	
Market Factor Alignment	Multifamily/ Mixed-Res	Single Family	Commercial (Office/Retail/Mixed)	Industrial
Core City				
Low	5%-10%	1%-14%	1%-10%	1%-15%
Medium	11%-20%	15%-20%	11%-20%	16%-35%
High	21%-35%	21%-30%	21%-50%	36%-50%
High-Capacity Transit				
Low	5%-10%	1%-9%	1%-14%	1%-19%
Medium	11%-15%	10%-20%	15%-25%	20%-30%
High	16%-30%	21%-35%	26%-50%	31%-50%
Cities and Towns				
Low	10%-24%	1%-10%	1%-10%	1%-15%
Medium	25%-35%	11%-40%	11%-20%	16%-35%
High	36%-50%	41%-50%	21%-50%	36%-50%
Metropolitan				
Low	5%-10%	1%-14%	1%-10%	1%-15%

Source: King County, 2021.

In addition to the ranges above, cities will be provided with “adjustment templates” to further adjust within the given ranges or deviate from them altogether to account for known conditions that impact the development of and availability of land in their jurisdiction. Some of these conditions include:

- Assumption for Vacant versus Redevelopable Lands
- Market Trends
- Single Family Up-zoned Areas
- Restrictive Covenants in Planned Communities
- Fragmented Ownership and Parcel Size
- Access to Transit

Additionally, a separate set of ranges has been developed specifically for Seattle (**Exhibit 4**). These ranges reflect a bit more neighborhood detail, but they are based on the same sources of information.

Exhibit 4. Recommended City of Seattle Market Factor Ranges by Product

	Residential				
	Multifamily/ Mixed-Res	Single Family Attached	Single Family Detached	Commercial (Office/Retail/Mixed)	Industrial
City of Seattle					
Low	4% - 11%	0% - 13%	0% - 9%	5% - 24%	3% - 14%
Medium	12% - 20%	14% - 38%	10% - 26%	25% - 35%	15% - 21%
High	21% - 29%	39% - 50%	27% - 43%	36% - 50%	22% - 27%

Source: King County, 2021.

These recommendations comprise the second phase of a recent analysis to update King County's market factor methodology. The first phase of analysis stratified cities by market characteristics. In the second phase, the County focused on refining the stratified groupings and adding neighborhood types within cities, such as downtowns and mixed-use nodes. The analysis also examined how the supply of land has been absorbed since 2000. That rate or share of land supply absorption has suggested new market factors. King County staff analyzed data sources, including the land supply from older buildable lands and assessor data, resulting in a suggested category and market factor ranges for each type of zone, neighborhood, and city.

Pierce County

Pierce County continues to use the methodology outlined in a 2014 Buildable Lands Report to comply with reporting requirements. The report does not detail the considerations that were addressed in the analysis for the market factor used for the County or its cities. The specific market factors used varied greatly by jurisdiction and land use but were generally higher for underutilized lands than for vacant lands.

In reviewing the new *Buildable Lands Guidelines* as of October 2020, Pierce County found that its existing deduction is adequate but needs more explicit documentation on how it addresses market factor. The County also found the previous methodology may not fully address infrastructure gaps. As such, staff have identified properties that are farther than 300 feet from sewers and intend to apply a further deduction to the portion of parcels according to that distance. Staff have also coordinated with cities and towns to identify other areas with cost-prohibitive infrastructure deficiencies, and they intend to include those parcels in the portion of parcels with further deduction as well.

Snohomish County

The Snohomish County Buildable Lands Reports completed in 2002, 2007, and 2012 assumed market availability factor reductions of 15% for vacant land and 30% for partially used and redevelopable land. These assumptions were based on property owner surveys completed in 1993 (City of Marysville) and 2005 (Snohomish County). In 2019, consultants worked with County staff to update these figures based upon an analysis of sample areas representing different types of markets or geographies. A resulting 2020 technical supplement recommends updated market factors, including assigning different market factors for the South-West UGA (SWUGA) and non-SWUGA lands (**Exhibit 5**). Snohomish County selected market factors ranging between 6% and 14% for vacant single family land uses, and between 10% and 23% for underutilized single family land uses. Snohomish County will likely maintain the market factors documented in the 2012 Buildable Lands Report for vacant and underutilized land in other land use and zoning categories including other multifamily residential, mixed use, commercial and industrial. Data was not available to develop updated market factors for multifamily residential, mixed use, commercial, and industrial land uses, thus the previously established market factors will continue to be used for these land use and zoning categories in both SWUGA and non-SWUGA areas.

Exhibit 5. Recommended Snohomish County Market Availability Reduction Factors (MARFs)

Land Use and Zones		Previous MARF	Observed MARF 2001-2019	
			SWUGA	Non-SWUGA
Urban Low Density Residential Areas	Vacant	15%	6%	12%
Single Family Zoning (SFL)	Underutilized	30%	10%	16%
Urban Medium Density Residential Areas	Vacant	15%	11%	14%
Mix of Single Family & Low Density Multi-Family Zoning (SFM)	Underutilized	30%	20%	23%
All Other Land Uses	Vacant	15%	N/A	N/A
All other Multi-Family Zoning, Commercial and Industrial Zoning	Underutilized	30%	N/A	N/A

Source: Snohomish County, 2021.

Note: Underutilized includes both partially-used and redevelopable parcels. The South-West UGA encompasses nine incorporated cities and their respective municipal UGAs (MUGAs); other cities and MUGAs located outside this area are termed “non-SWUGA”.

Recommendations for the updated market factor approach were based on a sample area approach to analyzing development activity across the past 20-years. Sample areas selected represent different types of markets or geographies where development has been focused during the analysis timeframe. Analysis used a 2001 parcel extract of properties identified with additional capacity in the 2002 Buildable Lands Report without development or development proposals as of 2019. The analysis of these parcels in selected sample areas provided observed market factors from 2002-2018 for the Bothell MUGA (located within the larger SWUGA) and the Stanwood/Cedarhome UGA located in the Non-SWUGA area of the County. For single family residential uses, the analysis of the Bothell / SWUGA sample area, for example, found reduced market factors compared to the 2012 assumptions, 6% compared to 15% assumed for vacant land and 10% compared to 30% assumed for underutilized land. Analysis of the Stanwood/Cedarhome in the Non-SWUGA area also found reduced observed market factors compared to assumptions, 12% compared to 15% assumed for vacant land and 16% compared to 30% assumed for underutilized land. In summary, Snohomish County found that analysis of past development suggested that the market factors for certain types of development in Snohomish County, that were informed by land owner surveys and set before the development occurred, were higher than those actually observed.

Snohomish County also hoped to analyze observed market factors for different development types with a sample area approach. However, data

required for the analysis was not available for an analysis of multifamily or mixed-use development types. The June 2020 Technical Supplement recommends future monitoring of market factors for different development types.

Clark County

As of May 2021, Clark County is still in the process of updating its market factors in accordance with the new *Buildable Lands Guidelines*. The updates to methodology are ongoing and the County has not finalized market factor assumptions, however, County representatives have indicated that, at minimum, Clark County will maintain existing market factors of 10% for vacant land and 30% for underutilized land.

Prior analysis compared vacant and underutilized residential land in 2019 and 1996 within the 1996 UGA boundary. The resulting assumptions used in the 2014 Buildable Lands Report were that 90% of vacant land will develop and 70% of underutilized land will develop.

Clark County has been conducting analyses to review these assumptions, as documented in an August 28, 2020 memo addressing Updates to Employment Land Classifications, Redevelopment, Mixed Use, Market Factor, and Infrastructure Set-Aside Topics. In summer of 2020, a consultant team analyzed observed data within a sample location covering 600 acres that have seen a high rate of growth since 2007. Analysis compared the 2007 Vacant Buildable Lands Model baseline to current development, providing a 13-year range to assess observed market factors. Results of the analysis supported a recommendation to continue using current assumptions that 90% of vacant land will develop and 70% of underutilized land will develop (e.g. market factors of 10% and 30% respectively).

The sample area analysis did find evidence for higher deductions for critical areas. The previous methodology assumed that 50% of critical areas will develop and the market factor is applied to the 50% reduced critical area. Analysis in 2020 recommends that the deductions for critical areas should be 62.5% for Residential-Urban Low and 58.8% for Residential Urban-High zones. The recommendations also indicate that the additional market factor of 90% or 70% should not be applied to the critical area deduction.

Thurston County

In 2019, Thurston County conducted a property owner survey to develop updated residential market factors. The survey was mailed to all owners of developable parcels. It was also mailed to owners of parcels on the margins of being considered partially-developed to help test the County's assumptions. Based on these survey results, Thurston County developed separate market

factors for partially developed and vacant residential parcels that vary based on the parcel's zoned development potential. The more a lot can be subdivided based on zoning, the lower the market factor assumption. A separate market factor was also developed for mixed use residential parcels (**Exhibit 6**).

Exhibit 6. Thurston County Market Factors, 2019

Market Factor by Current Development Status		
Capacity Type	Partially Developed	Vacant
One Unit (Cannot be subdivided further)	40%	20%
Short Plat	30%	15%
Long Plat	20%	10%
Mixed Use	10%	10%

Source: Thurston Regional Planning Council, 2019

The County received responses from 25% of mailed surveys and used the results to develop its market factors. The survey was modeled closely after Snohomish County's past survey, which was completed over the phone. Thurston County found that using multiple time periods to estimate when development could occur was confusing for some respondents to the written survey. A large portion of respondents did not provide answers for every time period, so more interpretation was required. For future mailed surveys, Thurston County indicated that simply asking if the property may be available for development within 20 years could allow for greater consistency in responses.

Key findings from the survey included:

- **Significant variation by UGA.** The share of respondents stating that development was "very unlikely" ranged from 14% to 84% by UGA, with an average of 30%. Bucoda, the UGA on the high end of this range, has significant flood hazards which impact this number. Grand Mound was another outlier at 61%, but the summary report did not suggest a potential explanation.
- **Vacant land owners are more open to development compared to partially developed land owners.** 28% of owners of a vacant lot which could accommodate one unit stated that development was very unlikely, compared to 41% of partially developed lots which could only accommodate one unit.
- **The difference between vacant and partially developed property owners' preferences decreases as zoned**

redevelopment potential increases. Owners of both vacant and partially developed land were more open to redevelopment if their property could be subdivided into more lots. Similarly, openness to development across all properties increases as zoned capacity increases.

- **When the property owner currently lives on the parcel, they are much less likely to be open to development.** 41% of property owners living on the parcel in question stated that development was very unlikely compared to 11% of property owners living elsewhere.
- **Permitting, impact, and utility hookup fees cited as development barriers.** 28% of respondents cited fees as barriers toward developing their property.

Kitsap County

Kitsap County is currently working with local jurisdictions and a consultant on a new Buildable Lands Report. The report will examine market factors and several other options in a framework to reflect geographical, product, and market typologies in the County. Kitsap County is still working through market factor-specific guidance with its consultant team and anticipates completion of guidance for the residential and employment land capacity analysis will continue through early summer 2021. However, Kitsap County has released preliminary figures as of May 2021 that are currently under review. Based upon consultant analysis, Kitsap has identified a range of market factors (**Exhibit 7**) for distinct product types by different regional geographies. In order to select within this range, each city must review their specific attributes, assumptions and market conditions and consider whether a higher or lower market factor is appropriate for that given product type. Market factor ranges run from 5% minimum up to 50% maximum for residential and non-residential typologies. Ranges for each type and geography were determined by the consultants and County based on a projection of what percentage of planned capacity will be absorbed over the coming years.

Exhibit 7. Kitsap County Preliminary Market Factors, May 2021

Geography		Product Typology			
		Residential		Non-Residential	
Market Factor Range		Multifamily/ Mixed-Res	Single Family	Commercial (Office/Retail/Mixed)	Industrial
Bremerton	City, UGAs	Medium (20% - 35%)	High (35% - 50%)	Medium (20% - 35%)	High (35% - 50%)
Bainbridge	City	Low (5% - 20%)	Low (5% - 20%)	Medium (20% - 35%)	Medium (20% - 35%)
Central Kitsap	UGA	High (35% - 50%)	Medium (20% - 35%)	Medium (20% - 35%)	Low (5% - 20%)
Silverdale	UGA	Medium (20% - 35%)	Medium (20% - 35%)	Medium (20% - 35%)	High (35% - 50%)
Kingston	UGA	High (35% - 50%)	Medium (20% - 35%)	Medium (20% - 35%)	Low (5% - 20%)
Port Orchard	City, UGAs	High (35% - 50%)	Medium (20% - 35%)	High (35% - 50%)	Medium (20% - 35%)
Poulsbo	City, UTA	Low (5% - 20%)	Low (5% - 20%)	Low (5% - 20%)	Low (5% - 20%)

Source: Kitsap County, 2021

Kitsap County has developed a methodology that, like King County's, is partially based on PSRC's regional geography typologies; each city and UGA in the County has been categorized as one of these geographies in order to help inform selection from a range of market factors: Metropolitan Cities (Bremerton and its UGA), Core Cities (Silverdale), High-Capacity Transit Communities (Bainbridge, Poulsbo & UGA, Kingston, and Port Orchard & UGA), and Cities and Towns (none).

Kitsap County's preliminary methodology consists of four steps:

- (a) **Assign product types to each zone within each geography.** In this step, the County and Cities identify the predominant product type in each zone of the City/UGA where capacity exists. Product types corresponding to zoning include single-family residential, multifamily residential, commercial, and industrial uses.
- (b) **Establish market indicators for each city and product type.** This step consisted of an historic analysis of develop patterns and actual, measure market factors for various Kitsap cities and product types versus planned capacities. Market factors were estimated based on percentages of real estate absorption by product over that time period. Ranges and segmentation were determined:
 - (i) Lower boundary: 5% To account for the unmeasurable variables.
 - (ii) Upper boundary: 50%: Upper bound for potential market factors.

- (iii) **Range Segmentation:** This analysis separates the ranges into three segments evenly distributed within the upper and lower bounds (low/medium/high).

(c) **Establish Market Factor Ranges for each geography, and product type.** In this step, cities select from a range of market factors organized by product type.

(d) **Refine and Adjust.** Finally, cities refine and adjust local conditions and based on local analysis. A range for each product-type by each Regional Geography is provided in Step C. In order to select within this range, each city (or UGA) must review their specific attributes, assumptions and market conditions and consider whether a higher or lower Market Factor is appropriate for that given product type (and therefore, applicable zone within the City or UGA). It is important to note that additional factors may need to be considered to account for unique circumstances influencing the market availability of land in any given jurisdiction. Such factors may include:

- (i) Vacant versus underutilized lands
- (ii) Market Trends
- (iii) Single family uses in recently up-zoned areas
- (iv) Restrictive Covenants in planned communities
- (v) Parcel size and assemblage challenges
- (vi) Transit accessibility
- (vii) Infrastructure limitations
- (viii) Areas designated as Growth Centers

III. APPROACH TO NEW MARKET FACTOR CONSIDERATIONS

This section reviews each market factor consideration set forth in RCW 36.70A.217, shown in italics below, along with information from the State *Buildable Lands Guidelines*, and how Whatcom County and the cities might approach these issues. Several considerations for the market factor may be addressed in other ways through the Buildable Lands Methodology itself (e.g. through reasonable measures).

RCW 36.70A.217 Requirements

1. *Infrastructure costs, including but not limited to transportation, water, sewer, stormwater, and the cost to provide new or upgraded infrastructure if required to serve development*

Whatcom County's Buildable Lands Methodology utilizes achieved densities (where available) to estimate future capacity in the buildable lands analysis. Achieved densities should reflect market support for development, including in areas where new or upgraded infrastructure are required.

There may be cases where there is insufficient data on achieved densities to assess future capacity. In these cases, the County and cities should assess potential reasons why development has not occurred, including infrastructure costs and the inability to connect to public water and sewer (e.g. property in a city UGA prior to annexation).

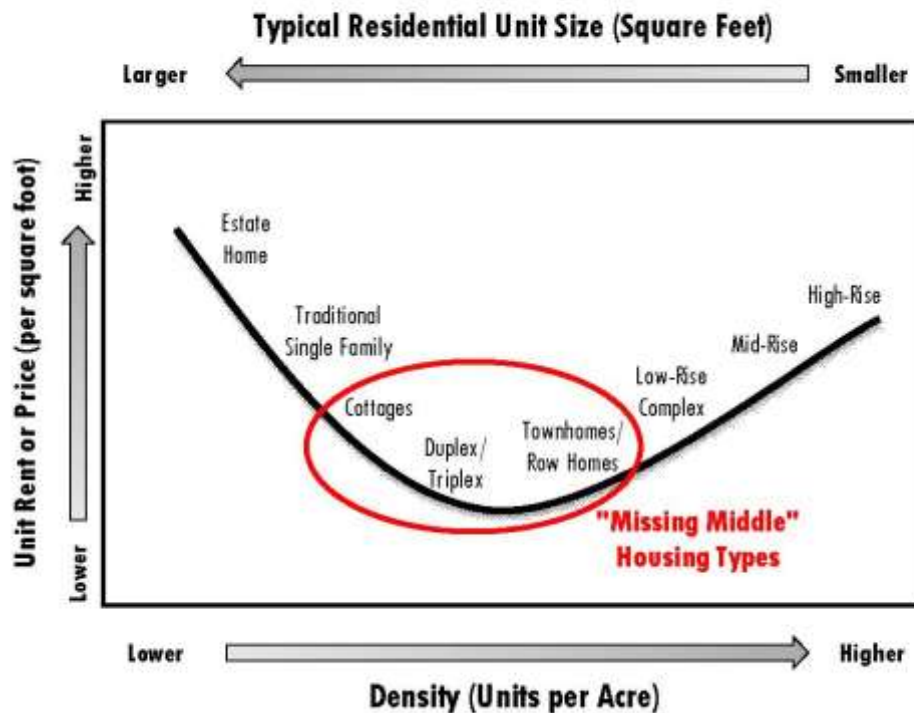
The jurisdictions should also address how to identify areas which will have limited development potential until certain infrastructure improvements are complete. This could include considering the timing of future capital improvement projects and using this to evaluate the phasing of development capacity in certain areas. It should be noted that the Review and Evaluation Program Methodology addresses "infrastructure gaps" separately from market factor in accordance with RCW 36.70A.215(3)(b). While "gaps" in publicly provided infrastructure are treated separately, market factors are still the appropriate mechanism to account for owner/developer considerations related to on-site infrastructure costs and related delays or limitations to development.

2. Cost of development

It is assumed that, generally, the impact of development cost is reflected in achieved densities. The State Department of Commerce's *Housing Memorandum: Issues Affecting Housing Availability and Affordability* (June 2019) indicates that "... Typically most affordable housing unit types will tend to be moderate-density units such as cottages, duplexes, triplexes, and rowhouses or townhouses. ..." (p. 87). The State's *Housing Memorandum* also contains the following graphic generally illustrating housing cost dynamics.

Exhibit 8. Housing Type Spectrum: Relationships between Housing Types, Prices & Rent, Housing Unit Size, & Housing Density

Housing Type Spectrum: Relationships between Housing Types, Price & Rent, Housing Unit Size, & Housing Density



Source: State Department of Commerce's *Housing Memorandum: Issues Affecting Housing Availability and Affordability* (June 2019, p. 85)

Provided there is sufficient data, it is assumed that achieved densities generally reflect construction types that are supported by the market.

However, there are cases where development costs can delay or prevent development and impact the land supply during the planning period. Such cases include:

- **Large Planned Developments.** Large planned developments may have extended buildout periods. Developers may choose to delay portions of such developments that require internal infrastructure investments until earlier phases have been sold and more capital is available.
- **Private Share of Public Infrastructure.** Private infrastructure contributions, including impact fees, increase the cost of development and can limit feasibility in communities with weaker demand for real estate. At the same time, impact fees help provide certainty to new development that adequate infrastructure will be developed. Further, improved infrastructure should increase the property's value over time.
- **Condominium Liability Costs.** In recent decades, condominium developers in Washington State typically incurred higher liability insurance costs compared to other types of development due to the Washington Condominium Act. These insurance costs did not vary widely with the price level. As a result, this was considered one of the most significant reasons why there was a lack of condominium development in Washington, and why the condominiums that have been built are mostly high end. Senate Bill 5334, passed in 2019, has increased the standard for warrantable defects and protects condo association board members from personal liability. This legislation may resolve market barriers to condominium development, but it is still early to assess its full impact. Further, this issue is not likely significant for the market factor in Whatcom County. There is currently strong investor demand for rented apartments and other types of housing. As a result, condominium liability may not impact overall housing unit production if local economics still support other types of housing development. This dynamic could impact the local housing tenure composition, which could diverge from planning assumptions and community needs.
- **Land Development “Inefficiencies”.** Local land use regulations, such as tree retention requirements and subdivision limitations on partially developed parcels, can impact the development capacity of a property. Limiting development capacity will in turn limit the financial return possible on the property.

Many of these factors will have a case-by-case impact on specific parcels, rather than being broadly applicable in a market factor. The impact of development costs could be incorporated into jurisdictions' review of their buildable land inventory.

3. *Timelines to permit and develop land*

Development timelines should impact assumptions about when future land capacity will be “unlocked” by new infrastructure. When new infrastructure investments will make development more feasible, the analysis should apply a reasonable lag time to reflect when units will be developed. Master planned developments may have a higher market factor to account for build-out that would occur beyond the 20-year planning period.

Regarding timelines to permit and develop land, the State’s *Buildable Lands Guidelines* (2018) indicate:

This issue is suggested by E2SSB 5254 as potentially requiring Market Supply Factor derivation guidance. However, upon review, for the most part, the issue was found not to have a direct influence on property owner decision to sell or (re)develop land during a 20-year planning period. The issue is, however, potentially significant for discussion of reasonable measures, determining what adjustments might need to be made by the planning agency.

The sole exception would likely be extended timelines for developing large master-planned communities. Over a twenty-year period, several economic cycles may occur that can either accelerate build-out pace or slow it. Therefore, even though a master-planned community development plan includes all portions of future build-out, market forces, financial markets, and both private and public infrastructure costs may deem portions of such a project to not feasibly be built within 20 years. Market Supply Factor deduction for build-out of such projects beyond 20 years would be appropriate (p. 56).

4. *Market availability of land*

One component of market availability is owners’ willingness to sell. The State’s *Buildable Lands Guidelines* suggest that the following methods may be considered in evaluating the market availability of land:

- Property owner surveys;
- Property owner interviews;
- Advisory committee input;
- Real Estate – Residential and Commercial/Industrial expert input (brokerages, appraisers, etc.); and/or

- Review of County Assessor data to identify property ownership patterns and sales activity (p. 56).

5. *The nexus between proposed densities, economic conditions needed to achieve those densities, and the impact to housing affordability for home ownership and rental housing*

The State's *Buildable Lands Guidelines* (2018) address this issue by indicating:

Although cited in E2SSB 5254 as an issue to study as it may affect Market Supply Factor guidance, this issue was determined to be more appropriate to consideration of Reasonable Measures for dealing with inconsistencies between planned capacity at varying densities and the extent to which such planned capacity may not be economically delivered. The issue is far less of a direct influence on property owner willingness to sell land for development or redevelopment (p. 58).

Suggested reasonable measures from the State's *Buildable Lands Guidelines* address housing affordability in a variety of ways. Jurisdictions required to adopt and implement reasonable measures will consider these measures.

6. *Market demand when evaluating if land is suitable for development or redevelopment*

The State's *Buildable Lands Guidelines* (2018) address market demand by indicating:

. . . this issue was determined to be more appropriate to consideration of Reasonable Measures for dealing with inconsistencies between planned capacity at varying densities and the extent to which such planned capacity may not be economically delivered due to appropriate market demand. The issue is far less of a direct influence on property owner willingness and legal/financial decision-making to sell land for development or redevelopment (p. 58).

IV. LOCAL DATA AVAILABILITY

Geospatial Parcel Data

In April 2021, Whatcom County GIS updated its database for parcels in UGAs classified as vacant, partially used, and underutilized (referred to as “developable parcels”, when combined).

The parcel data includes the following key attributes for analysis:

- Assessor’s parcel # and address
- Owner and owner’s mailing address
- Zoning designation
- Current use
- Existing single-family and multi-family housing units
- Existing commercial and industrial building square feet
- Assessed value of land and improvements
- Jurisdiction

Property Sale Data

The Whatcom County Assessor’s office has a robust database of property sales. The system was converted to a computerized system in 2010, and the data quality is best following that year. The database includes many attributes, but has several important limitations:

- Parcels change over time (e.g. by land divisions), and sale records may be attached to multiple parcels. When new parcels are created, data on previous sales related to old parcels is not transferred to the new parcel.
- The database is better oriented towards providing up-to-date information rather than looking backward.
- The Assessor’s office does not always have the most up-to-date or most detailed data on current property uses. Land use codes in the system are tied to those prescribed by statute and the department of revenue for property taxes.
- It is important to consider the timing of the assessment relative to construction dates. When the assessment takes place before a structure is built, the assessed value of that property may be reflecting its previous use or vacant state.

As a result of all these limitations, data cleaning is a major consideration for any analysis involving the Assessor's property sale data. However, the Assessor's data available are extensive and include the following attributes:

- Assessor's parcel # and address
- Zoning designation
- Sale year
- Value of land and improvements at sale year and current year
- Sale price
- Deed type
- Land use code at sale year and current year
- Seller & Buyer names

Real Estate Market Reports

Data on rents and sale prices for some of Whatcom County's cities is available from commercial sources including Whatcom Prospector, CoStar, Redfin, and Zillow. However, these sources have limited coverage for cities other than Bellingham. Continued partnership with local real estate experts is likely the best strategy for understanding Whatcom County's other communities in more detail.

V. ANALYSIS METHODS

Each jurisdiction will use the following approach to develop the market factors for vacant, partially-used, and under-utilized property in cities and UGAs:

1. Start with the default market factors in the *Whatcom County Review and Evaluation Program Methodology* (15% for vacant land and 25% for partially used and under-utilized land).
2. *Analyze Properties Without Transaction History* – Utilize State *Buildable Lands Guidelines* “Example # 2” (pp. 59-60) to inform the market factor discussion.
3. *Analyze Converted/Developed Properties* – Utilize State *Buildable Lands Guidelines* “Example # 3” (p. 60) to inform the market factor discussion.
4. *Conduct a Property Owner Survey* –Mail out a cover letter with an associated questionnaire to inform the market factor discussion.
5. *Interview Selected Land Owners* – Some cities and/or UGAs have property owners that own relatively large blocks of developable land. The jurisdictions have discretion to reach out to these property owners to inform the process.
6. Consider other relevant information, if deemed appropriate, in setting market factors. Any such factors will be clearly documented by the jurisdiction.
7. Determine whether to use the default market factors or adjust these factors based upon a review of steps 2-6 above. The final overall average market factor for a UGA should not exceed 25%, except where the jurisdiction has well-documented support for why a larger market factor is appropriate.

A 20-year time frame will be used for the analyses, as the planning period is 20-years.

Property Owner Survey

The property owner survey is useful in assessing owners' willingness to sell or develop their land. It does not assess the market's appetite to purchase and develop this land. Analytical Examples # 2 and # 3, as detailed in the State *Buildable Lands Guidelines* (and p. 8 of this document), could help provide additional data specific to market support. The portion of survey respondents indicating that their parcel is unlikely or very unlikely to develop in the 20-year period may be used, along with other data, to inform development of the market factor.

The County and cities, with the assistance of Pacific Market Research, surveyed owners of developable parcels to understand if their properties are likely to contribute to land capacity during the 20-year planning period. The following survey methods were used.

Survey

Data Required

- Identified developable properties (vacant, underutilized, and partially-used)
- Property owner mailing addresses for identified properties

Survey Methods

The survey was distributed to owners of vacant, partially-used, and underutilized property in cities and UGAs in the following zoning or future comprehensive plan land use designations:

- Single Family Residential
- Multifamily Residential
- Commercial/Industrial

The survey was sent to all owners of vacant, partially used, and underutilized land in cities and UGAs except for vacant single family residential lots that cannot be further subdivided (i.e. parcel size is less than two times the minimum lot size). It is assumed that vacant single family lots, such as those in a subdivision, would have a low market factor because they are likely to develop within the 20-year planning period.

The vendor, Pacific Market Research, mailed the cover letter and survey to identified participants in May/June 2020.

Cover Letter

The cover letter to property owners is attached.

Survey Questions

The survey questions are attached.

Compiling Survey Results

A total of 4,855 surveys were sent out to land owners. An online survey would have avoided transcription labor, but presents challenges to ensure the parcel in question is recorded accurately and to avoid duplicate responses per parcel. Therefore, the vendor mailed the survey and compiled the results. The survey response rate is shown in **Exhibit 9**.

Exhibit 9. Property Owner Survey Response Rate, 2020

Completed Surveys Returned	Total Mailed	Returned Undeliverable	Total Delivered	Response Rate
1,715	4,855	112	4,743	36%

Survey responses were compiled in two reports.

- The first report, entitled *Whatcom County Property Owners Survey* (September 2020), compiled overall results and individual UGA results for how likely or unlikely property is to develop over the next 20 years. It also summarizes the reasons why property is likely or unlikely to develop over a 20-year period.
- The second report is a spreadsheet entitled *Whatcom County Property Owners Survey Data and Codebook* (September 2020). This spreadsheet provides more detail relating to the reasons that property is likely or unlikely to develop over the next 20 years. These reasons were either checked by the property owner from a menu of potential reasons provided on the survey or written in by the property owner. This report “codes” the checked responses and the written responses so they could be grouped and counted with other similar responses (in the first report, cited above). It also provides verbatim written responses to survey questions.

To help facilitate data entry, the Assessor’s parcel number, address, and other relevant information was included on the survey and the property owner letter. This allowed matching results to specific parcels.

Analyzing Survey Results

Survey results were cross-tabulated, with analysis specific to the following topic areas:

- Total respondents
- Development Status Category (Vacant, partially-used, or under-utilized)
- Land Use Category (Commercial/Industrial, Single Family, Multifamily)
- Property location (Specific UGA)
- Unlikely and Very Unlikely to Develop
- Likely and Very Likely to Develop
- Unsure respondents

Exhibit 10 provides the overall survey results, aggregating all 1,715 responses from property owners within the 10 UGAs. This data and similar results compiled by individual UGA are included in the report entitled *Whatcom County Property Owners Survey* (September 2020). When interpreting this information, it is important to keep in mind that vacant single family residential lots that cannot be further subdivided (i.e. parcel size is less than two times the minimum lot size) were not included in the

survey. It was assumed that vacant single family lots, such as those in a subdivision, would have a low market factor because they are likely to develop within the 20-year planning period. For purposes of the buildable lands analysis, the City/County Planner Group is using a 5% to 10% market factor, selected at the discretion of the individual jurisdiction, for vacant single family residential lots that cannot be subdivided further.

Exhibit 10. Whatcom County Property Owner Survey – Overall Results

	Likelihood of Development in the Next 20 Years			
	Unlikely/Very Unlikely	Unsure/NA	Likely/Very Likely	Total Responses
All Respondents-Total	655	143	917	1715
	38.2%	8.3%	53.5%	100.0%
Single Family All	371	72	436	879
	42.2%	8.2%	49.6%	100.0%
Vacant	98	28	223	349
	28.1%	8.0%	63.9%	100.0%
Partially Used	273	44	213	530
	51.5%	8.3%	40.2%	100.0%
Multifamily All	111	21	142	274
	40.5%	7.7%	51.8%	100.0%
Vacant	45	10	65	120
	37.5%	8.3%	54.2%	100.0%
Partially Used	9	3	17	29
	31.0%	10.3%	58.6%	100.0%
Underutilized	57	8	60	125
	45.6%	6.4%	48.0%	100.0%
Commercial/ Industrial All	173	50	339	562
	30.8%	8.9%	60.3%	100.0%
Vacant	76	19	202	297
	25.6%	6.4%	68.0%	100.0%
Partially Used	24	3	22	49
	49.0%	6.1%	44.9%	100.0%
Underutilized	73	28	115	216
	33.8%	13.0%	53.2%	100.0%

An analysis was conducted blending the “unlikely/very unlikely” results for vacant single family lots from the survey (that can be further subdivided) with an assumed 5% market factor for the vacant single family residential lots that cannot be further subdivided (October 14, 2020 e-mail). The County sent out the following to the City/County Group (October 15, 2020 e-mail):

- A spreadsheet using the blended analysis method with a 5% deduction (market factor) for vacant single family land that cannot be divided further; and
- A spreadsheet using the blended analysis method with a 10% deduction (market factor) for vacant single family land that cannot be divided further

Using a 5% market factor for vacant single family land that is not subdividable, the blended overall market factor for vacant single family land would be 18.4% (countywide). Using a 10% market factor for vacant single family land that is not subdividable, the blended overall market factor for vacant single family land would be 18.8% (countywide). These countywide figures may be considered by individual jurisdictions as they select market factors for vacant single family land in their communities.

Direct Outreach with Property Owners

In several UGAs, significant shares of developable parcels are held by a small number of property owners. The County and cities identified property owners whose development decisions will have an outsize impact on UGAs' growth potential. The consultant, Community Attributes, reached out to these property owners to discuss the property owner's development plans. The results of these conversations, which are documented in a memo entitled "Findings From Landowner Interviews" (Community Attributes, February 3, 2021) may alter other assumptions for the development potential of those properties.

Setting the Market Factors

The seven steps in the Analysis Method (p. 74) will be used to develop market factors. Separate market factors should be developed for each UGA, land use category and development status (e.g. vacant and partially-used/under-utilized).

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

Physical Property Location

Parcel Jurisdiction:

Address

City, State Zip

Parcel #:

Land Use Category:

Development Status:

Whatcom County Property Owner
Mailing Address
City, State, Zip

Dear Whatcom County Property Owner,

Whatcom County and the cities are working together to estimate where new population and employment growth is likely to occur during the next 20 years. To support that work, the County and the cities are trying to determine the capability and likelihood of the county's existing land supply (undeveloped or partially developed) to accommodate additional growth. This information will help the County and cities better plan for future growth.

As part of this process, county and city planners would like to learn about property owner preferences. On the other side of this letter is a short survey asking how likely you believe your property (indicated at the top of this page) is to develop over the next 20 years and related questions. *Your responses will be combined with responses from other property owners. They will not be used by the County or cities for any specific zoning or project decisions concerning your property, and will not be used by the County Assessor to determine your property valuation or taxes.*

Please return the survey in the enclosed postage-paid envelope within the next two weeks. If you own more than one parcel, you may receive an additional survey for each property. Please return each survey with your responses for each individual property. Your responses will be used to improve estimates of when and where growth is likely to occur.

For more information, please visit <http://whatcomcounty.us/3052/Review-Evaluation-Program-Buildable-Land>. County and city planner contact information is available on this website. If you have any questions about the survey, please contact the County or city planner for your jurisdiction.

Sincerely,

A handwritten signature in dark ink, appearing to read "M Personius", is written over a horizontal line.

Mark Personius
Whatcom County Planning & Development Services Director

1. In your estimation, how likely is it that this property will be available for new development within the next 20 years?
- ☐ Very likely
 - ☐ Likely
 - ☐ Unlikely
 - ☐ Very unlikely
 - ☐ Unsure (Please explain):

2. If applicable, what reasons make it "unlikely" or "very unlikely" that this property will be available for new development? (Check all that may apply)
- ☐ I do not want to sell the property
 - ☐ There is no room on this property for additional development
 - ☐ Property values are too low or financing is not available
 - ☐ Fees, such as impact fees or sewer hookup fees, are too high
 - ☐ Development and infrastructure costs are too high
 - ☐ The property lacks sewer, septic, water, or other utilities
 - ☐ There is no access to the property (it lacks a driveway or right-of-way)
 - ☐ Environmental constraints, such as wetlands or steep slopes, limit development
 - ☐ An easement or covenant restricts development
 - ☐ I value the privacy and open space the property provides
 - ☐ Other (please describe):

3. If applicable, what reasons make it "likely" or "very likely" that this property will be available for new development?
- ☐ I plan to sell the property to a developer
 - ☐ Developers or realtors have expressed interest in the property
 - ☐ I plan to sell the property for retirement
 - ☐ I plan to divide and distribute property to heirs
 - ☐ I would like to build a rental unit
 - ☐ I would like to build additional housing
 - ☐ I would like to develop commercial or industrial uses
 - ☐ Other (please describe):

4. Please describe any thoughts you have about developing this property over the next 20 years:
-

APPENDIX C. GIS DATA

Bellingham

Countywide tax parcel boundaries are maintained by Whatcom County Assessor and City of Bellingham. Accuracy codes for linework are assigned for all of Bellingham and its unincorporated UGA – about 63% of linework is “high” accuracy or +/- 1 foot, about 25% is “medium-high” or +/- 5 feet, about 6% is “medium-low” or +/- 10 feet, the remaining 6% is either “low” or “unknown” accuracy. Zoning boundaries are primarily tied to parcel boundaries and reflect their accuracy levels. For Bellingham, utility infrastructure layers (water, sewer, storm) mains and connected facilities are mapped with GPS and are generally accurate to better than 1-foot accuracy. All mapped wetland delineations are digitized from wetland consultant reports or records of survey. Wetland recon surveys are of varying accuracy and typically relate to specific year’s aerial imagery. Accuracy can vary +/- 1 foot to +/- 10 feet with respect to imagery. Just as important for wetland data is the age of the survey – as time passes drainage patterns change. Generally wetland delineations and recon surveys that are 10+ years old should be treated as approximate boundaries at best (Federal NWI wetland data which is 40+ years old and originated with 1:24,000 scale mapping will not be used by Bellingham for Buildable Lands or Land Capacity Analysis work going forward. Slope delineations are based on 2013 LiDAR terrain data which is vertically accurate to +/- 5cm in non-forested areas and +/- 14cm in forested areas. Shoreline and stream data for Bellingham are based on Aerial, LiDAR, and storm utility data and are generally accurate to +/- 3 feet.

Small Cities and Whatcom County

GIS data for zoning is considered accurate across the jurisdictions. The utility infrastructure and environmental layers for the small cities and Whatcom County are of varying levels of accuracy.

Critical area regulations are based on site-specific analysis, often conducted when an application is submitted. GIS wetland layers have a variety of sources with varying degrees of accuracy. Under the Methodology, jurisdictions would identify and map infrastructure gaps.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-605

File ID:	AB2021-605	Version:	1	Status:	Held In Committee
File Created:	10/15/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Discussion		
Assigned to:	Council Planning and Development Committee	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: cstrong@co.whatcom.wa.us <<mailto:cstrong@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Discussion on proposed amendments to the Whatcom County Code Title 20 (Zoning) to provide additional affordable housing options

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion of proposed amendments to the Whatcom County Code Title 20 (Zoning) to provide additional affordable housing options by allowing and regulating tiny homes and allowing duplexes in planned unit developments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
10/26/2021	Council Planning and Development Committee	DISCUSSED AND MOTION(S) APPROVED	
11/09/2021	Council Planning and Development Committee	DISCUSSED AND MOTION(S) APPROVED	

Attachments: Staff Report, Proposed ordinance, Exhibit A

**Whatcom County
Planning & Development Services
Staff Report**

Affordable Housing Options

I. File Information

File #: PLN2021-00012

File Name: Affordable Housing Options

Applicant: Whatcom County Planning and Development Services (PDS)

Project Summary: Proposed amendments to the Whatcom County Code Title 20 (Zoning) to provide additional affordable housing options by allowing and regulating tiny homes and allowing duplexes in planned unit developments.

Location: Countywide.

Attachments

- Draft Ordinance
- Exhibit A – Proposed Amendments

II. Background

The Council has expressed interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes within mobile home or RV parks or on individual lots, as newly authorized under amendments to RCW 58.17.040 via ESSB 5383. Staff is also proposing amendments to the Planned Unit Development (PUD) code to allow and encourage duplexes in urban growth areas. Both are intended to provide additional affordable housing options for Whatcom County citizens.

Tiny Homes

What are Tiny Homes?

To decipher how best to develop the regulatory structure to allow tiny homes, staff first identified the key characteristics of the various types of tiny homes to compare with our existing types of analogous residential units. Broadly, but in more detail in Table 1, these characteristics have to do with what type of state or federal license or certification they can obtain, whether or not they're self-contained¹, and whether they have chassis and axles/wheels, all of which have to do with whether they are intended or can be used for long-term (residential) or short-term (recreational) use. There are other differences, like how much insulation they have or whether they have basic sanitary facilities such as toilets, showers, and sinks, but these are built into the certification/licensing standards and the characteristics we've used seem to suffice for classification.

¹ Meaning do they have tanks to hold water and sewage and have batteries for power, or do they need to be connected to utilities to operate?

Based on this analysis, we have identified four types of tiny homes, each corresponding to one of our existing unit types. The two that are intended for long-term residential use are:

- *Site-Built Tiny Homes* are built on-site, are not self-contained, are intended for long-term use, and meet the International Residential Code (IRC) standards. They are analogous to standard site-built homes, except that they're smaller (< 400 sq. ft.).
- *Manufactured Tiny Homes* are built off-site (generally at a manufacturing plant) with a chassis, axles, and wheels and transported to their final location (though the wheels may be removed) where the unit is placed on a permanent foundation. They are not self-contained, are intended for long-term use, and would have to meet the IRC standards *or* be HUD certified *and* be L&I certified as a permanent dwelling unit. They are analogous to standard mobile (or manufactured) homes, except that they're smaller.

The other types of tiny homes that are getting a lot of interest are Tiny Homes on Wheels (or THOWs, and yes, a real acronym). These tend to be homemade but, because of their construction standards, they are only intended and can only be certified for short-term recreational use or occupancy. But even among them, based on key characteristics, there are two different types. We're designating them:

- *Type 1 Tiny Homes on Wheels* have a chassis, axles, and wheels and are intended for trailering. They are *not* self-contained so must be hooked up to utilities. They do not meet the IRC standards nor are they certified by HUD for long-term residential use, but can be certified by L&I for short-term recreational use. And they must be licensed by the state Department of Licensing for transport on the highways. They are analogous to park model trailers.
- *Type 2 Tiny Homes on Wheels* are similar to Type 1 THOWs, but *are* self-contained, meaning they have tanks to hold water and sewage and have batteries for power so that they don't always need to be connected to utilities. They do not meet the IRC standards nor can they be certified by HUD for long-term residential use, but can be certified by L&I for short-term recreational use. And they must be licensed by the state Department of Licensing for transport on the highways. They are analogous to recreational vehicles (RVs).

Regarding building permit requirements, please note that the Council already adopted the newest International Residential Code, including Appendix Q, which contains the building code rules for tiny homes.

We would also like to point out that staff met several times with some tiny home proponents who proposed a third type of THOW. This type wouldn't meet IRC or HUD standards, but would be based on standards we specifically adopt in our code. These standards, they claimed, would be based on ANSI standards (what L&I uses to certify RVs) plus some additional standards (they referred to them as ANSI++) and our Building Official would have to certify them for use in Whatcom County. However, this approach would create significant jurisdictional regulatory inconsistencies since such units wouldn't be able to be used in any other jurisdiction (including the cities in Whatcom County) as they would only be "certified" for use in unincorporated Whatcom County under our own unique standards.

These proponents were also asking that these types of THOWs be able to be used for guest lodging for longer than 120 days², which is our standard "temporary recreational occupancy" time limit under existing code. Extending temporary recreational occupancy would essentially make these THOW's

² For all Temporary Recreational Occupancies – On individual lots, the maximum length of stay of any recreational vehicle on a lot may not exceed a total of 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days nor more than 30 days total per calendar year.

permanent accessory dwelling units and raise potential GMA challenges and cause greater impacts that come with such increased densities, especially in rural areas.

Council should also be aware that staff tried very hard to figure out a way to allow “tiny home villages” (including those allowing site built tiny homes) in rural areas. However, GMA rural density restrictions significantly limit the potential for such “villages” in rural areas—meaning they would have to meet the underlying rural low density zoning just like any other subdivision. Our conclusion was that such tiny home villages are more likely to be created in cities or UGAs (which allow higher urban densities) and then only when adequate utilities are available, which our cities generally won’t extend until the property is annexed. But we do have existing (nonconforming at least in terms of density) mobile home and RV parks, so allowing the appropriate type of tiny homes within them at least furthers the affordable housing goal.

Allowing Duplexes in Planned Unit Developments

Another amendment proposed as a way to increase affordable housing options is to allow duplexes in certain zones when a project is developed as a Planned Unit Development (PUD) (WCC Chapter 20.85). PUDs:

- Allow certain uses beyond those allowed in the underlying zone when a project is developed as a planned neighborhood community;
- Can only be developed within Urban Growth Areas and have to be at least two acres in size (except under certain conditions listed in WCC 20.85.020);
- Have additional standards for buffering, open space, circulation, access, parking, storage, and utilities;
- Allow for increased densities (WCC 20.85.108);
- Allow a relaxation of dimensional standards (WCC 20.85.109); and,
- Can only be approved by Council.

Currently PUDs allow single-family and multi-family residential uses, but not duplexes. To rectify this incongruity and help promote affordable housing, staff is proposing amendments to WCC 20.85.050.

Table 1. Defining characteristics of the various types of "homes"

Characteristic	Site-Built Home	Site-Built Tiny Home	Manufactured (Mobile) Home	Manufactured Tiny Home	Park Model Trailer	Type 1 Tiny Home on Wheels	Recreational Vehicle	Type 2 Tiny Home on Wheels
Meets IRC standards for permanent dwelling unit	Yes	Yes	Yes	Yes	No	No	No	No
OR Is HUD certified	No	No	Yes	Yes	No	No	No	No
Is L&I certified for Use ³	No	No	Yes, as a permanent dwelling unit	Yes, as a permanent dwelling unit	Yes, for recreational use	Yes, for recreational use	Yes, for recreational use	Yes, for recreational use
Is DOL licensed	No	No	No	No	No	No	Yes	Yes
Is intended/ licensed for long-term or short-term residential use	long-term	long-term	long-term	long-term	short-term	short-term	short-term	short-term
Is self-contained (wastewater, water, power) (if not, must be connected to utilities)	No	No	No	No	No	No	Yes	Yes
Has chassis and axles/wheels	No	No	Yes when manufactured, but wheels removed once sited	Yes when manufactured, but wheels removed once sited	Yes, when manufactured, but wheels removed once sited	Yes, when manufactured, but wheels removed once sited	Yes	Yes

³ Certified as a (long-term) permanent dwelling unit or for (short-term) recreational use, as noted.

III. Amendments

The proposed amendments are found in Exhibit A. Please refer to that attachment; explanations are provided therein. Here is an overview, though.

Proposed Tiny Home Regulatory Structure

Based on the characteristics shown in Table 1 each of the four types of tiny homes corresponds or is analogous to a type of (either long- or short-term) residence that the County already regulates. Thus, to simplify or streamline the means to regulate these units, we can just define each of these types of tiny homes as one of our existing types and they would be regulated under existing regulations for that type.

So staff is proposing to add definitions for each of the types: “Tiny Homes,” with subcategories for “site-built tiny homes” and “manufactured tiny homes”; and “Tiny Homes on Wheels,” with subcategories for “Type 1 THOWs” and “Type 2 THOWs” (see Exhibit A, §20.97.435.03 & §20.97.435.04). Then we’re proposing to amend the definitions for “Mobile Home” to include “Manufactured Tiny Homes” (Exhibit A, §20.97.250), “Recreational Vehicle” to include “Type 2 THOWs” (Exhibit A, §20.97.335), and “Park Model Trailer” to include “Type 1 THOWs” (Exhibit A, §20.97.292) (plus some grammatical edits).

With these definitional amendments, each of these tiny home types would then be allowed wherever their existing corresponding standard type is allowed under existing code:

- Site-built tiny homes would generally be allowed wherever and under whatever circumstances and standards standard site-built homes are allowed (either as a primary use or an accessory dwelling unit (ADU);
- Manufactured tiny homes would generally be allowed wherever and under whatever circumstances and standards standard mobile (or manufactured) homes are allowed (as a primary use, an ADU, or in a mobile home park);
- Type 1 THOWs would generally be allowed wherever and under whatever circumstances and standards park model trailers are allowed (as temporary guest lodging or in an RV park in a space designated for park models, meaning they have utility hookups); and,
- Type 2 THOWs would generally be allowed wherever and under whatever circumstances and standards recreational vehicles are allowed (as temporary guest lodging or in an RV park).

Table 2 more specifically identifies in which zones the various tiny home types would be allowed, as what type of use, and what permit would be required. These are identical to where we currently allow their existing counterpart (single-family residences, mobile homes, park model trailers, and recreational vehicles). Do note, however, that for simplicity’s sake there may be additional standards or requirements in some zones not shown in the table, but they’d be the same as for their counterparts.

Apart from these definitional amendments, staff is also proposing to clarify our Mobile Home and RV Park Standards. First, we’re proposing to separate the two into distinct sections. We’re also identifying the process by which such a park can be permitted (binding site plan or condominium), and that CC&R’s must be submitted and approved (so that we can ensure long-term maintenance and operations are dealt with properly). Apart from that, we’re keeping the rules that applied to both in both, but putting the rules that only apply to one type of park in their respective sections. (See Exhibit A, §20.80.950 and §20.80.955.)

Under the proposed regulations, one could develop a mobile home park for mobile homes, manufactured tiny homes, or a mix of the two; and an RV park for RV’s, Type 2 THOWs, or a mix of the two. Mobile home parks are allowed as a conditional use in the Resort Commercial (RC), Urban

Residential Mixed (UR-MX), and Urban Residential – Medium Density (URM) Districts. Recreational vehicle (RV) parks are allowed as a conditional use in the Resort Commercial (RC), Tourist Commercial (TC), and Point Roberts Special Districts.

Table 3 shows how many mobile home and RV parks currently exist in the County. In total there are 39 mobile home parks and 7 RV parks, containing 2,858 spaces, 1,881 of which can be used for park models or Type 1 THOWS.

Duplexes in Planned Unit Developments

While most of the changes to WCC 20.85.053 shown in Exhibit A are just cleaning up grammar, the two that are policy changes are where “duplexes” has been added to subsections (1) and (2).

IV. Comprehensive Plan Evaluation

The proposed amendments to the regulations (WCC Title 20) have been developed using the guidance of the Comprehensive Plan so as to remain consistent. Particularly relevant are:

Goal 3C:	Create opportunity for a broad range of housing types and encourage mixed affordability.
Policy 3C-1:	Support lot clustering, varied lot sizes, small-scale multi-family dwellings, accessory housing, especially accessory dwelling units (ADUs) in single-family zoning, and reductions in infrastructure requirements for subdivisions as incentives for development of housing obtainable by purchasers with the greatest possible mix of needs and household incomes.
Policy 3C-3:	Support development of manufactured and mobile home parks and establish design criteria that will enable them to fit into the surrounding community.
Goal 3E:	Provide for future housing needs by responding to changing household demographics.
Policy 3E-1:	Review and revise existing regulations to identify inhibitions to housing for the varying preferences of those needing housing. Focus on population segments with particular needs such as temporary, transitional, or emergency housing.
Goal 3F:	Provide incentives to create affordable housing.
Policy 3F-3:	Support innovative housing ideas including co-housing (essentially a micro-community with some centralized facilities), elder cottages (housing units for healthy but aging family members), accessory dwelling units (ADUs) in single family zoning of all jurisdictions, including cottage designs available at planning department front desk, and shared living residences or group quarters in UGAs, and educate the public about them.

Table 2. Zoning Districts where Tiny Homes would be allowed (and by what Permit⁴) under the proposed rules

Zoning District	Tiny Home Type			
	Site-Built Tiny Homes	Manufactured Tiny Homes	Type 1 Tiny Homes on Wheels	Type 2 Tiny Homes on Wheels
Urban Residential (UR)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit⁵ (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM) Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence⁶ (ADM) Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM)
Urban Residential – Medium Density (URM)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) Temporary Caregiver/ Invalid Residence (AAU) Mobile Home Parks (CUP) Sited in a Mobile Home Park (P) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM)
Urban Residential Mixed (UR-MX)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) Temporary Caregiver/ Invalid Residence (AAU) Mobile Home Parks (CUP) Sited in a Mobile Home Park (P) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM)
Residential Rural (RR)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM) Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM) Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM)
Rural Residential-Island (RR-I)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> Temporary Caregiver/ Invalid Residence (ADM)
Eliza Island (EI)	<ul style="list-style-type: none"> Primary residence (P) 	<ul style="list-style-type: none"> Primary residence (P) 		

⁴ P = Permitted; ACC = Accessory Use; ADM = Administrative Approval; CUP = Conditional Use

⁵ For all ADUs – Some zoning districts have a minimum lot size requirement for detached ADUs and some areas require that accessory apartments and detached ADUs are consistent with the underlying zoning.

⁶ For all Temporary Caregiver/Invalid Residences – One year, renewable, plus additional standards.

Zoning District	Tiny Home Type			
	Site-Built Tiny Homes	Manufactured Tiny Homes	Type 1 Tiny Homes on Wheels	Type 2 Tiny Homes on Wheels
Rural (R)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Temporary Recreational Occupancy (P)
Point Roberts Transitional Zone (TZ)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM)
Agriculture (AG)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Farm Worker Residence (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Farm Worker Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Farm Worker Residence (ADM)
Rural Forestry (RF)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Forestry Worker Residence (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Temporary Recreational Occupancy⁷ (P) • Recreational Vehicle Parks (CUP) • Temporarily⁸ in an RV Park (P)
Commercial Forestry (CF)				<ul style="list-style-type: none"> • Temporary (6 mos.) living quarters for trail crews, fire crews, nursery crews, logging crews, maintenance crews and watchmen (P)
Recreation & Open Space (ROS)	<ul style="list-style-type: none"> • Caretaker's Residence (P) 	<ul style="list-style-type: none"> • Caretaker's Residence (P) 		
Rural General Commercial (RGC)				
Neighborhood Commercial Center (NC)				

⁷ For all Temporary Recreational Occupancies – On individual lots, the maximum length of stay of any recreational vehicle on a lot may not exceed a total of 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days nor more than 30 days total per calendar year.

⁸ In RV Parks the maximum length of stay may not exceed 180 days for any one-year time period.

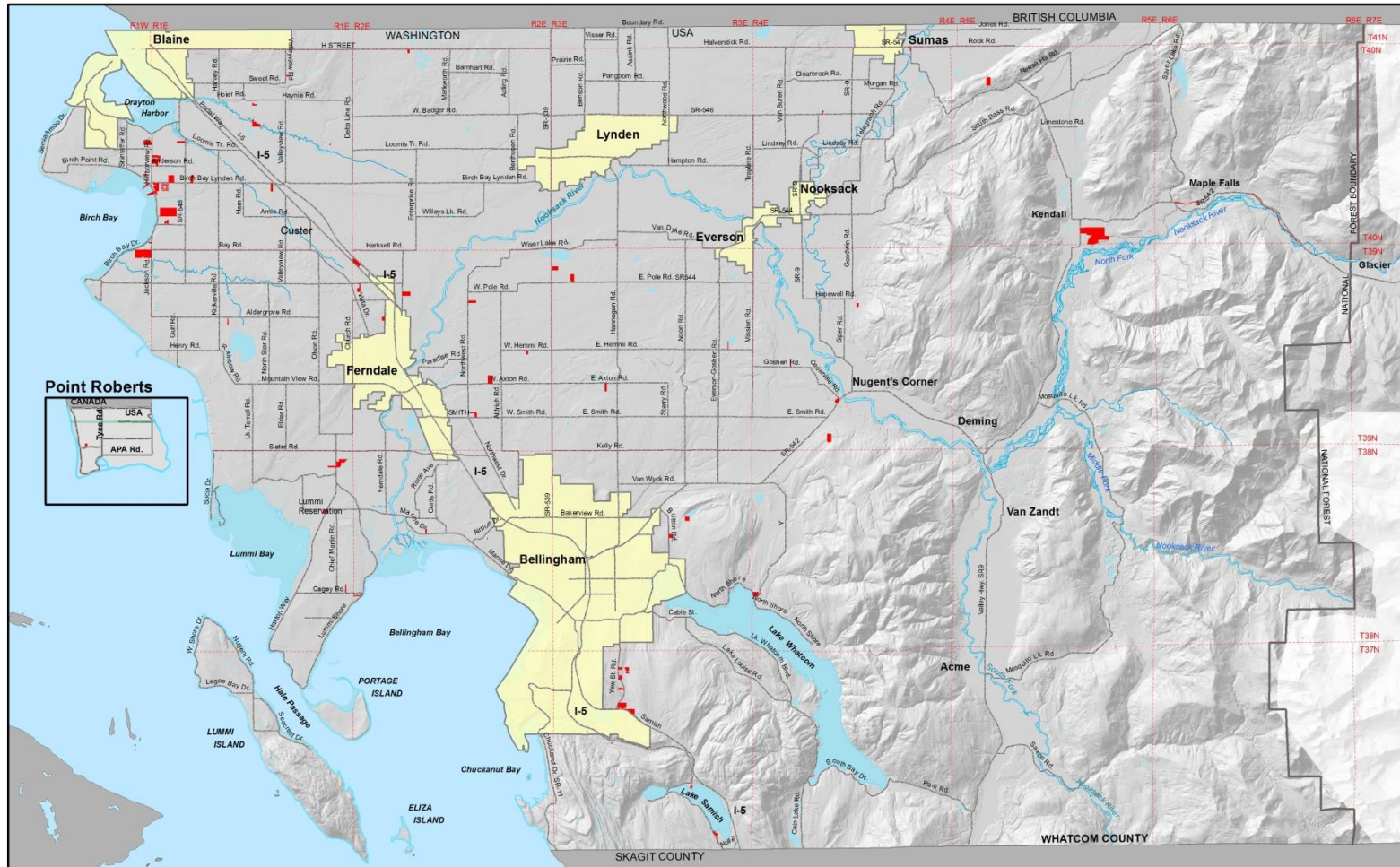
Zoning District	Tiny Home Type			
	Site-Built Tiny Homes	Manufactured Tiny Homes	Type 1 Tiny Homes on Wheels	Type 2 Tiny Homes on Wheels
Small Town Commercial (STC)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 		<ul style="list-style-type: none"> Recreational Vehicle Parks (CUP) Temporarily in an RV Park (P)
General Commercial (GC)				
Tourist Commercial (TC)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) Recreational Vehicle Parks (CUP) Temporarily in an RV Park (P)
Resort Commercial (RC)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) Mobile Home Parks (CUP) Sited in a Mobile Home Park (P) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) Recreational Vehicle Parks (CUP) Temporarily in an RV Park (P)
Light Impact Industrial (LII)	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 		
General Manufacturing (GM)				
Heavy Impact Industrial (HII)				
Rural Industrial And Manufacturing (RIM)	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 		
Airport Operations (AO)	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 		
Point Roberts Special District (overlay zone)	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone 	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone 	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone, plus: Temporary Recreational Occupancy (P) 	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone, plus: Temporary Recreational Occupancy (P)
Cherry Point Industrial (CP)				

Table 3. Mobile Home & RV Parks in Whatcom County

Name	Type	Zone	Acres	Assessor LUCODE	Total No. of Units	No. of Park Model Spaces	No. of MH Spaces
Agate Bay Mobile Estates	MH Park - Leased Spaces	R5A	10.9	1525 M/H PK 25 SP	25		25
Baywood MHP	MH Park - Leased Spaces	URM6	23.4	1599 M/H PK+99 SP	47		47
Birch Bay Retirement Park	MH Park - Leased Spaces	UR4	3.9	1518 M/H PK 18 Sp	17		17
Birch Bay Trailer Court	MH Park - Leased Spaces	RC	33.9	1152 M/H IO-inPK	151	18	133
Britton Rd. MH Court	MH Park - Leased Spaces	UR	4.8	1500 M/H PK	4		4
Calmore Cove MHP	MH Park - Leased Spaces	RR2/R2A	15.8	1545 M/H PK 45 SP	41	5	36
Cedar Grove MHP	MH Park - Leased Spaces	R10A	26.3	1599 M/H PK+99 SP	105		105
Double L Ranch MHP	MH Park - Leased Spaces	R5A	15.3	1524 M/H PK 24 SP	24	2	22
Edgewater Resourt MHP	MH Park - Leased Spaces	RC	4.8	1547 M/H PK 47 SP	25	12	13
Evergreen Manor MHP	MH Park - Leased Spaces	R5A	19.6	1560 M/H PK 60 SP	43		43
Evergreen Retreat MHP	MH Park - Leased Spaces	R10A	1.5	1516 M/H PK 16 SP	16		16
Fairfield Mobile Court	MH Park - Leased Spaces	UR4	10.2	1526 M/H PK 26 SP	17		17
Forest Park MHP	MH Park - Leased Spaces	URMX6-12	5.6	1553 M/H PK 53 SP	50		50
Gulfside MHP	MH Park - Leased Spaces	RR1	1.0	1505 M/H PK 5 SP	4		4
Harborview MHP	MH Park - Leased Spaces	R5A	19.9	1516 M/H PK 16 SP	15		15
Hartvig MHP	MH Park - Leased Spaces	UR4	6.1	1508 M/H PK 8 SP	7		7
Hidden Valley MHP	MH Park - Leased Spaces	R5A	1.3	1508 M/H PK 8 SP	6	4	2
Hidden Village Estates	MH Park - Leased Spaces	R2A	14.6	1599 M/H PK+99 SP	12	2	10
Hilltop Haven MHP	MH Park - Leased Spaces	URM6-12/R10A	8.5	1525 M/N PK 25 SP	25		25
Lake Terrell Mobile Ranch	MH Park - Leased Spaces	R5A	5.0	1516 M/H PK 16 SP	7		7
Larsens Mobile Manor	MH Park - Leased Spaces	RR2A	9.3	1555 M/H PK 55 SP	55		55
Mantheys MHP	MH Park - Leased Spaces	R10A	23.2	1557 M/H PK 57 SP	57		57
Maple Leaf Court	MH Park - Leased Spaces	R10A	9.6	1522 M/H PK 22 SP	22		22
Maplewood Meadows	MH Park - Leased Spaces	R5A	20.4	1520 M/H PK 20 SP	19		19
Marine Dr. MHP	MH Park - Leased Spaces	RR2A	4.3	1511 M/H PK 11 SP	10		10
Mobile Home Manor	MH Park - Leased Spaces	AG	1.3	1511 M/H PK 11 SP	11		11
Mt. Baker MHP	MH Park - Leased Spaces	R5A	8.5	1530 M/H PK 30 SP	20		20
Nooksack Valley MHP	MH Park - Leased Spaces	AG	1.7	1507 M/H PK 7 SP	7		7
NW Mobile Park	MH Park - Leased Spaces	AG	11.8	1526 M/H PK 26 SP	27		27

Plaza Park	MH Park - Leased Spaces	R5A	14.1	1591 M/H PK 91 SP	27	2	25
Royal Coachman Mobile Estates	MH Park - Leased Spaces	R5A	9.9	1528 M/H PK 28 SP	28		28
See Haven MHP	MH Park - Leased Spaces	UR4	1.3	1512 M/H PK 12 SP	9		9
Sumas MHP	MH Park - Leased Spaces	AG	2.1	1508 M/H PK 8 SP	8		8
Sunny Point Trailer Park	MH Park - Leased Spaces	STC	4.2	1508 M/H PK 8 SP	2		2
Gulf Aire Condo	MH Park - Owned Spaces	TZ		1417 M/H IN CONDO PP	16		16
Lake Samish Terrace	MH Park - Owned Spaces	RR2		1417 M/H IN CONDO PP	53		53
Latitude 49 Resort Park Condo	MH Park - Owned Spaces	RC		1418 PRK MOD IN CONDO RP	315	315	0
Smallwood Shores Condo	MH Park - Owned Spaces	R5A		1416 M/H IN CONDO RP	10		10
Wildwood Resort Condo	MH Park - Owned Spaces	R5A		1418 PRK MOD IN CONDO RP	84	84	0
Beachwood Resort	RV Park	URM6	76.6	7516 RV PARKS	326	326	
Birch Bay Leisure Park	RV Park	URM6	81.1	7816 RV PARKS	603	603	
Black Mt. Ranch	RV Park	R5A	171.7	7499 OTHER RECREAT	315	315	
North Bay Park	RV Park	URM6	2.5	7516 RV PARKS	33	33	
Richmond Resort	RV Park	RC	1.4	7516 RV Parks	10	10	
Sea Breeze RV Park (PM within RV Park)	RV Park	RC	7.9	1155 PM IO-in PK	4	4	
Whatcom Meadows	RV Park	R5A	159.1	7519 OTHER RESORTS	146	146	
Total					2858	1881	977

Table 4. Locations of Mobile Home and RV Parks in Whatcom County



Whatcom County

Legend

■ Mobile Home Park

June 2021

USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT: Whatcom County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any use of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damage, loss, or liability arising from any use of this map.

0 0.75 1.5 3 4.5 6 miles



V. Draft Findings of Fact and Reasons for Action

Staff recommends the Council adopt the following findings of fact and reasons for action:

1. The County Council has expressed interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes.
2. Additionally, Planning and Development Services (PDS) has identified that in addition to allowing single- and multi-family dwellings in Planned Unit Developments, allowing duplexes would also increase affordable housing options.
3. PDS submitted an application (PLN2021-00012) to make amendments to Whatcom County's zoning regulations (WCC Title 20) to provide these affordable housing options.
4. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 20, 2021.
5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on May 20, 2021, for their 60-day review.
6. On June 24, 2021, the Planning Commission held a duly noticed public hearing to consider testimony on the proposed amendments.
7. The County Council held a duly noticed public hearing on the proposed amendments on October 29, 2021, and reviewed and considered the Planning Commission recommendation, staff recommendations, and public comments on the proposed amendments.
8. The amendments are consistent with the Growth Management Act, Whatcom County Comprehensive Plan, and other applicable requirements.
9. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.

VI. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. Recommendations

1. Planning and Development Services recommends that the Council adopts the proposed regulations shown in Exhibit A.
2. The Planning Commission voted 7-0 to recommend approval of the proposed amendments to the County Council.

PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING TO PROVIDE ADDITIONAL AFFORDABLE HOUSING OPTIONS, INCLUDING ALLOWING AND REGULATING TINY HOMES AND ALLOWING DUPLEXES IN PLANNED UNIT DEVELOPMENTS

WHEREAS, The County Council is interested in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes.

WHEREAS, Planning and Development Services (PDS) has identified that in addition to allowing single- and multi-family dwellings in Planned Unit Developments, allowing duplexes would also increase affordable housing options; and,

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The County Council has expressed interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes.
2. Additionally, Planning and Development Services (PDS) has identified that in addition to allowing single- and multi-family dwellings in Planned Unit Developments, allowing duplexes would also increase affordable housing options.
3. PDS submitted an application (PLN2021-00012) to make amendments to Whatcom County's zoning regulations (WCC Title 20) to provide these affordable housing options.
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6. On June 24, 2021, the Planning Commission held a duly noticed public hearing to consider testimony on the proposed amendments.
7. The County Council held a duly noticed public hearing on the proposed amendments on October 23, 2021, and reviewed and considered the Planning Commission recommendation, staff recommendations, and public comments on the proposed amendments.
8. The amendments are consistent with the Growth Management Act, Whatcom County Comprehensive Plan, and other applicable requirements.
9. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.

CONCLUSIONS

1. The amendments to the development regulations are in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

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

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. Staff is authorized to work with Code Publishing to correct and update any cross-references made ineffective by these amendments.

ADOPTED this _____ day of _____, 2021.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED as to form:

() Approved () Denied

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Exhibit A: Proposed Amendments to the Whatcom County Code to Allow and Regulate Tiny Homes & to Allow Duplexes in Planned Unit Developments

Regarding Tiny Homes:

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.950 Mobile Home (including Manufactured Tiny Home) and Recreational Vehicle Park Standards.

All mobile home ~~and recreational vehicle~~ parks shall meet the following standards:

- (1) Mobile home parks shall be developed through either a Binding Site Plan pursuant to WCC Title 21 (Land Division) or by condominium pursuant to Chapter 64.34 RCW (Condominium Act). In either case:
 - (a) An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.
 - ~~(a)~~(b) A declaration of covenants addressing and ensuring long-term compliance with the appropriate requirements herein shall be submitted for review and approval.
 - (c) Each rental or lease space shall be numbered on the site plan and the number shall be prominently displayed on the site.
- (2) Where not specified by the applicable zoning district, mobile home parks shall have:
 - (a) A maximum density of ~~seven~~ 7 lease spaces per acre when public water and sewer are provided;
 - (b) A maximum density of ~~three~~ 3 lease spaces per acre when public water and sewer are not provided;
 - (c) A minimum parcel size of ~~two~~ 2 acres.
- ~~(3) Where not specified by the applicable zoning district, recreational vehicle parks shall have:~~
 - ~~(a) A maximum density of 15 lease spaces per acre when public water and sewer are provided;~~
 - ~~(b) A maximum density of seven lease spaces per acre when public water and sewer are not provided;~~
 - ~~(c) A minimum parcel size of two acres.~~
- ~~(4)~~(3) Mobile home parks shall provide storage area for boats, recreational vehicles, and other large items. Recreational vehicle parks may provide such storage areas. Said storage areas shall be screened consistent with these standards.
- ~~(5)~~(4) Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property. Within a mobile home park, no mobile home, other major structure, or outdoor storage shall be located closer than 20 feet to the perimeter of the site.

Comment [CES1]: Mobile home and RV park standards have been separated into 2 sections, with the appropriate existing & new rules placed into each

Comment [CES2]: A requirement of ESSB 5383 for tiny home parks (and it should be for mobile home parks).

~~(6)~~(5) Along the edges of mobile home parks, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise, or other off-site influences, or to protect occupants of adjoining property from potentially adverse influences within the mobile home park. In particular, extensive off-street parking areas and service areas for loading and unloading other than passenger vehicles, and for storage and collection of trash and garbage, shall be screened.

~~(7)~~ A 30-foot landscaped buffer area or screening composed of suitable native vegetation shall be placed around all common storage areas and at all perimeters of any recreational vehicle park. The purpose of said buffer is to protect on a year-round basis the adjacent property or roadways from unsightliness, visual distraction and/or noise impacts. The buffer area may be reduced where it can be demonstrated that alternative screening can adequately accomplish the purposes stated in this subsection. Perimeter buffers shall be supplemented by a fence or other device where trespass is a potential problem. No structures, development or other activities shall occur within any buffer areas; provided, that trails may be located within those buffer areas which are at least 50 feet in width.

~~(8)~~(6) There shall be landscaping developed consistent with WCC 20.80.300 ([Landscaping](#)) within open areas of ~~the mobile home park and recreational vehicle~~ parks not otherwise used for park purposes. Such open areas and landscaping shall be continually and properly maintained.

~~(9)~~(7) Mobile homes ~~and recreational vehicle~~ parks shall keep ~~40% percent~~ of the site free of buildings, structures, parking areas, and other impervious surfaces.

~~(10) An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.~~

~~(11)~~(8) On-site recreational amenities with at least one substantial facility serving the users of a park or identified area shall be provided. Such substantial facilities may include tennis courts, children's play areas with equipment, or a swimming pool. The type and size of facility shall be appropriate to the type and amount of clientele being served.

~~(12) Maximum length of stay in recreational vehicle parks shall not exceed 180 days for any one-year time period.~~

~~(13)~~(9) Interior roads within mobile home ~~and recreational vehicle~~ parks shall be private, unless the County Engineer determines that the development of public roads is necessary.

~~(14)~~(10) For each mobile home space there shall be provided and maintained at least two parking spaces conforming ~~with to zoning ordinance~~ the requirements of WCC 20.80.500, et seq. (Off-Street Parking and Loading Requirements). In addition to occupant parking, guest and service parking shall be provided within the boundaries of the park at a ratio of one parking space for each two mobile home spaces.

~~(15)~~(11) There shall be a minimum of 10 feet of separation maintained between all mobile homes on the site. Accessory structures may be located no closer than 10 feet to any mobile home or five feet to other accessory structures.

~~(12)~~ Each rental space shall be numbered on the site plan and the number shall be prominently displayed on the site. All mobile home parks shall comply with WCC Chapter 24.04 (Recreational Vehicle Park and Subdivision Rules) regarding utility provision. Utility (wastewater, water, electricity) hook-ups shall be provided for each rentable or leasable space.

Comment [CES3]: Moved above

20.80.955 Recreational Vehicle (including Tiny Homes on Wheels) Park Standards.

All recreational vehicle parks shall meet the following standards:

- (1) Recreational vehicle parks shall be developed through either a Binding Site Plan pursuant to WCC Title 21 (Land Division) or by condominium pursuant to Chapter 64.34 RCW (Condominium Act). In either case:
 - (a) An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.
 - (b) A declaration of covenants addressing and ensuring long-term compliance with the appropriate requirements herein shall be submitted for review and approval.
 - (c) Each rental or lease space shall be numbered on the site plan and the number shall be prominently displayed on the site.
- (2) Where not specified by the applicable zoning district, recreational vehicle parks shall have:
 - (a) A maximum density of 15 lease spaces per acre when public water and sewer are provided;
 - (b) A maximum density of 7 lease spaces per acre when public water and sewer are not provided;
 - (c) A minimum parcel size of 2 acres.
- (3) Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property.
- (4) A 30-foot landscaped buffer area or screening composed of suitable native vegetation shall be placed around all common storage areas and at all perimeters of any recreational vehicle park. The purpose of said buffer is to protect on a year-round basis the adjacent property or roadways from unsightliness, visual distraction, and/or noise impacts. The buffer area may be reduced where it can be demonstrated that alternative screening can adequately accomplish the purposes stated in this subsection. Perimeter buffers shall be supplemented by a fence or other device where trespass is a potential problem. No structures, development, or other activities shall occur within any buffer areas; provided, that trails that are at least 5 feet in width may be located within those buffer areas.
- (5) There shall be landscaping developed consistent with WCC 20.80.300 (Landscaping) within open areas of recreational vehicle parks not otherwise used for park purposes. Such open areas and landscaping shall be continually and properly maintained.
- (6) Recreational vehicle parks shall keep 40% of the site free of buildings, structures, parking areas, and other impervious surfaces.
- (7) On-site recreational amenities with at least one substantial facility serving the users of a park or identified area shall be provided. Such substantial facilities may include tennis courts, children's play areas with equipment, or a swimming pool. The type and size of facility shall be appropriate to the type and amount of clientele being served.
- (8) Maximum length of stay in recreational vehicle parks shall not exceed 180 days for any one-year time period.
- (9) Interior roads within recreational vehicle parks shall be private, unless the County Engineer determines that the development of public roads is necessary.
- (10) All recreational vehicle parks shall comply with WCC Chapter 24.04 (Recreational Vehicle Park and Subdivision Rules) regarding utility provision. Utility (wastewater, water, electricity) hook-ups shall be provided for each rentable or leasable space designated for park model trailers and Type 1

Comment [CES4]: A requirement of ESSB 5383 for tiny home parks.

Comment [CES5]: Moved from 20.97.340 (definition of RV Park), as these are regulations, not definitions.

Comment [CES6]: A requirement of ESSB 5383 for tiny home parks.

THOWs. Spaces designated solely for self-contained recreational vehicles may use communal facilities.

Chapter 20.97 Definitions

20.97.250 Mobile Home (a.k.a, Manufactured Home).

"Mobile home" means a dwelling unit designed for long-term human habitation by one family and having complete living facilities; constructed and fabricated into a complete unit at a factory and capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer; and designed primarily for placement on an impermanent footing. This includes manufactured tiny homes (see "Tiny Home.") A unit ~~which that~~ was originally built as a mobile home but ~~which~~ has substantially lost its mobility ~~through by~~ being placed on a permanent footing, the tongue and axle removed, skirting is installed, and ~~which that~~ wholly meets state standards for such units, shall not be considered to be a mobile home and shall be treated as a single-family dwelling for the purpose of this ~~ordinance code only when it is fixed to a permanent footing and tongue and axle have been removed and skirting installed.~~

20.97.255 Mobile Home Park.

"Mobile home park" means any parcel or adjacent parcels of land in the same ownership ~~which that~~ is ~~utilized~~ used for occupancy by more than two mobile homes. This term shall not be construed to mean campgrounds, recreational vehicle parks, or tourist facilities for camping.

20.97.292 Park Model Trailer.

"Park model trailer" means a trailer designed to provide seasonal or temporary living quarters; ~~which are not self-contained and thus may need to be used with~~ temporarily connected ~~edions~~ to utilities ~~necessary~~ for operation of installed fixtures and appliances; ~~it~~ has a gross trailer area not exceeding 400 square feet; ~~or and~~ is approved by the state as a park model trailer. This includes Type 1 THOWs (see "Tiny Home on Wheels").

20.97.335 Recreational Vehicle.

"Recreational vehicle" means a motor vehicle; or portable structure capable of being transported on ~~the~~ highways by a motor vehicle; ~~that is~~ designed and intended for casual or short-term human occupancy for travel, recreational, and vacation uses without a permanent foundation; identified by a model number (RV), serial number, and vehicle registration number; and equipped with limited water storage and other self-contained living facilities. For the purposes of these regulations, the term "recreational vehicle" shall include self-contained campers, motor-homes, Type 2 Tiny Home on Wheels, and travel trailers, ~~and but~~ shall not include park model trailers or Type 1 Tiny Home on Wheels, as they are not self-contained units.

20.97.340 Recreational Vehicle Park.

"Recreational vehicle park" means a parcel of private land in which three or more contiguous sites are primarily for occupancy by recreational vehicles for travel, recreation, or vacation uses. ~~For~~ Within

mobile home parks, only spaces that are designated and/or are used for recreational vehicles shall constitute a recreational vehicle park. ~~Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property.~~ For the purposes of these regulations, the term “recreational vehicle park” shall include camping clubs.

Comment [CES7]: These are regulations, not definitions, and have been moved to 20.80.955.

20.97.435.03 Tiny Home.

A tiny home is a dwelling unit that is 400 square feet or less in floor area (excluding sleeping lofts). For the purposes of this code there are two types of tiny homes, as described below. For Tiny homes on Wheels see WCC 20.97.435.04.

Comment [CM8]: This portion matches the definition in appendix Q in the IRC. The size is also consistent with the definition of a park model in WAC 296-150P-00200.

1. *Site-Built Tiny Home.* A tiny home built on-site on a permanent foundation that meets the minimum requirements of the International Residential Code (IRC), including provisions of Appendix Q, and is reviewed and inspected by Whatcom County. For the purposes of this code they are equivalent to and are permissible under the same rules as any standard single-family dwelling.
2. *Manufactured Tiny Home.* A factory-built tiny home bearing a certification tag from the Washington State Department of Labor and Industries (L&I) or other approved third party inspection agency stating it is approved for use as a single-family residence per the current edition of the International Residential Code (IRC) or Housing and Urban Development (HUD) requirements. Manufactured tiny homes usually have wheels and a chassis when they come out of the factory, and typically have the wheels removed prior to placing it on its manufacturer-approved foundation. For the purposes of this code they are equivalent to and are permissible under the same rules as any standard mobile home.

20.97.435.04 Tiny Home on Wheels (THOWs)

A Tiny Home on Wheels is a portable structure licensed to be transported on the highways by a motor vehicle; designed and intended for casual or short-term human occupancy for travel, recreational, vacation and other temporary uses without a permanent foundation; in a space of 400 square feet or less in floor area (excluding sleeping lofts). For the purposes of this code there are two types of tiny homes on wheels, as described below.

1. *“Type 1 THOW”* is a THOW that is not self-contained, and thus needs to be temporarily connected to utilities necessary for operation of installed fixtures and appliances. For the purposes of this code they are equivalent to and are permissible under the same rules as for Park Model Trailers.
2. *“Type 2 THOW”* is a THOW that is self-contained and may use communal utility services (water, wastewater). For the purposes of this code they are equivalent to and are permissible under the same rules as for Recreational Vehicles (RVs).

Regarding Duplexes in Urban Zones via Planned Unit Developments:

Title 20 ZONING

Chapter 20.85 Planned Unit Developments (PUD)

20.85.050 Permitted Uses.

.051 Uses ~~outright permitted-allowed~~ in a planned unit development shall include those permitted, accessory, and conditional uses allowed in the underlying zone district(s), ~~as well as and~~ such other uses as provided in WCC 20.85.052 ~~to through~~ 20.85.055. For areas located within a Water Resource Protection Overlay District, the more restrictive use provisions of Chapter 20.71 WCC shall apply.

.052 In addition to the uses allowed in the underlying zone, the following uses shall be allowed outright ~~where when~~ they are only serving the planned unit development and ~~where~~ all other applicable standards are met:

- (1) Community buildings;
- (2) Indoor recreation facilities, including athletic clubs or fitness centers, racquetball courts, swimming pools, tennis courts, or other similar uses;
- (3) Outdoor recreation facilities, including swimming pools, tennis courts, recreational trails, or similar use; and
- (4) Recreational vehicle storage areas.

.053 ~~Even though they may not be allowed in the underlying zone(s).~~ A planned unit development may also authorize add the following additional land uses ~~activities, as follows;~~ provided the criteria of WCC 20.85.054 are met:

- (1) ~~For In~~ the Urban Residential and Rural zones, duplexes and multifamily dwellings consistent with the density requirements of the underlying zone, except as that may be modified by the provisions of WCC 20.85.108 (Density Increases). The number of units attached may be greater than would otherwise be allowed by the underlying zoning.
- (2) ~~In For~~ the Urban Residential and Urban Residential Medium zones, duplexes and those uses allowed in the Neighborhood Commercial zone ~~are may~~ also be permitted. In addition, both resort- and non-resort-oriented transient accommodations, such as inns or hotels, may be permitted; provided, that:
 - (a) The total number of sleeping units shall not exceed 50%-percent of the total number of dwelling units that would be allowed on the property by the underlying zone regulations;
 - (b) Each sleeping unit shall count as one dwelling unit for the purpose of determining the total number of dwelling and sleeping units, in combination, permitted on the property;
 - (c) It can be demonstrated that the overall development will not generate more traffic than conventional residential development at the density allowed in the zone.
- (3) ~~In For~~ the General Commercial zone, those uses allowed in the Urban Residential Medium zone are ~~appropriate~~ allowed.
- (4) ~~In For~~ the Resort Commercial zone:

Comment [CES9]: Policy change

Comment [CES10]: Policy change

- (a) Multiple single-family dwellings per lot are permitted if developed as condominiums under state law; and
- (b) Single-family attached dwellings (at a base gross density of ~~seven-7~~ units/acre); ~~and~~.
- (5) ~~In For~~ the Light Impact Industrial zone, those uses allowed in the Urban Residential Medium, Neighborhood Commercial, ~~and/or~~ General Commercial zones are ~~appropriate~~ allowed.

.054 In order ~~to expand for those additional~~ uses listed ~~allowed~~ in WCC 20.85.053 to be authorized, the applicant ~~shall~~ must demonstrate:

- (1) That the primary land use activity of the planned unit development ~~shall be those uses~~ is one allowed by the underlying zone district;
- (2) That the ~~expanded~~ additional uses will benefit and serve the residents or employees of the proposed planned unit development; and
- (3) That all other applicable approval criteria and standards are met.

.055 Where a proposed development is located in two or more zone districts, the uses allowed in the applicable districts may be located on any portion of the site; provided, that all applicable standards are met.

.056 For purposes of determining appropriate standards, the requirements of the zone district allowing the use would apply. If the use is allowed by two or more districts, the lesser standards would apply.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-695

File ID:	AB2021-695	Version:	1	Status:	Agenda Ready
File Created:	11/15/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Presentation		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Presentation by the Whatcom Racial Equity Commission on project status

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Presentation by the Whatcom Racial Equity Commission on project status

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-714

File ID:	AB2021-714	Version:	1	Status:	Agenda Ready
File Created:	11/19/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion of an ordinance granting Zayo Group, LLC, a franchise for the provision of telecommunications services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 allow the granting of franchises to public and private utility companies for use of County rights-of-way. This is a new franchise allowing for the use and presence in County rights-of-way to allow for the provision of telecommunications services.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Proposed ordinance, Fact Sheet, Franchise Application

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, County Executive,
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director

FROM: Andrew Hester, Public Works Real Estate Coordinator

RE: Franchise for Zayo Group, LLC

DATE: November 19, 2021

▪ **Requested Action**

Adopt an ordinance that grants a franchise to Zayo Group, LLC allowing it to use and be present in County Rights of Way for the installation, maintenance, operation, repair, modification, replacement, and/or removal of telecommunication facilities, together with equipment and appurtenances thereto, for the provision of telecommunication services within and through Whatcom County per the terms of the franchise agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

▪ **Background and Purpose**

Zayo Group, LLC has applied for a new franchise agreement for the purposes of utilizing County rights of way to provide telecommunications services.

Please contact Chris Quinn at extension 5729 if you have any questions or concerns regarding the terms of this agreement.

Encl.

SPONSORED BY: _____
PROPOSED BY: Executive
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**GRANTING ZAYO GROUP, LLC, A NON-EXCLUSIVE FRANCHISE FOR THE PROVISION OF
TELECOMMUNICATIONS SERVICES**

WHEREAS, Zayo Group, LLC, a Delaware limited liability company, with an address of 1821 30th Street, Unit A, Boulder, CO 80301 ("Grantee") has applied to Whatcom County ("County") for a non-exclusive franchise for the right of entry, use, and occupation of those public Rights-of-Way within the County, expressly to install, construct, erect, operate, maintain, repair, relocate and remove Grantee Facilities in, on, upon, along and/or across those Rights-of-Way for purposes of offering and providing Telecommunications Services utilizing said Grantee Facilities ("Grantee Services"); and

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, said application has come on regularly to be heard by the County Council on the ____ day of _____, 2021, and notice of this hearing has been duly published on the ____ day of _____, 2021, and the ____ day of _____, 2021, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the County Council now deems it appropriate and in the best interest of the County and its inhabitants that a franchise be granted to Grantee.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a non-exclusive franchise set forth in the language herein below, Sections 1 through 24, is hereby granted to Zayo Group, LLC for a period of ten (10) years in order that it may, subject to the terms of this ordinance and other pertinent requirements of law, install, construct, erect, operate, maintain, repair, relocate and remove Grantee Facilities in, on, upon, along and/or across those Rights-of-Way for purposes of offering and providing Telecommunications Services utilizing said Grantee Facilities

Section 1. Grant of Franchise Right to Use Franchise Area.

A. Subject to the terms and conditions stated herein, County hereby grants to Grantee a franchise as set forth in this Ordinance (this "Franchise"), including permission to enter, use and occupy those Rights-of-Way within unincorporated Whatcom County as now or hereafter constituted (the "Franchise Area").

B. Grantee is authorized, subject to other applicable requirements of law, to install, remove, construct, erect, operate, maintain, relocate and repair the facilities necessary or convenient for Grantee Services and all appurtenances thereto (collectively, "Grantee Facilities") in, along, under, and across the Franchise Area.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services as provided herein, and it extends no right or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on private property within County. This Franchise does not authorize the Grantee to provide "cable services" (as such term is defined in federal law), and if Grantee or anyone using Grantee Facilities desires to offer "cable services" in the future, a further agreement with the County will be required prior to providing such service.

D. This Franchise is non-exclusive and does not prohibit County from entering into other agreements, including other franchises, impacting the Franchise Area, unless County determines that entering into such agreements interferes with Grantee's rights set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that County has or may hereafter acquire with respect to the Franchise Area or any other County roads, Rights-of-Way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, Grantee acknowledges its use of the Franchise Area shall have no value.

F. County reserves the right to change, regrade, relocate, abandon, or vacate any Right-of-Way within the Franchise Area. If, at any time during the term of this Franchise, County vacates any portion of the Franchise Area containing Grantee Facilities, County shall reserve an easement for public utilities within that vacated portion within which Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. Grantee agrees that its use of Franchise Area shall at all times be subordinate and subject to County's and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

Section 2. Notices.

A. Written notices to the parties shall be sent by certified mail to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

County: County Executive
Whatcom County Courthouse
311 Grand Ave., Suite 108
Bellingham, WA 98225

Grantee: Zayo Group, LLC
Attn: General Counsel – West Region
1821 30th Street, Suite A
Boulder, CO 80301

With a Copy to: Zayo Group, LLC
Attn: Director, Underlying Rights – West Region
1821 30th St., Unit A
Boulder, CO 80301

Emergencies:
Network Operations Center & Repair
Phone: (888) 404 9296
E-mail: zayoncc@zayo.com

B. Any changes to the Grantee's information shall be sent to County's Public Works Director referencing the title of this agreement.

C. The Grantee's voice number, (888) 404 9296 (Operations Center), shall be staffed at least during normal business hours, at least from 8:00 a.m. to 5:00 p.m., Pacific Time Zone.

In all cases, "normal business hours" must also include some evening hours at least one night per week and/or some weekend hours.

Section 3. Term of Franchise.

A. This Franchise shall run for a period of ten (10) years from the date of execution specified in Section 5.

B. If the parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the obligations and privileges of this Franchise shall nonetheless

continue in full force and effect until renewed or otherwise terminated by either party through written notice to that effect.

Section 4. Definitions.

For the purpose of this Franchise:

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Emergency” means a condition of imminent danger to the health, safety and welfare of persons or property located within County including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

“Grantee Facilities” means such poles, antenna, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related wireline and wireless property or equipment as may be necessary or appurtenant to Grantee’s telecommunications system.

“Franchise Area” means those public Rights-of-Way located within the unincorporated area of the County.

“Grantee Services” means Telecommunications Services and services ancillary thereto provided by Grantee to its customers.

“Gross Revenues” means all revenues received by Grantee from the operation of the Grantee Facilities within the Rights-of-Way, including, but not limited to all rents, payments, fees and other amounts actually collected from any third party and received by Grantee and allocable to the period within the Term pursuant to any other agreement for telecommunications services provided with respect to Grantee Facilities, but exclusive of:

1. any payments, reimbursements or pass-throughs from the third party to Grantee:
 - a. for utility charges, taxes and other pass-through expenses, or
 - b. in connection with Maintenance work performed or equipment installed by Grantee;
2. site acquisition, construction management or supervision fees related to the installation of the Grantee Facilities; and
3. contributions of capital by any third party to reimburse Grantee in whole or in part for the installation of the Grantee Facilities.

“Maintenance” or “Maintain” means examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof, including as required and necessary for safe operation.

“Person” means any individual, sole proprietorship, partnership, association, corporation or other form of organization authorized to do business in the State of Washington, and includes any natural person.

“Relocation” means permanent movement of Grantee Facilities required by County, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request.

“Right-of-Way” (pluralized as “Rights-of-Way”) means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-way and similar public properties and in the Franchise Area.

“State” means the State of Washington.

“Telecommunications Service” has the same meaning as “Telecommunications service” as defined under 47 U.S.C. § 153 (2012).

Section 5. Acceptance of Franchise.

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the Whatcom County Council the Statement of Acceptance, attached hereto as Exhibit A (the “Franchise Acceptance”). The date that the Franchise Acceptance is filed with the County Council shall be the effective date of this Franchise.

B. Should Grantee fail to file the Franchise Acceptance with the County Council within 30 days after the effective date of this ordinance, then the County shall have the right to declare, by ordinance, Grantee’s forfeiture of all rights hereunder and to declare this Franchise terminated and of no further force or effect thereafter. The County shall retain this right to terminate the Franchise until such time as Grantee files the Franchise Acceptance pursuant to the terms herein.

Section 6. Construction and Maintenance.

A. Grantee shall apply for, obtain, and comply with the terms of all permits required under Whatcom County Code 12.16, 12.24, 12.27, 12.28, 12.30, 20.13 and any other pertinent provisions of law as may now or hereafter apply, for any work done on, or to install Grantee Facilities. Grantee shall comply with all applicable County, State, and federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner consistent with the standards of the telecommunications industry.

Modifications shall not be subject to additional approval hereunder (except such permitting as is required by applicable law) to the extent that: (i) such modification to Grantee Facilities involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of Grantee Facilities, as approved by County; or (ii) such modification involves replacement of Grantee Facility with a facility that is the same, or smaller in weight and dimensions as the approved Facility. Grantee will notify County of any such modification within fifteen (15) days after modification is made.

B. Grantee agrees to use commercially reasonable efforts to coordinate its activities with County and all other affected utilities located within the Franchise Area.

C. County expressly reserves the right to prescribe in a reasonable manner how and where Grantee Facilities shall be installed within the Franchise Area and may from time to time, pursuant to the applicable sections of this Franchise, direct in writing the removal, Relocation and/or replacement thereof as required by the public interest and safety at the expense of Grantee. Such public interest shall not extend to the accommodation of private development. Grantee shall have no less than 60 days following receipt of such written direction to complete the removal, Relocation, and/or replacement of Grantee Facilities, provided that Grantee shall have such extended period of 30 days as may be required beyond the initial 60 days if Grantee commences removal, Relocation, and/or replacement of Grantee Facilities within the initial 60 day period and thereafter continuously and diligently pursues such required performance to completion.

D. Upon prior written approval of County and in accordance with County ordinances, Grantee shall have the authority, but not the obligation, to reasonably trim trees upon and overhanging streets, Rights-of-Way and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, County may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not in any instance grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

E. Consistent with Sections 12.16, 12.24, 12.27, 12.28, and 12.30 of the Whatcom County Code, in case of any disturbance of any road, pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the County, replace and restore all paving, sidewalk, driveway, landscaping or surface, promptly and in as good condition as before said work was commenced and in accordance with standards for such work set by the County and the County Code. If Grantee fails, neglects or refuses to make restorations as required under this Section, then the County may do such work or cause it to be done, and the cost thereof to the County shall be paid by Grantee.

F. Grantee shall maintain all above-ground improvements that it places on County Rights-of-Way pursuant to this franchise. In order to avoid interference with the County's

ability to maintain its roads and associated Rights-of-Way, Grantee shall provide a clear zone of five feet on all sides of such improvements. For these purposes, "clear zone" means an area that is mowed or otherwise maintained so that the Grantee Facilities are readily visible to County maintenance operations. The foregoing obligations shall not apply to above-ground, pole-mounted antenna but shall apply to any poles or other structures at ground level erected or managed by Grantee hereunder. If Grantee fails to comply with this provision, and by its failure property is damaged, then Grantee shall be responsible for all damages caused thereby.

G. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from County water facilities and ten (10) feet from above-ground County water facilities; provided, that for development of new areas, County, together with Grantee and other utility purveyors or authorized users of Rights-of-Way, will develop and follow the Public Works Director's determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise.

H. Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, the Grantee shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during the Grantee's operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed or disturbed, and the expense of replacement by approved monuments shall be borne by the Grantee. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

Section 7. Repair and Emergency Work.

In the event of an Emergency, Grantee may commence such repair and Emergency response work as required under the circumstances, provided that Grantee shall notify the County Public Works Director in writing as promptly as possible, before such repair or Emergency work commences, or as soon thereafter as possible, if advance notice is not practical. County may act, at any time, without prior written notice in the case of Emergency, but shall notify Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to County and Third-Party Property.

Grantee agrees that should any of its actions under this Franchise materially impair or damage any County property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the reasonable satisfaction of the County Engineer.

Section 9. Location Preference.

Any structure, equipment, appurtenance or tangible property of a utility, other than Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to Grantee Facilities. However, to the extent that Grantee Facilities are completed and installed prior to another utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any County road or Right-of-Way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require Relocation. This Section shall not apply to any County facilities or utilities that may in the future require the Relocation of Grantee Facilities. Such Relocations shall be governed by Section 11.

Section 10. Grantee Information.

A. Grantee agrees to supply, at no cost to County, any information reasonably requested by the Director of Public Works to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under State law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within County. Said information may be requested either in hard copy and/or electronic format, if reasonably possible in a format compatible with County's database system, as now or hereinafter existing, including County's Geographic Information Service (GIS) data base. Grantee shall use commercially reasonable efforts to keep the Public Works Director informed of its long-range plans for coordination with County's long-range plans.

B. The parties understand that Washington law limits the ability of County to shield from public disclosure any information given to County. Accordingly, the County will endeavor in good faith to provide Grantee reasonable notice of any request for public disclosure of information of Grantee to allow Grantee to take such actions as Grantee may determine and at Grantee's sole cost and expense to prevent or limit such disclosure. Grantee shall indemnify and hold harmless County for any loss or liability for costs and for attorneys' fees because of non-disclosures requested by Grantee under Washington's open public records law, provided reasonable notice and opportunity to defend was given to Grantee or Grantee is made aware of a pending request or claim.

Section 11. Relocation of Grantee Facilities.

A. Except as otherwise so required by law, Grantee agrees to Relocate, remove, or reroute Grantee Facilities as reasonably ordered by the County Engineer at no expense or liability to County, the time frame for which shall be reasonably determined by the County Engineer and which shall in no event be less than sixty (60) days following the date of written

notice of such order, provided that Grantee shall have such extended period of 30 days as may be required beyond the initial 60 days if Grantee commences removal, Relocation, and/or replacement of Grantee Facilities within the initial 60 day period and thereafter continuously and diligently pursues such required performance to completion. Any determination to require the Relocation of Grantee Facilities shall be made in a reasonable, competitively neutral, uniform and non-discriminatory manner. Any County funds used to reimburse costs incurred by any Person in connection with any relocation shall be allocated in a reasonable, uniform and non-discriminatory manner. Pursuant to the provisions of Section 14, Grantee agrees to protect and save harmless County from any customer or third-party claims for service interruption or other losses in connection with any such change, Relocation, abandonment, or vacation of public property.

If Grantee fails, neglects or refuses to remove or relocate Grantee Facilities as directed by the County; or in emergencies or where public health and safety or property is endangered, the County may do such work or cause it to be done, and the cost thereof to the County shall be paid by Grantee. If Grantee fails, neglects or refuses to remove or relocate Grantee Facilities as directed by another franchisee or utility with authority to so direct Grantee, that franchisee or utility may do such work or cause it to be done, and if Grantee would have been liable for the cost of performing such work, the cost thereof to the party performing the work or having the work performed shall be paid by Grantee.

B. If a readjustment or Relocation of Grantee Facilities is necessitated by a request to Grantee from a Person other than County, that party shall agree to reimburse Grantee's costs prior to Grantee having any obligation to readjust or relocate Grantee Facilities and agree to pay Grantee the actual costs thereof.

C. Grantee and the County acknowledge and commit to fully comply with their respective obligations, as the same may arise from time to time, under Chapter 19.122 RCW (Underground Utilities Locator Statute) or any other law applicable to determining the location of utility facilities. Thus, before commencing any work within the Franchise Area, Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

D. Design locate marks will be placed in the same three (3) day time frame as construction locate marks.

Section 12. Abandonment and or Removal of Grantee Facilities.

A. Within one hundred and eighty (180) days of Grantee's permanent cessation of use of Grantee Facilities, or any portion thereof, Grantee shall, at County's discretion, either abandon in place or remove the affected facilities.

B. The parties expressly agree that this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding.

A. The parties agree that this Franchise does not limit County's authority under federal law, State law, or local ordinance, to require the undergrounding of utilities.

B. Whenever County requires the undergrounding of aerial utilities in the Franchise Area, Grantee shall underground Grantee Facilities in the manner specified by the County Engineer to the extent practical and recognizing that wireless antenna cannot be undergrounded, with payment therefor consistent with the provisions of RCW 36.88.410 et ff. Where other utilities are present and involved in the undergrounding project, Grantee shall be required to pay only its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trenching and utility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Indemnification and Hold Harmless.

A. Grantee shall defend, indemnify and hold the County and its officers, officials, agents, employees, and volunteers harmless from any and all claims, demands, suits, actions, costs and expenses, including but not limited to attorney's fees, made against it by any third party on account of injury or damage to the person or property of another, but only to the extent such injury or damage is caused by the negligence or breach of Grantee, its agents, servants or employees of this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the County, the County shall promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the County based upon any such claim or demand, the County shall likewise promptly notify Grantee thereof, and Grantee shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Notwithstanding the foregoing, if damages to another or others result from concurrent negligence of Grantee and the County, Grantee and the County shall each be responsible for and this indemnification provision shall be operative so that each party bears the proportionate share attributable to its own negligence. In case judgment which is not appealed shall be rendered against the County in such suit or action, County shall fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined. Upon County's failure to satisfy said judgment within ninety (90) days, the Grantee may elect to terminate this Franchise pursuant to the terms of Section 19 herein. The provision for reimbursement of the County shall survive the termination of this Franchise.

B. County shall defend, indemnify and hold Grantee harmless from any liability arising out of or in connection with any damage or loss to Grantee Facilities caused by the

willful misconduct or gross negligence of County, except to the extent any such damage or loss is directly caused by the negligence of Grantee, or its agents.

C. Grantee acknowledges that neither County nor any other public agency with responsibility for firefighting, Emergency rescue, public safety or similar duties within County has the capability to provide trench, close trench or confined space rescue. Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. Grantee shall hold County harmless from any liability arising out of or in connection with any damage or loss to Grantee for County's failure or inability to provide such services, and, pursuant to the terms of Section 14(A), Grantee shall indemnify County against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities based on County's failure or inability to provide such services.

D. Acceptance by County of any work performed by Grantee shall not be grounds for avoidance of this section.

E. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN AND EXCEPT FOR CLAIMS ARISING FROM A PARTY'S INTENTIONAL MISCONDUCT (INCLUDING EMPLOYEE CONDUCT), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA, INCURRED OR SUFFERED BY EITHER PARTY.

Section 15. Insurance.

A. Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$2,000,000 per accident.

2. Commercial General Liability insurance with limits no less than \$2,000,000 each occurrence, \$3,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit. Coverage shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. County shall be named as an additional insured under Grantee's Commercial General Liability insurance policy with respect to the work performed under this Franchise.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. Grantee's insurance coverage shall be primary and non-contributory insurance as respects County. Any insurance, self-insurance, or insurance pool coverage maintained by County shall be in excess of Grantee's insurance and shall not contribute to or with it to satisfying any claim or judgment covered hereunder. Grantee's insurance shall also waive any rights of subrogation against the County and its agents as it pertains to the scope of this agreement.

C. Grantee shall furnish County with certificates of the foregoing insurance coverage with a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement.

D. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self-insurance is subject to approval by County, and in the event such approval is not obtained, Grantee shall carry such coverage as is herein provided.

E. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit County's recourse to any remedy to which County is otherwise entitled at law or in equity.

Section 16. Performance Security.

Grantee shall provide County with a surety bond in the amount of Fifty Thousand Dollars (\$50,000) running or renewable for the term of this Franchise, in a form and substance reasonably acceptable to County. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise following notice and a reasonable opportunity to cure, then there shall be recovered jointly and severally from the principal and any surety of such surety bond any damages suffered by County as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to County in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit Grantee's liability to the guarantee amount, or otherwise limit County's recourse to any remedy to which County is otherwise entitled at law or in equity.

Section 17. Successors and Assignees.

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent contractors of Grantee, and all rights and privileges, as well as all obligations and liabilities of Grantee shall inure to its

successors, assignees and contractors equally as if they were specifically mentioned herein wherever Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated, except to an Affiliate of Grantee, without the express consent of County by ordinance, which approval shall not be unreasonably withheld, conditioned, or delayed. Approval shall not be required for mortgaging purposes or if a transfer of interest is from Grantee to (i) another person or entity controlling, controlled by, or under common control with Grantee or (ii) another person or entity purchasing all or substantially all of the assets or stock of Grantee. Within 30 days of the lease, assignment, or other alienation of this Franchise for which prior County approval is not hereunder required, Grantee shall provide reasonable notice to County, including all information with respect to the assignee or transferee that is reasonably required by County of an applicant for a Franchise.

C. To the extent County's approval is required under Section 17(B), Grantee and any proposed assignee or transferee shall provide and certify the following to County not less than sixty (60) days prior to the proposed date of transfer: (a) complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) all information reasonably required by County of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) an application fee which shall be reasonably set by County, plus any other costs actually and reasonably incurred by County in processing and investigating the proposed assignment or transfer.

D. Prior to County's consideration of a request by Grantee to consent to a Franchise assignment or transfer pursuant to subpart C hereto, the proposed assignee or transferee shall file with County a written promise to unconditionally accept all terms of this Franchise, effective upon such transfer or assignment of this Franchise. County is under no obligation to undertake any investigation of the transferor's state of compliance and failure of County to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

E. Notwithstanding the forgoing or anything to the contrary in this Ordinance, Grantee may provide capacity across Grantee Facilities to a third party without the consent required under this Section, so long as Grantee retains control over and remains solely responsible for, such communications facilities. The use of Grantee Facilities by third parties (including, but not limited to, leases of dark fiber) that involves no additional attachment and no expanded occupation of the right-of-way is not considered a sublicense to a third party subject to the provisions of this Section.

Section 18. Dispute Resolution.

A. In the event of a dispute between County and Grantee arising by reason of this Franchise, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Franchise.

The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Franchise, the parties specifically understand and agree that venue shall be exclusively in Whatcom County, Washington.

Section 19. Enforcement and Remedies.

A. If Grantee shall materially violate or fail to comply with any of the provisions of this Franchise, or should it fail to heed or comply with any notice given to Grantee under the provisions of this Franchise, County shall provide Grantee with written notice specifying with reasonable particularity of the nature of any such material breach and Grantee shall undertake all commercially reasonable efforts to cure such material breach within thirty (30) days of receipt of notification. If County reasonably determines the material breach cannot be cured within (30) thirty days, County shall specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the material breach is not cured within the specified time, or Grantee does not comply with the specified conditions, County may, at its discretion, either (1) revoke this Franchise with no further notification, or (2) claim damages of One Thousand Dollars (\$1,000.00), or actual damages if demonstrably greater, against the financial guarantee set forth in Section 16.

B. Should County reasonably determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, then, following the expiration of the cure period specified in subpart A of this Section, County reserves the right to cancel this Franchise and require Grantee to apply for, obtain, and comply with all applicable County permits, franchises, or other County permissions for such actions, and if Grantee's actions are not allowed under applicable federal and state or County laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations.

A. This Franchise is subject to, and Grantee shall comply with all applicable Federal and State or County laws, regulations and policies, including all applicable elements of County's comprehensive plan, in conformance with federal laws and regulations, affecting performance under this Franchise. Furthermore, notwithstanding any other terms hereof to the contrary, Grantee shall be subject to the police power of County to adopt and enforce general ordinances

necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

Section 21. Amendments.

A. The parties shall amend this Franchise as reasonably required to accommodate, ensure compliance with, and/or conform to any existing or hereafter enacted, amended, or adopted federal, state, or local statute, ordinance, or regulation, or County ordinance enacted pursuant thereto, or any binding judicial or governmental agency interpretations thereof (including, but not limited to, actions by the Federal Communications Commission or its successor agency) that govern any aspect of the rights or obligations of the parties under this Franchise. In the event that a party seeks such amendment, that party may provide the other party with written notice identifying and setting forth the full text of the desired amendment, and the reason(s) for it. A representative of Grantee and a representative of County, each who have authority to bind their respective parties, shall meet, in person or telephonically if travel is impractical for either party, no later than thirty (30) days following such written notice. During such meeting, the parties shall in good faith negotiate and execute an amendment to the Franchise to provide for the necessary change, and shall do so within 90 calendar days following such written notice. If the parties do not reach agreement as to the terms of the amendment within 90 days of commencing negotiations, the parties promptly shall mutually agree upon a third-party, neutral arbiter, who shall determine the terms of any such amendment after each party presents to the arbiter their proposed amendment language.

B. Any other amendments to this Franchise must be in writing and executed by authorized representatives of the County and the Grantee.

Section 22. Consideration.

A. As consideration for this Franchise, Grantee commits to pay a County franchise fee of five percent (5%) on Gross Revenues.

B. Grantee's franchise fee payments to the County shall be computed quarterly for the preceding calendar quarter, with quarters ending March 31, June 30, September 30 and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates. Payments shall be made to the Whatcom County Treasurer, Whatcom County Courthouse, Suite 104, 311 Grand Avenue, Bellingham, WA 98225, unless otherwise specified by the County in writing.

C. No acceptance of any payment shall be construed as an accord by the County that the amount paid is in fact the correct amount, nor shall any acceptance of payments be construed as a release of any claim the County may have for further or additional sums payable or for the performance of any other obligation of Grantee.

D. Each payment shall be accompanied by a written report to the County verified by an authorized representative of Grantee, containing an accurate statement in summarized

form, as well as in reasonable detail, of Grantee's Gross Revenues and the computation of the payment amount. Grantee shall, no later than sixty (60) days after the end of each calendar year, furnish to the County a statement of gross revenues and all payments, deductions and computations for the year just ended. Such statement shall be reviewed and approved by an authorized representative of Grantee prior to submission to the County.

E. During the term of this Agreement, and for a period of one (1) year thereafter, the County may retain (on a non-contingent fee basis) an independent auditor to conduct a reasonable review and audit of Grantee's relevant records to confirm the performance of payment obligations under this Agreement upon thirty (30) days prior written notice. Each party shall provide a list of two (2) auditors, one (of the four) of whom thereafter must be mutually agreed to by the parties. Such audit shall: (a) be subject to Grantee's reasonable security and confidentiality requirements; (b) occur no more than once per year and not during the first or last three (3) weeks of a calendar quarter; and (c) transpire during Grantee's normal business hours. If the audit shows an underpayment to the County for any period of time, then Grantee shall, within thirty (30) days after completion of such audit, pay such underpaid amounts to the County. If the audit shows an overpayment to the County for any period of time, then the County shall, within thirty (30) days after completion of such audit or by deduction from the next scheduled quarterly payment owed by Grantee, pay such overpaid amounts to Grantee. Any underpayment will also include interest at the maximum allowed rate provided under State law, calculated from the date of the underpayment or overpayment. All expenses associated with such audit shall be paid by the County unless the audit reveals an underpayment of more than ten percent (10%) in payments required hereunder in which case Grantee shall reimburse the County for the reasonable costs of such audit, not to exceed Five Thousand Dollars (\$5,000).

F. Any claim arising as a result of such an audit against Grantee must be made in writing within sixty (60) days of the County's completion of the audit. All information reviewed by the County or its auditor pursuant to any audit shall be deemed to be "Confidential Information" subject to the terms of Section 10 herein and shall be treated as such by the County in accordance with applicable law.

G. No more than once per year, Grantee agrees to meet with a representative of the County upon written request to review Grantee's methodology of record-keeping, financial reporting, the computing of franchise fee obligations and other procedures, the understanding of which the County reasonably deems necessary for reviewing reports and records that are relevant to the enforcement of this Agreement.

H. In the event any payment is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay, in addition to the payment or sum due, interest on the amount due at the maximum allowed rate as provided under State law from the date the payment was due until the date the County receives the payment.

I. If this Agreement terminates for any reason, the Grantee shall file with the County, within sixty (60) calendar days of the date of the termination, a financial statement showing the gross revenues received by the Grantee since the end of the previous fiscal year. Within thirty (30) days of the filing of the certified statement with the County, Grantee shall pay any unpaid amounts as indicated. If the Grantee fails to satisfy its remaining financial obligations as required in this Agreement, the County may do so by utilizing the funds available in any security provided by the Grantee.

Section 23. Consequential Damages Limitation.

Notwithstanding any other provision of this Franchise, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 24. Severability.

If any portion of this Franchise is deemed invalid, the remainder portions shall remain in effect.

Section 25. Titles.

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

ADOPTED this _____ day of _____ 2021.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 11/19/2021)

Satpal Singh Sidhu, County Executive

() Approved () Denied

Date Signed: _____

FRANCHISE FACT SHEET

Applicant:	Zayo Group, LLC
Type of Franchise:	Telecommunications
Brief description:	Franchise is for the purpose of constructing/operating/maintaining telecommunication facilities.
Location/ Abbreviated legal description:	All rights-of-way within Whatcom County
Duration:	10 years
Existing or New Franchise?	New franchise
Related Council Agenda Bills:	AB2021-714 AB2021-715
Related Ordinance Numbers:	N/A
Additional Information:	N/A

Date of Fact Sheet: November 19, 2021

APPLICATION FOR FRANCHISE

TO THE WHATCOM COUNTY COUNCIL:

COMES NOW, Zayo Group, LLC, a Delaware limited liability company, with an
address of 1821 30th Street, Suite A, Boulder, CO 80301
who respectfully petitions the Whatcom County Council for a twenty-five (25) year
franchise to lay, construct, maintain, and repair
a fiber optics cable network

and all necessary appurtenances along, over, and across the following roads situated
in Whatcom County, Washington:

all public right-of-way

The petitioner further requests that the Whatcom County Council fix a time and place
for a public hearing on the granting of this continuation of franchise, and that public
notice be given, at the expense of the petitioner, as provided by law; and that, at
said hearing, petitioner be granted the franchise continuation herein requested.

DATED: March 12, 2021

Zayo Group, LLC
Company Name

1821 30th Street, Suite A
Mailing Address

Boulder, CO 80301
City State Zip

407.741.3750 or (866) 364-6033
Phone Number

Roger M. Simpson III
Signature of authorized agent/owner

Roger Simpson, Director
Print or type name



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-395

File ID:	AB2021-395	Version:	1	Status:	Discussed
File Created:	07/01/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Discussion		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: cstrong@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion and periodic update of the Shoreline Management Program

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

7.13.2021: Overview of the periodic update of Whatcom County's Shoreline Management Program (SMP), which includes amendments to the Whatcom County Comprehensive Plan (shoreline and other policies), WCC Titles 23 (shoreline regulations) and 22 (permitting procedures), WCC Chapter 16.16 (critical areas regulations), and the official Shoreline Map. Additionally, the project addresses Council's docketed items 1) PLN2019-00011, a directive to amend the Comp Plan and codes to allow the seasonal extraction of sand and gravel from dry upland areas under certain conditions (but has been found to be unnecessary); and 2) PLN2018-00010, the addition of a Sustainable Salmon Harvest Goal policy to the Comp Plan.

9.14.2021: Discussion of proposed Comp Plan policy amendments pertaining to the SMP Periodic Update and docket item #PLN2018-00010 regarding a Sustainable Salmon Harvest Goal policy.

9.28.2021: Discussion of proposed amendments to Title 22 (Land Use & Development, Exhibit E) and the Shoreline Management Program Map (Exhibit G).

10.12.2021: Discussion of proposed amendments to Title 23 (Shoreline Management Program)

10.26.2021: Discussion of proposed amendments to WCC Chapter 16.16 (Critical Areas)

11.9.2021: Discussion of No Net Loss, Restoration Plan, and Department of Ecology Required and Recommended Changes

12.7.2021: Discussion of memo from PDS staff

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
07/13/2021	Council Committee of the Whole	DISCUSSED	
09/14/2021	Council Committee of the Whole	DISCUSSED	
09/28/2021	Council Committee of the Whole	DISCUSSED	
10/12/2021	Council Committee of the Whole	DISCUSSED	
10/26/2021	Council Committee of the Whole	DISCUSSED	
11/09/2021	Council Committee of the Whole	DISCUSSED	

Attachments: SMP Memo (dated 11.24.2021)



Memorandum

DATE: November 24, 2021
TO: The Honorable County Council
FROM: Cliff Strong, Senior Planner
THROUGH: Mark Personius, Director
RE: Continued Review of Shoreline Management Program (SMP) Periodic Update 2020

Tonight's Goal

On November 23rd the Council held a public hearing on the SMP Update and made three amendments. Based on legal counsel's recommendation, the amended exhibits were introduced that night with the Council's amendments and a second public hearing was scheduled for tonight (12/7/21) to allow the public an opportunity to comment on those amendments. Upon completion of the public hearing, staff requests that Council adopt the resolution approving the SMP Update and authorizing Planning and Development Services to forward it to the Department of Ecology for final review and approval. Once that is done staff will return in early 2022 with an ordinance for Council to adopt, effecting the amendments.

Council's Amendments

Council made three amendments to the Planning Commission's recommendation. These are:

1. **Amend Exhibit F (WCC Ch. 16.16) §16.16.612 (Exceptions to Regulation), subsection (A)(1)(d) (pg. 66) to read:**

"Do not score 6 or more points for habitat function..." (Changing what was shown as "5" to "6.")

Staff Comment: Staff supports this amendment.

In July 2018 the Washington Department of Ecology (DOE) modified the habitat score ranges and recommended buffer widths in their wetland buffer tables in the DOE guidance, with some minor text changes to ensure consistency. Through this SMP update staff proposed to amend §16.16.630, Table 1, and §16.16.612 to reflect this guidance. The revised habitat function scores and buffer widths in Table 1 comes from guidance updated in 2018. The revised language of §16.16.612 is from their *Wetland Guidance for CAO Updates, Western Washington Version, 2016*. However, staff was unaware and just this past week found out that Ecology also updated their language in the 2016 guidance through an addendum issued in 2018. Though the majority of the language remained the same, the one change was to change the "5" to a "6," meant to reflect their newer habitat function scores in determining which wetlands might be exempt from regulation.

The 2016 guidance can be found at <https://apps.ecology.wa.gov/publications/documents/1606001.pdf> and the 2018 errata sheet can be found at <https://apps.ecology.wa.gov/publications/parts/1606001part1.pdf> for those wishing to compare.

2. **Amend Exhibit F (WCC Ch. 16.16) §16.16.900 (Definitions), definition of "Qualified professional" or "qualified consultant," subsection (1) (pg. 128) to read:**

"Is listed on a roster of qualified professionals or qualified consultants prepared by the Director and made available to the public."

Staff Comment: Staff supports this amendment as the list is already made publicly available.

3. Amend Exhibit F (WCC Ch. 16.16) §16.16.900 (Definitions), definition of “Qualified professional” or “qualified consultant,” subsection (7) (pg. 128) to read:

“Anyone who’s professional license is currently revoked or has had two (2) or more reports denied by the Hearing Examiner within a 12-month period does not meet the definition of a qualified professional or qualified consultant.”

Staff Comment: Staff recommends that Council revert the language of subsection (7) to its existing language to read:

“Anyone who has had their professional licensure or certification revoked for violations of the provisions of their profession does not meet the definition of a qualified professional or qualified consultant.”

Though at the 11/23/21 hearing staff indicated they were satisfied with the language as amended by Council, upon further consultation with legal counsel and other staff following the meeting, PDS has reconsidered our recommendation. The Hearing Examiner has no role in approving or denying critical area assessment reports: That role is solely the Director’s pursuant to 16.16.250 (Critical Areas Review Process) and 16.16.255 (Critical Areas Assessment Reports). Additionally, it is unlikely that any one consultant would be before the Hearing Examiner in any 12-month period, as most projects are decided upon administratively, so this rule would rarely be usable. And as a note, all decisions of the Director are appealable to the Hearing Examiner pursuant to WCC 22.05.160, though the Hearing Examiner would only rule on whether code was interpreted correctly, not on whether a report is sufficient or meets professional standards.

As for process, legal counsel agrees that Council can revert the language by motion on 12/7 without a need for an additional hearing since this is existing language and a hearing was held on 11/23 (as well as tonight).

Additional Staff Recommendations

At your 11/23 meeting staff recommended two additional edits, though in reviewing the Action Summary for that meeting we don’t see that they were included in the motion to introduce.

4. Amend Exhibit D (WCC Title 23), §23.60.190, by deleting subsection 17, definition of “short-term rental.”

5. Amend Exhibit D (WCC Title 23), §23.60.030 to replace the term “short-term rental” with “vacation rental.”

Staff Comment: Staff recommends both of these amendments. In trying to include Council’s previous action in Resolution 2016-039 we inadvertently used the wrong terms. The Council approved definition of “vacation rental unit” from that resolution is already included §23.60.220(1).

Attachments

- Resolution to Approve and forward to Ecology
- Exhibit A – CompPlan Ch. 10 Environment (P/C Approved)
- Exhibit B – CompPlan Ch. 11 Shorelines (P/C Approved)
- Exhibit C – CompPlan Ch. 8 Marine Resource Lands (P/C Approved)
- Exhibit D – WCC Title 23 Shoreline Regulations (P/C Approved with DOE and Council Edits)
- Exhibit E – WCC Title 22 Land Use & Development (P/C Approved)

- Exhibit F – WCC 16.16 Critical Areas Regulations
- Exhibit G –Shoreline Map (P/C Approved)
- Exhibit I – No Net Loss Addendum (P/C Approved)
- Exhibit J – Shoreline Restoration Addendum (P/C Approved)

All documents are available in pdf and Word versions on PDS's SMP Update webpage:

<https://www.whatcomcounty.us/3119/SMP-Update-2020-Documents>.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-648

File ID:	AB2021-648	Version:	1	Status:	Referred to Committee (public testimony already received)
File Created:	10/29/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: cstrong

TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to WCC Title 20 (Zoning) regulating the production, processing, and retail sales of recreational marijuana in Whatcom County and repealing Ordinance No. 2021-066

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance adopting amendments to WCC Title 20 (Zoning) regulating the production, processing, and retail sales of recreational marijuana in Whatcom County and repealing Ordinance No. 2021-066

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/09/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council
11/23/2021	Council	REFERRED TO COMMITTEE	Council Committee of the Whole

Attachments: Staff Memo, Proposed Ordinance, Exhibit A, Map of Facilities

Whatcom County Planning & Development Services Staff Report

Proposed Amendments to WCC Title 20 (Zoning) Regulating the Production, Processing, and Retail Sales of Recreational Marijuana in Whatcom County and Repeal of Ordinance No. 2021-066 (Marijuana Moratorium)

I. File Information

File #: PLN2021-00009

File Name: Marijuana Regulations

Project Summary: Proposed amendments to WCC Title 20 (Zoning) regulating the production, processing, and retail sales of recreational marijuana in Whatcom County.

Applicant: Whatcom County Planning and Development Services (PDS)

Location: Countywide.

Recommendations:

- Planning Commission – Approve
- Planning and Development Services – Approve

Attachments:

- Draft Ordinance
- Exhibit A – Proposed Amendments

II. Background

On November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, amending Chapter 69.50 RCW and providing the regulatory framework for marijuana producers, processors, and retailers to become licensed by the Washington State Liquor Control Board (“WSLCB”).

On November 16, 2013, the WSLCB adopted final marijuana licensing rules as codified in Chapter 314-55 WAC. During the period between November 18, 2013 and December 20, 2013, the WSLCB accepted marijuana license applications for marijuana production, processing and retail facilities. Whatcom County began receiving notifications of proposed marijuana facilities from the WSLCB in mid-December, 2013, and the WSLCB anticipated issuing marijuana producer, processor, and retail licenses to qualified applicants starting in late February or March, 2014.

On January 16, 2014, the Washington State Attorney General issued an opinion stating that Initiative 502 does not preempt counties from banning or placing additional regulatory requirements on marijuana related businesses within their jurisdictions.

During the licensing application window between November 18, 2013, and December 20, 2013, the WSLCB accepted approximately 228 recreational marijuana producer, processor and/or retail license applications for unincorporated Whatcom County. Whatcom County soon after began receiving notifications from the WSLCB of those applicants and applied to locations. The Prosecuting Attorney and

PDS had at the time implemented a zoning interpretation policy, which stated that PDS would regulate marijuana proposed uses, as allowed by Initiative 502 in the same way as any other commodity that is grown, processed, or sold in Whatcom County. However, it became evident that many of those proposed locations could conflict with other surrounding uses.

On February 11, 2014, the Whatcom County Council adopted Ordinance 2014-011, an emergency ordinance imposing a moratorium on the acceptance of all building and/or land use applications that pertain to marijuana producers, processors, retailers and medical marijuana collective gardens.

On March 31, 2015, the Whatcom County Council adopted Ordinance 2015-006, which contains the current County zoning regulations for recreational marijuana type uses. The regulations allowed for the production (as a permitted use) and processing (as an administrative approval use) of marijuana in the Rural, Rural Forestry, Agriculture, Rural Industrial and Manufacturing, Light Impact Industrial, and Heavy Impact Industrial districts, subject to a proposed facility meeting several stated use standards. Such standards include odor controls (for indoor grows), lighting, traffic and parking control measures, as well as setbacks of 1,000 feet from community centers and 300 feet from residences not located on the same property.

When Whatcom County's regulations were first adopted, the County Council chose to treat marijuana production like any other agricultural endeavor, as most of the applicants were small businesses. However, as no new state licenses are being issued it seems that more recently larger operators (with more capital) are buying up the earlier licenses and expanding operations or changing locations.

Earlier this year both the Commission and the Council received numerous complaints from citizens neighboring certain of the marijuana production and processing facilities. Issues raised included odor, lighting, and excessive water usage. As of 4/27/2021, there were 2 licensed (only) producers, 4 licensed (only) processors, 29 licensed (combo) producers/processors, and 12 licensed retailers of marijuana in unincorporated Whatcom County (see attached map, which also indicates how many are in each zoning district). (For a comparison of the numbers of producers in other counties, see Figure 1, below.) It should be noted that the majority of complaints arise from only a couple of Whatcom County producers; the majority of the operations are complying with the regulations and not causing problems.

Based on those citizen complaints, the Planning Commission recommended, and the Council adopted, an interim 6-month moratorium on accepting applications for outdoor marijuana production and/or processing facilities (Ord. 2021-018, 4/6/21). On April 20th the Council expanded that moratorium to further clarify that "outdoors" for purposes of the moratorium includes production on open land; in non-rigid greenhouses (i.e., hoop houses); in greenhouses with rigid walls, a roof, and doors; and similar type greenhouse structures (Ord 2021-023). That moratorium would have expired on November 7, 2021. However, on October 26, 2021, the Council extended that moratorium for another six months.

The Council also placed on the County's annual docket PLN2021-00009, directing Planning and Development Services (PDS) to:

"Review and revised Whatcom County Code relating to marijuana growing and processing in rural areas. Consider impacts of marijuana growing and processing facilities in rural areas, and evaluate growing and processing facilities as an agricultural or non-agricultural use. Consider compatibility with GMA and County Comprehensive Plan."

Thus, the Planning Commission held two public workshops and with staff assistance developed the proposed amendments to the County's recreational marijuana land use regulations discussed below. On October 14th they held a public hearing and voted 5-2-0 to approve the amendments shown in Exhibit A.

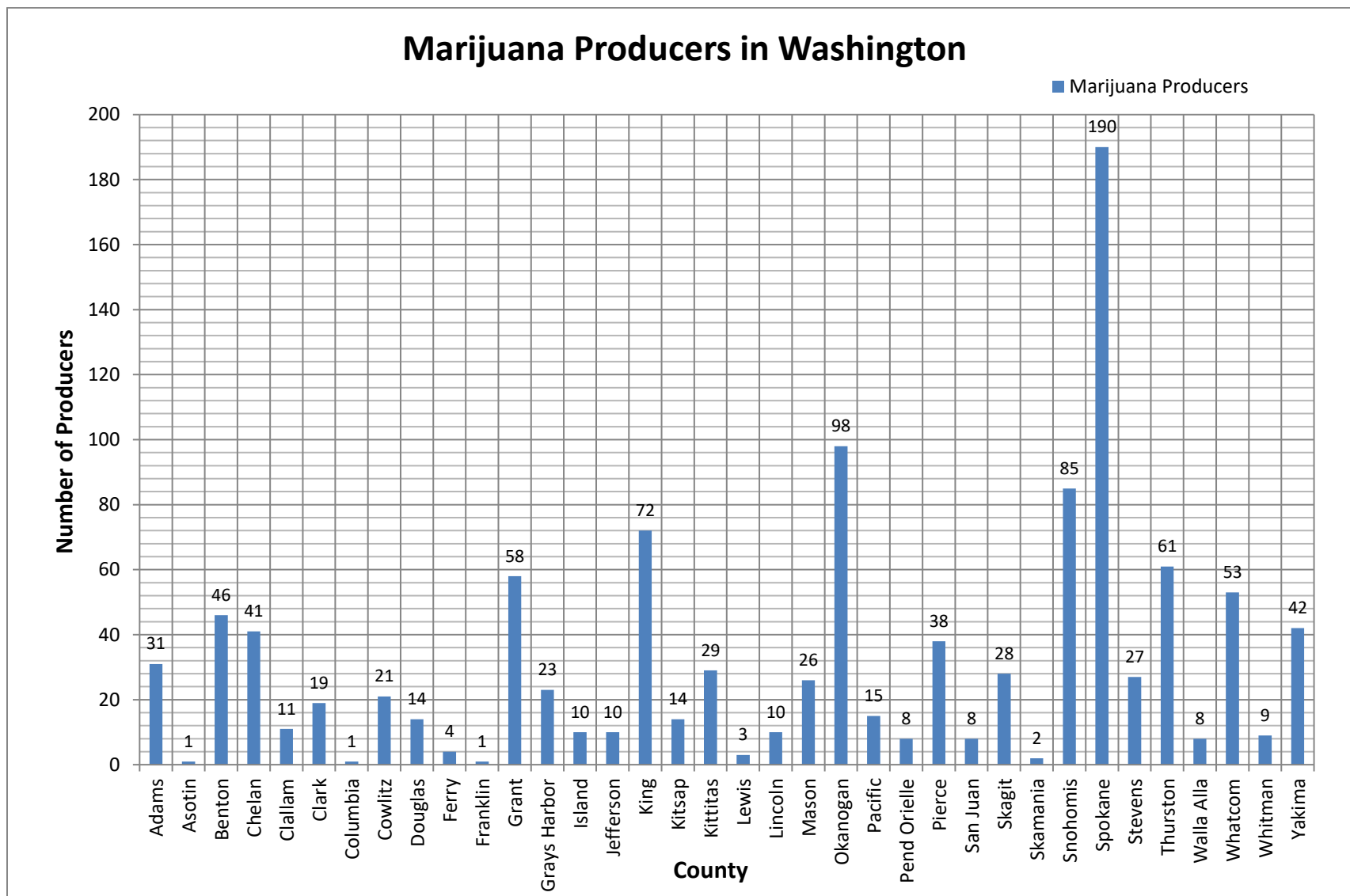


Figure 1. Number of marijuana producers in WA State counties (LCB data, Aug 2021).

III. Proposed Amendments

The proposed amendments are found in Exhibit A. Please refer to that attachment; explanations are provided therein. Tables 1 and 2

Table 1. Summary of Existing Marijuana Rules

	Zone Requirements						Supplemental Requirements (Applies in all zones)											
Type	Zone	Permit Type	Distance req't	Lot Size	Accessory Use	Odor	Odor	Lighting	Traffic	Parking	Character	Max. Employees						
Production	R	ADM	Not w/in 1,000' of a community center or 300' of an offsite residence	If land is < 4.5 ac then facility limited to 2,000 sf			For indoor production only, must install ventilation, can't emit odors beyond walls, or bother neighbors	Must be controlled away from adjoining properties and roads	Can't be more than what's expected in the zone	Must provide off-street parking	Must be compatible with area's character	N/A						
	RF	P																
	A	P																
	RIM	P			For indoor production only, must install ventilation, can't emit odors beyond walls, or bother neighbors													
	LII	P																
	HII	P																
Processing	R	ADM	Not w/in 1,000' of a community center or 300' of an offsite residence ¹	If land is < 4.5 ac then facility limited to 2,000 sf ²	Must be accessory to production	For indoor processing only, must install ventilation, can't emit odors beyond walls, or bother neighbors	For indoor processing only, must install ventilation, can't emit odors beyond walls, or bother neighbors	Must be controlled away from adjoining properties and roads	Can't be more than what's expected in the zone	Must provide off-street parking		10						
	RF	P	Not w/in 300' of an offsite residence ¹									10						
	A	P	Not w/in 1,000' of a community center ¹									20						
	RIM	P										10						
	LII	P										10						
	HII	P										10						
	Retail	STC	P		Limited to 2,500 sf													
		NC	P															
RGC		P																
GC		P																

Table 2, below, also provide summaries of the existing and proposed regulations, respectively. Following, however, is a list of proposed policy changes.

“Marijuana Production Facilities” Definition (§20.97.227)

The terms “outdoor” and “indoor” production facilities are being relabeled as Type 1 and Type 2 Marijuana Production Facilities. The reason is that the difference between outdoor and indoor in terms of structure type is confusing, given that greenhouses and other such structures are a little of both. What seems to really matter—in terms of how many grow cycles one can obtain, and thus how often flowering marijuana produces the objectionable odor—is whether artificial lighting is used to aid in the growth cycle, as that extends growing and flowering cycles to several. Testimony from producers indicated that without artificial lighting a producer can only obtain one growth cycle here in Whatcom County.

One proviso is that producers have commented that even if they are small scale and don’t use artificial lighting for most production they still need at least one small structure (a.k.a, “headhouse” or “mother room”) in which they can overwinter¹ the plants. So the proposed definition of a Type 1 facility allows one small structure with artificial lighting for overwintering plants.

Locations for Type 1 (“Outdoor”) vs. Type 2 (“Indoor”) Production

The Planning Commission was averse to prohibiting outdoor production entirely, in particular because it uses less energy and is less costly for small start-ups. But they did want to limit the size of outdoor production in the zones that typically have more residential uses (i.e., Rural and Agriculture) as one way to reduce odor impacts (most odor complaints have arisen around the larger (Tier 3) hybrid² facilities in the Rural district).

Thus, the draft regulations propose to:

- a) Allow Type 1 facilities only in the Rural and Agricultural districts and limit the area of production facilities to a maximum of 1 and 2 acres, respectively, (§20.80.690(2)(a)); and
- b) Allow Type 2 facilities only in the Rural (with a facility size limit of 1 acre) and industrial (RIM, LII, & HII) districts (with no facility size limit).

(Note: Lot coverage standards for each district also place a limit on the total square footage of structures on a lot commensurate with the lot size.)

Use and Permit Requirements

As a way to further reduce externalities the Commission wanted to require permits that have more public process. Thus, rather than being a Permitted use in most zones as they are currently, the following is proposed:

- In the Rural and Agriculture districts Type 1 production and processing should be an Administrative Approval Use (requiring public notice, written comments, and decision by staff);
- In the Rural district Type 2 production should be a Conditional Use (requiring public notice and a public hearing and decision by the Hearing Examiner).

¹ According to one knowledgeable producer overwintering plants is part, but only part, of the purpose of the headhouse. Their primary purposes are 1) the preservation of genetics and 2) the propagation of new plants.

² Moving plants between and using both artificial and natural lighting (or indoor and outdoor) so as to achieve more growing cycles.

- In the Rural Industrial and Manufacturing, Light Impact Industrial, and Heavy Impact Industrial districts Type 1 production should not be allowed (as these zones are intended for industrial type development and higher wage job creation) but Type 2 production and processing should be allowed as a Permitted Use.
- Additionally, neither marijuana production nor processing should be allowed in the Rural Forestry district, as this zone is intended to protect such lands for forest production and forestry jobs. Currently there are no production or processing facilities located in this district.

Lighting

One of the other externalities from outdoor grow operations people have complained about is the excessive lighting coming from grow lights in transparent and semi-transparent structures (i.e., green- and hoop-houses). Additionally, growing seasons can be extended to up to 3-4 cycles by using artificial lighting, extending the odiferous periods significantly.

For outdoor fixtures (security lights, etc.), lighting impacts can be mitigated by requiring the installation and use of down-shielding. For facilities using artificial lighting in their growth cycles, lighting impacts can be mitigated by requiring the installation and use of blackout shades. Such language has been included in the draft amendments (§20.80.690(3)(a)).

Odor

Odor from Type 2 (“indoor”) production can be controlled through the installation and use of ventilation and odor control systems, and such language has been included in the draft amendments (§20.80.690(3)(g)(ii)). And though language has been included stating that odor from any production facility cannot be detectable at or beyond the property boundaries at a level that causes a public nuisance (§20.80.690(3)(g)(i)), odor from Type 1 facilities cannot be controlled the same as with Type 2 production facilities. However, it is understood that Type 1 production can generally only obtain one growth cycle, so the time and duration of odors from these facilities should be limited. Additionally, it can be significantly reduced in time and duration through the other regulations the Commission recommends, as discussed herein.

Limit on Number of LCB Licenses per Lot

As a way of preventing multiple businesses from operating on the same lot or from one business buying additional LCB licenses and stacking multiple licenses to create larger scale, more intensive operations, the Commission proposes to limit operations to one production and/or processing license(s) per lot in the more residential districts. Thus, such language has been included in the draft regulations for the Rural and Agriculture districts. (§20.80.690(2)(d))

Setbacks/Separation Requirements

Currently production in the Rural, Rural Forestry, and Agriculture districts requires a 1,000’ separation (measured from property lines) from community centers³ and a 300’ setback (measured from

³ Defined in Title 20 as “land and/or building(s) owned by a public agency or private nonprofit entity used for social, civic, educational, religious, or recreational purposes, which serves mainly the community where located; including but not limited to community halls and centers, grange halls, senior citizen centers, teen centers, youth clubs, field houses, and churches. The facilities are available for occasional public meetings. They may also have the minimal kitchen facilities required for occasional banquets. Private clubs as defined in this title are not included.”

structures) from existing off-site residences⁴. For processing the same rule applies in the Rural district, but only the 300' setback from residences applies in the Rural Forestry district, and the 1,000' setback from community centers in the Agricultural district. The Commission expressed no interest in modifying the existing setback and separation requirements so the existing ones have been carried over into the proposed amendments. (§20.80.690(2)(b))

But additionally, based on public comments the Commission received, the draft amendments would require a 1,000 foot separation between production facilities so that one particular neighborhood doesn't all end up with several. (§20.80.690(2)(c))

Processing Facilities that Use Hazardous Materials

The Commission agreed that processing facilities that use hazardous materials should only be allowed in the industrial districts. Such language has been included in the draft amendments (§20.80.690(2)(f)). Currently there are no such facilities in the rural districts, as adequate fire flow is necessary and can't be obtained without major investment. Thus, this change shouldn't affect any existing processors.

Nonconforming Rules

The Commission agreed that production and processing facilities made nonconforming by revisions to the marijuana regulations should be able to continue (as are all nonconforming uses under the County code), but not be able to expand (by any significant amount) or change to another nonconforming use. Thus such language has been included (§20.80.690(1)(e)).

IV. Comprehensive Plan Evaluation

The proposed amendments to WCC Title 20 (Zoning) have been developed using the guidance of the Comprehensive Plan so as to remain consistent. Though there are no policies regarding marijuana production or processing, the following support the proposed amendments:

Policy 2DD-2: Protect the character of the rural area through the County's development regulations.

(Supports limiting the size, location, and types of marijuana production facilities in the rural areas so as to reduce externalities)

Policy 2FF-2: Support resource-based industries that require only rural services, conserve the natural resource land base, and help maintain the rural character and lifestyle of the community.
Assure adequate facilities, mitigation and buffers through development regulations.

(Supports eliminating marijuana production and processing facilities as an allowed use in the Rural Forestry district.)

V. Draft Findings of Fact and Reasons for Action

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. The County Council placed on the County's annual docket PLN2021-00009, directing Planning and Development Services (PDS) to: "Review and revised Whatcom County Code relating to marijuana growing and processing in rural areas. Consider impacts of marijuana growing and processing

⁴ This 300' setback was taken from our manure lagoon regulations (WCC 20.80.225(2)) as a way to reduce odor impacts.

facilities in rural areas, and evaluate growing and processing facilities as an agricultural or non-agricultural use. Consider compatibility with GMA and County Comprehensive Plan.”

2. Whatcom County Planning and Development Services (PDS) submitted an application (PLN2021-00009) to revise the County’s recreational marijuana production, processing, and retail sales zoning regulations.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on September 29, 2021.
4. Notice of the subject amendments was submitted to the Washington State Department of Commerce on September 13, 2021, for their 60-day review.
5. On October 14, 2021, the Planning Commission held a duly noticed public hearing to consider testimony on the proposed draft amendments.
6. The County Council held a duly noticed public hearing on the proposed amendments on X , 2021.
7. The amendments are consistent with the Growth Management Act, Whatcom County Comprehensive Plan, Chapter 314-55 WAC, and other applicable requirements.
8. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.
9. Once this ordinance is adopted and effective there is no longer a need for the interim moratorium imposed by Ordinance No. 2021-066.

VI. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. Recommendation

At their October 14, 2021, meeting the Planning Commission voted 5-2-0 to approve the draft findings of fact and the amendments shown in Exhibit A.

Planning and Development Services recommends that the County Council approve the draft ordinance with amendments to the Whatcom County Code as shown in Exhibit A.

Table 1. Summary of Existing Marijuana Rules

	Zone Requirements						Supplemental Requirements (Applies in all zones)											
Type	Zone	Permit Type	Distance req't	Lot Size	Accessory Use	Odor	Odor	Lighting	Traffic	Parking	Character	Max. Employees						
Production	R	ADM	Not w/in 1,000' of a community center or 300' of an offsite residence ⁵	If land is < 4.5 ac then facility limited to 2,000 sf ⁶			For indoor production only, must install ventilation, can't emit odors beyond walls, or bother neighbors	Must be controlled away from adjoining properties and roads	Can't be more than what's expected in the zone	Must provide off-street parking	Must be compatible with area's character	N/A						
	RF	P																
	A	P																
	RIM	P			For indoor production only, must install ventilation, can't emit odors beyond walls, or bother neighbors													
	LII	P																
	HII	P																
Processing	R	ADM	Not w/in 1,000' of a community center or 300' of an offsite residence ¹	If land is < 4.5 ac then facility limited to 2,000 sf ²	Must be accessory to production	For indoor processing only, must install ventilation, can't emit odors beyond walls, or bother neighbors	For indoor processing only, must install ventilation, can't emit odors beyond walls, or bother neighbors	Must be controlled away from adjoining properties and roads	Can't be more than what's expected in the zone	Must provide off-street parking		10						
	RF	P	Not w/in 300' of an offsite residence ¹									10						
	A	P	Not w/in 1,000' of a community center ¹									20						
	RIM	P										10						
	LII	P										10						
	HII	P										10						
	Retail	STC	P		Limited to 2,500 sf													
		NC	P															
RGC		P																
GC		P																

⁵ May be waived when all adjacent property owners agree.

⁶ Note that a Tier 1 production license allows up to 10,000 sf of grow area, so this rule essentially prohibits production on smaller lots.

Table 2. Summary of Proposed Marijuana Rules

Type	Zone Requirements			Supplemental Requirements										
	Zone	Facility/Permit Type	Lot Coverage ¹	Facility Size Restrictions	Separation of Facilities	Accessory Use	Separation	# of Licenses	Hazardous Materials	Screening	Odor	Lighting	Noise	Other
Production	R	Type 1 – ADM	No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20%, whichever is greater, of the total lot area, not to exceed 25,000 square feet. (§20.36.450)	For parcels < 4.5 ac production or processing facilities limited to 2,000 sf	Not w/in 1,000' of another production facility		Not w/in 1,000' of a community center or 300' of an offsite residence ²	1 production and/or 1 processing license per lot	N/A	Consistent with WCC 20.80.345 (Buffer Plantings).	Must install engineered odor control system; no VOCs shall be emitted that is detectable at or beyond the property boundaries	Light fixtures shall be designed and down-shielded away from adjoining properties, critical areas, shorelines, and public roads. Indoor lights must use blackout shades. All structures using artificial lighting for aiding in the growth cycle of plants shall install and employ mechanisms (e.g., blackout shades) that prevent light from escaping production structures	Shall comply with WCC 20.80.620 (Noise), and have a mechanical engineer design the noise control system	Must also comply with security, water, waste disposal, and parking standards
		Type 2 – CUP		For parcels ≥ 4.5 ac production facility limited to 1 ac										
	AG	Type 1 – ADM	No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25% of the total area of the subject parcel... (§20.40.450)	For parcels < 4.5 ac production facility limited to 2,000 sf	For parcels ≥ 4.5 ac production facility limited to 2 ac		Also limited by lot coverage restrictions							
	RIM	Type 2 – P	In a rural community designation, combined floor area of all buildings shall not exceed that of a use of the same type that existed on a lot in that same rural community designation on July 1, 1990. (§20.69.451)	In a rural business designation, building or structural coverage of a lot shall not exceed 50% of the total area. (§20.69.452)										
	LII	Type 2 – P	The maximum building coverage shall not exceed 60% of the lot size. (§20.66.450)											
	HII (ADM)	Type 2 – P	The maximum building or structural coverage shall not exceed 60% of the lot size. (§20.68.450)											
Processing	R	ADM	Same as for production, above	For parcels < 4.5 ac processing & production area limited to 2,000 sf		Must be accessory to production	Not w/in 1,000' of a community center or 300' of an offsite residence ²	1 production and/or 1 processing license per lot	Not allowed					
	AG	ADM							Allowed, but with standards					
	RIM	P												
	LII	P												
	HII	P												
Retail	STC	P		Limited to 2,500 sf										
	NC	P												
	RGC	P												
	GC	P												

¹ Though not a specific marijuana facility regulation, these rules apply to all hard surfaces, including structures and would limit the size of structures commensurate with the lot size.

ORDINANCE NO. _____

**ADOPTING AMENDMENTS TO WCC TITLE 20 (ZONING) REGULATING THE PRODUCTION, PROCESSING,
AND RETAIL SALES OF RECREATIONAL MARIJUANA IN WHATCOM COUNTY AND REPEALING
ORDINANCE NO. 2021-066**

WHEREAS, on November 6, 2012, Initiative 502 was passed by the voters of the State of Washington, amending Chapter 69.50 RCW and providing the regulatory framework for cannabis producers, processors, and retailers to become licensed by the Washington State Liquor and Cannabis Board ("WSLCB"); and,

WHEREAS, on November 16, 2013, the WSLCB adopted final cannabis licensing rules as codified in Chapter 314-55 WAC. During the period between November 18, 2013 and December 18, 2013, the WSLCB accepted cannabis license applications for cannabis production, processing and retail facilities. Whatcom County began receiving notifications of proposed cannabis facilities from the WSLCB in mid-December 2013, and the WSLCB began issuing cannabis producer, processor, and retail licenses to qualified applicants in March of 2014; and,

WHEREAS, on January 16, 2014, the Washington State Attorney General issued an opinion stating that Initiative 502 does not preempt counties from banning or placing additional regulatory requirements on cannabis related businesses within their jurisdictions; and,

WHEREAS, the Prosecuting Attorney and Planning and Development Services (PDS) had at the time implemented a zoning interpretation policy, which stated that PDS would regulate cannabis proposed uses as allowed by Initiative 502 in the same way as any other commodity that is grown, processed, or sold in Whatcom County, it became evident that many of those proposed locations could conflict with other surrounding uses; and,

WHEREAS, on February 11, 2014, the Whatcom County Council adopted Ordinance 2014-011, an emergency ordinance imposing a moratorium on the acceptance of all building and/or land use applications that pertain to cannabis producers, processors, retailers and medical cannabis collective gardens; and,

WHEREAS, the County developed and implemented several sets of interim regulations during that time, though none were deemed appropriate by the Council as permanent regulations; and,

WHEREAS, on March 31, 2015, the Whatcom County Council adopted Ordinance 2015-006, which contains the current County zoning regulations for recreational cannabis type uses, treating cannabis similar to other agricultural products; and,

WHEREAS, Whatcom County Code (WCC) 20.97.227 defines marijuana production as a facility licensed by the state Liquor and Cannabis Board to produce, harvest, trim, dry, cure, and package marijuana, and sell marijuana at wholesale to state-licensed marijuana processors and other state licensed marijuana producers; and,

WHEREAS, WCC 20.97.227 states marijuana production may take place either indoors within a fully enclosed secured facility or a greenhouse with rigid walls, a roof and doors, or outdoors in non-rigid

greenhouses, other structures or an expanse of open or cleared ground fully enclosed by a physical barrier; and,

WHEREAS, Ordinance 2015-006 allows for the production and processing of cannabis in the Rural (administrative uses), Rural Forestry (permitted uses) and Agriculture zone districts (permitted uses), subject to a proposed facility meeting several stated use standards. Such standards include odor controls (for indoor grows only), lighting, traffic and parking control measures, as well as setbacks of 1,000 feet from community centers and 300 feet from residences not located on the same property. The ordinance also allowed for the production and processing of marijuana in the Rural Industrial and Manufacturing, Light Impact Industrial, and Heavy Impact Industrial districts as permitted uses, subject to odor control measures (for indoor grows); and,

WHEREAS, the WSLCB is no longer issuing new licenses, existing licenses throughout Washington State can be transferred and Whatcom County was notified by the WSLCB of approximately 30 recreational marijuana production and/or processing renewal licenses last year (2020) within unincorporated Whatcom County; and,

WHEREAS, while earlier licensees were small, local producers, their licenses now appear to be being transferred to larger operators with more capital who are buying up the earlier licenses and expanding and/or changing operations and/or locations; and,

WHEREAS, prior to adoption of the first moratorium on issuing new permits for certain marijuana production facilities, the Council, Executive, Planning Commission, and PDS received complaints from residents adjacent to existing and proposed cannabis facilities regarding excessive odor, lighting, and potential water usage, suggesting that the County's cannabis regulations may not be sufficient; and,

WHEREAS, on March 23, 2021, the County Council adopted the 2021 Docket, a component of the PDS work plan, including item PLN2021-00009, to "Review and revise Whatcom County Code relating to marijuana growing and processing in rural areas. Consider impacts of marijuana growing and processing facilities in rural areas, and evaluate growing and processing facilities as an agricultural or non-agricultural use. Consider compatibility with GMA and County Comprehensive Plan." However, due to the pandemic, the Planning Commission and County Council have backlogs of other issues to address, and PDS will need time to work with the community to properly develop and process any potential regulatory amendments; and,

WHEREAS, on April 20, 2021, the County Council adopted Ordinance No. 2021-023, imposing a six-month interim moratorium prohibiting the filing, acceptance, or processing of new applications for permits or authorizations for recreational marijuana production and/or processing facilities which are proposed to operate outdoors or in greenhouses; and,

WHEREAS, on October 26, 2021, through the adoption of Ordinance No. 2021-066, the Council extended that moratorium for an additional 6 months; and

WHEREAS, once this ordinance is adopted and effective there is no longer a need for the interim moratorium imposed by Ordinance No. 2021-066;

WHEREAS, pursuant to the Washington State Constitution, the general police powers granted to counties empower and authorize Whatcom County to adopt land use controls to provide for the regulation of land uses within the County and to provide that such uses shall be consistent with applicable law; and,

FINDINGS OF FACT

1. The County Council placed on the County's annual docket PLN2021-00009, directing Planning and Development Services (PDS) to: "Review and revised Whatcom County Code relating to marijuana growing and processing in rural areas. Consider impacts of marijuana growing and processing facilities in rural areas, and evaluate growing and processing facilities as an agricultural or non-agricultural use. Consider compatibility with GMA and County Comprehensive Plan."
2. Whatcom County Planning and Development Services (PDS) submitted an application (PLN2021-00009) to revise the County's recreational marijuana production, processing, and retail sales zoning regulations.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on September 29, 2021.
4. Notice of the subject amendments was submitted to the Washington State Department of Commerce on September 13, 2021, for their 60-day review.
5. On October 14, 2021, the Planning Commission held a duly noticed public hearing to consider testimony on the proposed draft amendments.
6. The County Council held a duly noticed public hearing on the proposed amendments on November 23, 2021.
7. The amendments are consistent with the Growth Management Act, Whatcom County Comprehensive Plan, Chapter 314-55 WAC, and other applicable requirements.
8. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.

CONCLUSIONS

1. The amendments to the development regulations are the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

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

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. Ordinance No. 2021-066 is hereby repealed in its entirety upon the effective date of this ordinance.

ADOPTED this _____ day of _____, 2021.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchannan, Council Chair

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham (approved via e-mail) / JL

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Exhibit A – Proposed Marijuana Code Amendments

WCC Title 20 Zoning

Chapter 20.36 RURAL (R) DISTRICT

20.36.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 22.05.028.

...

.137 Type 1 Marijuana Production Facilities, subject to WCC 20.80.690y; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:

- (1) The facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility.
- (3) On parcels smaller than four and one-half acres the facility shall not exceed a total of 2,000 square feet, except where the facility is contained within a building that existed on the effective date of the ordinance codified in this section.

.138 Marijuana Processing Facilities, subject to WCC 20.80.690.y; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694 and WCC 22.05.028:

- (1) The facility is accessory to the on-site production of marijuana.
- (2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility.
- (3) On parcels smaller than four and one-half acres the total area used for marijuana processing and production shall not exceed 2,000 square feet, except where the facility is contained within a building that existed on the effective date of the ordinance codified in this section.

20.36.150 Conditional uses.

...

.160 Type 2 Marijuana Production Facilities, subject to WCC 20.80.690.

...

Chapter 20.40 AGRICULTURE (AG) DISTRICT

20.40.050 Permitted uses.

Unless otherwise provided herein, permitted, accessory, and conditional uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80 WCC (Supplementary Requirements), and Chapter 22.05 WCC (Project Permit Procedures), Chapter 16.08 (the Whatcom County SEPA) Ordinance, Title 21 (Land Division Regulations), the Whatcom County Subdivision Ordinance and Title 23 the Whatcom County (Shoreline Management Program). The following are permitted uses:

...

~~.059~~ Marijuana production facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:

- ~~(1) The facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 22.05.028.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.~~

...

20.40.100 Accessory uses.

...

~~.115~~ Marijuana Processing Facility, WCC 20.80.690 through 20.80.694:

- ~~(1) The facility is accessory to the on-site production of marijuana.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.~~

20.40.130 Administrative approval uses.

...

.140 Type 1 Marijuana Production Facilities, subject to WCC 20.80.690.

.141 Marijuana Processing Facilities, subject to WCC 20.80.690.

...

Chapter 20.42 RURAL FORESTRY (RF) DISTRICT

20.42.050 Permitted uses.

Unless otherwise provided herein, permitted, accessory, and conditional uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80 WCC (Supplementary Requirements), and Chapter 22.05 WCC (Project Permit Procedures), the Whatcom County Chapter 16.08 (SEPA) Ordinance, Title 21 (Land Division Regulations) the Whatcom County Subdivision Ordinance, and Title 23 the Whatcom County (Shoreline Management Program).

...

~~.070 Marijuana production facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:~~

- ~~(1) The facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 22.05.028.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the production of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.~~

...

20.42.100 Accessory uses.

...

~~.106 Marijuana processing facility; provided, that in addition to the criteria found in WCC 20.80.690 through 20.80.694:~~

- ~~(1) The facility is accessory to the on-site production of marijuana.~~
- ~~(2) The facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single family dwelling (structure) to any structure or fence used for the processing of marijuana. The zoning administrator may waive this spacing requirement if the~~

owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 22.05.028.

...

Chapter 20.69 RURAL INDUSTRIAL AND MANUFACTURING (RIM) DISTRICT

20.69.050 Permitted uses.

The following permitted uses shall be allowed subject to an evaluation by the Director zoning administrator pursuant to the provisions of this chapter and WCC Chapter 20.80 (Supplementary Requirements) WCC. In a rural community designation, nonresidential uses listed below are permitted if a use of the same type existed in that same rural community designation on July 1, 1990, per WCC 20.80.100(1). In a rural business designation all uses listed below are permitted.

.051 Manufacturing/fabrication type uses.

...

(17) Type 2 M marijuana production facilities, subject to WCC 20.80.690.

(18) Marijuana processing facilities, subject to WCC 20.80.690.

...

20.69.700 Performance standards.

20.69.704 Odor, dust, dirt, and smoke.

(1) Except as specified in subsection (2), No odor, dust, dirt, or smoke shall be emitted that is detectable at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.

(2) For marijuana production or processing facilities, odor shall be regulated pursuant to WCC 20.80.690(3)(g).

20.69.708 Marijuana odor.

~~For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.~~

Comment [CES1]: Now covered by 20.80.690(3)(g).

Chapter 20.66 LIGHT IMPACT INDUSTRIAL (LI) DISTRICT

20.66.050 Permitted uses.

Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80 ~~WCC~~ (Supplementary Requirements), Chapter 22.05 ~~WCC~~ (Project Permit Procedures), Chapter 16.08 (the Whatcom County SEPA) Ordinance, Title 21 (Land

Division Regulations), the Whatcom County Subdivision Ordinance and Title 23 the Whatcom County (Shoreline Management Program).

...

.087 Type 2 Marijuana Production or Processing Facilities, subject to WCC 20.80.690.

.088 Marijuana Processing Facilities, subject to WCC 20.80.690.

...

20.66.700 Performance standards.

...

20.66.704 Odors.

(1) Except as specified in subsection (2), No odor, dust, dirt, or smoke shall be emitted that is detectable at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.

(2) For marijuana production or processing facilities, odor shall be regulated pursuant to WCC 20.80.690(3)(g).

20.66.709 Marijuana odor.

~~For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.~~

Comment [CES2]: Now covered by 20.80.690(3)(g).

Chapter 20.68 HEAVY IMPACT INDUSTRIAL (HII) DISTRICT

20.68.050 Permitted uses.

Unless otherwise provided herein, permitted and accessory uses shall be administered pursuant to the applicable provisions of WCC Chapter 20.80-WCC, (Supplementary Requirements), and Chapter 22.05 WCC, (Project Permit Procedures), Chapter 16.08 (the Whatcom County SEPA) Ordinance, Title 21 (Land Division Regulations), the Whatcom County Subdivision Ordinance and Title 23 the Whatcom County (Shoreline Management Program). The purpose of the SIC numbers listed within this chapter is to adopt by reference other activities similar in nature to the use identified herein. (Policies of the subarea Comprehensive Plan may preclude certain permitted uses to occur in particular subareas. Please refer to the policies of the applicable subarea plan to determine the appropriateness of a land use activity listed below.)

...

.066 Type 2 Marijuana Production or Processing Facilities, subject to WCC 20.80.690.

.067 Marijuana processing facilities, subject to WCC 20.80.690.

...

20.68.700 Performance standards.

...

- (1) Except as specified in subsection (2), ~~no~~ odor, dust, dirt, or smoke shall be emitted that is detectable at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the boundaries of the district.
- (2) For marijuana production or processing facilities, odor shall be regulated pursuant to WCC 20.80.690(3)(g).

...

~~20.68.709 Marijuana odor.~~

~~For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.~~

Comment [CES3]: Now covered by 20.80.690(3)(g).

20.80 SUPPLEMENTARY REQUIREMENTS

~~20.80.690 Marijuana production and processing.~~

~~20.80.691 Marijuana state license required.~~

~~Prior to commencing operations, a marijuana producer, processor, or retailer shall obtain approval as a state-licensed marijuana producer, processor, or retailer under Chapter 69.50 RCW, as amended, and Chapter 314-55 WAC, as amended.~~

Comment [CES4]: Now covered by 20.80.690(1)(a).

~~20.80.692 Application for county development permits—Timing.~~

~~Applicants for marijuana production, processing, or retailing may apply for county development permits at any time. Applicants who wish to apply for county permits, or commence construction of facilities for producing, processing, or retailing of marijuana under Chapter 69.50 RCW, prior to obtaining approval as a state-licensed marijuana producer, processor or retailer do so at their own risk. Final occupancy of the building will not be granted until a state Liquor and Cannabis Board license has been approved.~~

Comment [CES5]: Now covered by 20.80.690(1)(a).

~~20.80.693 Production.~~

- (1) ~~For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.~~
- (2) ~~Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining property and the public road.~~

Comment [CES6]: Now covered by 20.80.690(3)(g).

Comment [CES7]: Now covered by 20.80.690(3)(a).

- (3) No traffic shall be generated by such a facility in greater volume than would normally be expected in the applicable zoning district and appropriate for the road classification which serves the property.
- (4) Any need for parking generated by the conduct of such a facility shall meet the off-street parking requirements as specified in this title. At least one additional space shall be provided for each nonresident on-site employee.
- (5) The proposed use shall be compatible with the general appearance and character of the surrounding area. The zoning administrator at his or her discretion may require landscape screening pursuant to the requirements of WCC 20.80.345.

Comment [CES8]: Staff believes we don't need this. Firstly, there's no way to judge what "greater volume than would normally be expected." Secondly, no production facility, with normally only a few employees and no customers coming to the site, would create an inordinate amount of traffic.

Comment [CES9]: Now covered by 20.80.690(3)(d).

Comment [CES10]: Now covered by 20.80.690(3)(b).

20.80.694 Processing.

- (1) The facility employs no more than 10 permanent employees, except that in the Agriculture and Rural Forestry Zones the facility may employ no more than 20 employees.
- (2) For indoor facilities no odor or smoke shall be emitted that is detectable at or beyond the walls of the facility, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of neighboring use. The applicant shall install an exhaust system that is designed and constructed to capture sources of contaminants to prevent spreading of contaminants or odors to other occupied parts of the building or surrounding area. The system must be designed by a licensed Washington State professional engineer.
- (3) Any lights used to illuminate the facility shall be so arranged as to direct the light away from the adjoining property and the public road.
- (4) No traffic shall be generated by such a facility in greater volume than would normally be expected in the applicable zoning district and appropriate for the road classification which serves the property.
- (5) Any need for parking generated by the conduct of such a facility shall meet the off-street parking requirements as specified in this title. At least one additional space shall be provided for each nonresident on-site employee.

Comment [CES11]: Not needed. Was originally included when we were treating marijuana as an agricultural product, and this mimics the language for ag processing

Comment [CES12]: Now covered by 20.80.690(3)(g).

Comment [CES13]: Now covered by 20.80.690(3)(a).

Comment [CES14]: Staff believes we don't need this. Firstly, there's no way to judge what "greater volume than would normally be expected." Secondly, no production facility, with normally only a few employees and no customers coming to the site, would create an inordinate amount of traffic.

Comment [CES15]: Now covered by 20.80.690(3)(h).

20.80.690 Marijuana – Production and Processing Facilities.

- (1) **General.** Marijuana production or processing facilities shall comply with RCW Title 69, Chapter 314-55 WAC, and the following general standards:
- The WSLCB must approve a marijuana license for the subject property prior to issuance of the County's certificate of occupancy for buildings proposed for marijuana production or processing. Any permitting or construction work done prior to receiving said license is done so at the applicant's own risk.
 - Consistent with WAC 314-55-015, marijuana production and processing shall not take place in a residence or other location where law enforcement access, without notice or cause, is limited.
 - Marijuana production and processing are not allowed as home occupations or cottage industries.
 - Marijuana production and processing operations may not be located in critical areas or their buffers (WCC Chapter 16.16, Critical Areas) or in the shoreline jurisdiction (WCC Title 23).
 - Nonconforming Uses.** This section applies to those marijuana facilities legally existing as of INSERT DATE OF ADOPTION OF THESE RULES that, due to noncompliance with these standards,

Comment [CES16]: Note to Cliff: Fill in upon adoption

become nonconforming. Legally existing facilities that meet these standards are not considered nonconforming and may continue the use or they may expand with the proper permits.

(i) Continuation of Nonconforming Uses. Any legally existing marijuana production or processing facility that becomes nonconforming may continue operations as a nonconforming use within the terms of their permit(s) even when those facilities do not meet the standards of this section, pursuant to WCC 20.83.010.

(ii) Expansion of Nonconforming Uses. Similarly, expansion may be allowed pursuant to WCC 20.83.020, EXCEPT that:

A. Expansion of nonconforming Type 2 marijuana production facilities is prohibited; and,

B. Any other expansion shall be limited to 10% (in area) unless the standards of this section are met.

(iii) Change to Another Nonconforming Use. WCC 20.83.040 shall not apply: Nonconforming marijuana production or processing facilities shall not be able to change to another nonconforming use.

(2) District Specific Standards.

a. Facility Size –

(i) In the Rural district, production or processing facilities on parcels smaller than 4.5 acres shall not exceed a total of 2,000 square feet. On lots of 4.5 acres or greater production and processing facilities shall not exceed 1 acre.

(ii) In the Agriculture district, production and processing facilities on parcels smaller than 4.5 acres shall not exceed a total of 2,000 square feet. On lots of 4.5 acres or greater processing and production facilities shall not exceed 2 acres.

b. Separation of Uses – In the Rural and Agriculture districts, no facility shall be located within 1,000 feet of a **community center** or within 300 feet of any residential dwelling unit not located on the same parcel as the facility and existing at the time of application. Said distance shall be measured as the shortest straight line distance from property lines (for community centers) or structures (for residences).

c. Separation of Facilities – In the Rural and Agriculture districts, no marijuana production facilities shall be located within 1,000 feet of each other. Said distance shall be measured as the shortest straight line distance from such facilities.

d. Limit on Number of Licenses per Lot. In the Rural and Agriculture districts, only one Washington State Liquor and Cannabis Board (WSLCB) marijuana production license may be used per legal lot (though may be combined with one processing license).

e. Accessory Use Only. In the Rural and Agriculture districts, processing facilities are only allowed as an accessory use to a production facility.

f. Hazardous Materials – Marijuana processing using hazardous or flammable solvents or gases is allowed only in the LII, HII, or RIM districts. Producers and processors that will use chemicals, industrial solvents, or other noxious or hazardous substances shall comply with all federal, state, and County safety, fire, structural, storage, and disposal standards. They shall describe the proposed use of hazardous substances, methods, equipment, solvents, gases, and mediums identified in WAC 314-55-104 on permit applications and site plans.

Comment [CES17]: Defined in T-20 as, "Community center" means land and/or building(s) owned by a public agency or private nonprofit entity used for social, civic, educational, religious, or recreational purposes, which serves mainly the community where located; including but not limited to community halls and centers, grange halls, senior citizen centers, teen centers, youth clubs, field houses, and churches. The facilities are available for occasional public meetings. They may also have the minimal kitchen facilities required for occasional banquets. Private clubs as defined in this title are not included."

(3) Facility Design Standards.

- a. Lighting – For both Type 1 and 2 production facilities:
 - (i) Outdoor fixtures illuminating production or processing operations shall be designed and down-shielded to direct light away from adjoining properties, critical areas, shorelines, and public roads.
 - (ii) All structures using artificial lighting for aiding in the growth cycle of plants shall install and employ mechanisms (e.g., blackout shades) that prevent light from escaping production structures.
- b. Screening – Marijuana production and processing facilities shall be landscaped and screened consistent with WCC 20.80.300, et seq. (Landscaping). Screening shall be located outside of the state's required security fence to provide a visual barrier.
- c. Security – Producers and processors shall install the security requirements of WAC 314-55-083 prior to issuance of the County's certificate of occupancy for a marijuana operation.
- d. Parking – Such facilities shall meet the off-street parking requirements of WCC 20.80.500, et seq. (Off-street Parking and Loading Requirements).
- e. Water and Waste Disposal – Permit applications shall include documentation of compliance with the water system requirements and waste disposal regulations of WCC Title 24 (Health Code) and WAC 314-55-097.
- f. Noise – Producers and processors required to install odor control system per subsection (g) shall comply with WCC 20.80.620 (Noise). Fan noise from operations shall be minimized. A mechanical engineer licensed in the state of Washington shall design the noise control system, to be approved by the Building Official, using standard industry practices such as installing fans with components listed by Underwriters Laboratories (UL) and a combination of the following techniques and components:
 - (i) Short and straight line vent runs;
 - (ii) Silencers and insulated vents, vent sleeves and mufflers;
 - (iii) Acoustic ducting;
 - (iv) Fan speed controllers;
 - (v) Soundproofing boxes;
 - (vi) Sound-muffling casing;
 - (vii) Padded foam cushions under the fans;
 - (viii) Intelligent programming motors and controllers; and
 - (ix) Hanging fans hung from bungee cords from hooks in ceiling.
- g. Odor –
 - (i) All Production and Processing – No odor, terpenes, or other similar volatile organic compounds (VOCs) shall be emitted that is detectable at or beyond the property boundaries of the facility in such a concentration or of such duration as to cause a public nuisance or threaten health or safety.
 - (ii) Type 2 Production – Type 2 producers shall minimize odors emitted by using best management practices and technology, and all air must go through an odor control system before being vented outdoors. A mechanical engineer licensed in the state of Washington shall design the odor control system using guidance from the National Air

Filtration Association and approved by the Building Official. The odor control plan must incorporate a combination of the following site design practices, tools, or other newly improved technologies to mitigate odors:

- A. Use of filters on exhaust air prior to dispersal;
- B. Placement of operations after consideration of predominant wind directions;
- C. Installation of additional vegetative buffers around grow areas;
- D. Reduction of passive odor escapes by tightening and sealing structures;
- E. Use of negative pressure techniques and air locks to reduce odors from escaping when doors open;
- F. Use of chillers that move water around the structure and leave air in place instead of air conditioning;
- G. Installation of carbon filter scrubbers to heating, ventilation, and air conditioning systems;
- H. Installation of dry vapor systems;
- I. Installation of ionizers;
- J. Use of mini-vapor screens on the interior, and Vapomatic and vapor screens on the exterior of structures;
- K. Installation of a piping system on perimeter fencing that neutralizes malodorous molecules;
- L. Installation of a gas phase filtration system; and/or,
- M. Installation of a fog system to disperse mixed water- and odor-neutralizing chemicals.

h. *Building Permits Required* – Building permits shall be required for any structures used in Marijuana Production Facilities.

20.80.691 Marijuana – Retail Sales Facilities.

Marijuana retail sales facilities shall comply with RCW Title 69, WAC Chapter 314-55, and the following.

1. The WSLCB must approve a marijuana retail sales license for the subject property prior to issuance of the County's certificate of occupancy for buildings proposed for marijuana retail sales. Any permitting or construction work done prior to receiving said license is done so at the applicant's own risk.
2. Consistent with WAC 314-55-015, marijuana retail sales shall not take place in a residence or other location where law enforcement access, without notice or cause, is limited. Marijuana retail sales are not allowed as home occupations or cottage industries.
3. Retail sales facilities shall install the security requirements of WAC 314-55-083 prior to issuance of the County's certificate of occupancy for a marijuana operation.
4. Such facilities shall meet the off-street parking requirements of WCC 20.80.500, et seq. (Off-street Parking and Loading Requirements).

Chapter 20.97 DEFINITIONS

20.97.010 Agriculture.

"Agriculture" means the use of land for farming, horticulture, floriculture, viticulture, and the necessary accessory uses for packing, treating or storing the produce; ~~provided, however, that, though~~ the operation of any such accessory uses shall be secondary to that of normal agricultural activities. However, the production of marijuana is not considered agriculture.

20.97.010.1 Agricultural Processing.

"Agricultural processing" means the transformation, either chemically or physically, of raw agricultural goods including but not limited to washing, grading, sizing, drying, extracting, icing, producing ornamental agricultural products, sorting, cutting, pressing, bagging, freezing, canning, packaging, milling, crushing, fermenting, aging, pasteurizing, preserving, storage, bottling, but excluding slaughtering of livestock. Agricultural processing includes those process steps associated with product preparation and processing. Storage, warehousing, and distributing products in conjunction with the agricultural processing activity occurring on that site shall be allowed. However, the processing of marijuana is not considered agricultural processing.

20.97.225 Marijuana, ~~marihuana or cannabis.~~

"Marijuana," (a.k.a., "marihuana" or "cannabis") means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

20.97.226 Marijuana processing facility.

"Marijuana processing facility" means a facility licensed by the state Liquor and Cannabis Board to process marijuana into useable marijuana, marijuana concentrates, and marijuana-infused products; ~~and~~ package and label useable marijuana and marijuana-infused products for sale in retail outlets; ~~and~~ sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers. A marijuana processing facility shall include any structure that is associated with the processing of marijuana.

20.97.227 Marijuana production facility.

"Marijuana production facility" means a facility licensed by the state Liquor and Cannabis Board to produce, harvest, trim, dry, cure, ~~and package marijuana,~~ and sell marijuana at wholesale to state-licensed marijuana processors and other state-licensed marijuana producers. A marijuana producer may also produce and sell marijuana plants, seed, and plant tissue culture to other state-licensed marijuana producers. The area of a marijuana production facility includes all the area enclosed within a structure or fence that is required by the state Liquor and Cannabis Board for the production of marijuana. Where limitations on size are imposed pursuant to §20.80.690, the "facility" shall include all structures related

to the production or processing of marijuana and any ground in which marijuana is grown. For the purposes of this code, Whatcom

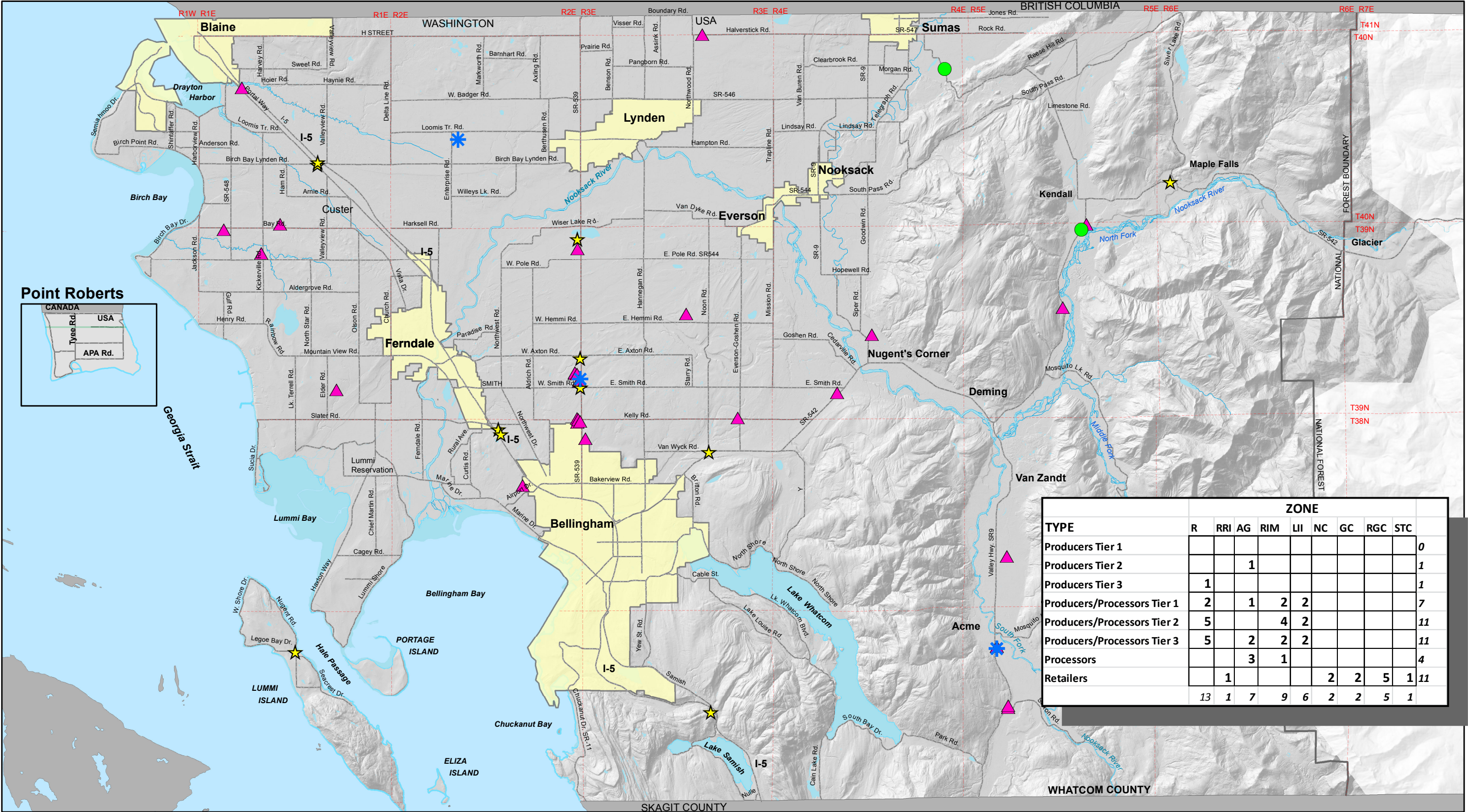
- A. "Type 1 Marijuana ~~Outdoor~~ Production Facilities" shall mean production ~~may~~ takes place outdoors, including in an expanse of open or cleared ground, or in ~~nonrigid greenhouses, other structures that have no artificial lighting for aiding in the growth cycle, or an expanse of open or cleared ground fully enclosed by a physical barrier.~~ except that Type 1 facilities may allocate up to 10% of the total square footage of their allowed facility area to genetic preservation and plant propagation in a designated indoor area with artificial lighting. This area must be clearly identified and described in the permit the application, and is subject to all the supplemental requirements of a Type II Facility; however, no flowering plants are permitted in this area at any time.
- B. "~~Indoor~~ Type 2 Marijuana ~~P~~roduction Facilities" shall mean production facilities that use artificial lighting for aiding in the growth cycle ~~within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors.~~

20.97.228 Marijuana retail facility.

"Marijuana retail facility" means a facility licensed by the state Liquor and Cannabis Board to sell useable marijuana and marijuana-infused products in a retail outlet. A marijuana retail facility shall include any building or portion thereof that is associated with the sale of marijuana.

Whatcom County

2021 Licensed Cannabis Operations



Legend

- ★

Retailer Only (11)
- ✳

Processor Only (4)
- Incorporated City
- Producer Only (2)
- ▲

Producer/Processor (29)

(Points may represent more than one business at same address)

June 2021

USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:
Whatcom County Disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damage, loss, or liability arising from any use of this map.

0

0.75

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3

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6

Miles



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2021-088

File ID:	MIN2021-088	Version:	1	Status:	Agenda Ready
File Created:	11/17/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: kfelbing@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Special Council for November 17, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Draft Minutes Special Council Nov 17 2021

Whatcom County Council (Special)

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Minutes - Draft Minutes

**Wednesday, November 17, 2021
12 PM
Virtual Meeting**

**VIRTUAL MEETING (TO PARTICIPATE, SEE INSTRUCTIONS AT
www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010)**

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Barry Buchanan called the meeting to order at 12:02 p.m. in a virtual meeting.

Roll Call

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, Ben Elenbaas, and Kathy Kershner

Absent: None

Announcements**Special Order of Business**

1. [AB2021-700](#) Ordinance (emergency) amending the 2021 Whatcom County Budget, request no. 19, in the amount of \$250,000 to cover emergency response costs related to countywide flooding

The following people reported on misinformation regarding Sumas that circulated overnight and the current status of the flood situation in the county:

- Satpal Sidhu, County Executive
- John Gargett, Division of Emergency Management
- Jon Hutchings, Public Works Department Director

They answered whether there is a phone number for people to call who would like to donate heavy equipment or help farmers with things like feeding cattle.

Donovan moved and Browne seconded that the Ordinance be adopted.

Councilmembers and the speakers discussed whether \$250,000 will be enough, how high this flood was compared to others in the last 100 years, the fact that the Flood Control Zone District has budget authority for emergency response and this is in addition to that, the fact that this money is just the lead-in to the recovery effort, a perception in the community and on social media that the County is not doing all that it could to respond to the flood event, whether the County could help with funds for non-profits who are out there helping people, whether the County has reached out to the State or the National Guard to help coordinate, whether the Council should put out communication to help raise money for the community, public perception about government's response to the crisis, whether a page could be set up on the County's website listing the things that the County is doing

for the flood response, whether a Mine-Resistant Ambush-Protected (MRAP) vehicle has been used for rescue, and whether Councilmembers should share on social media what good things the County is doing.

Councilmembers voted on the ordinance (See vote and ordinance number below at the end of the discussion) and the Ordinance was adopted.

Councilmembers and the speakers discussed how to best get information to the public, directing people to organizations who are already helping, encouraging people to sign up for County email lists and alerts, and donations that have already come in.

Donovan's motion that the Ordinance be ADOPTED carried by the following vote:

Aye: 7 - Browne, Buchanan, Byrd, Donovan, Frazey, Elenbaas, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2021-071

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 12:43 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2021-089

File ID:	MIN2021-089	Version:	1	Status:	Agenda Ready
File Created:	11/24/2021	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: kfelbing@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Committee of the Whole Executive Session for November 23, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Committee of the Whole Exec Nov 23 2021

Whatcom County Council Committee of the Whole-Executive Session

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Committee Minutes - Draft Minutes

Tuesday, November 23, 2021

9 AM

Virtual Meeting

VIRTUAL MEETING - ADJOURNS BY 10 A.M. (TO PARTICIPATE, SEE INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil OR CALL 360.778.5010); AGENDA REVISED 11.22.2021; MEETING START TIME CHANGED TO 9 A.M.

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Barry Buchanan called the meeting to order at 9:02 a.m. in a virtual meeting.

Roll Call

Clerk's note: Elenbaas was not present for the vote to go into Executive Session or for the first item but was present for the second agenda item.

Present: 7 - Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, and Kathy Kershner

Absent: None

Announcements

Committee Discussion

Attorneys Present: Karen Frakes and Royce Buckingham.

Buchanan stated that discussion of agenda item one and two may take place in executive session pursuant to RCW 42.30.110(1)(i). Executive session will conclude no later than 10 a.m. If the meeting extends beyond the stated conclusion time, Council Staff will make a public announcement.

Byrd moved to go into executive session until no later than 10 a.m. to discuss the agenda items pursuant to the RCW citation as announced by the Council Chair. The motion was seconded by Donovan.

The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Kershner

Nay: 0

Temporarily out of the Meeting: 1 - Elenbaas

1. [AB2021-660](#) Discussion of pending litigation with Chief Civil Deputy Prosecutor Karen Frakes: Whatcom Farm Bureau, et al. v. Whatcom County, GMHB Case No. 18-2-0001 [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(i)]

This agenda item was DISCUSSED.

Items Added by Revision

1. [AB2021-703](#) Discussion with Civil Deputy Prosecutor Royce Buckingham regarding Petrogas SEPA permit #2016-00004 [discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(i)]

This agenda item was DISCUSSED.

Other Business

Adjournment

The meeting adjourned at 10 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-699

File ID:	AB2021-699	Version:	2	Status:	Agenda Ready
File Created:	11/17/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Presentation		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Report on the WHAT-COMM discussions related to consolidating the Fire/EMS and Police 911 dispatch facilities

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Report on the WHAT-COMM discussions related to consolidating the Fire/EMS and Police 911 dispatch facilities

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments:



Whatcom County

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Agenda Bill Master Report

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TITLE FOR AGENDA ITEM:

Resolution approving the Shoreline Management Program Periodic Update 2020

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Consideration of a resolution approving the periodic update of Whatcom County's Shoreline Management Program, which includes amendments to the Whatcom County Comprehensive Plan (shoreline and other policies), WCC Titles 23 (shoreline regulations) and 22 (permitting procedures), WCC Chapter 16.16 (critical areas regulations), and the official Shoreline Map. Additionally, the project addresses Council's docketed items 1) PLN2019-00011, a directive to amend the CompPlan and codes to allow the seasonal extraction of sand and gravel from dry upland areas under certain conditions (but has been found to be unnecessary); and 2) PLN2018-00010, the addition of a Sustainable Salmon Harvest Goal policy to the CompPlan.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/09/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council
11/23/2021	Council	HEARD PUBLIC TESTIMONY	
11/23/2021	Council	DISCUSSED AND MOTION(S) APPROVED	

11/23/2021 Council

INTRODUCED FOR PUBLIC Council
HEARING

Attachments: Memo 09 to CoC.pdf, Staff Report, Proposed Resolution, Exhibit A - CP Ch. 10 Environment, Exhibit B - CP Ch. 11 Shorelines, Exhibit C - CP Ch. 8 MRL, Exhibit D - WCC Title 23 (SMP) 2021-11-23 (PC approved w DOE changes & CoC amendments).pdf, Exhibit E - WCC Title 22, Exhibit F - WCC 16.16 (CAO) 2021-11-23 (PC approved w DOE changes & CoC amendments).pdf, Exhibit G - SMP Map, Exhibit I - Technical Memorandum, Exhibit J - Restoration Plan Addendum



Memorandum

DATE: November 24, 2021
TO: The Honorable County Council
FROM: Cliff Strong, Senior Planner
THROUGH: Mark Personius, Director
RE: Continued Review of Shoreline Management Program (SMP) Periodic Update 2020

Tonight's Goal

On November 23rd the Council held a public hearing on the SMP Update and made three amendments. Based on legal counsel's recommendation, the amended exhibits were introduced that night with the Council's amendments and a second public hearing was scheduled for tonight (12/7/21) to allow the public an opportunity to comment on those amendments. Upon completion of the public hearing, staff requests that Council adopt the resolution approving the SMP Update and authorizing Planning and Development Services to forward it to the Department of Ecology for final review and approval. Once that is done staff will return in early 2022 with an ordinance for Council to adopt, effecting the amendments.

Council's Amendments

Council made three amendments to the Planning Commission's recommendation. These are:

1. **Amend Exhibit F (WCC Ch. 16.16) §16.16.612 (Exceptions to Regulation), subsection (A)(1)(d) (pg. 66) to read:**

"Do not score 6 or more points for habitat function..." (Changing what was shown as "5" to "6.")

Staff Comment: Staff supports this amendment.

In July 2018 the Washington Department of Ecology (DOE) modified the habitat score ranges and recommended buffer widths in their wetland buffer tables in the DOE guidance, with some minor text changes to ensure consistency. Through this SMP update staff proposed to amend §16.16.630, Table 1, and §16.16.612 to reflect this guidance. The revised habitat function scores and buffer widths in Table 1 comes from guidance updated in 2018. The revised language of §16.16.612 is from their *Wetland Guidance for CAO Updates, Western Washington Version, 2016*. However, staff was unaware and just this past week found out that Ecology also updated their language in the 2016 guidance through an addendum issued in 2018. Though the majority of the language remained the same, the one change was to change the "5" to a "6," meant to reflect their newer habitat function scores in determining which wetlands might be exempt from regulation.

The 2016 guidance can be found at <https://apps.ecology.wa.gov/publications/documents/1606001.pdf> and the 2018 errata sheet can be found at <https://apps.ecology.wa.gov/publications/parts/1606001part1.pdf> for those wishing to compare.

2. **Amend Exhibit F (WCC Ch. 16.16) §16.16.900 (Definitions), definition of "Qualified professional" or "qualified consultant," subsection (1) (pg. 128) to read:**

"Is listed on a roster of qualified professionals or qualified consultants prepared by the Director and made available to the public."

Staff Comment: Staff supports this amendment as the list is already made publicly available.

3. Amend Exhibit F (WCC Ch. 16.16) §16.16.900 (Definitions), definition of “Qualified professional” or “qualified consultant,” subsection (7) (pg. 128) to read:

“Anyone who’s professional license is currently revoked or has had two (2) or more reports denied by the Hearing Examiner within a 12-month period does not meet the definition of a qualified professional or qualified consultant.”

Staff Comment: Staff recommends that Council revert the language of subsection (7) to its existing language to read:

“Anyone who has had their professional licensure or certification revoked for violations of the provisions of their profession does not meet the definition of a qualified professional or qualified consultant.”

Though at the 11/23/21 hearing staff indicated they were satisfied with the language as amended by Council, upon further consultation with legal counsel and other staff following the meeting, PDS has reconsidered our recommendation. The Hearing Examiner has no role in approving or denying critical area assessment reports: That role is solely the Director’s pursuant to 16.16.250 (Critical Areas Review Process) and 16.16.255 (Critical Areas Assessment Reports). Additionally, it is unlikely that any one consultant would be before the Hearing Examiner in any 12-month period, as most projects are decided upon administratively, so this rule would rarely be usable. And as a note, all decisions of the Director are appealable to the Hearing Examiner pursuant to WCC 22.05.160, though the Hearing Examiner would only rule on whether code was interpreted correctly, not on whether a report is sufficient or meets professional standards.

As for process, legal counsel agrees that Council can revert the language by motion on 12/7 without a need for an additional hearing since this is existing language and a hearing was held on 11/23 (as well as tonight).

Additional Staff Recommendations

At your 11/23 meeting staff recommended two additional edits, though in reviewing the Action Summary for that meeting we don’t see that they were included in the motion to introduce.

4. Amend Exhibit D (WCC Title 23), §23.60.190, by deleting subsection 17, definition of “short-term rental.”

5. Amend Exhibit D (WCC Title 23), §23.60.030 to replace the term “short-term rental” with “vacation rental.”

Staff Comment: Staff recommends both of these amendments. In trying to include Council’s previous action in Resolution 2016-039 we inadvertently used the wrong terms. The Council approved definition of “vacation rental unit” from that resolution is already included §23.60.220(1).

Attachments

- Resolution to Approve and forward to Ecology
- Exhibit A – CompPlan Ch. 10 Environment (P/C Approved)
- Exhibit B – CompPlan Ch. 11 Shorelines (P/C Approved)
- Exhibit C – CompPlan Ch. 8 Marine Resource Lands (P/C Approved)
- Exhibit D – WCC Title 23 Shoreline Regulations (P/C Approved with DOE and Council Edits)
- Exhibit E – WCC Title 22 Land Use & Development (P/C Approved)

- Exhibit F – WCC 16.16 Critical Areas Regulations
- Exhibit G –Shoreline Map (P/C Approved)
- Exhibit I – No Net Loss Addendum (P/C Approved)
- Exhibit J – Shoreline Restoration Addendum (P/C Approved)

All documents are available in pdf and Word versions on PDS's SMP Update webpage:

<https://www.whatcomcounty.us/3119/SMP-Update-2020-Documents>.

Whatcom County Planning & Development Services Staff Report

Shoreline Management Program Periodic Update 2020

I. File Information

File #: PLN2020-00006, PLN2019-00011, & PLN2018-00010

File Name: Shoreline Management Program Periodic Update 2020

Applicant: Whatcom County Planning and Development Services (PDS)

Project Summary: Periodic update of Whatcom County's Shoreline Management Program, which includes amendments to the Whatcom County Comprehensive Plan (shoreline and other policies), WCC Titles 23 (shoreline regulations) and 22 (permitting procedures), WCC Chapter 16.16 (critical areas regulations), and the official Shoreline Map. A list of proposed amendments, and how the draft addresses them, is attached. Additionally, the project addresses Council's docketed items 1) PLN2019-00011, a directive to amend the CompPlan and codes to allow the seasonal extraction of sand and gravel from dry upland areas under certain conditions (but has been found to be unnecessary); and 2) PLN2018-00010, the addition of a Sustainable Salmon Harvest Goal policy to the CompPlan.

Location: Countywide.

Staff Recommendation: Approve.

II. Background

Whatcom County (County) is undertaking a periodic review of its Shoreline Management Program (SMP), as required by the Washington State Shoreline Management Act, RCW 90.58.080(4). The Shoreline Management Act (SMA) requires each SMP be reviewed, and revised if needed, on an eight-year schedule established by the state Legislature. The review ensures the SMP stays current with changes in laws and rules, remains consistent with other County plans and regulations, and is responsive to changed circumstances, new information and improved data.

The County adopted its current SMP in 2007 (Ordinance No. 2007-017; approved by Ecology in 2008) through a comprehensive update process, which included an inventory and characterization of shoreline land use and ecological conditions (otherwise known as the "baseline condition"), a shoreline restoration plan, and an evaluation of cumulative impacts to ensure implementation of the SMP would result in no net loss of shoreline ecological functions.

Since then, the Council has amended the SMP numerous times, though those amendments were fairly minor in nature, addressing specific issues. The SMP was most recently amended in 2019 to adopt by reference the 2017 Critical Areas Ordinance (CAO).

Periodic Update Requirements

The primary requirement of the periodic update process is to ensure that the SMP remains consistent with updates to the legislative requirements of the SMA. The Washington State Department of Ecology

(DOE) provides a list of legislative amendments which have taken effect between 2007 and 2017 as a Periodic Review Checklist.

The periodic update also provides an opportunity to review the SMP for consistency with the County's Comprehensive Plan and development regulations, including critical areas regulations. The County's SMP regulates critical areas in the shoreline jurisdiction by adopting by reference as part of the SMP the County's CAO as adopted in 2017 (Ordinance No. 2017-077) and codified in Chapter 16.16 of the WCC.

The County's Comprehensive Plan and other development regulations were also reviewed for consistency with the SMP, and amendments are being proposed to maintain consistency.

The periodic review process also represents an opportunity to revise and improve the overall functionality, clarity, and usability of the SMP for both the public and County staff. This includes clarifying permit processes and requirements and improving the overall organization and clarity of the documents. The majority of amendments shown in the documents are to achieve this goal.

Note that this periodic update is not required to: re-evaluate the ecological baseline that was established as part of the 2007 comprehensive update; extensively assess no net loss criteria other than to ensure that proposed amendments do not result in degradation of the baseline condition; or change shoreline jurisdiction or environment designations, unless deemed appropriate and necessary. And doing so was not included in the scope or budget for this update, so staff has not undertaken any amendments that would require such actions. A link to those 2007 documents can be found below under "Attachments."

Project Scope

In starting this project, staff compiled ideas for amendments from various sources (see Public Outreach, below) and compiled them into a list that the Planning Commission and Council reviewed and adopted as the "Scoping Document." This set the "bookends" for what staff would work on (and by corollary, what we would not work on). It contains a list of 22 topic areas, with 68 specific issues to address. A link to that document can be found below under "Attachments."

Staff understands that through the review process other ideas may arise, but if they are big issues that need a lot of work to accomplish, we will not be able to take them on and meet our update deadline of June 30th or stay within budget.

Public Outreach

The County has provided multiple opportunities for public participation throughout the process using a variety of communication tools to inform the public and encourage participation. This included our SMP Update website (<http://www.co.whatcom.wa.us/3097/Shoreline-Master-Program-Periodic-Update>), a list-serve, news releases, public notices, open houses, and public work sessions with the Planning Commission and County Council.

The early months of the project were used to gather input and outline the extent of the review; three public open houses were held in different parts of the County to illicit amendment ideas¹. Both the Planning Commission and the County Council then reviewed and adopted a final scope of potential amendments based on input from staff, the public, local jurisdictions, tribes, and other stakeholders.

Based on that scope, County staff and consultants drafted amendments. These draft amendments were issued for a 30-day public review period from August 18 – September 18, 2020, before the Planning

¹ Note: Though we had planned on holding three additional open houses to present the draft to the public, due to the COVID-19 pandemic we had to cancel those and rely on electronic review.

Commission's work sessions. Prior to the Planning Commission's hearing the revised amendments were reissued for another 30-day public review period, from March 12 – April 12, 2021.

Planning Commission Review

Between October 2020 and April 2021 the Planning Commission held nine public work sessions to review the draft amendments. After a second 30-day public review period they then held a joint Planning Commission/Department of Ecology public hearing on April 22, 2021.

County Council/Department of Ecology Review

Staff expects that the Council will hold multiple work sessions and an additional public hearing prior to adoption. By state law, the SMP update was supposed to be adopted by June 30, 2020; however, as a DOE grant recipient (and in part due to the pandemic) our official deadline is now June 30, 2021. Staff anticipates that Council will provisionally adopt the update via resolution forwarding it to DOE for their final review and approval. After we receive DOE's approval, Council will then need to adopt an ordinance adopting and effecting the update. If the anticipated schedule is kept, the revised SMP should become effective sometime this Fall.

Attachments

To Review (provided in your packet):

- Exhibit A – CompPlan Ch. 10 Environment
- Exhibit B – CompPlan Ch. 11 Shorelines
- Exhibit C – CompPlan Ch. 8 Marine Resource Lands
- Exhibit D – WCC Title 23 Shoreline Regulations
- Exhibit E – WCC Title 22 Land Use & Development
- Exhibit F – WCC 16.16 Critical Areas Regulations
- Exhibit G – Shoreline Map
- Exhibit H – Table of public comments, with staff responses
- Exhibit I – No Net Loss Addendum
- Exhibit J – Shoreline Restoration Addendum
- Exhibit K – Department of Ecology Initial Determination
 - K.1 – Required and Recommended Changes w WC responses
 - K.2 – Synopsis of Public Comments

Background Documents:

- 2020 SMP Update Scoping Document
- Materials from the 2007 Comprehensive Update:
 - Vol. 1 - Inventory and Characterization Report
 - Vol. II - Scientific Literature Review
 - Vol. III - Restoration Plan
 - Vol. IV - Cumulative Effects Analysis

All documents are available on PDS's SMP Update webpage at <http://www.co.whatcom.wa.us/3119/SMP-Update-2020-Documents>.

III. Amendments

The proposed amendments are found in Exhibits A through G. Please refer to those attachments; explanations are provided therein. Following, however, is a list of proposed policy changes.

Scoped Amendments

This is the list of items Council directed staff to address, and how we did. Topic #s refer to the topic number assigned in the Scoping Report.

Topic #1, Consistency with State law (required amendments)

- a) **Revise language to cite updated substantial development cost threshold or to rely solely on reference to WAC 173-27-040 for exemptions to substantial development permitting.**

Every five years the Office of Financial Management (OFM) recalculates the dollar threshold for projects qualifying as exempt from having to obtain a substantial development permit. Thus, in §22.07.020(B)(1) (Exhibit E), we have updated the dollar amount to the most recent (2017) OFM calculation of \$7,047. Additionally, we have revised the definition of “substantial development” in §23.60.190 to better meet the state definition (Exhibit D).

- b) **Revise the definition of “development” to clarify that development does not include dismantling or removing structures.**

The definition of “development” has been updated to meet DOE guidelines (Exhibit D, §23.60.040(6)).

- c) **Add reference to statutory exceptions to local review to the SMP. Revise or remove existing references to remedial actions and projects certified pursuant to RCW 80.50 to clarify their status as exceptions to local review under the SMA.**

The requisite language has been added (and revised) to §22.07.010(G) (Exhibit E) to clarify the referenced project types’ status as exceptions to local review under the SMA, and deleted from (old) §23.50.060 (Exhibit D).

- d) **Revise language to include a shoreline permit exemption for retrofitting existing structures to comply with the ADA or to rely solely on reference to WAC 173-27-040 for exemptions to substantial development permitting.**

The requisite language has been added as §22.07.020(B)(17) (Exhibit E).

- e) **Revise language in the SMP to cite the updated cost thresholds for dock construction or to rely solely on reference to WAC 173-27-040 for exemptions to substantial development permitting.**

§22.07.020(B)(8) has been revised to meet the statutory requirements (Exhibit E) and the cost threshold has been deleted from the definition of “substantial development” in §23.60.190 (Exhibit D).

- f) **Revise the SMP aquaculture provisions for consistency with WAC 173-26-241(3)(b).**

§23.40.050, in particular subsections (D)(1) and (G), has been revised to be consistent with WAC 173-26-241(3)(b) regarding commercial geoduck farming. (Exhibit D)

- g) Revise the SMP to clarify that the effective date of SMP amendments is 14 days from notice of final approval by Ecology.**

Both §23.05.090 (Effective Date) and §23.10.030(C)(2) (Administrative Duties) have been updated to clarify that the effective date of SMP amendments is 14 days from notice of final approval by Ecology (Exhibit D).

- h) Review the SMP for consistency with 2003 SMP Guidelines and make any necessary changes.**

Numerous amendments are proposed to make our SMP consistent with the SMP Guidelines; too many to list here. However, prior to submitting to DOE for approval, staff will complete the SMP checklist for their use.

Topic #2, Consistency with State law

- a) Revise the SMP for consistency with Ecology's updated permit filing procedures.**

The requirements for filing permits with DOE have been updated in §22.07.060 (Filing Shoreline Permits with the Department of Ecology) (Exhibit E).

- b) Revise language to clarify that forest practices that involve only timber cutting are not SMA "developments" and do not require Shoreline Substantial Development Permits.**

§23.40.110 (Forest Practices), subsection (A)(3) has been added to clarify that forest practices that involve only timber cutting are not SMA "developments" and do not require Shoreline Substantial Development Permits. (Exhibit D)

- c) Revise language in §23.50.040 to clarify that the SMA does not apply to lands under exclusive federal jurisdiction.**

Subsection (E)(1) has been added to §23.10.020 (Applicability, which used to be §23.50.040) to clarify that the SMA does not apply to lands under exclusive federal jurisdiction. (Exhibit D)

- d) Update definitions to include distinct definitions for "nonconforming use," "nonconforming structure," and "nonconforming development" in accordance with WAC 173-27-080.**

The definitions of "nonconforming lot" (§23.60.140(5)) and "nonconforming use" (§23.60.140(7)) have been amended, and a new definition of "nonconforming structure" (§23.60.140(6)) has been added, to conform to WAC 173-27-080. (Exhibit D)

- e) Define special procedures for WSDOT projects per WAC 173-27-125.**

Subsection (1)(c) has been added to §22.05.130 (Permit Review Time Frames) to define special procedures for WSDOT projects. (Exhibit E)

- f) Incorporate a reference to WAC 173-27-215 for criteria and procedures for instances in which a shoreline restoration project creates a shift in OHWM.**

A reference to WAC 173-27-215 for criteria and procedures for instances in which a shoreline restoration project creates a shift in OHWM has been added as §23.40.180(A)(3) (Restoration and Enhancement) (Exhibit D).

- g) Revise definition of "Floodway" for complete consistency with Ecology's recommended language.**

The definition of "floodway" has been amended to be consistent with DOE's recommended language. (§23.60.060(21), (Exhibit D))

h) Update the list and maps of streams and lakes that are in shoreline jurisdiction as necessary.

The list of waters that are in the shoreline jurisdiction has been revised in §23.20.010(B) (Shoreline Jurisdiction), using the language from the WAC 90.58.030 (2)(d). (Exhibit D)

i) Revise the SMP to include the required provisions in WAC 90.58.140(12).

§23.40.080 (Dredging and Dredge Material Disposal), subsection (B)(4)(b) has been added to clarify that dredge material disposal at an open water disposal site approved through the Dredged Material Management Program (RCW 79.105.500) is allowed and shall not require a shoreline permit. (Exhibit D)

Topic #3, Consistency with WCC Ch. 16.16 (Critical Areas)

a) Ensure Council changes in Ch. 16.16 regarding standards for view preservation are reflected in the SMP.

§16.16.235(5) (Activities Allowed with Notification) of the critical areas regulations (Exhibit F) allows for view corridors to be created and maintained (though certain restrictions apply). Subsection (L) has been added to §23.30.030 (Views and Aesthetics) (Exhibit D) that acknowledges and cross-references this allowance (except for in the Natural shoreline environment).

Topic #4, Consistency with Land Use procedures (Title 22)

a) Update SMP to align with recently adopted Title 22 permit procedures.

In keeping with placing all land use permitting procedures in one place (Title 22) started a couple of years ago, all shoreline permitting procedures in Title 23 (Exhibit D) are being moved to Title 22 (Exhibit E). Where processes overlap with PDS's other project permit types, we refer to and rely on (slightly modified) existing language (Ch. 22.05). However, shoreline permits also have requirements unique to them, so have supplemented the processing rules with a new Ch. 22.07 (Additional Requirements for Shoreline Permits and Exemptions).

Topic #5, Consistency with Shoreline Management Act (RCW 90.58) and 2003 SMP Update Guidelines (WAC 173-26)

a) Clarify permit review no net loss analysis

The primary regulations ensuring no net loss are:

- §23.10.040(A) (Code Interpretation) requires that the regulations be interpreted to allow development only when a proposal is "designed, constructed, and/or mitigated to provide no net loss of or a net lift to ecological functions and ecosystem wide processes." (Exhibit D)
- §23.30.010(B) (Ecological Protection) requires that "any unavoidable impacts shall be mitigated to meet no net loss of ecological function and ecosystem-wide processes." (Exhibit D)
- §23.60.140(4) (Definition) defines what no net loss means. (Exhibit D)
- §16.16.250(2) (Critical Areas Review Process) requires that applicants demonstrate no net loss to the Director's satisfaction in order to approve a critical areas review (and thus, a project permit). (Exhibit F)
- §16.16.260(C) General Mitigation Requirements allows for alternative mitigation options in order to provide the greatest ecological benefit... to achieve no net loss of ecological functions. (Exhibit F)
- §16.16.260(G) requires that mitigation plans demonstrate no net loss. (Exhibit F)

However, the term is also used in numerous other sections as a reminder of this requirement.

b) Clarify development mitigation requirements.

The mitigation standards have been clarified in the following sections as described:

- §16.16.260 (General Mitigation Requirements):
 - Subsection (B) now contains text describing what information the Director may use in determining the extent and type of mitigation required. This text had been found repeated in various Articles of Ch. 16.16, so we've moved it to the overall mitigation section.
 - Subsection (C) is a new policy that will allow for off-site mitigation when it's better for the environment. In the past several years of processing permits, staff has found that the best overall solution is not necessarily "on-site and in-kind" mitigation, since sometimes there's not enough room, or that the mitigation is in a place that can't be guaranteed to remain after the initial 5-year monitoring period. Under this new policy, though the preference is still for "on-site and in-kind" (subsection (1)), off-site and in-kind mitigation may be allowed when the applicant demonstrates that greater biological and/or hydrological functions and values will be achieved (subsection (2), or on-site and out-of-kind mitigation may be allowed when the applicant demonstrates an ecological uplift of biological and/or hydrological functions and values will be achieved (subsection (3). Subsections (4) and (5) also point to our already existing use of Alternative Mitigation Plans and Mitigation Banking.
 - Like subsection (B), subsections (D) and (E) have been moved from the more specific critical areas rules (habitat conservation areas) to the more general so as to apply more broadly.
 - Subsection (G)(3) has been moved from §23.30.010 (Ecological Protection). This text puts the burden on the applicant "demonstrate that all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not have significant adverse impacts and results in no net loss of shoreline and critical area ecological functions." Since WCC Ch. 16.16 (Critical Areas) is considered a part of the Shoreline Management Program, staff thought it more fitting that all the rules for mitigation plans be in one place.
- §16.16.680 (Wetlands – Mitigation Standards)
 - Certain sections that we moved to §16.16.260 (General Mitigation Requirements) have been deleted, since the general now covers the specific.
 - To account for temporal loss of functions, in subsection (C) staff is proposing to amend the wetland buffer² mitigation ratio from a standard 1:1 (subsection (C)(1)) to a range of ratios depending on when the mitigation is implemented (subsection (4)) (including at a double ratio for those who don't initially get permits (subsection (c)) and the mitigation is provided long after the impact. This section now mimics the HCA mitigation standards (§16.16.760(E)(3)).
- §16.16.740 (Habitat Conservation Area Buffers). Apart from the clarifying amendments, staff is proposing to modify:
 - Subsection (B) (Habitat Conservation Areas Buffer Widths), which includes Table 4. The mitigation schema in Table 4 moves us from an older system of classifying water types and

² Note that the ratios for *wetland* mitigation (Table 2, which are from DOE guidance) are not proposed for amendment.

buffer widths to the newer WDFW water-typing system. Though we had already adopted this newer system in identifying surface waters of the state (16.16.710(C)((1)(a)), we had not followed through on using that nomenclature for the various types' buffer widths (the table didn't match the text). Table 4 corrects this. The buffer widths themselves are the same except for Type S – Freshwater. It is currently 150 feet, but staff is proposing to increase it to 200 feet, which is the federal court's recommended width based on *National Wildlife Federation v. FEMA* (Federal District Court Case No. 2:11cv-02044-rsm; NMFS Doc. #2006-00472).

- §16.16.760 (Habitat Conservation Areas – Mitigation Standards)
 - Certain sections that we moved to §16.16.260 (General Mitigation Requirements) have been deleted, since the general now covers the specific.
 - We have added subsection (D) as a reminder to applications that the Army Corps of Engineer Regional General Permit 6 for inland marine waters may apply to their project(s). RGP-6 is a permit issued by the Corps that authorizes the construction of new residential in- and overwater structures in inland marine waters of Washington State while meeting the Endangered Species Act, though it has conditions on the construction.
 - Like with wetland buffer mitigation, we have added subsection (E)(3), doubling the mitigation ratio for those who don't initially get permits (subsection (c)) and the mitigation is provided long after the impact.
- §16.16.640 (Wetland Buffer Modification) and §16.16.745 (Habitat Conservation Area Buffer Modification). In Articles 6 (Wetlands) and 7 (Habitat Conservation Areas) staff is proposing to combine their respective buffer modification rules into one section for each Article, each covering the types of buffer modifications allowed (increase, averaging, reduction, and variance). For wetlands, we have also modified some of the text to be consistent with DOE guidance (Wetlands in Washington State, Volume 2, Appendix 8C, updated 2018).

c) Align appeal procedures with State statutes.

Subsection (3) has been added to §22.05.160 (Appeals) to align the County's shoreline permit appeals process with the state statutes. (Exhibit E)

d) Shoreline permit review (Exemption, Substantial, Conditional Use, or Variance) should reflect State statutes and level of review required.

The rules for shoreline permit review have been updated to meet state standards in Ch. 22.07. (Exhibit E)

e) Align Use standards with State statutes.

Staff is proposing numerous amendments throughout Ch. 23.40 (Shoreline Use and Modification Regulations) that we believe better aligns them with State statutes, in most cases using the language from the WAC. Furthermore, in the existing code Table 23.100.010 is fairly meager and many uses allowed or prohibited are included only in the text of the various use and modification categories, making it difficult to find them all. We have updated that table as Table 1 Shoreline Use by Environment Designation and moved all allowances and prohibitions from the text to the table, hopefully making it easier to see what one can or can't do in the various environment designations.

f) Incorporate improved permit streamlining for priority salmon recovery projects

§22.07.020 (Exemptions from Shoreline Substantial Development Permits) subsection (B)(16) already exempts projects whose primary purpose is to improve fish or wildlife habitat or fish passage. (Exhibit E)

Topic #6, Climate Change/Sea Level Rise

a) 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.

Chapter 10 of the CompPlan (Exhibit A) already contains a section on Climate Change (starting on page 10-8), including Goal 10D and Policies 10D-1 through 10D-10. However, these are aimed at how the County should respond overall and are not specific to the shoreline itself.

There is no requirement to address climate change or sea level rise in the state statutes, including the Shoreline Management Act (SMA). Nonetheless, Council's direction through the Scoping Document was to:

"Develop and/or strengthen policies regarding climate change/sea level rise (CC/SLR), including the incorporation and use of new data (as it becomes available), to review and revise, if warranted, shoreline use regulations."

The direction did not address regulations. But based on Council's direction staff has developed seven new policies specific to our management of the shoreline in light of anticipated impacts due to climate change (Exhibit B, C/P Ch. 11, Policies 11AA-1 – 11AA-7), including proposed Policy 11AA-5, which reads:

"Whatcom County should periodically assess the best available sea level rise projections and incorporate them into future program updates, as relevant"

This policy specifically addresses *"the incorporation and use of new data (as it becomes available), to review and revise, if warranted, shoreline use regulations."*

We understand that some folks would like to see more directive policies³, as well as actual regulations⁴; however, before adopting (and then implementing) something along those lines, we'd need to know the details of likely sea level rise (location, elevation, magnitude, etc.). As we mentioned when the Commission and Council were scoping this project, staff anticipates this year the completion of the CoSMoS model, on which the City of Bellingham and Whatcom County Public Works are working, which should provide the Best Available Science to Whatcom County. The Department of Ecology has also advised us that any such regulations should be built on data, which is what PS-CoSMoS will be providing. Furthermore, once the data is available, we should perform vulnerability and risk assessments to see what kind and where the problems might be, and update our shoreline inventory and characterizations. Without such science, we would be open to challenges. The policies being introduced would set us up for developing regulations once this model is completed.

It should also be noted that in reviewing development proposals, Planning and Development Services already requires structures to be built above the anticipated flood/sea level rise stage through the County's critical area (i.e., geohazard/tsunami) and flood regulations.

3 See Exhibit H, Public Comments FW/WEC01, FW/WEC02, WCPW07, WCPW08, RES03, RFW02, RFW03, RFW04, RFW11, RFW17, P6605, DK01, AC01, & PR03.

4 See Exhibit H, Public Comments FW/WEC12, FW/WEC21, WCPW08, WCPW09, WCPW10, & RES03.

Topic #7, Definitions

a) Add definitions for common words with a specific meaning in the SMP.

In Ch. 23.600 (Exhibit D) we added many definitions of words that were undefined, amended others to meet current standards and/or to be consistent amongst Titles, and deleted those words already defined elsewhere but added the sentence to §23.60.005, “Any words not defined herein shall be defined pursuant to WWC Chapter 16.16 (Critical Areas) or Titles 20 (Zoning) or 22 (Land Use and Development), or their common meanings when not defined in code.”

b) Add definitions for regional, local, and accessory utilities. Ensure consistency with Zoning.

Said definitions have been added to §23.60.210(6). (Exhibit D)

c) Define a single use dock and joint use dock.

“Shared moorage” was already defined in §23.60.190. Additionally, definitions of all moorage types have been added to §23.60.130(17) “Moorage Structure.” (Exhibit D)

Topic #8, Habitat

a) Reference WDFW and DNR’s Shore Friendly Program

Staff has amended C/P Policy 11I-2 (Exhibit B) to reference this program as an example of “voluntary and incentive-based public and private programs.”

b) Consider strengthening ecological connectivity and wildlife corridor requirements.

§23.40.030 (General Shoreline Use and Modification Regulations), subsection J (which is existing language moved from elsewhere), already requires that buildings, fencing, walls, hedges, and similar features shall be designed, located, and constructed in a manner that does not preclude or significantly interfere with wildlife movement to or from important habitat areas.

Apart from all the existing rules about maintaining connectivity in WCC Ch. 16.16 (Critical Areas) (Exhibit F), new rules to strengthen ecological connectivity and wildlife corridor requirements in that document include:

- In §16.16.225 (General Regulations), new subsection (C) has been added, requiring development proposals to maintain ecological connectivity and habitat corridors;
- In §16.16.255 (Critical Areas Assessment Reports) new subsection(C)(3) has been added, strengthening the requirement that connectivity be addressed in assessment reports;
- In §16.16.640 (Wetland Buffer Modification), subsection (A) allows the Director to increase wetland buffers to protect wetland functions and provide connectivity to other wetland and habitat areas;
- In §16.16.745 (Habitat Conservation Area Buffer Modification) subsection (A)(2) allows the Director to increase wetland buffers to protect wetland functions and provide connectivity when a Type S or F waterbody is (among other things) located within 300 feet of another Type S or F water body, a fish and wildlife HCA, or A Category I, II or III wetland;

c) Consider ways to improve protections for salmon and forage fish habitat.

Policy 11LL-4 in C/P Ch. 11 (Exhibit B) is proposed to be amended in support of this task by adding additional critical saltwater habitats to the list of where moorage structures ought to be avoided.

And while the protection of fish and wildlife habitat is already required throughout various sections of Title 23 (Exhibit D), additional language has been added in:

- §23.30.040 (Vegetation Management) has been amended to strengthen and better tie the protection and/or revegetation of native shoreline vegetation to the protection of salmon and forage fish habitat.
- In §23.40.060 (Marinas and Launch Ramps) (Exhibit D), subsection (E)(8) has been added to the standards requiring that boat launches be designed to minimize impacts to critical saltwater habitats.
- In §23.40.140 (Mining):
 - Subsection (A)(3) now states that “Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species.”
 - Subsection (A)(6) has been added to prohibit “motorized or gravity siphon aquatic mining or discharge of effluent from such activity to any waters of the state that has been designated under the endangered species act as critical habitat, or would impact critical habitat for salmon, steelhead, or bull trout” pursuant to RCW 90.48.615.
 - Subsection (B)(1) has been added for consistency with WAC 173-26-241(3)(h), prohibiting mining waterward of the ordinary high-water mark of a river if it would cause a net loss of ecological functions of the shoreline.
- In §23.40.150 (Moorage Structures):
 - Subsections (A)(6) and (7) (moved from the existing Boating Facilities section) prohibits moorage structures in certain shoreline habitats.
 - Subsections (B) & (C), having to do with construction and locational standards for moorage structures have been amended and augmented to meet current state and federal habitat protection requirements and guidance.
- In §23.40.190 (Shoreline Stabilization), subsection (A)(10) has been amended to prohibit hard shoreline stabilization in jurisdictional shoreline streams on estuarine shores, in wetlands, and in salmon spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration.
- In §23.40.220 (Utilities), subsection (B)(5)(a) has been added, require that hydropower facilities shall be located, designed, and operated to minimize impacts to fish and wildlife resources.

Similarly, while the protection of fish and wildlife habitat is already required throughout various sections of WCC 16.16 (Critical Areas) (Exhibit F), in §16.16.255 (Critical Areas Assessment Reports) new subsection (C)(3) has been added, strengthening the requirement that impacts to salmon and forage fish habitat be address in assessment reports to improve protections for salmon and forage fish.

d) Clarify functional disconnect standards for protection of Fish & Wildlife Habitat Conservation Areas

The term “functional disconnect,” which many people have interpreted differently and is not widely used anymore, has been eliminated in §16.16.630(B) (Wetland Buffers) and §16.16.740 (Habitat Conservation Area Buffers), which now say, “Buffers shall not include areas of an existing, legally established substantially developed surface.”

Topic #9, Layout and Structure of the SMP

a) Reorganize the SMP, putting the background information, discussions, and goals and policies into the Comprehensive Plan as a chapter

One of the biggest changes was to reorganize the SMP to shorten it and make it easier to use. One of the ways we’re doing this is to move the SMP policies into the Comprehensive Plan. The SMP was already adopted by reference as part of the CompPlan; it just wasn’t contained in it. However, in

modern code construction, code normally doesn't contain policies (or appendices) as our current Title 23 does. Staff is proposing to create a new Chapter 11 of the CompPlan entitled "Shorelines" (Exhibit B). We have moved all the SMP policies from Title 23 (Exhibit D) as well as related policies from Chapter 10, Environment (Exhibit A), to this chapter, putting all the shoreline policies into one place. Thus, the amendments to Chapter 10 are mostly showing the deletion of policies that are moving to Chapter 11.

Most of the changes shown in C/P Ch. 11 (Exhibit B) are also in support of this effort. We have moved everything from Title 23 that appeared to be policy (rather than regulation) into this chapter. We've also put it in the same format as other chapters of the CompPlan, struck redundancies, and corrected grammar and tenses. There are, however a few proposed new policies and/or amendments that we discuss below.

Another major organizational change is to move all permitting regulations to WCC Title 22 (Exhibit E). Title 22 was created a few years ago to eventually contain all of the County's procedures for land use permitting and code administration. However, moving sections to this Title is continuing to occur as we progress through various code amendments (e.g., the annual code scrub, upcoming code enforcement amendments, this SMP update, etc.).

Similarly, since WCC Chapter 16.16 (Exhibit F, Critical Areas) is adopted as part of the SMP, they are to be read together, and where there are redundancies between Ch. 16.16 and Title 23, we are proposing to delete those redundancies in Title 23 (Exhibit D).

b) Simplify the language as much as possible and remove redundancies

See response to 18.a.

Topic #10, Nonconforming

a) Ensure consistency with Zoning, CAO, and SMP regarding nonconforming uses and structures.

Staff has rewritten Chapter 23.50 (Nonconforming Uses, Structures, and Lots) to conform to the latest DOE guidance addressing nonconforming uses, development, and lots as separate issues. Additionally, definitions for each term have been added to §23.60.140. (Exhibit D)

In §16.16.275 (Nonconforming Uses, Structures, and Lots) (Exhibit F) two amendments are proposed to align this chapter with Title 20 (Zoning) and Title 23 (SMP):

- In subsection (B), the time within which an intentionally abandoned *nonagricultural* nonconforming use or structure may maintain its nonconforming status is changed from 5 years to 12 months, the same timeframe in Title 20 (Zoning).
- In subsection (E), a new (1) is being added, stating that "intentional demolition or removal is not a casualty," as in Title 23 (SMP).

b) Add standards for nonconforming structures to meet current construction standards.

In §23.50.020 (Nonconforming Structures) (Exhibit D):

- (A)(4) now allows legal nonconforming non-overwater structures to be maintained, repaired, renovated, or remodeled to the extent that nonconformance with the standards and regulations of this program is not increased, *provided that a nonconforming structure that is moved any distance must be brought into conformance with this program and the Act.*
- (A)(5) allows overwater nonconforming structures to be maintained or repaired to the extent that nonconformance with the standards and regulations of this program is not increased; *provided that when replacement is the common method of repair, the replaced components shall meet the construction and materials standards of §23.40.150 (Moorage Structures).*

c) Address nonconforming expansion dimensional standards.

§23.50.010 (Nonconforming Uses), subsection (B) now clearly states that the expansion, alteration, and/or intensification of a nonconforming use is prohibited, and §23.50.020 (Nonconforming Structures), subsections (E) & (F) clearly address when and how expansion of nonconforming structures are handled. (Exhibit D)

d) Clarify administratively approved single-family dimensional standards.

To §23.50.020 (Nonconforming Structures), subsection (F), we have added clear standards as to how to address the enlargement or expansion of nonconforming single-family structures. (Exhibit D)

Topic #11, Overwater Structures

a) Add dimensional standards for overall square footage.

§23.40.150 (Moorage Structures) has been completely revamped to meet current state and federal standards. To meet this scoped recommendation, thorough design and dimensional standards, including for overall square footage, have been added to subsection (B) (Exhibit D).

b) Add shared moorage standards.

Dimensional standards for shared moorage have been added to §23.40.150 (Moorage Structures), subsection (B). Subsection (D) prioritizes shared moorage over individual use structures. And subsection (F) provides additional standards for shared moorage. (Exhibit D)

Topic #12, Permitting

a) Consider simplifying utility repair and maintenance permitting.

In §16.16.235 (Activities Allowed with Notification), though subsection (B)(2) already allows maintenance and repair of infrastructure (including utilities), it has been amended to be clearer by adding the term “utility corridors.” Additionally, a new subsection (B)(3) has been added regarding utility installation.

b) Add a reference to the Swift Creek Sediment Management Action Plan so as to clarify permitting procedures for actions necessitated by this plan.

To §23.10.020 (Applicability) we have added subsection (H), which lists what activities the SMP does not apply to. Subsection (H)(1) applies to “Activities undertaken to comply with a United States Environmental Protection Agency Superfund-related order, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act (such as the Swift Creek Sediment Management Action Plan), or a Department of Homeland Security order that specifically preempts local regulations in the findings of the order.”

c) Single-Family Residential Development on Constrained Lots

Staff is proposing to redefine what and how **reasonable use exceptions and variances** are used and who decides them. Our Hearing Examiner has questioned our current schema, in particular why he isn’t the final decision maker, as the current code allows an administrative determination to be made *after* a quasi-judicial decision, and in the hierarchy of permitting, applicants should have to exhaust any administrative remedies before seeking a quasi-judicial decision. Staff is proposing that reasonable use exceptions be the last method of altering standards to allow reasonable economic use of constrained property, and that they be decided upon by the Hearing Examiner (see 16.16.270 Reasonable Use Exceptions). Under the proposed schema we would use (in hierarchical order):

- **Administrative Reduction/Average** – Staff would have the ability to administratively reduce or average a buffer by 25% if the impacts can be fully mitigated, though avoidance and minimization criteria are applied. This allows for flexibility in project design and road alignments. If this doesn't work, then...
- **Administrative Variance** – Staff would have the ability to administratively grant an administrative variance⁵ to reduce a buffer by 25-50% if the impacts can be fully mitigated and the variance criteria are met. If this doesn't work, then...
- **Hearing Examiner Variance** – The Hearing Examiner would have the ability to grant a variance from *any* dimensional standard by any degree if the impacts can be fully mitigated and the variance criteria are met. If this doesn't work, then...
- **Hearing Examiner Reasonable Use Exception** – The Hearing Examiner would have the ability to grant a Reasonable Use Exception to allow up to 2,500 square feet of impacts, and the homeowner would only have to mitigate what can actually fit on the property (which conceivably could be none).

In this schema, the degree to which one can vary standards while providing the least amount of mitigation moves up a level at each step, with the Hearing Examiner making the tougher decisions through a quasi-judicial process. This would return the reasonable use exception to truly the last effort of avoiding a taking.

However, to counter the additional time and cost of this process, staff is also proposing to create a new category of variances, called minor variances (16.16.273 Variances). They would be limited to variances for a 25% to 50% reduction of critical area buffers (when mitigated and they meet certain criteria) but would address most of the instances that reasonable use exceptions are currently applied for. We believe that overall, these changes would significantly reduce the number of cases having to go to the Hearing Examiner and cost less to the citizens of Whatcom County overall.

Note, too, that under the reasonable use rules, the Planning Commission is proposing to amend the maximum impact area to a range of "10% of the lot area or 2,500 square feet⁶, whichever is greater; provided that in no instance shall it exceed 4,000 square feet." Since the property would not need to fully mitigate, a smaller footprint is warranted. This returns the reasonable use exception to truly the last effort of avoiding a taking.

Topic #13, Public Access

a) Clarify standards for construction in the aquatic designation (work occurring in the water).

This issue had to do with what materials are allowed for structures built in contact with water (e.g., moorage structures). The list of such materials (untreated wood, concrete, approved plastic composites, or steel) are already found in §23.30.020(D) (Water Quality and Quantity), §23.40.125(E)(1)(e) (Cherry Point Management Area), §23.40.150(C)(2) (Moorage Structures), §23.40.210(B)(8) (Transportation), & §23.50.020(D) (Nonconforming Structures), with no distinction between galvanized or non-galvanized steel, as had been scoped. However, state law and guidance makes no such distinction, so the list has been unaltered. (Exhibit D)

⁵ This mechanism was created by Council in 2020 and is found in WCC 22.05.024 (Variances).

⁶ What it was prior to the 2017 Critical Areas update.

b) Add ADA standards consistent with federal statutes.

In §23.40.020 (Shoreline Bulk Provisions), subsection (G) (Uses Allowed in Buffers and Setbacks) (6), we have added language that allows stairs and walkways to exceed standard width requirements to meet ADA requirements. (Exhibit D)

In both §16.16.620 (Wetlands – Use and Modification) subsection (H) and §16.16.720 (Habitat Conservation Areas – Use and Modification) subsection (G)(1), text has been added to allow trails to exceed standard width requirements to meet ADA requirements. (Exhibit F)

c) Consider revising dimensions for stairs and walkways located within the shoreline or critical area buffers to accommodate public trails.

In §23.40.160 (Recreation), subsection (A)(6) has been added, directing applicants to WCC Chapter 16.16 (Critical Areas), which contains the standards for trails in critical areas (including the shoreline setback (i.e., HCA buffer). (Exhibit D)

In §16.16.325 (Landslide Hazard Areas – Use and Modification), a new subsection (A)(3) has been added to allow trails (meeting certain conditions) in landslide hazard areas. (Exhibit F)

In §16.16.620 (Wetlands – Use and Modification), subsection (H) (Recreation) has been amended to allow public trails to include viewing platforms, and to be closer than the outer 25 percent of the buffer “when necessary to provide wetland educational opportunities or for public health and safety,” and to be wider than the standard widths when necessary to meet ADA requirements. Corresponding amendments have also been made to 16.16.720(G)(1) (Habitat Conservation Areas – Use and Modification) (Exhibit F).

d) Consider amending trail location standards to allow trails to be located closer than in the outer 50% of a critical area buffer.

In §23.40.020 (Shoreline Bulk Provisions), subsection (G) (Uses Allowed in Buffers and Setbacks), we have added subsection (11) that allows passive recreation facilities that are part of a non-motorized trail system or environmental education program, including walkways, wildlife viewing structures, or public education trails in the shoreline buffer. (Exhibit D)

In §16.16.620 (Wetlands – Use and Modification), subsection (H) (Recreation) has been amended to allow public trails to include viewing platforms, and to be closer than the outer 25% of the buffer “when necessary to provide wetland educational opportunities or for public health and safety,” and to be wider than the standard widths when necessary to meet ADA requirements. Corresponding amendments have also been made to 16.16.720(G)(1) (Habitat Conservation Areas – Use and Modification) (Exhibit F).

Topic #14, Shoreline Designations

a) Consider changing the shoreline designation for certain, more urban parks to an urban designation.

It turned out that changing shoreline (environment) designations on certain properties would have entailed updating the 2007 shoreline inventory and characterization reports, which was beyond the scope of this periodic update.

Topic #15, Shoreline Jurisdiction and Environment Designation Map

a) **Revise the Shoreline Jurisdiction and Environment Designation map to conform to the latest FEMA FIRM maps**

The Shoreline map has been updated to include all areas of the FEMA floodway and floodplain. This primarily widened the Resource designation on the Nooksack from Ferndale to Lynden and portions of the South Fork of the Nooksack though narrowed it in some areas. Floodway and Floodplain are differentiated in the database. It should be noted that the actual shoreline jurisdiction has not changed, as that is set by state law and our code (§23.20.010), but the map now more accurately displays the jurisdiction.

A few other changes have been made as well. These include:

- UGA and City boundaries have been updated.
- On the Lummi Nation, parcels that have been put under Tribal jurisdiction since the last update were updated with the “Tribal” shoreline designation.
- Designations were adjusted, where necessary, to match the updated and spatially corrected parcel boundaries. This was just a housekeeping task and no designations were changed.
- Shoreline designation breaks (thick black bars) have been removed from the map as they made it difficult to read.
- The complex of beaver ponds north and south of H Street Road between Sunrise and Markwork Roads (NE of Lynden) were added to the Conservancy designation. These ponds have grown in size and now surpass the 20-acre threshold for being a Water of the State. Since these ponds were identified and characterized in the 2007 Characterization report, we did not need to update that report; the data is still valid.
- At the request of the owners of APN 390302-428076-0000, 390302-485039-0000, and 390302-440200-0000 we have removed the Resource environment designation from a mining pond located to the NW of the intersection of E. Pole X Everson-Goshen Roads, just southeast of Everson. This designation was applied during the last SMP update, but has been determined to have been an error. Though it is a waterbody greater than 20 acres, it is a mineral extraction pond and DOE guidance is that such ponds do not qualify as a Water of the State until mineral extraction is complete and the restoration plan is realized. Once that happens, it automatically is designated as Conservancy under state law and our SMP. The County would then have 3 years to amend the map and finalize its designation.

Topic #16, Shoreline Modifications

a) **Review for consistency with the 2SHB 1579 regarding HPAs, and with State guidelines regarding prioritizing living shorelines over hardscape solutions.**

In §23.40.010 (Shoreline Use and Modification), Table 1 (Shoreline Use by Environment Designation), the various types of stabilization have been broken out into their respective types. Bioengineering Approaches & other Soft-Shore Measures are shown as permissible, while hardscape solutions are either prohibited or require a Conditional Use Permit, and then allowed only when necessary for shoreline restoration or to support a water-dependent use that cannot be located elsewhere. Then throughout §23.40.190 (Shoreline Stabilization) language has been added to prioritize soft- over

hardscape stabilization measures, in particular in subsection (A)(5), where an order of preference has been established. (Exhibit D)

b) Consider allowing interpretive, wayfinding, safety, and park identification signs, based on park standards.

In §23.40.020 (Shoreline Bulk Provisions), subsection (G) (Uses Allowed in Buffers and Setbacks) (10) (Signs) we have added language that allows interpretive, wayfinding, and park identification signs on publicly owned park properties. (Exhibit D)

Topic #17, Shoreline Uses

a) Revise as necessary any SMP policies or regulations pertaining to the Cherry Point area as directed by Council.

In 2018 the Council started a process of amending the policies and regulations related to fossil fuel facilities in the Cherry Point Management Area. The Council hired consultants specifically for this task and it is principally being administered under a separate process. Their amendments affecting C/P Ch. 2 (Land Use), WCC Ch. 16.08 (SEPA), WCC Title 20 (Zoning), and WCC Title 22 (Land Use & Development) have already been reviewed by the Commission. None of the Council's amendments to C/P Ch. 2, WCC Ch. 16.08, or WCC Title 20 affects the documents the Planning Commission reviewed as part of this SMP Update.

Their amendments to Title 22, however, have been incorporated into Exhibit E, and are being shown as new as they are not yet adopted. We have also incorporated the Commission's recommended changes to this specific language, also flagged by comments in the document.

Their amendments also affect WCC Title 23 (Exhibit D) and (by way of this update) C/P Ch. 11 (Exhibit B). As we are proposing to do with the rest of the SMP policies, we're moving the Cherry Point Management Area policies from Title 23 to C/P Ch. 11 (Exhibit B). As such, they're not shown as new policies (i.e., no underline) in Exhibit B, but Council's proposed amendments to them are being shown in strikeout/underline. Other changes to Title 23 regarding this topic are flagged as Council-proposed language in §23.40.125 (Cherry Point Management Area). (Exhibit D)

b) Revise as necessary any SMP policies or regulations pertaining to sand and gravel extraction as directed by Council.

In 2019 the County Council placed the following proposal (PLN2019-00011) on the docket:

Amend the Whatcom County Comprehensive Plan and Whatcom County Code to allow the seasonal extraction of sand and gravel from dry upland areas located within the 1,000 year meander zone of the Nooksack River, provided that such extraction has no negative impact on salmon spawning habitat. The intent is to (a) reduce the conversion of land currently used for farming, forestry and wildlife habitat into gravel pits, and (b) safely remove some of the significant sediment load that enters the Nooksack River every year in an effort to reduce flooding and the need to build higher flood prevention berms along the river as the climate continues to change.

To carry out this directive we have tried to mimic the language of the WAC, eliminating language that is not required but adding (or retaining) required language. (§23.40.140 (Mining), Exhibit D)

This matter was forwarded to the Surface Mining Advisory Committee (SMAC) for their advice. At their June 26, 2019, meeting the SMAC reviewed this matter and found that no changes were necessary to

the SMP code in order to allow for extraction of sand and gravel from dry upland areas located within shoreline jurisdiction and/or the FEMA 100-year floodplain. Furthermore, it was confirmed that the lack of recent sand and gravel extraction within the Nooksack River shoreline jurisdiction/FEMA floodplain/floodway is primarily a function of the time and costs for studies associated with permitting and review at the state and federal level, compared to the economic return on investment.

At the federal level, the Endangered Species Act (ESA) is the primary law affecting this activity. It requires that any activities be done in such a manner as to not cause a “take” of any listed species, which also means protecting their habitat from impacts. At the state level, the Shoreline Management Act requires that there be no net loss of shoreline ecological functions and processes. As one can imagine, either of these requirements would make it difficult to make it easier to extract sand and gravel.

c) Ensure internal consistency with allowed uses in the code and the Use Table.

In the existing code, the allowances/permit type required for some uses are specified in Table 1 and others are sprinkled about the text, making it difficult to find whether something is allowed or not. So throughout Ch. 23.40 (Shoreline Use and Modification Regulations) we have removed any use allowances found in the text and expanded the table to include these (as well as other uses that hadn’t been specified). Thus, almost all rules about whether something’s allowed or not, and with what type of permit, are found in Table 1. There were also several footnotes that modified the table. We have replaced these footnotes with just one, telling the reader to look to the text for certain uses in certain environment designations, as there remain a few specific provisions in the text, typically stating that certain uses have caveats in certain environment designations. In short, we believe we have made things easier to find, and the text and the table should be internally consistent now.

d) Modify the accessory structure height standards.

In §23.40.020 Shoreline Bulk Provisions, subsection (E) (Height), two new subsections have been added. Subsection (4) would allow equipment necessary for the functions of water-dependent uses or the servicing of vessels to extend above the applicable maximum height limit provided in Table 1, provided that such structures shall be designed to minimize view obstruction. Subsection (5) would allow residential accessory structures that are not waterward of the primary structure to be built to the maximum height for the environment designation.

e) Add standards for retaining walls.

In §23.40.020 (Shoreline Bulk Provisions), subsection (G) (Uses Allowed in Buffers and Setbacks), we have added subsection (8) to allow retaining walls or similar slope stabilization structures, when associated with an approved shoreline use or development; and in (9) have clarified that retaining walls can exceed the standard 4-foot height limit for fences, walls, and hedges. (Exhibit D)

f) Update Memorandum of Understanding with Department of Archaeology and Historic Preservation.

Through this update process, staff was not able to actually update the MOU with DAHP, as that will take some time and involve many others. But based on the language in it, we are proposing some new policies to the cultural resources sections of both the Overall SMP Goals and Objectives (Exhibit B, page 11-9) and the General Policies (page 11-27) sections (see policies 11G-3, 11G-4, & 11X-9).

We are also proposing to revise the regulations in §23.30.050 (Cultural Resources) (Exhibit D). The existing regulations are full of rules about how reports are supposed to be done and what they need to contain. However, Department of Archaeologic and Historic Preservation (DAHP) now has standard

practices outlined in their guidance, and we are proposing to remove all of our extraneous rules and just refer to DAHP's standards; this cuts down on the amount of text considerably and ensures that practices and reports follow state standards. The proposed text has been collaboratively developed with us, DAHP, and the Lummi Nation Tribal Historic Preservation Office (LNTHPO).

That said, there are three policy issues posed by the revised text:

- Subsection (A)(1) reads:

Upon receipt of an application for a permit, exemption, or other approval for a proposed project, the County shall determine whether the project lies within 500 feet of a site known to *or could* contain a cultural resource based on the Washington State Department of Archaeology & Historic Preservation's (DAHP) Inventory of Cultural Resources.

Currently, our regulations require applicants to prepare a cultural resources report (and adhere to any recommendations therein) if their project lies within 500 feet of a site known to contain a cultural resource based on the Washington State Department of Archaeology & Historic Preservation's (DAHP) Inventory of Cultural Resources. The LNTHPO has proposed that we insert the phrase "or could" in this sentence. They would like to be consulted on all projects within the shoreline, not just ones within 500 ft of a previously recorded site, as they believe they may have additional information regarding an area that is not included in the State's inventory. They would like an opportunity to review and comment on the report no matter what may be found. However, this would expand the scope beyond what we regulate now.

- Subsection (A)(4) reads:

Based upon consultation with DAHP and the affected Tribe(s), the Director may approve the report *with tribal concurrence* or reject or request revision of the conclusions reached and/or management recommendations when the assessment is inaccurate or does not fully address the cultural resource management concerns involved.

The LNTHPO recommends that we include the phrase "with tribal concurrence." This would mean that the Tribe would have to agree with a report before PDS could approve it.

Staff believes that requiring their concurrence runs contrary to the GMA's permitting requirements of expeditious review and issuance, as it could hold up projects while we're awaiting their concurrence. A simple fix may be to set a time limit for how long they have to respond.

- Subsection (A)(5) reads:

If the cultural resource report identifies the presence of a cultural resource, any permit issued shall be conditioned on meeting the approved report's management recommendations. *If no cultural resources are found, then the permit may be issued without conditions regarding cultural resources.*

The LNTHPO commented that an Inadvertent Discovery Plan (IDP) should be required regardless of whether cultural resources are found, as there are times when additional requirements are necessary (e.g., when there is a site documented just outside of the project area, monitoring may be recommended). However, this does go beyond what we do now and so raise it as a policy issue.

g) Clarify Forest Practice standards.

§23.40.110 (Forest Practices) has been updated to reflect the WAC provisions for Forest Practices in shorelines. (Exhibit D)

Additionally, the current Ch. 16.16 (Critical Areas) does not have guidance for Conversion Option Harvest Plans as allowed by WAC 222. For other permits this would allow for a limited removal of trees, while retaining larger trees to help with managing a riparian buffer. When development alters a functioning forested system some level of continued forest management is required (see 16.16.720(V)). To alleviate this issue, staff is proposing to add to 16.16.720 (Habitat Conservation Areas – Use and Modification) subsection (P). The section sets performance standards for removing timber in Habitat Conservation Areas (e.g., riparian areas) and would allow timber harvesting to occur within buffers while still retaining the HCA's functions. These standards vary by water type, and are tied to existing buffer conditions. This amendment is aimed at closing a loophole wherein applicants remove trees before applying for a development permit, which is when the CAO becomes applicable (except for Class IV Conversions, forest practices are not reviewable under the CAO).

h) Add temporary use standards.

This was a task staff had proposed, thinking we might be able to develop a temporary use permit for short-term uses. However, we could not find a good example from other jurisdictions, nor is there any guidance from Ecology. Thus, we determined it is probably best to review such uses at the time of a request for a temporary easement, temporary use permit, etc.

i) Clarify utility standards for regional, local, and accessory.

Under the existing code, the only categories for utilities are local or regional transmission lines, which has led some people to believe that utility installation, repair, or maintenance to single-family homes (accessory utilities) needs the same level of permitting and scrutiny as a power substation or regional transmission line.

In the proposed amendments to §23.40.010 (Shoreline Use and Modification), Table 1 (Shoreline Use by Environment Designation), utilities have been broken out into three categories: accessory, local, and regional. Each are now distinctly defined in §23.60.210(6), and have distinct permitting paths, depending on what environment designation they are located, making it clear that running an electrical line (or something similar) to a house is outright permitted.

Additionally, in §23.40.220 (Utilities) we have moved all the utility requirements that had been spread throughout in various sections into one, cohesive section.

j) Add standards for live-aboard vessels in marinas.

In §23.40.060 (Marinas and Launch Ramps) standards for live-aboard vessels have been added as subsection (F) (Exhibit D). Staff is also proposing to add Policy 11DD-13 to CompPlan Ch. 11 (Exhibit B) to support the proposed addition of standards to Title 23.

Topic #18, Shoreline Setbacks/ Riparian Management

a) Update vegetation conservation standards to prefer limbing over removal.

§23.30.030 (Views and Aesthetics) (Exhibit D), subsection (M) now points to the regulations in §16.16.235(B)(5) (Activities Allowed with Notification) (Exhibit F).

§16.16.235(B)(5) (Activities Allowed with Notification) has been updated to stress limbing over removal of trees to provide view corridors (Exhibit F).

b) Provide incentives to enhance Fish and Wildlife Habitat Conservation Areas (FWHCA).

This was another task staff had scoped. We had hoped to create an incentive for new single-family residential development to maintain and/or improve shoreline vegetation by allowing those who do so to have a reduced shoreline buffer. Unfortunately, we could not figure out a way of doing this without impacting existing homeowners' views. Furthermore, it would have required an update to the inventory and characterization background documents, which was not included in the scope or budget of the project.

Additionally, given that the shoreline is defined and regulated as a Habitat Conservation Area, theoretically we should not allow uses (other than water-oriented uses and single-family residences which are SMA 'preferred uses') within the shoreline, as they would necessitate vegetation clearing. However, we know that folks that have waterfront property want and expect to have access (for swimming, boating, relaxation, etc.) and recreational amenities near the shore (e.g., fire pits, kayak sheds, etc.), so we have added to 16.16.720 (Habitat Conservation Areas – Use and Modification) subsection (G)(4), which sets limits on how much of the shoreline can be cleared of vegetation for such uses and requires mitigation to offset the impacts so as to achieve No Net Loss.

c) Clarify setback standards for protection of views to and from the water.

To protect views of the shoreline from existing structures when new development is proposed, §23.30.030 (Views and Aesthetics) (Exhibit D), new subsection (B) now allows setbacks to be modified pursuant to WCC 23.400.020(D) (Shoreline Bulk Provisions, Setbacks, Common-Line Setback for Single-Family Residences). That section (incorporated from former Appendix F) allows for setbacks to be reduced or increased, depending on how existing homes are situated, to provide the greatest view opportunities for both the existing and new development (though when reduced, mitigation (i.e., planting of the shoreline setback) may be required).

To minimize impacts to views from the water, §23.30.030 (Views and Aesthetics) (Exhibit D), new subsection (C) also now allows the Director to require the planting of vegetation to mitigate the impacts.

Furthermore, §23.30.030 (Views and Aesthetics) (Exhibit D), new subsection (L) precludes new uses or development from substantially obscuring shoreline views within shoreline view areas or from existing residences on adjacent property.

Topic #19, Water Quality

a) Include language/policies about the importance of Lake Whatcom as the source of drinking water for most of the County and the water quality improvement plan (TMDL).

After reviewing the existing CompPlan, staff believes that it already addresses this issue sufficiently. In Chapter 10, under *Water Resources* (Exhibit A, page 10-11), subsection *Lake Whatcom Watershed Management* (pages 10-22 – 10-25) there are four pages of text describing Lake Whatcom's importance as a source of drinking water and the efforts the County (and City of Bellingham) are under taking to protect it. Under Goal 10-J alone there are 14 specific policies (Policies 10J-1 - 10J-14) regarding protecting Lake Whatcom, and there are numerous other, more generic goals and policies that deal with water quality protection more generically.

Topic #20, Wetland Buffers

a) PDS will conduct a parallel process, convening a group of local wetland consultants, to consider revisions to the CAO regulations regarding wetland habitat function score break

points, buffer widths, reduction, averaging to meet DOE guidelines, and having buffers based on habitat performance instead of static/standard buffers. If they complete this work in time, it can be incorporated into this update; otherwise it can follow.

In July 2018 the Washington Department of Ecology (DOE) modified the habitat score ranges and recommended buffer widths in their wetland buffer tables in the DOE guidance, with some minor text changes to ensure consistency. Some citizens, local environmental consulting firms, and the Building Industry Association of Whatcom County then requested that we amend our code to meet this new guidance, and it was docketed as PLN2019-00008.

The project was brought before the Planning Commission on March 14, 2019. But there was confusion as to what we actually *had* to do at that time and what impacts it would have on development. DOE had informed staff that, while we didn't need to amend our code at that point (having just updated Ch. 16.16 (Critical Areas) (Exhibit F) that they would review our code for consistency with their guidance when Ch. 16.16 was opened for amendment again, noting that that would occur during the 2020 SMP Periodic Update.

So at the Commission's request, staff worked with the local wetlands consultants to review the issue and try to determine what effects it might have. Three consulting firms⁷ provided analyses based on data from projects they had worked on. From these analyses, it appears that many of Whatcom County's lower quality wetlands (e.g., small Category IV wetlands in agricultural fields) would end up with smaller buffers, but that our higher quality wetlands (Categories II and III) would end up with larger buffers. (But even this is speculation, as ATSI noted that the comparison results are not statistically significant.⁸) Thus, farmers may benefit but developers/ builders may suffer, as many of our lower quality wetlands are those found in agriculture fields, while our higher quality wetlands are typically found in non-agriculture rural areas.

Nonetheless, given the Department of Ecology's statements that they'll be monitoring the SMP Update to ensure that we meet their latest guidance (which is based on Best Available Science), and given that Comprehensive Plan Policy 10M-2 directs the County to "Develop and adopt criteria to identify and evaluate wetland functions that meet the Best Available Science standard and that are consistent with state and federal guidelines," staff is proposing to amend §16.16.630 (Wetland Buffers) Table 1 (Standard Wetland Buffer Widths) to meet DOE guidance. As indicated, these changes would lessen buffers on lower quality wetlands, and increase them on higher quality ones.

Topic #21, Marine Resource Lands

a) Consider adding a Marine Resource Lands policy section as developed by the Marine Resources Committee

When the Council amended the CompPlan in 2016 they included a new section entitled "Marine Resource Lands" that contained one goal and one policy that directed staff to assist in developing the section more thoroughly:

⁷ NW Ecological Services, NW Wetlands Consulting, and Aqua-Terr Systems, Inc.

⁸ Paired sample t-tests were conducted to compare the proposed buffer results with categories of the wetlands impacted.

Goal 8T: Conserve and enhance Whatcom County's marine land base for the long-term and sustainable production of commercial and recreational economic activities.

Policy 8T-1: Whatcom County will work with committees including but not limited to the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts to create a new section of this chapter to support Goal 8T to be docketed and processed for consideration no later than 2017.

The project was docketed as (PLN2017-00005), and staff worked with these groups to help develop some language, goals, and policies for this section, which is shown as Exhibit C (C/P Ch. 8). However, there was mixed recommendations from the groups who reviewed the language.

- The **Marine Resources Committee** reviewed the proposal at their June 7, 2018, meeting, and after adding Policy 8V-4 (addressing educational efforts and programs) they recommended that the County Council adopt the proposed language.
- The **Birch Bay Watershed and Aquatic Resources Management Committee** (BBWARM) reviewed the proposal at their June 20, 2018, meeting. They recommended that the Council *not* adopt the proposed language. They felt that the new Marine Resource Lands section of the CompPlan was already covered by the existing Shoreline Management Program and that including it would add unnecessary complication/duplication. They recommended that the Council postpone any action on the Marine Resource Lands amendment until the SMP update commenced.
- The **Portage/Drayton Shellfish Protection Districts** reviewed the proposal at their July 25, 2018, meeting. However, they did not have a quorum and could not act.
- The **Planning Commission** held a workshop on June 14 and a public hearing on June 28, 2018. They recommended that the Council *not* adopt the Marine Resource Lands proposal. There was concern amongst some of the Commissioners that regulations adopted subsequent to these policies could affect farmers, even though staff explained that it was not our nor CM Weimer's intent to address agricultural runoff. They also thought it would be better to consider this during our SMP update, perhaps incorporating some of the goals and policies into that rather than having a separate section.

When staff brought the project forward to Council's Planning & Development Committee for review they decided to consider it with the (then) upcoming SMP update.

Topic #22, No Net Loss

a) Prepare a No Net Loss technical memo

On September 10, 2019, staff presented to the Council's Natural Resources Committee an overview of how No Net Loss is achieved.

No net loss incorporates the following concepts:

- The existing condition or baseline of shoreline ecological functions, documented in the 2007 documented in the shoreline inventory and characterization, should not deteriorate due to permitted development.
- Shoreline functions may improve through shoreline restoration.
- New adverse impacts to the shoreline environment that result from planned development should be avoided.

- When this is not possible, impacts should be minimized through mitigation sequencing.
- Mitigation for development projects alone cannot prevent all cumulative on-going impacts and shoreline violations, so restoration is also needed.

Based on past practice, current science tells us that most, if not all, shoreline development produces some impact to ecological functions. However, the recognition that future development will occur is basic to the no net loss standard. The challenge is in maintaining shoreline ecological functions while allowing appropriate new development and ensuring adequate land for preferred shoreline uses and public access. With due diligence, local governments can properly locate and design development projects and require conditions to avoid or minimize impacts.

In 2007 Whatcom County underwent a comprehensive update of its Shoreline Management Program (SMP). At that time the County prepared an Inventory and Characterization Report (Vol. I), a Scientific Literature Review (Vol. II), a Restoration Plan (Vol. III), and a Cumulative Effects Analysis (Vol. IV), all of which were approved by County Council and the Department of Ecology. These documents formed the basis for developing the County's Shoreline Management Program and determining that it would achieve no net loss of ecological functions when implemented.

Whatcom County is now undergoing a periodic update. For such an update the County is not required to re-do all these documents except to augment them if something changes that might negatively affect the shoreline's ecological functions. For the most part there are few significant policy changes in this update; most of the proposed amendments are an effort to reorganize the SMP so as to make it easier to use and understand.

There are a few policy changes, though, and the No Net Loss Statement, prepared by The Watershed Company as an addendum to the 2007 Cumulative Effects Analysis, addresses these (Exhibit I). The conclusion is that each of these amendments works to strengthen the shoreline ecological protections provided by the SMP.

b) Shoreline Restoration Plan Addendum

Simply stated, the no net loss standard is designed to halt the introduction of new impacts to shoreline ecological functions resulting from new development by requiring mitigation. However, over all, protection, restoration, and mitigation are needed to achieve no net loss. Restoration is the only mechanism by which we can improve shoreline functions and ecosystem-wide processes over time. Local governments must achieve this standard through both the SMP planning process and by appropriately regulating individual developments as they are proposed in the future.

The concept of no net loss of shoreline ecological functions is rooted in the Act and in the goals, policies, and governing principles of the state's shoreline guidelines. These principles suggest that no net loss is achieved primarily through regulatory approaches and that restoration occurs mainly via goals, policies, and voluntary or incentive-based mechanisms. It is also important to note that more than simply preventing further loss of ecological functions, master program provisions must also "...achieve overall improvements in shoreline ecological functions over time when compared to the status upon adoption of the master program."

The mandate to improve functions over time provides the basis for restoration planning and creates a distinction between mitigation and restoration. As mentioned, applicants for shoreline permits must fully mitigate new impacts caused by their proposed development. However, applicants are not required to restore past permitted ecosystem damages as a condition of permit approval. Permit applicants will not be required to implement the restoration measures identified in the plan as mitigation for project

impacts, but they may elect to implement elements of this plan as mitigation for shoreline development if appropriate. And they may be required to mitigate for recurring impacts.

SMP updates: Achieving no net loss of ecological function

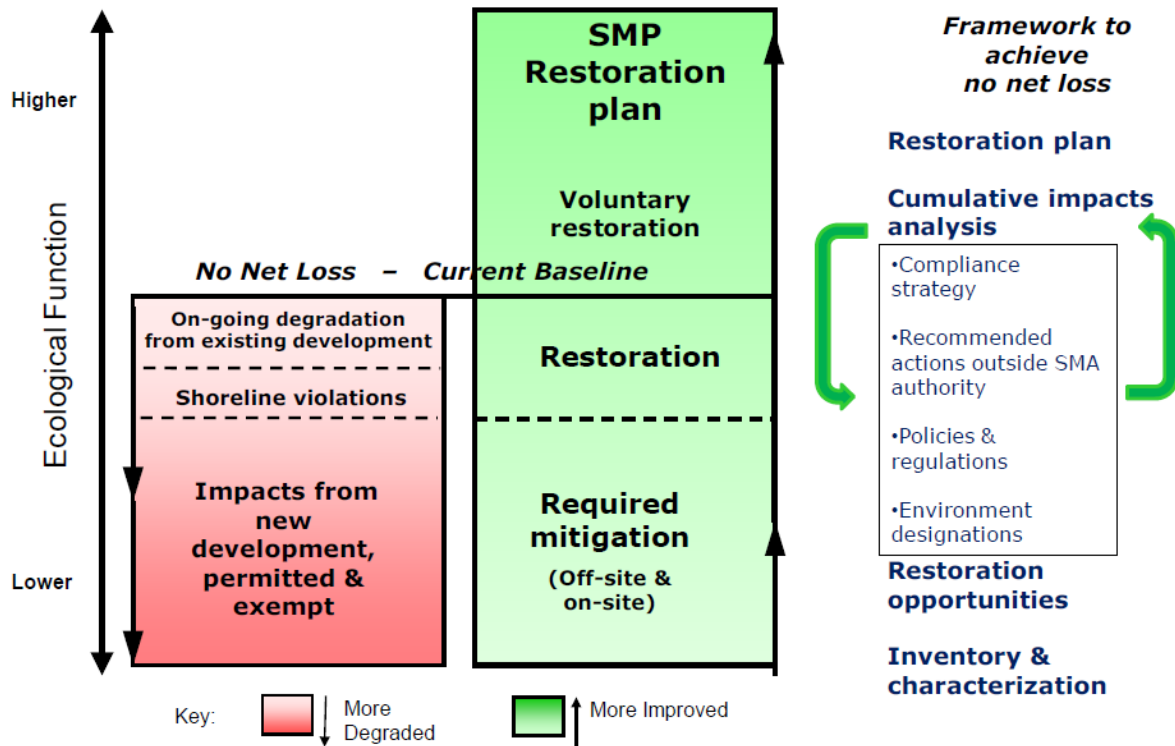


Figure 4-1: During the SMP update process, local governments should use existing shoreline conditions as the baseline for measuring no net loss of shoreline ecological functions.

Exhibit J is an addendum to the 2007 Shoreline Restoration Plan. It references projects listed in the Shoreline Restoration Plan containing enhancement and restoration project proposals and updates them based on information received by the County, agencies, tribes, and stakeholder organizations. It also lists several projects that were not included in that Plan, but nonetheless have been undertaken and completed, and that improve shoreline ecological functions.

It is important to note that to continue to achieve NNL over time the County should continue to fund and implement the projects listed in the restoration plan.

Other Amendments

Sustainable Salmon Harvest Goal

There is a new Policy 10L-19 proposed to be added to Chapter 10 regarding a sustainable salmon harvest goal (Exhibit A, page 11-47). Adding this policy is not a part of the SMP Update per se, and in fact was not part of the scope. Rather, it is a policy the Council expressed in interest in adding in support of the fisheries co-manager's Sustainable Salmon Harvest Goal. Adding such a policy was placed on the docket by Council in 2018 (#PLN2018-00010). Rather than process its addition as a separate CompPlan amendment, staff is proposing to add it while we're already amending the CompPlan for the SMP

Update. We should note, however, that through the Salmon Recovery Staff Team the fisheries co-managers (WDFW, Lummi Nation, and Nooksack Tribe) are reviewing this draft language and may propose some additional amendment(s) to it. If so, we will inform the Planning Commission later in your review.

Short-Term Rentals

Though already approved by Council via Resolution 2016-039 and by the Department of Ecology, Council's actions on short-term rentals has not been finalized by ordinance. Thus, staff has included in the draft Title 23 those amendments on short-term rentals already approved. Please note that there are similar amendments to Title 20 that Council has not acted on, and these would need to be followed up shortly after the SMP amendments are approved.

UGA Wetlands

In 16.16.225 (General Regulations) staff is proposing to add subsection (B)(7), which would allow "alteration of Type III or IV wetlands that have a habitat area score of less than 6 when associated with an approved commercial development within an Urban Growth Area" when impacts are mitigated. This would allow the alteration of certain wetlands in Urban Growth Areas (UGAs) (in particular, Birch Bay) so as to encourage development of commercially zoned property. Commercial development in Birch Bay is challenging because so much of the remaining commercially zoned property contains small, isolated wetlands. Yet under the Growth Management Act we're supposed to encourage development within UGAs so that development doesn't sprawl to less developed areas of the County.

IV. Comprehensive Plan Evaluation

The proposed amendments to the regulations (WCC Titles 22 and 23 and Ch. 16.16) have been developed using the guidance of the Comprehensive Plan so as to remain consistent. Generally, the specific guiding goals and policies would be listed here so as to inform the Council of consistency; however, that would just be a relisting of each, as every goal and policy of Comprehensive Plan Chapter 11 is relevant. Those goals and policies may be reviewed in Exhibit B. Suffice it to say that staff finds no inconsistencies.

V. Draft Findings of Fact and Reasons for Action

Staff recommends the Council adopts the following findings of fact and reasons for action:

1. The Shoreline Management Act (SMA) requires Whatcom County to develop and administer a Shoreline Master Program (SMP); and
2. Whatcom County is subject to the requirements of the Washington State Growth Management Act (GMA), RCW 36.70A.480 'Shorelines of the State.'
3. On February 27, 2007 (Ordinance # 2007-017), Whatcom County adopted a comprehensive update to the SMP as required by law. This comprehensive SMP update review included but was not limited to assessment of ecological functions, baseline conditions, and SMP environmental designations. This local adoption was approved by the Washington State Department of Ecology (Ecology); and
4. The Washington State Shoreline Management Act (SMA), RCW 90.58.080 (4)(a)(ii), mandates Whatcom County shall periodically review its SMP every 8-years. This periodic update is due June 30, 2021. The purpose of this periodic review is to update the local SMP to reflect changes to state

law and associated rules and guidance, ensure internal consistency with the Whatcom County Comprehensive Plan and associated development regulations, as well as provide an opportunity to improve usability and predictability of the SMP; and

5. The GMA, RCW 36.70A.130(1), also mandates that Whatcom County's Comprehensive Plan and development regulations are subject to continuing review and evaluation; and
6. The review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and
7. Whatcom County Planning and Development Services (PDS) submitted an application (PLN2020-00006) to make various amendments to Whatcom County's Shoreline Management Program; and,
8. On May 21, 2019, and in accordance with WAC 173-26-090(3)(a), Whatcom County developed a public participation program for this periodic review in to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines, which was submitted to Ecology; and
9. Whatcom County has followed its adopted public participation program, including:
 - a. A dedicated project webpage;
 - b. Legal notices published in the official newspaper of record for Whatcom County;
 - c. Electronic announcements and notifications to:
 - Subscribers of relevant lists in the Kitsap County Electronic Notification System;
 - Relevant County advisory groups; and
 - Relevant local, state and federal agencies, and community groups;
 - Federally recognized tribes with usual and accustomed areas in Whatcom County and relevant tribal organizations;
 - d. Three public open houses;
 - e. Meetings with citizen advisory groups and various interested parties;
 - f. Two 30-day public review periods of the amendments, one prior to the Planning Commission review workshops (August – September 2020) and a joint public comment period with the Department of Ecology prior to their joint public hearing (March – April 2021).
 - g. Eleven public workshops and a joint public hearing with the Planning Commission and Department of Ecology; and
 - h. Ten public workshops and a public hearing with the County Council.
10. Whatcom County used Ecology's checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i); and
11. With the assistance of a consultant and development of a consistency analysis, Whatcom County PDS proposed amendments to the Whatcom County Comprehensive Plan (Chapters 8 (Resource Lands), 10 (Environment), and 11 (Shorelines)) and WCC Titles 22 (Land Use & Development) and 23 (Shoreline Management Regulations), and WCC Chapter 16.16 (Critical Areas).

12. Following review and approval by the Whatcom County Council, a public participation plan, consistency analysis, and scoping document was developed to aid in developing the draft amendments.
13. Whatcom County reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii); and
14. Whatcom County considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii); and
15. The Whatcom County Planning Commission and County Council held public hearings on July 25 and August 7, 2019 (respectively) to receive testimony on topics the public believed should be addressed during the periodic review; and
16. The Whatcom County Planning Commission completed a review of staff recommendations and prepared initial amendments; and
17. Whatcom County consulted with the Department of Ecology early and often during the drafting of the amendments. Whatcom County worked collaboratively with the Department of Ecology to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines in accordance with WAC 173-26-104; and
18. A State Environmental Policy Act (SEPA) environmental checklist was prepared and the Whatcom County SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on February 18, 2021; and
19. Whatcom County conducted a formal joint public comment period with the Department of Ecology in compliance with requirements of WAC 173-26-104; and
20. Whatcom County published a legal notice in the Bellingham Herald on April 17, 2021, for a public hearing on the proposed staff recommendations, including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii); and
21. The Planning Commission took public testimony on the proposed staff recommendations at a public hearing on April 22, 2021; and
22. The Planning Commission reviewed the public testimony and written comments on the proposed SMP revisions, and suggested revisions to the proposed amendments; and
23. The Planning Commission recommended approval of the proposed amendments and forwarded it to the County Council for review and adoption on May 13, 2021; and
24. Notice of the subject amendments was submitted to the Washington State Department of Commerce on March 12, 2021, for their 60-day review in accordance with WAC 173-26-100(5); and
25. The Council held six public workshops to review the Planning Commission's recommendations; and
26. A Council Public Hearing Notice was posted in the Bellingham Herald on November 14, 2021; and

27. The Council received public testimony at the public hearing of November 23, 2021, and reviewed said public testimony and written comments at a study session on December 7, 2021; and
28. After considering all public comments and evidence, the Council determined that the proposed amendments comply with all applicable laws and rules; and
29. As evidenced by the recommendation of the Surface Mining Advisory Committee, Title 23 already meets Council's intent to allow sand and gravel extraction within shoreline jurisdiction under certain circumstances as described in PLN2019-00011 and thus no amendments are proposed to achieve this; and,
30. RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and
31. The amendments are consistent with the Shoreline Management Act, Growth Management Act, Whatcom County Comprehensive Plan, and other applicable requirements.
32. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.
33. This completes the County's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

VI. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. Recommendation

Planning and Development Services recommends that the County Council approve the draft resolution included in your packet, which would approve the proposed amendments to Whatcom County's Shoreline Management Program and authorize staff to forward them to the Department of Ecology for final review and approval.

RESOLUTION NO. _____

**A WHATCOM COUNTY RESOLUTION, DECLARING THE COUNCIL'S APPROVAL AND INTENTION TO
ADOPT THE OCTOBER 29, 2021, AMENDMENTS TO WHATCOM COUNTY CODE, TITLE 23 - SHORELINE
MANAGEMENT PROGRAM;**

WHEREAS, the Shoreline Management Act (SMA) requires Whatcom County to develop and administer a Shoreline Master Program (SMP); and

WHEREAS, Whatcom County is subject to the requirements of the Washington State Growth Management Act (GMA), RCW 36.70A.480 'Shorelines of the State.'

WHEREAS, on February 27, 2007 (Ordinance # 2007-017), Whatcom County adopted a comprehensive update to the SMP as required by law. This comprehensive SMP update review included but was not limited to assessment of ecological functions, baseline conditions, and SMP environmental designations. This local adoption was approved by the Washington State Department of Ecology (Ecology); and

WHEREAS, the Washington State Shoreline Management Act (SMA), RCW 90.58.080 (4)(a)(ii), mandates Whatcom County shall periodically review its SMP every 8-years. This periodic update is due June 30, 2021. The purpose of this periodic review is to update the local SMP to reflect changes to state law and associated rules and guidance, ensure internal consistency with the Whatcom County Comprehensive Plan and associated development regulations, as well as provide an opportunity to improve usability and predictability of the SMP; and

WHEREAS, the GMA, RCW 36.70A.130(1), also mandates that Whatcom County's Comprehensive Plan and development regulations are subject to continuing review and evaluation; and

WHEREAS, the review process is intended to bring the SMP into compliance with requirements of the act or state rules that have been added or changed since the last SMP amendment, ensure the SMP remains consistent with amended comprehensive plans and regulations, and incorporate amendments deemed necessary to reflect changed circumstances, new information, or improved data; and

WHEREAS, Whatcom County Planning and Development Services (PDS) submitted an application (PLN2020-00006) to make various amendments to Whatcom County's Shoreline Management Program; and,

WHEREAS, on May 21, 2019, and in accordance with WAC 173-26-090(3)(a), Whatcom County developed a public participation program for this periodic review in to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines, which was submitted to Ecology; and

WHEREAS, Whatcom County has followed its adopted public participation program, including:

- a. A dedicated project webpage;
- b. Legal notices published in the official newspaper of record for Whatcom County;

- c. Electronic announcements and notifications to:
 - Subscribers of relevant lists in the Kitsap County Electronic Notification System;
 - Relevant County advisory groups; and
 - Relevant local, state and federal agencies, and community groups;
 - Federally recognized tribes with usual and accustomed areas in Whatcom County and relevant tribal organizations;
- d. Three public open houses;
- e. Meetings with citizen advisory groups and various interested parties;
- f. Two 30-day public review periods of the amendments, one prior to the Planning Commission review workshops (August – September 2020) and a joint public comment period with the Department of Ecology prior to their joint public hearing (March – April 2021).
- g. Eleven public workshops and a joint public hearing with the Planning Commission and Department of Ecology; and
- h. Ten public workshops and a public hearing with the County Council.

WHEREAS, Whatcom County used Ecology’s checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments are needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i); and

WHEREAS, with the assistance of a consultant and development of a consistency analysis, Whatcom County PDS proposed amendments to the Whatcom County Comprehensive Plan (Chapters 8 (Resource Lands), 10 (Environment), and 11 (Shorelines)) and WCC Titles 22 (Land Use & Development) and 23 (Shoreline Management Regulations), and WCC Chapter 16.16 (Critical Areas).

WHEREAS, following review and approval by the Whatcom County Council, a public participation plan, consistency analysis, and scoping document was developed to aid in developing the draft amendments.

WHEREAS, Whatcom County reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii); and

WHEREAS, Whatcom County considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii); and

WHEREAS, the Whatcom County Planning Commission and County Council held public hearings on July 25 and August 7, 2019 (respectively) to receive testimony on topics the public believed should be addressed during the periodic review; and

WHEREAS, the Whatcom County Planning Commission completed a review of staff recommendations and prepared initial amendments; and

WHEREAS, Whatcom County consulted with the Department of Ecology early and often during the drafting of the amendments. Whatcom County worked collaboratively with the Department of Ecology to address local interests while ensuring proposed amendments are consistent with the policy of RCW 90.58.020 and applicable guidelines in accordance with WAC 173-26-104; and

WHEREAS, a State Environmental Policy Act (SEPA) environmental checklist was prepared and the Whatcom County SEPA responsible official issued and circulated a copy of the checklist and a Determination of Non-Significance (DNS) on February 18, 2021; and

WHEREAS, Whatcom County conducted a formal joint public comment period with the Department of Ecology in compliance with requirements of WAC 173-26-104; and

WHEREAS, Whatcom County published a legal notice in the Bellingham Herald on April 17, 2021, for a public hearing on the proposed staff recommendations, including a statement that the hearings were intended to address the periodic review in accordance with WAC 173-26-090(3)(c)(ii); and

WHEREAS, the Planning Commission took public testimony on the proposed staff recommendations at a public hearing on April 22, 2021; and

WHEREAS, the Planning Commission reviewed the public testimony and written comments on the proposed SMP revisions, and suggested revisions to the proposed amendments; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments and forwarded it to the County Council for review and adoption on May 13, 2021; and

WHEREAS, Notice of the subject amendments was submitted to the Washington State Department of Commerce on March 12, 2021, for their 60-day review in accordance with WAC 173-26-100(5); and

WHEREAS, the Council held six public workshops to review the Planning Commission's recommendations; and,

WHEREAS, a Council Public Hearing Notice was posted in the Bellingham Herald on November 14, 2021; and

WHEREAS, the Council received public testimony at the public hearing of November 23, 2021, and reviewed said public testimony and written comments at a study session on December 7, 2021; and

WHEREAS, after considering all public comments and evidence, the Council determined that the proposed amendments comply with all applicable laws and rules; and

WHEREAS, as evidenced by the recommendation of the Surface Mining Advisory Committee, Title 23 already meets Council's intent to allow sand and gravel extraction within shoreline jurisdiction under certain circumstances as described in PLN2019-00011 and thus no amendments are proposed to achieve this; and,

WHEREAS, RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law; and

WHEREAS, the amendments are consistent with the Shoreline Management Act, Growth Management Act, Whatcom County Comprehensive Plan, and other applicable requirements.

WHEREAS, the proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.

WHEREAS, this completes the County's required process for periodic review in accordance with RCW 90.58.080(4) and applicable state guidelines (WAC 173-26).

NOW, THEREFORE, BE IT RESOLVED BY THE WHATCOM COUNTY COUNCIL:

Section 1. Review and Evaluation. The Council hereby finds that the review and evaluation required by RCW 90.58.080(4) has occurred, as described in the recitals above.

Section 2. Revisions. That the Whatcom County Comprehensive Plan, Chapters 8 (Exhibit C), 10 (Exhibit A), and 11 (Exhibit B); Whatcom County Code Titles 22 (Exhibit E) and 23 (Exhibit D) and Chapter 16.16 (Exhibit F); the Official Shoreline Map (Exhibit G); Whatcom County's No Net Loss Analysis (Exhibit I); and Whatcom County's Shoreline Restoration Plan (Exhibit J) are hereby amended to read as set forth in the noted exhibits, which are attached to this resolution and incorporated herein by this reference. The remaining portions of the County's SMP shall remain unchanged.

Section 3. Approval. The Council hereby approves the October 29, 2011, versions of the above referenced SMP revisions and finds the amended SMP consistent with the requirements of RCW 90.58 and WAC 173-26, as they apply to these amendments, with the understanding that in accordance with RCW 90.58.190(3), and if Ecology adopts the amendments, the Whatcom County Council intends to adopt (and codify), by ordinance, the subject shoreline master program amendments.

Section 4. Submission to Department of Ecology. The Director of Planning and Development Services is directed to submit the SMP and associated documents to the Department of Ecology for their review and approval prior to formal adoption. If/Once approved by the Department of Ecology no further action is necessary for compliance with RCW 90.58.080(4) for the periodic review update due on June 30, 2021.

APPROVED this _____ day of _____, 2021

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchannan, Council Chair

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham (approved via e-mail) / JL

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Chapter Ten Environment

Introduction

Each person in Whatcom County has a fundamental right to a healthful and safe environment in which to live and grow. With this right comes a responsibility to contribute to the protection and enhancement of our natural environment. Consequently, an important goal of the Whatcom County Comprehensive Plan is to protect or enhance the county's environmental quality. This means that, individually and collectively, we have the obligation to protect these resources for our children and their children. Essential to this is the establishment of safe development practices and patterns that do not significantly disrupt ecosystems and that ensure the continuation of ample amounts of clean water, natural areas, farmlands, forest lands, and fish and wildlife habitat.

Chapter Organization

This chapter is composed of an introduction and four sections organized by topic heading. The first section, entitled "General Environmental Management," addresses general environmental goals and policies. The remaining three sections deal with Natural Hazards, Water Resources, and Ecosystems. Together, the sections of this chapter provide the direction necessary to ensure and promote long-term sustainability of the environment in Whatcom County.

Purpose

Whatcom County's natural environment, with its seasonally abundant supply of water, its beauty, and its other natural resources, has attracted people to our community for generations. This setting is important to our sense of well-being, to our health, to our economic well-being, and to our future. Sustaining these assets in the face of increasingly intense human activity becomes more difficult each year. The challenge of protecting this environment while accommodating growth requires maintaining guidelines for development so that growth does not ultimately overrun the very assets that brought most of us here. The purpose of this chapter is to create such guidelines.

GMA Goals and Countywide Planning Policies

GMA Planning Goal 10, "Environment" (RCW 36.70A.020(10)), provides the directive for much of this chapter. It requires Whatcom County to "protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water." In addition, some of the goals and policies of this chapter support Planning Goal 9, "Open Space and Recreation" (RCW 36.70A.020(9)), which directs the county to "conserve fish and wildlife habitat."

Relative to environmental protection, Whatcom County's Countywide Planning Policies (CWPP) give the most attention to water issues. They state, "The quality of life and economic health of Whatcom County communities depend on the maintenance of a safe and reliable water supply. All jurisdictions and water

1 purveyors should cooperate to ensure the protection and quality of the area's water
2 resources." Specific policies address water, promoting inter-jurisdictional
3 cooperation in conserving, protecting, and managing the water resource, and in
4 reducing water pollution (CWPP Policies N.1 – 6). The CWPPs also support
5 protecting wildlife habitat and corridors, natural drainage features, and "other
6 environmental, cultural and scenic resources."

7 **GMA Requirements**

8 The GMA requires Whatcom County to identify and manage critical areas in such a
9 manner as to prevent destruction of the resource base and reduce potential losses
10 to property and human life. The GMA has identified Critical Areas to include the
11 following areas and ecosystems:

- 12 • Wetlands
- 13 • Critical Aquifer Recharge Areas
- 14 • Fish and wildlife habitat conservation areas
- 15 • Frequently flooded areas
- 16 • Geologically hazardous areas

17 **Environmental Setting**

18 Whatcom County bedrock geology can be divided into five bedrock geologic
19 provinces. From east to west these provinces are the Methow terrain, the Cascade
20 Crystalline Core, the Northwest Cascades System, the Fraser Lowland, and the San
21 Juan Island system. Tectonic activity over the past 15 million years has created the
22 present North Cascades and the formation of Mount Baker, a 10,000-foot high
23 composite volcano.

24 The mountains of Whatcom County, as well as the streams, lakes, valleys, hills, and
25 shoreline features are the result of millions of years of geologic events. Over 2.5
26 million years ago, during the Ice Ages, glacial ice invaded the Puget Sound lowlands
27 from the north at least four times, with the last major glacial event, the Fraser
28 Glaciation, ending approximately 12,000 years ago. A minor advance of glacial ice,
29 the Sumas Advance, ended approximately 10,000 years ago. The ice formed from
30 the accumulation of snow in the British Columbia Coast Range and interior of British
31 Columbia. Numerous glaciers are still present within the mountains of Whatcom
32 County, and some of these mountain glaciers formerly extended far down the
33 mountain valleys of the County. The underlying bedrock was deeply eroded during
34 these glacial events creating very steep mountainsides, and in some areas,
35 particularly in northwestern Whatcom County, a thick sequence of glacial related
36 sediments was deposited. The glacial ice was approximately 6,000 feet thick in the
37 vicinity of Bellingham.

38 Two main glacial advances are the most important to our area, the Salmon Springs
39 glaciation and the later Vashon glaciation. Each time the massive glacier advanced,
40 it dammed up the Puget lowlands to form a huge lake. As the floating ice melted,
41 sand, gravel, clay and occasional boulders would melt out of the ice and fall to the
42 sea floor. This deposit, the Bellingham Drift, covers the ground surface over a large
43 area of western Whatcom County. Each time the Ice Age glacier advanced, it also
44 compacted underlying sediments with its great weight. It created a concrete-like

1 material called "till" (also known as "hardpan") beneath it. Because the Bellingham
2 Drift consists primarily of clay and silt, it is relatively impermeable; water tends to
3 accumulate on the ground surface. Wetlands are common on the Bellingham Drift.

4 On the bottom of the lake, "rock flour", the finely ground remains of rocks
5 pulverized by glacial action, settled out. These deposits became the familiar "blue
6 clays" of the Puget lowland. The milky color of the Nooksack River is due to the
7 same kind of rock flour, created by glacial activity on the slopes of Mount Baker.

8 Additionally, each time the glacier retreated, water from the melting ice deposited
9 thick layers of sand and gravel known as "outwash." The outwash areas are
10 typically where we find our most productive aquifers, since these loose sands and
11 gravel are porous and drain rapidly. While these areas absorb rainwater for our
12 later use from wells, they are also vulnerable to contamination. An example of this
13 phenomenon is found in the outwash sands and gravels resulting from the Sumas
14 Advance. Large meltwater streams and rivers flowed from this glacier depositing
15 the Sumas Outwash sands and gravels. The Sumas Outwash sands and gravels
16 make up the best non-floodplain farmland in the County and some of the highest
17 quality construction gravel deposits. Abandoned outwash channels were formerly
18 used as sources of peat.

19 Each of these glacial sediments, lake bed deposits, till and outwash is present in
20 various places and in varied combinations in Whatcom County. These sediments
21 provide both the formations that hold the groundwater for many of the area's wells,
22 and the parent material for most of the different soils.

23 Out of these long physical processes a complex natural ecology has emerged that
24 supports a diversity of wildlife. Many of our lakes, rivers, and streams support fish
25 including, but not limited to, native species such as the five pacific salmon
26 (Chinook, Coho, Sockeye, Chum, Pink) as well as Steelhead, Rainbow Trout,
27 Cutthroat (coastal and resident), Bull Trout, and Dolly Varden. Every year salmon
28 return to spawn in the streams and rivers of Whatcom County. Whatcom County is
29 located within the Pacific Migratory Flyway and serves as a stopover and critical
30 habitat area for many migratory birds. Bufflehead and goldeneye ducks winter here.
31 Additionally, numerous bird species including scoters, snow geese, trumpeter
32 swans, canvasbacks, cormorants, grebes, loons, and other migrating waterfowl
33 pass through every spring and fall as they travel between their breeding grounds in
34 Alaska and Canada and their wintering grounds in California and Mexico. Mallards,
35 Canada geese, great blue herons, and numerous songbirds live in the county
36 year-round. Maintaining these unique resources is a high priority for both present
37 and future county residents. Whatcom County is home to a distinct subspecies of
38 the Great Blue Heron, which has the third largest colony in the Puget Sound area.
39 The wetlands, fields, streams, and nearshore habitat in the county support many
40 birds of special concern, such as the bald eagle (protected under the Bald and
41 Golden Eagle Protection Act), the pileated woodpecker (candidate for State
42 threatened list), and the peregrine falcon (ESA candidate species). The National
43 Audubon Society has designated Semiahmoo, Drayton Harbor, and Birch Bay as
44 "Important Bird Areas."

1 Environmental Management

2 Introduction

3 General environmental goals and policies are intended to provide guidance for
4 environmental management that will promote environmental protection and good
5 stewardship practices through a balance of public education and involvement;
6 incentives, acquisition, and voluntary programs; land use planning and regulations;
7 environmental monitoring; and intergovernmental cooperation. These goals and
8 policies are also intended to provide guidance to County government as it assists its
9 citizens in maintaining a balance between individual property rights, economic
10 development, and environmental protection.

11 Background Summary

12 Development in the last 100 years has had a significant impact on the natural
13 environment in Whatcom County. At the turn of the 20th century, some areas
14 surrounding Lynden, Sumas, and Ferndale were logged, drained, and converted to
15 agricultural land and other types of development. In the intervening years, many of
16 the remaining forests were logged, many streams re-routed and channelized, and
17 much of the native vegetation removed and replaced with a wide variety of
18 introduced vegetative types. Roads now crisscross most areas, with homes, farms,
19 businesses, and industries scattered throughout the county.

20 Issue, Goals, and Policies

21 There are designated lands in Whatcom County that can still accommodate
22 development. Whatcom County also has areas that are sensitive to human activity,
23 including wetlands, streams, lakes, and marine shorelines, and lands that can pose
24 a hazard to the community, including floodplains and unstable slopes. In these
25 areas development must be carefully planned or limited to maintain environmental
26 quality and public safety. This can be done through the creation and
27 implementation of goals and policies that seek to reduce hazards and prevent
28 adverse environmental impacts.

29 Community and Environmental Protection

30 The elements of the natural environment: water, air, soil, plants, and animals; are
31 interconnected and interdependent, functioning as one dynamic ecosystem.
32 Environmental resources within this ecosystem are extensive and, in some cases,
33 irreplaceable. They provide important beneficial uses to the community such as: the
34 supply of clean drinking water; management of stormwater run-off and flood
35 hazard management; support for a wide variety of fish and wildlife; fresh air; and a
36 sense of place in which residents invest, enjoy, and expect.

37 Some of these same resources result in serious environmental constraints or pose a
38 hazard to development and a danger to the community. Flooding in the Nooksack
39 River is frequent and impacts much of the valley floor. There are numerous
40 wetlands and hydric soils throughout the lowlands that provide critical wetland
41 functions and are generally unsuitable for development. The steep gradient and

- 1 geologic structure of the mountain ranges in conjunction with heavy annual
2 precipitation can contribute to slope instability and flood-prone drainage basins.
- 3 Much of the environmental degradation and destruction to property occurs as a
4 result of a lack of information or understanding rather than willful action.
5 Ecosystems are subtle and complex. Too often both their benefits and hazards are
6 not readily apparent to the community. Additionally, baseline information is not
7 always available to help identify the real costs or hazards of building in Whatcom
8 County. There is a need for further research and education.
- 9 **Goal 10A: Protect natural resources and systems, life, and property**
10 **from potential hazards.**
- 11 Policy 10A-1: Support good stewardship of Whatcom County lands, and apply
12 this principle to the management of public lands.
- 13 Policy 10A-2: Protect the environment through a comprehensive program that
14 includes voluntary activity, education, incentives, regulation,
15 enforcement, restoration, monitoring, acquisition, mitigation,
16 and intergovernmental coordination.
- 17 Policy 10A-3: Continue to identify, designate, and protect Critical Areas and
18 other important environmental features.
- 19 Policy 10A-4: Manage designated Critical Areas as needed, to minimize or
20 protect against environmental degradation and reduce the
21 potential for losses to property and human life.
- 22 Policy 10A-5: Actively pursue voluntary, cooperative, and mutually beneficial
23 efforts aimed at advancing county environmental goals.
- 24 Policy 10A-6: Aim to meet or exceed national, state, and regional air quality
25 standards. Work with the Northwest Clean Air Agency to ensure
26 compliance with applicable air quality standards.
- 27 Policy 10A-7: Using Best Available Science, support efforts to educate and
28 inform the public as to the benefits of a healthy and viable
29 environment, ecologically fragile areas, and their economic and
30 social value.
- 31 Policy 10A-8: Lead and/or coordinate efforts with property owners, citizen
32 groups, and governmental and non-governmental agencies in
33 furthering Whatcom County's environmental goals and policies.
- 34 Policy 10A-9: Cooperate with state and federal agencies and neighboring
35 jurisdictions to identify and protect threatened and endangered
36 fish and wildlife species and their habitats.
- 37 Policy 10A-10: Support acquisition, conservation easements, open space, and
38 other such programs to protect high-value natural areas as
39 identified through the GMA planning process, the Natural
40 Heritage Plan, the state Priority Habitats and Species (PHS)
41 program, the Lake Whatcom Management Program, and other
42 sources.

1 Policy 10A-11: Designate high-value open space and natural areas for
2 acquisition, conservation easements, open space, and other
3 such programs to protect these natural areas upon request or
4 consent of the property owner.

5 Policy 10A-12: Broadly inform the people of Whatcom County of the locations
6 of potential development constraints associated with natural
7 conditions. Information should include known natural hazards
8 and an assessment of the potential danger to both the property
9 owner and the public.

10 Administration and Regulation

11 There are currently a multitude of regulations and administrative processes at the
12 federal, state and local level that, together, have become excessive and difficult to
13 understand. Conflicting regulations and complicated administrative processes can
14 create undue hardship on community members and result in reduced levels of
15 environmental protection.

16 **Goal 10B: Simplify and harmonize regulations relating to the**
17 **identification, delineation, and protection of**
18 **environmental features.**

19 Policy: 10B-1: Develop, as a significant component of a comprehensive
20 environmental management program, non-regulatory measures
21 that include voluntary activity, education, incentives,
22 restoration, acquisition, advanced mitigation (i.e., mitigation
23 done in advance of impacts), and intergovernmental
24 coordination.

25 Policy 10B-2: Provide incentives for good stewardship of the land through the
26 use of non-regulatory and innovative land use management
27 techniques.

28 Policy 10B-3: Support education as an important tool in developing public
29 appreciation for the value of ecosystems and provide the public
30 with informational materials and presentations relating to
31 natural system functions, regulations, and issues.

32 Policy 10B-4: Promote cooperation and coordination among involved
33 government agencies when multiple agencies have jurisdiction
34 over aspects of a single project.

35 Policy 10B-5: Process the environmental review of building and development
36 permit applications within an established timeframe that is
37 predictable and expeditious.

38 Policy 10B-6: Provide clear, timely, appropriate, and understandable direction
39 to citizens, developers, and property owners.

40 Policy 10B-7: Ensure regulations are as simple and easy to understand as
41 possible and maintain effective inspection, compliance, and
42 enforcement measures as necessary.

1 ~~Policy 10B-8: Recognize the policies of the Whatcom County Shoreline~~
2 ~~Management Program as constituting a "Shoreline Element" of~~
3 ~~this plan. The shoreline program regulations and policies shall~~
4 ~~be considered to be consistent with this plan.~~

Comment [CES1]: No longer needed, as a new Chapter 11, Shorelines, has been created.

5 **The Environment and Property Rights**

6 Prior to the 1970s, growth in Whatcom County was relatively slow and received
7 little management. As a result, private property owners were left to their own
8 resources as they determined how best to use their land. However, as increasing
9 numbers of people moved to this area and settled, a greater demand was placed on
10 Whatcom County's natural resources.

11 The problems that arise from this situation have caused many to realize what one
12 person does with his/her property may have an impact on the larger environmental
13 system that sustains us as a community and on the rights of other property
14 owners.

15 Land use decisions can no longer be considered exclusively private matters. We are
16 aware public actions impact every private citizen in Whatcom County and private
17 actions may have public consequences as well. To that end, the law must protect
18 the public good from detrimental private actions. Nevertheless, the right of the
19 individual to use his or her property, within the bounds permitted by law, is a value
20 supported by law and the community and must be recognized when making land
21 use decisions in Whatcom County.

22 **Goal 10C:** **In implementing environmental policies, provide for**
23 **protection of private property rights, economic**
24 **opportunities, and plan appropriately for growth.**

25 Policy 10C-1: Actively pursue voluntary and cooperative efforts that advance
26 Whatcom County's goals in a mutually beneficial manner.

27 Policy 10C-2: When adopting new environmental protection programs,
28 consider multiple economic parameters including development
29 objectives, impacts, and the economic benefits of the natural
30 environment as both a resource and an amenity.

31 Policy 10C-3: Emphasize an approach to environmental protection by
32 encouraging the use of conservation easements, open space
33 taxation, land acquisition, purchase/voluntary, workable transfer
34 of development rights, and other mechanisms that assist
35 affected property owners.

36 Policy 10C-4: Avoid standards and procedures likely to require compensation
37 to property owners or invalidation of such rules.

38 **Climate Change**

39 Climate change is a global phenomenon that has the potential for significant local
40 impacts to natural resources, ecosystem functions, as well as human health,
41 infrastructure, and the economy. In Washington State, the Climate Impacts Group
42 (CIG), a consortium of scientists at the University of Washington, has done the

1 most extensive analysis of potential local climate change impacts in the Pacific
2 Northwest. Based on a range of climate change model projections, as well as peer-
3 reviewed scientific publications, the CIG concludes that during the next 20-40 years
4 the Pacific Northwest climate may change significantly. See *Climate Change*
5 *Impacts and Adaptation in Washington State: Technical Summaries for Decision*
6 *Makers, Climate Impacts Group, University of Washington, December 2013.* The
7 CIG confirms that global climate models project mid-21st century temperatures in
8 the Pacific Northwest higher than the natural range of temperature observed in the
9 20th century. The CIG reports that as a result of likely climate change, causing
10 slightly higher average annual temperature, impacts to the Pacific Northwest will
11 likely affect a broad spectrum of the natural environment, but most notably
12 changes to water resources, including:

- 13 • More precipitation falls as rain rather than snowfall in the Cascades due to an
14 increased snow-line elevation;
- 15 • Decreased (winter) mountain snowpack and earlier (spring) snowmelt;
- 16 • Higher winter streamflow in rivers that depend on snowmelt;
- 17 • Higher winter streamflow in rain-fed river basins resulting in scouring floods
18 that negatively affect salmon populations if winter precipitation and rain-on-
19 snow events increases in the future as projected;
- 20 • Earlier peak (spring) streamflow in rivers that depend on snowmelt;
- 21 • Lower summer streamflow in rivers and streams; and,
- 22 • Decreased water in summer for irrigation, fish, human consumption and
23 recreational use (more drought-like conditions).

24 Climate change impacts are likely to include longer-term shifts in forest types and
25 species, potentially increasing wildfire risk and greater exposure to insects and
26 disease. Nearshore and riverine fisheries may be subjected to increased stress due
27 to even lower average summer stream flows (and higher summer stream
28 temperatures) and increased acidity in Puget Sound. Agricultural sector concerns
29 include the cost of climate adaptation, development of more climate-resilient
30 technologies, and management and availability of adequate water supplies.
31 Susceptibility to natural hazards is also expected to intensify due to climate change,
32 including increased landslides, erosion, and coastal and riverine flooding due to
33 more winter rainfall, and potential rising sea levels.

34 In 2007, Whatcom County completed a Climate Protection and Energy Conservation
35 Action Plan that laid out specific actions and targets for reducing greenhouse gas
36 emissions and increasing energy conservation efforts in response to potential
37 climate change.

38 In addition many insurance industry experts are now factoring in the costs of
39 climate change into insurance premiums as the increase in the frequency and
40 severity of extreme weather events around the world results in a corresponding
41 increase in claims costs.

42 Local government, residents and businesses must anticipate that as the climate
43 changes, more frequent and severe damage to private and public infrastructure will

1 occur. Maintenance costs and insurance premiums can be expected to increase
2 accordingly.

3 **Goal 10D:** **Strengthen the sustainability of Whatcom County's**
4 **economy, natural environment, and built communities by**
5 **responding and adapting to the impacts of climate**
6 **change.**

7 Policy 10D-1: Whatcom County's natural resource-based economic sectors,
8 ecosystems, water resources, infrastructure, emergency
9 management, and public health all face climate change related
10 risks in the future. The County should consider potential long-
11 range climate change implications into its on-going functional
12 planning and implementation actions. The County should:

- 13 1. Study the resilience of its natural and built environments to
14 the potential impacts of climate change;
- 15 2. Identify the relative vulnerability of these sectors to climate
16 change; and,
- 17 3. Examine the adaptive capacity of these sectors to cope with
18 or mitigate climate change and take advantage of any
19 beneficial opportunities.

20 Policy 10D-2: Develop strategies that encourage a diversified and sustainable
21 economy that is resilient to the impacts of climate change.

22 Policy 10D-3: Promote the efficient use, conservation, and protection of water
23 resources.

24 Policy 10D-4: Pursue strategies to reduce the vehicle miles traveled (VMT) in
25 the county by encouraging expanded availability and use of
26 public transportation, carpooling, and non-vehicular modes of
27 transportation.

28 Policy 10D-5: Establish land use patterns that minimize transportation-related
29 greenhouse gas emissions and encourage preservation of
30 natural resource lands and the protection of water resources.

31 Policy 10D-6: Convene a climate impact advisory committee by 2017. The
32 advisory committee should consist of (but not be limited to)
33 experts in energy efficiency and carbon emission reduction,
34 representatives from Whatcom County, and interested
35 community members. The committee will be tasked with:

- 36 • Evaluating Whatcom County's compliance with meeting
37 targets set forth in the 2007 Climate Plan;
- 38 • Establishing new targets that meet or exceed state and
39 federal climate impact goals;
- 40 • Updating the Climate Plan, at minimum every five years, or
41 as needed to meet targets;
- 42 • Recommending updates to the Whatcom County

- 1 Comprehensive Plan in accordance with meeting Whatcom
2 County's emission reduction goals;
- 3 • Ensuring that Whatcom County government facilities and
4 operations are designed to meet or exceed goals and
5 standards resolved in the current Climate Protection and
6 Energy Conservation Action Plan; and
 - 7 • Recommend updates to Whatcom County land use policies
8 and development regulations to support renewable energy
9 development goals.
- 10 Policy 10D-7: Encourage sustainability by developing strategies and practices
11 to increase the use of renewable, net-neutral carbon energy in
12 Whatcom County facilities and County vehicles, with a goal of
13 net zero man-made carbon emission by 2050.
- 14 Policy 10D-8: Encourage sustainability by developing strategies and practices
15 to reduce landfill waste from Whatcom County government
16 facilities to near zero.
- 17 Policy 10D-9: Identify responsible parties and agencies and encourage them
18 to identify and properly seal and/or burn methane that is
19 escaping into the atmosphere from wells.
- 20 Policy 10D-10: Create updates to Whatcom County land use policies and
21 development regulations to support renewable energy
22 development goals.
- 23 Policy 10D-11: Protect ecological functions and ecosystem-wide processes of
24 Marine Resource Lands and critical areas in anticipation of
25 climate change impacts, including sea level rise.

Comment [P/C2]: Suggested by Re-
Sources, Futurewise, & WEC.
P/C approved 8-0-0 (1 absence).

26 **Natural Hazards**

27 **Introduction**

28 The location, climate, and geology of Whatcom County combine to create many
29 natural hazards to people and their developments. Earthquakes, volcanoes,
30 landslides, and flooding are some of the major natural hazards found in our region.
31 Additionally, old mines are scattered around the county that could be dangerous to
32 the community. Natural Hazards goals and policies are intended to provide
33 guidance to county government as it assists its citizens in effectively managing
34 natural hazards in a manner that minimizes the danger to each member of this
35 community, while continuing to provide for economic opportunities.

36 **Background Summary**

37 Natural Hazards include the following (**Map 10-4**):

38 **Landslide Hazards** – The geologically recent retreat of glaciers from the Whatcom
39 County landscape, succeed by contemporaneous geomorphic processes of erosion,
40 sediment transport, deposition, isostatic rebound and tectonic uplift, has left many

1 hillsides over-steepened and susceptible to naturally occurring and human-
2 triggered slope failure and erosion. Several large, well-known landslides are
3 presently active in Whatcom County, such as the Swift Creek Slide on Sumas
4 Mountain. In addition, numerous large-scale, pre-historic slope failure deposits
5 have been mapped by past workers and are readily identified in more recently
6 available LiDar imagery. Various slope failure processes contribute to the mosaic of
7 landslide hazards present in the county and the potential exists for a multitude of
8 impacts ranging from periodic small- to large-scale rockfall and slides, massive
9 debris slides and avalanches, destructive debris flows, and deep-seated earthflows,
10 slumps and slides. These landslide processes act on large- and small-scale, and
11 though much less catastrophic in nature, smaller landslides occur more frequently
12 and pose a continual hazard to County residents and infrastructure. Certain types of
13 geologic conditions and formations commonly cause landslides, namely the
14 Chuckanut Formation and the Darrington Phyllite, but are also frequently observed
15 in unconsolidated glacial sediments, in the presence of day-lighting groundwater
16 seams and springs, on slopes in excess of 35 percent, along coastal bluffs, and in
17 areas of fluvial erosion.

18 **Alluvial Fan Hazards** – Alluvial fan hazards areas exist where steep mountain
19 streams flow onto floodplains or into lakes and deposit debris and sediment.
20 Because these streams are steep and flow in confined canyons, they can carry more
21 sediment and debris than a similar-sized stream flowing over flat land. During a
22 large storm, streams on alluvial fans can create catastrophic flooding and debris
23 floods, such as were experienced in 1983 in the Lake Whatcom area. During this
24 storm event, the Sudden Valley development on Lake Whatcom incurred significant
25 damage to property from flooding and debris flows on the Austin Creek alluvial fan.

26 **Flood Hazards** – Heavy winter rains and a transient snowpack combined with the
27 steep and sometimes unstable slopes of Whatcom County's foothills create
28 conditions ideal for flooding and debris flows along many of our rivers and streams.
29 The Nooksack River floodplain alone covers 38,000 acres in Whatcom County. In
30 1989 and 1990, the Nooksack River overflowed and flooded lowland Whatcom
31 County causing millions of dollars of damage. During some extreme floods, the
32 Nooksack River overflows near Everson and adversely impacts residents along
33 Johnson Creek in Sumas, and in the Abbotsford area of British Columbia. It is
34 projected that climate change will increase flood risk, due to increased sea level
35 and changes in rainfall patterns. Significant damage may result from such floods. In
36 1991, Whatcom County formed a countywide Flood Control Zone District to address
37 the major flooding issues in the county.

38 **Volcanic Hazards** – The presence of Mt. Baker is an asset to our region. Its
39 10,778-foot peak is one of the dominant features of Whatcom County's landscape.
40 However, Mt. Baker is also considered one of the most active volcanoes in the
41 Cascade Range, and of the six major volcanoes in the range, Mt. Baker is
42 considered by geologists to be very hazardous during and after an eruption.
43 Pyroclastic flows, ash flows, and especially volcanic mudflows, also known as
44 lahars, are believed to be the greatest dangers to human life and development in
45 Whatcom County. Geologic evidence indicates that an eruption on Mt. Baker caused

1 a major lahar about 6,600 years ago that inundated the Middle Fork Nooksack
2 Valley from its headwaters downstream past the confluence with the North Fork at
3 Welcome. The same lahar is now known to have been over 300 feet deep in the
4 upper reaches of the Middle Fork and extended as far west as Nugent's Corner. A
5 major lahar along the Nooksack would divert the river from its channel and cause
6 mass flooding. Fortunately, volcanic eruptions are infrequent with periods of
7 hundreds and thousands of years between events, but this infrequency also makes
8 forecasting a volcanic eruption extremely difficult. However, a major eruption of Mt.
9 Baker would pose a serious threat to human life and property. The deeply
10 weathered nature of the rocks forming Mt. Baker may also fail, triggering a
11 mudflow that would travel rapidly down the stream channels ringing the volcano
12 and result in damage similar to that from a volcanic eruption trigger. Mapping over
13 the past decade of other Cascade volcanoes has demonstrated massive mudflows
14 extending from the volcanoes to Puget Sound, and from Mount Rainier and Glacier
15 Peak.

16 **Earthquake Hazards** – Whatcom County lies within the influence of the
17 convergent plate margin between the Pacific and North American Plate termed the
18 Cascadia Subduction Zone. Regionally-extensive and damaging earthquakes,
19 termed mega-thrusts, are possible when stress generated between the subducting
20 Pacific Plate and over-riding North American Plate is released. A mega-thrust
21 earthquake is capable of generating an earthquake of magnitude 9, or greater, and
22 research has indicated an approximate recurrence interval of 500-600 years.
23 Associated with the stresses generated at the convergent plate margin are shallow,
24 crustal faults that are mapped throughout Whatcom County. Earthquake activity on
25 these fault systems is much more frequent than that observed at the Cascadia
26 Subduction Zone, and the Deming area is considered one of the most seismically
27 active areas in Washington. Recent research has shown these crustal faults are
28 capable of generating a magnitude 7 earthquake with an average recurrence
29 interval of 30 to 50 years. While all buildings are susceptible to damage from
30 seismic-shaking, structures built on peat soils, large areas of non-structural fill, or
31 liquefiable soils are prone to more severe shaking during an earthquake. If the
32 shaking is strong enough, or of sufficient duration, structures may collapse or
33 become damaged due to building fatigue, ground settlement/liquefaction, and/or
34 lateral spreading. In addition to seismic hazards posed by the Cascadia Subduction
35 Zone, a significant mega-thrust earthquake has the potential to generate a large
36 and destructive tsunami that has the potential to affect most low-bank areas of the
37 County.

38 **Mine Hazards** – Mine hazard areas are sites of abandoned underground mine
39 shafts, adits, and mine tailings. Coal mining was a major industry in Whatcom
40 County in the early part of the 20th century, and several major mines were
41 developed in various parts of the county. All of the formerly active mines are now
42 no longer worked and are abandoned. For the most part these mine locations are
43 known and mapped, such as the extensive coal mines under the northern part of
44 the City of Bellingham and in the Blue Canyon area of South Lake Whatcom.

1 **Issues, Goals, and Policies**

2 **Landslides** – Siting human development on or adjacent to known landslide hazard
3 areas can create health and safety risks. The risks can be elevated due to extreme
4 weather events and earthquakes, but may also occur with little or no warning. In
5 the case of the Swift Creek Landslide, the release of asbestos-laden sediment poses
6 an additional risk to public health. Development activity can de-stabilize naturally
7 unstable slopes and impact ecosystems. However, predicting the exact timing,
8 location, or extent of a damaging landslide is difficult, and in particular areas of the
9 county landslide hazards are not possible to completely mitigate or avoid. In some
10 circumstances, the development of upland properties may place downslope
11 neighbors and ecosystems at risk from rockfall or landslides. A similar relationship
12 holds true for development at the toe of a potentially unstable slope. In either
13 event, development in proximity to landslide hazards must proceed in consideration
14 of potential impacts in order to ensure life safety and preserve and protect public
15 and private infrastructure.

16 **Alluvial Fans** – Because alluvial fan areas are associated with streams, are
17 generally gently sloping and elevated above the adjacent floodplain, and are
18 located at the base of mountains, they have historically been popular places to
19 develop. However, once every 10-25 years, a large storm event occurs in our area
20 and streams flood homes and developments, causing damage to property,
21 ecosystems, and sometimes loss of lives.

22 **Flooding** – Floodwaters from the Nooksack River can damage homes, agricultural
23 areas, businesses, and industries in the small cities situated along the river; fish
24 and wildlife habitat and other ecosystems; and disrupt transportation and utility
25 corridors. Storm tides can flood homes and roads along low, exposed marine
26 shorelines in the Birch Bay, Sandy Point, Point Roberts, and Gooseberry Point
27 areas. Homes along Lake Whatcom, Lake Samish, and Cain/Reed Lakes have also
28 been impacted by flooding during extreme storm events. Property and public safety
29 are also impacted by rapid channel morphology events.

30 **Volcanos** – A volcanic eruption or mudflow at Mount Baker could potentially
31 severely affect river flow on the Nooksack River or Baker River and cause severe
32 property damage near the volcanoes or along lahar routes. A lahar is an extremely
33 rare and unpredictable occurrence. Evacuation routes should be planned and made
34 public. Development should be regulated according to the Critical Areas Ordinance.

35 **Earthquakes** – A major earthquake may likely and significantly affect Whatcom
36 County. If the shaking is strong enough, buildings may collapse, roads could be
37 damaged, and/or communications, power, and utilities could be severely disrupted,
38 mud and rock slides could occur on unstable slopes, and local sea levels may
39 change as shorelines assume altered post-quake elevations.

40 **Mines** – Some abandoned mine areas may pose a risk of ground subsidence from
41 the collapse of abandoned mine shafts. Air and water pollution may also be hazards
42 associated with abandoned mine tailings and trapped toxic gases. Development on
43 or near mine hazards could be adversely impacted.

1 **Gas wells** – Several exploratory oil & gas wells have been drilled around the
2 county over the last 70+years. Some of these present potential environmental
3 hazards due to ongoing leakage of gas.

4 **Old Landfills** – There are known abandoned landfills in the County and possibly
5 some that are unknown. There are also several sites around the County that
6 contain large numbers of abandoned vehicles and other debris. As with most
7 landfills these locations pose some degree of risk of hazardous substances leaking
8 into local aquifers.

9 **Balanced Management** – A central issue common to all development in natural
10 hazard areas is the need for Whatcom County to balance the responsibility of local
11 government to protect the public interest and provide for a safe and healthy
12 environment while safeguarding the rights of private property owners.

13 **Economic Impact** – Damage to private and public property resulting from the
14 siting of human development in areas of natural hazards is significant to the people
15 of Whatcom County. The 1990 Nooksack River floods caused over \$20 million
16 dollars in damage to roads, bridges, buildings, and farmland. Disaster relief efforts
17 are expensive and dangerous to conduct during an emergency. Public efforts to
18 reduce hazards, such as the establishment of the Flood Control Zone District, are
19 also expensive.

20 **Goal 10E:** **Minimize potential loss of life, damage to property, the**
21 **expenditure of public funds, and degradation of**
22 **ecosystems resulting from development in hazardous**
23 **areas such as floodplains, landslide-prone areas, seismic**
24 **hazards areas, volcanic impact areas, abandoned mine**
25 **and exploratory gas well locations, potentially dangerous**
26 **alluvial fans, and other known natural hazards by**
27 **advocating the use of land acquisition, open space**
28 **taxation, conservation easements, growth planning,**
29 **regulations, and other options to discourage or minimize**
30 **development, or prohibit inappropriate development in**
31 **such areas.**

32 Policy 10E-1: Avoid or minimize public investments for future infrastructure
33 development on known natural hazard areas.

34 Policy 10E-2: Use Best Available Science and data to research and investigate
35 the nature and extent of known natural hazards in the county
36 and make this information available to the general public and
37 policy makers in an accessible and understandable form.

38 Policy 10E-3: Broadly inform the people of Whatcom County of the locations
39 of known natural hazards, and the potential for adverse impacts
40 of such natural hazards to the health, safety, and welfare of
41 people and their properties.

42 Policy 10E-4: Establish acceptable levels of public risk for development in
43 known natural hazard areas based upon the nature of the
44 natural hazard and levels of public risk, and maintain regulatory

1		criteria for approving, disapproving, conditioning, or mitigating
2		development activity.
3	Policy 10E-5:	Prohibit the siting of critical public facilities in known natural
4		hazard areas unless the siting of the facility can be shown to
5		have a public benefit that outweighs the risk of siting in the
6		particular hazard area.
7	Policy 10E-6:	Maintain a comprehensive program of regulatory and non-
8		regulatory mechanisms to achieve Natural Hazard goals and
9		policies. This program should include such mechanisms as
10		education, tax incentives, zoning, land use regulations,
11		conservation easements, purchase of development rights,
12		transfer of development rights, and public acquisition.
13	Policy 10E-7:	Be consistent with the Natural Hazard goals and policies and
14		consider the locations of Natural Hazard Areas when establishing
15		or changing zoning patterns and densities.
16	Policy 10E-8:	To address the causes of flooding and avoid expensive and
17		maintenance-intensive bank protection measures, the County
18		should prioritize its floodplain property acquisition program.
19	Policy 10E-9:	Discourage new development in the floodplain.
20	Policy 10E-10:	Require applicants for development permits located in natural
21		hazard areas to provide development plans designed to
22		minimize the potential to exacerbate the natural hazard as well
23		as the risk of damage to property or threats to human health
24		and safety. In natural hazard areas where engineering solutions
25		cannot be designed to withstand the forces expected to occur
26		under the design event of a particular natural hazard, or off-site
27		adverse impacts to adjacent properties or ecosystems cannot be
28		adequately mitigated, Whatcom County may deny development
29		permits intended for permanent or seasonal human habitation
30		as described in the Critical Areas Ordinance.
31	Policy 10E-11:	Consider conducting a public process with affected citizens,
32		technical experts, and decision-makers to establish
33		recommended levels of public risk for each of the identified
34		natural hazards. In developing recommended levels of public
35		risk for natural hazards, consider the appropriate variables
36		affecting developments in hazardous areas. These variables may
37		include:
38		• Specific types of risk associated with the particular hazard
39		area;
40		• The gradation of hazards associated with a particular geo-
41		hazard;
42		• Level of detail necessary to map hazard areas;

- Different levels of risk associated with different ownership classes (e.g. public ownership versus private ownership);
- Different levels of risk associated with different types of land uses; and,
- Mitigation measures related to specific adverse impacts of development in hazard areas.

Once a set of risk levels has been identified, propose these risk levels for adoption of legislation by the County Council as the level to which future development must be designed.

Policy 10E-12: Consider establishing acceptable levels of public risk for use in approving and conditioning development activity in known natural hazard areas. The established level of risk may be expressed as the potential hazard posed as determined by scientific and historical methods applicable to each specific natural hazard.

Policy 10E-13: Review the findings and recommendations of alluvial fan hazard evaluations and make appropriate recommendations for land use and zoning regulations to the County Council to assist in reducing the hazards posed on these fans. Whatcom County has completed or nearly completed alluvial fan evaluations of Canyon Creek, Jones Creek, and Glacier-Gallop Creeks.

Policy 10E-14: Review the findings and recommendations of the Comprehensive Flood Hazard Management Plan (CFHMP) and make appropriate recommendations for land use and zoning regulations to the County Council to assist in the implementation of the CFHMP.

Policy 10-15E: Identify known locations of abandoned wells that could produce methane and/or other hazardous substances and where immediate danger of methane and hazardous substance leaking exists, condition development approvals on affected parcels to mitigate those impacts.

Water Resources

Introduction

Water resources refer to the numerous surface waters such as lakes, streams, wetlands; groundwater; estuaries; and marine waterbodies within Whatcom County (**Map 10-1**). These waterbodies are often integrally linked through the complex network referred to as the water cycle. The water cycle describes the series of transformations that occur in the circulation of water from the atmosphere onto the surface and into the subsurface regions of the earth, and then back from the surface to the atmosphere. Water resources of Whatcom County provide: natural beauty; recreation; habitat for fish and wildlife; water for drinking, agriculture, and industry; and other benefits essential to the quality of life and economic health of

1 the community. The quality of life and economic health of our county's communities
2 depend on the maintenance of a safe and reliable water supply. Decisions affecting
3 any element of the water environment must be based on consideration of the
4 effects on other elements.

5 **Background Summary**

6 Whatcom County has 16 major freshwater lakes, 3,012 miles of rivers and streams,
7 over 37,000 acres of wetlands, 134 miles of marine shoreline, and aquifers
8 containing an undetermined amount of groundwater. These water resources serve
9 multiple uses, including providing a source of drinking water for the people of
10 Whatcom County. Surface water sources such as Lake Whatcom, the Nooksack
11 River, and Lake Samish provide water to more than half the county residents, with
12 the remainder relying on groundwater, either from individual wells or from about
13 300 public water systems. Agriculture relies on both ground and surface water for a
14 variety of uses, including irrigation and drinking water for livestock. Businesses and
15 industries may also require water, sometimes in substantial quantities, from non-
16 potable and potable supplies. Water is also essential to meet many of what are
17 referred to as "instream" uses, such as recreation, shellfish growing and harvesting,
18 fish and wildlife habitat, aesthetics, and other uses and benefits.

19 Groundwater is contained in aquifers, which are subterranean layers of porous rock
20 or soil. Most of the surficial aquifers in Whatcom County are replenished by
21 rainwater. Aquifers are often integrally linked with surface water systems and are
22 essential for meeting instream and out-of-stream water needs such as for drinking
23 water, agriculture, industry, and other uses.

24 Rainfall that runs into drainage courses such as ditches, streams, wetlands, rivers,
25 lakes, and the Strait of Georgia supports local surface and marine waters. Natural
26 drainage systems have many important functions, including storing excess water
27 flow, purifying surface water, recharging groundwater, conveying water, and
28 supporting important biological activities. As more areas in Whatcom County are
29 being urbanized, natural water resource systems are being replaced with built
30 systems, leading to permanent changes in hydrology.

31 Whatcom County government has a major role in helping to maintain these benefits
32 through its many responsibilities and programs, particularly in the areas of health,
33 safety, land use, and development. The intent of the following goals and policies is
34 to provide guidance to Whatcom County government as it assists its citizens in
35 effectively managing our water resources in a manner that ensures that the
36 benefits of those resources are maintained far into the future. The water resource
37 section focuses primarily on groundwater and surface water management. Surface
38 water management relates generally to watershed protection and stormwater/
39 drainage systems. However, some policy direction may indirectly be provided for
40 areas such as wetlands, estuaries, streams, and marine waterbodies within the
41 Water Resource section. Some of these areas are covered in more detail in other
42 sections within the Environment Chapter.

1 **Whatcom County Water Resource Programs**

2 Whatcom County has and/or participates in numerous water resource programs
3 aimed at protecting and enhancing water quality and quantity, including:

- 4 • WRIA 1 Watershed Management Project;
- 5 • Lake Whatcom Watershed Management;
- 6 • Groundwater Protection & Management;
- 7 • Flood Hazard Management; and,
- 8 • Stormwater Management.

9 **WRIA 1 Watershed Management Project**

10 The WRIA 1 Watershed Management Project is the result of the 1998 Washington
11 State Watershed Management Act, which required all participating local
12 governments to address water quantity, with the option of addressing water
13 quality, instream flows, and fish habitat. The WRIA 1 Watershed Management
14 Project has brought together citizens, local governments, tribes, and state and
15 federal agencies to address these issues.

16 The framework for watershed management in the state is based on geographic
17 areas known as Water Resource Inventory Areas (WRIAs). WRIA 1 includes the
18 Nooksack River basin and several adjoining smaller watersheds, such as the coastal
19 drainages of Dakota and California Creeks, as well as Lake Whatcom.

20 Watershed planning in WRIA 1 started in 1998 with the signing of a Memorandum
21 of Agreement (MOA) between the *Initiating Governments*. In the WRIA 1 the
22 Initiating Governments are Whatcom County, City of Bellingham, Public Utility
23 District No. 1, Lummi Nation, and Nooksack Tribe (the latter joining slightly later
24 through a Letter of Agreement). The role of the Initiating Governments was to
25 review a recommended Watershed Plan and take it to their governments' councils
26 for adoption.

27 *Historical Organization (1999-2016)*

28 *WRIA 1 Joint Board*

29 In 1999, an Interlocal Agreement further formalized the government-to-
30 government relationship essential to the tribes' participation in the process by
31 creating a *Joint Board*. The Joint Board is comprised of the Initiating Governments,
32 including the mayor of the City of Bellingham, executive for Whatcom County,
33 manager of Public Utility District No. 1, and designated policy representatives of
34 Lummi Nation and Nooksack Tribe. The Board manages the project's administrative
35 functions such as contracts and budgets. Members of the Joint Board also sit on the
36 Joint Policy Boards.

37 *WRIA 1 Joint Policy Boards*

38 The WRIA 1 Joint Policy Boards are comprised of members of the WRIA 1 Joint
39 Board and Salmon Recovery Board. This organizational level interacts with federal,
40 state, and regional organizations at a policy-level to coordinate the implementation

1 and management of the WRIA 1 Watershed Management Plan – Phase 1, the WRIA
2 1 Salmonid Recovery Plan and other related activities.

3 *Local Integrating Organization (LIO)*

4 The Whatcom Local Integrating Organization (LIO) is a function of the WRIA 1
5 Watershed Joint Board and WRIA 1 Salmon Recovery Board (Joint Policy Boards).
6 Local integrating organizations are designated by the Puget Sound Partnership. The
7 two WRIA 1 Boards accepted the function of the Whatcom LIO in October 2010
8 under the integrated program structure, and was officially recognized by the Puget
9 Sound Partnership's Leadership Council in November 2010. The purpose of the
10 Whatcom LIO is to coordinate implementation of Puget Sound Action Agenda
11 priorities that are consistent with or complement local priorities. One of its functions
12 is to provide a local update to the Action Agenda for Puget Sound. Local updates
13 are intended to identify local priorities in the form of near-term actions (NTAs),
14 which are priority actions with measurable outcomes that can be implemented in
15 the next two years and that align with strategies in the Action Agenda for Puget
16 Sound.

17 *WRIA 1 Planning Unit*

18 The Initiating Governments established the Planning Unit to ensure representation
19 of a broad range of water resource interests. The Planning Unit's role is to
20 recommend actions for a Watershed Plan and to contribute knowledge, interests,
21 technical expertise, and other resources to its development. The Planning Unit is
22 made up of representatives from the Initiating Governments, other governments,
23 and various caucuses. There are 16 total caucuses on the WRIA 1 Planning Unit.

24 *Organizational Update (2016)*

25 Through an interlocal agreement entered into in 2016, the Watershed Management
26 Project Joint Board and the WRIA 1 Salmon Recovery Board were dissolved and the
27 duties and functions of those boards were assumed by the new WRIA 1 Watershed
28 Management Board, consisting of one representative from the Lummi Nation, the
29 Nooksack Tribe, the Washington State Department of Fish and Wildlife, Whatcom
30 County, Whatcom County PUD No. 1, and the cities of Bellingham, Blaine, Everson,
31 Ferndale, Lynden, Nooksack, and Sumas.

32 The primary functions of the WRIA 1 Watershed Management Board are to:

- 33 • Facilitate implementation and adaptive management of the WRIA 1
34 Watershed Management Plan-Phase 1 as currently constituted or
35 subsequently amended;
- 36 • Coordinate the implementation and adaptive management of the WRIA 1
37 Salmonid Recovery Plan and associated implementation documents,
- 38 • Serve as the WRIA 1 Salmon Recovery Lead Entity pursuant to RCW 77.85,
- 39 • Coordinate participation in Puget Sound salmon recovery efforts,
- 40 • Coordinate the development, implementation and adaptive management of
41 WRIA 1 watershed chapters of recovery plans for ESA listed salmonids and
42 other salmonid species as warranted;

- Coordinate planning, implementation, monitoring and adaptive management of ecosystem recovery actions in WRIA 1 consistent with agreed local goals and objectives,
- Serve as the WRIA 1 Local Integrating Organization and a partner in the Puget Sound Partnership in representing WRIA 1 goals and priorities; and
- Participate in other related activities as agreed to by the Board.

The roles of the Local Integrating Organization and Planning Unit did not change.

2005 WRIA 1 Watershed Management Plan – Phase 1

The 2005 WRIA 1 Watershed Management Plan was approved in 2005 by the Joint Administrative Board, Planning Unit (by consensus), and the County Council. Pursuant to subsequent state requirements, a WRIA 1 Watershed Detailed Implementation Plan was approved by the Joint Administrative Board, Planning Unit, and County Council in 2007. It provides a roadmap for addressing water quantity, water quality, instream flow, and fish habitat challenges. The goals of the WRIA 1 Watershed Management Project are: water of sufficient quantity and quality to meet the needs of current and future human generations; restoration of salmon, steelhead, and trout populations to healthy harvestable levels; and the improvement of habitats on which fish and shellfish rely. These goals are addressed more specifically below:

- **Water Quantity** – To assess water supply and use, and develop strategies to meet current and future needs. The strategies should retain or provide adequate amounts of water to protect and restore fish habitat, provide water for future out-of-stream-uses, and ensure adequate water supplies are available for agriculture, energy production, and population and economic growth under the requirements of the state's Growth Management Act.
- **Water Quality** – To ensure the quality of our water is sufficient for current and future uses, including restoring and protecting water quality to meet the needs of salmon and shellfish, recreational uses, cultural uses, protection of wildlife, providing affordable and safe domestic water supplies, and other beneficial uses. The initial objectives of the water quality management strategy will be to meet the water quality standards.
- **Instream Flow** – To supply water in sufficient quantities to restore salmon, steelhead, and trout populations to healthy and harvestable levels and improve habitats on which fish rely.
- **Fish Habitat** – To protect or enhance fish habitat in the management area and to restore salmon, steelhead, and trout populations to healthy and harvestable levels and improve habitats on which fish rely.

In 2010, the WRIA 1 Joint Board adopted a work plan, budget, and financing strategy, called the Lower Nooksack Strategy, to advance a negotiated settlement of Tribal and state instream flow water rights on the mainstem of the Nooksack River, while maximizing the economic and environmental benefits of out-of-stream water use in the Lower Nooksack sub-basin. The Joint Board adopted the Lower Nooksack Strategy consistent with WRIA 1 Watershed Management Plan priorities.

- 1 Lower Nooksack Strategy Objectives:
- 2 • Develop and implement a process for negotiating settlement of water rights
3 on the Mainstem Nooksack River.
 - 4 • Update and verify the Lower Nooksack River sub-basin water budget and
5 develop a groundwater model.
 - 6 • Determine out-of-stream water user needs:
 - 7 ○ Public water system needs determined by updated the Whatcom County
8 Coordinated Water System Plan (CWSP).
 - 9 ○ Other out-of-stream user needs (e.g., agriculture, private domestic wells,
10 industrial, etc.) determined through a regional water supply planning
11 process.
 - 12 • Continue and, if appropriate, enhance targeted streamflow and water quality
13 sampling.
 - 14 • Advance work on tools that foster water resource allocations consistent with
15 long-term economic and environmental land-use goals for implementation in
16 five years.

17 Streamflow Restoration Act (ESSB 6091)

18 The Streamflow Restoration Act (ESSB 6091), enacted by the Washington State
19 Legislature on January 18, 2018 and effective on January 19, 2018, directs the
20 Department of Ecology to work with the initiation governments (i.e., the WRIA 1
21 Watershed Management Board), in collaboration with the planning unit established
22 pursuant to chapter 90.82 RCW, on updating the WRIA 1 Watershed Management
23 Plan for approval by the Whatcom County Council by February 1, 2019.

24 The Act requires that the updated plan include recommendations for projects and
25 actions that will measure, protect, and enhance instream resources and improve
26 watershed functions that support the recovery of threatened and endangered
27 salmonids. Such recommendations may include, but are not limited to, acquiring
28 senior water rights, water conservation, water reuse, stream gaging, groundwater
29 monitoring, and developing natural and constructed infrastructure, which includes,
30 but is not limited to, such projects as floodplain restoration, off-channel storage,
31 and aquifer recharge. Qualifying projects must be specifically designed to enhance
32 streamflows and not result in negative impacts to ecological functions or critical
33 habitat.

34 At a minimum, the watershed plan must include those actions determined to be
35 necessary to offset potential impacts to instream flows associated with permit-
36 exempt domestic water use. The highest priority recommendations must include
37 replacing the quantity of consumptive water use during the same time as the
38 impact and in the same basin or tributary. Lower priority projects include projects
39 not in the same basin or tributary and projects that replace consumptive water
40 supply impacts only during critical flow periods. The watershed plan may include
41 projects that protect or improve instream resources without replacing the
42 consumptive quantity of water where such projects are in addition to those actions

1 determined to be necessary to offset potential consumptive impacts to instream
2 flows associated with permit-exempt domestic water use.

3 Until the updated watershed plan is approved and rules are adopted by the
4 Department of Ecology, the County, in issuing building permits under RCW
5 19.27.097(1)(c) or approving subdivisions under chapter 58.17 RCW in WRIA 1, will
6 comply with all of the specific requirements of ESSB 6091.

7 **Lake Whatcom Watershed Management**

8 Lake Whatcom is a large multi-purpose reservoir that is the source of drinking
9 water for the City of Bellingham, Lake Whatcom Water and Sewer District, several
10 other smaller water districts/associations, and about 250 homes that draw water
11 directly from the lake. The lake provides water to about half the population of
12 Whatcom County.

13 Lake Whatcom is a multiple use lake and watershed. In addition to providing water
14 for drinking, commercial, and industrial uses, the lake is used for boating,
15 swimming, and fishing. The majority of the watershed is forested, mainly
16 surrounding the large southernmost portion of the lake. Other land uses include
17 residential development (approximately 5,300 homes are located within the
18 watershed), limited agriculture and commercial development, parks, and other
19 public facilities. The on-going management challenge is trying to determine the
20 extent to which these practices can occur while maintaining safe, clean drinking
21 water. The challenge is further complicated by possible requirements related to the
22 Endangered Species Act, tribal water rights, and the potential impact these issues
23 may have on how the City's diversion from the Nooksack River is operated.

24 The watershed contains four developed areas: the City of Bellingham, which
25 straddles the upper portion of the northern-most basin of the lake; Geneva, which
26 is immediately south and east of Bellingham's city limits and is part of the city's
27 urban growth area; Hillsdale, which is immediately north and east of Bellingham's
28 city limits and is also part of the city's urban growth areas; and the Sudden Valley
29 Rural Community. In addition, it includes a variety of other zones, including
30 resource, rural, and residential rural zones. Outside the Bellingham City limits,
31 approximately 70% of the watershed is in Forestry zoning and more than 75% of
32 the current land use is forestry.

33 Water and sewer service are provided by the Lake Whatcom Water and Sewer
34 District. Capacity problems in the district's sewer line, which serves Geneva and
35 Sudden Valley, have caused overflows into the lake in the past. An aggressive
36 program to preclude stormwater infiltration has reduced the overflow problems to a
37 large extent. In addition, the district has a contractually limited flow capacity to
38 Bellingham. The Lake Louise Road sewage interceptor was constructed in January
39 2003 to carry waste water from Sudden Valley and Geneva and serves as a
40 complement to the Lake Whatcom Boulevard trunk line. The interceptor was
41 designed to service full build-out of Sudden Valley and Geneva.

42 The City of Bellingham and Lake Whatcom Water and Sewer District are responsible
43 for ensuring drinking water standards are met for their customers. To date water
44 supplies have consistently met standards. The ability to continue to economically

1 meet drinking water standards requires maintaining source water that requires
2 minimal treatment. For this reason the City of Bellingham maintains an on-going
3 source water-monitoring program. Other agencies including Western Washington
4 University, Department of Natural Resources, Department of Fish and Wildlife,
5 Department of Ecology, Lake Whatcom Water and Sewer District, and Whatcom
6 County, have also conducted monitoring, studies, and/or evaluations of the lake
7 and watershed.

8 Studies on Lake Whatcom conducted over a number of years indicate water quality
9 in the lake has declined. In 1998, the Washington State Department of Ecology
10 listed Lake Whatcom as an impaired water body and placed Lake Whatcom on the
11 Federal Clean Water Act 303(d) list because of low oxygen levels in the Lake and
12 high bacteria levels in streams that flow into the Lake. The 303(d) listing requires
13 the establishment of a Total Maximum Daily Loads (TMDLs). The Department of
14 Ecology issued the "Lake Whatcom Watershed Total Phosphorus and Bacteria Total
15 Maximum Daily Loads: Volume 1, Water Quality Study Findings" in 2008. This study
16 documented Lake Whatcom is impaired for dissolved oxygen due to phosphorus
17 loading and that streams flowing into Lake Whatcom do not meet fecal coliform
18 bacteria standards. Loading capacities for total phosphorus and bacteria reduction
19 targets were set forth in this document. In 2013 The Department of Ecology issued
20 a draft "Lake Whatcom Watershed Total Phosphorus and Bacteria Total Maximum
21 Daily Loads: Volume 2, Water Quality Improvement Report and Implementation
22 Strategy." This report identifies how much phosphorus can be discharged to the
23 Lake and identifies how the bacteria load should be allocated between the County
24 and City of Bellingham, in order to meet water quality standards.

25 A significant cause of declining oxygen levels has been from residential
26 development in the watershed. Past development permitted by the City of
27 Bellingham and Whatcom County has led to increased phosphorus loading into the
28 lake, which stimulates algae growth. Bacteria that consume the dying algae deplete
29 the dissolved oxygen, leading to lower oxygen levels in the lake. Past poorly
30 managed forest practices may have led to significant increases in phosphorus
31 loading to the lake.

32 Whatcom County has taken a number of actions to reduce phosphorus and
33 otherwise address Lake Whatcom water quality. These include rezoning land to
34 allow less development in the watershed, adoption of the Lake Whatcom
35 Comprehensive Stormwater Management Plan, revising stormwater management
36 standards for private development to significantly reduce potential phosphorus
37 runoff, construction of stormwater capital improvement projects and adoption of
38 regulations that restrict the application of commercial fertilizers.

39 In 2014, approximately 8,800 acres of forest lands around Lake Whatcom were
40 transferred to Whatcom County from the Washington Department of Natural
41 Resources through reconveyance. These lands will provide passive recreation
42 opportunities with hiking and biking trails connecting various communities,
43 neighborhoods, and parks throughout the watershed. Under County ownership, the
44 forests will be allowed to mature to an older growth environment benefiting the
45 watershed and helping to stabilize steep slopes that surround the lake.

1 In 2004, the Department of Natural Resources (DNR) Board on Natural Resources
2 adopted the Lake Whatcom Landscape Plan. This plan provides additional
3 protections on remaining state managed lands within the Lake Whatcom watershed.
4 The plan provides additional protections on streams and potentially unstable slopes
5 not normally included in forest practices in Washington State.

6 Lake Whatcom Watershed Management Program

7 A variety of agencies, organizations, and individuals play a role in managing and
8 protecting Lake Whatcom. In an effort to coordinate efforts of these various
9 players, in 1990, the City of Bellingham, Whatcom County, and Water District 10
10 (now known as the Lake Whatcom Water and Sewer District) began meeting to
11 develop a joint management strategy for the Lake Whatcom watershed.

12 In November/December 1992, a joint resolution was passed by the Bellingham City
13 Council, Whatcom County Council, and the Lake Whatcom Water and Sewer District
14 (formerly Water District 10) Commissioners, which reaffirmed this position with six
15 general goal statements and a set of specific goal statements in various categories.
16 The specific goal statements for urbanization were the following:

- 17 • Prevent water quality degradation associated with development within the
18 watershed.
- 19 • Review and recommend changes in zoning and development potential that
20 are compatible with a drinking-water reservoir environment.
- 21 • In addition to zoning, identify and promote other actions to minimize
22 potential for increased development in the watershed (i.e. land trust,
23 development rights, cost incentives, etc.).
- 24 • Develop specific standards which reduce the impacts of urbanization, such as
25 minimal lot clearing; clustered development to reduce infrastructure;
26 collection and treatment of stormwater before entering the lake.
- 27 • Develop appropriate interlocal agreements with governing agencies to
28 prohibit the potential for additional development once an agreed upon level is
29 set.

30 The joint resolution included goals for watershed management that extended
31 beyond urbanization. Goals were included for stormwater management, on-site
32 waste systems, conservation, forest management, spill response, hazardous
33 materials transport and handling, data/information management, education/public
34 involvement, and other topics. A joint strategy was approved for developing specific
35 plans to meet the adopted goals. Eight high priority goals were selected first and
36 plans have been completed and jointly adopted for each of the goals.

37 In 1998, the City, County, and District 10 formalized their joint commitment to
38 protect and manage the lake through the joint adoption of an interlocal agreement
39 and allocation of funding toward protection and management efforts in the
40 watershed. A five-year program plan was developed for ten program areas. Specific
41 priority was placed on activities related to watershed ownership, stormwater
42 management, and urbanization/land development.

1 The resulting Lake Whatcom Management Program guides actions to protect Lake
2 Whatcom as a long-term supply of drinking water for the City of Bellingham and
3 portions of Whatcom County. The program emphasizes protection over treatment in
4 managing Lake Whatcom and its watershed. The structure of the Lake Whatcom
5 Management Program includes legislative bodies, a management team, an
6 interjurisdictional coordinating team, agency staff, and advisory committees.

7 The Lake Whatcom Watershed Management Program website
8 (<http://www.lakewhatcom.whatcomcounty.org/resources>) contains the management
9 plans, reports, and work programs, as well as the jurisdictions' pertinent
10 regulations and brochures on the different programs aimed at the various efforts to
11 improve water quality.

12 Sudden Valley

13 Sudden Valley is a community within the Lake Whatcom Watershed. It was
14 established in the early 1970s as a recreation/resort area but over the last thirty
15 years has developed into a significant residential area.

16 Since 1985, Sudden Valley has mandated the use of appropriate stormwater best
17 management practices through standards for individual stormwater detention for all
18 new construction. Any new building permits on existing lots must be able to
19 demonstrate that stormwater detention is included in the plan as a precondition to
20 issuance of a permit. Sudden Valley is also subject to additional regulatory
21 protections that apply to the Lake Whatcom Watershed under the Water Resource
22 Protection Overlay District, Stormwater Special District, and Water Resource Special
23 Management Area requirements. Under the provisions of these special districts,
24 potential impacts from impervious surfaces, stormwater runoff, and clearing
25 activities are required to be addressed either on-site or through a community-wide
26 process.

27 **Groundwater Protection & Management**

28 Groundwater is contained in aquifers, which are subterranean layers of porous rock
29 or soil. Most aquifers are replenished by rainwater, though some may contain water
30 trapped during glacial periods. Aquifers are often integrally linked with surface
31 water systems and are essential for meeting instream and out-of-stream water
32 needs, such as for drinking water, agriculture, and industry. Whatcom County
33 residents rely heavily on groundwater for drinking water, agriculture, and
34 commercial and industrial needs. Groundwater also plays an important role in
35 maintaining stream flows.

36 Many studies have been conducted related to groundwater quality in Whatcom
37 County documenting water quality issues, such as exceedances of standards for
38 nitrate, ethylene dibromide (EDB) and 1,2-dichloropropane (1,2-D), pesticides, iron
39 and other agricultural-related contaminants, particularly in the northern portion of
40 the County. In general, groundwater in Whatcom County is very vulnerable to
41 contamination because much of the County's groundwater lies within a shallow
42 unconfined aquifer. Activities that occur on the surface of the ground directly affect
43 groundwater quality. Shallow wells that draw water from unconfined water table
44 aquifers are at highest risk.

1 Whatcom County's Critical Areas Regulations protect Critical Aquifer Recharge Areas
2 (CARAs) during the development process, by precluding certain uses in CARAs
3 and/or requiring certain precautions be taken in handling certain chemicals.

4 **Flood Hazard Management**

5 A comprehensive approach to flood hazard management planning provides a better
6 understanding of the river and floodplain system. It also ensures flooding and
7 channel morphology problems are not simply transferred to another location within
8 the basin, but are addressed in a comprehensive, basinwide manner. This approach
9 directs future flood hazard management expenditures in the most efficient and cost
10 effective manner.

11 Whatcom County Public Works coordinates with the Flood Control Zone District
12 Advisory Committee (FCZDAC) to identify and characterize flooding problems and
13 provide recommendations for achieving consistent, long-term flood hazard
14 reduction strategies. Some activities typically involved in developing a
15 Comprehensive Flood Hazard Management Plan (CFHMP) include data collection,
16 hydraulic modeling, alternatives analysis, floodplain mapping, and meander limit
17 identification. In addition to the technical components in comprehensive flood
18 planning, extensive coordination with the public and other agencies is required
19 throughout the planning process.

20 Other County flood management programs include:

21 **Early Flood Warning** –Work with the United States Geological Survey (USGS)
22 to maintain a network of early flood warning stations to help citizens prepare and
23 take appropriate measures to protect lives and property from flood damages.

24 **Flood Hazard Reduction Program** – Implement projects to reduce future
25 flood damages and public expenditures to repair damaged areas. Examples include
26 construction of setback levees and overflow spillways, and designation of overflow
27 corridors in overbank areas. Two alluvial fan studies have been completed for Jones
28 Creek and Canyon Creek. For Jones Creek, review of potential mitigation measures
29 and concept design of a preferred approach has also been completed.

30 **Comprehensive Flood Hazard Management Planning** – Identify flooding
31 problems and provide recommendations for achieving long-term flood hazard
32 reduction strategies. The Lower Nooksack River Comprehensive Flood Hazard
33 Management Plan was adopted in 1999. Implementation of the plan is ongoing.

34 **Preparedness and Response** – Plan for and implement a coordinated
35 response during flood events to ensure public safety and minimize flood damages.

36 **National Flood Insurance Program** – Participate in the Congress-initiated
37 National Flood Insurance Program (NFIP) of 1968, to make affordable flood
38 insurance available to citizens of communities that adopt approved flood
39 management regulations.

40 **Repair and Maintenance Program** – Address problem areas with rivers,
41 streams, and coastlines of Whatcom County, and mitigate future flood damages in a
42 proactive and cost-effective manner.

1 **Technical Assistance** – Provide technical assistance regarding drainage and
2 flood issues to private citizens and businesses located along the many waterbodies
3 within Whatcom County.

4 **Organization**

5 Flood Control Zone District (FCZD)

6 Following the severe floods of 1989 and 1990, in 1992 Whatcom County created
7 the countywide Flood Control Zone District (FCZD), including both incorporated and
8 unincorporated areas of the County. The FCZD is a quasi-municipal corporation that
9 is a separate legal entity from Whatcom County government. Even though this legal
10 separation exists, the Whatcom County Council and the County Executive (Board of
11 Supervisors) and the Public Works Department (staff) perform the governance and
12 administrative support for the district.

13 The primary purpose of the FCZD is flood hazard management. Revenue generated
14 to for this purpose is accomplished in two ways: (1) a county-wide uniformly
15 applied tax; and, (2) supplemental revenue generated within localized Diking
16 Districts and Sub-Flood Districts where specific local project activity is planned.

17 While the primary purpose of the FCZD is flood hazard management, the district is
18 allowed to address a wide variety of water resource issues. Due to this ability,
19 revenue generated by the district is currently used to finance additional water
20 supply and water quality related improvement projects.

21 **Pertinent Documents**

22 Lower Nooksack River Comprehensive Flood Hazard Management Plan (CFHMP)

23 In 1999, the county adopted the Lower Nooksack River Comprehensive Flood
24 Hazard Management Plan (CFHMP). The CFHMP identifies projects, programs, and
25 other recommendations aimed at reducing future flood damages along the Lower
26 Nooksack River.

27 Critical Areas Regulations (WCC 16.16)

28 Whatcom County's Critical Areas Regulations aim to protect people and property in
29 Frequently Flooded Area (FFAs) by requiring development in these areas conforms
30 to WCC Title 17, Flood Damage Prevention.

31 **Stormwater Management**

32 Stormwater runoff occurs when precipitation from rain or snowmelt flows over the
33 land surface. The addition of roads, driveways, parking lots, rooftops, and other
34 surfaces that prevent water from soaking into the ground greatly increases the
35 runoff volume created during storms. This runoff is swiftly carried to our local
36 streams, lakes, wetlands and rivers and can cause flooding and erosion.
37 Stormwater runoff also picks up and carries with it many different pollutants that
38 are found on paved surfaces, such as sediment, nitrogen, phosphorus, bacteria, oil
39 and grease, trash, pesticides, and metals.

1 **County Stormwater Management Programs**

2 National Pollutant Discharge and Elimination System (NPDES) Phase II Permit

3 Stormwater runoff picks up pollutants as it travels over our developed landscapes
4 and is a major source of water quality problems. In 1987, the Federal Clean Water
5 Act was amended to address stormwater pollution. As a result, the United States
6 Environmental Protection Agency (EPA) created the National Pollutant Discharge
7 Elimination System (NPDES) to address stormwater runoff. States are required to
8 administer permits to local jurisdictions to regulate runoff as part of the NPDES
9 Program. The Permit is referred to as the "NPDES Phase II Permit" or "Phase II
10 Municipal Stormwater Permit".

11 In February of 2007, the Washington State Department of Ecology issued Whatcom
12 County's Phase II Municipal Stormwater Permit. This permit regulates discharges
13 from Small Municipal Separate Storm Sewers, and is part of the National Pollutant
14 Discharge and Elimination System (NPDES) and State Waste Discharge General
15 Permit. It sets forth requirements of municipalities to address stormwater runoff in
16 areas determined to have population densities reaching urban standards. Whatcom
17 County is required to implement various stormwater management strategies to
18 comply with this State permit.

19 The current Permit boundary covers approximately 15,000 acres and generally
20 includes the following areas (Figure 1):

- 21 • Bellingham Urban Growth Area
- 22 • Sudden Valley
- 23 • Portions of the Hillsdale and Emerald Lake area
- 24 • Portions along North Shore Drive on Lake Whatcom and Lake Whatcom
25 Boulevard
- 26 • Ferndale Urban Growth Area
- 27 • Portions along Chuckanut Drive and Chuckanut Bay
- 28 • Birch Bay Urban Growth Area

29 Additionally, though not within the NPDES permit area, the County has made the
30 entire Lake Whatcom watershed is subject to the illicit discharge detection and
31 elimination requirements of the Permit through ordinance and agreement with the
32 Department of Ecology.

33 Jurisdictions are allowed to discharge runoff into waterbodies of the State (such as
34 rivers, lakes, and streams) as long as they implement programs that protect water
35 quality by reducing pollutants to the maximum extent possible through
36 requirements of the NPDES Phase II Permit. Those requirements are reported and
37 submitted to the Department of Ecology through the Stormwater Management
38 Program (SWMP) and the Annual Compliance Report.

39 The Western Washington Phase II Municipal Stormwater Permit is required by the
40 State of Washington Water Pollution Control Law Chapter 90.48 RCW, and the
41 Federal Water Pollution Control Act Title 33 United States Code (Clean Water Act).
42 The Permit is administered by the Washington State Department of Ecology.

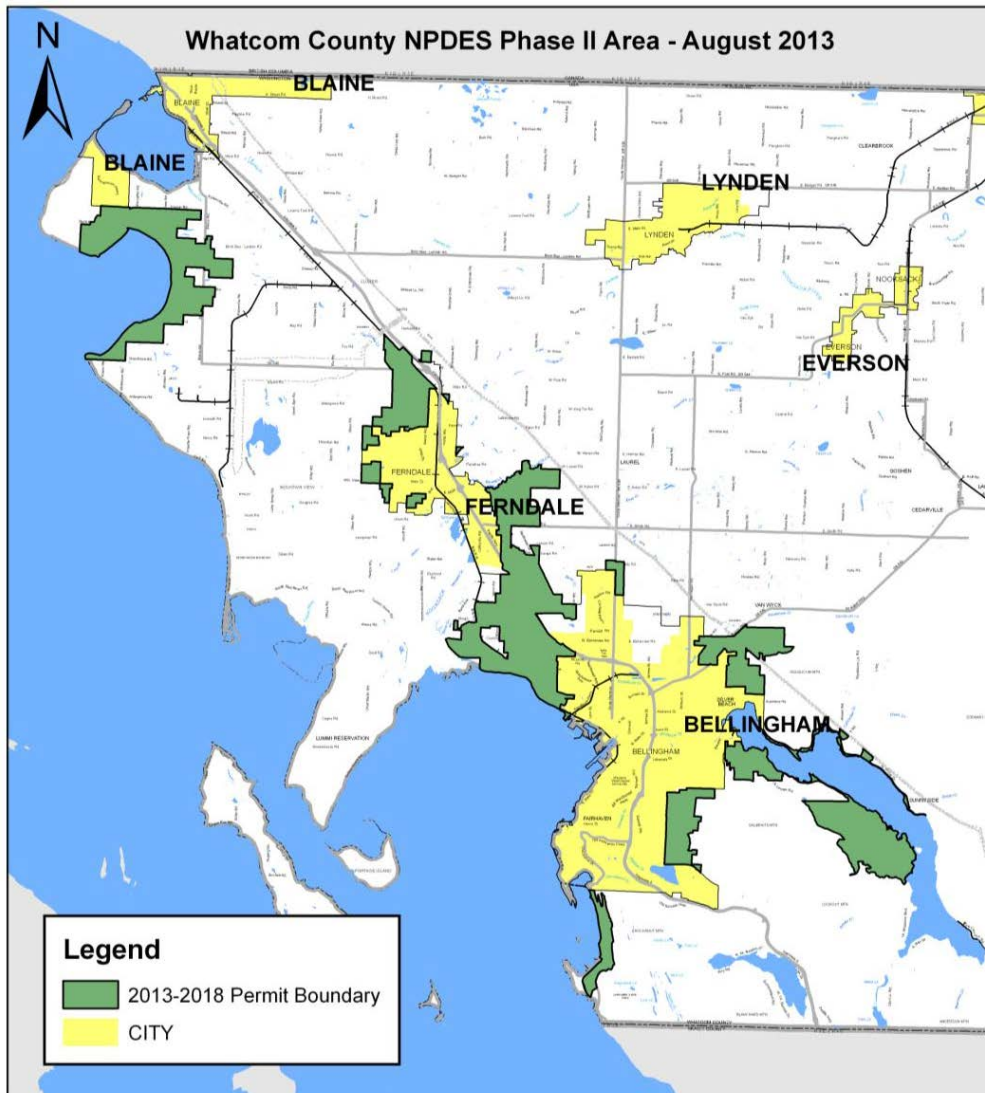


Figure 1. NPDES Phase II Boundaries

Pollution Identification and Correction (PIC) Program

Clean water supports healthy drinking water, safe recreational uses, quality water for irrigation and livestock, healthy fish, and shellfish that are safe to consume. Currently, many streams in Whatcom County do not meet water quality standards for fecal coliform bacteria. Fecal coliform bacteria are found in the intestinal tract of warm-blooded animals and when found in streams are an indicator of human or animal waste in the water. The higher the bacteria level, the greater the public health risk to people drinking water, wading, fishing, or consuming shellfish. The

1 Pollution Identification and Correction (PIC) Program was created to help implement
2 community solutions to clean water.

3 **Pollution** – The key potential sources of bacteria that have been identified in
4 Whatcom County coastal drainages are (1) **animal waste** from agricultural
5 operations, domestic pets, waterfowl, and wildlife, and (2) **human sewage** from
6 failing on-site sewage systems (OSS), leaking sewers, or cross-connections.

7 **Identification** – Whatcom County coordinates a routine water quality
8 monitoring program at approximately 90 stations in watersheds that discharge to
9 marine waters. Samples are collected on at least a monthly basis and analyzed for
10 fecal coliform bacteria. Results are evaluated annually to identify focus areas with
11 the largest bacteria problems. Within the focus areas, stream segments are
12 monitored and potential bacteria sources are identified.

13 **Correction** – Technical and financial resources are offered to landowners to
14 identify and implement solutions on their property. Residents can help improve the
15 community's water quality by inspecting and maintaining septic systems and by
16 fencing animals out of streams, ditches and swales. By actively managing pastures,
17 creating protected heavy use areas, and covering manure storage areas, residents
18 can prevent manure-contaminated mud from polluting surface water. Planting
19 shrubs and trees along stream banks and picking up after dogs also contributes to
20 better water quality.

21 **Issues, Goals, and Policies**

22 **Watershed Planning and Management**

23 **Goal 10F:** **Protect and enhance water quantity and quality and**
24 **promote sustainable and efficient use of water resources.**

25 Policy 10F-1: Maintain as a high priority the protection of water quality and
26 quantity.

27 Policy 10F-2: Actively participate in and support efforts to coordinate local,
28 federal, tribal, and state agencies to achieve integration and/or
29 consistency between the various levels of environmental
30 regulations relating to the County.

31 Policy 10F-3: Work cooperatively with Federal, State, and local jurisdictions,
32 Tribal governments, municipal corporations, and the public to
33 implement the goals and policies of the Comprehensive Plan as
34 well as state water resources and water quality laws.

35 Policy 10F-4: Participate in the coordination of all local water and land
36 management efforts, plans, and data to ensure adequate
37 oversight of water quantity and quality issues.

38 Policy 10F-5: Manage water resources for multiple instream and out-of-
39 stream beneficial uses, including instream flows set by the State
40 Department of Ecology.

41 Policy 10F-6: Actively promote and participate in education, research, and
42 information opportunities that improve our understanding of the

1 county's complex water resource systems. New information
2 should be considered in the development and evaluation of
3 management actions.

4 Policy 10F-7: Pursue the most effective methods for protecting water quantity
5 and quality, through both regulatory (e.g. zoning, enforcement,
6 fines) and non-regulatory approaches (education, incentives,
7 and technical/financial assistance). Emphasis shall be placed on
8 non-regulatory approaches where possible and effective.

9 Policy 10F-8: Track the development of policies and regulations at the local,
10 state, and federal level. Provide input to those regulations and
11 policies as necessary to ensure that the interests of Whatcom
12 County are considered.

13 Policy 10F-9: In conjunction with all jurisdictions, develop and adopt
14 programs to protect water quality and quantity within
15 watersheds, aquifers, and marine waterbodies that cross
16 jurisdictional boundaries.

17 Policy 10F-10: Promote awareness and participation in management and
18 protection efforts by individual citizens and the community as a
19 whole.

20 Policy 10F-11 Pursuant to ESSB 6091, Whatcom County will work through the
21 **Planning Unit and** WRIA 1 Watershed Management Board and its
22 established processes to update the WRIA 1 Watershed
23 Management Plan, consistent with ESSB 6091, for approval by
24 the Whatcom County Council by February 1, 2019. The updated
25 plan shall include recommendations for projects and actions that
26 will measure, protect, and enhance instream resources and
27 improve watershed functions that support the recovery of
28 threatened and endangered salmonids.

29 At a minimum, the watershed plan must include those actions
30 determined to be necessary to offset potential impacts to
31 instream flows associated with permit-exempt domestic water
32 use. The highest priority recommendations must include
33 replacing the quantity of consumptive water use during the
34 same time as the impact and in the same basin or tributary.
35 Lower priority projects include projects not in the same basin or
36 tributary and projects that replace consumptive water supply
37 impacts only during critical flow periods. The watershed plan
38 may include projects that protect or improve instream resources
39 without replacing the consumptive quantity of water where such
40 projects are in addition to those actions determined to be
41 necessary to offset potential consumptive impacts to instream
42 flows associated with permit-exempt domestic water use.

43 Watershed plan recommendations may include, but are not
44 limited to, acquiring senior water rights, water conservation,
45 water reuse, stream gaging, groundwater monitoring, and

1 developing natural and constructed infrastructure, which
2 includes, but is not limited to, such projects as floodplain
3 restoration, off-channel storage, and aquifer recharge.
4 Qualifying projects must be specifically designed to enhance
5 streamflows and not result in negative impacts to ecological
6 functions or critical habitat.

7 Until the updated watershed plan is approved and rules are
8 adopted, the County, in issuing building permits under RCW
9 19.27.097(1)(c) or approving subdivisions under chapter 58.17
10 RCW in WRIA 1 will comply with all of the specific requirements
11 of ESSB 6091.

12 **Surface Water and Groundwater**

13 **Goal 10G:** **Protect and enhance Whatcom County's surface water**
14 **and groundwater quality and quantity for current and**
15 **future generations.**

16 Policy 10G-1: Manage surface water systems on a watershed basis.

17 Policy 10-2G: Coordinate efforts to bring all water users in Whatcom County
18 into compliance with state and federal water laws in a way that
19 enhances stream flows, water quality, and fish and wildlife
20 habitat while advocating for adequate water for existing
21 agriculture.

22 Policy 10G-3: In conjunction with the public and appropriate local, state,
23 Tribal, and federal jurisdictions, define, identify, and develop
24 management strategies for watershed basins and subbasins that
25 may require special protection. These areas may include
26 aquifers, critical aquifer recharge areas as defined under the
27 Growth Management Act, Groundwater Management Areas,
28 wellhead protection areas, and high priority watersheds such as
29 those specified under WAC 400 (Local Planning and
30 Management of Non-point Source Pollution), WRIA Watershed
31 Management Planning, and under legislative policy direction
32 (e.g. Nooksack Basin, Lake Whatcom, Lake Samish and Drayton
33 Harbor).

34 Policy 10G-4: Management efforts should consider both water quality and
35 quantity. Water quality efforts should help reduce the likelihood
36 that potential contaminant sources will pollute water supplies.
37 Water quantity efforts should include consideration and
38 protection of recharge areas and potential effects on stream
39 flow.

40 Policy 10G-5: Support the implementation of local and state Watershed
41 Management Plans, the Lower Nooksack Strategy, the Lake
42 Whatcom Management Program, NPDES Phase II Permitting,
43 and the WRIA Watershed Management Projects.

- 1 Policy 10G-6: Pursue the adoption and implementation of ground and/or
2 surface water management plans and their integration into local
3 comprehensive plans. Designate the Lake Whatcom and Lake
4 Samish Watersheds as high priorities in this effort.
- 5 Policy 10G-7: Oppose the use of hydraulic fracturing in oil and gas wells (also
6 known as “fracking”) to avoid the potential degradation of water
7 quality in aquifers and other groundwater.
- 8 Policy 10G-8: Monitor, prevent, and reduce the establishment of invasive
9 species in Whatcom County waterbodies.
- 10 Policy 10G-9: Identify and/or update wellhead protection areas and critical
11 aquifer recharge areas and incorporate into the Critical Areas
12 Ordinance. This information should be available to the public.

13 **Stormwater and Drainage**

14 **Goal 10H: Protect water resources and natural drainage systems by**
15 **controlling the quality and quantity of stormwater runoff.**

- 16 Policy 10H-1: Manage stormwater runoff to minimize surface water quality and
17 quantity impacts and downstream impacts on channel
18 morphology, property owners, and aquatic species and habitats.
- 19 Policy 10H-2: Maintain or enhance, when appropriate, natural drainage
20 systems and natural water storage sites in order to better
21 protect water quality, moderate water quantity, minimize
22 environmental degradation, and reduce public costs.
- 23 Policy 10H-3: Limit the alteration of natural drainage systems and natural
24 water storage sites without mitigating measures. Such
25 measures should not degrade water quality or fish and wildlife
26 habitat and should not increase hazards to the community.
- 27 Policy 10H-4: Support the use by resource industries—such as agriculture,
28 forestry, and mineral resource extraction—of management
29 practices that minimize erosion and sedimentation, and
30 significantly reduce pollutants.
- 31 Policy 10H-5: Evaluate the role of watersheds in the maintenance of water
32 quality and quantity and determine what cumulative impacts
33 development activity may have on watershed hydrology.
- 34 Policy 10H-6: Develop specific stormwater management programs for each
35 drainage basin within the county's jurisdiction that may be
36 impacted by urban levels of development. Recognize the Lake
37 Whatcom Watershed, Lake Samish, and Drayton Harbor as high
38 priorities in this effort. Coordinate efforts with the Lake
39 Whatcom Policy Group, the various shellfish protection districts,
40 and other watershed management entities.

1	Policy 10H-7:	Establish, as a high priority, a stormwater maintenance program
2		that ensures that stormwater systems are adequately
3		maintained and function at or near design capacity.
4	Policy 10H-8:	Strongly incentivize the use of low impact development
5		strategies. Minimize the amount of impervious surface whenever
6		practicable by using natural engineering design methods such as
7		the use of open, grassed, street swales and rain gardens instead
8		of curbs and gutters. Where feasible, encourage alternate
9		surfacing options and other techniques associated with low
10		impact development (see Glossary).
11	Policy 10H-9:	Develop and administer stormwater management standards as
12		required by the NPDES Phase II Permit.
13	Policy 10H-10:	Develop and administer regulations and incentives such that
14		there is no net loss of ecological functions and values of
15		regulated wetlands and fish and wildlife habitats.
16	Policy 10H-11:	Place a high priority on integrating impervious surface reduction
17		incentives into policies, regulations, and standards.
18	Policy 10H-12:	Develop and implement comprehensive stormwater
19		management programs and strategies designed to address
20		runoff from all private and public developments and facilities
21		within regulated and sensitive watersheds.
22		1. Implement the Western Washington Phase II Municipal
23		Stormwater Permit as part of the National Pollutant
24		Discharge Elimination System (NPDES) Program. Incorporate
25		watershed considerations into the development of a
26		comprehensive stormwater management strategy for
27		designated areas.
28		2. Review Stormwater Special Districts Standards, Watershed
29		Protection Districts, and other related codes that address
30		runoff treatment from potentially polluting surfaces for their
31		applicability to other sensitive watersheds with the Technical
32		Advisory Committee and other appropriate agencies.
33		Coordinate efforts for ongoing monitoring and evaluation
34		within the sensitive watersheds and NPDES areas.
35		3. Amend subdivision, zoning, and other land use regulations
36		and design standards to encourage that land use activities
37		minimize the amount of impervious surface.
38		4. Identify and implement a long-term funding source to
39		provide for water resource protection services, including non-
40		point source identification and enforcement of applicable
41		county regulations.
42		5. Focus on the Lake Whatcom watershed as a high priority in
43		developing a stormwater management program. Develop a

stormwater management plan that achieves a uniform level of protection throughout the Lake Whatcom watershed. Ensure coordination and communication with the public and affected jurisdictions, such as the Lake Whatcom Water and Sewer District, the Sudden Valley Community Association, and the City of Bellingham.

6. Ensure existing stormwater standards are adequately enforced within Stormwater Special Districts, Watershed Protection Districts, and the NPDES areas.
7. Prioritize stormwater polluting areas and develop retrofits for areas most likely to impact sensitive waters.

Water Conservation

Goal 10-I: Support water conservation, reclamation, reuse measures, and education as a means to ensure sufficient water supplies in the future.

Policy 10I-1: Support and assist water users in the development of cost-effective means of improving efficiency of water use.

Policy 10I-2: Support efforts to establish and protect sustainable water supplies to meet existing and future demands for water in the county.

Policy 10I-3: Develop and implement plans to comply with the Department of Ecology's instream flow and water management rules and water resources management programs.

Policy 10I-4: Coordinate local water and land management efforts, plans, and data to ensure adequate oversight of water quality and quantity issues.

Policy 10I-5: Quantify water use to promote conservation.

Policy 10I-6: Use water use data to encourage conservation and maintain availability of water for agriculture and instream flow.

Policy 10I-7: Encourage the Department of Ecology to provide flexibility in the application of the water relinquishment rule simultaneous with establishing a water bank/water exchange program in Whatcom County in cooperation with stakeholders.

Lake Whatcom Watershed

Goal 10-J: Prioritize the Lake Whatcom watershed as an area in which to minimize development, repair existing stormwater problems (specifically for phosphorus), and ensure forestry practices do not negatively impact water quality. Provide sufficient funding and support to be successful.

1	Policy 10J-1:	Work with property owners to find acceptable development
2		solutions at lower overall densities than the present zoning
3		allows.
4	Policy 10J-2:	Develop and implement the fair and equitable funding
5		mechanisms called for in the 2008 Lake Whatcom
6		Comprehensive Stormwater Plan to support lake water quality
7		protections by 2018.
8	Policy 10J-3:	Recognize that all users of Lake Whatcom water have an
9		interest in the resource and should share in the cost of its
10		protection.
11	Policy 10J-4:	Work cooperatively with the City of Bellingham, the Lake
12		Whatcom Water and Sewer District, and applicable associations
13		and organizations to identify, review, and, as appropriate,
14		recommend changes to existing monitoring programs to better
15		improve lake water quality.
16	Policy 10J-5:	Evaluate and pursue, as appropriate, the use of incentives to
17		encourage voluntary lot consolidation, transfer or purchase of
18		development rights, current use taxation, and participation in
19		open space conservation programs.
20	Policy 10J-6:	Do not allow density bonuses within the Lake Whatcom
21		Watershed.
22	Policy 10J-7:	Work cooperatively with the City of Bellingham and the Lake
23		Whatcom Water and Sewer District to develop and track
24		benchmarks to determine: the effectiveness of management
25		options; when goals have been achieved; and/or when
26		additional actions are necessary.
27	Policy 10J-8:	Continue to develop and refine structural and non-structural
28		best management practices (BMPs), both voluntary and
29		required, to minimize development impacts within the Lake
30		Whatcom watershed.
31	Policy 10J-9:	Work to keep publicly-owned forest lands within the Lake
32		Whatcom watershed in public ownership, and support managing
33		forestry on these lands in a manner that minimizes sediment
34		and phosphorus yields from streams, and is consistent with Best
35		Available Science (BAS) data, in order to protect and enhance
36		water quality.
37	Policy 10J-10:	Encourage the location of public services, such as schools,
38		libraries, parks/open space, and post offices within Sudden
39		Valley in an attempt to reduce the vehicle miles traveled within
40		the watershed.
41	Policy 10J-11:	Continue to work with Bellingham and Lake Whatcom Water and
42		Sewer District to protect and manage the Lake Whatcom
43		watershed in accordance with the 1998 jointly adopted interlocal

1 agreement. Focus on continued implementation of the 5-Year
2 Work Plans of the Lake Whatcom Management Program. In
3 addition, work with the affected jurisdictions and secure funding
4 for programs that protect and enhance water quality.

5 Policy 10J-12: Review and modify (as needed) the current development review
6 process for projects in the Lake Whatcom Watershed to ensure
7 coordination with other jurisdictions to streamline regulations
8 that improve and protect water quality.

9 Policy 10J-13: The existence of sewer lines in the Rural and Rural Forestry
10 comprehensive plan designations will not be used to justify
11 rezoning property in the Lake Whatcom watershed to allow
12 higher density land uses.

13 Policy 10J-14: Existing Urban Growth Areas shall not be ~~designated or~~
14 expanded nor new Urban Growth Areas designated within the
15 Lake Whatcom Watershed, and rezones that allow greater
16 residential densities will not be allowed.

Comment [P/C3]: P/C struck

17 Ecosystems

18 Introduction

19 Ecological systems, or ecosystems, refer to the natural systems that have
20 developed within the geologic and geographic setting of Whatcom County.
21 Whatcom County contains a significant number of distinct ecosystem types, with
22 associated fish, wildlife, and plant species, as well as many other living organisms.
23 This biodiversity has evolved and adapted according to the specific physical and
24 climatic conditions of the county (Map 10-2, Map 10-3). Ecosystem goals and
25 policies are intended to provide guidance to county government as it assists people
26 to manage and protect these ecosystems. Additionally they ensure other benefits
27 are maintained far into the future.

28 Background Summary

29 Whatcom County provides a wide variety of natural habitats that support and
30 shelter a diverse array of fish and wildlife species. The county's wildlife is
31 particularly varied and abundant when compared to many other areas of
32 Washington State. There are a number of factors that have contributed to this:
33 abundant water resources, rich soils, mild climate conditions, and a moderate
34 degree of urbanization are among the most important. Among the habitats of
35 importance to fish and wildlife are the following:

- 36 • wetlands, lakes, and streams;
- 37 • nearshore, intertidal, estuarine habitats, and marine habitats including,
38 but not limited to, kelp and eelgrass beds;
- 39 • riparian areas and other travel corridors;
- 40 • snags and downed logs;
- 41 • forested habitats in a variety of successional stages;

- caves, cliffs, rocky balds, and talus slopes;
- grasslands and cultivated fields; and,
- thickets and fence rows.

Aquatic habitats include rivers, streams, ponds, lakes, and their riparian borders. Together, these habitats are essential to Whatcom County's fish and wildlife. Twenty-six species of fish—including twelve economically important stocks of salmon and trout—inhabit fresh water in Whatcom County for all or part of their life cycles. Healthy flowing streams and rivers, as well as off-channel wetland habitats, are essential to the survival of the majority of these fish. Wetland ponds, especially beaver ponds, provide optimal habitats for rearing and over-wintering of young fish, particularly Coho salmon and cutthroat trout juveniles.

Most wildlife species regularly use aquatic and riparian habitats for breeding, feeding, shelter, and migratory activities. Of this large grouping, over half are dependent upon wetland habitats at some point in their life cycles, and would decline or disappear in the absence of wetlands. Wetlands also contain unique vegetative communities that harbor many species of rare and unusual plants.

Fish and Wildlife Populations and Habitat

Optimum habitat for Pacific Northwest salmon and other fish is one that resembles the riparian landscape of pre-settlement times: braided streams wandering freely through nearly continuous forest; trees overhanging and partly fallen into streams; stream beds with abundant logs, step waterfalls, pools, and cutbanks; and vegetated marine and estuarine communities. In most cases, it is not realistic to return to that state. However, measures can be taken to retain or regain those features that provide the minimum requirements of a viable fishery.

The best habitat for native wildlife includes native plants, which are more closely matched to local soils, climate, and wildlife. They provide the right kinds of food, shelter, and diversity needed by wildlife. Native plants frequently need less watering, spraying, pruning, fertilizing, or other maintenance than do exotic or imported plants. Loss of native vegetation through conversion to ornamental vegetation and non-native species can result in loss of wildlife habitat, increased competition to native wildlife from introduced species, such as starlings, and increased maintenance needs. Loss of native vegetation also can occur through invasions of non-native species, such as the spread of *Spartina*, which can drastically displace important native eelgrass and mudflat communities.

Salmon Recovery Program

The decline of salmonids throughout Washington and the Pacific Northwest over the past century is well established. Since 1991, numerous evolutionarily significant units (ESUs) of Pacific salmonids have been listed as endangered or threatened under the Endangered Species Act (ESA), including those of chinook, coho, chum, sockeye, and steelhead. Decline in wild salmonid abundances have been attributed to widespread loss and degradation of habitat, due to hydropower, residential and urban development, agriculture, forestry, and fishing and hatchery production.

1 In the Nooksack basin, abundances of several salmonid stocks have diminished
2 substantially from historical levels. The declines in local salmonid stocks, especially
3 Chinook salmon, have had profound economic, cultural, and social impacts on the
4 greater WRIA 1 community. Direct impacts include reduced jobs and income for
5 commercial fisherman, severe curtailment of tribal and subsistence catch, and loss
6 of tourism associated with recreational fishing. In addition, ESA listings impose
7 constraints on the activities of local and tribal governments, businesses, the
8 agricultural community, and citizens, who must seek to avoid or minimize take of
9 listed species. Nonetheless, salmon remain an integral part of the natural and social
10 landscape of Whatcom County and the Nooksack River Watershed. Recent
11 watershed recovery planning and restoration efforts by federal, state, local, and
12 tribal governments, non-profit organizations, businesses, and private citizens
13 demonstrate a commitment to salmon recovery in WRIA 1.

14 The WRIA 1 Salmon Recovery Program is a multi-government planning effort with a
15 WRIA-wide scope to address salmon recovery and protection of ESA and non-ESA
16 listed salmonids.

17 WRIA 1 Salmon Recovery Strategy

18 The ultimate goal for salmon recovery in WRIA 1 is to recover self-sustaining
19 salmonid runs to harvestable levels through the restoration of healthy rivers and
20 natural stream, river, estuarine, and nearshore marine processes; careful use of
21 hatcheries; and responsible harvest, with the active participation and support of
22 local landowners, businesses, and the larger community. The purpose of the *WRIA*
23 *1 Salmonid Recovery Plan* is to identify the actions necessary to recover WRIA 1
24 salmonid populations, especially listed species, and to outline the framework for
25 implementation of recommended actions that have been agreed to by local, state,
26 tribal, and federal governments and stakeholders in WRIA 1. In the near term, the
27 objectives are to:

- 28 1. Focus and prioritize salmon recovery efforts to maximize benefit to the
29 two Nooksack early chinook populations;
- 30 2. Address late-timed Chinook through adaptive management, focusing in
31 the near-term on identifying hatchery versus naturally-produced
32 population components;
- 33 3. Facilitate recovery of WRIA 1 bull trout and steelhead by implementing
34 actions with mutual benefit to early chinook, bull trout, and steelhead, by
35 removing fish passage barriers in presumed bull trout and steelhead
36 spawning and rearing habitats in the upper Nooksack River watershed;
37 and
- 38 4. Address other salmonid populations by (a) protecting and restoring WRIA
39 1 salmonid habitats and habitat-forming processes through regulatory and
40 incentive based programs; and (b) encouraging and supporting voluntary
41 actions that benefit other WRIA 1 salmonid populations without diverting
42 attention from early chinook recovery.

43 Focusing efforts on early chinook is consistent with regional salmon recovery,
44 current abundance and productivity for the two populations is very low and

1 recovery of both populations is critical to delisting and recovery of the Puget Sound
2 Evolutionarily Significant Unit (ESU) for Chinook salmon.

3 *Salmon Recovery Board (SRB)*

4 WRIA 1 Salmon Recovery Board membership includes the County Executive,
5 Bellingham Mayor, Mayors of the Small Cities of Whatcom County, the regional
6 director of the Washington Department of Fish and Wildlife, and policy
7 representatives from Lummi Nation and Nooksack Indian Tribe.

8 The WRIA 1 Salmonid Recovery Plan (2005), a chapter of the Puget Sound Salmon
9 Recovery Plan, guides restoration in the Nooksack River and adjacent watersheds.
10 This plan was developed in partnership with Nooksack Tribe, Lummi Nation,
11 Washington Department of Fish and Wildlife, Bellingham, Whatcom County
12 Government, and the small cities of Whatcom County. Chinook salmon populations
13 (listed as threatened with extinction under the Federal Endangered Species Act) are
14 prioritized, yet the plan also provides the template for recovery of threatened
15 steelhead and bull trout and the other salmon and trout populations native to
16 Whatcom County.

17 The salmon plan was developed in parallel with the WRIA 1 Watershed Management
18 Plan. Salmon habitat is intricately linked to watershed management; salmon
19 recovery will be most successful when fish habitat objectives are carefully
20 coordinated with watershed management objectives. Integrating salmon recovery
21 with flood hazard management and restoring fish passage under County roads are
22 two primary areas of focus.

23 **Marine Resources Management**

24 Marine habitats include all saltwater bodies and their shorelines, kelp and macro
25 algae beds, eelgrass meadows, salt marshes, beaches, and mudflats. These
26 habitats play a vital role in the health of the local environment, as well as of the
27 broader Puget Sound region. They provide spawning, rearing, and feeding grounds
28 for a wide variety of marine life, as well as refuge for juvenile and adult fish, birds,
29 and shellfish. The vegetation on back-shore marshes and within estuaries buffers
30 adjacent upland areas by absorbing wave energy and slowing erosion.

31 Symptoms of ecosystem stress include: declining stocks of salmon, bottomfish, and
32 forage fish; closures of recreational and commercial shellfish beds; degradation and
33 losses of eelgrass beds, kelp forests, and other marine habitats; and dwindling
34 populations of seabirds and marine mammals.

35 The Northwest Straits Marine Conservation Initiative was authorized by Congress in
36 1998. The Initiative established the Northwest Straits Commission and Marine
37 Resources Committees (MRCs) in seven western Washington counties, including
38 Whatcom County. The MRCs' main purpose is to guide local communities, using up-
39 to-date information and scientific expertise, to achieve the important goals of
40 resource conservation and habitat protection within the Northwest Straits. The
41 Whatcom County MRC acts as an advisory committee to the Whatcom County
42 Council.

1 Shellfish Recovery

2 Many of the marine waterbodies in Whatcom County support natural and cultured
3 bivalve shellfish, including oysters and many species of clams. The warm, nutrient-
4 rich tide flats in and around Lummi, Portage, and Birch Bays; Drayton Harbor; and
5 Eliza and Lummi Islands represent unique water resources in this regard.
6 Commercial shellfish growers, recreational clam and oyster harvesters, and Native
7 Americans have used this resource for many years. It is an important part of our
8 community's heritage.

9 Our ability to grow and harvest shellfish that is safe for human consumption is
10 directly linked to surface water quality and the influence it has on marine waters.
11 The primary measure of water quality for shellfish harvesting is bacterial
12 contamination. There are many potential sources of fecal bacteria, such as
13 municipal sewage treatment plants, on-site sewage systems, boat waste, farm
14 animals, pets, and wildlife. Since 1995, valuable shellfish beds in Portage Bay and
15 Drayton Harbor have been downgraded (harvest prohibited) due to non-point
16 pollution impacting recreational, tribal, and commercial harvesting. In 2014,
17 Portage Bay was identified as a threatened Shellfish Growing Area by the
18 Washington Department of Health. (Washington Department of Health, 2014)

19 *Shellfish Protection Advisory Boards*

20 Whatcom County has three Shellfish Protection District Advisory Committees, one
21 for each of the Shellfish Protection Districts: Birch Bay, Drayton Harbor, and
22 Portage Bay. Each advises the County Council on proposed actions and operations
23 relating to the restoration of water quality in their respective watersheds.

24 *Shellfish Recovery Plans*

25 Shellfish Recovery Plans have been created for each of three districts. The plans
26 outline the primary sources of bacteria and actions to improve water quality:

- 27 • Drayton Harbor Shellfish Recovery Plan (2007)
- 28 • Portage Bay Shellfish Recovery Plan (2014), Portage Bay Initial Closure
29 Response Strategy (1998)
- 30 • Birch Bay Initial Closure Response Strategy (2009)

31 *Pertinent Documents*

- 32 • Whatcom Marine Resources Committee 2011 - 2015 Strategic Plan (2010)

33 This document outlines the MRC's mission, vision, values, goals, objectives, and
34 strategies for achieving them.

35 **Shoreline Management Program**

36 ~~The State Legislature passed the Washington State Shoreline Management Act~~
37 ~~(SMA) in June 1971. The SMA was overwhelmingly passed by public initiative in~~
38 ~~1972. Under the SMA, each county and city was required to prepare a shoreline~~
39 ~~"master program" in accordance with the shoreline guidelines issued by the State~~
40 ~~Department of Ecology in 1972.~~

41 ~~The Whatcom County Shoreline Management Program (SMP), WCC Title 23, is the~~
42 ~~document that implements the goals and policies of the SMA at the local level. It~~
43 ~~was adopted in 1976 in accordance with RCW 90.58. The goals and policies of the~~

Comment [CES4]: Moved to Ch. 11.

1 ~~Whatcom County Shoreline Management Program also constitute the shoreline~~
2 ~~component of the Whatcom County Comprehensive Plan.~~

3 ~~Under the provisions of the SMA, all development along shorelines of the state is~~
4 ~~required to comply with the provisions of local shoreline master programs. The~~
5 ~~Whatcom County Shoreline Management Program works with other chapters of the~~
6 ~~Whatcom County Code to protect and preserve saltwater and freshwater shorelines~~
7 ~~throughout the county by managing natural resources and directing development~~
8 ~~and land use suitable for the shoreline environment.~~

9 ~~The Whatcom County Shoreline Management Program jurisdiction includes:-~~

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

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

20 **Issues, Goals, and Policies**

21 **General – Ecosystems**

22 Development and urbanization of the land base have and may continue to result in
23 the degradation and reduction of ecosystem functions. Wetlands and estuaries
24 continue to be lost incrementally. Streams and their adjacent riparian habitat are
25 affected by land clearing, ditching, erosion, and road building. Lakeshore
26 development degrades the foreshore environment for waterfowl and other species,
27 as well as negatively affecting water quality. It is estimated that Washington has
28 also lost approximately one-third of its historic eelgrass beds from a variety of
29 causes, including dredging, shading, and filling. Large-diameter snags and downed
30 logs, an essential feature for dozens of wildlife species, are lost during clearing or
31 intensive forest management. Forested habitats are lost to a number of
32 development processes including urbanization, agriculture, increased rural/
33 suburban housing density, and timber harvesting. The delicate environment of cliffs
34 and caves may be affected by housing development, mining, and other activities.
35 Conversely, grasslands, thickets, fields, and fence rows are habitats largely
36 provided and enhanced by human activities, and are thus fairly abundant and
37 stable within the developing county. The existence of farms, in particular, has
38 contributed to an abundance of these more open, pastoral habitats.

39 Many stream systems in Whatcom County have been altered by agriculture,
40 forestry, development, and flood control practices, contributing to low stream flows,
41 fisheries loss, water pollution, sedimentation and other problems. These impacts
42 can directly affect the fisheries resources by depositing silt and debris into
43 spawning beds, by removing trees that shade and cool the water, bank armoring,

1 interfering with the recruitment and establishment of large woody debris (LWD), by
2 obstructing fish passage with culverts and roads, by altering natural channels
3 through filling, bank hardening, and channelizing. In addition, the physical
4 processes that create functional habitats for fish life stages are altered by
5 increasing flows through stormwater runoff or consuming water volume for other
6 out-of-stream uses.

7 Finally, a healthy and functioning ecosystem, including forests, wetlands, fish,
8 wildlife, and native plants they harbor, is an identified resource. A healthy
9 ecosystem supports diverse and abundant wildlife, fish, and plant populations, and
10 is necessary. The gathering of fish, game, and other natural resources forms a
11 central aspect of many cultures in Whatcom County. The mere presence of these
12 natural resources constitutes a community amenity that is a substantial part of our
13 local economic base.

14 **Goal 10K: Protect and enhance ecosystems, which provide**
15 **economic, ecological, aesthetic, and cultural benefit.**

16 Policy 10K-1: Define and identify species, habitats, and habitat features
17 important to a balanced and sustainable web of life, biodiversity,
18 and especially important to fish, native plants, and wildlife.
19 Create, and regularly update an Ecosystem Report.

20 Policy 10K-2: Develop and adopt programs that protect habitats essential to
21 the conservation of species that have been identified as
22 endangered, threatened, or sensitive by the state or federal
23 government as well as habitats identified as necessary in the
24 Ecosystem Report. These programs should maintain and
25 encourage restoration of habitat conditions for listed species of
26 concern, as well as habitats identified as having significant
27 biodiversity, connectivity, and other important features and
28 functions.

29 Policy 10K-3: Develop incentives for protection of environmentally fragile
30 areas or critical plant and wildlife habitats as well as habitats
31 that provide connectivity (corridors).

32 Policy 10K-4: Where feasible, incorporate fish and wildlife habitats into public
33 capital improvement projects.

34 Policy 10K-5: Provide measures to mitigate negative water quality and
35 quantity impacts from both public and private alterations of
36 natural drainage systems.

37 Policy 10K-6: Consider sensitive fish, shellfish, and wildlife species and their
38 habitats when establishing zoning densities and patterns.

39 Policy 10K-7: Promote voluntary fish and wildlife habitat enhancement
40 projects through educational and incentive programs, such as
41 purchase of development rights or habitat conservation
42 easements. These projects, which can be done by individuals,
43 organizations, and businesses, will buffer and expand fish,
44 plant, and wildlife habitat.

- 1 Policy 10K-8: Give careful consideration to the siting of industrial, commercial,
2 residential, and other land use designations when located near
3 important marine, terrestrial, or other critical habitats.
- 4 Policy 10K-9: Protect, retain, and enhance the beneficial uses and functions of
5 streams and rivers. Define and identify the beneficial uses and
6 functions of streams and rivers, including wildlife and fisheries
7 habitat, water quality, open space, aesthetics, and recreation.
- 8 Policy 10K-10: Protect and enhance ecosystem functions when flood hazard
9 management measures are used.
- 10 Policy 10K-11: Regulate the operation of river gravel extraction activities in
11 such a manner so as to provide long-term protection of fish and
12 wildlife habitat and water quality.
- 13 Policy 10K-12: Ensure design and development of residential and industrial
14 development minimizes disturbance to rivers, streams, and
15 functioning riparian areas.
- 16 Policy 10K-13: Evaluate the full value of the fishery; including its cultural and
17 economic value; in land use decisions that may impact that
18 fishery. Unavoidable impacts to an individual habitat or fishery
19 shall be mitigated.
- 20 Policy 10K-14: Continue to consider the value of wildlife populations for which
21 habitat conservation areas have been identified in PDS's wildlife
22 habitat mapping, their associated habitats, and connectivity in
23 land use planning that may impact them. This is not intended to
24 require landowners to pay for any additional studies.
- 25 Policy 10K-15: Mitigation to Habitat Conservation Areas should be tracked and
26 monitored to ensure no net loss to natural area.
- 27 Policy 10K-16: Monitor Habitat Conservation Areas to obtain a baseline of
28 current conditions and to ensure no net loss and avoidance of
29 cumulative impacts.

30 **Fish and Wildlife Populations and Habitat**

- 31 **Goal 10L:** **Protect and enhance ecosystems that support native fish**
32 **and wildlife populations and habitat.**
- 33 Policy 10L-1: Strongly discourage any activity that might cause significant
34 degradation of the fishery resource or habitat.
- 35 Policy 10L-2: Support the protection and enhancement of significant fish
36 spawning and rearing habitat, food resources, refugia (shelter),
37 and travel passages.
- 38 Policy 10L-3: Establish non-regulatory mechanisms and incentives for
39 development that accommodates the habitat needs of fish and
40 wildlife and encourages good stewardship practices.

1	Policy 10L-4:	Support protection and enhancement of fish and wildlife habitat
2		through site design in new development.
3	Policy 10L-5:	Native vegetation and soils on streambanks and shorelines
4		should be disturbed as little as possible. In situations where re-
5		vegetation is necessary to restore streambank or shoreline
6		stability and provide shading, site-specific native plants should
7		be used. Retention of vegetated riparian areas on all lake and
8		marine shorelines shall also be encouraged.
9	Policy 10L-6:	Discourage shoreline armoring. Instead, encourage natural or
10		bio-engineering solutions such as planting native vegetation,
11		engineered log jams/LWD, and beach nourishment along
12		eroding banks to address stream and shoreline bank erosion
13		problems. Riparian buffers should be replanted with suitable
14		native vegetation as a part of all bank stabilization projects.
15	Policy 10L-7:	Encourage native vegetation and soil retention and plantings
16		that provide or maintain the beneficial uses and functions of
17		streams, rivers, lakes, and marine shorelines.
18	Policy 10L-8:	Maintain and encourage restoration of habitat functions for
19		threatened and endangered fish species.
20	Policy 10L-9:	Use Best Available Science to inform the creation of regulations
21		to mitigate adverse impacts of development adjacent to rivers,
22		streams, and marine shorelines.
23	Policy 10L-10:	Encourage landowners to voluntarily protect surface water
24		quality with filter strips or other appropriate water cleansing
25		mechanisms installed between lawns, landscaping, livestock
26		pens, or agricultural fields and waterbodies.
27	Policy 10L-11:	Formulate and implement a comprehensive, landscape-based,
28		environmental management program to protect fish and wildlife.
29		The program should include the following:
30		1. Formulate an administrative approach to the review of
31		development and planning proposals that consider natural
32		system policies;
33		2. Investigate and develop programs for acquisition and
34		restoration of important fish and wildlife habitat areas;
35		3. Develop and enter into cooperative agreements with State
36		and Federal agencies and neighboring jurisdictions to identify
37		and protect ecosystems;
38		4. Identify and map important habitat corridors and
39		connectivity throughout the county; and,
40		5. Support the development of educational materials which list,
41		describe, and characterize the appropriate use of native
42		vegetation to enhance ecosystem functions in Whatcom
43		County.

- 1 Policy 10L-12: Consider establishing formal meander limits for the Nooksack
2 River, precluding additional development within this zone, and
3 promote the River and Flood property acquisition program
4 within these areas.
- 5 Policy 10L-13: Diligently work to prevent and/or reduce the establishment
6 and/or spread of invasive species.
- 7 Policy 10L-14: Actively participate in and support WRIA 1 Salmon Recovery
8 efforts to return self-sustaining salmonid runs to harvestable
9 levels through: the restoration of healthy rivers, marine
10 shorelines, and natural processes; the careful use of hatcheries;
11 and responsible harvest.
- 12 Policy 10L-15: Participate in protection and improvement of biodiversity.
- 13 Policy 10L-16: Consider establishing important habitat areas as sending
14 areas after creating a voluntary, workable transfer of
15 development rights (TDR) program.
- 16 Policy 10L-17: Mitigation of wetlands should be reviewed and tracked over time
17 to ensure no net loss of wetland function.
- 18 Policy 10L-18: A baseline of wetland identification and function should be made
19 to track and prevent net loss and avoid cumulative impacts.
- 20 Policy 10L-19: The County will support the work of the Fisheries Co-managers
21 (Lummi Nation, Nooksack Tribe, and the State Department of
22 Fish and Wildlife) and stakeholders to establish a sustainable
23 salmon harvest goal for the Nooksack Basin.

24 Wetlands

25 Wetlands are crucial environmental features in Whatcom County. Wetlands provide
26 invaluable functions in aquifer recharge, groundwater storage, floodwater
27 detention, pollutant removal and purification of water supplies, as well as provision
28 of fish and wildlife habitat. Loss of wetlands has been due to many factors,
29 including urbanization, agricultural development, and drainage projects.

30 A plethora of complex and often confusing laws govern the definition, delineation,
31 and protection of wetlands. These laws originate at national, state, and county
32 levels. Land managers and private citizens often experience difficulty in
33 interpreting, synthesizing, and applying wetland regulations. In general, however,
34 state regulations must comply with federal standards and local regulations must
35 comply with both federal and state standards.

36 Goal 10M: Conserve and enhance regulated wetlands.

- 37 Policy 10M-1: Recognize natural wetlands such as swamps, bogs, saltwater
38 marshes, and ponds for their value in cleaning water, reducing
39 flood damage, providing valuable habitat for plants, fish and
40 wildlife, and as sites for groundwater recharge.

Comment [P/C5]: This proposed amendment is not part of the SMP Update. Rather, it is a policy the Council expressed in interest in adding in support of the fisheries co-manager's Sustainable Salmon Harvest Goal. Adding such a policy was placed on the docket by Council in 2018 (#PLN2018-00010).

1	Policy 10M-2:	Develop and adopt criteria to identify and evaluate wetland
2		functions that meet the Best Available Science standard and
3		that are consistent with state and federal guidelines.
4	Policy 10M-3:	Biological functions of wetlands are complex and interwoven.
5		Evaluate the full range of potential and immediate economic
6		impacts in land use decisions relating to wetlands, including
7		fisheries, wildlife, recreation, farmlands, sustainable resources,
8		air and water quality, flood hazard management, real estate,
9		cultural attributes, and other uses.
10	Policy 10M-4:	Encourage land development to avoid wetland impacts. Impacts
11		to regulated wetlands should be contingent upon full mitigation
12		measures that equitably compensate for wetlands impacts, on a
13		case-by-case basis. Approved mitigation measures shall include
14		resources for long-term monitoring and adaptive management
15		of mitigation outcomes to assure effectiveness. Strongly
16		discourage alteration of land that results in the degradation of
17		type 1 and 2 wetlands.
18	Policy 10M-5:	Property rights and public services are essential components of
19		our political and economic system. Where such rights and public
20		services are significantly compromised by the goal of wetland
21		preservation, adverse wetland impacts may be permitted
22		through standardized mitigation. This may include avoidance,
23		impact minimization, restoration, enhancement, creation, or off-
24		site compensation for loss of wetland functions in accordance
25		with mitigation sequencing.
26	Policy 10M-6:	Recognize beneficial wetland uses, functions, and values.
27		Support protection of fish and wildlife habitat, water quality,
28		plant diversity, flood attenuation and low-flow contribution, and
29		water storage through planning, acquisition, incentive programs,
30		and mitigation.
31	Policy 10M-7:	Development applications should be assessed on a case-by-case
32		basis so that marginal wetlands are not preserved at the
33		expense of upland areas with higher habitat value.
34	Marine Habitat	
35	Goal 10N:	Protect and enhance marine ecosystems and resources in
36		Whatcom County.
37	Policy 10N-1:	Support the Whatcom County Marine Resources Committee in
38		its pursuit of the Northwest Straits Commission benchmarks as
39		follows:
40		▪ Broad county participation in MRCs;
41		▪ A net gain in high-value habitat and ecosystem functions;
42		▪ A net reduction in shellfish bed closures;

1		▪ Measurable increases in factors supporting bottomfish recovery;
2		
3		▪ Population increases in other key indicator species;
4		▪ Coordination of scientific data;
5		▪ Successful public education and outreach efforts; and,
6		▪ The establishment of a regional system of Marine Protected Areas (MPA's).
7		
8	Policy 10N-2:	Promote naturalized shoreline buffers and restoration of riparian vegetation.
9		
10	Goal 10P:	Protect and enhance shellfish habitat in commercial and recreational areas to ensure a productive resource base for long-term use.
11		
12		
13	Policy 10P-1:	Identify and designate marine shellfish habitat for commercial and recreational uses.
14		
15	Policy 10P-2:	Restore degraded waters within the drainage basins of shellfish growing areas to a level that allows/supports shellfish harvesting by work with the Department of Ecology, Tribes, Department of Health, Department of Fish and Wildlife, and affected property owners to improve water quality.
16		
17		
18		
19		
20	Policy 10P-3:	Protect shellfish resources by means of pollution prevention and enforcement when necessary. This should include surface and groundwater monitoring for early detection of pollution to minimize the damage and cost of resource restoration.
21		
22		
23		
24	Policy 10P-4:	Improve knowledge of the importance of protecting, preserving, and improving the quality of shellfish habitat within the County. Seek out valuable partnerships that will raise awareness, provide education, and enhance shellfish habitat.
25		
26		
27		
28	Policy 10P-5:	Develop Low Impact Development standards in shellfish habitat areas.
29		
30	Policy 10P-6:	Identify and encourage the use of stormwater treatment systems and Best Management Practices to reduce fecal coliform bacteria levels in stormwater discharging directly into shellfish habitat areas.
31		
32		
33		
34	Policy 10P-7:	Solicit input from the Shellfish Protection District advisory committees and appropriate state, federal, and tribal agencies when considering updates to the Comprehensive Plan that relate to shellfish protection.
35		
36		
37		
38	Policy 10P-8:	Identify and restore functions, selected through best available landscape-based science, of key wetland areas.
39		
40	Policy 10P-9:	Modify county roadside ditch maintenance procedures to protect water quality.
41		

- 1 Policy 10P-10: Continue to partner with jurisdictions in British Columbia to
2 minimize impacts on water quality, including what affects
3 shellfish habitat.
- 4 Policy 10P-11: Work within the structure of County programs such as the WRIA
5 Watershed Management Planning process to achieve
6 improvements in land use Best Management Practices that will
7 positively affect change in marine water quality.
- 8 Policy 10P-12: Continue to develop programs that identify potential pollution
9 sources and ensure timely and science-based approaches are
10 used in response to problems as they arise.
- 11 Policy 10P-13: Develop educational tools and opportunities to raise public
12 awareness of marine issues and to inform them of how they can
13 have a positive impact by helping preserve these marine
14 resources.
- 15 Policy 10P-14: Identify areas (such as wetlands and the nearshore
16 environment) that are important to shellfish habitat
17 preservation. Also identify river and stream processes that
18 adversely impact shellfish habitat. Use this information when
19 making land use management and preservation decisions.
- 20 Policy 10P-15: Create a tracking mechanism to document progress made
21 toward improving downgraded shellfish areas. This information
22 will be useful not only in supporting an upgrade when water
23 quality shows improvement, but also in preventing degradation
24 in currently approved shellfish areas.
- 25 Policy 10P-16: Work with the County Shellfish Advisory Committees, Marine
26 Resources Committee, Salmon Recovery Fund Board, WRIA
27 Watershed Management Board, and other local, state, federal,
28 and tribal agencies to address issues associated with shellfish,
29 shellfish area closures, and shellfish habitat.
- 30 Policy 10P-17: Consider establishing the Drayton Harbor Watershed as a
31 sending area when considering a transfer of development rights
32 (TDR) program in.
- 33 Policy 10P-18 Support the Department of Health's On-Site Sewage System
34 (OSS) Program as a means to lower degradation of our
35 waterways.

36 **Other Marine and Marine Dependent Organisms and Systems**

37 Our Marine system supports not only local, critical, and global fisheries resources,
38 but also a myriad of interdependent organisms, the importance of which we lack
39 the capacity to fully grasp. The Marine ecosystem is a complex web of life that is
40 increasingly affected by anthropogenic impacts. Toxics, hormones, heavy metals,
41 and other harmful substances flushed into nearshore and marine environments with
42 stormwater have been shown to have deleterious cumulative impacts on a range of
43 aquatic and marine dependent organisms. Whatcom County will take steps to halt

1 the practice of treating its streams and rivers as a storm sewer and the marine
2 system as a water treatment facility.

3 Policy 10P-19: Promote Best Management Practices, land use, and stormwater
4 policies that result in a minimal release of harmful chemicals
5 and metallic substances into surface water and the marine
6 environment.

Chapter Eleven Shorelines

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

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.

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

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

~~23.10.030~~ Governing Principles

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

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

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

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

Shoreline Management Program Restoration Plan developed by Whatcom County.

D. Regulation of private property to implement ~~SMP program~~ goals such as public access and protection of ecological functions and processes must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, civil rights guaranteed by the U.S. and state Constitutions, ~~recent-pertinent~~ federal and state case law, and state statutes, such as RCW 34.05.328 and 43.21C.060 and Chapter 82.02 RCW.

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

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

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

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

Chapter 23.20 Overall SMPShoreline 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.

1 **~~23.20.010 Adoption:~~**

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

Comment [MD6]: Moved up.

7 **~~23.20.020 Economic Development:~~**

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

12 **Goal 11A:** **~~Goal. To create and maintain an economic environment~~**
13 **~~that can coexist harmoniously with the natural and~~**
14 **~~human environment.~~**

15 **~~B.~~** Objectives:

16 **11A-1:** Encourage economic development that has minimal adverse
17 effects and mitigates unavoidable impacts upon shoreline
18 ecological functions and processes and the built environment.

19 **11A-2:** Encourage shoreline development that has a positive effect upon
20 economic and social activities of value to the region.

21 **11A-3:** Encourage new water-dependent, water-related, and water-
22 enjoyment economic development in priority order.

23 **11A-4:** Encourage economic development that is consistent with the
24 adopted Comprehensive Economic Development Strategy
25 (CEDS) for Whatcom County.

26 **11A-5:** Implement economic development policies contained in other
27 chapters of the Whatcom County Comprehensive Plan in
28 shoreline areas consistent with this chapter, WCC Title 23
29 program and the SMA Act.

30 **11A-6:** Encourage new economic development to locate in areas that
31 are already developed with similar uses.

32 **11A-7:** Discourage expansion of existing development that is
33 incompatible with the Comprehensive Plan ~~this program~~, WCC
34 Title 23, or the character of the local area, or the Whatcom
35 County Comprehensive Plan.

36 **~~23.20.030 Public Access:~~**

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

39 **Goal 11B:A:** **~~Goal. To increase the general public's ability of the~~**
40 **~~general public to reach, touch, and enjoy the water's~~**

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

B. Objectives:-

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

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

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

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

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

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

~~23-20-040~~ Recreation:-

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

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

B. Objectives:-

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

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

1		Comprehensive Park and Recreation Open Space Plan, the
2		Whatcom County Bicycle Plan, and the Natural Heritage Plan.
3	<u>11C-3:</u>	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	<u>11C-4:</u>	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	<u>11C-5:</u>	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	<u>11C-6:</u>	Encourage private and public investment in recreation facilities.
16	<u>11C-7:</u>	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	<u>Goal 11D:A:</u>	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	<u>B.</u>	Objectives:
28	<u>11D-1:</u>	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	<u>11D-2:</u>	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	<u>11D-3:</u>	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	<u>11D-4:</u>	When appropriate, require adequate appropriate compensation
41		where transportation systems and essential public facilities
42		reduce the benefits people derive from their property.

1		<u>11D-5:</u>	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		<u>11D-6:</u>	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 uUse:	
9			The shoreline use element considers <u>prioritizes</u> 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			<u>type</u> , general distribution, location, and extent of such uses and developments.
14		<u>Goal 11E:A:</u>	Goal. To pPreserve and develop shorelines in a manner
15			that allows for an orderly balance of uses.
16		B.	Objectives:-
17		<u>11E-1:</u>	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 <u>SMAAct</u> for public
23			access and ecological restoration.
24		<u>11E-2:</u>	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		<u>11E-3:</u>	Ensure shoreline uses are consistent with the Whatcom County
29			Comprehensive Plan.
30		<u>11E-4:</u>	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		<u>11E-5:</u>	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 <u>SMAAct</u> .
37		<u>11E-6:</u>	Encourage shoreline uses and development that enhance
38			shoreline ecological functions and/or processes or employ
39			innovative features that further the purposes of <u>the SMP</u>
40			this <u>program</u> .
41		<u>11E-7:</u>	Encourage shoreline uses and development that enhance and/or
42			increase public access to the shoreline.

1	23-20-070 Conservation-	
2	The shoreline conservation element provides for the protection of natural resources,	
3	and shoreline ecological functions and processes. Resources to be conserved and	
4	protected include, but are not limited to, wetlands; riparian, nearshore, and aquatic	
5	habitats; priority fish and wildlife habitats and species; floodplains; feeder bluffs	
6	and other geological features; cultural and historic resources; as well as scenic	
7	vistas and aesthetics.	
8	<u>Goal 11F:A-</u>	Goal. To cConserve shoreline resources and important
9		shoreline features, and protect shoreline ecological
10		functions and the processes that sustain them to the
11		maximum extent practicable.
12	B. _____	Objectives:-
13	<u>11F-1:</u>	Develop <u>Maintain</u> regulations and mitigation standards that
14		ensure new shoreline developments prevent a net loss of
15		shoreline ecological functions and processes. Implement such
16		regulations and standards in a manner consistent with all
17		relevant constitutional and other legal limitations on the
18		regulation of private property.
19	<u>11F-2:</u>	Protect critical areas in accordance with the policies and
20		regulations in the County's critical areas regulations (WCC
21		Chapter 16.16), as adopted by reference in the SMP.
22	<u>11F-3:</u>	Manage renewable natural resources on a sustained yield basis.
23		Extract nonrenewable natural resources in a manner that
24		maintains the quality of other resources and shoreline ecological
25		functions and processes.
26	<u>11F-4:</u>	Prioritize protection and/or conservation of shoreline areas that
27		are ecologically intact and minimally developed or degraded.
28	23-20-080 Archaeological, historical and Cultural Resources	
29	The archaeological-historical-cultural <u>resource</u> element provides for protection,	
30	preservation and/or restoration of buildings, sites, and areas having archaeological,	
31	historical, cultural, or scientific value or significance. <u>"Cultural resource" refers to</u>	
32	<u>any archaeological, historic, cemetery, or other cultural sites or artifacts; as well as</u>	
33	<u>those traditional food, medicine, fibers, and objects that sustain the religious,</u>	
34	<u>ceremonial, and social activities of affected Native American tribes that may be</u>	
35	<u>regulated under state or federal laws administered by the Washington State</u>	
36	<u>Department of Archaeologic and Historic Preservation (DAHP).</u>	
37	<u>Goal 11G:A-</u>	Goal. Protect shoreline features of historic, cultural,
38		archeological, or scientific value or significance to
39		prevent damage or destruction through coordination and
40		consultation with the appropriate local, state and federal
41		authorities, including affected Indian tribes.
42	B. _____	Objectives:-

Comment [CES7]: DAHP definition.

- 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.

22 | ~~23-20-090~~ Views and ~~A~~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 a~~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.

33 | ~~23-20-100~~ Restoration and ~~e~~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 r~~Reestablish, rehabilitate and/or otherwise
40 | improve impaired shoreline ecological functions and/or
41 | processes through voluntary and incentive-based public

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

B. Objectives:-

11I-1: Encourage and facilitate cooperative restoration and enhancement programs between local, state, and federal public agencies, tribes, nonprofit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.

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

11I-3: Target restoration and enhancement towards improving habitat requirements of priority and/or locally important wildlife species.

11I-4: Ensure restoration and enhancement is consistent with and, where practicable, prioritized based on the biological recovery goals for early Chinook and bull trout populations and other species and/or populations for which a recovery plan is available.

11I-5: Integrate restoration and enhancement with other parallel natural resource management efforts such as the WRIA 1 Salmonid Recovery Plan, Drayton Harbor and Portage Bay Shellfish Protection District Plans, WRIA 1 Watershed Management Plan, ~~Whatcom County Comprehensive Plan,~~ and the Puget Sound Salmon Recovery Draft Plan.

Chapter 23.30 Shoreline Jurisdiction and Area Environment Designations

~~23.30.022 Shoreline area designations.~~

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

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

1. The ecological functions and processes that characterize the shoreline, 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.

2. Existing development patterns together with WCC Title 20, Zoning 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

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

~~23.30.040~~ Urban Resort Shoreline Area

~~23.30.041~~ Urban resort shoreline area — Purpose

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

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

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

~~23.30.043~~ Urban resort shoreline area — Policies

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

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

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

~~23.30.050~~ Urban Conservancy Shoreline Area

~~23.30.051~~ Urban conservancy shoreline area — Purpose

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

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

1 | **~~23.30.052 Urban conservancy shoreline area~~ — Designation Criteria**

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

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

12 | **~~23.30.053 Urban conservancy shoreline area~~ — Policies**

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

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

30 | **~~23.30.060 Shoreline Residential Area~~**

31 | **~~23.30.061 Shoreline residential area~~ — Purpose**

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

34 | **~~23.30.062 Shoreline residential area~~ — Designation Criteria**

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

~~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.

- 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.

1 | ~~23.30.080 Resource Shoreline Area~~

2 | ~~23.30.081 Resource shoreline area — Purpose~~

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

8 | ~~23.30.082 Resource shoreline area — Designation Criteria~~

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

15 | ~~23.30.083 Resource shoreline area — Policies~~

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

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

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

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

35 | ~~23.30.090 Conservancy Shoreline Area~~

36 | ~~23.30.091 Conservancy shoreline area — Purpose~~

37 | The purpose of the conservancy shoreline area is to retain shoreline ecological
38 | functions in areas outside of urban growth areas and LAMIRDs where important
39 | ecological processes have not been substantially degraded by human activities.
40 | ~~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.

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.

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

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

Policy 11Q-2:B-

Private and/or public enjoyment of natural shoreline areas should be encouraged and facilitated through low intensity recreational, scientific, historical, cultural, and educational research uses; provided, that no significant ecological impact on the area will result.

Policy 11Q-3:C-

Agricultural and forestry uses of a very low intensity nature may be consistent with the natural shoreline area when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.

Policy 11Q-4:D-

The following uses should not be permitted in the natural shoreline area:

1. Commercial uses.
2. Industrial uses.
3. Non-water-oriented recreation.
4. Roads, utility corridors, and parking areas that can be located outside of natural shoreline areas.

~~23.30.110 Aquatic Shoreline Area~~

~~23.30.111 Aquatic shoreline area—Purpose~~

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

~~23.30.112 Aquatic shoreline area—Designation Criteria~~

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

~~23.30.113 Aquatic shoreline area—Policies~~

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

Policy 11R-1:A-

New over-water structures should only be permitted for water-dependent uses, public access, or ecological restoration. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

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

38 | Shorelines of Statewide Significance

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

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

1 | in WCC ~~23.06040-020~~. 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.

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

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

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

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.

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.

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

4 **~~23.90.060~~ Vegetation Conservation**

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

6 Policy 11X-1: Where new developments and/or uses are proposed, native
7 shoreline vegetation should be conserved to maintain shoreline
8 ecological functions and/or processes and mitigate the direct,
9 indirect and/or cumulative impacts of shoreline development,
10 wherever feasible.

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

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

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

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

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

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

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

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

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

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

29 **~~23.90.070~~ Archaeological, Historic and Cultural Resources**

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

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

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

4 A. Policies:

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

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

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

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

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

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

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

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

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

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.

~~23.90.080~~ 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.

with all relevant constitutional and other legal limitations on regulation of private property.

Policy 11Y-3:

Public access should be provided for water-oriented uses and non-water-dependent uses and developments that increase public use of the shorelines and public aquatic lands, or that would impair existing, legal access opportunities.

Policy 11Y-4:

Non-water-related uses or activities located on the shoreline should provide public access as a public benefit.

Policy 11Y-5:

Public access area and/or facility requirements should be commensurate with the scale and character of the development and should be reasonable, effective, and fair to all affected parties including but not limited to the land-owner and the public.

Policy 11Y-6:

Public access design should provide for public safety and minimize potential impacts to private property, individual privacy, and shoreline ecological functions and processes.

Policy 11Y-7:

Shoreline development by public entities, such as local governments, port districts, state agencies, and public utility districts, should provide public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline.

~~23.90.090~~ **Site Planning**

A. ~~Policies.~~

Policy 11Z-1:

Development and use should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and wetland habitats; protect wildlife and habitats; protect archaeological, historic, and cultural resources; and preserve aesthetic values. This may be accomplished by minimizing the project footprint, the use of clustering, and other appropriate design approaches.

Policy 11Z-2:

To maintain shoreline ecological functions and processes, ~~How~~ impact and sustainable development practices such as rain gardens, and pervious surfacing methods including, but not limited to, porous paving blocks, porous concrete, and other similar materials, should be incorporated in developments where site conditions allow ~~to maintain shoreline ecological functions and processes.~~ Topographic modification, vegetation clearing, use of impervious surfaces, and alteration of natural drainage or other features should be limited to the minimum necessary to accommodate approved uses and development. An engineering

geologist should be consulted prior to using infiltration practices on shore bluffs.

Policy 11Z-3:

Accessory development or use that does not require a shoreline location should be located outside of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. When sited within shorelines jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs, and storage of materials should be located inland away from the land/water interface and landward of water-oriented developments and/or other approved uses.

Policy 11Z-4:

Development should be located, designed, and managed so that impacts on shoreline or upland uses are minimized through bulk and scale restrictions, setbacks, buffers, and control of proximity impacts such as noise or light and glare.

Policy 11Z-5:

Shoreline uses should not deprive other uses of reasonable access to navigable waters. Public recreation activities such as fishing, clam digging, swimming, boating, ~~and~~ wading, and other water-related recreation should be preserved and enhanced. The rights of treaty tribes to resources within their usual and accustomed areas should be accommodated.

Climate Change/Sea Level Rise

Policy 11AA-1: Coordinate with Tribal, Federal, State, and local agencies to address issues related to climate change and sea level rise as related to shoreline management.

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

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

Policy 11AA-4: Habitat protection and restoration projects in shoreline jurisdiction should consider implications of sea-level rise and other climate change impacts to promote resiliency of habitats and species. Those that promote climate change and sea-level 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.*

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

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

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

Policy 11AA-7: Whatcom County should evaluate opportunities to protect shoreline investments and infrastructure from the impacts of climate change, as necessary and feasible. Specifically, the County should maintain shoreline protection and erosion control by:

- Facilitating the installation and maintenance of native vegetation along appropriate areas of shoreline;
- Revisiting development policies with the objective of providing additional shoreline buffer area between developed areas and the shoreline; and
- Only consider structural shoreline stabilization structures when alternative options are unavailable.

Chapter 23.100—Shoreline Use and Modification Policies and Regulations

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

23.100.020—Shoreline Bulk Provisions – Buffers, Setbacks, Height, Open Space and Impervious Surface Coverage

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

23.100.030—Agriculture

~~A. Policies.~~

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

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.

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

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

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

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

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

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

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

~~23.100.050 Boating Facilities — Marinas and Launch Ramps~~

~~Boating facilities, including marinas and launch ramp development, are subject to the following policies. Docks, moorage structures serving four or fewer single-~~

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

3 ~~A. Policies.~~

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

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

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

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

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

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

- 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."

1		<u>Policy 11EE-3:</u>	Commercial development should ensure visual compatibility with
2			adjacent noncommercial properties.
3		<u>Policy 11EE-4:</u>	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			
7		23.100.070 Dredging	
8		A. Policies:	
9		<u>Policy 11FF-1:</u>	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 <u>the SMP</u> this program .
13		<u>Policy 11FF-2:</u>	Dredging to provide water-oriented recreation should not be
14			permitted.
15		<u>Policy 11FF-3:</u>	Minor dredging as part of ecological restoration or enhancement,
16			beach <u>enhancement</u> nourishment , public access, or public
17			recreation should be permitted if consistent with <u>the SMP</u> this
18			program .
19		<u>Policy 11FF-4:</u>	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		<u>Policy 11FF-5:</u>	Dredging of bottom materials for the primary purpose of
23			obtaining material for landfill, construction, or beach
24			<u>enhancement</u> nourishment should not be permitted.
25		<u>Policy 11FF-6:</u>	Spoil disposal on land away from the shoreline is generally
26			preferred over open water disposal.
27		<u>Policy 11FF-7:</u>	Long-term cooperative management programs that rely
28			primarily on natural processes, and involve <u>land</u> and
29			<u>owners</u> 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	<u>Hazard Reduction and Instream Structures</u>
33		A. Policies:	
34		<u>Policy 11GG-1:</u>	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 <u>hazard reduction control</u> control works within a stream, channel
38			migration zone, or floodway should not be allowed.
39		<u>Policy 11GG-2:</u>	Flood <u>hazard reduction control</u> control works and instream structures
40			should be planned and designed to be compatible with

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

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

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

~~23-100-090~~ Forest Practices

~~A.~~ Policies:

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

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

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

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

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

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

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

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

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

~~A.~~ Policies:

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

- 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.

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

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

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

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

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

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

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

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

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

~~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.

~~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.~~

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

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

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.

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;

- 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.

- 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.
- 25 | **~~23-100-130 Moorage Structures —Docks, Piers and Mooring Buoys~~**
26 | ~~Moorage—including docks, piers and mooring buoys—~~ in shoreline areas are subject
27 | ~~to the following policies. Shared mMoorage structures serving with more than four~~
28 | ~~berthsusers and boat launching facilities are also subject to the policies in Boating~~
29 | ~~facilities—Marinas and Launch Ramps.~~
- 30 | **~~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.

Shared moorage facilities are preferred over single-user moorage where feasible, especially where water use conflicts exist or are predictable. New subdivisions of more than two lots and new multifamily development of more than two dwelling units should provide shared moorage.

Policy 11MM-4:

Docks, piers and mooring buoys, including those accessory to single-family residences, should avoid locations where they will adversely impact shoreline ecological functions or processes, including currents and littoral drift, and critical saltwater habitat including kelp beds, eelgrass beds, 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.

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

Policy 11MM-5:

Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming, and pleasure boating, as well as private riparian rights of adjacent land-owners.

Policy 11MM-6:

Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and heightsize of piers and docks should be no greater than that required for safety and practicality for the primary use.

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.

Policy 11MM-7:

Pile supports are preferred over fills because piles do not displace water surface and intertidal or aquatic habitat and are removable and thus more flexible in terms of long-term use patterns. Floats may be less desirable than pile structures where aquatic habitat or littoral drift are significant.

Policy 11MM-8:

The use of buoys for small craft moorage is preferred over pile or float structures because of lesser long-term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.

Policy 11MM-9:

Shoreline resources and water quality should be protected from overuse by boaters living on vessels (live boards). Boaters living on vessels are restricted to established marinas with facilities to address waste handling and other sanitary services.

Policy 11MM-10:

Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.

Policy 11MM-11:

Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

Policy 11MM-12:

New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines.

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

~~23-100-140~~ Recreation

~~A. Policies:~~

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

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

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

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

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

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

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

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

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

Policy 11NN-7:

Reasonable physical or visual public access to shorelines should be provided and integrated with recreational developments in accordance with WCC ~~23.90.080~~ 23.30.070 (Public Access).

Policy 11NN-8:

Recreation development should be located only where utility and road capability ~~is~~ are adequate, or may be provided without significant damage to shore features commensurate with the number and concentration of anticipated users.

Policy 11NN-9:

Cooperative efforts among public and private persons toward the acquisition and/or development of suitable recreation sites or facilities should be explored to assure long-term availability of sufficient public sites to meet local recreation needs.

~~23.100.150~~ **Residential**

~~A. Policies:~~

Policy 1100-1:

Single-family residences are designated in Chapter [90.58](#) RCW as a priority use in those limited instances when authorization is given for alterations of the natural condition of shorelines of the state.

Policy 1100-2:

New residential development is encouraged to cluster dwelling units together to reduce physical and visual impacts on shorelines and to reduce utility and road costs. Planned unit developments that include common open space and recreation facilities, or a variety of dwelling sizes and types, are encouraged at suitable locations as a preferable alternative to extensive single-lot subdivisions on shorelines. Planned unit developments (Chapter [20.85](#) WCC) may also include a limited number of neighborhood commercial business uses where consistent with the applicable zoning regulations.

Policy 1100-3:

Allowable density of new residential development should comply with applicable ~~Ce~~omprehensive ~~Plan~~ goals and policies, zoning restrictions, and shoreline area designation standards. The density ~~per acre~~ of development should be appropriate to local natural and cultural features.

Policy 1100-4:

Structures or development for uses accessory to residential use should preserve shoreline open space, be visually and physically compatible with adjacent cultural and shoreline features, be reasonable in size and purpose, and result in no net loss of shoreline ecological functions and processes.

- 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.

- 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.~~

- 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.

not be allowed to decrease long-term public use of the shoreline.

Policy 11QQ-8:

Shore stabilization should be developed in a coordinated manner among affected property owners and public agencies for a whole drift sector (net shore-drift cell) or reach where feasible, particularly those that cross jurisdictional boundaries, to address ecological and geohydraulic processes, sediment conveyance and beach management issues. Where beach erosion threatens existing development, a comprehensive program for shoreline management should be established.

Policy 11QQ-9:

In addition to conformance with the regulations in ~~this section~~the SMP, nonregulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Nonregulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.

Policy 11QQ-10:

Shore stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shore processes, and the integrity of shore features. Ongoing stream, lake, or marine processes and the probable effects of proposed shore stabilization on other properties and shore features should be considered. Shore stabilization should not be developed for the purpose of filling shorelines.

Policy 11QQ-11:

Failing, harmful, unnecessary, or ineffective structures should be removed, and shoreline ecological functions and processes should be restored using nonstructural methods or less harmful long-term stabilization measures.

Policy 11QQ-12:

Structural shoreline stabilization measures should only be used when more natural, flexible, sustainable nonstructural methods such as vegetative stabilization, beach enhancement ~~nourishment~~, and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:

- a. No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.
- b. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach enhancement ~~nourishment~~, protective berms, or vegetative stabilization.
- c. Rigid works constructed of artificial materials such as riprap or concrete.

Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shore features, including aesthetic values, and flexibility for future uses.

Policy 11QQ-13: Larger works such as jetties, breakwaters, weirs, or groin systems should be permitted only for water-dependent uses when the benefits to the region outweigh resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.

Policy 11QQ-14: Alternative structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, should be considered where physical conditions make such alternatives with less impact feasible.

~~23.100.180~~ Signs

~~A.~~ Policies:

Policy 11RR-1: Whatcom County recognizes the constitutional right for property owners to communicate using signs on their property. These policies are intended to ensure that signage within shoreline areas is consistent with the purpose and intent of the ~~SMA Act~~ and the ~~SMP~~ ~~this program~~ by addressing impacts to ecological functions, public safety, and visual aesthetics.

Policy 11RR-2: Signs should be located, designed, and maintained to be visually compatible with local shoreline scenery as seen from both land and water, especially on shorelines of statewide significance.

Policy 11 RR-3: Sign location and design should not significantly impair shoreline views.

Policy 11 RR-4: As a preferable alternative to continued proliferation of single-purpose signs, communities, districts, and/or multiuse or multitenant commercial developments are encouraged to erect single, common use gateway signs to identify and give directions to local premises and public facilities.

Policy 11 RR-5: Signs of a commercial or industrial nature should be limited to those areas or premises to which the sign messages refer.

Policy 11 RR-6: Billboards and other off-premises signs are not water-dependent, they reduce public enjoyment of or access to shorelines, and they often lower values of nearby properties. ~~Such signs should not be located on shorelines.~~ Except for approved community gateway or directional signs, such signs should not be located on shorelines.

Policy 11 RR-7: Signs near scenic vistas and viewpoints should be restricted in number, location, and height so that enjoyment of these limited and scarce areas is not impaired.

1	<u>Policy 11 RR-8:</u>	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	<u>Policy 11 RR-9:</u>	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	<u>Policy 11 RR-10:</u>	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	23.100.190Transportation	
13	A. Policies:	
14	<u>Policy 11SS-1:</u>	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 <u>the SMP</u> 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 <u>the policies and regulations for ecological</u>
23		<u>protection in the General Policies section of this chapter and</u>
24		<u>in WCC 23.30.010 (Ecological Protection)</u> 23.90.030,
25		<u>respectively.</u>
26	<u>Policy 11SS-2:</u>	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	<u>Policy 11SS-3:</u>	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	<u>Policy 11SS-4:</u>	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	<u>Policy 11SS-5:</u>	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	<u>Policy 11SS-6:</u>	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

appropriate, and should be considered when rights-of-way are being vacated or abandoned.

Policy 11SS-7: Public access should be provided to shorelines where safe and compatible with the primary and adjacent use, or should be replaced where transportation development substantially impairs lawful public access. Viewpoints, parking, trails, and similar improvements should be considered for transportation system projects in shoreline areas, especially where a need has been identified.

Policy 11SS-8: Public transportation routes, particularly arterial highways and railways, should be located, designed, and maintained to permit safe enjoyment of adjacent shore areas and properties by other appropriate uses such as recreation or residences. Vegetative screening or other buffering should be considered.

~~23.100.200~~ Utilities

~~A.~~ Policies:

Policy 11TT-1: New public or private utilities should be located inland from the land/water interface, preferably out of the shoreline jurisdiction, unless:

- a. Perpendicular water crossings are unavoidable; or
- b. Utilities are required for authorized shoreline uses consistent with the SMP ~~this program~~.

Policy 11TT-2: Utilities should be located and designed to avoid public recreation and public access areas and significant natural, historic, archaeological, or cultural resources.

Policy 11TT-3: Utilities should be located, designed, constructed, and operated to result in no net loss of shoreline ecological functions and processes with appropriate mitigation as provided in 23.30.010 (Ecological Protection) ~~WCC 23.90.030~~.

Policy 11TT-4: All utility development should be consistent ~~with~~ and coordinated with all local government and state planning, including comprehensive plans and single purpose plans to meet the needs of future populations in areas planned to accommodate growth. Site planning and rights-of-way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.

Policy 11TT-5: Utilities should be located in existing rights-of-way and corridors whenever possible.

- 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."

Proposed Amendment to Chapter 8 of the Comprehensive Plan

Marine Resource Lands Working Group's Recommendation

Note: This text is shown as proposed to accomplish Scoping Report issue #21a: Consider adding a Marine Resource Lands policy section as developed by the Marine Resources Committee.

Chapter Eight Resource Lands

Marine Resource Lands

Introduction

Purpose

Marine resource lands, for the purpose of this plan, are defined as those marine areas waterward of the ordinary high water mark, together with their underlying lands and their water column, within the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title 23). Marine resource lands have the physical conditions and habitat required to generate and maintain fisheries of all types, including the commercial and recreational harvest of finfish, shellfish, algae, and other invertebrates including but not limited to mollusks, crab, and shrimp, etc. This section is intended to guide Whatcom County in the conservation of functioning marine resource lands of long-term commercial, ecological, cultural, and recreational significance, and to ensure that all water-dependent, water-related, and water-enjoyment uses requiring use or access to marine resource lands thrive in the years to come.

GMA Requirements

Goal 8 of the GMA (RCW 36.70A.020) guides the County to ***"Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries."*** While the GMA does not specifically require the designation of marine resource lands that support aquatic-based uses and industries, functioning marine resource lands are so intrinsically necessary for the creation and sustainability of historical fish and wildlife production that Whatcom County wishes to acknowledge them here.

Process

Per County Council direction, staff convened a working group comprised of members of the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts. This working group developed a draft of this section of the Comprehensive Plan, as well as drafts of the goals and policies contained herein. The draft was then presented to the full membership of the Marine Resource Committee and Shellfish Protection Advisory Committees for review and recommendation to the County Planning Commission and Council.

Background Summary

The marine resource lands of Whatcom County have historically been one of the most important natural resources in the region. For thousands of years the shores of Whatcom County provided an important shellfish resource, sustaining our local tribes. More recently the tidelands of Drayton Harbor supported one of the earlier commercial oyster-farming businesses in the Salish Sea. The shore and nearshore lands of the County provided spawning, rearing, and forage areas for a diverse array of finfish and shellfish species which together formed an incredible food web for ancestral tribes and early commercial fisheries. The County's marine resource lands are located along the coastal areas bordering the Salish Sea fed by the rivers, streams, and lakes that drain the upland areas of western Whatcom County. Marine resource lands include more than 130 miles of marine shoreline.

Marine resource lands in the area of Cherry Point are designated in the Shoreline Management Program as the Cherry Point Management Area to support adjacent Heavy Impact Industrial (HII) zoned industrial uses that require deep water access, such as the two existing refineries and an aluminum smelter. The harbor area and waterways in Bellingham Bay are designated for preservation of commerce and navigation along the Bellingham shoreline. The tidelands of Drayton Harbor are designated to support a small commercial wharf, marinas, residential shoreline development, shellfish production, and natural areas.

The majority of marine resource lands in Whatcom County are owned by the State of Washington (managed by Department of Natural Resources [DNR]), the Lummi Nation, and the Port of Bellingham (via a Port Management Agreement with DNR). These include many of the tidelands and subtidal lands in the County. Marine resource landowners also include some private entities that were sold tidelands prior to 1971, and who manage their marine resource lands for a variety of uses, including recreational, commercial, and industrial.

Historically, marine resource lands have been managed for natural and farmed shellfish production and harvest, fishing, transportation, utility corridors (oil/gas/natural gas pipelines; sewer and stormwater outfall pipes; communication lines (phone/fiber optic); power (electric) lines, and commercial, recreational and subsistence/cultural fishing and food gathering. Historic uses also included commercial and industrial uses, marinas (Bellingham, Blaine), municipal garbage dumps, public parks, etc.

With a growing population, there is increasing interest in improving public access to marine resource lands through the addition of boat ramps and access points for motor, wind, and human-powered craft. Over the last 20 years the desire to harvest more diverse aquatic resources, particularly from tidelands, has driven a number of significant efforts to improve water quality as well as innovative culturing techniques such as intertidal geoduck seeding, nori farming, etc.

Conservation efforts have resulted in protection of several areas including the Cherry Point Aquatic Reserve and two areas withdrawn from leasing in Bellingham Bay. These areas are valuable due to their high productivity of aquatic life that contributes to the economy and greater ecosystem of Whatcom County. Twenty years of effort and millions of dollars in public investment have kept Drayton Harbor

85 a viable commercial and recreational shellfish growing area for future generations
86 to enjoy.

87 Marine resource lands provide a huge economic benefit to the County, and the
88 health of our stream, river, and estuarine environments and marine resource lands
89 are the foundation of a critical tribal and non-tribal finfish and shellfish industry. In
90 2006, non-tribal commercial fish landings from Washington fisheries totaled nearly
91 109.4 million pounds, generating \$65.1-million in ex-vessel value (i.e., the price
92 received by commercial fishers for fish). Whatcom County was the State's second-
93 largest commercial port area that year (after Grays Harbor County), with an ex-
94 vessel value of commercial fish landings of more than \$13.5-million, accounting for
95 nearly 21% of the total value of landings from Washington fisheries. Additionally,
96 the North Puget Sound Region—which the Washington Department of Fish and
97 Wildlife defines as including San Juan, Skagit, Snohomish and Whatcom counties—
98 is also the most popular location for recreational shellfishing in the State. In 2006,
99 the combined recreational shellfish catch in those four counties included more than
100 3.3-million pounds of Dungeness crab, 23,520 pounds of shrimp, 93,038 pounds of
101 clams, and more than 19,000 individual oysters.¹ In 2016, the marine trades
102 provided 6,033 jobs, or 7% of the County's workforce.²

103 Whatcom County marine shorelines continue to provide income to over 250 Lummi
104 Nation registered shellfish harvesters. Many other Lummi and Nooksack tribal
105 members depend on finfish and crab harvest for a substantial part of their yearly
106 family income. The Lummi Nation shellfish enterprise is highly productive and
107 provides clam, oyster, and geoduck seed to a large part of the northwest shellfish
108 industry. To the extent that the environmental health of these lands impacts the
109 ability of Tribal Nations to practice fish and wildlife harvests and conduct ceremonial
110 activities for their cultural, economic, and spiritual welfare, protection of these
111 lands is a Treaty trust resource supporting Treaty reserved rights to take fish.

112 Other direct and indirect benefits to the County are even more substantial given the
113 multiplier effect from marina-related boat works, electronics, fuel and supplies,
114 charter and whale watching businesses, the Alaska Ferry service, sporting goods,
115 kayaking, rowing, sailing, wind surfing, power boating, and all the sales, repair,
116 maintenance, and provisioning that goes with these type of activities. Whatcom
117 County's marine resource areas are not only an international destination for water-
118 dependent, water-related, and water-enjoyment activities, such as bird and wildlife
119 watching, sailing and cruising, fishing and gathering, but they are also a gateway to
120 the San Juan Islands, Gulf Islands, the greater Salish Sea environs, and
121 international waters. Whatcom County's marine resource lands are a renewable and
122 sustainable economic driver that will serve this region well into the future.

¹ Whatcom County, March 2015. *Whatcom County Comprehensive Economic Development Strategy*, prepared by the Whatcom Council of Governments.

² Center of Economic and Business Research, Western Washington University, July 2016. *Whatcom County Marine Trades Impacts*.

Issues, Goals, and Policies

The following goals and policies apply to marine resource lands and address the issues of conserving productive aquatic land and meeting the goals of the Growth Management Act.

Marine Resource Land Base

Tidelands, marine waters, major lakes, and navigable rivers were owned by the State of Washington at the time of statehood unless reserved for other uses such as federal facilities or Indian reservations. Between 1889 and 1971, the State sold many of its tidelands to railroads, timber companies, and shellfish growers as a way to finance the State. As a result, the State owns only about 30% of the tidelands. The bulk of tidelands and many shoreland areas are owned or managed by ports, industries, tribes, and private property owners. The State retains ownership of most all of the subtidal lands which were not sold.

Since their adoption, the marine resource land base in Washington State and in Whatcom County has largely been protected by the Washington State Shoreline Management Act, as well as Whatcom County's Shoreline Management Program (SMP), Critical Areas Ordinance, and other land use regulations such as stormwater, land disturbance, zoning, and other regulations.

Historically, shoreline modification, including filling, hardening, and diking of many natural shorelines has resulted in a significant reduction in acreage of functioning marine resource lands in many areas of the County. These modifications came as a result of transportation improvements (roads, railroads, barge landings, and ferry terminals), utilities (electrical, communications, sewer, stormwater, etc.), hydropower, water-dependent uses (marinas, fish processing, ship yards), non-water dependent uses (large industrial facilities), flood control efforts, residential development (including bulkheading, armoring,³ and docks), and parks.

The Washington State Legislature passed the State Shoreline Management Act (SMA) in June 1971. Under the SMA, each county and city is required to adopt and administer a local shoreline management plan to carry out the provisions of the Act. The Whatcom County Shoreline Management Program (SMP) is the document that implements the goals and policies of the SMA at the local level. The SMP was originally adopted by the County Council in May 1976 in accordance with the SMA and the shoreline guidelines issued by the Washington Department of Ecology. The SMP is implemented in coordination with other chapters of the Comprehensive Plan and the Whatcom County Code to protect and manage shorelines throughout the county. It is important to note that Whatcom County and Ecology share joint authority and responsibility for the administration and enforcement of the SMP. In addition, numerous other local, state and federal regulations, permits, and approvals apply to development or use in, on or above the County's marine resource lands. Some of the most common permits and approvals include:

³ Since adoption of the SMP, shoreline armoring, filling, and bulkheading is only allowed for the purpose of protecting existing structures.

Agency	Permit(s)
<u>Whatcom County</u>	<ul style="list-style-type: none"> • <u>Shoreline statement of exemption</u> • <u>Substantial development permit</u> • <u>Shoreline conditional use permit</u> • <u>Shoreline variance</u> • <u>State Environmental Policy Act (SEPA) determination</u>
<u>Washington Department of Ecology</u>	<ul style="list-style-type: none"> • <u>Clean Water Act Section 401 Water Quality Certification</u> • <u>Coastal Zone Management Consistency Determination</u>
<u>Washington Department of Fish and Wildlife</u>	<ul style="list-style-type: none"> • <u>Hydraulic project approval (HPA)</u>
<u>Washington Department of Natural Resources</u>	<ul style="list-style-type: none"> • <u>Aquatic use authorization</u> • <u>Aquatic lands lease agreements</u>
<u>U.S. Army Corps of Engineers</u>	<ul style="list-style-type: none"> • <u>Clean Water Act Section 404 Permit</u> • <u>Rivers and Harbors Act Section 10 Permit</u>

Goal 8T: Conserve and enhance Whatcom County's marine land base for the long-term and sustainable use and operation of water-dependent, water-related and water-enjoyment activities.

Policy 8T-1: Coordinate with public agencies, tribal governments, landowners, and private organizations to protect and maintain an appropriate, productive, and sustainable marine resource land base adequate to support marine-dependent commercial, industrial, recreational, and cultural needs.

Aquaculture, Fishing, and other Marine Resource Lands Activities

Goal 8U: Support measures to increase the viability and sustainability of Whatcom County's aquatic biodiversity and production.

Policy 8U-1: Help improve the efficiency, and effectiveness, and flexibility of environmental regulations affecting marine resource lands in order to support environmental protection and improve predictability.

Policy 8U-2: Consider developing a range of non-regulatory programs, options, and incentives that owners of marine resource lands can employ to meet or exceed County environmental goals.

Policy 8U-3: Support the efforts of people in Whatcom County to operate in a long-term, sustainable manner as part of a stable, broad-based economy.

Policy 8U-4: Work cooperatively with the Washington State Departments of Natural Resources, Ecology, and Fish and Wildlife to protect productive and appropriate use of State marine resource lands within Whatcom County.

Comment [P/C1]: P/C moved to amend; passed 8-0-1

191 Policy 8U-5 Continue cooperation and funding for a comprehensive Pollution
192 Identification and Correction (PIC) program as needed to reduce
193 bacterial pollution to levels that meet National Shellfish
194 Sanitation Program Growing waters criteria to allow reopening of
195 closed shellfish beds, and to maintain the operation of those
196 beds in a commercially viable manner.

197 **Reducing Land Use Impacts**

198 Different land owners have different goals for their property and employ different
199 practices when using it, whether it be for their business, home, recreation, or
200 personal enjoyment. But oft times, the practices one property owner employs can
201 have detrimental effects on another property owner's use or enjoyment of their
202 property, or the public when using public lands, which can lead to conflict amongst
203 users. One of the most cited is how poorly managed agriculture or failing septic
204 systems can cause bacterial pollution of rivers and streams, causing closure of
205 important shellfish production areas. Other adverse upstream inputs include, but
206 are not limited to, excess nutrients, heavy metals, and aromatic hydrocarbons. But
207 there have been other such actions as well, such as piers placed in fish habitat, use
208 of pesticides in shellfish farming, loading/unloading practices, etc. However, many
209 such users are employing new practices and technologies to alleviate such impacts,
210 yet the public many not be aware. Improved communication and education between
211 these groups would be beneficial for each to understand what the other is doing,
212 how their actions affect one another, and how they plan to avoid such impacts.

Comment [P/C2]: P/C moved to delete. Passed
8-0

213 **Goal 8V:** **Aim to reduce land use conflicts between Whatcom**
214 **County's Marine Resource Lands operations and upland**
215 **property owners.**

216 Policy 8V-1: Support improved communication and understanding between
217 aquatic land landowners and the public through such
218 mechanisms as community forums and educational programs.

219 Policy 8V-2: Work cooperatively with local, State, Federal and Tribal
220 agencies, adjacent upland property owners, and the general
221 public, as applicable, to address community concerns and land
222 use conflicts that may affect the productivity of marine resource
223 lands.

224 Policy 8V-3: Continue to implement land use, building, and transportation
225 planning policies, regulations, and practices that help minimize
226 adverse water quality inputs into waterbodies.

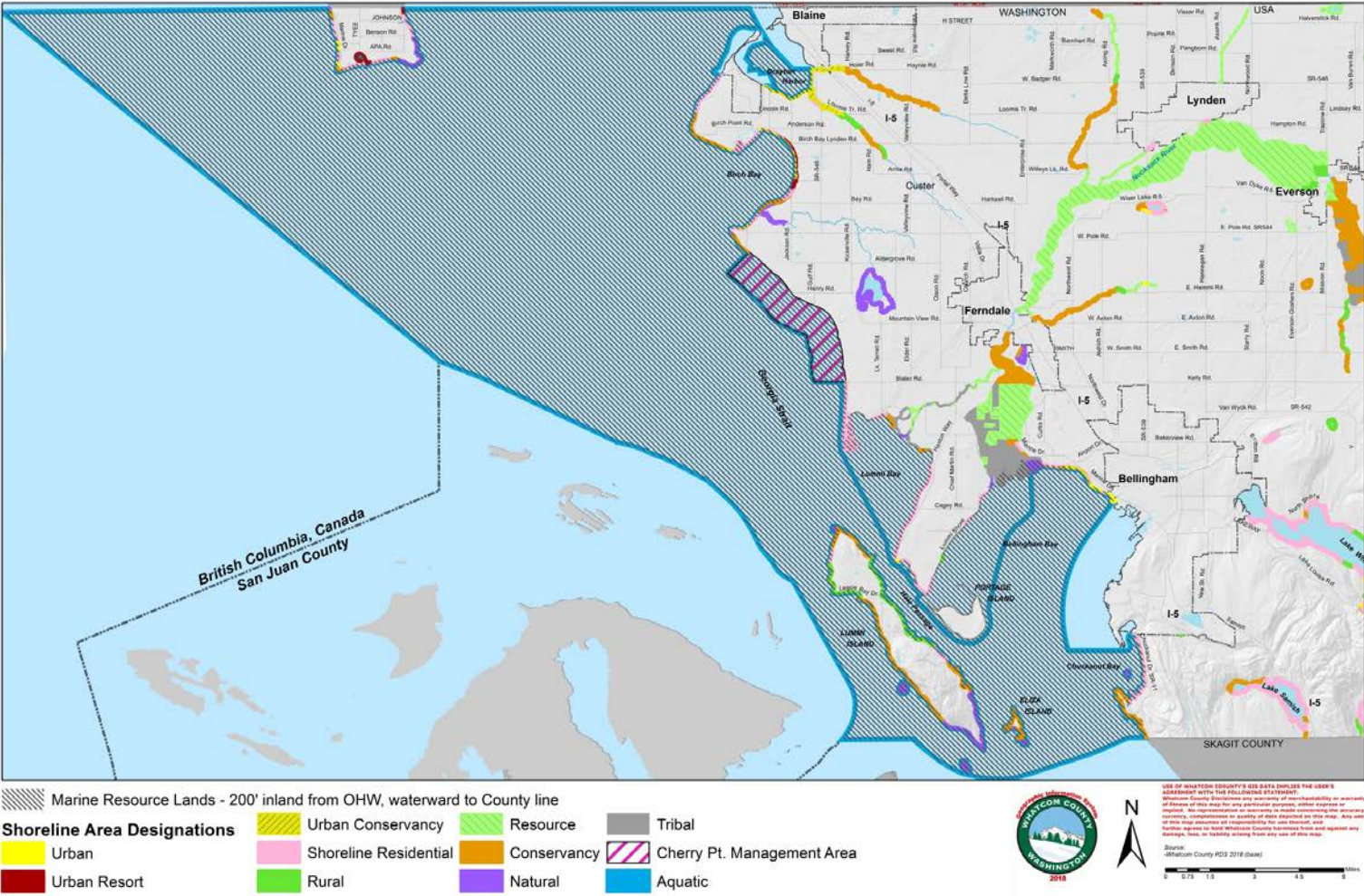
Comment [P/C3]: P/C moved to amend. Passes
8-0-1

227 Policy 8V-4 Support and participate in education efforts and programs that
228 emphasize the importance of and promote the benefits of
229 marine resource lands.

230 **Fish and Wildlife**

231 Land use practices on marine resource lands can impact tidelands and other shallow
232 and deepwater habitats that are important to a wide variety fish and wildlife.

233	Goal 8W:	<u>Ensure that operations associated with marine resource</u>
234		<u>lands strive to avoid adverse impacts to the survival and</u>
235		<u>habitat of aquatic species, particularly to threatened and</u>
236		<u>endangered fish and wildlife species and shellfish</u>
237		<u>resources.</u>
238	<u>Administration and Regulation</u>	
239		
240	Goal 8X:	<u>Recognize the Shoreline Management Program (WCC Title</u>
241		<u>23) and Zoning Code (WCC Title 20) as the primary</u>
242		<u>regulations used to implement this section.</u>
243	Policy 8X-1:	<u>Pursuant to RCW 36.70A.480 and Comprehensive Plan Policy</u>
244		<u>10B-8, the Whatcom County Shoreline Management Program is</u>
245		<u>an element of this Comprehensive Plan, and the goals and</u>
246		<u>policies therein are recognized as additional goals and policies of</u>
247		<u>this section.</u>
248	Policy 8X-2:	<u>Those coastal aquatic lands waterward of the ordinary high</u>
249		<u>water mark are hereby designated as Marine Resource Lands, as</u>
250		<u>shown on Map 8-5.</u>
251	Policy 8X-3	<u>Regulate land use on Marine Resource Lands within the County</u>
252		<u>through the Shoreline Management Program, Zoning Code, and</u>
253		<u>other appropriate means.</u>
254	Policy 8X-4	<u>When updating the Shoreline Management Program, consider</u>
255		<u>new or amended policies to further these goals.</u>
256		
257	...	



1

2

Planning Commission Approved Draft with
Department of Ecology Required &
Recommended Amendments and Council
Amendments, November 23, 2021

Exhibit D: Proposed Amendments to WCC Title 23

Shoreline Management
Program Periodic Update
2020

Whatcom County Planning and Development
Services

Title 23 – Shoreline Management Program

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10

Chapter 23.10-05 Purpose and Intent General Provisions

~~23.1005.010~~ Authority.

Authority for enactment and administration of this program is the Shoreline Management Act of 1971, Chapter 90.58 RCW, also referred to herein as "the Act," and the Washington Administrative Code 173-27 and 173-26.

~~23.1005.020~~ Purpose and Intent.

As provided in the Whatcom County Comprehensive Plan, Chapter 11 (Shorelines), Whatcom County's shorelines provide valuable habitat for fish and wildlife, economic diversity, and recreational opportunities used by residents of all ages. Shorelines play an important role in enhancing the quality of life for our county's citizens. Therefore, the purpose of the master program is to guide the future development of the County's shorelines in a manner consistent with the Shoreline Management Act of 1971 (hereinafter referred to as the "Act"). The Act and this program, in conjunction with other County land use regulations, comprise the basic state and County law regulating use of shorelines in the county.

The purposes of this program are:

- A. To promote the public health, safety, and general welfare of the community by providing long range, comprehensive policies and effective, reasonable regulations for development and use of Whatcom County shorelines; and
- B. To manage shorelines in a positive, effective, and equitable manner; and
- C. To further assume and carry out the responsibilities established by the Act for Whatcom County, and to adopt and foster the following policy contained in RCW 90.58.020 for shorelines of the state:
- D. It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto...

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State shall be preserved to the greatest extent feasible consistent with the overall best interest of the State and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State's shoreline. Alterations of the natural condition of the shorelines of the State, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the State, industrial and commercial developments which are particularly dependent on their location on or use of

1 the shorelines of the State and other development that will provide an opportunity for substantial
2 numbers of the people to enjoy the shorelines of the State...

3 Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize,
4 insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any
5 interference with the public's use of the water.

Comment [CES1]: Moved to CompPlan.

6 **23.10.030 Governing principles.**

Comment [MD2]: Moved to CompPlan.

7 The following principles along with the policy statements of RCW 90.58.020 establish basic concepts
8 that underpin the goals, policies and regulations of this program:

9 A. Any inconsistencies between this program and the Act must be resolved in accordance with the Act.

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

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

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

20 2. By including policies and regulations that require mitigation of significant adverse impacts in a
21 manner that ensures no net loss of shoreline ecological functions. The required mitigation shall
22 include avoidance, minimization, and compensation of impacts in accordance with the policies
23 and regulations for mitigation sequencing in WCC 23.90.030 and the Whatcom County critical
24 areas ordinance (Chapter 16.16 WCC). This program and any future amendment hereto shall
25 ensure no net loss of shoreline ecological functions and processes on a programmatic basis in
26 accordance with the baseline functions present as of the date of adoption of this program,
27 February 27, 2007.

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

32 4. By including regulations and regulatory incentives designed to protect shoreline ecological
33 functions, and restore impaired ecological functions where such opportunities have been
34 identified, consistent with the Shoreline Management Program Restoration Plan developed by
35 Whatcom County.

36 D. Regulation of private property to implement program goals such as public access and protection of
37 ecological functions and processes must be consistent with all relevant constitutional and other
38 legal limitations. These include, but are not limited to, civil rights guaranteed by the U.S. and state

1 Constitutions, recent federal and state case law, and state statutes, such as RCW 34.05.328 and
2 43.21C.060 and Chapter 82.02 RCW.

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

7 ~~F. The regulatory provisions of this program are limited to shorelines of the state, whereas the~~
8 ~~planning functions of this program may extend beyond the designated shoreline boundaries.~~

9 ~~G. The policies and regulations established by the program must be integrated and coordinated with~~
10 ~~those policies and rules of the Whatcom County Comprehensive Plan and development regulations~~
11 ~~adopted under the Growth Management Act (GMA) and RCW 34.05.328.~~

12 ~~H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom County should balance~~
13 ~~the various policy goals of this program giving consideration to other relevant local, state, and~~
14 ~~federal regulatory and non-regulatory programs.~~

15 **23.10.04005.030 Title.**

16 This title, taken together with Chapter 11 (Shorelines) of the Whatcom County Comprehensive Plan,
17 shall be known and may be cited as "The Whatcom County Shoreline Management Program." Herein,
18 this title together with Chapter 11 of the Comprehensive Plan may be referred to as the "SMP" or the
19 "program."

20 **23.10.050 Short title.**

21 This title may be referred to herein as the "SMP," or the "program."

22 **23.10.06005.040 Relationship to the Comprehensive Plan and other Federal, State, and County Codes**
23 **and RegulationsReferences to plans, regulations or information sources.**

24 A. Consistent with RCW 36.70A.480, the goals and policies of this program approved under Chapter
25 90.58 RCW are included as Chapter 11 (Shorelines) of the County's Comprehensive Plan. All
26 regulatory elements of this program shall be considered a part of the County's development
27 regulations.

28 B. Uses, developments, and activities regulated by this program may be independently subject to the
29 Whatcom County Comprehensive Plan, the Whatcom County Code (WCC), the Washington State
30 Environmental Policy Act, and various other federal, state, and county laws.

31 C. Obtaining a shoreline permit or statement of exemption for a development or use does not excuse
32 the applicant/proponent from complying with any other local, tribal, state, regional, or federal
33 statutes or regulations applicable to such development or use. The responsibility for determining
34 applicable statutes and regulations and complying with the same rests with the applicant/proponent
35 or responsible person carrying out the use or development in question. The applicant must comply
36 with all applicable laws prior to commencing any uses, development, or activity.

37 D. Should a conflict occur between the provisions of this program or between this program and the
38 laws, regulations, codes, or rules promulgated by Whatcom County or any other authority having

jurisdiction within Whatcom County, the more restrictive requirements shall apply, except when constrained by federal or state law, or where specifically provided otherwise in this program.

E. Relationship to other County regulations.

1. Incorporation of the Whatcom County critical areas regulations, WCC Chapter 16.16, is addressed in WCC 23.05.065 (Critical Areas).

4-2. The permitting procedures necessary for implementing this program are found in WCC Chapter 22 (Land Use and Development).

2-a. In the case of development subject to the shoreline permit requirement of this program, the County Building Official shall not issue a building permit for such development until a shoreline permit has been granted; provided, that any permit issued by the Building Official for such development shall be subject to the same terms and conditions that apply to the shoreline permit. All shoreline permits shall be obtained prior to issuance of a building permit; provided, that any permit issued by the Building Official for such development shall be subject to the same terms and conditions that apply to the shoreline permit.

3-b. In the case of development subject to regulations of this program but exempt from the shoreline substantial development permit requirement, any Arequired statement of exemption shall be obtained prior to issuance of the building permit; provided, that for single-family residences, review for compliance with this Title may be completed as part of a building permit or non-shoreline permit. reviewed and signed off by the administrator may substitute for a written statement of exemption. A record of review documenting compliance with bulk and dimensional standards as well as policies and regulations of this program shall be included in the permit review. Conditions of approval for compliance with this Title shall be added to such permit. The conditions of approval shall be enforced with the provisions of this Title. Section 23.10.160 (Violations, Enforcement, and Penalties). The Building Official shall attach and enforce conditions to the building permit as required by applicable regulations of this program pursuant to RCW 90.58.140(1).

a-c. In the case of zoning conditional use permits and/or variances, Project permits are subject to consolidated review pursuant to Chapter 22.05 (Land Use and Development). Trequired by WCC Title 20 for development that is also within shorelines, the County-designated decision maker for such permits shall document compliance with bulk and dimensional standards as well as the policies and regulations of this program in consideration of recommendations from the administrator. The decision maker and shall attach conditions to such permits and variances approvals as required to make such development consistent with this program.

4. In the case of land divisions, such as short subdivisions, long plats, and planned unit developments that require County approval, the decision maker shall document compliance with bulk and dimensional standards as well as policies and regulations of this program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities and future use associated with such land division(s) are consistent with this program.

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Comment [PDS3]: Simplified

Comment [PDS4]: Simplified.

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Comment [CES5]: Don't need; subsection (c) amended to include all permits, including land division.

- 5-3. Other local ordinances that may be applicable to shoreline development or use include, but are not limited to:
- Building, plumbing, mechanical, and fire codes.
 - Boating and swimming, WCC Title 11.
 - On-site sewage system regulations, WCC Chapter 24.05.
 - Solid waste rules and regulations, WCC Chapter 24.06.
 - Zoning, WCC Title 20.
 - Land division regulations, WCC Title 21.
 - Development standards.

F. Relationship to other state, tribal, and federal regulations.

- Where this program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply.
- This program shall be applied consistent with all federal, state, and local laws affecting tribal rights.
- The rights of treaty tribes to resources within their usual and accustomed areas shall be accommodated through the notification and comment provisions of the permit review process. Tribal treaty rights may be addressed through specific permit conditions. Direct coordination between tribes and the applicant/proponent is encouraged.
- Coastal Zone Management Act consistency reviews for sites within federal jurisdiction shall apply the shoreline environment designation criteria of Chapter 11 (Shorelines) of the Comprehensive Plan that most closely correspond to the project site in order to determine applicable program policies.
- ~~Obtaining a shoreline permit or statement of exemption for a development or use does not excuse the applicant/proponent from complying with any other local, tribal, state, regional, or federal statutes or regulations applicable to such development or use.~~
- ~~At the time of application or initial inquiry, the administrator shall inform the applicant/proponent of other such statutes and regulations relating to shoreline issues that may be applicable to the project to the extent that the administrator is aware of such statutes. However, the final responsibility for determining applicable statutes and regulations and complying with the same rests with the applicant/proponent or responsible person carrying out the use or development in question.~~
- ~~Stipulated Judgment No. 93-2-02447-6 between Governor's Point Development Company and Whatcom County, the state of Washington, and the Department of Ecology is incorporated by reference into Whatcom County's shoreline management program. A copy of the judgment is on file with the Whatcom County Planning and Development Services department.~~

23.1005.065 Critical Areas.

- A. The Whatcom County critical areas ordinance regulations (CAO), WCC Chapter 16.16 (Ordinance No. ~~X2017-077~~, dated ~~XDecember 5, 2017~~), ~~is~~ are hereby adopted in whole as a part of this program, except that the provisions of WCC 16.16.270 (Reasonable Use

Comment [RCE6]: Moved from 23.60.080 (Notice of Application)

Comment [CES7]: Covered elsewhere.

Comment [CES8]: No longer needed as it no longer applies.

Comment [CES9]: To do: Will need to update this to the ordinance and date of the CAO we're amending as part of this update.

Exceptions), 16.16.275 (Nonconforming Uses, Structures, and Lots), ~~and 16.16.285 (Penalties and Enforcement)~~ and as specifically excluded elsewhere within this Title shall not apply within shoreline jurisdiction. All references to the critical areas ordinance (CAO), WCC Chapter 16.16, are for this specific version.

~~except that the permit, nonconforming use, appeal and enforcement provisions of the critical areas ordinance (WCC 16.16.270 through 16.16.285) shall not apply within shoreline jurisdiction. All references to the critical areas ordinance (CAO), Chapter 16.16 WCC, are for this specific version.~~

B. The adopted provisions of WCC Chapter 16.16 (Critical Areas) shall apply to any use, alteration or development within shoreline jurisdiction whether or not a shoreline permit or statement of exemption is required.

~~Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided, without full compliance with WCC Chapter 16.16 and this program.~~

~~23.1005.1240~~ Program Effects on Property Values.

A. As provided for in RCW 90.58.290, the restrictions imposed upon use of real property through implementation of policies and regulations of the Act and this program shall be duly considered by the County Assessor and the County Board of Equalization in establishing the fair market value of such properties.

B. Designation of private property as a natural or conservancy shoreline ~~area~~ environment pursuant to WCC Chapter 23.230 (Shoreline Jurisdiction and Area Environment Designations) shall qualify the property as meeting the definition of "open space land" under the Open Space Taxation Act of 1970, as amended (RCW 84.34.020(1)) and shall qualify such land for application for open space taxation in accordance with RCW 84.34.037 and WCC Chapter 3.28 (Open Space Land Classification).

~~23.1005.1350~~ Property Rights.

A. Regulation of private property to implement program goals, such as public access and protection of ecological functions and processes, must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, the protections afforded by the federal and state constitutions, and federal, state, and local laws.

~~A.B. Decisions on shoreline permits and/or approvals shall recognize all relevant constitutional and other legal limitations on the regulation of private property. Findings~~ In issuing shoreline permits or statements of exemptions, the decision maker shall assure that conditions imposed relate to the governmental authority and responsibility to protect the public health, safety, and welfare, are consistent with the purposes of the Act, and are roughly proportional to the expected impact.

~~B.C.~~ This program does not alter existing law on access to or trespass on private property and does not give the general public any right to enter private property without the owner's permission.

~~C.D.~~ Consistent with Whatcom County's high standard of staff conduct, County staff shall observe all applicable federal, ~~and state, and County~~ laws regarding entry onto privately owned property.

Comment [DOE-Req10]: Required Change – Whatcom County is concurrently updating its CAO regulations along with this Shoreline Master Program (SMP) amendment. The final adopting ordinance is required in the provision once known.

The added language clarifies that this provision does not represent an exhaustive list of CAO provisions that do not apply within the context of the SMP. There are numerous other sections of the CAO that conflict with statutory and rule requirements related to shoreline permit processing such as 16.16.230 (Activities Allowed without Notification), 16.16.235 (Activities Allowed with Notification) and 16.16.275 (Variances). These sections contain language either requiring SMP review or excluding their applicability within shoreline jurisdiction.

1 **23.10.070 Liberal construction.**
2 As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and
3 this program shall therefore be liberally construed to give full effect to the purposes, goals, objectives,
4 and policies for which the Act and this program were enacted and adopted, respectively.

Comment [CES11]: Moved to 23.10.040 Code Interpretation

5 **23.1005.080 Severability.**
6 The Act and this program adopted pursuant thereto, in conjunction with other applicable County land
7 use regulations, comprise the basic state and County law regulating use of shorelines in the county. In
8 the event provisions of this program conflict with other applicable County policies or regulations, the
9 more restrictive shall prevail. Should any section or provision of this program be declared invalid, such
10 decision shall not affect the validity of this program as a whole.

11 **23.1005.090 Effective Date.**
12 This program and all amendments thereto shall become effective 14 days from immediately upon final
13 approval and adoption by the Department of Ecology's written notice of final action.

Comment [AP12]: Updated per Periodic Review Checklist, Item 2010.a, and Scoping Document, Item #1g.

Chapter 23.20 Goals and Objectives

Comment [MD13]: All content in Chapter 23.20 moved to CompPlan.

23.20.005 Generally.

This chapter describes overall program goals and objectives. The general policies and regulations in Chapter 23.90 WCC and the specific use policies and regulations in Chapter 23.10 WCC are the means by which these goals and objectives are implemented.

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.

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.

A. Goal. To create and maintain an economic environment that can coexist harmoniously with the natural and human environment.

B. Objectives.

1. Encourage economic development that has minimal adverse effects and mitigates unavoidable impacts upon shoreline ecological functions and processes and the built environment.
2. Encourage shoreline development that has a positive effect upon economic and social activities of value to the region.
3. Encourage new water dependent, water related, and water enjoyment economic development in priority order.
4. Encourage economic development that is consistent with the adopted Comprehensive Economic Development Strategy (CEDS) for Whatcom County.
5. Implement economic development policies contained in the Whatcom County Comprehensive Plan in shoreline areas consistent with this program and the Act.
6. Encourage new economic development to locate in areas that are already developed with similar uses.
7. Discourage expansion of existing development that is incompatible with this program, 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.

A. Goal. To increase the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and/or to view the water and the shoreline from adjacent

locations; provided, that private rights, the public safety, and shoreline ecological functions and processes are protected consistent with the U.S. and state Constitutions, state case law, and state statutes.

~~B. Objectives.~~

- ~~1. Locate, design, manage and maintain public access in a manner that protects shoreline ecological functions and processes and the public health and safety.~~
- ~~2. Design and manage public access in a manner that ensures compatibility with water-dependent uses.~~
- ~~3. Where appropriate, acquire access to publicly owned tidelands and shorelands. Encourage cooperation among the county, landowners, developers, other agencies and organizations to enhance and increase public access to shorelines as specific opportunities arise.~~
- ~~4. Provide and protect visual access to shorelines and tidelands.~~
- ~~5. Require physical or visual access to shorelines as a condition of approval for shoreline development activities commensurate with the impacts of such development and the corresponding benefit to the public, and consistent with constitutional limitations.~~
- ~~6. Develop and manage public access to prevent adverse impacts to adjacent private shoreline properties and developments.~~

~~23.20.040 Recreation.~~

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

~~A. Goal. To provide opportunities and space for diverse forms of water-oriented recreation.~~

~~B. Objectives.~~

- ~~1. Locate, develop, manage, and maintain recreation areas in a manner that protects shoreline ecological functions and processes.~~
- ~~2. Provide a balanced choice of water-oriented public recreational opportunities regionally. Ensure that shoreline recreation facilities serve projected county growth in accordance with the level of service standards established in the Whatcom County Comprehensive Plan and related goals and policies; the Comprehensive Park and Recreation Open Space Plan; the Whatcom County Bicycle Plan; and the Natural Heritage Plan.~~
- ~~3. Acquire additional recreation areas and public access areas with a high recreation value prior to demand to assure that sufficient shoreline recreation opportunities are available to serve future recreational needs.~~
- ~~4. Encourage cooperation among public agencies, nonprofit groups, and private landowners and developers to increase and diversify recreational opportunities through a variety of means including incorporating water-oriented recreational opportunities into mixed use developments and other innovative techniques.~~

5. Recognize and protect the interest of all people of the state by providing increased recreational opportunities within shorelines of statewide significance and associated shorelands.
6. Encourage private and public investment in recreation facilities.
7. Locate, design, and operate recreational development in a manner that minimizes adverse effects on adjacent properties as well as other social, recreational, or economic activities.

23.20.050 Transportation and essential public facilities.

The transportation and essential public facilities element provides for the general location and extent of existing and proposed public thoroughfares, transportation routes, terminals, and other public utilities and facilities.

A. Goal. To provide transportation systems and essential public facilities in shoreline areas without adverse effects on existing shoreline use and development or shoreline ecological functions and/or processes.

B. Objectives:

1. Locate, develop, manage, and maintain transportation systems and essential public facilities in a manner that protects shoreline ecological functions and processes. Minimize and mitigate unavoidable impacts.
2. Locate and design transportation systems and essential public facilities to be harmonious with the existing and future economic and social needs of the community.
3. Discourage the development of non-water dependent transportation systems and essential public facilities unless no feasible alternatives exist. Devote roads within the shoreline jurisdiction to low volume local access routes and shoreline public access where feasible.
4. When appropriate, require adequate compensation where transportation systems and essential public facilities reduce the benefits people derive from their property.
5. Provide for alternate modes of travel, encourage freedom of choice among travel modes, and provide multiple use transportation corridors where compatible in association with shoreline transportation development.
6. Require transportation system and essential public facility development in shoreline areas to protect and enhance physical and visual shoreline public access.

23.20.060 Shoreline use.

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

A. Goal. To preserve and develop shorelines in a manner that allows for an orderly balance of uses.

B. Objectives:

1. Give preference to water dependent and single-family residential uses that are consistent with preservation of shoreline ecological functions and processes. Give secondary preference to water-related and water-enjoyment uses. Allow non-water-oriented uses only when substantial

public benefit is provided with respect to the goals of the Act for public access and ecological restoration.

2. Designate and maintain appropriate areas for protecting and restoring shoreline ecological functions and processes to control pollution and prevent damage to the shoreline environment and/or public health.
3. Ensure shoreline uses are consistent with the Whatcom County Comprehensive Plan.
4. Balance the location, design, and management of shoreline uses throughout the county to prevent a net loss of shoreline ecological functions and processes over time.
5. Encourage mixed use developments that include and support water oriented uses and provide a substantial public benefit consistent with the public access and ecological restoration goals and policies of the Act.
6. Encourage shoreline uses and development that enhance shoreline ecological functions and/or processes or employ innovative features that further the purposes of this program.
7. Encourage shoreline uses and development that enhance and/or increase public access to the shoreline.

~~23.20.070 Conservation.~~

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

A. Goal. To 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.~~

1. Develop 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.
2. Protect critical areas in accordance with the policies and regulations in Chapter 16.16 WCC.
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.
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 element provides for protection, preservation and/or restoration of buildings, sites, and areas having archaeological, historical, cultural, or scientific value or significance.

~~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.~~

- ~~1.—Protect sites in collaboration with appropriate tribal, state, federal and local governments. Encourage public agencies and private parties to cooperate in the identification, protection and management of cultural resources.~~
- ~~2.—Where appropriate, make access to such sites available to parties of interest; provided, that access to such sites must be designed and managed in a manner that gives maximum protection to the resource.~~
- ~~3.—Provide opportunities for education related to archaeological, historical and cultural features where appropriate and incorporated into public and private programs and development.~~

~~23.20.090 Views and aesthetics.~~

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

~~A.—Goal. To assure that the public's ability and opportunity to enjoy shoreline views and aesthetics is protected.~~

~~B.—Objectives.~~

- ~~1.—Identify and protect areas with scenic vistas and areas where the shoreline has high aesthetic value.~~
- ~~2.—Design development to minimize adverse impacts on views from public property or views enjoyed by a substantial number of residences.~~

~~23.20.100 Restoration and enhancement.~~

~~This element provides for the timely restoration and enhancement of ecologically impaired areas in a manner that achieves a net gain in shoreline ecological functions and processes above baseline conditions as of the adoption of this program.~~

~~A.—Goal. To reestablish, rehabilitate and/or otherwise improve impaired shoreline ecological functions and/or processes through voluntary and incentive-based public and private programs and actions that are consistent with the Shoreline Management Program Restoration Plan (County Resolution 2007-011) and other approved restoration plans.~~

~~B.—Objectives.~~

- ~~1.—Encourage and facilitate cooperative restoration and enhancement programs between local, state, and federal public agencies, tribes, nonprofit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.~~
- ~~2.—Restore and enhance shoreline ecological functions and processes as well as shoreline features through voluntary and incentive-based public and private programs.~~
- ~~3.—Target restoration and enhancement towards improving habitat requirements of priority and/or locally important wildlife species.~~

4. ~~Ensure restoration and enhancement is consistent with and, where practicable, prioritized based on the biological recovery goals for early Chinook and bull trout populations and other species and/or populations for which a recovery plan is available.~~
5. ~~Integrate restoration and enhancement with other parallel natural resource management efforts such as the WRIA 1 Salmonid Recovery Plan, Drayton Harbor and Portage Bay Shellfish Protection District Plans, WRIA 1 Watershed Management Plan, Whatcom County Comprehensive Plan, and the Puget Sound Salmon Recovery Draft Plan.~~

Chapter 23.05-10 Administrative ProceduresProvisions

23.10.010 Authorization.

RCW 90.58.140(3) requires local governments to establish a program, consistent with the rules adopted by Ecology, for the administration and enforcement of shoreline development. Also, in accordance with RCW 90.58.050, which provides that this program is intended to establish a cooperative program between Whatcom County and the state. Whatcom County shall have the primary responsibility for administering the regulatory program, and Ecology shall act primarily in a supportive and review capacity, in accordance with RCW 90.58.050.

23.10.100-020 Application to persons and developmentApplicability.

A. Unless specifically exempted by statute, or as excluded below, this program shall apply to any person, as defined in WCC Chapter 23.110. This program shall apply to any proposed development, use, or activity development as defined in WCC Chapter 23.110. All development and use of shorelines of the state shall be carried out in a manner that is consistent with this program and the policy of the Act as required by RCW 90.58.140(1), whether or not a shoreline permit or statement of exemption is required for such development pursuant to Chapter 23.60 WCC, occurring within shoreline jurisdiction. Such development, use, or activity must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program whether or not a permit is required.

B. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided, without full compliance with this program, including WCC Chapter 16.16 (Critical Areas).

C. No substantial development as defined in WCC Chapter 23.110 shall be undertaken within shorelines by any person on shorelines without first obtaining a substantial development permit from Whatcom County; provided, that such a permit shall not be required for the exempt activities listed in WCC 22.07.020 (Exemptions from Shoreline Substantial Development Permits) 23.60.022.

D. All developments, uses and development activities on shorelines shall be subject to the policies of the Whatcom County Comprehensive Plan Chapter 11 (Shorelines) and regulations of this program in addition to any other applicable regulations of the Whatcom County Code, provided, that all use and development that is to be located within the Cherry Point Management Area, as defined in Chapter 23.90 WCC, shall be subject to the regulations found in WCC 23.40.210 only, and shall not be subject to the regulations found in this chapter and Chapter 23.40 WCC unless otherwise specified.

E. Application within Federal Reserves or Lands.

1. Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of RCW Chapter 90.58 (SMA).
2. As recognized by RCW 90.58.350, nothing in this program shall affect any rights established by treaty to which the United States is a party.
3. The Act and this program, including the permit system, shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal

Comment [AP14]: Moved sections 23.10.100 – 150 here from 23.50.

Comment [DN15]: This text is required per WAC 173-26-191(2)(a)(iii)(A).

Comment [CES16]: Covered by 23.40.115 (CPMA)

Comment [AP17]: Moved from 23.30.010 – General Regulations

Comment [AP18]: Updated per Periodic Review Checklist, Item 2017.f, and Scoping Document, Item #2c.

Comment [CES19]: From WAC 90.58.350.

ownership, lease, or agreement, even though such lands may fall within the external boundaries of a federal ownership.

F. Direct federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act and with this master program as required by WAC 173-27-060.

G. This master program shall apply to all unincorporated urban lands until such time as a city meets the requirements of WAC 173-26-150 or 173-26-160 for pre-designation of urban growth areas (UGAs) or amends its master program as appropriate.

H. This program shall not apply to:

1. Activities undertaken to comply with a United States Environmental Protection Agency Superfund-related order, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act (such as the Swift Creek Sediment Management Action Plan), or a Department of Homeland Security order that specifically preempts local regulations in the findings of the order.

2. Pursuant to RCW 90.58.045 regarding environmental excellence program agreements, notwithstanding any other provision of law, any legal requirement under the Shoreline Management Act, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.21K RCW.

3. The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under chapter 90.58 RCW.

I. Pursuant to RCW 90.58.140(12), a permit is not required in order to dispose of dredged materials at a disposal site approved through the cooperative planning process referenced in RCW 79.105.500, provided the dredged material disposal proponent obtains a valid site use authorization from the Dredged Material Management Program office within the Department of Natural Resources.

23.10.180-030 AdministrationAdministrative Duties.

A. The Director is hereby ~~vested with the authorized~~ authorized to:

1. Administer this program.
2. Determine if a public hearing should be held on a shoreline permit application by the Hearing Examiner pursuant to WCC Title 22 (Land Use and Development) ~~23.60.130~~.
3. Grant or deny statements of exemption.
4. Authorize, approve, or deny shoreline substantial development permits, except for those for which the Hearing Examiner or County Council is the designated decision maker.
5. Enforce the code pursuant to WCC 23.10.160 (Violations, Enforcement, and Penalties), including issuing a stop work orders pursuant to the procedure set forth in WAC 173-27-270 and this program, upon a person undertaking an activity on shorelines in violation of Chapter 90.58 RCW or this program; and seek remedies for alleged violations of this program's regulations, or of the provisions of the Act, or of conditions of approval for attached to a all project permits with

Comment [CES20]: Added per Periodic Review Checklist, Item 2017.c, and Scoping Document, Item #1c: Update to fully cover the exceptions in WAC 173-27-044 and -045 to satisfy required legislative amendment.

shoreline permit conditions of approval for consistency with this program issued by Whatcom County.

6. Decide whether or not a proposal is subject to the consolidated review process of Chapter WCC 22.05 (Land Use and Development) and determine what other permits are required to be included in the consolidated review.

7. Make field inspections as needed, and prepare or require reports on a shoreline permit or statement of exemption applications.

8. Make written recommendations to the County Council or Hearing Examiner as appropriate and, insofar as possible, assure that all relevant information, testimony, and questions regarding a specific matter are made available during their respective reviews of such matter.

9. Propose amendments to the Planning Commission deemed necessary to more effectively or equitably achieve the purposes and goals of this program.

10. Advise interested persons and prospective applicants/proponents as to the administrative procedures and related components of this program.

11. Collect fees as provided for in WCC Title 22 (Land Use and Development) 23.60.070; and.

12. Assure that proper notice is given to interested persons and the public through news media, posting, or mailing of notices as required by Title 22 (Land Use and Development).

13. Review administrative and management policies, regulations, plans, and ordinances relative to lands under County jurisdiction that are adjacent to shorelines so as to achieve a use policy on such lands that is consistent with the Act and this program.

14. Review and evaluate the records of project review actions in shoreline environments and report on the cumulative effects of authorized development of shoreline conditions. The Director shall coordinate such review with the Washington Department of Ecology, the Washington Department of Fish and Wildlife, the Lummi Nation and Nooksack Tribe, and other interested parties.

15. Make recommendations to the Planning Commission for open space tax designations pursuant to Chapter 84.34 RCW.

Comment [PDS21]: Not relevant to SMP

16. Develop administrative guidance materials related to the interpretations of principles and terms in this program as required to provide for consistent and equitable implementation of this program. Such administrative guidance documents shall be developed in consultation with the provided to Washington State Department of Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of Chapter 90.58 RCW, the applicable guidelines, and the goals and objectives of this program.

B. The Whatcom County Planning Commission is hereby vested with the responsibility to periodically review the program as a major element of the County's planning and regulatory program, and make recommendations for amendments thereof to the County Council.

Comment [CES22]: Moved from 23.70.040

C. The Whatcom County Council is hereby vested with authority to:

1. Initiate an amendment to this program according to the procedures prescribed in WAC 173-26-100.

2. Adopt all amendments to this program, after consideration of the recommendation of the Planning Commission and pursuant to the procedural requirements of WCC Chapter 2.02; provided, that substantive amendments shall become effective 14 days from immediately upon adoption by the Department of Ecology's written notice of final action.
3. Make final County decisions or recommendations, as applicable, with regard to shoreline permit, shoreline variance, or shoreline conditional use applications that require County Council action on a consolidated review as provided by WCC Chapter 22.05.

Comment [CES23]: Moved from 23.70.050

~~23.05.010 Authority.~~

As described in adopted Whatcom County Ordinance 2008-034, the general administrative sections of Title 23 (Whatcom County Shoreline Management Program) are not part of this program. They are, however, included with the text of this title for consistency and ease of use. Department of Ecology will be notified of any changes to the administrative chapters listed below.

The use of separate local administrative and enforcement procedures is consistent with the 2003 Washington State Shoreline Master Program Guidelines (WAC 173-26-191(2)(a)(iii)(C)), Administrative provisions:

Local governments may include administrative, enforcement, and permit review procedures in the master program or the procedures may be defined by a local government ordinance separate from the master program. In either case, these procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, 90.58.143, 90.58.210 and 90.58.220 and to chapter 173-27 WAC.

~~23.05.020 Purpose.~~

The purpose of the chapter is to allow Whatcom County to revise local administrative procedures (fees, application meetings, authority of administrator, etc.) without a formal state amendment process. These chapters must still be consistent and remain consistent with the related provisions in the Shoreline Management Act and state shoreline rules (WACs). In the event of a conflict, the state RCW or WAC, as amended, will prevail over the local ordinance.

~~23.05.030 Administrative procedures.~~

A. All applications for project permits covered by this title shall be reviewed and processed in accordance with Chapter 22.05 WCC, except as otherwise stated within this title.

B. The following administrative sections and chapters were adopted by the Whatcom County Administrative Procedures Ordinance 2008-034, and are separate from this title:

- WCC 23.60.050 — Minimum application requirements.
- WCC 23.60.060 — Pre-application conference.
- WCC 23.60.070 — Fees.
- WCC 23.60.080 — Notice of application.
- WCC 23.60.090 — Permit application review.
- WCC 23.60.100 — Consolidated permit review.

~~WCC 23.60.110 – State Environmental Policy Act (SEPA) compliance.~~

~~WCC 23.60.130 – Public hearings.~~

~~WCC 23.60.140 – Permit conditions.~~

~~WCC 23.60.150 – Notice of decision, reconsideration and appeal.~~

~~WCC 23.60.160 – Initiation of development.~~

~~WCC 23.60.180 – Rescission and modification.~~

~~WCC 23.60.190 – Expiration.~~

~~Chapter 23.70 WCC – Administration.~~

~~Chapter 23.80 WCC – Legal Provisions.~~

~~23.10.110 Relationship to other local regulations.~~

Comment [AP24]: Moved to WCC 23.10.060.

~~A. In the case of development subject to the shoreline permit requirement of this program, the county building official shall not issue a building permit for such development until a shoreline permit has been granted; provided, that any permit issued by the building official for such development shall be subject to the same terms and conditions that apply to the shoreline permit.~~

~~B. In the case of development subject to regulations of this program but exempt from the shoreline substantial development permit requirement, any required statement of exemption shall be obtained prior to issuance of the building permit; provided, that for single family residences, a building permit reviewed and signed off by the administrator may substitute for a written statement of exemption. A record of review documenting compliance with bulk and dimensional standards as well as policies and regulations of this program shall be included in the permit review. The building official shall attach and enforce conditions to the building permit as required by applicable regulations of this program pursuant to RCW 90.58.140(1).~~

~~C. In the case of zoning conditional use permits and/or variances required by WCC Title 20 for development that is also within shorelines, the county decision maker shall document compliance with bulk and dimensional standards as well as policies and regulations of this program in consideration of recommendations from the administrator. The decision maker shall attach conditions to such permits and variances as required to make such development consistent with this program.~~

~~D. In the case of land divisions, such as short subdivisions, long plats and planned unit developments that require county approval, the decision maker shall document compliance with bulk and dimensional standards as well as policies and regulations of this program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities and future use associated with such land division(s) are consistent with this program.~~

~~E. Other local ordinances that may be applicable to shoreline development or use include, but are not limited to:~~

~~1. Building, plumbing, mechanical, and fire codes.~~

~~2. Boating and swimming, WCC Title 11.~~

~~3. On-site sewage system regulations, Chapter 24.05 WCC.~~

~~4. Solid waste rules and regulations, Chapter 24.06 WCC.~~

5. ~~Zoning, WCC Title 20.~~

6. ~~Land division regulations, WCC Title 21.~~

7. ~~Development standards.~~

~~23.10.120 Relationship to other state and federal laws.~~

Comment [AP25]: Moved to 23.10.060.

A. ~~Obtaining a shoreline permit or statement of exemption for a development or use does not excuse the applicant/proponent from complying with any other local, tribal, state, regional or federal statutes or regulations applicable to such development or use.~~

B. ~~At the time of application or initial inquiry, the administrator shall inform the applicant/proponent of other such statutes and regulations relating to shoreline issues that may be applicable to the project to the extent that the administrator is aware of such statutes. However, tThe final responsibility for determining applicable statutes and regulations and complying with the same rests with the applicant/proponent or responsible person carrying out the use or development in question.~~

C. ~~Washington State statutes together with implementing regulations adopted pursuant thereto that may be applicable to shoreline development or use include, but are not limited to:~~

1. ~~Flood Control Zone Act, Chapter 86.16 RCW.~~

2. ~~Forest Practices Act, Chapter 76.09 RCW.~~

3. ~~Fish and Wildlife, RCW Title 77.~~

4. ~~Water Pollution Control Act, Chapter 90.48 RCW.~~

5. ~~Land Subdivision Act, Chapter 58.17 RCW.~~

6. ~~Surface Mining Act, Chapter 78.44 RCW.~~

7. ~~Washington Clean Air Act, Chapter 70.94 RCW.~~

8. ~~State Environmental Policy Act (SEPA), Chapter 43.21C RCW.~~

9. ~~Camping Resorts Act, Chapter 19.105 RCW.~~

10. ~~Water Resources Act of 1971, Chapter 90.54 RCW.~~

11. ~~Growth Management Act, Chapter 36.70A RCW.~~

12. ~~State Hydraulic Code, Chapter 77.55 RCW.~~

D. ~~Regional authority regulations authorized by state law that may be applicable to shoreline development or use include, but are not limited to:~~

1. ~~Northwest Clean Air Agency regulations.~~

2. ~~Puget Sound Water Quality Management Plan.~~

E. ~~Federal statutes together with implementing regulations adopted pursuant thereto that may be applicable to shoreline development or use include, but are not limited to:~~

1. ~~Rivers and Harbors Act of 1899.~~

2. ~~Fish and Wildlife Coordination Act of 1958.~~

3. ~~National Environmental Policy Act of 1969 (NEPA).~~

4. ~~Coastal Zone Management Act of 1972, as amended.~~

5. ~~Federal Water Pollution Control Act, as amended.~~

6. ~~Flood Insurance Act of 1968, as amended.~~

- 1 7. ~~Clean Air Act, as amended.~~
2 8. ~~Endangered Species Act (ESA).~~

3 ~~**23.10.1310 Application within federal reserves.**~~

- 4 A. ~~As recognized by RCW 90.58.350, the provisions of this program shall not apply to lands held in trust~~
5 ~~by the United States for Indian nations, tribes or individuals.~~

Comment [CES26]: Moved to 23.10.020,
Applicability

6 **23.10.040 Code Interpretation.**

- 7 A. The regulations of this Program shall be interpreted to allow the development, use, or activity as
8 described in the General Regulations and/or Specific Use Regulations only when the proposal is
9 designed, constructed, and/or mitigated to provide no net loss of or a net lift to ecological functions
10 and ecosystem wide processes.
11 B. The policies of Chapter 11 (Shorelines) of the Comprehensive Plan shall guide interpretation of the
12 regulations.
13 C. Conflict between the provisions of the this Program and the WACs implementing the Act must be
14 resolved in accordance with the WACs; provided that conflict between the provisions of the WACs
15 implementing the Act and the Act must be resolved in accordance with the Act.
16 D. In case of conflict between the provisions of this program and Whatcom County Code or the laws,
17 regulations, codes, or rules promulgated by any other authority having jurisdiction within Whatcom
18 County, the more restrictive requirements shall apply, except when constrained by federal or state
19 law.
20 E. As provided for in RCW 90.58.900, the Act is exempt from the rule of strict construction, and this
21 program, including these regulations, shall therefore be liberally construed to give full effect to the
22 purposes, goals, objectives, and policies of the Act for which this program was enacted and adopted,
23 respectively.
24 F. Within shoreline jurisdiction, the regulations of WCC Chapter 16.16 adopted pursuant to 23.05.065
25 (Critical Areas) shall be liberally construed together with the program to give full effect to the
26 objectives and purposes of the provisions of the program and Act.

27 **23.10.050 Shoreline Permits Required.**

- 28 A. To be authorized, all shoreline development, uses, or activities shall be done in a manner consistent
29 with this program and the Shoreline Management Act as required by RCW 90.58.140(1), regardless
30 of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional
31 use permit is required.
32 B. The applicable provisions of WCC Title 22 (Land Use and Development) shall govern the processing
33 of permits required under this Title. If any conflict should exist between Title 22 and this program,
34 the provisions of this program shall prevail.

35 **23.10.160 Violations, Enforcement, and Penalties.**

- 36 A. The Director, when necessary in consultation with the Department of Ecology, is authorized to
37 adopt such rules as are necessary and appropriate to carry out the provisions of the Shoreline
38 Management Act (RCW 90.58.200) and Chapter 173-27 WAC, Part II. The Act calls for a cooperative

1 program between local government and the state. It provides for a variety of means of
2 enforcement, including civil and criminal penalties, orders to cease and desist, orders to take
3 corrective action, and permit rescission.

4 B. In addition to the following provisions, this Title shall be enforced in accordance with WCC Chapter
5 20.94 (Enforcement and Penalties) and WAC 173-27-240 through 173-27-300 or their successors.

6 C. To achieve no net loss, if a development, use, or activity has occurred in violation of this program,
7 prompt restoration or mitigation of any adverse impacts shall be provided. The standard mitigation
8 ratio for the critical area or buffer impacts shall be doubled to address temporal loss when
9 appropriate. If this provision is not complied with, the County may restore or mitigate the site and
10 charge the responsible person for the full cost of such an activity. Additionally, any and all permits or
11 approvals issued by the County may be denied for that property for a period of up to six years.

12 D. Any responsible party that willfully refuses to complete a required restoration plan pursuant to this
13 section shall be guilty of a misdemeanor and, in addition to the requirement of subsection (C), shall
14 provide shoreline restoration equal to double the square footage of the impacted area.

15 E. Pursuant to WCC 22.05.150 (Permit Revocation), the County may revoke a permit if the applicant
16 violates the conditions or limitations set forth in the permit or exceeds the scope of the work set
17 forth in the permit.

18 **~~23.80.040~~ 23.10.170 Abatement.**

19 Structures or development on shorelines considered by the ~~administrator~~ Director to present a hazard
20 or other public nuisance to persons, properties, or natural features may be abated by the County under
21 the provisions of WCC Title 15 (Buildings & Construction) and WCC Chapter 22.15 (Code
22 Enforcement) ~~the applicable provisions of the Uniform Code for the Abatement of Dangerous Buildings,~~
23 ~~1997 Edition, or successor as adopted by Whatcom County,~~ or by other appropriate means.

24 **23.10.180 Financial Sureties.**

25 In approving any application or exemption for a shoreline development, the Director may require the
26 posting of a financial surety to ensure continued compliance with any conditions imposed, including the
27 construction of improvements, the adherence to County standards, and/or maintenance, repair or
28 replacement of such improvements. The financial surety shall be in a form acceptable to the County's
29 attorney. In the event a condition occurs warranting the use of financial surety, the Director may act
30 under such financial surety or may perform the work required at the County's expense, which expense
31 shall be a lien against the property, enforceable as would be a judgment thereon.

Comment [CES27]: Added. Though we use financial sureties to ensure performance, there was no authorizing language in the SMP.

32 **~~23.80.010~~ 23.10.190 Amendments.**

33 A. Amendments to the Shoreline Management Program—including both Comprehensive Plan policies
34 and Title 23 regulations—shall be processed pursuant to WCC Chapter 22.10 (Legislative Action
35 Procedures).

36 B. All regulatory elements of this Program shall be considered a part of the County's development
37 regulations. Certain non-regulatory elements of this master program, including but not limited to
38 the Shoreline Restoration Plan or administrative procedures (WCC Title 22), may be updated and
39 amended at any time without requiring a formal master program amendment. Future changes to

WCC Title 22 shall remain consistent with the Shoreline Management Act and associated rules, specifically RCW 90.58.140, 90.58.143, 90.58.210, 90.58.220 and Chapter 173-27 WAC.

C. After approval or disapproval of a program amendment by the Department of Ecology as provided in RCW 90.58.090, the County shall publish a notice that the program amendment has been approved or disapproved by the Department of Ecology. For the purposes of RCW 36.70A.290, the date of publication for the amendment of a program is the date the County publishes notice that the program amendment has been approved or disapproved by the Department of Ecology.

A-D. The Director shall submit an annual report to the County Council reviewing the effectiveness of the program in achieving its stated purpose, goals, and objectives. Such report may also include any proposed amendments deemed necessary to increase its effectiveness or equity. If said report contains proposed amendments, the Council may schedule a public hearing to consider such matter in accordance with the procedure described in subsection (A). Said report shall also include a determination of whether or not the goal of no net loss of shoreline ecological function is being achieved and provide recommendations for achieving and maintaining the goal.

Comment [DOE-Req28]: Required Change – This change clarifies that while administrative provisions can be codified within a local ordinance separate from the SMP, such changes shall remain consistent with the Shoreline Management Act (SMA) and applicable rules (See SMP Guidelines at WAC 173-26-191(2)(a)(iii)(C).

Chapter 23.230 Shoreline Jurisdiction and Area-Environment Designations

23.230.010 Shoreline Jurisdiction.

- A. The provisions of this program shall apply to all shorelines of the state in unincorporated Whatcom County, including all shorelines of statewide significance (~~Appendix D of this title~~) and all shorelands as defined in WCC Chapter 23.110 and collectively referred to herein as "shorelines." For the purposes of this program, jurisdictional shorelines are divided into segments or reaches. Each segment is assigned one or more shoreline ~~environmental~~ area designations pursuant to this chapter in order to provide for the management of use and development within shorelines.
- B. The shoreline master program jurisdiction applies to all shorelines of the state and their associated shorelands. This includes:
1. All marine waters;
 2. Rivers and streams with more than twenty cubic feet per second (cfs) mean annual flow;
 3. Lakes and reservoirs twenty acres and greater in area;
 4. Floodways and the entire 100-year contiguous floodplain areas landward two hundred feet from such floodways; and.
 5. All associated wetlands and river deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of the Act;
 6. Shorelands adjacent to these waterbodies, typically within two hundred feet of the ordinary high water mark (OHWM);
 7. Buffers necessary to protect critical areas that are located within shoreline jurisdiction as described in this program.
 8. Associated estuarine wetlands: the jurisdictional boundary shall extend two hundred feet landward of the OHWM of the wetland.
 9. Associated palustrine wetlands that extend greater than two hundred feet landward of the OHWM of the shoreline: the jurisdictional boundary shall extend to the delineated edge OHWM of the wetland.
 10. Critical areas designated pursuant to Chapter 36.70A RCW and located within shoreline jurisdiction shall be subject to the regulations of this program.

23.20.020 ~~23.230.020~~ Official Shoreline Map.

- A. As part of this program, there is one official Whatcom County shoreline environment designations map, which shall be in the custody of the Planning and Development Services Department and available for public inspection during normal business hours and on the Whatcom County website. Unofficial copies of the official map or portions thereof may be included or distributed with copies of this program. Shoreline Area Designations. Shoreline area designations are delineated on a map, hereby incorporated as a part of this program (Appendix E of this title) that shall be known as the Official Shoreline Map. There shall be only one official copy of this map that shall reside in the custody of the Washington State Department of Ecology. Additional copies have been provided to

Comment [DOE-Req29]: Required Change – Whatcom County has removed the previously adopted "geomorphic floodplain" on the Official Shoreline Map to determine jurisdiction for the Nooksack and Sumas Rivers and has elected to set its jurisdiction as the extent of the 100-year floodplain recently remapped by FEMA. This change is necessary for consistency with the map change.

Comment [DOE-Req30]: Required Change – This change clarifies that while administrative provisions can be codified within a local ordinance separate from the SMP, such changes shall remain consistent with the Shoreline Management Act (SMA) and applicable rules (See SMP Guidelines at WAC 173-26-191(2)(a)(iii)(C).

Comment [DOE-Req31]: Required Change – Shoreline associated wetlands are not limited to palustrine wetlands for the purposes of determining shoreline jurisdiction. Also, the latera extent of wetlands is not always consistent with the OHWM of the primary waterbody. As such, these changes are necessary for consistency with the definition of "Shorelands" found in RCW 90.58.030(2)(f).

Comment [CES32]: From RCW 90.58.030(2)((f) and DOE SMP Handbook.

the Whatcom County auditor and the Whatcom County planning and development services department where they are available for public use.

B. The purpose of the official shoreline environment designations map is to depict graphically those areas of Whatcom County falling under the jurisdiction of this program, and the shoreline environment designations of those areas. ~~Shoreline Jurisdictional Limits. The purpose of the Official Shoreline Map is to identify shoreline area designations.~~ The map does not necessarily identify or depict the lateral extent of shoreline jurisdiction nor does it identify all associated wetlands. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands; ~~provided, that, exclusive of associated wetlands, the map identifies the lateral extent of shoreline jurisdiction on the Sumas River and the Mainstem, North Fork, Middle Fork and South Fork of the Nooksack River.~~

C. Where questions arise regarding the precise boundaries of any shoreline designation, the Director will make the final determination following the guidance of 23.20.030 (Interpretation of Official Map Boundaries) and 23.20.040 (Mapping Errors). Appeals of such interpretations may be filed pursuant to WCC 22.05.160 (Appeals).

D. All shorelines waterward of the OHWM shall be designated aquatic, except that in the Cherry Point Management Area the aquatic designation shall start waterward of the CPMA boundary (see subsection E).

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

F. ~~Upland shoreline environment designations shall apply to shorelands, unless specifically stated to be applied to the aquatic designation by this program.~~

~~F.G.~~ Only one shoreline environment designation shall apply to a given shoreland area. In the case of designations running parallel to one another (as along the coast), designations shall be divided along an identified linear feature. Such linear features shall be clearly noted in the metadata associated with the Official Shoreline Map.

~~G.H.~~ All shorelines east of the Mount Baker National Forest western boundary are designated ~~natural~~ or conservancy unless there are federal projects on federal lands.

~~H.I.~~ All areas within shorelines that are not mapped and/or designated ~~and are not directly adjacent to other shoreline designated areas~~ are automatically assigned a conservancy designation. Within urban growth areas, such shorelines shall be automatically assigned an urban conservancy designation until such time that the shoreline environment can be re-designated through a formal amendment.

Comment [PDS33]: Should be based existing conditions

Comment [DOE-Req34]: Required Change – This change restores existing language and the Official Shoreline Map does not include the western portions of the county, and thus a Conservancy designation would be assigned as a default pursuant to the SMP Guidelines at WAC 173-26-211(2)(e).

Comment [DOE-Req35]: Required Change – This change restores existing language by removing a proviso that is not applicable to unmapped and/or designated shorelines per WAC 173-26-211(2)(e).

Comment [CES36]: Moved from “Interpretation of Map” section, below.

23.020.021-030 Interpretation of shoreline area designation boundariesOfficial Map Boundaries.

Where the exact location of an environment designation boundary line is uncertain, the official shoreline environment designations map will be used to determine the location of such line. When resorting to the shoreline environment designations map does not resolve the conflict, the following rules will apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or other roadways, or railroads shall be construed to follow the nearest right-of-way edge;
2. Boundaries indicated as approximately following lot, fractional section, or other subdivision lines shall be construed as following such subdivision lines;
3. Boundaries indicated as approximately following any lines of corporate limits or other local government jurisdictional lines shall be construed as following such lines;
4. Boundaries indicated as parallel to or extensions of features identified in subsections (1) through (3) of this section shall be so construed; and,
5. Boundaries between parallel environment designations along the shoreline shall be construed as the top of the bluff or vegetation line that distinguishes existing development from the critical area abutting the shoreline.

When not specifically indicated on the shoreline environment designations map, distances shall be determined by the scale of the map;

Where existing physical or cultural features are at variance with those shown on the shoreline environment designations map and cannot be determined with certainty by applying subsections (A)(1) through (6) of this section, the director shall determine the location or existence of such feature utilizing the provisions of WAC 173-27-211, the policies of RCW 90.58.020, and the corresponding master program provisions herein; and

If disagreement develops as to the exact location of a shoreline area designation boundary line, the Official Shoreline Map shall prevail.

If disagreement develops as to the exact location of a shoreline area designation boundary line, the following rules shall apply:

Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines.

Boundaries indicated as approximately parallel to or extensions of features indicated in subsection (B)(1) or (2) of this section shall be so construed.

Whenever existing physical features are inconsistent with boundaries on the Official Shoreline Map, the administrator shall interpret the boundaries. Appeals of such interpretations may be filed pursuant to WCC 23.60.150(H).

All shoreline area waterward of the OHWM shall be designated aquatic.

Upland shoreline area designations shall apply to shorelands.

Only one shoreline area designation shall apply to a given shoreland area. In the case of parallel designations, designations shall be divided along an identified linear feature. Such linear features shall be clearly noted in the metadata associated with the Official Shoreline Map.

All shorelines east of the Mount Baker National Forest western boundary are designated conservancy unless there are federal projects on federal lands.

All areas within shorelines that are not mapped and/or designated are automatically assigned a conservancy designation. Within urban growth areas, such shorelines shall be automatically assigned an urban conservancy designation until such time that the shoreline area can be re-designated through a formal amendment.

Comment [CES37]: Moved to 23.20.020 Official Map section

23.20.040 Mapping Errors

Some mapping errors may be adjusted prior to a master program amendment to assign the appropriate designation to that area by the following methods:

1. The common boundary descriptions and the criteria in RCW 90.58.030(2) and Chapter 173-22 WAC supersede the map when there are mapping error conflicts, other than those with a solution provided in this section.
~~In the event that a jurisdictional area, including associated wetlands, is not mapped, it will automatically be assigned a "resource," "conservancy," or "urban conservancy" designation depending on its location. If outside a UGA and adjacent to an existing "resource" designation, it shall be "resource," if adjacent to "conservancy" it shall be "conservancy. If outside or inside of a UGA or LAMIRD it shall be "urban conservancy." Such designation will apply until a master program amendment is approved that assigns the appropriate designation to the subject area.~~
2. In the event that a parcel was inadvertently assigned more than one designation, the more restrictive designation shall apply.
3. In the event that a parcel on the boundary between two designations appears to be a mapping error based on the criteria in this section, the County shall apply the most appropriate of the two designations, until such time as the map can be formally corrected consistent with WAC 173-26-100 and Section 22.500.105(I) (Shoreline Master Program Amendment).
4. In the event of an environment designation mapping error where the master program update or amendment record, including the public hearing process, is clear in terms of the correct environment designation to apply to a property, the County shall apply the environment designation approved through the master program update or amendment process and correct the map.
5. If the environment designation criteria were misapplied, but the update or amendment record, including the public hearing process, does not clearly show that a different designation was intended to be shown on the map, a master program amendment may be obtained consistent with WAC 173-26-100 and Section 22.500.105(I) (Shoreline Master Program Amendment). This process is intended to allow for reasonable corrections to the shoreline environment designation process. Such process shall include early consultation with the Department of Ecology and other agencies with jurisdiction, affected tribes, and appropriate public notification prior to local approval. Current designations are reflected in the shoreline environment designations map located pursuant to WCC Chapter 23.20 (Shoreline Jurisdiction and Environment Designations).

- 1 **23.020.022-050 Shoreline Area Environment Designations.**
- 2 A. A set of 10 shoreline area designations has been developed as a part of this program. The purpose
- 3 of the shoreline area designations is to provide a systematic, rational, and equitable basis upon
- 4 which to guide and regulate development within specific shoreline reaches.
- 5 B. Shoreline area designations have been determined after consideration of:
- 6 1. The ecological functions and processes that characterize the shoreline, together with the degree
- 7 of human alteration; and
- 8 2. Existing development patterns together with WCC Title 20, Zoning, designations, the County
- 9 Comprehensive Plan designations and other officially adopted plans; and
- 10 3. Federal and tribal ownership status; and
- 11 4. The goals of Whatcom County citizens for their shorelines; and
- 12 5. Pursuant to RCW 90.58.100(4), in designating state-owned shorelines, consideration has been
- 13 given to public demand for wilderness beaches, ecological study areas, and other recreational
- 14 activities; and
- 15 6. Other state policies in the Act and the Shoreline Master Program Guidelines (RCW 90.58.020
- 16 and Chapter 173-26 WAC, respectively).
- 17 A. Development, use and activities use within each designated shoreline area environment shall occur
- 18 consistent with the SMP this program, including but not limited to: the shoreline environment
- 19 designation purpose, designation criteria, and policies described found in Whatcom County
- 20 Comprehensive Plan Chapter 11 (Shorelines) below; the general policies and regulations contained in
- 21 Chapter 11 (Shorelines) and WCC Chapter 23.390 (General Regulations), and the use and
- 22 modification policies and regulations provided in Chapter 11 (Shorelines) and WCC Chapter 23.4100
- 23 (Shoreline Use and Modification Regulations), subject to the provisions of the Whatcom County
- 24 Zoning Code, WCC Title 20 (Zoning), and other applicable land use regulations where more
- 25 restrictive.
- 26 B. Shoreline environment designations in Whatcom County include the following:
- 27 1. Urban
- 28 2. Urban Resort
- 29 3. Urban Conservancy
- 30 4. Shoreline Residential
- 31 5. Rural
- 32 6. Resource
- 33 7. Conservancy
- 34 8. Natural
- 35 9. Aquatic
- 36 10. Cherry Point Management Area

Comment [MD38]: Moved to CompPlan.

Comment [CES39]: Policy Change. The existing SMP treats the SPMA as a sort of overlay designation. Based on Council's recent actions regarding this area, staff is proposing that it be given its own environment designation.

23.0020-060 Designation of Shorelines of Statewide Significance.

In accordance with the criteria of RCW 90.58.030(2)(e), the legislature designated the following shorelines of unincorporated Whatcom County, including the shorelands and associated wetlands as therein defined, as having statewide significance:

A. Lakes:

1. Lake Whatcom;
2. Ross Lake; and
3. Baker Lake.

B. Rivers:

1. Nooksack River: its Mainstem downstream to Bellingham Bay, its North Fork upstream to the mouth of Glacier Creek, and its South Fork upstream to the mouth of Hutchinson Creek.
2. Skagit River: upstream of the Whatcom-/Skagit County line to the point where the mean annual flow is measured at 1,000 feet per second or more, approximately, at the confluence of Newhalem Creek.

C. Marine:

1. Birch Bay from Birch Point to Point Whitehorn.
2. All other marine waters, water columns, and bedlands waterward of extreme low tide.

~~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 of more intense rural development, 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:~~

- ~~A. New urban character development should be directed toward already developed or developing areas where compatible.~~

Comment [CES40]: The remainder of this chapter has been moved to either the CompPlan (in the case of purpose statements, designation criteria, and policies) or the amended Table 2 (Shoreline Use Table) (in the case of use permissions) so as to make it easier to find all such regulations.

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

7 **~~23.30.034 Urban shoreline area—Permitted uses.~~**

8 The following uses may be permitted subject to the applicable policies and regulations of this program:

9 ~~A. Residential.~~

10 ~~B. Water-oriented commercial, industrial and/or port development.~~

11 ~~C. Water-oriented recreation.~~

12 ~~D. Agricultural.~~

13 **~~23.30.035 Urban shoreline area—Conditional uses.~~**

14 The following uses may be permitted as conditional uses subject to the applicable policies and
15 regulations of this program:

16 ~~A. Non-water-oriented commercial, industrial and/or port development, subject to the criteria in WCC~~
17 ~~23.100.050(B)(1)(d) and 23.100.070(B)(1)(c)(iv), respectively.~~

18 ~~B. Dams, diversions and tailrace structures for hydroelectric power generation.~~

19 ~~C. Institutional development and essential public facilities, where there is no feasible location outside~~
20 ~~the shoreline.~~

21 ~~D. Transportation facilities not serving a specific approved use, including roads, railways, and parking~~
22 ~~areas, provided there is no feasible location outside the shoreline.~~

23 ~~E. Regional utility development not serving adjacent uses such as sewage trunk lines, desalinization~~
24 ~~facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local~~
25 ~~distribution, provided there is no feasible location outside the shoreline.~~

26 **~~23.30.036 Urban shoreline area—Prohibited uses.~~**

27 The following uses are prohibited:

28 ~~A. Forest practices.~~

29 ~~B. Surface mining.~~

30 **~~23.30.040 Urban resort shoreline area.~~**

31 **~~23.30.041 Urban resort shoreline area—Purpose.~~**

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

36 **~~23.30.042 Urban resort shoreline area—Designation criteria.~~**

37 The urban resort shoreline area is applied to shoreline areas identified in the Comprehensive Plan as
38 suitable for resort commercial development with substantial features that might reasonably attract

resort development compatible with other development in the area, and which have existing and/or planned infrastructure sufficient to support such development.

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

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

- ~~A. Scale and design of resort development should assure compatibility with allowed uses of adjacent shoreline areas and shoreline ecological functions and processes.~~
- ~~B. Buildings over 35 feet in height may be permitted if additional open space, view areas, public access and/or other amenities are provided.~~

~~23.30.044 Urban resort shoreline area — Permitted uses.~~

The following uses may be permitted subject to the applicable policies and regulations of this program:

- ~~A. Residential.~~
- ~~B. Water-oriented commercial.~~
- ~~C. Port development, limited to passenger terminals.~~
- ~~D. Water-oriented recreation.~~

~~23.30.045 Urban resort shoreline area — Conditional uses.~~

The following may be permitted as conditional uses subject to the applicable policies and regulations of this program:

- ~~A. Non-water-oriented commercial, subject to the criteria in WCC 23.100.050(B)(1)(d).~~
- ~~B. Institutional development and essential public facilities, where there is no feasible location outside the shoreline.~~
- ~~C. Transportation facilities not serving a specific approved use, including roads, railways, and parking areas, provided there is no feasible location outside the shoreline.~~
- ~~D. Regional utility development not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.~~

~~23.30.046 Urban resort shoreline area — Prohibited uses.~~

The following uses are prohibited:

- ~~A. Agricultural.~~
- ~~B. Forest practices.~~
- ~~C. Surface mining.~~
- ~~D. All other industrial and port development.~~

~~23.30.050 Urban conservancy shoreline area.~~

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

The purpose of the urban conservancy shoreline area is to protect shoreline ecological functions and processes in urban growth areas and limited areas of more intense rural development that are not designated for high intensity residential use and are not generally suitable for water-dependent uses.

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:

- 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.
- 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.
- 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.
- 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.

23.30.054 Urban conservancy shoreline area — Permitted uses.

The following uses may be permitted subject to the applicable policies and regulations of this program:

- 1. Single family and duplex residential.
- 2. Agricultural.
- 3. Low intensity recreation; provided, that facilities do not require substantive alterations to topography, such as public forest preserves, wildlife reserves, natural systems education, and/or interpretive areas, trails, trailheads, with associated restroom facilities and parking areas for no more than 30 vehicles, and buildings for interpretive facilities not exceeding 4,000 square feet, subject to the criteria in WCC 23.100.100.

23.30.055 Urban conservancy shoreline area — Conditional uses.

The following may be permitted as conditional uses subject to the applicable policies and regulations of this program:

- A. All other residential development.
- B. Low intensity water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar facilities subject to the criteria in WCC 23.100.050. Low intensity non-water-oriented

commercial limited to resort, bed and breakfast, campgrounds and similar facilities, subject to the criteria in WCC 23.100.050(B)(1)(d).

C. ~~Dams, diversions and tailrace structures for hydroelectric power generation.~~

D. ~~Institutional development and essential public facilities, where there is no feasible location outside the shoreline.~~

E. ~~Regional utility development not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.~~

F. ~~Sewage outfalls and treatment plants, over water communication or power lines, fuel pipelines, or other types of hazardous materials pipelines, provided there is no feasible location outside of the shoreline.~~

~~23.30.056 Urban conservancy shoreline area—Prohibited uses.~~

~~The following uses are prohibited:~~

A. ~~Forest practices.~~

B. ~~Surface mining.~~

C. ~~All other industrial and port development.~~

D. ~~Transportation facilities not serving a specific approved use.~~

~~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.~~

~~23.30.063 Shoreline residential area—Policies.~~

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

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.~~

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.~~

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 this program such as providing public access or restoring degraded shorelines.~~

~~23.30.064 Shoreline residential area — Permitted uses.~~

The following uses may be permitted subject to the applicable policies and regulations of this program:

- ~~A. Residential.~~
- ~~B. Water-oriented commercial.~~
- ~~C. Water-oriented recreation.~~
- ~~D. Agricultural.~~

~~23.30.065 Shoreline residential area — Conditional uses.~~

The following may be permitted as conditional uses subject to the applicable policies and regulations of this program:

- ~~A. Non-water-oriented commercial, subject to the criteria in WCC 23.100.050(B)(1)(d).~~
- ~~B. Dams, diversions and tailrace structures for hydroelectric power generation.~~
- ~~C. Institutional development and essential public facilities, where there is no feasible location outside the shoreline.~~
- ~~D. Transportation facilities not serving a specific approved use, including roads, railways, and parking areas, provided there is no feasible location outside the shoreline.~~
- ~~E. Regional utility development not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.~~

~~23.30.066 Shoreline residential area — Prohibited uses.~~

The following uses are prohibited:

- ~~A. Forest practices.~~
- ~~B. Surface mining.~~
- ~~C. All other industrial and port development.~~

~~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.~~

~~C. Where residential development is or should be of low density, because of limitations by physical features, the presence of critical areas, and/or lack of utilities or access.~~

~~D. That have high recreational value or unique historic or cultural resources.~~

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

~~F. Where the shoreline has been developed with low intensity water dependent uses.~~

23.30.073 Rural shoreline area — Policies.

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

~~A. Uses in rural areas should protect or enhance the rural character of the shoreline and sustain the shoreline ecological functions and processes by limiting building density and height, and providing effective setbacks, buffers and open space.~~

~~B. Residential development consistent with the rural character of the area is permitted, provided it includes measures to protect ecological functions and processes. Related uses consistent with the rural character of the area are permitted.~~

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

~~D. Industrial or commercial development should be limited to, water oriented commercial and industrial uses in the limited locations where such uses have been established or at sites in rural communities that possess appropriate shoreline conditions and services sufficient to support such developments. Non water dependent uses should provide a substantial benefit with respect to the goals and policies of this program such as providing public access and/or restoring degraded shorelines.~~

~~E. Agriculture and forestry consistent with rural character and the maintenance of shoreline ecological functions and processes should be encouraged.~~

23.30.074 Rural shoreline area — Permitted uses.

The following uses may be permitted subject to the applicable policies and regulations of this program:

~~A. Residential.~~

~~B. Water oriented commercial.~~

~~C. Water oriented industrial and/or port development.~~

~~D. Water oriented recreation.~~

~~E. Agricultural and forest practices.~~

23.30.075 Rural shoreline area — Conditional uses.

The following uses may be permitted as conditional uses subject to the applicable policies and regulations of this program:

- A. ~~Non water oriented commercial, industrial and/or port development, subject to the criteria in WCC 23.100.050(B)(1)(d) and 23.100.070(B)(1)(c)(iv), respectively.~~
- B. ~~Dams, diversions and tailrace structures for hydroelectric power generation.~~
- C. ~~Institutional development and essential public facilities, where there is no feasible location outside the shoreline.~~
- D. ~~Transportation facilities not serving a specific approved use, including roads, railways, and parking areas, provided there is no feasible location outside the shoreline.~~
- E. ~~Regional utility development not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.~~
- F. ~~Surface mining.~~

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:

- 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.~~
- 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.~~
- 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.~~

23.30.084 Resource shoreline area — Permitted uses.

The following uses may be permitted subject to the applicable policies and regulations of this program:

- A. Residential development limited to farm-related residences or one residence and one accessory dwelling unit per existing parcel, where there is no feasible location outside of the shoreline.
- B. Water-oriented commercial related to natural resource products predominantly produced on site.
- C. Water-oriented industrial facilities for processing, manufacturing, and storage of natural resource products.
- D. Low intensity water-oriented recreation, including public forest preserves, wildlife reserves, natural systems education, and/or interpretive areas, trails, trailheads, with associated restroom facilities and parking areas for no more than 30 vehicles, subject to the criteria in WCC 23.100.100.
- E. Agricultural and forest practices.

23.30.085 Resource shoreline area — Conditional uses.

The following uses may be permitted as conditional uses subject to the applicable policies and regulations of this program:

- A. Non-water-oriented commercial and industrial development related to natural resource products predominantly produced on site, subject to the criteria in WCC 23.100.050(B)(1)(d) and 23.100.070(B)(1)(c)(iv), respectively.
- B. Water-oriented industrial and port development other than those uses related to products predominantly produced on site.
- C. Dams, diversions and tailrace structures for hydroelectric power generation.
- D. Institutional development and essential public facilities, where there is no feasible location outside the shoreline.
- E. Transportation facilities not serving a specific approved use, including roads, railways, and parking areas, provided there is no feasible location outside the shoreline.
- F. Regional utility development not serving adjacent uses such as sewage trunk lines, desalinization facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local distribution, provided there is no feasible location outside the shoreline.
- G. Surface mining.

23.30.086 Resource shoreline area — Prohibited uses.

The following uses are prohibited:

- A. All other commercial development.
- B. Other non-water-oriented industrial and port development.

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 where important ecological processes have not been substantially degraded by human activities. Conservancy areas are designated outside of urban growth areas. The primary management goal is to preserve shoreline ecological functions and processes by avoiding forms of development that would be incompatible with existing functions and processes, as well as identify and focus restoration efforts in

1 areas where benefits to overall functions and processes can be realized. This policy should be furthered
2 by keeping overall intensity of development or use low, and by maintaining most of the area's natural
3 character.

4 **~~23.30.092 Conservancy shoreline area—Designation criteria.~~**

5 The conservancy shoreline area is applied to shoreline areas outside urban growth areas that include
6 areas:

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

21 **~~23.30.093 Conservancy shoreline area—Policies.~~**

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

- 23 A. ~~Natural ecological processes should be protected and renewable resources managed so that~~
24 ~~ecological functions and the resource base are maintained. Nonrenewable resources should only be~~
25 ~~consumed in a manner compatible with conservation of other resources and other appropriate uses.~~
- 26 B. ~~Permitted uses should be limited to those compatible with each other and with conservation of~~
27 ~~shoreline ecological processes and resources.~~
- 28 C. ~~Shorelines should be protected from harmful concentrations of people, livestock, buildings, or~~
29 ~~structures.~~
- 30 D. ~~Opportunities for ecological restoration should be pursued, prioritizing those areas with the greatest~~
31 ~~potential to restore ecosystem-wide processes and functions.~~
- 32 E. ~~Outstanding recreational or scenic values should be protected from incompatible development.~~

33 **~~23.30.094 Conservancy shoreline area—Permitted uses.~~**

34 The following uses may be permitted subject to the applicable policies and regulations of this program:

- 35 A. ~~Single family and duplex residential development.~~
- 36 B. ~~Low intensity water-oriented recreation; provided, that facilities do not require substantive~~
37 ~~alterations to topography, such as public forest preserves, wildlife reserves, natural systems~~
38 ~~education, and/or interpretive areas, trails, trailheads, with associated restroom facilities and~~

1 parking areas for no more than 30 vehicles, and buildings for interpretive facilities not exceeding
2 2,000 square feet, subject to the criteria in WCC 23.100.100.

3 ~~C. Agricultural and forest practices.~~

4 **~~23.30.095 Conservancy shoreline area — Conditional uses.~~**

5 The following uses may be permitted as conditional uses subject to the applicable policies and
6 regulations of this program:

7 ~~A. All other residential development.~~

8 ~~B. Low intensity water-oriented commercial limited to resort, bed and breakfast, campgrounds and
9 similar facilities. Low intensity non-water-oriented commercial uses limited to resort, bed and
10 breakfast, campgrounds and similar facilities may be permitted as a conditional use, subject to the
11 criteria in WCC 23.100.050(B)(1)(d).~~

12 ~~C. Dams, diversions and tailrace structures for hydroelectric power generation.~~

13 ~~D. Institutional development and essential public facilities, where there is no feasible location outside
14 the shoreline.~~

15 ~~E. Regional utility development not serving adjacent uses such as sewage trunk lines, desalinization
16 facilities, solid waste transfer and disposal sites, oil pipelines and gas pipelines other than local
17 distribution, provided there is no feasible location outside the shoreline.~~

18 ~~F. Sewage outfalls and treatment plants, over water communication or power lines, fuel pipelines, or
19 other types of hazardous materials pipelines, provided there is no feasible location outside of the
20 shoreline.~~

21 ~~G. Surface mining.~~

22 **~~23.30.096 Conservancy shoreline area — Prohibited uses.~~**

23 The following uses are prohibited:

24 ~~A. All other industrial and port development.~~

25 ~~B. Transportation facilities not serving a specific approved use.~~

26 **~~23.30.100 Natural shoreline area.~~**

27 **~~23.30.101 Natural shoreline area — Purpose.~~**

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

30 **~~23.30.102 Natural shoreline area — Designation criteria.~~**

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

32 ~~A. The majority of natural ecological shoreline functions and/or processes are retained, often
33 evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not
34 necessarily, they include ecologically intact shorelines that are free of structural shoreline
35 modifications, structures, and intensive human uses.~~

36 ~~B. Forested areas that generally include native vegetation with diverse plant communities, multiple
37 canopy layers, and the presence of large woody debris available for recruitment to adjacent water
38 bodies.~~

- ~~C. Valuable functions are provided for the larger aquatic and terrestrial environments, which could be lost or significantly reduced by human development.~~
- ~~D. Ecosystems or geologic types that are of particular scientific and educational interest are represented.~~
- ~~E. Largely undisturbed areas of wetlands, estuaries, unstable bluffs, coastal dunes, and spits are present.~~
- ~~F. New development, extractive uses, or physical modifications cannot be supported without significant adverse impacts to ecological functions and/or processes or risk to human safety.~~

~~23.30.103 Natural shoreline area—Policies.~~

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

- ~~A. Preservation of the area's ecological functions, natural features and overall character must receive priority over any other potential use. Uses should not degrade shoreline ecological functions or processes or the natural character of the shoreline area. New development or significant vegetation removal that would reduce the capability of the shoreline to perform a full range of ecological functions or processes should not be permitted.~~
- ~~B. Private and/or public enjoyment of natural shoreline areas should be encouraged and facilitated through low intensity recreational, scientific, historical, cultural, and educational research uses; provided, that no significant ecological impact on the area will result.~~
- ~~C. Agricultural and forestry uses of a very low intensity nature may be consistent with the natural shoreline area when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.~~
- ~~D. The following uses should not be permitted in the natural shoreline area:~~
 - ~~1. Commercial uses.~~
 - ~~2. Industrial uses.~~
 - ~~3. Non-water-oriented recreation.~~
 - ~~4. Roads, utility corridors, and parking areas that can be located outside of natural shoreline areas.~~

~~23.30.104 Natural shoreline area—Permitted uses.~~

~~The following uses may be permitted subject to the applicable policies and regulations of this program:~~

- ~~A. Low intensity water-oriented recreation; provided, that facilities do not require substantive alterations to topography, such as public forest preserves, wildlife reserves, natural systems education, and/or interpretive areas, trails, trailheads, with associated restroom facilities and parking areas for no more than 10 vehicles, and buildings for interpretive facilities not exceeding 500 square feet, subject to the criteria in WCC 23.100.100.~~
- ~~B. Low intensity agricultural.~~

~~23.30.105 Natural shoreline area—Conditional uses.~~

~~The following uses may be permitted as conditional uses subject to the applicable policies and regulations of this program:~~

- ~~A. Single family residential use and development is only permitted on existing lots of record and where there is no feasible location outside the shoreline. Further subdivision is not permitted.~~

B. ~~Forest practices; provided, that it meets the conditions of the State Forest Practices Act and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.~~

~~23.30.106 Natural shoreline area — Prohibited uses.~~

~~The following uses are prohibited:~~

~~A. All other residential.~~

~~B. Commercial.~~

~~C. Industrial and port development.~~

~~D. Non-water-oriented recreation.~~

~~E. Institutional.~~

~~F. Transportation facilities not serving a specific approved recreational development.~~

~~G. Utility development not serving a specific approved use.~~

~~H. Surface mining.~~

~~23.30.110 Aquatic shoreline area.~~

~~23.30.111 Aquatic shoreline area — Purpose.~~

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

~~23.30.112 Aquatic shoreline area — Designation criteria.~~

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

~~23.30.113 Aquatic shoreline area — Policies.~~

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

~~A. New over-water structures should only be permitted for water-dependent uses, public access, or ecological restoration. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.~~

~~B. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.~~

~~C. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be permitted except where necessary to achieve the objectives of RCW 90.58.020, and then only when all potential impacts are mitigated as necessary to assure maintenance of shoreline ecological functions and processes.~~

~~D. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural conditions.~~

1 **~~23.30.114 Aquatic shoreline area — Permitted uses.~~**
2 ~~Permitted uses consist of the water dependent uses permitted in abutting upland shoreline area~~
3 ~~designations, subject to the exceptions listed in WCC 23.30.116.~~

4 **~~23.30.115 Aquatic shoreline area — Conditional uses.~~**
5 ~~Conditional uses consist of those water dependent conditional uses designated in abutting upland~~
6 ~~shoreline area designations.~~

7 **~~23.30.116 Aquatic shoreline area — Prohibited uses.~~**
8 ~~The following uses are prohibited:~~
9 ~~A. Residential.~~
10 ~~B. Non water dependent commercial, industrial and port development.~~
11 ~~C. Institutional.~~
12 ~~D. Agricultural.~~

13 **~~23.30.120 Cherry Point management area.~~**
14 ~~The policies, regulations and standards, etc., applicable to the Cherry Point management area are found~~
15 ~~in WCC 23.100.170, except as otherwise specified therein.~~

Chapter 23.40 Shorelines of Statewide Significance

23.40.010 Adoption of policy.

In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all shorelines of statewide significance in unincorporated Whatcom County, as defined in RCW 90.58.030(2)(e) and identified in WCC 23.40.020. Consistent with the policy contained in RCW 90.58.020, preference shall be given to the uses that are consistent with the statewide interest in such shorelines. These are uses that:

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

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

Comment [MD41]: Moved to CompPlan.

23.40.020 Designation of shorelines of statewide significance.

In accordance with the criteria of RCW 90.58.030(2)(e), the legislature designated the following shorelines of unincorporated Whatcom County, including the shorelands and associated wetlands as therein defined, as having statewide significance:

D. Lakes:

- 1. Lake Whatcom;
- 2. Ross Lake; and
- 3. Baker Lake.

E. Rivers:

- 1. Nooksack River: its Mainstem downstream to Bellingham Bay, its North Fork to the mouth of Glacier Creek and its South Fork to the mouth of Hutchinson Creek.
- 2. Skagit River: upstream of the Whatcom-Skagit County line to the point where the mean annual flow is measured at 1,000 feet per second or more, approximately, at the confluence of Newhalem Creek.

F. Marine:

- 1. Birch Bay from Birch Point to Point Whitehorn.
- 2. All other marine waters, water columns, and bedlands waterward of extreme low tide.

23.40.030 Policies for shorelines of statewide significance.

The statewide interest should be recognized and protected over the local interest in shorelines of statewide significance. To ensure that statewide interests are protected over local interests, the county

1 shall review all development proposals within shorelines of statewide significance for consistency with
2 RCW 90.58.030 and the following policies:

3 A. Redevelopment of shorelines should be encouraged where it restores or enhances shoreline
4 ecological functions and processes impaired by prior development activities.

5 B. The Washington Departments of Fish and Wildlife and Ecology, the Lummi Nation, the Nooksack
6 Tribe, and other resources agencies should be consulted for development proposals that could
7 affect anadromous fisheries.

8 C. Where commercial timber cutting takes place pursuant to WCC 23.90.110 and RCW 90.58.150,
9 reforestation should take place as soon as possible.

10 D. Activities that use shoreline resources on a sustained yield or non-consuming basis and that are
11 compatible with other appropriate uses should be given priority over uses not meeting these
12 criteria.

13 E. The range of options for shoreline use should be preserved to the maximum possible extent for
14 succeeding generations. Development that consumes valuable, scarce or irreplaceable natural
15 resources should not be permitted if alternative sites are available.

16 F. Potential short term economic gains or convenience should be measured against potential long-
17 term and/or costly impairment of natural features.

18 G. Protection or enhancement of aesthetic values should be actively promoted in design review of new
19 or expanding development.

20 H. Resources and ecological systems of shorelines of statewide significance should be protected.
21 Shorelands and submerged lands should be protected to accommodate current and projected
22 demand for economic resources of statewide importance such as commercial shellfish beds.

23 I. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected
24 to the maximum extent feasible.

25 J. Erosion and sedimentation from development sites should be controlled to minimize adverse
26 impacts on ecosystem processes. If site conditions preclude effective erosion and sediment control,
27 excavations, land clearing, or other activities likely to result in significant erosion should be severely
28 limited.

29 K. Public access development in extremely sensitive areas should be restricted or prohibited. All forms
30 of recreation or access development should be designed to protect the resource base upon which
31 such uses in general depend.

32 L. Public and private developments should be encouraged to provide trails, viewpoints, water access
33 points and shoreline-related recreation opportunities whenever possible. Such development is
34 recognized as a high priority use.

35 M. Development not requiring a waterside or shoreline location should be located inland so that lawful
36 public enjoyment of shorelines is enhanced.

37 N. Lodging and related facilities should be located inland and provide for appropriate means of access
38 to the shoreline.

Comment [MD42]: Moved to CompPlan.

Chapter 23.390 General Regulations

~~23.90.010 Applicability.~~

All use and development activities on shorelines shall be subject to all of the following general policies and regulations in addition to the applicable use policies and regulations of Chapter 23.100 WCC; provided, that all use and development that is to be located within the Cherry Point management area, as defined in Chapter 23.110 WCC, shall be subject to the policies and regulations found in WCC 23.100.170 and shall not be subject to the policies and regulations found in this chapter and Chapter 23.100 WCC unless otherwise specified.

~~23.90.020 Land use.~~

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

~~A. Policies.~~

- ~~1. Single family residences should be given preference for location on shorelines in those limited instances when an alteration of 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.~~
- ~~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.~~
- ~~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.~~

~~B. Regulations.~~

- ~~1. Single family residential uses shall be allowed on all shorelines not subject to a preference for commercial or industrial water dependent uses and shall be located, designed, and used in accordance with applicable policies and regulations of this program.~~
- ~~2. Resource uses such as agriculture, forestry and mining activities shall be carried out in a manner consistent with the applicable policies and regulations of this program.~~
- ~~3. Restoration of ecological functions and processes shall be allowed on all shorelines and shall be located, designed and implemented in accordance with applicable policies and regulations of this program.~~

Comment [AP43]: This chapter has been moved forward as it contains the general regulations and the others more specific regulations. All policies, with exception of regulations and those noted as duplicative, have been moved to the CompPlan.

Comment [DN44]: Moved to 23.10 Applicability and slightly reworded

Comment [AP45]: Removed. This provision is more appropriate as a policy, which is already captured in the CompPlan. Implementing regulations are included in the Residential Shoreline Use and Modification Section (WCC 23.40.160).

Comment [AP46]: Removed for clarity and simplicity. This is established in the use table and the applicable use and modification sections.

Comment [DN47]: Moved to WCC 23.40.170 (Restoration and Enhancement)

4. Shoreline uses and developments that are water dependent shall be given priority. Permit conditions may limit the range of uses or sites developed for such uses. Interim non-water dependent uses authorized as a conditional use may be allowed to respond to short term market conditions; provided, that permit conditions are placed on such uses to provide for a specific timetable or review process to ensure water dependent use of the development in the long term.
5. Shoreline uses and developments should be located, designed, and managed so that other appropriate uses are neither subjected to substantial or unnecessary adverse impacts, nor deprived of reasonable, lawful use of navigable waters, other publicly owned shorelines, or private property.
6. Navigable waters should be kept free of obstructions for the general benefit of the region, state, and nation. No use or development shall be allowed to effectively exclude other appropriate uses from navigable waters.
7. Shoreline uses and developments should be located in a manner so that shoreline stabilization is not likely to become necessary in the future.

23.90.030-30.010 Ecological Protection and critical areas.

A. Ecological protection of shoreline environments shall be achieved through compliance with the applicable provisions of WCC Chapter 16.16 (Critical Areas) and (B) and (C) of this subsection.

A. Policies.

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 Chapter 16.16 WCC, 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.
2. In assessing the potential for net loss of ecological functions or processes, project-specific and cumulative impacts should be considered.
3. Development standards for density, frontage, setbacks, impervious surface, shoreline stabilization, vegetation conservation, buffers, critical areas, and water quality should protect existing shoreline ecological functions and processes. During permit review, the administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.

Comment [DN48]: These provisions were moved to WCC 23.40.030 (General Shoreline Use and Modifications) since they are applicable to that section. These were also reviewed as policies for the CompPlan.

1 ~~B. Regulations.~~

2 ~~A. An assessment of the existing ecological functions and/or processes provided by topographic,~~

3 ~~physical, and vegetation characteristics of the site shall accompany development proposals. Such~~

4 ~~assessments shall include the following general information:~~

5 ~~1. Impacts of the proposed use/development on ecological processes with clear designation of~~

6 ~~existing and proposed routes for water flow, wildlife movement, and other features.~~

7 ~~—Infrastructure requirements such as parking, services, lighting, and other features, together with~~

8 ~~the effects of those infrastructure improvements on shoreline ecological functions and/or~~

9 ~~processes.~~

10 B. Development, use, and activities within the shoreline jurisdiction shall avoid and minimize adverse

11 impacts, and any unavoidable impacts shall be mitigated to meet no net loss of ecological function

12 and ecosystem-wide processes pursuant to WAC 173-26-186.

13 C. To provide for flexibility in the administration of the ecological protection provisions of this

14 program, buffer modification and alternative mitigation approaches as provided for in WCC 16.16

15 may be approved within shorelines where such approaches provide increased protection of

16 shoreline ecological functions and processes over the standard provisions of this program and are

17 scientifically supported. Use of WCC 16.16.261 (Alternative Mitigation Plans) and 16.16.262

18 (Watershed-Based Management Plans) within shoreline jurisdiction shall require a Shoreline

19 Conditional Use Permit.

20 ~~B. Mitigation Sequencing. To comply with the policies of subsection A of this section, a shoreline~~

21 ~~permit applicant or project proponent shall demonstrate that all reasonable efforts have been taken~~

22 ~~to provide sufficient mitigation such that the activity does not have significant adverse impacts.~~

23 ~~Mitigation shall occur in the following prioritized order:~~

24 ~~C. Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or~~

25 ~~moving the action.~~

26 ~~D. Minimizing adverse impacts by limiting the degree or magnitude of the action and its~~

27 ~~implementation by using appropriate technology and engineering, or by taking affirmative steps to~~

28 ~~avoid or reduce adverse impacts.~~

29 ~~E. Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment.~~

30 ~~F. Reducing or eliminating the adverse impact over time by preservation and maintenance operations~~

31 ~~during the life of action.~~

32 ~~G. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute~~

33 ~~resources or environments and monitoring the adverse impact and the mitigation project and taking~~

34 ~~appropriate corrective measures. Where appropriate, new development shall use clustering to~~

35 ~~minimize adverse impacts on shoreline ecological functions and processes.~~

36 ~~H. Accessory uses that do not require a shoreline location shall be sited away from the land/water~~

37 ~~interface and landward of the principal use and, unless otherwise specified.~~

38 ~~I. Because of its incorporation by reference herein under WCC 23.10.060(A), the provisions of the~~

39 ~~Whatcom County critical areas ordinance, Chapter 16.16 WCC, shall apply to any use, alteration, or~~

40 ~~development within shoreline jurisdiction whether or not a shoreline permit or written statement of~~

Comment [AP49]: Moved from Site Planning section (WCC 23.30.090). Note: Per Scoping Document, Item #5a., removed "provided, that proposals for single-family residences shall be exempt from this requirement."

Comment [CES50]: Covered by CAO

Comment [DOE-Req51]: Required Change – This change maintains the existing requirement for a CUP for use of select alternative mitigation approaches outlined within the CAO. This change is necessary due to the fact that the impacts from such future proposals using these provisions cannot be reasonably identified at the time of the amendment consistent with the SMP Guidelines at 173-26-201(3)(d)(i)(E)(iii). The CUP requirement maintains the flexibility sought by the proposed language without prohibiting the use of these CAO provisions.

Comment [CES52]: Covered by CAO

Comment [CES53]: Moved to 23.40.030 (General Shoreline Use and Modification Regulations)

exemption is required. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided without full compliance with Chapter 16.16 WCC and the program; provided, that alteration for a water-oriented use may be allowed in accordance with WCC 16.16.225(B)(3). Within shoreline jurisdiction, the regulations of Chapter 16.16 WCC shall be liberally construed together with the program to give full effect to the objectives and purposes of the provisions of the program and Act. Unless otherwise stated, critical area buffers shall be protected and/or enhanced pursuant to this program and Chapter 16.16 WCC.

— Accessory uses that do not require a shoreline location shall be sited away from the land/water interface and landward of the principal use and, unless otherwise specified,

Comment [CES54]: Covered by CAO

~~J. Use of motor vehicles including unlicensed off-road vehicles is permitted only on roads or trails specifically designated for such use. Motor vehicle use, except for vessels and float planes, is prohibited waterward of the ordinary high water mark, on tidelands, public or private beaches, wetlands and/or their associated buffers, except as necessary for public health and safety or permitted maintenance activities associated with approved developments or as otherwise permitted.~~

Comment [CES55]: Moved to 23.40.030
General Shoreline Use and Modification Regulations

K. Buildings, fencing, walls, hedges, and similar features shall be designed, located, and constructed in a manner that does not preclude or significantly interfere with wildlife movement to/ or from important habitat areas consistent with the applicable provisions of Chapter 16.16 WCC this program; provided, that the administrator/Director may exempt security fencing associated with residential, industrial, and/or commercial developments from this requirement on a case-by-case basis.

Comment [CES56]: Moved to 23.40.030
General Shoreline Use and Modification Regulations

L. To provide for flexibility in the administration of the ecological protection provisions of this program, alternative mitigation approaches as provided for in WCC 16.16.2610(E) may be approved within shorelines as a conditional use where such approaches provide increased protection of shoreline ecological functions and processes over the standard provisions of this program and are scientifically supported.

M. The cumulative effects of individual development proposals shall be identified and evaluated to assure that no net loss standards are achieved. Whenever the administrator issues a determination or recommendation and/or conditions of approval on a proposal, which will result in the denial or substantial alteration of a proposed action, such determinations will be provided in writing stating the relationship(s) between the ecological factors, the proposed action and the condition(s).

Comment [CES57]: Covered by CAO

23.30.020 Critical Areas

— Because of its incorporation by reference under WCC 23.10.065, the provisions of the Whatcom County critical areas regulations, Chapter 16.16 WCC, shall apply to any use, alteration or development within shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered, or land divided, without full compliance with Chapter 16.16 WCC and this program; provided, that alteration for a water-oriented use may be allowed in accordance with WCC 16.16.225. Within shoreline jurisdiction, the regulations of

~~Chapter 16.16 WCC shall be liberally construed together with the program to give full effect to the objectives and purposes of the provisions of the program and Act.~~

Comment [CES58]: Covered by CAO

23.90.04030.0320 Water Quality and Quantity.

Comment [AP59]: Incorporated reference to stormwater regulations and removed redundant regs from this section.

~~A. Policies.~~

~~B. The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and ground water over the long term.~~

~~C. Shoreline use and development should minimize the need for chemical fertilizers, pesticides or other similar chemical treatments to prevent contamination of surface and ground water and/or soils, and adverse effects on shoreline ecological functions and values.~~

~~D. Appropriate buffers along all wetlands, streams, lakes, and marine water bodies should be provided and maintained in a manner that avoids the need for chemical treatment.~~

~~E. Regulations.~~

~~F.A. Shoreline use and development shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws, including compliance with Whatcom County stormwater and drainage regulations in WCC 20.80.630 through 20.80.635.~~

~~1. Development shall meet minimum requirements 1 – 9 of the current stormwater manual, as applicable. Deviations from these standards may be approved where it can be demonstrated that off-site facilities would provide better treatment, or where common retention, detention, and/or water quality facilities meeting such standards have been approved as part of a comprehensive stormwater management plan.~~

~~2. Best management practices (BMPs) for control of erosion and sedimentation shall be implemented for all development in shorelines through an approved temporary erosion and sediment control (TESC) plan or administrative conditions.~~

~~B. To avoid water quality degradation by malfunctioning or failing septic systems located within shoreline jurisdiction, on-site sewage systems shall be located and designed to meet all applicable water quality, utility, and health standards. The owner must be in compliance with WCC 24.05.160, (Operation and Maintenance).~~

~~G.C. Septic tanks and drainfields are prohibited where public sewer is reasonably available.~~

Comment [DN60]: Relocated from the Utilities section since this applies universally.

~~H.D. All materials that may come in contact with water shall be constructed of materials, such as untreated wood, concrete, approved plastic composites, or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic, or pentachlorophenol is prohibited in or above shoreline water-bodies.~~

~~E. Stormwater infiltration systems shall be employed to mimic the natural infiltration and ground water interflow processes where appropriate. Outfalls (including stormwater and sewer outfalls) and discharge pipes shall not be located in critical saltwater habitats or areas where outfall or discharge~~

Comment [AP61]: Removed to reduce redundancy. Already captured in stormwater regulations (WCC 20.80.630).

will adversely affect critical saltwater habitat, unless the applicant can show that all of the following can be met:

1. There is no feasible alternative location for the outfall or pipe;
2. The outfall or pipe is placed below the surface of the beach or bed of the waterbody, except at the point of discharge;
3. The discharge point(s) on the outfall or discharge pipe is located so the discharges, including nutrients and flow, do not adversely affect critical saltwater habitats; and
4. For public sewage outfalls:
 1. The outfall discharges waterward of the intertidal zone.
 2. The disturbed area will be revegetated with native vegetation.

F. The use of existing outfalls shall be maximized to limit the need for additional outfalls, provided the existing outfall meets the standards of this section, or unless an alternatives analysis demonstrates the dispersal is less impacting to the shoreline environment.

Comment [AP62]: Added to address potential impacts from stormwater and sewer outfalls

23.05030.0430 Views and Aesthetics.

A. Policies.

- a. Shoreline use and development activities should be designed and operated to minimize obstructions of the public's visual access to the water and shoreline.
- b. Shoreline use and development should not significantly detract from shoreline scenic and aesthetic qualities that are derived from natural or cultural features, such as shoreforms, vegetative cover and historic sites/structures.
- c. Aesthetic objectives should be implemented through regulations and criteria for site planning, maximum height, setbacks, siting of buildings and accessories, screening, vegetation conservation, architectural standards, sign control regulations, appropriate development siting, designation of view corridors and maintenance of natural vegetative buffers.
- d. Clearing, thinning, and/or limbing for limited view corridors should only be allowed where it does not adversely impact ecological and/or aesthetic values, and/or slope stability. Vegetation conservation should be preferred over the creation or maintenance of views from property on the shoreline to protect shoreline ecological functions and aesthetics.

E. Regulations.

- A. When the two are in conflict, protection and/or enhancement of critical areas and their associated buffers shall be preferred over provisions for new visual access except where otherwise allowed by this program, when the two are in conflict.
- B. The following standards shall apply to developments and uses within the jurisdiction of this program:
 - B. To protect views of the shoreline from existing structures, setbacks may be modified pursuant to WCC 23.409.020(D) (Shoreline Bulk Provisions, Setbacks)
 - C. To minimize impacts to views from the water, the Director may require the planting of vegetation to mitigate the impacts.

1 ~~G.D.~~ Where commercial, industrial, mixed use, multifamily, ~~and/or multi-lot-unit~~ developments are
2 proposed, primary structures shall provide for reasonable view corridors between buildings.

3 ~~D.E.~~ Buildings shall incorporate architectural and/or landscape features that reduce scale or bulk, such as
4 setbacks, vegetation, pitched roofs, offsets, angled facets, and recesses.

5 ~~E.F.~~ Building surfaces on or adjacent to the water shall employ materials that minimize reflected light.

6 ~~F.G.~~ Building mechanical equipment shall be incorporated into building architectural features, such as
7 pitched roofs, to the maximum extent possible. Where mechanical equipment cannot be
8 incorporated into architectural features, a visual screen shall be provided consistent with building
9 exterior materials that obstructs views of such equipment.

10 ~~G.H.~~ Any other design standards included in community plans or regulations adopted by Whatcom
11 County shall apply.

12 ~~H.I.~~ Fences, walls, other than retaining walls, hedges, and other similar accessory structures, excluding
13 those associated with agricultural uses, and retaining walls necessary to protect existing primary
14 structures from erosion, landslides or other geologic hazards, shall be limited to four feet in height
15 between the ordinary high water mark and structures, and within shoreline view areas as defined in
16 WCC Chapter 23.4460 (Definitions); provided, that, within shoreline view areas, the
17 ~~administrator~~ Director may approve a greater height where a fence or other feature is parallel to the
18 right-of-way and does not extend above a line of sight between the ordinary high water mark and a
19 point three and one-half feet above the centerline of the road.

20 ~~I.~~ Where permitted, fences, walls, hedges and other similar structures shall be limited to four feet in
21 height within critical area buffers. Outside of critical area buffers, fences shall be limited to six feet
22 in height.

23 ~~J.~~ Fences, walls, hedges, or ~~private~~ accessory structures on public property shall not be permitted to
24 obscure shoreline views within shoreline view areas as defined in WCC Chapter 23.4460 or from
25 existing residences on adjacent property, or views from the water, unless specific findings are made
26 that the proposed view obstruction is justified by overriding considerations of the public interest.

27 ~~K.~~ Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties
28 or public areas; prevent glare on adjacent properties, public areas, or roadways; to avoid infringing
29 on the use and enjoyment of such areas; and to prevent hazards. Methods of controlling spillover
30 light include, but are not limited to, limits on height of structure, limits on light levels of fixtures,
31 light shields, setbacks, buffer areas, and screening.

32 ~~J.L.~~ Where shoreline setbacks or buffers are allowed to be reduced per this program, the proposed use
33 or development shall not be permitted to substantially obscure shoreline views within shoreline
34 view areas as defined in WCC Chapter 23.60 (Definitions) or from existing residences on adjacent
35 property.

36 ~~M.~~ Limbing, clearing, and/or thinning for limited view corridors shall only be allowed pursuant to WCC
37 16.16.235(B)(5) (Activities Allowed with Notification), except that view corridors are not permitted
38 in the Natural shoreline environment.

39 ~~K.~~ Stairs and walkways located within the shoreline or critical area buffers shall not exceed four feet in
40 width; provided, that where ADA requirements apply, such facilities may be increased to five feet in

Comment [AP63]: Added for clarity per Scoping Document, Item #17e.

Comment [DN64]: Moved to Bulk Provisions since this provision does not address Views and Aesthetics

Comment [DN65]: Moved from the former Site Planning section

Comment [AP66]: Added per Scoping Document, Item #18c.

width. Stairways shall conform to the existing topography to the extent feasible and minimize impervious surfaces.

Comment [T67]: Removed for clarity. This is fully captured in the Shoreline Bulk Provisions.

23.90.06030.0540 Vegetation Conservation Management.

1. Pursuant to WCC 16.16.710, shorelines are designated as Fish & Wildlife Habitat Conservation Areas. Within these areas and their buffers it is important to protect and enhance vegetation to provide ecological and habitat functions as well as human health and safety. Vegetation management practices consist of retaining or improving vegetated areas to protect the integrity, functions, and values of the affected critical area (shoreline) while allowing the shoreline buffer to be modified to accommodate allowed uses when consistent with the Act and this program.

2. Vegetation management within the shoreline buffer shall adhere to the applicable regulations of WCC Chapter 16.16 (Critical Areas). In addition:

1. Vegetation clearing within shoreline jurisdiction shall be limited to the minimum necessary to accommodate approved shoreline development.

1-2. ~~Design of structures~~ Shoreline development shall conform to natural contours and minimize disturbance to soils and native vegetation, as feasible. Feasible shall include incorporation of trails or stairs from parking areas on steep slopes, and other design elements to lessen the need to alter natural contours and minimize soil and native vegetation disturbance. Foundations shall be tiered with earth retention incorporated into the structural design.

Comment [DN68]: Moved and modified from former Site Planning section.

2-3. Where compliance with subsection (B)(1) of this section is not feasible or required, new All shoreline developments shall be required to develop and implement a vegetation management plan. When required, vegetation management plans shall be prepared by a qualified professional and shall be consistent with the requirements in WCC 16.16.260(BG) and (CH); provided, that the administrator-Director may establish prescriptive standards for vegetation conservation and management as an alternative to requiring a specific plan for a development. Vegetation management plans shall describe actions that will be implemented to ensure that buffer areas provide ecological functions equivalent to a dense native vegetation community to the extent possible given the area that is feasibly available. Required vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the Whatcom County auditor.

3. Policies.

- a. 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:
- i. Providing shade necessary to maintain water temperatures required by salmonids, forage fish, and other aquatic biota.
 - ii. Regulating microclimate in riparian and nearshore areas.
 - iii. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.

- iv. ~~Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence/severity of landslides.~~
 - v. ~~Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.~~
 - vi. ~~Improving water quality through filtration and vegetative uptake of nutrients and pollutants.~~
 - vii. ~~Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase aquatic diversity for salmonids and other species.~~
 - viii. ~~Providing habitat for wildlife, including connectivity for travel and migration corridors.~~
4. ~~B. Regulations.~~
1. ~~Shoreline developments shall comply with the vegetation conservation policies of this program through compliance with the critical area standards of WCC 16.16.335, 16.16.360, 16.16.630 and 16.16.740 for protection and maintenance of critical area and buffer vegetation.~~
 3. ~~Nonconforming lots that do not provide sufficient area to meet the standard dimensional requirements for buffers and setbacks as provided for in WCC 23.50.070(N) and are not located within a landslide, alluvial fan, or riverine and coastal erosion hazard areas, as defined in WCC 16.16.310, may employ the following standards in lieu of the vegetation management provisions of subsection (B)(2) of this section:~~
 - a. ~~An inner management zone shall extend perpendicularly from the shoreline ordinary high water mark or critical area edge a distance equal to 50 percent of the buffer dimension established for nonconforming lots in WCC 23.50.070(N). In the inner management zone:~~
 - i. ~~Lawn or turf is prohibited due to its limited functional benefits and need for chemical and fertilizer applications. Understory consisting of native groundcover and shrubs shall be provided at a sufficient density to prevent erosion, stabilize soils, and intercept surface runoff.~~
 - ii. ~~Native trees shall be provided at a sufficient density and species composition to mimic natural vegetative conditions for purposes of creating shade, attenuating water temperature, stabilizing soils, and providing large woody debris and other organic inputs critical for aquatic resources.~~
 - b. ~~An outer management zone shall extend from the outer boundaries of the inner management zone to the edge of the critical area buffer. Within the outer management zone:~~
 - i. ~~Vegetation management shall consist of the requirements of subsection (B)(3)(a) of this section; provided, that on slopes of 25 percent or less, lawn, turf, ornamental vegetation or gardens may be allowed on up to 10 percent of the area or 500 square feet, whichever is greater.~~
 - ii. ~~Lawn or turf shall be prohibited on slopes greater than 25 percent.~~
 4. ~~Vegetation clearing shall be limited to the minimum necessary to accommodate approved shoreline development.~~

5. Removal of noxious weeds and/or invasive species shall be incorporated in vegetation management plans, as necessary, to facilitate establishment of a stable community of native plants.
6. Clearing, pruning and revegetation of buffer areas, except landslide hazard areas and buffers and riverine and coastal erosion hazard areas and buffers, may be conducted in accordance with the regulations in WCC 16.16.235(5).
7. Selective vegetation clearing and pruning may be allowed in landslide hazard areas and/or riverine and coastal erosion hazard areas and/or their buffers pursuant to an approved vegetation management plan designed to improve overall slope or bank stability. The plan shall be prepared by a qualified professional and reviewed by a licensed geologist or geotechnical engineer.
8. Vegetation conservation standards shall not apply retroactively to existing uses and developments, such as existing agricultural practices.
9. Vegetation conservation standards do not apply to the removal of hazard trees pursuant to WCC 16.16.230(F).
10. Unless otherwise stated, the vegetation conservation regulations of this program do not apply to commercial forest practices as defined by this program when such activities are covered under the Washington State Forest Practices Act (Chapter 76.09 RCW), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority. For the purposes of this program, preparatory work associated with the conversion of land to non-forestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed non-forestry use, the general provisions of this program, and Chapter 16.16 WCC, and shall be limited to the minimum necessary to accommodate an approved use.

Comment [CES69]: Moved up.

Comment [AP70]: Moved to Forest Practices section (WCC 23.40.100).

Comment [AP71]: Section rewritten in conjunction with the LNTPO & WA State DAHP for greater clarity and streamlining.

23.90.07030.0650 Archaeological, Historic, and Cultural Resources.

A. Project Approval Requirements.

1. Upon receipt of an application for a permit, exemption, or other approval for a proposed project, the County shall determine whether the project lies within 500 feet of a site known to contain a cultural resource based on the Washington State Department of Archaeology & Historic Preservation's (DAHP) Inventory of Cultural Resources.
2. If the project meets this criterion, a cultural resources survey and report meeting the requirements of subsection (B) shall be required.
3. Whatcom County shall provide the cultural resource report to DAHP—and if Native American cultural resources are addressed, to the Lummi Nation Tribal Historic Preservation Office, the Nooksack Tribe, and/or other affected Native American Tribes—for a fifteen (15) day review and comment opportunity. Said review period may run concurrently with other required public review periods, such as for SEPA.
4. Based upon consultation with DAHP and the affected Tribe(s), the Director may approve the report or reject or request revision of the conclusions reached and/or management

1 recommendations when the assessment is inaccurate or does not fully address the cultural
2 resource management concerns involved.

- 3 5. If the cultural resource report identifies the presence of a cultural resource, any permit issued
4 shall be conditioned on meeting the approved report's management recommendations.
5 6. Regardless of whether any cultural resources are identified or not, any activities are still subject
6 to the state and federal regulations, including those regarding inadvertent discoveries (RCWs
7 68.50.645, 27.44.055, and 68.60.055).
8 7. Final cultural resource reports shall be filed with DAHP prior to the County's issuance of a
9 permit, exemption, or other approval by the applicant or his/her agent. The project's cultural
10 resource professional shall also uploading their reports and site forms to WISAARD, the state's
11 digital repository for architectural and archaeological resources and reports maintained by
12 DAHP.
13 8. Any costs associated with a cultural resource review shall be borne by the applicant.

14 B. Cultural Resources Report Standards.

- 15 1. Cultural resources reports shall meet the most recent "Washington State Standards for Cultural
16 Resource Reporting" issued by DAHP ([https://dahp.wa.gov/project-review/washington-state-](https://dahp.wa.gov/project-review/washington-state-standards-for-cultural-resource-reporting)
17 standards-for-cultural-resource-reporting)
18 2. Cultural resources reports addressing archaeological resources shall be conducted by a
19 professional archaeologist that meets the Secretary of the Interior Professional Qualification
20 Standards (36 CFR Part 61). Cultural resources reports addressing historic resources shall be
21 conducted by a qualified historic preservation professional.
22 3. If the cultural resource assessment identifies the presence of a cultural resource, the report
23 must provide management recommendations that, at a minimum, conform to DAHP's most
24 current management standards. Such recommendations will depend on the resource identified,
25 but may include but are not limited to:
26 a. Inadvertent Discovery Plan;
27 b. On-site monitoring by a qualified professional and/or a Tribal representative;
28 c. Avoidance, by redesigning the project; or
29 d. When impacts cannot be avoided, obtaining a Cultural Resource Permit (see RCWs 27.44
30 and 27.53; <https://dahp.wa.gov/archaeology/archaeological-permitting>, and
31 <https://apps.leg.wa.gov/WAC/default.aspx?cite=25-48-060>).

32 G. ~~A. Policies.~~

- 33 1. ~~The county should work with tribal, state, federal and local governments as appropriate to~~
34 ~~maintain an inventory of all known significant local historic, cultural and archaeological sites in~~
35 ~~observance of applicable state and federal laws protecting such information from general public~~
36 ~~disclosure. As appropriate, such sites should be protected, preserved and/or restored for study,~~
37 ~~education and/or public enjoyment to the maximum possible extent.~~
38 2. ~~Site development plans should incorporate provisions for historic, cultural and archaeological~~
39 ~~site preservation, restoration and education with open space or recreation areas whenever~~
40 ~~compatible and possible.~~

Comment [PDS72]: Policies moved to the C/P.

3. Cooperation among involved private and public parties is encouraged to achieve the archaeological, historical and cultural element goals and objectives of this program.
4. Owners of property containing identified historic, cultural or archaeological sites 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 time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.
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.
6. Historic, cultural and archaeological site development 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.
7. If development is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.
8. The cultural resource provisions of this program are consistent with Chapters 27.44 and 27.53 RCW and WAC 25-48-060. In accordance with state law, all applicants are subject to these requirements.

H. Regulations.

A. Known Archaeological, Historic, and Cultural Resources.

- i. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural, or archaeological resource(s), the county shall require a cultural resource site assessment; provided, that the provisions of this section may be waived if the administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural, or archaeological site. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible. The applicant shall submit a minimum of five copies of the site assessment to the administrator for distribution to the applicable parties for review.
- ii. If the cultural resource site assessment identifies the presence of significant historic or archaeological resources, a cultural resource management plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation, the Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe. Comments received shall be incorporated into the

conclusions and recommended conditions of the CRMP to the maximum extent practicable. The applicant shall submit a minimum of five copies of the CRMP to the administrator for distribution to the applicable parties for review.

a. A CRMP shall contain the following minimum elements:

- i. The purpose of the project; and
- ii. A site plan for proposed on-site development; and
- iii. Depth and location of all ground-disturbing activities including, but not limited to, utilities, driveways, clearing, and grading; and
- iv. An examination of project on-site design alternatives; and
- v. An explanation of why the proposed activity requires a location on, or access across and/or through, a significant historic or archaeological resource; and
- vi. A description of the historic/archaeological resources affected by the proposal; and
- vii. An assessment of the historic/archaeological resource and an analysis of the potential adverse impacts as a result of the activity; and
- viii. An analysis of how these impacts have been avoided, or w
- ix. Where avoidance is not possible, how these impacts have been mitigated/minimized; and
- x. A recommendation of appropriate mitigation measures, which may include but are not limited to the following:
 - A. Recording the site with the State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the Whatcom County council;
 - B. Preservation in place;
 - C. Re-interment, in the case of grave sites;
 - D. Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);
 - E. Excavation and recovery of archaeological resources;
 - F. Inventorying prior to covering of archaeological resources with structures or development; and
 - G. Monitoring of construction excavation.
- xi. An outline of actions to be taken by the property owner, developer, archaeologist, or historic preservation professional, as applicable, in the event that an inadvertent discovery of historic, cultural, or archaeological sites or artifacts occurs during site development, which includes the following:
 - A. A statement that work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the administrator and other appropriate governments and agencies.
 - B. Contact information for applicable parties, agencies, and governments including the county administrator, the Washington State Department of Archaeology and

- 1 Historic Preservation, Lummi Nation Tribal Historic Preservation Office, Nooksack
2 Tribe, professional archaeologist or historic preservation professional; and in the
3 event of inadvertent discovery of human remains, additional contact information
4 for the Whatcom County Sheriff's office, Whatcom County Medical Examiner,
5 and/or Lummi Repatriation Office.
- 6 C. ~~Proposed measures to stabilize, contain, or otherwise protect the area of~~
7 ~~inadvertent discovery until a site investigation and/or site assessment is~~
8 ~~conducted.~~
- 9 xii. ~~Where provision of public access for the purpose of public education related to a~~
10 ~~private or publicly owned building or structure of historic significance is desired by the~~
11 ~~property owner, a public access management plan shall be developed in consultation~~
12 ~~with the Washington State Department of Archaeology and Historic Preservation,~~
13 ~~Lummi Nation Tribal Historic Preservation Office, Nooksack Tribe, and/or other~~
14 ~~agencies, as appropriate, to address the following:~~
- 15 A. ~~The type and/or level of public access that is consistent with the long term~~
16 ~~protection of both historic resource values and shoreline ecological functions and~~
17 ~~processes; and~~
- 18 B. ~~Site and resource specific conditions and/or improvements including the~~
19 ~~following, as applicable:~~
- 20 (1) ~~Hours of operation;~~
21 (2) ~~Interpretive and/or directional signage;~~
22 (3) ~~Lighting;~~
23 (4) ~~Pedestrian access, and/or~~
24 (5) ~~Traffic and parking.~~
- 25 xiii. ~~Where provision of public access for purposes of public education related to an~~
26 ~~archaeological or cultural resource site is desired by the property owner, the~~
27 ~~Washington State Department of Archaeology and Historic Preservation, Lummi~~
28 ~~Nation Tribal Historic Preservation Office, Nooksack Tribe, and/or other agencies, as~~
29 ~~appropriate, shall be in agreement prior to providing public access to the site. An~~
30 ~~access and resource management plan shall be developed in consultation with the~~
31 ~~Washington State Department of Archaeology and Historic Preservation, the Lummi~~
32 ~~Nation Tribal Historic Preservation Office, and the Nooksack Tribe.~~
- 33 b. ~~The recommendations and conclusions of the CRMP shall be used to assist the administrator~~
34 ~~in making final administrative decisions concerning the presence and extent of historic/~~
35 ~~archaeological resources and appropriate mitigating measures. The administrator shall~~
36 ~~consult with the Washington State Department of Archaeology and Historic Preservation,~~
37 ~~Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe prior to approval of~~
38 ~~the CRMP.~~

- 1 ~~c. The administrator may reject or request revision of the conclusions reached in a CRMP~~
2 ~~when the administrator can demonstrate that the assessment is inaccurate or does not fully~~
3 ~~address the historic/archaeological resource management concerns involved.~~
- 4 ~~d. Upon receipt of a complete development permit application in an area of known historic/~~
5 ~~archaeological resources, the county shall notify and request a recommendation from~~
6 ~~appropriate agencies such as the Washington State Department of Archaeology and Historic~~
7 ~~Preservation, the Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe.~~
8 ~~Recommendations of such agencies and other affected persons shall be duly considered and~~
9 ~~adhered to whenever possible and reasonable. Notification shall include the following~~
10 ~~information:~~
- 11 ~~i. The date of application, the date of notice of completion for the application, and the~~
12 ~~date of the notice of application;~~
- 13 ~~ii. A site map including the street address, tax parcel number, township, range, and section~~
14 ~~of the proposed project area;~~
- 15 ~~iii. A description of the proposed project action and a list of the project permits included in~~
16 ~~the application, and, if applicable, a list of any studies requested by the cCounty;~~
- 17 ~~iv. The identification of other permits not included in the application to the extent known~~
18 ~~by the cCounty;~~
- 19 ~~v. The identification of existing environmental documents that evaluate the proposed~~
20 ~~project and, if not otherwise stated on the document providing notice of application,~~
21 ~~the location where the application and any studies can be reviewed;~~
- 22 ~~vi. Any other information determined appropriate by the Ccounty;~~
- 23 ~~vii. A statement indicating those development regulations that will be used for project~~
24 ~~mitigation or a determination of consistency if they have been identified at the time of~~
25 ~~notice;~~
- 26 ~~viii. A statement of the limits of the comment period and the right of each agency to~~
27 ~~comment on the application within a 15-day time period, request a copy of the decision~~
28 ~~once made, and to appeal a decision when allowed by law.~~
- 29 ~~e. In granting shoreline permits or statements of exemption for such development, the~~
30 ~~cCounty may attach conditions to provide sufficient time and/or conditions for consultation~~
31 ~~with the Washington State Department of Archaeology and Historic Preservation, Lummi~~
32 ~~Nation Tribal Historic Preservation Office, and Nooksack Tribe, and to assure that historic/~~
33 ~~archaeological resources are properly protected, or for appropriate agencies to contact~~
34 ~~property owners regarding purchase or other long-term arrangements. Provision for the~~
35 ~~protection and preservation of historic/archaeological sites shall be incorporated to the~~
36 ~~maximum extent practicable. Permit or other requirements administered by the~~
37 ~~Washington State Department of Archaeology and Historic Preservation pursuant to~~
38 ~~Chapters 27.44 and 27.53 RCW may apply in addition.~~

1 ~~B. Inadvertent Discovery.~~

- 2 1. ~~Whenever historic, cultural, or archaeological sites or artifacts are discovered in the process of~~
3 ~~development on shorelines, work on that portion of the development site shall be stopped~~
4 ~~immediately, the site secured, and the find reported as soon as possible to the administrator.~~
5 ~~Upon notification of such find, the property owner shall notify the Washington State~~
6 ~~Department of Archaeology and Historic Preservation, Lummi Nation Tribal Historic Preservation~~
7 ~~Office, and Nooksack Tribe, and the administrator, shall conduct a site investigation to~~
8 ~~determine the significance of the discovery. Based upon the findings of the site investigation~~
9 ~~and consultation with the Washington State Department of Archaeology and Historic~~
10 ~~Preservation, Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe, the~~
11 ~~administrator may require that an immediate site assessment be conducted or may allow~~
12 ~~stopped work to resume.~~
13 2. ~~If a site assessment is required, the area of inadvertent discovery shall be stabilized, contained,~~
14 ~~or otherwise protected until the site assessment and/or CRMP is completed. The site~~
15 ~~assessment shall be prepared pursuant to subsection (B)(1)(a) of this section to determine the~~
16 ~~significance of the discovery and the extent of damage to the resource and shall be distributed~~
17 ~~to the Washington State Department of Archaeology and Historic Preservation, the Lummi~~
18 ~~Nation Tribal Historic Preservation Office, and Nooksack Tribe for a 15-day review period or, in~~
19 ~~the case of inadvertent discovery of human remains, a 30-day review period to determine the~~
20 ~~significance of the discovery. If the site has been determined not to be significant by the above-~~
21 ~~listed agencies or governments, or if the above-listed agencies or governments have failed to~~
22 ~~respond within the applicable review period following receipt of the site assessment, such~~
23 ~~stopped work may resume.~~
24 3. ~~Upon receipt of a positive determination of a site's significance, the administrator may invoke~~
25 ~~the provisions of subsections (B)(1)(b) through (d) of this section for a cultural resource~~
26 ~~management plan, if such action is reasonable and necessary to implement related SMP~~
27 ~~objectives.~~

28 ~~C. The requirements of subsection (B)(1) of this section do not apply where an applicant/project~~
29 ~~proponent has obtained an approved archeological excavation and removal permit from the~~
30 ~~Washington State Department of Archaeology and Historic Preservation pursuant to WAC 25-48-~~
31 ~~060; provided, that the applicant must adhere to the requirements of said approved permit.~~

32 **23.90.08030.0760 Public Access.**

33 ~~a. Policies.~~

- 34 i. ~~Use and development that provide an opportunity for substantial numbers of the people to~~
35 ~~enjoy the shorelines of the state are a preferred use.~~
36 ii. ~~Physical or visual access to shorelines should be incorporated in all new development when the~~
37 ~~development would either generate a demand for one or more forms of such access, and/or~~
38 ~~would impair existing legal access opportunities or rights. Public health and safety concerns~~
39 ~~should also be adequately addressed and maintenance of shoreline ecological functions and/or~~

Comment [AP73]: Removed several provisions below that are beyond WAC requirements.

processes should be assured. As required by the governing principles, all such conditions should be consistent with all relevant constitutional and other legal limitations on regulation of private property.

- iii. ~~Public access should be provided for water-oriented uses and non-water dependent uses and developments that increase public use of the shorelines and public aquatic lands, or that would impair existing, legal access opportunities.~~
- iv. ~~Non-water related uses or activities located on the shoreline should provide public access as a public benefit.~~
- v. ~~Public access area and/or facility requirements should be commensurate with the scale and character of the development and should be reasonable, effective and fair to all affected parties including but not limited to the land owner and the public.~~
- vi. ~~Public access design should provide for public safety and minimize potential impacts to private property, individual privacy, and shoreline ecological functions and processes.~~
- vii. ~~Shoreline development by public entities, such as local governments, port districts, state agencies, and public utility districts, should provide public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline.~~

b. ~~Regulations.~~

A. ~~In the review of~~ All shoreline substantial development, shoreline conditional use permits, or developments of more than four residential lots or dwelling units, ~~consideration of shall provide~~ public access ~~shall be required, subject to the test stated in subsection (A)(2) of this section.~~ When appropriate, provisions for adequate public access shall be incorporated into such proposals, including land division. An applicant shall not be required to provide public access if the decision-maker determines that one or more of the following conditions apply unless the applicant/proponent demonstrates that one or more of the following provisions apply:

- 1. ~~Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;~~
- 2. ~~Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;~~
- 3. ~~1. The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access is unreasonably disproportionate to the total long-term cost of the proposed development;~~
- 4. ~~Significant environmental impacts will result from the public access that cannot be mitigated;~~
- ~~Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.~~
- ~~The parcel is separated from the water by an existing developed road or an additional parcel that serves to create a distinct break in connectivity to the shoreline.~~
- ~~Other reasonable and safe opportunities for public access to the shoreline are located within one-quarter mile of the proposed development site.~~

Comment [CES74]: Deleted, as WAC 173-26-221 does not list cost.

Comment [DOE-Req75]: Required Change – This change deletes this new exception to consideration of public access as it is overly prescriptive and inconsistent with the SMP Guidelines at WAC 173-26-221(4). Direct connectivity is not a requirement to accomplish proportionate public access. Public access includes the ability of the general public to reach, touch and enjoy the water's edge, travel on the waters of the state, and to view the water from adjacent locations [WAC 173-26-211(4)(a)]. Visual access to the shoreline is not necessarily precluded due to the presence of a developed road or additional parcel between the subject development and the shoreline.

Comment [DOE-Req76]: Required Change – This change deletes this new exception to consideration of public access as it is inconsistent with the SMP Guidelines at WAC 173-26-211(4). Increased development within shoreline areas can provide a nexus for the need for increased locations and forms of public access proportionate to such impacts.

2. ~~The proposed development has already been considered as site is part of a larger development project that has previously provided public access as part of the development permitting process.~~

3. ~~The proposed development is for the subdivision of property into four or fewer parcels.~~

4. ~~The proposed development consists of only agricultural activities.~~

5. ~~Provision of public access on the site would pose a health or safety risk to the public due to the nature of the proposed use or activity or the location of public access, or would be infeasible due to security requirements associated with the proposed development.~~

6. ~~Provision of public access at the proposed development site would result in a net loss of shoreline ecological function that cannot be effectively mitigated or avoided, or would pose a risk to threatened and/or endangered species listed under the Endangered Species Act.~~

5-7. ~~The proposal consists solely of a new or expanded utility crossing through shoreline jurisdiction, serving development located outside shoreline jurisdiction, provided that no adverse impacts to existing public access result.~~

~~B. When provisions for public access are required as a condition of project approval, the administrator shall prepare written findings, pursuant to Chapter 23.60 WCC, demonstrating consistency with the principles of nexus and proportionality and the test stated in subsection (A)(2) of this section and WCC 23.50.080(A).~~

~~C.B. Prior to deciding public access is not required pursuant to subsection (B)(1)(a) through (e) of this section, the county must determine that all reasonable alternatives have been exhausted; including, but not limited to:~~

- ~~1. Regulating access by such means as maintaining a gate and/or limiting hours of use;~~
- ~~2. Designing separation of uses and activities (e.g., fences, terracing, use of one-way glazing, hedges, landscaping, etc.); and~~
- ~~3. Providing for access at a site geographically separated from the proposal such as a street end, vista, tideland, or trail system.~~

~~D. Public access shall not be required for the following uses except as determined on a case-by-case basis in conjunction with the provisions of subsection A of this section and this subsection B:~~

- ~~1. Single family residential development of four or fewer lots.~~
- ~~2. Dredging.~~
- ~~3. Forest practices.~~
- ~~4. Landfill and excavation.~~
- ~~5. Mining.~~
- ~~6. Private docks serving four or fewer dwelling units.~~
- ~~7. Instream structures.~~
- ~~8. Shoreline stabilization.~~
- ~~9. Ecological restoration or enhancement activities not associated with development when the purpose of the project would be undermined.~~
- ~~10. Agriculture.~~

Comment [DOE-Req77]: Required Change – This change is necessary to ensure consistency with the SMP Guidelines at WAC 173-26-221(4) and clarifies the applicability of this exemption only if it had previously been analyzed through a broader development review such as a Planned Unit Development or other similar process.

Comment [CES78]: Combined existing text w/ WAC 173-26 -221 text.

Comment [DOE-Req79]: Required Change – Utility development is not specifically exempted from the requirement to consider public access in the SMP Guidelines. The proposed change modifies this new exemption to require public access considerations if impacts to existing forms of public access provide such a nexus.

Comment [DOE-Req80]: Section restored. Required Change – This additional language added to the end of 23.60.060.A restores existing language proposed for deletion. The change is necessary for consistency with the SMP Guidelines at 173-26-221(4)(d)(B) which requires consideration of alternative methods of providing access when potential conflicts are identified with traditional forms of access.

- 1 | B. Public access shall consist of a dedication of land or a physical improvement in the form of a
2 | walkway, trail, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat launching
3 | ramp, dock or pier area, or other area serving as a means ~~of to~~ view and/or physically approach ~~to~~
4 | public waters, and may include interpretive centers and displays.
- 5 | C. Where public access planning as described in WAC 173-26-221(4)(c) demonstrates that a more
6 | effective public access system can be achieved through alternate means, such as focusing public
7 | access at the most desirable locations, the County may institute master program provisions for
8 | public access based on that approach in lieu of uniform site-by-site public access requirements.
- 9 | D. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public
10 | access and the maintenance of views from adjacent properties, the water-dependent uses and
11 | physical public access shall have priority.
- 12 | E. Alternate off-site provision of public access to shorelines may be used upon approval, as a means of
13 | offsetting identifiable on-site impacts. If public access is demonstrated to be infeasible or
14 | inappropriate on site due to significant interference to operations or hazards to life and property,
15 | alternative visual access opportunities ~~may be provided at a location not directly adjacent to the~~
16 | ~~water~~ (such as a viewpoint, observation tower, or other areas serving as a means to view public
17 | waters (such as an interpretive center and displays explaining maritime history and industry) may be
18 | provided at a location not directly adjacent to the water; provided, that visual access to the water is
19 | provided.
- 20 | F. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be
21 | diminished (RCW 35.79.035 and 36.87.130).
- 22 | ~~F.G.~~ Shoreline development by public entities shall include public access measures as part of each
23 | development project.
- 24 | H. Development shall be located, designed, and managed so that impacts on public use of the
25 | shoreline are minimized.
- 26 | I. Public access shall incorporate the following location and design criteria:
- 27 | 1. Where open space is provided along the shoreline, and public access can be provided in a
28 | manner that will not adversely impact shoreline ecological functions and/or processes, a public
29 | pedestrian access walkway parallel to the ordinary high water mark of the property is preferred.
30 | The walkway shall be buffered from sensitive ecological features and provide limited and
31 | controlled access to sensitive features and the water's edge where appropriate. Fencing may be
32 | provided to control damage to plants and other sensitive ecological features and where
33 | appropriate. Trails shall be constructed of permeable materials and limited to five feet in width
34 | to reduce impacts to ecologically sensitive resources.
- 35 | 2. Public access shall be located adjacent to other public areas, accesses and connecting trails,
36 | connected to the nearest public street; and include provisions for differently-abled persons
37 | where feasible.
- 38 | 3. Where views of the water or shoreline are available and physical access to the water's edge is
39 | not present or appropriate, a public viewing area shall be provided.

Comment [CES81]: Language from WAC

Comment [AP82]: Added for consistency with WAC 173-26-221(4)(d)

Comment [DN83]: Moved from the Site Planning section.

Comment [DOE-Req84]: Section resotred. Required Change – This change restores existing standards necessary for meaningful implementation of the public access requirements as required by the SMP Guidelines at WAC 173-26-222(4)(d)(iii).

4. Design shall minimize intrusions on privacy by avoiding locations adjacent to windows and/or outdoor private open spaces or by screening or other separation techniques.
 5. Design shall provide for the safety of users, including the control of offensive conduct through public visibility of the public access area, or through provisions for oversight. The administrator may authorize a public access to be temporarily closed in order to develop a program to address offensive conduct. If offensive conduct cannot be reasonably controlled, alternative facilities may be approved through a permit revision.
 6. Public amenities appropriate to the use of a public access area such as benches, picnic tables and sufficient public parking to serve the users shall be provided.
 7. Commercial developments that attract a substantial number of persons and developments by government/public entities may be required to provide public restrooms, facilities for disposal of animal waste and other appropriate public facilities.
 8. The minimum width of public access easements shall be 10 feet, unless the administrator determines that undue hardship would result. In such cases, easement widths may be reduced only to the extent necessary to relieve the hardship.
 9. The requirement for public access on a specific site may be fulfilled by:
 - a. Participation in a public access plan incorporated in the program; or
 - b. Provision of facilities specified in a permit approval.
 10. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.
 11. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.
 12. Public access provisions shall run with the land and be recorded via a legal instrument such as an easement, or as a dedication on the face of a plat or short plat. Such legal instruments shall be recorded with the county auditor's office prior to the time of building permit approval, occupancy or plat recordation, whichever comes first.
 13. Maintenance of the public access facility shall be the responsibility of the owner unless otherwise accepted by a public or nonprofit agency through a formal agreement recorded with the county auditor's office.
 14. Public access facilities shall be available to the public 24 hours per day unless specific exceptions are granted though the shoreline permit process subject to the provisions of subsection (B)(1) of this section.
 15. The standard state-approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner. Such signs shall be posted in conspicuous locations at public access sites.
 16. Incentives for public access improvements such as density or bulk and dimensional bonuses shall be considered through applicable provisions of zoning and subdivision regulations.
- ~~23.290.090 Site planning.~~

Comment [DN85]: All non-repetitive regulations have been moved, so this section is no longer necessary.

Policies.

Development and use should be designed in a manner that directs land alteration to the least sensitive portions of the site to maximize vegetation conservation; minimize impervious surfaces and runoff; protect riparian, nearshore and wetland habitats; protect wildlife and habitats; protect archaeological, historic and cultural resources; and preserve aesthetic values. This may be accomplished by minimizing the project footprint, the use of clustering and other appropriate design approaches.

Low impact and sustainable development practices such as rain gardens, and pervious surfacing methods including, but not limited to, porous paving blocks, porous concrete and other similar materials should be incorporated in developments where site conditions allow to maintain shoreline ecological functions and processes. Topographic modification, vegetation clearing, use of impervious surfaces and alteration of natural drainage or other features should be limited to the minimum necessary to accommodate approved uses and development. An engineering geologist should be consulted prior to using infiltration practices on shore bluffs.

Accessory development or use that does not require a shoreline location should be located outside of shoreline jurisdiction unless such development is required to serve approved water-oriented uses and/or developments. When sited within shoreline jurisdiction, uses and/or developments such as parking, service buildings or areas, access roads, utilities, signs and storage of materials should be located inland away from the land/water interface and landward of water-oriented developments and/or other approved uses.

Development should be located, designed, and managed so that impacts on shoreline or upland uses are minimized through bulk and scale restrictions, setbacks, buffers, and control of proximity impacts such as noise or light and glare.

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

Regulations.

Where appropriate new development shall use clustering to minimize adverse impacts on shoreline ecological functions and processes.

An assessment of the existing ecological functions and/or processes provided by topographic, physical and vegetation characteristics of the site shall accompany development proposals; provided, that proposals for single-family residences shall be exempt from this requirement.

Such assessments shall include the following general information:

Impacts of the proposed use/development on ecological processes with clear designation of existing and proposed routes for water flow, wildlife movement and other features.

Infrastructure requirements such as parking, services, lighting and other features, together with the effects of those infrastructure improvements on shoreline ecological functions and/or processes.

Comment [DN86]: Moved to Ecological Protection and Critical Areas Section (WCC 23.30.020).

Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the maximum extent feasible. Elevated walkways should be utilized to cross wetlands.

Impervious surfacing for parking lot/space areas shall be minimized through the use of alternative surfaces where feasible, consistent with the May 2005 Low Impact Development Technical Guidance Manual for Puget Sound.

Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.

Design of structures should conform to natural contours and minimize disturbance to soils and native vegetation. Foundations shall be tiered with earth retention incorporated into the structure.

Stormwater infiltration systems shall be employed to mimic the natural infiltration and ground water interflow processes where appropriate.

Fencing, walls, hedges and similar features shall be designed in a manner that does not preclude or significantly interfere with wildlife movement to/from important habitat areas.

Accessory uses that do not require a shoreline location shall be sited away from the land/water interface and landward of the principal use and, unless otherwise specified, shall observe critical area regulations and buffers in Chapter 16.16 WCC.

Development shall be located, designed, and managed so that impacts on public use of the shoreline are minimized.

Public recreation activities such as fishing, clam digging, swimming, boating, and wading, and water-related recreation shall be protected through specific provisions to avoid impacts, or provide access as applicable.

Interior and exterior lighting shall be designed and operated to avoid illuminating nearby properties or public areas, prevent glare on adjacent properties, public areas or roadways to avoid infringing on the use and enjoyment of such areas, and to prevent hazards. Methods of controlling spillover light include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields, setbacks, buffer areas and screening.

All facilities shall be located and designed to avoid impediments to navigation and to avoid depriving other properties of reasonable access to navigable waters. Review and approval by the U.S. Coast Guard may be required as a condition of issuance of building or development permits to assure compliance. All in-water structures shall be marked and lighted in compliance with U.S. Coast Guard regulations.

All shoreline use and development shall provide setbacks from adjacent properties in accordance with WCC Table 23.90.130(C). Setbacks shall be of adequate width to attenuate proximity impacts such as noise, light and glare, and may address scale and aesthetic impacts.

Fencing or landscape areas may be required to provide a visual screen.

Comment [DN87]: Moved to Transportation Section for Shoreline Uses and Modifications (WCC 23.40.190).

Comment [CES88]: Moved to Utilities section.

Comment [DN89]: Moved to 23.30.040 Vegetation Management.

Comment [DN90]: Moved to Water Quality section

Comment [AP91]: Removed to reduce redundancy. This is fully captured in the General Regulation provisions for Ecological Protection and Critical Areas (WCC 23.30.020).

Comment [DN92]: Moved to Ecological protection and critical areas section.

Comment [DN93]: Moved to the Public Access section

Comment [DN94]: This is more applicable as a policy rather than a regulation and is already included as a policy above under former subsection (A)(5).

Comment [DN95]: Moved to Views and Aesthetics 23.30.030

Comment [DN96]: Moved to both the Boating facilities and the Moorage sections.

Comment [DN97]: This is more of a policy rather than a regulation and is already included above under former subsection (A)(4). Dimensional standards already implement such a policy so this additional regulation is not necessary.

Chapter ~~23.100~~23.40 Shoreline Use and Modification Regulations

Comment [AP98]: This chapter has been moved from later in the document (previously number 23.100).

~~23.100~~23.40.010 Shoreline Use and Development Modification.

- A. All uses and modifications in shoreline areas shall be subject to the policies and regulations of this program.
- B. Table 1. Shoreline Use by Environment Designation generally sets forth the permissible uses within the respective shoreline environment designations in the county. It should be read in close conjunction with the definitions in Chapter 23.60 (Definitions) and the other provisions in this program. The contents of Table 1 provisions are subject to limitations, conditions, and exceptions listed under of each of the categories of this chapter. Such text modifies the requirements of Table 14, and in the event there is a conflict between the use(s) identified in Table 23.100.010 Table 14 and the policies or regulations, the policies and regulations shall prevailapply.
- C. Shoreline use and development shall be classified by the administratorDirector and regulated under one or more of the following applicable sections of WCC Chapter 23.10023.40 (Shoreline Use and Modification Regulations). Unless otherwise stated, all use and development shall also comply with all of the general policies and regulations of Chapter 23.90 WCC and, if applicable, the policies of Chapter 23.40 WCC. A proposed development may contain different types of uses and/or modifications, and may be classified under and be subject to multiple categories (e.g., a marina may fall under and be subject to Marinas, Moorage, Commercial, and Industrial, depending on what is proposed).
- D. ~~(b) In the Aquatic;~~ shoreline environment designation, only water-dependent uses shall be allowedonly, subject to the use and development regulations of the abutting upland shoreline areaenvironment designation.

Table 1. WCC Table 23.100.010^(a)

Table 1. Shoreline Use by Environment Designation

Shoreline Uses	Shoreline Area Environment Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic ^(b)	Cherry Point Mgmt Area
Agriculture										
<u>Agriculture – General</u>	P ⁽⁺⁾	X	P ⁽⁺⁾	P ⁽⁺⁾	P ⁻	P	P	P⁽⁺⁾ X [*]	X	P
<u>Liquid Manure Storage Facilities and Spreading</u>	X	X	X	X	P	P	P	X	X	X
<u>Animal Feeding Operations and Confined Animal Feeding Operations (AFOs/CAFOs)</u>	X	X	X	X	P	P	P	X	X	X
Aquaculture										
<u>Aquaculture – General</u>	P	P ^{*(+)}	P	P ^{*(+)}	P ⁽⁺⁾	P	P	P⁽⁺⁾	P see upland	P
<u>Commercial Salmon Net Pen Facilities</u>	X ⁽⁺⁾	X ⁽⁺⁾	X ⁽⁺⁾	X ⁽⁺⁾	X ⁽⁺⁾	X ⁽⁺⁾	X ⁽⁺⁾	X ⁽⁺⁾	X ⁽⁺⁾	X
<u>Commercial Geoduck Aquaculture</u>	C ⁽⁺⁾	C ⁽⁺⁾	C ⁽⁺⁾	C ⁽⁺⁾	C ⁽⁺⁾	C ⁽⁺⁾	C ⁽⁺⁾	C ⁽⁺⁾	C [*]	C
Marinas and Launch Ramps Boating Facilities										
<u>Marinas, including accessory structures</u>	P	P	C	P	P	P X	C	X	P see upland	X
<u>Launch ramps – Marina</u>	P	P	P C	P	P	P X	P C	X ⁽⁺⁾	P see upland	X
<u>Launch ramps – Public</u>	P	P	P	P	P	P	P	X/P [*]	see upland	P
<u>Launch ramps – Residential</u>	X	X	X	X	X	X	X	X	see upland X	X
<u>Accessory Structures</u>	P⁽⁺⁾	P⁽⁺⁾	C	P⁽⁺⁾	P⁽⁺⁾	P⁽⁺⁾	C	X	see upland	

Comment [CES99]: Making consistent w/ policies for Natural

Comment [CES100]: Making consistent w/ policies for Natural

Shoreline Uses	Shoreline Area Environment Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic ^(b)	Cherry Point Mgmt Area
Covered Over-Water Structures	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	P ⁺ (+)	P(+)
Commercial										
Water-Dependent Commercial	<u>P</u>	<u>P</u> *	<u>C</u> *	<u>P</u>	<u>P</u>	<u>P</u> *	<u>C</u> *	<u>X</u>	see upland	<u>P</u>
Water-oriented-Related and Water-Enjoyment Commercial	P	P ⁺ (+)	C ⁺ (+)	P	P	P ⁺ (+)	C ⁺ (+)	X	X(+)	<u>P</u>
Non-Water-Oriented Commercial	C	C(+)	C(+)	C	C	C ⁺ (+)	C(+)	X	X	<u>C</u>
Dredging and Dredge Material Disposal										
Dredging	C	C	C	C	C	C	C	X/ <u>P</u> (+)	C(+)	X/ <u>C</u> (+)
Maintenance Dredging	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u> *	<u>P</u> *
Dredge Material Disposal	<u>P</u> (+)	<u>P</u> (+)	<u>P</u> (+)	<u>P</u> (+)	<u>P</u> (+)	<u>P</u> (+)	<u>P</u> (+)	<u>P</u> (+)	<u>X</u> (+)	<u>P</u>
Essential Public Facilities										
	C	C	C	C	C	C	C	X	C	<u>C</u>
Landfill and Excavation										
	<u>P</u> / <u>C</u>	<u>P</u> / <u>C</u>	<u>P</u> / <u>C</u>	<u>P</u> / <u>C</u>	<u>P</u> / <u>C</u>	<u>P</u> / <u>C</u>	<u>P</u> / <u>C</u> / <u>P</u> / <u>C</u>	X(+)	<u>C</u> (+)/ <u>X</u> / <u>C</u> *	X/ <u>C</u> (+)
Flood Control-Hazard Reduction and Instream Structures										
Flood Hazard Reduction Control and Instream Structures – General	P	P	P	P	P	P	P	X	see upland	<u>P</u>

Comment [CES101]: Updated to comply with WAC 173-26-231(3)(c), which requires a CUP for fill waterward of the OHWM.

Shoreline Uses	Shoreline Area Environment Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic ^(b)	Cherry Point Mgmt Area
Channelization or Dams for Hazard Reduction Flood Control	P	P	X	P	C	C	X	X	see upland ^P	P
Forest Practices										
Outside of shorelines of statewide significance	X P	X P	X P	X P	P	P	P	C ⁽⁺⁾	see upland X	P
Within shorelines of statewide significance	C	C	C	C	C	C	C	C	C	C
Industrial and Port										
Water-Dependent Industrial and Port Development	P	X	X	X	P*	P/C*	X	X	see upland	P
Water-oriented-Related and Water-Enjoyment Industrial and Port development	P	X ⁽⁺⁾	X	X	P ⁽⁺⁾	P ⁽⁺⁾ / C*	X	X	P / C ⁽⁺⁾	P ⁽⁺⁾
Existing legal fossil-fuel refinery operations or existing legal fossil fuel transshipment facilities	P	X	X	X	P	C	X	X	C	P
Expansion of existing legal fossil-fuel refinery operations or expansion of existing legal fossil fuel transshipment facilities	P	X	X	X	P	C	X	X	C	C
New or expansion of existing legal renewable fuel refinery operations or renewable fuel	P	X	X	X	P	C	X	X	C	C

Comment [CES102]: Amended to be consistent w/ WAC 173-26-241(3)(e)

Shoreline Uses	Shoreline Area Environment Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic ^(b)	Cherry Point Mgmt Area
transshipment facilities										
Non-Water-Oriented Industrial and Port Development	C	X	X	X	C	C ⁺	X	X	X	X
Terminals for Passenger-Only Vessels	P	P	X	X	P	P	X	X	see upland	C
In-Water Log Storage	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	C ⁺	X
Dams, Diversion, and Tailrace Structures for Hydroelectric Power Generation	C	X	C	C	C	C	C	X	see upland	X
Institutional										
	C	C	C	C	C	C	C	X	X	X
Land Division										
Boundary Line Adjustments and Lot Consolidation	P	P	P	P	P	P	P	X	X	P
Short Plats	P	P	P	P	P	P	P	X	X	P
Subdivisions	P	P	P	P	P	P	P	X	X	P
Mining										
Mining – General	X	X	X	X	C	C	C	X	C ⁺ +X*	C
Surface oil or gas drilling	X	X	X	X	X	X	X	X	X	X
Moorage Structures: Docks, Piers, and Mooring Buoys										
Private Individual Deck Moorage (other than	P	C	P	P	P	P	P	X	see upland	X

Comment [CES103]: Inserted per Council's pending draft fossil fuel amendments.

Comment [CES104]: Moved to Utilities

Shoreline Uses	Shoreline Area Environment Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic ^(b)	Cherry Point Mgmt Area
mooring buoys) – Freshwater										
Private Individual Deck Moorage (other than mooring buoys) – Marine	P	C	C	P	P	P	C	X	see upland	X
Private Shared Deck Moorage	P	C	P	P	P	P	P	X	see upland	X
Private and Shared Moorage	P	C	P(+)/C(+)	P	P	P	P(+)/C(+)	X(+)	P	
Public Moorage (other than mooring buoys)	C	C	C	C	C	C	C	X C(+)	see upland P	X
Commercial Moorage (other than mooring buoys)	C	X C(+)	C	C	C	C	C	X(+)	see upland P	X
Industrial Moorage (other than mooring buoys)	C	X	X	X	C	C	X	X(+)	see upland P	Existing: P(+) New: X
Covered Moorage Accessory to Permitted Moorage	CP	CP	X	CP	X	X	X	X	see upland P	C
Float Plane Moorage Accessory to Permitted Moorage	C	C	C	C	C	C	C	X	see upland P	C
Recreational Mooring Buoys	P	P	P	P	P	P	P	X	see upland	XP
Recreational										
Water-Oriented Recreation	P	P	P(+)(+)	P	P	P(+)	P(+)(+)	P(+)(+)	P(+)/C(+)	P(+)(+)

Comment [CES105]: Inserted per Council's pending draft fossil fuel amendments.

Shoreline Uses	Shoreline Area Environment Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic ^(b)	Cherry Point Mgmt Area
Non-Water-Oriented Recreation	P	P	C	P	C	C	C	C	X	X
Residential										
Single-Family	P	P	P+G	P	P	P++	P+G	G++/X/C*+	X	XP
Duplex	P	P	P	P	P	P	P	X	X	X
Multi-Family	P	P	C	P	P	X	C	X	X	X
Over-Water Residences	X	X	X	X	X	X	X	X	X	X
Restoration and Enhancement										
	P	P	P	P	P	P	P	P	P	P
Shoreline Stabilization*										
Groins	G+X	G+X	X	G+X	G+X	G+X	X	X	G+X	X
Breakwaters and Jetties	C+	C+	C*++	C+	C+	C+	C*++	X	C+G	C*++G
Bulkheads and Revetments	P+G	P+G	C+G	P+G	P+G	P+G	C+G	X+G	X+	C+G
Drift Sills	P	P	C	P	P	P	C	X	See upland	C
Gabions	X/C*	X/C*	X/C*	X/C*	X/C*	X/C*	X/C*	X	X	X/C*
Revetments	X/C*	X/C*	X/C*	X/C*	X/C*	X/C*	X/C*	X	X*	X/C*
Bioengineering Approaches & other Soft-Shore Measures	P	P	P	P	P	P	P	P*++	P*+	P
Signs										
	P	P	P	P	P	P	P	X+	P*++	P

Comment [AP106]: Added new categories/rows to provide greater clarity.

Comment [CES107]: Changed to prohibited in favor of using drift sills, which is an added modification, below.

Shoreline Uses	Shoreline Area Environment Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic ^(b)	Cherry Point Mgmt Area
Transportation										
Transportation Facilities serving a specific approved use*	P	P	P(+)	P	P	P	P(+)	X ⁽⁺⁾	P(+)/-C*(+)	P(+)
Transportation Facilities not serving a specific approved use*	C	C	X	C	C	C	X	X	C	X
Utilities										
Accessory Utilities	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Local Utilities distribution facilities	<u>P(+/-)</u>	<u>P(+/-)</u>	<u>P(+/-)/C*(+)</u>	<u>P(+/-)</u>	<u>P(+/-)</u>	<u>P(+/-)</u>	<u>P(+/-)/C*(+)</u>	X ⁽⁺⁾	<u>P(+/-)/C*(+/-)/X*</u>	<u>P(+/-)</u>
Regional transmission facilities utilities	<u>C(+/-)</u>	<u>C(+/-)</u>	<u>C(+/-)</u>	<u>C(+/-)</u>	<u>C(+/-)</u>	<u>C(+/-)</u>	<u>C(+/-)</u>	X ⁽⁺⁾	<u>C(+/-)/X*</u>	<u>C(+/-)</u>
Desalinization Facilities	<u>C(+)</u>	<u>C(+)</u>	<u>C(+)</u>	<u>C(+)</u>	<u>C(+)</u>	<u>C(+)</u>	<u>C(+)</u>	X ⁽⁺⁾	<u>C(+)</u>	<u>C(+)</u>
Dams, Diversion, and Tailrace Structures for Hydroelectric Power Generation	<u>C</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>X</u>	see upland	<u>X</u>

P = Permitted, may be subject to policies and regulations of this program and subject to shoreline substantial development permit requirements.

C = Shoreline conditional use, subject to policies and regulations of this program and may be subject to shoreline substantial development permit requirements.

(-) Subject to limitations.

(+) Subject to conditions.

X = Prohibited.

N/A = Not applicable.

* = Refer to the regulations under this use and modification category for certain caveats.

Comment [AP108]: Revised per Scoping Document, Item #17i.

Comment [CES109]: Moved from Industrial and Port

(*) Subject to exceptions.

(a) In the event that there is a conflict between the use(s) identified in Table 23.1040.010 and the policies or regulations in Chapters 23.230, 23.390, or 23.4100 WCC, the policies and regulations shall apply.

(b) Aquatic: Water dependent use only, subject to the use and development regulations of the abutting upland shoreline area designation.

23.4100.020 Shoreline Bulk Provisions – Buffers, Setbacks, Height, Open Space and Impervious Surface Coverage.

~~A. Policies. Standards for density, setbacks, height, and other provisions should ensure no net loss of shoreline ecological functions and/or processes and preserve the existing character of the shoreline consistent with the purpose of the shoreline area designation.~~

~~B. Regulations.~~

A. ~~Table 2. Bulk Regulations for Shoreline Development.~~ Table of Bulk Regulations. ~~WCC Table 23.90.130(C)~~ establishes the minimum required dimensional requirements for development, uses, and activities including all structures and substantial alteration of natural topography. Dimensional standards relating to critical areas are governed by the provisions of WCC Chapter 16.16. Dimensional standards specified in this program shall not exceed the geographic limit of the Act's jurisdiction. Additional standards may be established in WCC, Chapter ~~23.100~~ 23.40 (Shoreline Use and Modification Policies and Regulations).

B. Where the bulk provisions of other County regulations (e.g., Title 20, Zoning) differ, the stricter shall apply.

~~A.C.~~ All measurements except height and area shall be measured outward on the horizontal plane and in the direction that results in the greatest dimension from property lines, or from other features specified.

A. ~~Except as otherwise stated, the Whatcom County Comprehensive Plan, zoning regulations, critical areas regulations, flood control regulations, subdivision regulations, health regulations and other adopted regulatory provisions apply within shoreline jurisdiction. In the event the provisions of this program conflict with provisions of other county regulations, the more protective of shoreline resources shall prevail.~~

B. ~~All use and development activities shall conform to all applicable plans, policies, standards, guidelines and regulations of other agencies with jurisdiction in shoreline areas.~~

D. Setbacks.

1. Setbacks shall be pursuant to Table 2; except as allowed by subsection (D)(2).

2. **Common-Line Setback for Single-Family Residences.** For the purpose of accommodating views to be adequate and similar, but not necessarily equivalent, for new residences while protecting predominant shoreline views of the water from legally existing primary residences in developed residential areas, the shoreline buffer (setback) may be modified for primary residential structures in the Urban, Shoreline Residential, and Rural environments (only), consistent with the following. The presence of nearby shacks, sheds, or dilapidated structures does not constitute the existence of a residence, nor can such structures be used to determine a common-line setback.

a. Where there are legally established single-family residential primary structures within 150 feet on both sides of the proposed residence, the setback shall be determined as the greater of either:

i. A common line drawn between the nearest corners of the foundation closest to the sideyard property line of the proposed residence to each adjacent residence, or

Comment [AP110]: Moved from the General Regulations section (previously WCC 23.90.130).

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Comment [CES111]: Incorporated from former Appendix F of Title 23.

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Comment [DOE-Req112]: Required Change. – This change restores the existing language to apply the common-line setback provisions only to existing structures within 50-feet of a proposed residence. The amendment record contains no justification to extend this distance to 150-feet, which is most cases is two to three times the width of most existing lots where view these provisions would apply. The No Net Loss analysis related to this change does not take into consideration the increase in applicability if these setback reductions county-wide by increasing the distance from 50-feet to 100-feet.

- ii. A common line calculated by the average of both adjacent residences' existing setbacks.
- b. Where there is a legally established single-family residential primary structure within 150 feet on only one side of the proposed residence, the common line setback shall be determined as the greater of either:
 - i. A common line drawn between nearest corner of the foundation closest to the sideyard property line of the proposed residence to the adjacent residence and the nearest point of the standard buffer on the adjacent vacant lot, or
 - ii. A common line calculated by the average of the adjacent residence's setback and the standard buffer for the adjacent vacant lot.
- c. When the use of a common-line setback is allowed, compliance with buffer width reduction and mitigation pursuant to WCC 23.30.010 (Ecological Protection) shall be required.
- d. In no case shall development be located waterward of the common-line setback or a minimum of 50 feet from the ordinary high water mark, unless approved to be closer as part of a constrained lot review WCC 23.40.170(B).
- e. The lot shall not be subject to landslide hazard areas, or riverine or coastal erosion hazard areas or associated buffers (see WCC 16.16.310).

Comment [DOE-Req113]: Required Change – This change restores the existing language to apply the common-line setback provisions only to existing structures within 50-feet of a proposed residence. The amendment record contains no justification to extend this distance to 150-feet, which is most cases is two to three times the width of most existing lots where view these provisions would apply. The No Net Loss analysis related to this change does not take into consideration the increase in applicability if these setback reductions county-wide by increasing the distance from 50-feet to 100-feet.

- 3. Sideyard setbacks shall be measured from all property lines that intersect the shore side of a lot or tract; provided, that for development not requiring a wider shoreline buffer, five feet of the total required sideyard setbacks may be provided on one side and the balance on the other side.
- 1. and provided further, that, for a single family residence or duplex on a nonconforming lot that does not provide sufficient area to meet the standard dimensional requirements for buffers and setbacks, the nonconforming provisions of WCC 23.50.070 apply.

Comment [DOE-Req114]: Required Change – This change is necessary for consistency with the referenced constrained lot provisions found at WCC 23.40.170.c.4. This section states that consideration shall be given to view impacts in accordance with the common-line setback standards of 23.40.020.d.2. The change eliminates an endless loop to where the two provisions continue to refer to one another without resolve, and clarifies that new residential development should not be allowed waterward of existing development through either process.

Comment [CES115]: Shouldn't this be "is not"?

B-E. Height. Table 2 23.90.130(C) establishes the maximum allowed building height for all primary and accessory structures within the shoreline jurisdiction. Height is measured according to the definition in WCC 23.60.080(7)110; provided, that:

Comment [DOE-Req116]: Required Change – This change adds the same standard found in the constrained lot provisions at 23.40.170.B.5. In no case should the common line setback be used that would place a single-family residence within a hazardous area.

- 1. provided further, that, pursuant to RCW 90.58.320, and except as allowed by subsections (2 - 4) of this section, no permit may be issued for any new or expanded building or structure more than 35 feet above average grade level that will obstruct the view of a substantial number of residences on or adjoining such shorelines except where the program does not prohibit such development and only when overriding considerations of the public interest will be served. The applicant/proponent shall be responsible for providing sufficient information to the administrator to determine that such development will not obstruct the view of a substantial number of residences on or adjoining such shorelines whether this standard is met.
- 2. In the Urban Resort shorelines designation only, commercial and multifamily unit residential development more than 100 feet from the ordinary high water mark may exceed the standard height limit, up to a maximum height of 75 feet when approved with through a shoreline conditional use permit, up to a maximum height of 75 feet; provided, that specific location design and other conditions may be imposed to meet the policies and regulations of this program;

Comment [DN117]: Now covered by nonconforming lot section (23.50.030)

3. In the Urban Resort shoreline environment designation, lodging developments over 35 feet in height may be allowed. However, due to the potential for adverse impacts upon adjacent uses and the community from such development, special consideration must be given to the following factors during review of such proposals:

- a. Urban services, including sanitary sewers, public water supply, fire protection, storm drainage, and police protection, must be provided at adequate levels to protect the public health, safety, and welfare.
- b. Circulation, parking areas, and outdoor storage or loading areas should be adequate in size and designed so that the public safety and local aesthetic values are not diminished. Such areas should be screened from open space areas by landscaping, fences or similar structures, or grade separation.
- c. Recreational needs of building clientele must be provided for through on-site recreation facilities and access to shorelines. The variety and number of on-site recreation facilities should increase proportionately as density increases.

4. In the Cherry Point Management Area, cranes, gantries, mobile conveyors, light standards, and similar equipment necessary for the functions of water-dependent uses or the servicing of vessels may extend above the applicable maximum height limit provided in Table 1, provided that such structures shall be designed to minimize view obstruction.

5. Residential accessory structures that are not waterward of the primary structure may be built to the maximum height for the environment designation.

Comment [CES118]: Moved from 23.40.040 (Commercial)

Comment [CES119]: Added to accommodate equipment necessary for operations of permitted uses.

Comment [CES120]: Moved up from below

F. **Open Space.** Open space shall be provided for certain types of development, use, or activities. The amount of open space, as a percentage of lot coverage, shall be as provided in Table 2, below.

G.G. **Uses Allowed in Buffers and Setbacks.** The following development activities are not subject to ~~allowed~~ in buffers and setbacks; provided, that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline functions and processes; and provided further, that they comply with all the applicable regulations in WCC Chapter 16.16, including mitigation:

1. Those portions of approved private water-dependent development or public water-oriented development that require a location waterward of the ordinary high water mark of streams, rivers, lakes, ponds, marine shorelines, associated wetlands, and/or within their associated buffers.
2. Accessory and uUnderground utilities.
3. Necessary power poles and transmission towers are not subject to height limits but shall not be higher than necessary to achieve the intended purpose.
4. Modifications to existing development that are necessary to comply with environmental requirements of any state or federal agency, when otherwise consistent with this program; provided, that the decision maker determines that the facility cannot meet the dimensional standard and accomplish the purpose for which it is intended and the facility is located, designed, and constructed to meet specified dimensional standards to the maximum extent feasible, and the modification is in conformance with the provisions of Chapter WCC 23.50.070 (Nonconforming Uses, Structures, and Lots) ~~for nonconforming development and uses.~~

5. Roads, railways, and other essential public facilities that must cross shorelines and are necessary to access approved water-dependent development.
6. Stairs and walkways no greater than four feet in width and no higher than ~~nor~~ 18 inches in height above grade, except for railings; provided, that where ADA requirements apply, such facilities may be increased to five feet in width and the height requirement may be waived to provide for site-specific ADA compliance. Stairways shall conform to the existing topography to the extent feasible and minimize impervious surfaces.
7. Shared moorages ~~shall not be subject to sideyard setbacks~~ when located on or adjacent to a property line shared in common by the project proponents and where appropriate easements or other legal instruments have been executed providing for ingress and egress to the facility.
8. Retaining walls or similar slope stabilization structures, when associated with an approved shoreline use or development consistent with the provisions of this program and demonstrated to be necessary for the approved use or development through a geotechnical analysis.
9. Where permitted, fences, walls other than those allowed by 23.70.020(G)(8) above retaining walls, hedges and other similar structures shall be limited to four feet in height within shoreline setbacks and six feet in height outside of shoreline setbacks; provided, that the Director may exempt security fencing from this requirement as required by federal or state regulations.
10. Signs.
 - a. On publicly owned park properties, interpretive, wayfinding, and park identification signs.
 - b. Signage required by state or federal security requirements.
11. Passive recreation facilities that are part of a non-motorized trail system or environmental education program, including walkways, wildlife viewing structures, or public education trails; provided, that all the criteria in WCC 23.40.160(A)(6) (Recreation) are met.
12. ~~Residential accessory structures that are not waterward of the primary structure may be built to the maximum height for the designation.~~ Accessory structures, as allowed by 16.16.720(G)(4) Habitat Conservation Areas—Use and Modification. When located in the shoreline jurisdiction, residential water-oriented recreational accessory structures—such as a boat equipment storage shed, an small uncovered boat storage rack, a fire pit, and a pathway leading to the shoreline—may be permitted in an HCA buffer; provided,
 - a. Such structures are located as far from the shoreline as feasible and on previously-impacted buffer areas;
 - b. The maximum area, inclusive of existing lawfully-established accessory structures, ~~They~~ shall be limited to 10% of the buffer's area or 500 square feet, whichever is less;
 - c. No more than 20% of the linear length of shoreline is occupied by a building or structure;
 - d. Individual structures shall be limited to a total footprint area of 100-square feet and 10-feet in height; and
 - e. The shoreline is 75% or at ratios outlined in WCC 16.16.760, whichever is greater, planted (or replanted) with native vegetation to a minimum depth of 15 feet landward from the ordinary high water mark.

Comment [AP121]: Revised per Parks comment (Scoping Document Items #13b, 13c, and 14a)

Comment [AP122]: Added per Scoping Document, Item #17e.

Comment [AP123]: Added for clarity per Scoping Document, Item #17e.

Comment [AP124]: Added per Scoping Document, Item #16b.

Comment [AP125]: Revised per Scoping Document, Item #13d.

f. This provision shall not apply to residential developments authorized using the constrained lot provisions of WCC 23.40.150(B).

13. Residential structures which share a common wall with the primary structure shall be considered an extension of the primary structure (i.e., an attached garage) and may be built to the maximum height for the designation.

14. Height limits contained in this program for accessory structures in the Rural, Resource, or Conservancy shoreline environments, accessory structures that are 150 feet or greater from the OHWM of the Nooksack or Sumas Rivers may be built to the maximum height for the designation. shall not apply within shoreline jurisdiction of the Nooksack and Sumas Rivers beyond 150 feet from the OHWM.

Comment [DOE-Req126]: Required Changes – These changes are required for consistency with the SMP Guidelines governing principle that SMP regulations must be designed to achieve no net loss of ecological functions (WAC 173-26-186(8)). The changes add appropriate sideboards to allow a limited and predictable list of common residential developments that may be located within regulated buffers. The changes include more emphasis on the required mitigation sequence including avoidance, minimization and mitigation of impacts to buffers [WAC 173-26-201(2)(e)]

Table 2. Bulk Regulations for Shoreline Development ~~WCC Table 23.90.120(C) Buffer, Setbacks, Height, Open Space, and Impervious Surface Coverage Standards for Shoreline Development~~

Shoreline Uses	Shoreline Environment Area-Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic	Cherry Point Mgmt Area
Agriculture										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
▲Side Setback ^(2,3)	20'	N/A	20'	20'	20'	20'	20'	N/A	N/A	20'
Maximum Height Limit ⁽⁵⁾ (a/b)	35'	N/A	35' / 35'	35' / 35'	35' / 35'	35' / 35'	35' / 35'	N/A	N/A	35'
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					☐ 10% ⁽⁹⁾	☐ 10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Aquaculture										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
▲Side Setback ^(2,3)	10'	10'	10'	10'	10'	10'	15'	N/A	N/A	20'
Maximum Height ^(4,5) Height Limit (a/b)	25' / 35'	25' / 35'	20' / 30'	25' / 35'	20' / 30'	20' / 30'	15' / 25'	N/A	10'	20' / 30'
Open Space %	30%	40%	50%	30%	50%	50%	60%	N/A	N/A	30%
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					☐ 10% ⁽⁹⁾	☐ 10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Commercial										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
▲Side Setback ^(2,3,6)	5'→	5'→	10'→	10'→	10'→	10'→	15'→	N/A	N/A	15'
Maximum Height ^(4,5) Height Limit (a/b/g)	25' / 35'	25' / 35'	20' / 30'	25' / 35'	20' / 30'	20' / 30'	15' / 25'	N/A	15'	35'
Open Space % (c/d)	30% / 15%	40% / 20%	60% / 30%	30% / 15%	50% / 25%	50% / 25%	60% / 30%	N/A	N/A	30% / 15%
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					☐ 10% ⁽⁹⁾	☐ 10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Boating Facilities- Marinas and Launch Ramps										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									

Shoreline Uses	Shoreline <u>Environment Area-Designation</u>									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic	Cherry Point Mgmt Area
Side Setback ^(2,3)	10'	10'	10'	10'	10'	10'	15'	N/A	N/A	20'
Maximum Height ^(4,5) Height Limit (a/b)	25' / 35'	25' / 35'	25' / 35'	25' / 35'	20' / 25'	20' / 25'	15' / 25'	N/A	N/A	25' / 35'
Open Space % (c/d)	15%	30%	50%	15%	30%	30%	50%	N/A	N/A	15%
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Mining										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
Side Setback ^(2,3)	N/A	N/A	N/A	N/A	50'	50'	100'	N/A	N/A	50'
Open Space %	N/A	N/A	N/A	N/A	50%	50%	50%	N/A	N/A	50%
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Industrial and Port Development										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
Side Setback ^(2,3)	30'	10'	30'	30'	40'	40'	60'	N/A	N/A	40'
Maximum Height ⁽⁵⁾ Height Limit (a/b)	35' / 35'	15' / 25'	20' / 30'	35' / 35'	25' / 35'	25' / 35'	25' / 35'	N/A	20'	25' / 35'
Open Space %	30%	40%	60%	30%	50%	50%	60%	N/A	N/A	30%
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Land Division										
Shoreline Buffer ⁽¹⁾	Per Shoreline Buffer Standards in WCC 23.30.040									
Side Setback ^(2,3)	Based on shoreline use									
Maximum Height ⁽⁵⁾ (a/b)	Based on shoreline use									
Open Space %	30%	40%	50%	30%	50%	50%	60%	N/A	N/A	30%
Impervious Surface Coverage	Per the underlying zone, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone, WCC Title 20.		
Recreation										

Shoreline Uses	Shoreline <u>Environment</u> <u>Area</u> -Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic	Cherry Point Mgmt Area
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
Side Setback ^(2,3)	10'	10'	15'	10'	15'	15'	20'	20'	N/A	20'
Maximum Height ^(4,5) Height Limit (a/b)	25' / 35'	25' / 35'	20' / 35'	25' / 35'	20' / 35'	20' / 35'	15' / 25'	10' / 15'	15'	20' / 35'
Open Space % (c/d)	30% / 25%	40% / 40%	50% / 60%	30% / 25%	50% / 60%	50% / 60%	60% / 75%	95%	N/A	30% / 25%
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Residential – Single-Family and Duplex										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
Maximum Density ⁽⁶⁾	6:1 ac-	22:1 ac-	6:1 ac-	6:1 ac-	1:1 ac-	1:20 ac-	1:1 ac-	N/A	N/A	1:1 ac
Side Setback ^(2,3)	5'	5'	10'	5'	10'	10'	15'	15'	N/A	20'
Maximum Height ^(4,5) Height Limit (a/b)	30' / 30'	30' / 30'	30' / 35'	30' / 30'	30' / 35'	30' / 35'	30' / 35'	30' / 35'	N/A	30' / 35'
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		
Residential – Multifamily (3 – 6 units)										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
Maximum Density ⁽⁶⁾	6:1 ac.	22:1 ac.	6:1 ac.	6:1 ac.	1:1 ac.	1:20 ac.	1:1 ac.	N/A	N/A	N/A
Side Setback ^(2,3,6) (e/f)	5'+	5'+	15'+	5'+	15'+	15'+	20'	N/A	N/A	N/A
Maximum Height ^(4,5) Height Limit (a/b/g)	30' / 40'	30' / 40'	30' / 35'	30' / 40'	30' / 35'	30' / 35'	30' / 35'	N/A	N/A	N/A
Open Space %	30%	40%	60%	30%	50%	50%	60%	N/A	N/A	N/A
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		N/A
Residential – Multifamily (7+ units)										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter 16.16 WCC, Buffers									
Maximum Density ⁽⁶⁾	6:1 ac-	22:1 ac-	6:1 ac-	6:1 ac-	1:1 ac-	1:20 ac-	1:1 ac-	N/A	N/A	N/A

Shoreline Uses	Shoreline <u>Environment Area</u> -Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic	Cherry Point Mgmt Area
▲Side Setback ^(2,3,6) (e/f)	5'+	5'+	15'+	5'+	15'+	15'+	20'	N/A	N/A	<u>N/A</u>
▲Maximum Height ^(4,5) Height Limit (a/b/g)	30' / 40'	30' / 40'	30' / 35'	30' / 40'	30' / 35'	30' / 35'	30' / 35'	N/A	N/A	<u>N/A</u>
Open Space	30%	40%	50%	30%	50%	50%	60%	N/A	N/A	<u>N/A</u>
Impervious Surface Coverage	Per the underlying zone-district, WCC Title <u>20</u> .						◆◆ 10% ⁽⁹⁾	◆◆ 10% ⁽⁹⁾	Per the underlying zone-district, WCC Title <u>20</u> .	<u>N/A</u>
Residential – Decks and Accessory Structures										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter <u>16.16</u> WCC, Buffers									
▲Side Setback ^(2,3)	5'	5'	10'	5'	10'	10'	15'	15'	N/A	
▲Height Limit ⁽⁴⁾	15'	15'	15'	15'	15'	15'	15'	15'	N/A	
Transportation Facilities										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter <u>16.16</u> WCC, Buffers									
Signs										
▲Shoreline Buffer ^(1,7) Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter <u>16.16</u> WCC, Buffers									
▲Side Setback ^(1,2,3)	5'	5'	10'	5'	10'	10'	15'	N/A	N/A	<u>10'</u>
▲Maximum Height ^(4,5) Height Limit (a/b)	10' / 15'	10' / 15'	6' / 10'	10' / 15'	6' / 10'	6' / 10'	6' / 10'	N/A	10'	<u>6' / 10'</u>
Utilities										
Shoreline Buffer ⁽¹⁾ Setback	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance, Chapter <u>16.16</u> WCC, Buffers									
▲Side Setback ^(1,2,3)	5'	5'	10'	5'	10'	10'	15'	N/A	N/A	<u>10'</u>
▲Maximum Height ^(4,5) Height Limit (a/b)	20' / 35'	20' / 35'	20' / 20'	20' / 35'	20' / 20'	20' / 20'	20' / 20'	N/A	N/A	<u>20' / 20'</u>
Open Space %	30%	40%	60%	30%	50%	50%	60%	N/A	N/A	<u>50%</u>
Impervious Surface Coverage	Per the underlying zone-district, WCC Title <u>20</u> .						◆◆ 10% ⁽⁹⁾	◆◆ 10% ⁽⁹⁾	Per the underlying zone-district, WCC Title <u>20</u> .	
All Other Development										
Shoreline Buffer ⁽¹⁾	Per Shoreline Buffer Standards in WCC 23.30.040Per Whatcom County Critical Areas Ordinance,									

Shoreline Uses	Shoreline Environment Area-Designation									
	Urban	Urban Resort	Urban Conservancy	Shoreline Residential	Rural	Resource	Conservancy	Natural	Aquatic	Cherry Point Mgmt Area
Setback	Chapter 16.16 WCC, Buffers									
*Side Setback ^(2,3)	10'	10'	10'	10'	15'	15'	20'	N/A	N/A	
*Maximum Height ^(4,5) Height Limit (a/b)	25' / 35'	25' / 35'	25' / 35'	20' / 30'	20' / 30'	20' / 30'	20' / 30'	N/A	N/A	
Open Space %	30%	40%	60%	30%	50%	50%	60%	N/A	N/A	
Impervious Surface Coverage	Per the underlying zone-district, WCC Title 20.					10% ⁽⁹⁾	10% ⁽⁹⁾	Per the underlying zone-district, WCC Title 20.		

Footnotes:

(1) = Water dependent development shall have a buffer of zero feet. Unless specifically exempted from setback requirements in WCC 23.40.020, minimum required setbacks for permanent freestanding signs are 50 feet from the OWHM where not subject to critical areas or buffers. Other non-water dependent uses that may be allowed within the shoreline buffer are identified in WCC 23.40.020(G).

(2) = Roof overhangs or other architectural features shall not project further than 18 inches into the side setbacks.

(3) = A side setback of 5 feet applies to residential decks and accessory structures 15 feet tall or less.

(4) = Maximum height for accessory structures is 15 feet, except as provided in WCC 23.40.020(E).

(5) = Maximum height is as shown, except as provided in WCC 23.40.020(E).

(6) = Add five feet of setback for each five feet of height over 15 feet.

(7) = See WCC 23.40.200 (Signs) for additional allowances and restrictions.

(8) = Maximum allowable development density shall be calculated pursuant to the applicable underlying zone district, per WCC Title 20; provided, that maximum allowable density in dwelling units/acre shall not exceed the density ratios identified above. Density shall be calculated based on the total area of the parent parcel including those areas located outside of shoreline jurisdiction. Submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in density calculations.

(9) = Where the maximum total impervious surface percentage does not allow 2,500 square feet of total impervious surface area, 2,500 square feet shall be allowed.

(a/b) = "a" Applies to structures within 100 feet of OHWM or wetland edge;

"b" Applies to structures more than 100 feet from OHWM or wetland edge.

(c/d) = "c" Applies to development that includes overnight lodging;

"d" Applies to development that does not include overnight lodging.

(e/f) = "e" Applies to structures not more than 35 feet high;

"f" Applies to structures more than 35 feet high.

g = Height limit may be increased to 75 feet via conditional use permit — see WCC 23.00.120(B)(5).

* = Add five feet of setback for each five feet of height over 15 feet.

* = Maximum height for accessory buildings is 15 feet.

~~** = See WCC 23.100.140(B)(10) through (14).~~

~~* = Roof overhangs or other architectural features shall not project further than 18 inches into the side yard setbacks.~~

~~◇ = Maximum allowable development density shall be calculated pursuant to the applicable underlying zone district, per WCC Title 20; provided, that maximum allowable density in dwelling units/acre shall not exceed the density ratios identified above. Density shall be calculated based on the total area of the parent parcel including those areas located outside of shoreline jurisdiction. Submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in density calculations.~~

~~◇◇ = Where the maximum total impervious surface percentage does not allow 2,500 square feet of total impervious surface area, 2,500 square feet shall be allowed.~~

N/A = Not applicable.

1 **23.40.030 General Shoreline Use and Modification Regulations**

2 A. Proposed uses and developments shall limit the number and extent of shoreline modifications.

Comment [CES127]: From WAC 173-26-231(2)(b)

3 B. Shoreline uses and developments that are water-dependent shall be given priority. Permit
4 conditions may limit the range of uses or sites developed for such uses.

5 ~~B.C.~~ Interim non-water-dependent uses authorized as a shoreline conditional use may be allowed to
6 respond to short-term market conditions; provided, that permit conditions are placed on such uses
7 to provide for a specific timetable or review process to ensure water-dependent use of the
8 development in the long term.

9 ~~C.D.~~ Shoreline uses and developments shall be located, designed, and managed so that other
10 appropriate uses are neither subjected to substantial or unnecessary adverse impacts, nor deprived
11 of reasonable, lawful use of navigable waters, other publicly owned shorelines, or private property.

12 ~~D.E.~~ Navigable waters shall be kept free of obstructions for the general benefit of the region, state, and
13 nation. No use or development shall be allowed to effectively exclude other appropriate uses from
14 navigable waters.

15 F. Shoreline uses and developments shall be located in a manner so that shoreline stabilization is not
16 likely to become necessary in the future.

Comment [DN128]: Moved from the General Regulations section since this pertains specifically to uses and mods.

17 G. Accessory uses and structures that do not require a shoreline location shall be sited away from the
18 land/water interface and not placed waterward of the principal use unless otherwise allowed by this
19 Program.

20 ~~E.H.~~ Nothing in the policies or regulations may be construed as to impinge on tribal treaty rights
21 exercised within usual and accustomed areas.

Comment [DOE-Req129]: Recommended Change – The added language clarifies that there are exceptions to this general regulation (See 16.16.720.G.4)

22 I. No flood control works or instream structures shoreline use or development may commence without
23 the proponent/developer having obtained all applicable federal, state, and local permits and
24 approvals, including but not limited to a Hydraulic Permit Application (HPA) from the State
25 Department of Fish and Wildlife.

Comment [CES130]: Moved from 23.90.030 Ecological Protection

Comment [AP131]: Moved from Aquaculture section.

26 J. Use of motor vehicles including unlicensed off-road vehicles is permitted only on roads or trails
27 specifically designated for such use. Motor vehicle use, except for vessels and float planes, is
28 prohibited waterward of the ordinary high water mark, on tidelands, public or private beaches,
29 wetlands and/or their associated buffers; except as necessary for public health and safety or
30 permitted maintenance activities associated with approved developments or as otherwise
31 permitted.

Comment [AP132]: Moved and revised to apply more universally.

32 K. Buildings, fencing, walls, hedges, and similar features shall be designed, located, and constructed in
33 a manner that does not preclude or significantly interfere with wildlife movement to or from
34 important habitat areas consistent with the applicable provisions of this program; provided, that the
35 Director may exempt security fencing associated with residential, industrial, and/or commercial
36 developments from this requirement on a case-by-case basis.

Comment [CES133]: Moved from 23.90.030 30.010 Ecological Protection

37 **23.4100.030-040 Agriculture.**

38 A. Policies.

Comment [CES134]: Moved from 23.90.030 30.010 Ecological Protection

1. This program recognizes the importance of agriculture in Whatcom County and supports its continued economic viability. This program allows for ongoing agricultural activities and should protect agricultural lands from conflicting uses such as intensive or unrelated residential, industrial or commercial uses, while also maintaining shoreline ecological functions and processes.
2. Agricultural uses and development in support of agricultural uses should be conducted in such a manner as to assure no net loss of shoreline ecological functions and processes and avoid substantial adverse impacts on other shoreline resources and values.
3. Conversion of agricultural uses to other uses should comply with all policies and regulations for nonagricultural uses.

B. Regulations.

A. General.

1. Agricultural activities within shorelines are governed by the critical areas regulations in WCC Chapter 16.16, including the conservation program on agricultural lands (CPAL) provided for in therein WCC 16.16.290.
2. Accessory uses and buildings shall observe critical area buffer requirements as defined in (see WCC Chapter 16.16); except that utility development associated with an approved agriculture activity or development may encroach on critical area buffers where it can be demonstrated that the proposed utility development is essential to the agriculture activity or development and that such development complies with the general provisions of WCC Chapter 16.16; such utilities shall be placed underground where feasible.
3. Intentional discharge of any manure storage facility into ground or surface water is prohibited.
4. Feedlots are prohibited in critical areas and their buffers as defined in (see WCC Chapter 16.16).
5. Conversion of agricultural uses to other uses shall comply with the provisions of WCC Chapter 16.16 and this program for the proposed use.

B. Regulations for Specific Shoreline Environment Designations.

1. In the Natural shoreline environment, only low-intensity agricultural activities are permitted; provided, that the use does not expand or alter agricultural practices in a manner inconsistent with the purpose of this designation.

C. Shoreline Area Regulations.

1. Urban. Agricultural activities are permitted subject to policies and regulations of this program, except that new liquid manure storage facilities and liquid manure spreading are not permitted.
2. Urban Resort. New agricultural activities are prohibited.
3. Urban Conservancy. Agricultural activities are permitted subject to policies and regulations of this program, except that new animal feeding operations/concentrated animal feeding operations (AFO/CAFOs) are not permitted.
4. Shoreline Residential. Agricultural activities are permitted subject to policies and regulations of this program, except that new liquid manure storage facilities and liquid manure spreading are not permitted.
5. Rural. Agricultural activities are permitted subject to policies and regulations of this program.

6. ~~Resource. Agricultural activities are permitted subject to policies and regulations of this program.~~
7. ~~Conservancy. Agricultural activities are permitted subject to policies and regulations of this program.~~
8. ~~Natural. Low intensity agricultural activities are permitted subject to policies and regulations of this program; provided, that the use does not expand or alter agricultural practices in a manner inconsistent with the purpose of this designation. All other agricultural activities are prohibited.~~
- ~~Aquatic. New agricultural activities are prohibited. Farming of fin fish, shellfish and management of other aquatic products are subject to the policies and regulations for aquaculture under WCC 23.100.030.~~

Comment [CES135]: Addressed in use table now.

23.4100.040-050 Aquaculture.

Comment [CES136]: Most amendments shown herein are to make this section consistent w/ WAC 173-26-241(3)(b)

Aquaculture in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.

Nothing in these policies or regulations may be construed as to impinge on tribal treaty rights exercised within usual and accustomed areas. See also the policy in subsection (A)(8) of this section and the regulation in subsection (B)(1)(u) of this section.

Comment [AP137]: Moved to Use and Mods General Regs

A. Policies.

- A. ~~Aquaculture is a water dependent use and, when consistent with control of pollution and avoidance of adverse impacts to the environment and preservation of habitat for resident native species, is a preferred use of the shoreline (WAC 173-26-241(3)(b)).~~
- B. ~~Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, commercial navigation, and salinity. The technology associated with some forms of aquaculture is still experimental and in formative states. Therefore, some latitude should be given when implementing the regulations of this section; provided, that potential impacts on existing uses and shoreline ecological functions and processes should be given due consideration.~~
- C. ~~Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts and lesser impacts to native plant and animal species. In general, projects that require no structures, submerged structures or intertidal structures are preferred over those that involve substantial floating structures. Projects that involve little or no substrate modification are preferred over those that involve substantial modification. Projects that involve little or no supplemental food sources, pesticides, herbicides or antibiotic application are preferred over those that involve such practices.~~
- D. ~~Community restoration projects associated with aquaculture should be reviewed and permitted in a timely manner.~~
- E. ~~Aquaculture activities should be designed, located and operated in a manner that supports long-term beneficial use of the shoreline and protects and maintains shoreline ecological functions~~

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

F. Aquaculture that involves significant risk of cumulative adverse effects on water quality, sediment quality, benthic and pelagic organisms, and/or wild fish populations through potential contribution of antibiotic resistant bacteria, or escapement of nonnative species, or other adverse effects on ESA-listed species should not be permitted.

G. The county should actively seek substantive comment on any shoreline permit application for aquaculture from all appropriate federal, state and local agencies; the Lummi Nation, Nooksack Tribe, and other affected tribes; and the general public regarding potential adverse impacts. Comments of nearby residents or property owners directly affected by a proposal should be considered and evaluated, especially in regard to use compatibility and aesthetics.

H. The rights of treaty tribes to aquatic resources within their usual and accustomed areas should be addressed through the permit review process. Direct coordination between the applicant/proponent and the tribe should be encouraged.

I. Consideration should be given to both the potential beneficial impacts and potential adverse impacts that aquaculture development might have on the physical environment; on other existing and approved land and water uses, including navigation; and on the aesthetic qualities of a project area.

J. Legally established aquaculture enterprises, including authorized experimental projects, should be protected from incompatible uses that may seek to locate nearby. Use or developments that have a high probability of damaging or destroying an existing aquaculture operation may be denied.

K. Experimental aquaculture projects in water bodies should be limited in scale and should be approved for a limited period of time. Experimental aquaculture means an aquaculture activity that uses methods or technologies that are unprecedented or unproven in the state of Washington.

B. Regulations.

A. General Site Design and Operation.

1. Aquaculture activities proposed within Shorelines of Statewide Significance shall be subject to, first, the policies contained in Chapter 23.40 WCC, Shorelines of Statewide Significance, and, second, the policies and regulations contained in this section.

2.1 Aquaculture that involves little or no substrate modification shall be given preference over those that involve substantial modification. The applicant/proponent shall demonstrate that the degree of proposed substrate modification is the minimum necessary for feasible aquaculture operations at the site.

3.2 The installation of submerged structures, intertidal structures, and floating structures shall be allowed only when the applicant/proponent demonstrates that no alternative method of operation is feasible.

Comment [CES138]: Covered by general use & mod regs.

1 4.3. Aquaculture proposals that involve substantial substrate modification or sedimentation through
2 dredging, trenching, digging, mechanical clam harvesting, or other similar mechanisms, shall not
3 be permitted in areas where the proposal would adversely impact ~~existing kelp beds or other~~
4 ~~macroalgae, eelgrass beds, critical saltwater habitat, or other fish and wildlife habitat~~
5 conservation areas.

6 5.4. Aquaculture activities, ~~which that~~ would have a significant adverse impact on natural, dynamic
7 shoreline processes or ~~which that~~ would result in a net loss of shoreline ecological functions,
8 shall be prohibited.

9 6. ~~Aquaculture uses and facilities shall be located at least 600 feet from any national wildlife refuge~~
10 ~~lands, except that:~~

- 11 i. ~~Projects involving substantial substrate modification and/or fish net pens, if authorized,~~
12 ~~shall be located 1,500 feet or more from such areas.~~
- 13 ii. ~~Lesser distances may be authorized by permit if it is demonstrated by the~~
14 ~~applicant/proponent that the wildlife resource will be protected and if the change is~~
15 ~~supported by the WDFW, the Lummi Nation and/or Nooksack Tribe.~~
- 16 iii. ~~Greater distances may be required if supported by the reviewing resource agencies and/or~~
17 ~~where there is sound evidence demonstrating that a greater distance is required.~~

18 7.5. Unless otherwise provided in the shoreline permit issued by the County, repeated introduction
19 of an approved organism in the same location shall require approval by the County only at the
20 time the initial aquaculture use permit is issued. Introduction, for purposes of this section, shall
21 mean the placing of any aquatic organism in any area within the waters of Whatcom County
22 regardless of whether it is a native or resident organism within the county and regardless of
23 whether it is being transferred from within or without the waters of Whatcom County.

24 8.6. The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be
25 addressed through direct coordination between the applicant/proponent and the affected
26 tribe(s) through the permit review process.

27 B. Site Design and Operation.

- 28 1. Aquaculture ~~practices~~ shall be designed to minimize use of artificial substances and shall use
29 chemical compounds that are least persistent and have the least impact on plants and animals.
- 30 2. Aquaculture structures and equipment shall be of sound construction and shall be so
31 maintained. Abandoned or unsafe structures and/or equipment shall be removed or repaired
32 promptly by the owner, including when a business ceases operations. Where any structure
33 might constitute a potential hazard to the public in the future, the County shall require the
34 posting of a bond commensurate with the cost of removal or repair. The County may abate an
35 abandoned or unsafe structure, following notice to the owner, if the owner fails to respond in
36 30 days and may impose a lien on the related shoreline property or other assets in an amount
37 equal to the cost of the abatement. Bonding requirements shall not duplicate requirements of
38 other agencies.
- 39 3. All floating and submerged aquaculture structures and facilities in navigable waters shall be
40 marked in accordance with U.S. Coast Guard requirements.

Comment [AP139]: Removed, since these rules are identified in Ecology's guidance as an "obsolete net pen recommendation."

Local governments should use caution relying on other recommendations of the 1986 interim net pen guidelines and related environmental impact statement (Washington Department of Fisheries, 1990). The interim guidelines document is largely out of date. Ecology has reviewed the original rationale for the 1986 guidelines and found many recommendations are obsolete, unnecessary or inadequate given today's operations (Appendix 4).

4. Predator control shall not involve the killing or harassment of birds or mammals. Approved controls include, but are not limited to, double netting for seals, overhead netting for birds, and three-foot-high fencing or netting for otters. The use of other nonlethal, non-abusive predator control measures shall be contingent upon receipt of written approval from the National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service, as required.
5. Aquaculture wastes shall be disposed of in a manner that will ensure strict compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (Chapter 90.48 RCW). No garbage, wastes, or debris shall be allowed to accumulate at the site of any aquaculture operation.
6. No processing of any aquaculture product, except for the sorting or culling of the cultured organisms and the washing or removal of surface materials or organisms after harvest, shall occur in or over the water unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be subject to the policies of the Whatcom County Comprehensive Plan Chapter 11 (Shorelines) and regulations of WCC ~~23.40.100~~ 23.40.120 (Industrial and Port Development), in addition to the regulations in this section.
7. For aquaculture projects using over-water structures, storage of necessary tools and apparatus waterward of the ordinary high water mark shall be limited to containers of not more than three feet in height, as measured from the surface of the raft or dock; provided, that in locations where the visual impact of the proposed aquaculture structures will be minimal, the County may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant/proponent. Materials ~~which that~~ are not necessary for the immediate and regular operation of the facility shall not be stored waterward of the ordinary high water mark.
8. The County shall reserve the right to require aquaculture operations to carry liability insurance in an amount commensurate with the risk of injury or damage to any person or property as a result of the project. Insurance requirements shall not be required to duplicate requirements of other agencies.
9. Where aquaculture activities are authorized to use ~~public~~ County facilities, such as boat launches or docks, the County shall reserve the right to require the applicant/proponent to pay a portion of the cost of maintenance and any required improvements commensurate with the use of such facilities.

C. Additional Standards for Net Pens.

1. Fish net pens and rafts shall meet the following criteria in addition to the other applicable regulations of this section:
 - a. Fish net pens shall meet, at a minimum, state-approved administrative guidelines for the management of net pen cultures. In the event there is a conflict in requirements, the more restrictive requirement shall prevail.

- b. Fish net pens shall not occupy more than two surface acres of water area, excluding booming and anchoring requirements. Anchors that minimize disturbance to substrate, such as helical anchors, shall be employed. Such operations shall not use chemicals or antibiotics.
- c. Aquaculture proposals that include net pens or rafts shall not be located closer than one nautical mile to any other aquaculture facility that includes net pens or rafts; provided, that a lesser distance may be authorized if the applicant/proponent can demonstrate that the proposal will be consistent with the environmental and aesthetic policies and objectives of the Whatcom County Comprehensive Plan Chapter 11 (Shorelines). If a lesser distance is requested, the burden of proof shall be on the applicant/proponent to demonstrate that the cumulative impacts of existing and proposed operations would not be contrary to the policies of the Comprehensive Plan and regulations of this program.
- d. Net cleaning activities shall be conducted on a frequent enough basis so as not to violate state water quality standards. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing.
- e. In the event of a significant fish kill at the site of a net pen facility, the fin fish aquaculture operator shall submit a timely report to the Whatcom County Health Department, Environmental Health division, and the Whatcom County Planning and Development Services Department stating the cause of death and shall detail remedial action(s) to be implemented to prevent reoccurrence.

2. ~~Commercial salmon net pen facilities shall not be located in Whatcom County waters, except for limited nonprofit penned cultivation of wild salmon stocks during a limited portion of their lifecycle to enhance restoration of native stocks when such activities involve minimal supplemental feeding and no use of chemicals or antibiotics.~~ shall not be considered commercial salmon net pen facilities and may be permitted.

Comment [AP140]: This prohibition is already covered by the Use Table, so it has been removed from the text here. The language for the exception to the prohibition remains.

D. Additional Standards for Commercial Geoduck Aquaculture.

1. Commercial geoduck aquaculture shall only be allowed where sediments, topography, land, and water access support geoduck aquaculture operations without significant clearing or grading.
2. Shoreline conditional use permits are required for new commercial geoduck aquaculture and existing aquaculture being converted to commercial geoduck aquaculture. However, ~~shoreline conditional use permits must take into account that commercial geoduck operators have a right to harvest geoduck once planted~~ and all subsequent cycles of planting and harvest shall not require a new shoreline conditional use permit.
3. A substantial development permit is not required for the planting, growing, and harvesting of farm-raised geoduck clams unless a specific project or practice causes substantial interference with normal public use of the surface waters.
4. A single shoreline conditional use permit application may be submitted for multiple sites within an inlet, bay, or other defined feature, provided the sites are all under control of the same applicant and under the County's shoreline permitting jurisdiction.

Comment [AP141]: Updated per Periodic Review Checklist, Item 2011.b, and Scoping Document, Item #1f.

Comment [AP142]: Revised language for clarity.

1 | E. Additional Standards for Experimental Aquaculture.

- 2 | 1. If uncertainty exists regarding potential impacts of a proposed aquaculture activity, and for all
3 | experimental aquaculture activities, baseline and periodic operational monitoring by a County-
4 | approved consultant (unless otherwise provided for) may be required, at the
5 | applicant's/proponent's expense, and shall continue until adequate information is available to
6 | determine the success of the project and/or the magnitude of any probable significant adverse
7 | environmental impacts. Permits for such activities shall include specific performance measures
8 | and provisions for adjustment or termination of the project at any time if monitoring indicates
9 | significant adverse environmental impacts that cannot be adequately mitigated.
- 10 | 2. Aquaculture developments, not including net pens, approved on an experimental basis shall not
11 | exceed five acres in area (except land-based projects and anchorage for floating systems) and
12 | three years in duration; provided, that the County may issue a new permit to continue an
13 | experimental project as many times as is deemed ~~necessary and~~ appropriate.
- 14 | 3. ~~New~~ Aquatic species that are not previously cultivated in Washington State shall not be
15 | introduced into Whatcom County salt ~~waters~~ or freshwaters without prior written approval of
16 | the Director of the Washington State Department of Fish and Wildlife and the Director of the
17 | Washington Department of Health. In saltwaters, the County shall not issue permits for projects
18 | that include the introduction of such organisms until it has also received written comment from
19 | the Marine Resources Committee, the Lummi Nation, and the Nooksack Tribe; provided, that
20 | such comment is received in a timely manner. This regulation does not apply to Pacific, Olympia,
21 | Kumamoto, Belon, or Virginica oysters; Manila, Butter, or Littleneck clams; or geoduck clams.

22 | B.F. Supplemental Application Requirements – General Aquaculture.

- 23 | 1. In addition to the minimum application requirements specified in WCC Title 22 (Land Use and
24 | Development), Applications for aquaculture use or development shall include in their
25 | applications all information necessary to conduct a thorough evaluation of the proposed
26 | aquaculture activity, including but not limited to the following:
 - 27 | a. A site plan map including:
 - 28 | i. The perimeter of the proposed aquaculture operations area.
 - 29 | ii. Existing bathymetry depths based on mean lower low water (MLLW datum).
 - 30 | iii. Adjacent upland use, vegetation, presence of structures, docks, bulkheads and other
31 | modifications. If there are shore stabilization structures, provide the beach elevation at
32 | the toe of the structure and the top of the structure (MLLW datum).
 - 33 | iv. Areas where specific substrate modification will take place or structures will be
34 | constructed or installed.
 - 35 | v. Access provisions for barges or track equipment.
 - 36 | vi. Location of storage or processing structures or facilities.
 - 37 | b. A baseline description of existing conditions, including best available information on:
 - 38 | i. Water quality.
 - 39 | ii. Tidal variations.
 - 40 | iii. Prevailing storm wind conditions.

Comment [CES143]: All general application requirements have been moved into one general section. Subsections have items specific to that to Pic.

- iv. Current flows.
 - v. Flushing rates.
 - vi. Littoral drift.
 - vii. Areas of differing substrate composition.
 - viii. Areas of aquatic, intertidal, and upland vegetation complexes. A vegetation habitat survey must be conducted. WDFW must be contacted prior to the survey to ensure it is conducted according to their most current eelgrass/macroalgae survey guidelines.
 - ix. Existing shoreline or water uses and structures.
 - x. Aquatic and benthic organisms. Information must include an assessment of aquatic species, including forage fish, and spawning and other lifecycle use of, or adjacent to, the site.
 - ~~xi. A vegetation habitat survey must be conducted. The WDFW must be contacted prior to the survey to ensure it is conducted according to the most current WDFW eelgrass/macroalgae survey guidelines.~~
 - ~~xii. Assessment of aquatic species, including forage fish, and spawning and other lifecycle use of, or adjacent to, the site.~~
- Further baseline studies including surveys and sampling may be required depending upon the adequacy of available information, existing conditions, and the nature of the proposal.
- c. A detailed description of the project proposal including:
 - i. Species to be reared.
 - ii. Substrate modification or vegetation removal.
 - iii. Planting, harvest and processing location, method and timing, including work proposal and construction techniques proposed (list all hand tools, machinery used (such as track hoes, trucks or barges), type of work, frequency, and duration.
 - d. Anticipated use of any feed, pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals, and an assessment of predicted impacts. Approvals for the use of ~~No such materials shall be used until approval is obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, and the Washington State Departments of Ecology, Fish and Wildlife, and Agriculture, as required, and proof thereof is submitted to the County. Compounds with the least persistence shall be used.~~ An annual report of antibiotic use shall be submitted to the Whatcom County Department of Health, Environmental Health division. The report shall indicate the type and amount of antibiotics used during the previous calendar year. Actual usage data for all chemicals and antibiotics shall be maintained for review by County inspectors at all times.
 - e. Number of employees/workers necessary for the project, including average and peak employment.
 - f. Methods of waste disposal and predator control.
 - g. Methods to address pollutant loading, including biological oxygen demand (BOD).

- h. Assessment of potential impacts on shoreline ecological functions and processes addressing the baseline conditions identified, including but not limited to indirect and cumulative effects.
- i. A visual impact analysis ~~For floating culture facilities or other structures, if required by the County may require a visual impact analysis.~~ (See the Department of Ecology's "Aquaculture Siting Study" 1986 for general approach.) Depending on the size and complexity of the proposal, such analysis may be prepared by the applicant/proponent, without professional assistance; provided, that it includes an adequate assessment of impacts.
- j. Information demonstrating that the site has natural potential for the type(s) of aquaculture proposed, due to necessary substrate or other conditions, as well as water quality suitable for the type(s) of aquaculture proposed.
- k. Information demonstrating that the proposed aquaculture activities will not result in a net loss of shoreline ecological functions or processes or adversely affect habitat conservation areas ~~as defined by~~ (see WCC Chapter 16.16 (Critical Areas)).
- l. Information demonstrating that the proposed aquaculture activities will not substantially and materially conflict with areas devoted to established uses of the aquatic environment. Such uses include but are not limited to navigation, moorage, sport or commercial fishing, log rafting, underwater utilities, and scientific research. Existing public opportunities for gathering wild stock aquatic resources on public lands shall be addressed in any application for aquaculture on public tidelands or bedlands. Compensation for loss of public access to public aquatic resources may be required.
- m. Other pertinent information deemed necessary by the ~~administrator~~ Director.
2. Applications for aquaculture activities must demonstrate that the proposed activity will be compatible with surrounding existing and planned uses.
- a. Aquaculture activities shall comply with all applicable noise, air, and water quality standards. All projects shall be designed, operated and maintained to minimize odor and noise.
- b. ~~Aquaculture activities shall be restricted to reasonable hours and/or days of operation when necessary to minimize substantial, adverse impacts from noise, light, and/or glare on nearby residents, other sensitive uses, or critical habitat.~~
- c. ~~Aquaculture facilities shall not significantly impact introduce incompatible visual elements or substantially degrade the aesthetic qualities of the shoreline. Aquaculture structures and equipment, except navigation aids, shall be designed, operated and maintained to blend into their surroundings through the use of appropriate colors and materials.~~

G. Supplemental Application Requirements – Commercial Geoduck Aquaculture.

1. In addition to the general application requirements of WCC Title 22 (Land Use and Development), subsection F, above, and chapter 173-27 WAC, applications for new geoduck aquaculture use or development shall include all information necessary to conduct a thorough evaluation of the proposed activity, including but not limited to the following:

Comment [CES144]: Amended based on public comment (TSF07)

- a. A narrative description and timeline for all anticipated geoduck planting and harvesting activities if not already contained in the federal or state permit application or comparable information mentioned above;
- b. A baseline ecological survey of the proposed site to allow consideration of the ecological effects if not already contained in the federal or state permit application or comparable information mentioned above; and
- c. Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.

Comment [AP145]: Updated per Periodic Review Checklist, Item 2011.b, and Scoping Document, Item #1f.

H. Regulations for Specific Shoreline Environment Designations.

1. In the Urban Resort, Shoreline Residential, and Rural shoreline environments, proposals containing net pen facilities shall be located no closer than 1,500 feet from the OHWM of this environment, unless a specific lesser distance is determined to be appropriate based upon a visual impact analysis. Other types of floating culture facilities may be located within 1,500 feet of the OHWM but in such cases a visual analysis shall be mandatory.
- 4-2. In the Natural shoreline environment, aquaculture activities that do not require structures, facilities, or mechanized harvest practices and that will not result in the alteration of natural systems or features are permitted.

C. ~~Shoreline Area Regulations.~~

- ~~A. Urban. Aquaculture activities are permitted subject to policies and regulations of this program.~~
- ~~B. Urban Resort. Aquaculture activities are permitted subject to policies and regulations of this program. Proposals containing net pen facilities shall be located no closer than 1,500 feet from the OHWM of this environment, unless a specific lesser distance is determined to be appropriate based upon a visual impact analysis. Other types of floating culture facilities may be located within 1,500 feet of the OHWM but in such cases a visual analysis shall be mandatory.~~
- ~~C. Urban Conservancy. Aquaculture activities are permitted subject to policies and regulations of this program.~~
- ~~D. Shoreline Residential. Aquaculture activities are permitted subject to policies and regulations of this program. Proposals containing net pen facilities shall be located no closer than 1,500 feet from the OHWM of this environment, unless a specific lesser distance is determined to be appropriate based upon a visual impact analysis. Other types of floating culture facilities may be located within 1,500 feet of the OHWM but in such cases a visual analysis shall be mandatory.~~
- ~~E. Rural. Aquaculture activities are permitted subject to policies and regulations of this program. Proposals containing net pen facilities shall be located no closer than 1,500 feet from the OHWM of this environment, unless a specific lesser distance is determined to be appropriate based upon a visual impact analysis.~~
- ~~F. Resource. Aquaculture activities are permitted subject to policies and regulations of this program.~~
- ~~G. Conservancy. Aquaculture activities are permitted subject to policies and regulations of this program.~~

Comment [AP146]: Reorganized and revised for clarity.

Comment [CES147]: The below are addressed in the use table or above now.

H. ~~Natural Aquaculture activities that do not require structures, facilities or mechanized harvest practices and that will not result in the alteration of natural systems or features are permitted subject to policies and regulations of this program.~~

23.4100.050060 Boating Facilities—Marinas and Launch Ramps.

A. ~~Policies.~~

A. ~~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.~~

B. ~~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.~~

C. ~~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.~~

D. ~~Boating facilities should provide physical and visual public shoreline access and provide for multiple use, including water related use, to the extent compatible with shoreline ecological functions and processes and adjacent shoreline use.~~

E. ~~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.~~

F. ~~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, eelgrass beds, 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.~~

G. ~~Boating facilities should be located and designed to avoid adverse effects upon coastal, riverine, and nearshore processes such as erosion, littoral or riparian transport, and accretion, and should, where feasible, enhance degraded, scarce, and/or valuable shore features including accretion shoreforms.~~

- H. Launch ramps are preferred over marinas on accretion shores because associated impacts are often reversible and such structures will not normally interfere with littoral drift and accretion unless offshore defense structures or dredging are also required.
- I. Nonregulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged during the design, development and operation of boating facilities. Nonregulatory methods may include public facility and resource planning, education, voluntary protection and enhancement projects, or incentive programs.
- J. Boating facilities should be located, designed and operated so that other appropriate water dependent uses are not adversely affected.
- K. Location and design of boating facilities should not unduly obstruct navigable waters and should avoid adverse effects to recreational opportunities such as fishing, shellfish gathering, pleasure boating, commercial aquaculture, swimming, beach walking, picnicking and shoreline viewing.
- L. Boating facilities should be located, designed, constructed and maintained to avoid adverse proximity impacts such as noise, light and glare; aesthetic impacts to adjacent land uses; and impacts to public visual access to the shoreline.

Regulations:

A. Marinas and Launch Ramps – General.

1. Boating facilities, including marinas and launch ramp development, in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC. This section applies to marinas and public boat launches, though the moorage structures of such facilities shall also comply with WCC 23.40.150 (Moorage Structures). For Docks, moorage structures serving four or fewer single family residences users, only are subject to the policies and regulations of WCC 23.40.150-100.090, (Moorage Moorage Structures) applies — Docks, piers, and mooring buoys.
2. Accessory uses shall be limited to those that are water-dependent, related to boating, and necessary for facility operation, or which provide physical or visual shoreline access to substantial numbers of the general public. Accessory uses shall be consistent in scale and intensity with the marina and/or launch ramp and surrounding uses.
3. All developments shall provide boater education addressing boater impacts on water quality and other shoreline resources, boater safety, and requirements for boater use of sewage pump-outs.

B. Marinas – Location Standards.

1. When marina sites are considered, sufficient evidence must be presented to show there is a regional demand and existing marinas are inadequate and cannot be expanded to meet regional demand.
2. Marinas shall be sited to prevent any restrictions in the use of commercial and recreational shellfish beds or commercial aquaculture operations. The specific distance shall be determined in conjunction with the Washington State Department of Health, the Washington State

Comment [CES148]: Moved from below

Department of Ecology, and other agencies with expertise. Criteria for determining the specific distance may include:

- a. The size and depth of the waterbody;
- b. Tidal flushing action in the project area;
- c. Size of the marina and projected intensity of use;
- d. Whether fuel will be handled or stored;
- e. Location of a sewer hook-up; and
- f. Expected or planned changes in adjacent land uses that could result in additional water quality impacts or sanitary treatment requirements.

3. Marinas shall be allowed only on stable shoreline areas where water depth is adequate to eliminate or minimize the need for channel dredging (for construction or maintenance), soil disposal, filling, beach enhancement, and other harbor and channel maintenance activities.
4. Marinas shall be located only in areas where there is adequate water mixing and flushing and shall be designed so as not to reduce or negatively influence flushing characteristics.
5. Fixed breakwaters are discouraged.
6. Marinas shall be clearly separated from beaches commonly used for swimming and shall provide signage and protection measures to ensure the safety of swimmers.
7. Marinas shall not be located at or along:
 - a. Significant littoral drift cells, including resource material areas, such as feeder bluffs and accretion beaches, barrier beaches, points, sand spits and hooks; or
 - b. Wetlands, marshes, bogs, swamps and lagoons; or
 - c. Mud flats and salt marshes; or
 - d. Fish and shellfish spawning and rearing areas.
8. Solid structures shall not be permitted to extend without openings from the shore to zero tide level (mean lower low water, or MLLW), but shall stop short to allow sufficient shallow fringe water for fish passage.

C. Marinas – Site Design.

1. Proposals for marinas shall include public launch facilities unless the applicant can demonstrate that providing such facilities is not feasible.
2. Marinas shall be designed, constructed, and maintained to:
 - a. Provide thorough flushing of all enclosed water areas and shall not restrict the movement of aquatic life requiring shallow water;
 - b. Minimize interference with geo-hydraulic processes and disruption of existing shore forms;
 - c. Be aesthetically compatible with existing shoreline features and uses;
 - d. Avoid adverse proximity impacts such as noise, light, and glare;
 - e. Include vegetative screening for parking, and upland storage areas and facilities consistent with landscaping standards prescribed in WCC 20.80.300, et seq. (Landscaping); and,
 - f. Include public restrooms, accessory parking, or other recreational uses according to the scale of the facility.

Comment [CES149]: Moved from below

3. Short-term loading/unloading areas and hand-launch storage areas may be located at ramps or near berthing areas and should be constructed of pervious material.
4. Public access, both visual and physical; such as viewpoints or walkways, shall be an integral part of all marina design and development commensurate with the particular proposal and must meet the standards of WCC 23.30.0760 (Public Access).
5. Innovative construction techniques and construction methods of foreshore marinas may be allowed when demonstrated to the satisfaction of the Director that the design will prevent degradation of fish migration, critical saltwater habitat, and/or shellfish resources.

D. Operations and Management.

1. The discharge of sewage and/or toxic material from boats and/or shore installations is prohibited. The responsibility for the adequate and approved collection and disposal of marina-originated sewage, solid waste, and petroleum waste is that of the marina operator. An emergency spill kit and use instructions shall be provided for tenants in an easy-to-access area and be accessible twenty-four (24) hours a day.
2. Commercial fish or shellfish processing and the discharge or discarding of unused bait, scrapfish, or viscera shall be prohibited.
3. Swimming shall be prohibited within marina facilities unless the swimming area is adequately separated, protected, and posted.
4. If dredging at marina entrances changes the littoral drift processes and adversely affects adjacent shores, the marina operator shall be required to periodically replenish these shores with the appropriate quantity and quality of aggregate as determined by a geohydraulic study, paid for by the operator or owner and completed to the satisfaction of the Director.
5. Temporary vacant moorage spaces shall be made available for "transient moorage" (less than two-week stay) when at least one of the following applies:
 - a. The marina is owned, operated, or franchised by a governmental agency for use by the public;
 - b. The marina provides more than three thousand (3,000) lineal feet of moorage; or
 - c. The marina is part of a mixed-use development which includes restaurants or other water-enjoyment uses.
6. Marina operators shall execute a lease, contract, or deed that establishes permission to use a slip for a stated period of time and that establishes conditions for use of the slip, including the requirement that all boats meet applicable sanitation regulations.
7. Marinas shall meet the following before occupancy:
 - a. Marinas that dispense fuel shall have adequate facilities and post procedures for fuel handling and storage to prevent/minimize accidental spillage.
 - b. Marinas shall have facilities, equipment, such as emergency spill kits, and post procedures for containment, recovery, and mitigation of spilled petroleum, sewage, and toxic products.
 - c. Marina operators shall post signs where they are readily visible to all marina users describing regulations:
 - i. Pertaining to handling and disposal of waste, wastewater, toxic materials, and recycling;

Comment [CES150]: Moved from below

- ii. Prohibiting the discharge of marine toilets (i.e., no untreated sewage discharge);
- iii. Prohibiting the disposal of fish and shellfish cleaning wastes; and
- iv. Describing best management practices (BMPs) for boat maintenance and repairs on site.
- d. Garbage or litter receptacles shall be provided and maintained by the marina operator at several locations convenient to users in sufficient numbers to properly store all solid waste generated on site.
- e. Marina docks shall be equipped with adequate lifesaving equipment, such as:
 - i. Life rings, hooks, ropes and ladders, or equivalent, on the end of fingers; and/or
 - ii. One ladder (per side) either every one hundred (100) linear feet of the dock, or every six (6) slips whichever is greater. This regulation does not apply to a float which is less than one hundred (100) feet from a shoreline; or
 - iii. At least one ladder to serve a float with six (6) or more slips and is one hundred (100) linear feet in length or less.

E. Additional Standards for Boat Launches.

1. Boat launches are prohibited in:
 - a. Significant littoral drift cells, including resource material areas such as feeder bluffs and accretion beaches, points, spits and hooks;
 - b. Wetlands, marshes, bogs, swamps, and lagoons;
 - c. Mud flats and salt marshes; and
 - d. Fish spawning and rearing areas and commercial or recreational shellfish areas.
2. Launch ramps shall be:
 - a. Located on stable shorelines where water depths are adequate to eliminate or minimize the need for:
 - i. Offshore or foreshore channel construction dredging; or
 - ii. Maintenance dredging; or
 - iii. Spoil disposal; or
 - iv. Filling; or
 - v. Beach enhancement; or
 - vi. Other harbor and channel maintenance activities.
 - b. Located in areas where there is adequate water mixing and flushing.
 - c. Designed so as not to negatively influence flushing characteristics.
3. Innovative or hinged boat launches may be permitted on marine accretion shoreforms, provided that continual grading is not required. When grading is permitted it must not adversely affect ecological functions and ecosystem-wide processes. Accessory facilities shall be located out of critical areas.
4. Boat launches may be allowed on stable banks where current deflectors or other stabilization structures will not be necessary.
5. Boat launches shall not be permitted where the upland within twenty-five (25) feet of the OHWM has a slope that exceeds twenty-five percent (25%) grade and/or where substantial cutting, grading, filing, or defense works is necessary.

Comment [CES151]: Moved from below

6. Boat launches, minor accessory buildings, and haul-out facilities shall be designed to be in character and scale with the surrounding shoreline.
7. Boat launches shall be built from flexible, hinge-segmented pads that can adapt to changes in beach profiles, unless a solid structure is demonstrated to be more appropriate for the intended level of use.
8. Boat launches shall be placed and kept near flush with the foreshore slope to minimize the interruption of geo-hydraulic processes and impacts to critical saltwater habitats.
9. Marine rails for boat launching shall be located the minimum distance necessary above existing grade to minimize impact on littoral drift and navigation along the shoreline.
10. Boat launch facilities shall be clearly separated from beaches commonly used for swimming and shall provide signage and protection measures to ensure the safety of swimmers.

F. Additional Standards for Live-Aboard Vessels.

1. Live-aboard vessels are only allowed in marinas and only as follows:
 - a. Vessels must be for residential use only;
 - b. Slips occupied by live-aboard vessels shall not exceed 10 percent of the total slips in the marina;
 - c. Vessels shall be owner-occupied; and
 - d. Vessels must be operational for cruising.
2. Live-aboard vessels must comply with all marine regulations, policies, and procedures of the U.S. Coast Guard, and any other federal and state government agencies that pertain to health, safety and/or environmental protection. Proof of seaworthiness of the vessel and the adequacy of the mooring arrangement must be provided and laws governing all the citizens of Whatcom County must be obeyed.

A.G. Additional Standards for Boat Storage.

1. Marinas shall provide dry upland boat storage with a launch mechanism to protect shoreline ecological functions and processes, efficiently use shoreline space, and minimize consumption of public water surface area unless:
 - a. No suitable upland locations exist for such facilities; or
 - b. It can be demonstrated that wet moorage would result in fewer impacts to ecological functions and processes; or
 - c. It can be demonstrated that wet moorage would enhance public use of the shoreline.
2. Dry moorage and other storage areas shall be located away from the shoreline and be landscaped pursuant to WCC 20.80.300, et seq. (Landscaping) with native vegetation to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

B.H. Additional Standards for Parking and Vehicle Access.

1. Parking facilities shall meet County zoning design and location standards; provided, that at a minimum, one vehicle space shall be maintained for every four moorage spaces and for every 400 square feet of interior floor space devoted to accessory retail sales or service use. Bicycle parking shall be provided commensurate with the anticipated demand.

Comment [AP152]: Added per Scoping Document, Item #17].

From WAC 332-30-171:

(b) Upon the effective date of this rule, the ten percent limit can be changed by local government, through amendments to the local shoreline master program and/or issuance of a shoreline substantial development conditional use permit, if all of the following conditions are met:

- (i) Methods to handle the upland disposal and best management practices for the increased waste associated with residential use are expressly addressed and required; and*
- (ii) Specific locations for residential use slips do not adversely impact habitat or interfere with water-dependent uses.*

The County can opt to set a different limit, though 10 percent is in line with DNR regulations.

Per the Port of Bellingham Harbor Rules, Regulations, and Rates Handbook – 2019, at Squalicum Harbor there are currently 100 designated Live-aboard licenses and 50 Live-aboard licenses at Blaine Harbor. However, it is unclear what percentage of slips these numbers represent. May want to confirm that a proposed regulation here will not conflict with the Port's current regulations.

Blaine Harbor – 629 slips total (~8% live-aboard)
Squalicum Harbor – 1,400+ slips total (~7% live-aboard)

As such, the proposed provision should not conflict with the Port's regulations.

2. ~~Public or quasi-public~~ Launch ramps shall provide trailer spaces, at least 10 feet by 40 feet, commensurate with projected demand.
3. Parking ~~that does not require a shoreline location in order to carry out its functions~~ shall:
 - a. Be sited away from the land/water interface unless no feasible alternative location exists outside of the shoreline;
 - b. Be planted or landscaped pursuant to WCC 20.80.300, et seq. (Landscaping) preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas; and
 - c. Observe critical area buffers in Chapter 16.16 WCC; and
 - d. Be designed to incorporate low impact development practices, such as pervious surfaces, and bioswales, ~~to the extent feasible~~ pursuant to WCC 20.80.630, et seq. (Stormwater and drainage).

Comment [AP153]: Removed since there's already have a section that says the CAO applies in the shoreline jurisdiction.

C.I. Supplemental Application Requirements. In addition to the general application requirements of WCC Title 22 (Land Use and Development), applications for marinas or launch ramps shall include all information necessary to conduct a thorough evaluation of the proposed activity, including but not limited to the following:

1. ~~Applications for new boating facilities, including marinas and launch ramps, shall be approved only if enhanced public access to public waters outweighs the potential adverse impacts of the use. Applications shall b~~ Provide a level of service needs analysis that documents the market demand for such facilities, including:
 - a. The total amount of moorage proposed;
 - b. The proposed supply, as compared to the existing supply within the service range of the proposed facility, including vacancies or waiting lists at existing facilities;
 - c. The expected service population and boat ownership characteristics of the population;
 - d. Existing approved facilities or pending applications within the service area of the proposed new facility.
2. ~~New marinas with in water moorage and expansion of in water moorage facilities in existing marinas shall be approved only when:~~
3. ~~Opportunities for upland storage sufficient to meet the demand for moorage are not available on site; and~~
4. ~~Expansion of upland storage at other existing marinas is not feasible.~~
5. ~~2. Applications shall d~~ Document that a preferred method of providing moorage facilities is not feasible. Review of proposals involving public aquatic lands may be required to include an analysis of other alternative sites not controlled by the applicant/proponent.
6. ~~3. Applications for launch ramps shall Provide a critical area assessment report pursuant to WCC 16.16 (Critical Areas), including contain:~~
7. ~~A habitat survey.~~
8. ~~4. A slope bathymetry map.~~
9. ~~5. Evaluation of effects on littoral drift.~~

Comment [CES154]: Moved, as this is an approval criterion, not an application requirement.

Comment [DN155]: Moved to application requirements

10.6. ~~Applications for marinas, launch ramps, and accessory uses shall include~~ Provide an assessment of existing water-dependent uses in the vicinity including, but not limited to, navigation, fishing, shellfish harvest, pleasure boating, swimming, beach walking, picnicking, and shoreline viewing, and ~~shall~~ document potential impacts and mitigating measures. Impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts may be imposed.

11.7. ~~A Marina and launch ramp proposals may be required to prepare a~~ Provide a visual assessment of views from surrounding residential properties, public viewpoints, and the view of the shore from the water surface, ~~if required~~.

D. ~~Tabular Regulations—Setbacks, Height and Open Space for Marinas and Launch Ramp Development. Minimum required setbacks from shorelines and side property lines, maximum height limits, and open space requirements are contained in WCC 23.90.130, Shoreline bulk provisions—Buffers, setbacks, height, open space, and impervious surface coverage.~~

J. ~~Regulations for Specific Shoreline Environment Designations.~~

1. ~~In the Natural shoreline area environment, m~~Marinas or launch ramps are prohibited; except that primitive ramps to facilitate hand launching of small craft are permitted if materials and design are compatible with the site.

2. ~~In the Aquatic shoreline area environment, covered over-water structures may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water.~~

2. ~~Site Design and Operation.~~

a. ~~Marinas or launch ramps shall not be permitted on the following marine shores unless it can be demonstrated that interference with littoral drift and/or degradation or loss of shoreline ecological functions and processes, especially those vital to maintenance of nearshore habitat, will not occur. Such areas include:~~

b. ~~Feeder bluffs exceptional.~~

c. ~~High energy input driftways.~~

d. ~~Marinas or launch ramps shall not be permitted within the following marine shoreline habitats because of their scarcity, biological productivity, and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this program:~~

e. ~~Marshes, estuaries and other wetlands;~~

f. ~~Tidal pools on rock shores;~~

g. ~~Kelp beds, eelgrass beds, spawning and holding areas for forage fish (such as herring, surf smelt and sand lance);~~

h. ~~Subsistence, commercial and recreational shellfish beds; and~~

i. ~~Other critical saltwater habitats.~~

j. ~~Marinas or launch ramps shall not be permitted on the following marine accretion shoreforms unless it can be demonstrated that no other alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the~~

Comment [AP156]: Carried over from removed 'Shoreline Area Regulations.'

- proposal is otherwise consistent with this program. Hoists are preferred over dredged marinas or launch ramps at such locations:
- k. Open points;
 - l. Spits and hooks;
 - m. Tombolos;
 - n. Open bay barrier beaches;
 - o. Accretional pocket beaches.
- b. Foreshore marinas or launch ramps may be permitted on low erosion rate marine feeder bluffs or on low energy input erosional driftways if the proposal is otherwise consistent with this program. Foreshore marinas or launch ramps are prohibited on accretional lake shores because these natural features are uncommon on lakes and are highly valuable for recreation.
- c. Backshore marinas and launch ramps may be permitted on closed accretional points, closed accretional bluff and bay barrier beaches, or low energy input driftways, except where wetlands are present or it can be demonstrated that a foreshore location would result in fewer impacts to shoreline ecological functions and processes, natural features and uses.
- d. Marinas or launch ramps may be permitted on low bank lake shores where backshore wetlands are protected, or where wetlands are not present, if most of the beach and backshore are preserved in a natural condition for public or quasi-public recreation.
- e. Marinas shall not be permitted in low gradient, broad meander stream channel reaches, except where located on outer, concave bends or straight, moderately eroding or stable banks, so that dredging and/or shore protection will not be necessary.
- f. Marina basins or structures shall not be permitted on river point bars or other accretional beaches. A limited number of launch ramps may be permitted on accretion shoreforms; provided, that any necessary grading will not adversely affect shoreline ecological functions or fluvial processes, and any accessory facilities are located out of the floodway.
- g. Marinas shall not be permitted in areas of active channel migration, where channel dredging will be required, if a flood hazard will be created, or if valuable shoreline ecological functions and processes will be degraded.
- h. Launch ramps may be located immediately downstream of accretion shoreforms, or on other non-erosional banks, where no or a minimum number of current deflectors will be necessary.
- i. Floating piers shall be required in rivers and streams unless it can be demonstrated that fixed piers will result in substantially less impact on geohydraulic processes and flood hazards can be minimized or mitigated.
- j. Where foreshore marinas are permitted:
- i. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions or processes or shore features.
 - ii. Solid structures shall not be permitted to extend without openings from the shore to zero tide level (mean lower low water, or MLLW), but shall stop short to allow sufficient shallow fringe water for fish passage.

- 1 k. Foreshore and backshore marinas shall be designed to allow the maximum possible circulation
2 and flushing of all enclosed water areas.
- 3 — New or expanding marinas with dredged entrances that adversely affect littoral drift to the
4 detriment of other shores and their users shall be required to periodically replenish such shores
5 with the requisite quantity and quality of aggregate as determined by professional coastal
6 geologic engineering studies.
- 7 l. All facilities shall be located and designed to avoid impediments to navigation and to avoid
8 depriving other properties of reasonable access to navigable waters. Review and approval by
9 the U.S. Coast Guard may be required as a condition of issuance of building or development
10 permits to assure compliance. All in-water structures shall be marked and lighted in compliance
11 with U.S. Coast Guard regulations.
- 12 m. Design and other standards for physical improvement of docks and piers are found in
13 WCC 23.100.090, Moorage — Docks, piers and mooring buoys.
- 14 E. Public Access.
- 15 — New launch ramps shall be approved only if they provide public access to public waters, which
16 are not adequately served by existing access facilities, or if use of existing facilities is
17 documented to exceed the designed capacity. Prior to providing ramps at a new location,
18 documentation shall be provided demonstrating that expansion of existing launch facilities
19 would not be adequate to meet demand.
- 20 a. Public access areas shall provide space and facilities for physical and/or visual access to water
21 bodies, including feasible types of public shore recreation.
- 22 b. Marinas and boat launches shall provide public access for as many water-dependent
23 recreational uses as possible, commensurate with the scale of the proposal. Features for such
24 access could include, but are not limited to, docks and piers, pedestrian bridges to offshore
25 structures, fishing platforms, artificial pocket beaches, and underwater diving and viewing
26 platforms.
- 27 3. Site Considerations.
- 28 a. Marinas, launch ramps, and accessory uses shall be designed so that lawfully existing or planned
29 public shoreline access is not unnecessarily blocked, obstructed nor made dangerous.
- 30 b. Public launch ramps and/or marina entrances shall not be located near beaches commonly used
31 for swimming, valuable fishing and shellfish harvest areas, or sea lanes used for commercial
32 navigation unless no alternative location exists, and mitigation is provided to minimize impacts
33 to such areas and protect the public health, safety and welfare.
- 34 c. Marinas and accessory uses shall be located only where adequate utility services are available,
35 or where they can be provided concurrent with the development.
- 36 d. Marinas, launch ramps, and accessory uses shall be located where water depths are adequate to
37 avoid the need for dredging and minimize potential loss of shoreline ecological functions or
38 processes.

e. Marinas, launch ramps, and accessory uses shall be located and designed with the minimum necessary shoreline stabilization to adequately protect facilities, users, and watercraft from floods, abnormally high tides, and/or destructive storms.

4. Boat Storage.

3. Marinas shall provide dry upland boat storage with a launch mechanism to protect shoreline ecological functions and processes, efficiently use shoreline space, and minimize consumption of public water surface area unless:

i. No suitable upland locations exist for such facilities; or

ii. It can be demonstrated that wet moorage would result in fewer impacts to ecological functions and processes; or

iii. It can be demonstrated that wet moorage would enhance public use of the shoreline.

4. Dry moorage and other storage areas shall be located away from the shoreline and be landscaped with native vegetation to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

— New covered moorage for boat storage is prohibited.

5. Covered over-water structures may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water.

5. Waste Disposal.

1. Marinas shall provide pump out, holding, and/or treatment facilities for sewage contained on boats or vessels.

2. Discharge of solid waste or sewage into a water body is prohibited. Marinas and boat launch ramps shall provide adequate restroom and sewage disposal facilities in compliance with applicable health regulations.

3. Garbage or litter receptacles shall be provided and maintained by the operator at several locations convenient to users.

4. Disposal or discarding of fish or shellfish cleaning wastes, scrap fish, viscera, or unused bait into water or in other than designated garbage receptacles is prohibited.

5. Marina operators shall post all regulations pertaining to handling, disposal, and reporting of waste, sewage, fuel, oil, or toxic materials where all users may easily read them.

1. Oil Product Handling, Spills, and Wastes. Fail-safe facilities and procedures for receiving, storing, dispensing, and disposing of oil or hazardous products, as well as a spill response plan for oil and other products, shall be required of new marinas and expansion or substantial alteration of existing marinas. Compliance with federal or state law may fulfill this requirement. Handling of fuels, chemicals or other toxic materials must be in compliance with all applicable federal and state water quality laws as well as health, safety and engineering requirements. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

6. Parking and Vehicle Access.

1. Parking facilities shall meet County zoning standards; provided, that at a minimum, one vehicle space shall be maintained for every four moorage spaces and for every 400 square feet of

- interior floor space devoted to accessory retail sales or service use. Bicycle parking shall be provided commensurate with the anticipated demand.
2. Public or quasi public launch ramps shall provide trailer spaces, at least 10 feet by 40 feet, commensurate with projected demand.
3. Parking that does not require a shoreline location in order to carry out its functions shall:
- e. Be sited away from the land/water interface unless no feasible alternative location exists outside of the shoreline;
 - f. Be planted or landscaped preferably with native vegetation, to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas;
 - g. Observe critical area buffers in Chapter 16.16 WCC; and
 - h. Be designed to incorporate low impact development practices, such as pervious surfaces, and bioswales, to the extent feasible.
- a. Connecting roads between marinas and public streets shall have all weather surfacing, and be satisfactory to the County Engineer in terms of width, safety, alignment, sight distance, grade and intersection controls.
7. Launch Ramp Design.
- a. Preferred ramp designs, in order of priority, are:
 - i. Open grid designs with minimum coverage of beach substrate.
 - ii. Seasonal ramps that can be removed and stored upland.
 - iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.
 - b. Ramps shall be placed and maintained near flush with the foreshore slope.
8. Accessory Uses.
- a. Accessory uses at marinas or launch ramps shall be limited to those water oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public. Accessory development includes, but is not limited to, parking, open air storage, waste storage and treatment, stormwater management facilities, utility, and upland transportation development.
 - b. Water oriented accessory uses reasonably related to marina operation may be located over water or at the water's edge by conditional use if an over water or water's edge location is essential to the operation of the use or if opportunities are provided for public access for a substantial number of persons.
- a. Application Requirements.
12. Applications for new boating facilities, including marinas and launch ramps, shall be approved only if enhanced public access to public waters outweighs the potential adverse impacts of the use. Applications shall be accompanied by supporting application materials that documents the market demand for such facilities, including:
- i. The total amount of moorage proposed;
 - ii. The proposed supply, as compared to the existing supply within the service range of the proposed facility, including vacancies or waiting lists at existing facilities;

- iii. ~~The expected service population and boat ownership characteristics of the population;~~
- iv. ~~Existing approved facilities or pending applications within the service area of the proposed new facility.~~
13. ~~New marinas with in-water moorage and expansion of in-water moorage facilities in existing marinas shall be approved only when:~~
14. ~~Opportunities for upland storage sufficient to meet the demand for moorage are not available on site; and~~
15. ~~Expansion of upland storage at other existing marinas is not feasible.~~
16. ~~Applications shall document that a preferred method of providing moorage facilities is not feasible. Review of proposals involving public aquatic lands may be required to include an analysis of other alternative sites not controlled by the applicant/proponent.~~
17. ~~Applications for launch ramps shall contain:~~
- (A) ~~A habitat survey.~~
- (B) ~~A slope bathymetry map.~~
- (C) ~~Evaluation of effects on littoral drift.~~
18. ~~Applications for marinas, launch ramps, and accessory uses shall include An assessment of existing water dependent uses in the vicinity including, but not limited to, navigation, fishing, shellfish harvest, pleasure boating, swimming, beach walking, picnicking and shoreline viewing and document potential impacts and mitigating measures. Impacts on these resources shall be considered in review of proposals and specific conditions to avoid or minimize impacts may be imposed.~~
19. ~~Marina and launch ramp proposals may be required to prepare a visual assessment of views from surrounding residential properties, public viewpoints and the view of the shore from the water surface.~~
9. ~~Tabular Regulations — Setbacks, Height and Open Space for Marinas and Launch Ramp Development. Minimum required setbacks from shorelines and side property lines, maximum height limits, and open space requirements are contained in WCC 23.90.130, Shoreline bulk provisions — Buffers, setbacks, height, open space, and impervious surface coverage.~~
- C. ~~Shoreline Area Regulations.~~
1. ~~Urban. Marinas and launch ramps are permitted subject to policies and regulations of this program.~~
2. ~~Urban Resort. Marinas and launch ramps are permitted subject to policies and regulations of this program.~~
3. ~~Urban Conservancy. Launch ramps are permitted subject to policies and regulations of this program. Marinas may be permitted as a conditional use.~~
4. ~~Shoreline Residential. Marinas and launch ramps are permitted subject to policies and regulations of this program.~~
5. ~~Rural. Marinas and launch ramps are permitted subject to policies and regulations of this program.~~

Comment [CES157]: Moved above and reorganized.

- ~~6. Resource. Marinas and launch ramps are permitted subject to policies and regulations of this program.~~
- ~~7. Conservancy. Launch ramps are permitted subject to policies and regulations of this program. Marinas may be permitted as a conditional use.~~
- ~~8. Natural. Marinas or launch ramps are prohibited; except that primitive ramps to facilitate hand launching of small craft are permitted if materials and design are compatible with the site.~~
- ~~9. Aquatic.~~
 - a. ~~Marinas and launch ramps are permitted subject to the use and development regulations of the abutting upland shoreline area designation.~~

~~23.100.060~~ **23.40.070 Commercial Uses.**

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

~~A. Policies.~~

- ~~A. In securing shoreline locations for commercial use, preference should be given first to water-dependent commercial uses, then to water-related and water-enjoyment commercial uses.~~
- ~~B. Restoration of impaired shoreline ecological functions and processes should be encouraged as part of commercial development.~~
- ~~C. Commercial development should ensure visual compatibility with adjacent noncommercial properties.~~
- ~~D. Commercial uses located in the shoreline should provide public access in accordance with constitutional or other legal limitations unless such improvements are demonstrated to be infeasible or present hazards to life and property.~~

~~B. Regulations.~~

~~—General.~~

- A. ~~Allowed Use. Commercial uses that result in no net loss of shoreline ecological functions and processes are allowed subject to the policies and regulations of WCC 23.90.030 and the specific criteria below:~~ Prior to approval of an application, the Director shall review a proposal for design, layout, and operation of the use and determine whether the proposed use is water-dependent, water-related, water-enjoyment, or a non-water-oriented commercial use.
 1. ~~Water-dependent commercial uses shall be given first preference over non-water dependent water-related and water-enjoyment commercial uses. Prior to approval of water-dependent uses, the administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-dependent use.~~
 2. ~~Water-related commercial uses may shall not be approved if they displace existing water-dependent uses. Prior to approval of a water-related commercial use, the administrator shall review a proposal for design, layout and operation of the use and shall make specific findings that the use qualifies as a water-related use.~~
 3. ~~Water-enjoyment commercial uses may shall be not be approved if they displace existing water-dependent or water-related uses or if they occupy space designated for water-dependent or~~

Comment [CES158]: Amended to be consistent w/ WAC 173-26-241(3)(d)

1 water-related use identified in a substantial development permit or other approval. ~~Prior to~~
2 ~~approval of water enjoyment uses, the administrator shall review a proposal for design, layout~~
3 ~~and operation of the use and shall make specific findings that the use qualifies as a water-~~
4 ~~enjoyment use.~~

- 5 4. ~~Non-water oriented commercial uses may be permitted as a conditional use where located on a~~
6 ~~site physically separated from the shoreline by another property in separate ownership or a~~
7 ~~public right of way such that access for water-oriented use is precluded; provided, that such~~
8 ~~conditions were lawfully established prior to the effective date of this program. All other non-~~
9 ~~water-oriented commercial uses are prohibited in the shoreline unless the use provides~~
10 ~~significant public benefit with respect to the objectives of the Act and is the proposed use:~~
11 a. ~~Is part of a mixed use project that includes a water-oriented use; or~~
12 b. ~~Is on a site where navigability is severely limited; or,~~
13 c. ~~Does not occupy space designated for water-dependent or water-related use identified in a~~
14 ~~project permit approval; or,~~
15 b.d. ~~In areas designated for commercial use and the site is physically separated from the~~
16 ~~shoreline by another property or public right of way.~~

- 17 5. ~~When permitted, non-w~~Water-oriented commercial uses shall provide public access in
18 accordance with the provisions of WCC 23.30.060 (Public Access).

- 19 5.6. ~~Non-water oriented commercial uses shall provide public access and/or restoration as follows:~~

- 20 a. ~~Non-water oriented commercial uses shall provide p~~Public access shall be in the form of
21 unrestricted open space. The administrator shall determine the amount of access in
22 accordance with the provisions of WCC 23.90.080 on a case-by-case basis.
23 b. If no water-oriented commercial uses are located on or adjacent to the water as part of a
24 mixed use development, 80% of the shoreline and associated buffers shall be preserved or
25 restored to provide shoreline ecological functions that approximate the functions provided
26 by the site in natural conditions.
27 c. The requirements ~~in subsections (B)(1)(e)(i) and (ii) of this section may be modified when:~~
28 i. The site is designated as a public access area by a shoreline public access plan, in which
29 case public access consistent with that plan element shall be provided; or
30 ii. Specific findings are made demonstrating that the size of the parcel and the presence of
31 adjacent uses preclude restoration of shoreline ecological functions. Where on-site
32 restoration is infeasible, equivalent off-site restoration shall be provided ~~consistent with~~
33 ~~the policies and regulations of this program.~~
34 d. Where restoration is proposed, buffers shall be designed as appropriate to protect shoreline
35 resources based on a ~~site-specific restoration plan assessment and may differ from the~~
36 ~~standard critical area buffer dimensions provided in Chapter 16.16WCC; provided, that the~~
37 ~~building envelope for the proposed non-water oriented use shall be based on current site~~
38 ~~conditions.~~

Comment [AP159]: Language revised for greater clarity and consistency with the use table.

Comment [CES160]: Added to be consistent w/ WAC 173-26-241(3)(d)

i. ~~The requirements of this subsection (B)(1)(e) shall not apply to those non water-oriented commercial uses located on a site physically separated from the shoreline where access to the land/water interface is precluded.~~

~~6.7.~~ If water-oriented commercial uses are located on or adjacent to the water, the remaining undeveloped water frontage that is not devoted to water-dependent use shall be preserved in a substantially undeveloped condition until such time that an appropriate water-dependent use has been identified for the area. If the site has been previously altered by past development, the balance of the site may be reserved for future water-related use.

B. Site Design and Operation.

1. Commercial recreation-oriented uses, including commercial resorts and ~~rental~~ campgrounds, shall provide adequate access to water areas for their patrons or shall provide adequate on-site outdoor recreation facilities so that such resorts or campgrounds will neither be dependent on nor place undue burdens upon public access and recreational facilities.

2. ~~New and expanded c~~Commercial development shall install or establish access roads of sufficient capacity and with appropriate improvements to provide vehicular and pedestrian access to the site. Utilities shall be adequate to serve the demands of the proposed uses.

3. Over-Water Structures.

a. Only those portions of water-dependent commercial uses that require over-water facilities such as boat fuel stations shall be permitted to locate waterward of the OHWM, provided they are located on floats, piling, or other open-work structures.

b. Non-water-dependent commercial uses shall not be allowed over water except in limited instances where they are appurtenant to existing structures and necessary in support of water-dependent uses.

4. Marine rails shall be located the minimum distance necessary above existing grade to minimize impact on littoral drift and navigation along the shoreline.

~~4. Building Height.~~

a. ~~As mandated by the Act (RCW 90.58.320), no permit may be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where this program does not prohibit such development and only when overriding considerations of the public interest will be served.~~

b. ~~Lodging developments over 35 feet in height may be allowed in resort communities within the Urban Resort shoreline area designation, subject to the requirements of WCC 23.90.130(5). However, due to the potential for adverse impact upon adjacent uses and the community from such development, special consideration must be given to the following factors during review of such proposals:~~

i. ~~Urban services, including sanitary sewers, public water supply, fire protection, storm drainage, and police protection, must be provided at adequate levels to protect the public health, safety, and welfare.~~

Comment [PDS161]: Already covered by 23.40.020(E)(1).

- 1 ii. Circulation, parking areas, and outdoor storage or loading areas should be adequate in
2 size and designed so that the public safety and local aesthetic values are not diminished.
3 Such areas should be screened from open space areas by landscaping, fences or similar
4 structures, or grade separation.
5 iii. Recreational needs of building clientele must be provided for through several on-site
6 recreation facilities and access to shorelines. The variety and number of on-site
7 recreation facilities should increase proportionately as density increases.

Comment [PDS162]: Moved to 23.40.020(E)(1).

8 C. Tabular Regulations—Setbacks, Height and Open Space for Commercial Development. Minimum
9 required setbacks from shorelines and side property lines, maximum height limits and open space
10 requirements are contained in WCC 23.90.130, Shoreline bulk provisions—Buffers, setbacks, height,
11 open space and impervious surface coverage.

12 C. Regulations for Specific Shoreline Environment Designations.

- 13 1. In the Conservancy and Urban Conservancy shoreline environments, only low intensity
14 commercial use and development—either water-oriented or non-water-oriented, and limited to
15 resort, campground, and similar facilities—may be permitted as a shoreline conditional use.
16 Non-water-oriented uses are subject to the criteria for such uses of this section.
17 2. In the Urban Resort shoreline environment, water-oriented resort-oriented commercial use and
18 developments are permitted. Non-water-oriented commercial uses and developments may be
19 permitted as a shoreline conditional use subject to the criteria for such uses in this section.
20 Commercial uses in this shoreline environment are permitted either by themselves or as part of
21 a structure or development also containing residential uses.
22 3. In the Resource shoreline environment, water-oriented commercial use and development
23 related to natural resource products predominantly produced on site is permitted. Non-water-
24 oriented commercial related to natural resource products predominantly produced on site may
25 be permitted as a shoreline conditional use subject to the criteria for such uses in this section.

26 1. Shoreline Area Regulations.

Comment [CES163]: Addressed in use table now.

27 Urban. Water-oriented commercial use and development is permitted subject to policies and
28 regulations of this program. Non water-oriented commercial may be permitted as a conditional use
29 subject to the criteria for such uses in subsection (B)(1)(d) of this section.

30 Urban Resort. Water-oriented resort-oriented commercial use and development is permitted subject to
31 policies and regulations of this program. Non water-oriented commercial may be permitted as a
32 conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this section. Commercial
33 uses allowed in this designation are permitted either by themselves or as part of a structure or
34 development also containing residential uses, subject to policies and regulations of this program.

35 Urban Conservancy. Low intensity water-oriented commercial use and development limited to resort,
36 bed and breakfast, campgrounds and similar facilities may be permitted as a conditional use. Low
37 intensity non water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar

1 facilities may be permitted as a conditional use subject to the criteria for such uses in subsection
2 (B)(1)(d) of this section.

3 ~~Shoreline Residential. Water-oriented commercial use and development is permitted subject to policies~~
4 ~~and regulations of this program. Non-water-oriented commercial may be permitted as a conditional use~~
5 ~~subject to the criteria for such uses in subsection (B)(1)(d) of this section.~~

6 ~~Rural. Water-oriented commercial use and development is permitted subject to policies and regulations~~
7 ~~of this program. Non-water-oriented commercial may be permitted as a conditional use subject to the~~
8 ~~criteria for such uses in subsection (B)(1)(d) of this section.~~

9 ~~Resource. Water-oriented commercial use and development related to natural resource products~~
10 ~~predominantly produced on site is permitted subject to policies and regulations of this program. Non-~~
11 ~~water-oriented commercial related to natural resource products predominantly produced on site may~~
12 ~~be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this~~
13 ~~section.~~

14 ~~Conservancy. Low intensity water-oriented commercial use and development limited to resort, bed and~~
15 ~~breakfast, campgrounds and similar facilities may be permitted as a conditional use. Low intensity non-~~
16 ~~water-oriented commercial limited to resort, bed and breakfast, campgrounds and similar facilities may~~
17 ~~be permitted as a conditional use subject to the criteria for such uses in subsection (B)(1)(d) of this~~
18 ~~section.~~

19 ~~Natural. Commercial use and development is prohibited.~~

20 ~~—Aquatic. Commercial use and development is prohibited, except that water dependent uses and~~
21 ~~appurtenant structures may be permitted subject to the use and development regulations of the~~
22 ~~abutting upland shoreline area designation.~~

23 **23.4100.070-080 Dredging and Dredge Material Disposal.**

24 **A. Policies.**

- 25 1. ~~Dredging should be permitted for water dependent uses of economic importance to the region~~
26 ~~and/or essential public facilities only when necessary and when alternatives are infeasible or~~
27 ~~less consistent with this program.~~
- 28 2. ~~Dredging to provide water oriented recreation should not be permitted.~~
- 29 3. ~~Minor dredging as part of ecological restoration or enhancement, beach nourishment, public~~
30 ~~access or public recreation should be permitted if consistent with this program.~~
- 31 4. ~~New development should be sited and designed to avoid or, where avoidance is not possible, to~~
32 ~~minimize the need for new maintenance dredging.~~
- 33 5. ~~Dredging of bottom materials for the primary purpose of obtaining material for landfill,~~
34 ~~construction, or beach nourishment should not be permitted.~~
- 35 6. ~~Spoil disposal on land away from the shoreline is generally preferred over open water disposal.~~

Comment [AP164]: This section has been moved from the General Regulations section (previously WCC 23.90.120). Added to title for clarity of section contents and consistency with WAC 173-26-231.

1 7. Long-term cooperative management programs that rely primarily on natural processes, and
2 involve land owners and applicable local, state and federal agencies and tribes, should be
3 pursued to prevent or minimize conditions which make dredging necessary.

4 ~~B. Regulations.~~

5 A. General.

6 ~~8.1.~~ Dredging shall only be permitted for the following activities:

- 7 a. Development of approved ~~wet moorages, harbors, ports and~~ water-dependent uses of
8 economic importance to the region and/or essential public facilities industries of economic
9 importance to the region only when there are no feasible alternatives.
- 10 ~~b. Development of essential public facilities when there are no feasible alternatives.~~
- 11 ~~c. b.~~ Maintenance dredging for the purpose of restoring a lawfully established development or
12 the previously permitted or authorized hydraulic capacity of streams.
- 13 ~~d. c.~~ Maintenance of irrigation reservoirs, drains, canals, or ditches for agricultural purposes.
- 14 ~~e. d.~~ Establishing, expanding, relocating, or reconfiguring navigation channels where necessary to
15 assure safe and efficient accommodation of existing navigational uses. Maintenance
16 dredging of established navigation channels and basins shall be restricted to maintaining
17 previously dredged and/or existing authorized location, depth, and width.
- 18 ~~f. e.~~ Removal of gravel for flood management purposes consistent with an adopted flood hazard
19 reduction plan and only after a biological and geomorphological study demonstrates that
20 extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of
21 shoreline ecological functions and processes, and is part of a comprehensive flood
22 management solution.
- 23 ~~g. f.~~ Restoration or enhancement of shoreline ecological functions and processes benefiting
24 water quality and/or fish and wildlife habitat.
- 25 ~~h. g.~~ Minor in-water trenching to allow the installation of necessary underground pipes or cables
26 if no alternative, including boring, is feasible, and:
27 i. Impacts to fish and wildlife habitat are avoided to the maximum extent possible.
28 ii. The utility installation shall not increase or decrease the natural rate, extent, or
29 opportunity of channel migration.
30 iii. Appropriate best management practices are employed to prevent water quality
31 impacts or other environmental degradation.
- 32 h. Dredging for the purpose of obtaining ~~landfill~~ material is prohibited, except that:
33 i. ~~L~~ Limited bar scalping of gravel in streams is permitted subject to policies of the
34 Whatcom County Comprehensive Plan and regulations for mining under
35 WCC 23.100.08023.40.140 (Mining), and WCC Title 20 (Zoning).
- 36 ~~i. ii.~~ Dredging to obtain fill for restoration projects is permitted for approved
37 MTCA/CERCLA projects and may be approved as a shoreline conditional use for other
38 restoration projects.

9.2. The physical alignment and ecological functions and processes of streams, lakes, or marine shorelines shall be maintained, except to improve hydraulic function, water quality, fish or wildlife habitat, or fish passage.

3. ~~Limitations on~~ To protect public safety and compatibility with surrounding uses, dredge or disposal operations may be ~~conditioned~~ imposed to reduce proximity impacts, protect the public safety and assure compatibility with the interests of other shoreline users. Conditions may include limits on periods and hours of operation, and type of machinery, and may require provision of landscaped buffers, strips and/or fencing to address noise and visual impacts at land disposal or transfer sites.

10.4. Regular maintenance of an approved barge landing site shall not be considered dredging.

A. B. Additional Standards for Spoil Dredge Material Disposal.

1. Any dredge material disposal shall be used as part of a program to restore or enhance shoreline ecological functions and processes, unless found to be infeasible.

1-2. Dredge material Spoil disposal on uplands away from the within shoreline jurisdiction is permitted only under the following conditions:

- a. Shoreline ecological functions and processes will be preserved, including protection of surface and ground water.
- b. Erosion, sedimentation, floodwaters, or runoff will not increase adverse impacts to shoreline ecological functions and processes or property.
- c. Sites will be adequately screened from view of local residents or passersby on public rights-of-way.

3. Disposal of dredge material on shorelands or wetlands within a river's channel migration zone shall be discouraged. In the limited instances where it is allowed for restoration or enhancement of shoreline ecological functions and processes, such disposal shall require a shoreline conditional use permit.

4. Dredge material Spoil disposal is prohibited on marine shorelines between the line of extreme low tide and below the ordinary high water mark, on lake shorelines or beds, and in streams; except that:

- a. ~~d~~Dredge spoil material may be used in approved projects for the restoration or enhancement of shoreline ecological functions and processes, such as beach nourishment.
- b. Spoil disposal in open waters may be approved only in accordance with the Puget Sound Dredged Disposal Analysis (PSDDA) evaluation procedures for managing in-water disposal of dredged material; when approved by applicable agencies, which may include the U.S. Army Corps of Engineers pursuant to Section 10 (Rivers and Harbors Act) and Section 404 (Clean Water Act) permits, and Washington State Department of Fish and Wildlife hydraulic project approval (HPA); and when found to meet the following conditions:
 - e. Land disposal is infeasible, less consistent with this program, or prohibited by law.
 - d. Nearshore disposal as part of a program to restore or enhance shoreline ecological functions and processes is not feasible.

Comment [CES165]: This provision applies to upland areas within shoreline jurisdiction, away from the OHWM. Revised language for greater clarity.

Comment [DN166]: This language is pulled directly from WAC 173-26-231. Revised language to clarify that restoration and enhancement is the only instance in which this would be permitted.

- 1 e. ~~Offshore habitat will be protected, restored, or enhanced.~~
2 f. ~~Adverse effects on water quality or biologic resources from contaminated materials will be~~
3 ~~mitigated.~~
4 g. ~~Shifting and dispersal of spoil will be minimal.~~
5 ~~Water quality will not be adversely affected.~~
6 h.b. Dredge material disposal at an open water disposal site approved through the auspices of
7 the Dredged Material Management Program (RCW 79.105.500) is allowed and shall not
8 require a shoreline permit.

Comment [CES167]: Don't need this, since it doesn't need a shoreline permit

9 C. Supplemental Application Requirements.

10 ~~B.D.~~ In addition to the minimum application requirements specified in ~~WCC 23.60.050~~ WCC Title 22
11 (Land Use and Development), applications for dredging and material disposal use or development
12 shall include all information necessary to conduct a thorough evaluation of the proposed activity,
13 including but not limited to the following::

Comment [AP168]: Added per Periodic Review Checklist, Item 2019.b, and Scoping Document Item #2i.

- 14 a. A description of the purpose of the proposed dredging and an analysis of compliance with
15 the policies and regulations of this program and WCC Title 20 (Zoning).
16 b. A detailed description of the existing physical character, shoreline geomorphology, and
17 biological resources provided by the area proposed to be dredged, including:
18 i. A site plan map outlining the perimeter of the proposed dredge area. The map must also
19 include the existing bathymetry depths based on mean lower low water (MLLW) and
20 have data points at a minimum of two-foot depth increments.
21 ii. A habitat survey must be conducted and WDFW must be contacted to ensure the survey
22 is conducted according to the most recent WDFW eelgrass/macroalgae survey
23 guidelines.
24 iii. Information on stability of bedlands adjacent to proposed dredging and spoils disposal
25 areas.
26 c. A detailed description of the physical, chemical and biological characteristics of the dredge
27 spoils to be removed.
28 i. Physical analysis of material to be dredged: material composition and amount, grain
29 size, organic materials present, source of material, etc.
30 ii. Chemical analysis of material to be dredged: volatile solids, chemical oxygen demand
31 (COD), grease and oil content, mercury, lead and zinc content, etc.
32 iii. Biological analysis of material to be dredged.
33 d. A description of the method of materials removal, including facilities for settlement and
34 movement.
35 i. Dredging procedure: length of time it will take to complete dredging, method of
36 dredging and amount of materials removed.
37 ii. Frequency and quantity of project maintenance dredging.
38 e. Detailed plans for dredge spoil disposal, including specific land disposal sites and relevant
39 information on the disposal site, including but not limited to:
40 i. Spoils disposal area:

- (A) Physical characteristics including location, topography, existing drainage patterns, surface and ground water;
 - (B) Size and capacity of disposal site;
 - (C) Means of transportation to the disposal site;
 - (D) Proposed dewatering and stabilization of spoils;
 - (E) Methods of controlling erosion and sedimentation; and
 - (F) Future use of the site and conformance with land use policies and regulations.
- ii. Total initial spoils volume.
 - iii. Plan for disposal of maintenance spoils for at least a 50-year period.
- f. Hydraulic modeling studies sufficient to identify existing geohydraulic patterns and probable effects of dredging.

E. Regulations for Specific Shoreline Environment Designations.

- 2.1. In the Natural shoreline area environment, dredging is prohibited except that dredging is permitted as an essential element of an approved shore restoration or enhancement plan, subject to policies and regulations of this program.
2. In the Aquatic shoreline area environment:
 - a. Dredging may be permitted as a shoreline conditional use subject to the use and development regulations of the abutting upland shoreline area environment designation.
 - b. Dredging for a mutually designated reach of river with a provided, that the conditional use permit requirement may be waived upon county County and Ecology approval of a sediment management plan component for a mutually designated reach of river is permitted subject to the use and development regulations of the abutting upland shoreline area environment designation.
 - c. Maintenance dredging pursuant to WAC 173-27-140 is permitted subject to the policies of and regulations of this program without a conditional use permit, provided the original constructed bottom contours have been established and documented in a prior shoreline permit or authorization.

Comment [AP169]: Carried over from removed 'Shoreline Area Regulations.'

C. Shoreline Area Regulations.

- A. Urban. Dredging may be permitted as a conditional use subject to policies and regulations of this program.
- B. Urban Resort. Dredging may be permitted as a conditional use subject to policies and regulations of this program.
- C. Urban Conservancy. Dredging may be permitted as a conditional use subject to policies and regulations of this program.
- D. Shoreline Residential. Dredging may be permitted as a conditional use subject to policies and regulations of this program.

- 1 E. ~~Rural. Dredging may be permitted as a conditional use subject to policies and regulations of this~~
2 ~~program.~~
- 3 F. ~~Resource. Dredging may be permitted as a conditional use subject to policies and regulations of~~
4 ~~this program.~~
- 5 G. ~~Conservancy. Dredging may be permitted as a conditional use subject to policies and regulations~~
6 ~~of this program.~~
- 7 H. ~~Natural. Dredging is prohibited except that dredging is permitted as an essential element of an~~
8 ~~approved shore restoration or enhancement plan, subject to policies and regulations of this~~
9 ~~program.~~
- 10 I. ~~Aquatic. Dredging may be permitted as a conditional use subject to the use and development~~
11 ~~regulations of the abutting upland shoreline area designation; provided, that the conditional use~~
12 ~~permit requirement may be waived upon county and Ecology approval of a sediment~~
13 ~~management plan component for a mutually designated reach of river. Maintenance dredging~~
14 ~~pursuant to WCC 23.60.022(B) is permitted subject to the policies and regulations of this~~
15 ~~program without a conditional use permit, provided the original constructed bottom contours~~
16 ~~have been established and documented in a prior shoreline permit or authorization.~~

17 **23.100.11023.40.090 Landfill and Excavation.**

18 **A. Policies.**

- 19 A. ~~Landfill and excavation should only be permitted to the minimum extent necessary to~~
20 ~~accommodate an approved shoreline use or development and with assurance of no net loss of~~
21 ~~shoreline ecological functions and processes. Enhancement and voluntary restoration of~~
22 ~~landforms and habitat are encouraged.~~
- 23 B. ~~Landfill in water bodies, floodways, and/or wetlands should not be permitted for creation of~~
24 ~~new uplands, unless it is part of an approved ecological restoration activity. Landfill should be~~
25 ~~permitted in limited instances to restore uplands where recent erosion has rapidly reduced~~
26 ~~upland area, to build beaches and protective berms for shore stabilization or recreation, to~~
27 ~~restore or enhance degraded shoreline ecological functions and processes, or to moderately~~
28 ~~elevate low uplands to make such uplands more suitable for purposes consistent with this~~
29 ~~program.~~
- 30 C. ~~Fill should not be allowed where shore stabilization works would be required to maintain the~~
31 ~~materials placed.~~
- 32 D. ~~Landfills and excavation should be located and developed so that water quality, hydrologic and~~
33 ~~runoff patterns are not altered.~~
- 34 E. ~~The predicted economic benefits of landfills and excavation should be weighed against long-~~
35 ~~term cumulative impacts on ecological processes and functions.~~

36 **A. Regulations.**

Comment [CES170]: Addressed by use table now.

Comment [AP171]: This section is re-located from the General Regulations section (previously WCC 23.90.100) and revised to distinguish between fill and dredge material disposal, dredging, excavation, or mining.

- 1 A. General.
- 2 1. ~~Landfill~~ and excavation shall be avoided to the extent feasible, and shall be minimized to the
- 3 maximum extent practicable and allowed only along with approved shoreline use and
- 4 development activities that are consistent with this program. Where necessary, fill in shoreline
- 5 jurisdiction shall be located, designed, and constructed to protect shoreline ecological functions
- 6 and ecosystem-wide processes, including channel migration.
- 7 ~~1-2. Excavation waterward of the OHWM or within wetlands shall be considered dredging or gravel~~
- 8 ~~bar scalping mining~~ for purposes of this program.
- 9 3. Fill materials shall only be clean sand, gravel, soil, rock, or similar material. Use of polluted
- 10 dredge spoils or other solid or dangerous wastes is prohibited.
- 11 ~~2-4. Landfill and excavation within wetlands or waterward of the ordinary high water mark shall~~
- 12 only be permitted through a shoreline conditional use permit in limited instances for the
- 13 following purposes ~~only~~, with due consideration given to specific site conditions, and only along
- 14 with approved shoreline use and development activities ~~that are consistent with this program:~~
- 15 a. ~~Port development for~~ Water-dependent uses where other upland alternatives or structural
- 16 solutions, including pile or pier supports, are infeasible.
- 17 b. Expansion or alteration of transportation facilities of statewide significance currently located
- 18 on the shoreline where alternatives to fill are infeasible.
- 19 c. Ecological restoration, mitigation, or enhancement such as beach nourishment, habitat
- 20 creation, or bank restoration when consistent with an approved restoration plan.
- 21 d. Cleanup and disposal of contaminated sediments as part of an interagency environmental
- 22 clean-up plan.
- 23 e. Public access.
- 24 d. ~~Maintenance of lawfully established development.~~
- 25 e. ~~Development of shore stabilization projects, flood control, and instream structures.~~
- 26 f. ~~Except for landfill for county approved ecological restoration, fill and excavation waterward~~
- 27 ~~of the OHWM or in a wetland may only be authorized as a conditional use.~~
- 28 5. Fill shall not be used to create land to serve residential development.
- 29 ~~3-6. Landfills or excavation shall not be located where shore stabilization will be necessary to~~
- 30 ~~protect materials placed or removed. Disturbed areas shall be immediately stabilized and~~
- 31 ~~revegetated, as applicable.~~
- 32 ~~4. On marine shores, fill may be permitted in the foreshore where located at drift sector ends in~~
- 33 ~~low energy driftways, or on erosional pocket beaches for restoration and enhancement~~
- 34 ~~programs where the effect of the landfill's interruption of the littoral process can be mitigated.~~
- 35 ~~5-7. Landfills, beach nourishment, and excavation shall be designed to blend physically and visually~~
- 36 ~~with existing topography whenever possible, so as not to interfere with long-term appropriate~~
- 37 ~~use including lawful access and enjoyment of scenery.~~
- 38 6. Perimeter banks shall generally be sloped no steeper than one foot vertical for every three feet
- 39 horizontal unless a specific engineering analysis has been provided, and the administrator
- 40 determines that the landfill blends physically and visually with existing topography.

Comment [CES172]: Added pursuant to WAC 173-26-231(3)(c)

Comment [CES173]: By definition, excavation in water is considered dredging and is covered in that section.

Comment [CES174]: Updated to comply with WAC 173-26-231(3)(c)

Comment [CES175]: Amended to be consistent w/ WAC 173-26-231(3)(c)

7-8. Fill shall be designed to avoid water quality impacts in accordance with local, state and federal regulations. A temporary erosion and sediment control (TESC) plan shall be ~~provided~~ required for all proposed ~~landfill~~ and excavation activities.

23.4010.090100 Flood Hazard Reduction Control Works and Instream Structures.

~~c.~~ Flood control works and instream structures in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.

~~A.~~ Policies.

~~A.~~ Purpose and Need.

~~b.~~ New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, channel migration zone, or floodway should not be allowed.

~~c.~~ Flood control works and instream structures should be planned and designed to be compatible with appropriate multiple uses of stream resources over the long term, especially in shorelines of statewide significance.

~~d.~~ Flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where nonstructural flood hazard reduction measures are infeasible.

~~e.~~ Flood control works to protect existing development should be permitted only when the primary use being protected is consistent with this program, and the works can be developed in a manner that is compatible with multiple use of streams and associated resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation.

~~A.~~ Design Considerations.

~~f.~~ Flood control works should incorporate native vegetation to enhance ecological functions, create a more natural appearance, improve ecological processes, and provide more flexibility for long-term shoreline management. Such features include vegetated berms; vegetative stabilization including brush matting and buffer strips; and retention of existing trees, shrubs and grasses on stream banks.

~~g.~~ Flood control works and instream structures should be located, designed, constructed and maintained so their resultant effects on geohydraulic shoreline processes will not cause significant damage to other properties or valuable shoreline resources, and so that the physical integrity of the shoreline process corridor is maintained.

~~h.~~ To minimize flood damages and to maintain natural resources associated with streams, overflow corridors and other alternatives to traditional bank levees, revetments and/or dams should be considered. Setback levees and similar measures should be employed where they will result in lower flood peaks and velocities, and more effective conservation of resources than with high bank levees.

~~i.~~ Recognizing the large number of physical variables to be considered in properly locating and designing flood control works and instream structures, such as dams and weirs, and the high probability that poorly located and inadequately designed works will fail and/or adversely affect

properties and shore features, such works should be sited and designed consistent with appropriate engineering principles and WCC Title 17.

j. Nonstructural and nonregulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural flood control works and instream structures. Nonregulatory and nonstructural methods may include public facility and resource planning, land or easement acquisition, education, voluntary protection and enhancement projects, or incentive programs.

k. Design of flood control works should incorporate continued long-term multiple use of shoreline resources by all appropriate user groups.

~~l.a. Design of flood control works should provide access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, flood control works should not decrease public access or use potential of shorelines.~~

A. Coordination.

m. In cooperation with other applicable agencies and persons, the county should continue to develop long-term, comprehensive flood hazard management plans, such as the Lower Nooksack River Comprehensive Flood Hazard Management Plan, to prevent needless flood damage, maintain the natural hydraulic capacity of floodways, and conserve valuable, limited resources such as fish, water, soil, and recreation and scenic areas.

n. Planning and design of flood control works and instream structures should be consistent with and incorporate elements from applicable watershed management plans, restoration plans and/or surface water management plans.

24A. Regulations.

A. Purpose and Need-General.

1. **Applicability.** This section applies to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program. Additional relevant critical area provisions are in WAC 173-26-221(2).
2. Development in floodplains should not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been adopted after 1994 and approved by the Department of Ecology.
3. New development or new uses in shoreline jurisdiction should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.

Comment [CES176]: Language from WAC 173-26-221(3)(a).

4. The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:
- a. Actions that protect or restore the ecosystem-wide processes or ecological functions.
 - b. Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.
 - c. Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.
 - d. Mining when conducted in a manner consistent with the environment designation and with the provisions of Chapter 23.40.140 (Mining).
 - e. Bridges, utility lines, flood Hazard Reduction works, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of watershed or drift cell.
 - f. Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.
 - g. Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.
 - h. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.
 - i. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.
- 4-5. Structural flood hazard reduction control works shall be permitted only when it is demonstrated by engineering and scientific evaluations that:
- a. They are necessary to protect health/safety and/or existing development;
 - b. Nonstructural flood hazard reduction measures are infeasible; and
 - c. Measures are consistent with an adopted comprehensive flood hazard management plan that evaluates cumulative impacts to the watershed system, or otherwise approved by Whatcom County Public Works' River and Flood Division.
- 2-6. Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through an geotechnical analysis performed by a qualified professional.

Comment [CES177]: Updated text from WAC 173-26-221((3)(c))

Comment [DOE-Req178]: Required Change – There is nothing within the SMP Flood Hazard Reduction Guidelines (WAC 173-26 221(3) that allow a local government entity to override when new structural flood hazard reduction measures should be allowed within shoreline jurisdiction.

Comment [RCE179]: Updated text from WAC 173-26-221((3)(c))

3.7. ~~New flood hazard reduction control~~ works are prohibited on estuarine shores, on point and channel bars, and in salmon and trout spawning areas, except for the purpose of fish or wildlife habitat enhancement or restoration.

4.8. ~~Revetments shall only be permitted for public projects, and shall not be placed waterward of the OHWM, except for weirs and current deflectors where necessary to protect bridges and roads.~~

5. ~~Revetments and levees shall be designed consistent with appropriate engineering standards and WCC Title 17. Height shall be limited to the minimum required to protect the adjacent lands from the designed flood and demonstrated through hydraulic modeling that the height will not adversely impact shoreline ecological functions and processes.~~

9. Weirs and current deflectors are permitted only when necessary to protect public bridges, roads, and levees.

6.10. ~~Channelization projects that damage fish and wildlife resources, degrade recreation and aesthetic resources, or result in high flood stages and velocities shall not be permitted when feasible alternatives are available.~~

7.11. ~~Flood hazard reduction control~~ works and instream structures shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The County may require reasonable conditions such as setbacks, buffers, or storage basins to achieve this objective.

8.12. Flood hazard reduction works should shall provide access to public shorelines whenever possible, unless it is demonstrated that public access would cause unavoidable public health and safety hazards, security problems, unmitigatable ecological impacts, unavoidable conflicts with proposed uses, or unreasonable cost. At a minimum, flood hazard reduction works should not decrease public access or use potential of shorelines.

Comment [DOE-Req180]: Required Change – The consideration for public access associated with new flood hazard reduction measures is a requirement of the SMP Guidelines at WAC 173-26-221(3)(c)(iv).

Comment [CES181]: Moved from above.

B. Site Design and Operation.

1. The County shall require professionally engineered design of any proposed flood hazard reduction control works or instream structure.

2. The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the state of Washington. The professional design shall include a maintenance schedule.

3. For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the State Department of Ecology reservoir permit requirements, a maintenance agreement and construction bond for 150% of the cost of the structure shall be filed with the director of the Public Works Department prior to construction. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the state of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

4. Natural instream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages.

5. Flood ~~hazard reduction control~~ works and instream structures shall allow for normal groundwater movement and surface runoff.
6. Flood ~~hazard reduction control~~ works and instream structures shall preserve valuable recreation resources and aesthetic values such as point and channel bars, islands, and braided banks.
- 6.7. ~~New~~ Structural flood ~~hazard reduction control~~ works shall be placed landward of associated wetlands, and designated habitat conservation areas, except for works that improve ecological functions, such as wetland restoration.
- 7.8. Where flood ~~hazard reduction control~~ works are necessary, they shall be set back at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion. Levees that have already cut off point bars should be relocated where feasible to lower flood stages and current velocities.
- 8.9. Where levees are necessary to protect floodway fringe areas, they shall be located and designed to protect shoreline ecological functions and processes. Such works should be located near the tangent to outside meander bends so that the stream can maintain normal meander progression and ~~utilize~~ use most of its natural flood water storage capacity.
- 9.10. No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris; nor any other solid waste shall be used for flood ~~hazard reduction control~~ works.
11. Cut-and-fill slopes and back-filled areas shall be stabilized with brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes.
- A. ~~Shoreline Area Regulations.~~
1. ~~Urban. Flood control works and instream structures are permitted subject to policies and regulations of this program.~~
2. ~~Urban Resort. Flood control works and instream structures are permitted subject to policies and regulations of this program.~~
3. ~~Urban Conservancy. Flood control works and instream structures are permitted subject to policies and regulations of this program; provided, that channelization or dams for flood control are prohibited.~~
4. ~~Shoreline Residential. Flood control works and instream structures are permitted subject to policies and regulations of this program.~~
5. ~~Rural. Flood control works and instream structures are permitted subject to policies and regulations of this program; provided, that channelization or dams for flood control may be permitted as a conditional use.~~
6. ~~Resource. Flood control works and instream structures are permitted subject to policies and regulations of this program; provided, that channelization or dams for flood control may be permitted as a conditional use.~~
7. ~~Conservancy. Flood control works and instream structures are permitted subject to policies and regulations; provided, that channelization or dams for flood control are prohibited.~~

Comment [CES182]: Covered by use table now.

- 1 ~~8. Natural. Flood control works and instream structures are prohibited except for normal~~
2 ~~maintenance and repair.~~
3 ~~9. Aquatic. Flood control works and instream structures are permitted subject to the use and~~
4 ~~development regulations of the abutting upland shoreline area designation.~~

5 **23.4100.090-110 Forest Practices.**

6 ~~A. Policies.~~

- 7 ~~A. Forest lands should be reserved for long-term forest management and such other uses as are~~
8 ~~compatible with the dominant use. Other more intensive and incompatible uses tending to~~
9 ~~impair the dominant use should be discouraged from locating on forest lands.~~
10 ~~B. Forest practices should maintain high levels of water quality, as well as surface and ground~~
11 ~~water movement patterns.~~
12 ~~C. Forest practices should minimize damage to wetlands, fish and wildlife species and habitats,~~
13 ~~especially aquatic habitats.~~
14 ~~D. Extreme caution must be observed whenever chemicals are to be used along shorelines; such~~
15 ~~use should be avoided altogether if possible.~~
16 ~~E. Forest practices should maintain or improve the quality of soils and minimize erosion.~~
17 ~~F. Where slopes are extremely steep or soils are subject to sliding, rapid erosion or high water~~
18 ~~table, special practices should be employed to minimize damage to shoreland and water~~
19 ~~features, and adjacent properties.~~

20 ~~B. Regulations.~~

21 ~~A. General.~~

- 22 1. All forest practices undertaken on shorelines shall comply with the applicable policies and
23 provisions of the Forest Practices Act, Chapter 76.09 RCW as amended, and any regulations
24 adopted pursuant thereto (WAC Title 222), as administered by the Department of Natural
25 Resources.
26 2. Unless otherwise stated, the vegetation conservation management regulations of this program
27 do not apply to commercial forest practices as defined by this program when such activities are
28 covered under the Washington State Forest Practices Act (Chapter 76.09 RCW), except where
29 such activities are associated with a conversion to other uses or other forest practice activities
30 over which local governments have authority. For the purposes of this program, preparatory
31 work associated with the conversion of land to non-forestry uses and/or developments shall not
32 be considered a forest practice and shall be reviewed in accordance with the provisions for the
33 proposed non-forestry use, the general provisions of this program, and WCC
34 Chapter 16.16 (Critical Areas), and shall be limited to the minimum necessary to accommodate
35 an approved use.
36 3. A forest practice that only involves timber cutting is not a development under the Act and does
37 not require a shoreline substantial development permit or a shoreline exemption. A forest
38 practice that includes activities other than timber cutting may be a development under the act
39 and may require a substantial development permit, as required by WAC 222-50-020.

Comment [AP183]: This section has been moved from the General Regulations section (previously WCC 23.90.110).

Comment [CES184]: Revised section per Scoping Document, Item #17g.

Comment [AP185]: Moved from Vegetation Management section (WCC 23.30.040).

Comment [CES186]: Added per Periodic Review Checklist, Item 2017.e, and Scoping Document Item #2b. This has also been addressed in the definitions section.

1 4. ~~For the purposes of this program, preparatory work associated with the~~ Any conversion of land
2 to ~~a non-forestry uses and/or development~~ use not compatible with forestry shall not be
3 considered forest practices and shall be reviewed in accordance with the provisions for the
4 proposed non-forestry use, the general provisions of this program, including vegetation
5 conservation, and shall be ~~must~~:

6 a. ~~Comply with the applicable policies and regulations of this program;~~

7 b. ~~Limited the conversion to the minimum necessary, while complying with the purpose of the~~
8 ~~shoreline environment designation, general policies and regulations, and specific shoreline~~
9 ~~use and modification policies and regulations on the subject property;~~

10 a-c. ~~Ensure no net loss of shoreline ecological functions or significant adverse impacts to other~~
11 ~~shoreline uses, resources, and values provided for in RCW 90.58.020, such as navigation,~~
12 ~~recreation, and public access.~~

13 1. ~~Forest practices roads are prohibited on marine or lake shores where slopes exceed 35~~
14 ~~percent except when necessary to obtain access to road networks on land outside the Act's~~
15 ~~jurisdiction.~~

16 2. ~~Cutting of more than 30 percent of the merchantable trees over a 10-year period within 50~~
17 ~~feet of the bank rim on feeder bluffs and landslide hazard areas is prohibited. Only selective~~
18 ~~thinning methods that minimize erosion potential shall be employed.~~

19 5. ~~Per RCW 90.58.150, W~~with respect to timber situated within shoreline jurisdiction along
20 shorelines of statewide significance, only selective commercial timber cutting may be permitted
21 so that no more than 30 percent of the merchantable timber may be harvested in any 10-year
22 period; ~~provided that:~~

23 a. ~~Other timber harvesting methods may be permitted as a conditional use permit in those~~
24 ~~limited instances where topography, soil conditions, or silviculture practices necessary for~~
25 ~~regeneration render selective logging ecologically detrimental; and~~

26 b. ~~Timber removal that is to the minimum necessary for the conversion of land for other uses~~
27 ~~may be permitted.~~

28 A. ~~Shoreline Area Regulations.~~

29 3. ~~Urban. Forest practices are prohibited.~~

30 4. ~~Urban Resort. Forest practices are prohibited.~~

31 5. ~~Urban Conservancy. Forest practices are prohibited.~~

32 6. ~~Shoreline Residential. Forest practices are prohibited.~~

33 7. ~~Rural. Forest practices are permitted subject to policies and regulations of this program and~~
34 ~~critical areas buffer regulations.~~

35 8. ~~Resource. Forest practices are permitted subject to policies and regulations of this program and~~
36 ~~critical areas buffer regulations.~~

37 9. ~~Conservancy. Forest practices are permitted subject to policies and regulations of this program~~
38 ~~and critical areas buffer regulations.~~

Comment [CES187]: Addressed by use table now.

1 **23.100.170-40.120 Industrial and Port Development.**

2 ~~a. Industrial and port development in shoreline areas outside of the Cherry Point management area~~
3 ~~shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.~~

4 **Cherry Point Management Area.** All industrial and port development in shorelines within the Cherry
5 Point management area as defined in Chapter 23.110 WCC shall be subject to the policies and
6 regulations found in WCC 23.100.170 instead of the policies and regulations of this section, unless
7 otherwise specified therein.

8 ~~A. Policies.~~

9 ~~A. Shoreline sites particularly suitable for development such as deep water harbors with access to~~
10 ~~adequate rail, highway and utility systems should be reserved for water dependent or water-~~
11 ~~related industrial and port development.~~

12 ~~B. In order to provide adequate shoreline for future water dependent and water related uses,~~
13 ~~industrial or port development at deep water sites should be limited to those uses that produce~~
14 ~~the greatest long-term economic base. Industrial and port development that is consistent with~~
15 ~~this program should be protected from encroachment or interference by incompatible uses with~~
16 ~~less stringent siting requirements, such as residential or commercial uses. Mixed use~~
17 ~~development, including non-water dependent uses, should only be allowed when they include~~
18 ~~and support water dependent uses.~~

19 ~~C. Regional needs for port facilities should be carefully considered in reviewing new port proposals~~
20 ~~and in allocating shorelines for such development. Such reviews or allocations should be~~
21 ~~coordinated with port districts, adjacent counties and cities, and the state. Existing, officially~~
22 ~~designated State Harbor Areas should be used for new port development to the maximum~~
23 ~~extent whenever possible.~~

24 ~~D. Multiple use of industrial and port facilities is encouraged to limit duplicative facilities and~~
25 ~~reduce adverse impacts. Multiple use should be implemented in the following manner:~~

26 ~~b. Cooperative use of piers, cargo handling, storage, parking and other accessory facilities~~
27 ~~among private or public entities should be required in industrial or port facilities whenever~~
28 ~~feasible. New facilities for water dependent uses should be allowed only after assessment of~~
29 ~~the potential for shared use of existing facilities.~~

30 ~~c. Industrial and port developments should provide opportunities for physical and/or visual~~
31 ~~public shoreline access in accordance with the public access policies, including recreational~~
32 ~~use of undeveloped shorelines not needed for port or industry operations; provided, that~~
33 ~~such uses are safely compatible with facility operations.~~

34 ~~A. Industrial and port development in the shoreline should be located and designed to avoid~~
35 ~~significant adverse impacts to other shoreline uses, resources, and values, including shoreline~~
36 ~~geomorphic processes, water quality, fish and wildlife habitat, commercial aquaculture, and the~~
37 ~~aquatic food chain.~~

38 ~~B. Restoration of impaired shoreline ecological functions and processes should be encouraged as~~
39 ~~part of industrial and port development.~~

Comment [P/C188]: P/C voted 9-0 to make 23.40.125 a subset of these rules, so that 23.40.120 applies to all industrial and port development and 23.40.125 are additional rules for the CPMA; and to remove redundancies.

- 1 ~~B. Regulations.~~
2 A. ~~Purpose and Need~~General.
- 3 1. ~~Water dependent industrial and port uses designed, developed and operated consistent with~~
4 ~~the policies and regulations of this program shall be given preference over all other uses on the~~
5 ~~shoreline.~~
- 6 1. Prior to approval of an application ~~water dependent industrial or port uses~~, the
7 ~~administrator~~Director shall review a proposal for design, layout, and operation of the proposed
8 use and shall ~~determine whether~~make specific findings that the use ~~qualifies as a~~is water-
9 dependent, water-related, water-enjoyment or non-water-oriented industrial and port use.
- 10 2. All harbor areas, established pursuant to Article XV of the Washington State Constitution, that
11 have reasonable commercial navigational accessibility and necessary support facilities such as
12 transportation shall be reserved for water-dependent and water-related uses that are
13 associated with commercial navigation unless a specific finding is made in the permit review
14 process that adequate shoreline is reserved for navigation use elsewhere in the affected harbor
15 area.
- 16 3. Industrial and port uses that result in no net loss of shoreline ecological functions and processes
17 are allowed subject to the policies and regulations of WCC 23.90.030 and the specific criteria
18 below:
- 19 a. Water-dependent industrial and port uses shall be given first preference over non-
20 waterdependent, water-related and water-enjoyment industrial and port uses. Prior to
21 approval of water dependent industrial or port uses, the administrator shall review a
22 proposal for design, layout and operation of the proposed use and shall make specific
23 findings that the use qualifies as a water dependent use.
- 24 a.b. Water-related industrial and port uses shall be given second preference over non-water
25 dependent industrial and port uses.
- 26 b.c. Water-related industrial and port uses may not be approved if they displace existing water-
27 dependent uses. Prior to approval of water-related industrial or port uses, the administrator
28 shall review a proposal for design, layout and operation of the proposed use and shall make
29 specific findings that the use qualifies as a water-related use.
- 30 e.d. Water-enjoyment industrial and port uses may not be approved if they displace existing
31 water-dependent or water-related uses or if they occupy space designated for water-
32 dependent or water-related use identified in a substantial development permit or other
33 approval. Prior to approval of water-enjoyment industrial or port uses, the administrator
34 shall review a proposal for design, layout and operation of the proposed use and shall make
35 specific findings that the use qualifies as a water-enjoyment use.
- 36 d.e. Non-water oriented industrial and port uses may be permitted where located on a site
37 physically separated from the shoreline by another property in separate ownership or a
38 public right of way such that access for water-oriented use is precluded. All other non-
39 water-oriented industrial and port uses are prohibited in the shoreline, except for those

Comment [CES189]: To be consistent w/ WAC 173-26-241(3)(f)

identified above; provided that ~~unless~~ the use provides significant public benefit with respect to the objectives of the Act and the following is:

- i. The proposal is ~~P~~part of a mixed use project that includes a water-oriented use; or
- ii. The ~~p~~proposal is on a site where navigability is severely limited; ~~or~~
- iii. The proposal does not occupy space designated for water-dependent or water-related use identified in a project permit approval.

f. Water-oriented industrial and port uses shall provide public access in accordance with the provisions of WCC 23.30.060 (Public Access).

e.g. When permitted, ~~n~~Non-water-oriented industrial and port uses shall provide public access and/or restoration as follows:

- i. ~~Non water oriented industrial and port uses shall provide p~~Public access shall be in the form of unrestricted open space. The administrator shall determine the amount of required access in accordance with the provisions of WCC 23.30.080 on a case-by-case basis.
- ii. If no water-oriented uses are located on or adjacent to the water as part of a mixed use development, 80% of the shoreline and associated buffers shall be restored to provide shoreline ecological functions that approximate the functions provided by the site in natural conditions.
- iii. The requirements in subsections (B)(1)(c)(v)(A) and (B) of this section may be modified when:
 - (A) The site is designated as a public access area by a shoreline public access plan, in which case public access consistent with that plan element shall be provided; or
 - (B) Specific findings are made demonstrating that the size of the parcel and the presence of adjacent uses preclude restoration of shoreline ecological functions. Where on-site restoration is infeasible, equivalent off-site restoration shall be provided consistent with the policies and regulations of this program.
- iv. Buffers shall be designed as appropriate to protect shoreline resources based on a site-specific restoration assessment plan, and may differ from the standard critical area buffer dimensions provided in Chapter 16.16 WCC; provided, that the building envelope for the proposed non-water-oriented use shall be based on current site conditions.
- v. If water-oriented uses are located on or adjacent to the water, the remaining undeveloped water frontage that is not devoted to water-dependent use shall be preserved in a substantially unaltered condition. If the site has been previously altered by past development, the balance of the site may be reserved for future water-related use.
- vi. The requirements of this section shall not apply to those non-water-oriented industrial or port uses located on a site physically separated from the shoreline where access to the land/water interface is precluded; provided, that such conditions were lawfully established prior to the effective date of this program.

Comment [AP190]: Updated per Commercial example.

Comment [CES191]: To be consistent w/ WAC 173-26-241(3)(f)

Comment [CES192]: Updated for clarity.

Comment [AP193]: Updated per Commercial example.

1 ~~f.h.~~ Interim use of facilities approved and/or permitted for water-dependent use for non-water-
2 dependent uses may be approved by a shoreline conditional use permit under the following
3 conditions:

- 4 i. A specific occupancy plan has been approved that allows interim uses for a specific
5 period while the market for water-dependent uses is being developed, and the
6 proposed interim use is consistent with the occupancy plan.
 - 7 ii. The period of interim lease or commitment of the space shall not exceed five years. At
8 the end of five years, a new application for interim use shall be submitted.
 - 9 iii. A good faith effort to obtain water-dependent uses has been made and suitable tenants
10 were not found. The period of the search for water-dependent uses, the notice of
11 availability, listing or advertising employed, and any inquiries received shall be
12 documented.
 - 13 iv. No permanent improvements will be made to the space that requires more than five
14 years of occupancy to repay the investment. No permanent improvements will be made
15 that will reduce the suitability of the space for water-dependent use.
- 16 4. Required setback areas shall not be used for storage of industrial equipment or materials, or
17 waste disposal, but may be used for outdoor recreation. Portions of such setbacks may be used
18 for motor vehicle parking if design of such facilities is consistent with this program and critical
19 area regulations in WCC Chapter 16.16.
- 20 5. Disposal or storage of solid or other industrial wastes is not permitted on shorelines; except that
21 liquid waste treatment facilities may be permitted as a shoreline conditional use if it is
22 demonstrated that a shoreline location is required or where it is demonstrated that an
23 alternative site outside of the shoreline is not feasible; and further excepted, that land
24 application of waters used in the processing of fruits and vegetables within the shoreline is
25 permitted as a shoreline conditional use.
- 26 6. Marine rafts shall be located the minimum distance necessary above existing grade to minimize
27 impact on littoral drift and navigation along the shoreline.
- 28 ~~b. Minimum required setbacks from shorelines and side property lines, maximum height limits~~
29 ~~and open space requirements are contained in WCC 23.90.130, Shoreline bulk provisions —~~
30 ~~Buffers, setbacks, height, open space and impervious surface coverage.~~

31 A.B. Additional Standards for Log Rafts and Storage.

- 32 1. Storage of logs is prohibited in water-bodies, except where an upland location is not feasible;
33 provided, that no ~~new~~ log storage may be allowed in marine or estuarine waters or tidelands.
- 34 2. Log rafting shall be allowed in cases where overland transportation of logs would produce
35 unacceptable transportation impacts, or for transportation of logs from islands or from other
36 locations in Puget Sound. Areas for assembly and disassembly of log rafts shall meet all
37 standards below for log storage.
- 38 3. Offshore log storage shall only be allowed on a temporary basis, and should be located where
39 natural tidal or current flushing and water circulation are adequate to disperse polluting wastes.
- 40 4. Log rafting or storage operations are required to implement the following, whenever applicable:

- 1 ~~b.a.~~ Logs shall not be dumped, stored, or rafted where grounding will occur.
- 2 ~~e.b.~~ Easy let-down devices shall be provided for placing logs in water.
- 3 ~~d.c.~~ Bark and wood debris controls and disposal shall be implemented at log dumps, raft building
- 4 areas, and mill-side handling zones. Accumulations of bark and other debris on the land and
- 5 docks around dump sites shall be fully contained and kept out of the water.
- 6 ~~e.d.~~ Where water depths will permit the floating of bundled logs, they shall be secured in
- 7 bundles on land before being placed in the water. Bundles shall not be broken again except
- 8 on land or at mill sites.
- 9 5. Impervious pavement is required for log yards where the wet season water table is less than
- 10 four feet below surface level in order to reduce waste buildup and impacts on ground ~~water~~ and
- 11 surface water.
- 12 6. Stormwater management facilities shall be provided to protect the quality of affected waters.
- 13 7. Log storage facilities shall be located upland and properly sited to avoid fish and wildlife habitat
- 14 conservation areas.
- 15 8. Log storage facilities must be sited to avoid and minimize the need for dredging in order to
- 16 accommodate ~~new~~ barging activities at the site.
- 17 9. Log storage facilities shall be located in existing developed areas to the greatest extent feasible.
- 18 If a ~~new~~ log storage facility is proposed along an undeveloped shoreline, an alternatives analysis
- 19 shall be required.
- 20 10. A berm must be located around the outer edge of the upland sort surface using rocks, or other
- 21 suitable materials to prevent loss of wood debris into the water.
- 22 11. Log booming shall only be allowed offshore in sub-tidal waters in order to maintain unimpeded
- 23 nearshore migration corridors for juvenile salmonids and to minimize shading impacts from log
- 24 rafts. Log booming activities include the placement in or removal of logs and log bundles from
- 25 the water, and the assembly and disassembly of rafts for water-borne transportation.
- 26 12. A debris management plan describing the removal and disposal of wood waste must be
- 27 developed and submitted to the County. Debris monitoring reports shall be provided, ~~when~~ if
- 28 stipulated.
- 29 13. Existing in-water log storage and log booming facilities in critical habitats ~~utilized~~ used by
- 30 threatened or endangered species classified under ESA shall be reevaluated if use is
- 31 discontinued for two years or more, or if substantial repair or reconstruction is required. The
- 32 evaluation shall include an alternatives analysis in order to determine if logs can be stored
- 33 upland and out of the water, or if the site should be used for other purposes that would have
- 34 lesser impacts on ESA-listed species. The alternatives analysis shall include evaluation of the
- 35 potential for moving all, or portions of, log storage and booming to uplands.

36 ~~B. Hydropower Development.~~

- 37 ~~b. Hydropower facilities shall be located, designed, and operated to minimize impacts to fish and~~
- 38 ~~wildlife resources including spawning, nesting, and rearing habitat, and migratory routes, and~~
- 39 ~~critical areas. Mitigation measures to achieve no net loss of shoreline ecological functions and~~
- 40 ~~processes shall be implemented in accordance with WCC.~~

Comment [CES194]: Moved to Utilities section

- ~~c. Hydropower facilities shall be located, designed, and operated to protect and minimize impacts to geohydraulic processes; waterfalls; erosion and accretion shoreforms; agricultural land; scenic vistas; recreation sites; and sites having significant historical, cultural, scientific, or educational value.~~
- ~~d. Hydropower facilities shall accommodate public access to, and multiple use of, the shoreline.~~
- ~~e. For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the State Department of Ecology reservoir permit requirements, a maintenance agreement and construction bond for 150 percent of the cost of the structure shall be filed with the director of the Public Works Department prior to construction. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the state of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.~~
- ~~f. The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the state of Washington. The professional design shall include a maintenance schedule.~~

C. Regulations for Specific Shoreline Environment Designations.

1. In the Rural shoreline environment, permitted water-oriented port development and industrial facilities are limited to those used for processing, manufacturing, and storage of finished or semi-finished goods.
2. In the Resource shoreline environment, water-oriented facilities for the processing, manufacturing, and storage of natural resource products are permitted. Other water-oriented industrial or port use and development may be permitted as a shoreline conditional use. Non-water-oriented oriented facilities for the processing, manufacturing, and storage of natural resource products may be permitted as a shoreline conditional use subject to the criteria for such uses in this section.
3. In the Aquatic shoreline environment, water-dependent industrial or port use and development are permitted, subject to the use and development regulations of the abutting upland shoreline environment designation.
4. In the Cherry Point Management Area, WCC 23.40.125 shall also apply. Where this section differs from WCC 23.40.125, the regulation(s) of that section shall govern.

~~A. Shoreline Area Regulations.~~

- ~~1. Urban. Water oriented industrial and port use and development are permitted subject to policies and regulations of this program. Non water oriented industrial or port use and development may be permitted as a conditional use, subject to criteria for such uses in subsection (B)(1)(c)(iv) of this section. Dams, diversion, and tailrace structures and accessory development for hydroelectric power generation may be permitted as a conditional use.~~
- ~~2. Urban Resort. Port development limited to passenger terminals is permitted. All other industrial or port use and development is prohibited.~~

Comment [CES195]: Moved from 'Shoreline Area Regulations.'

3. ~~Urban Conservancy. Industrial or port use and development are prohibited, except that dams, diversion, and tailrace structures and accessory development for hydroelectric power generation may be permitted as a conditional use.~~
4. ~~Shoreline Residential. Industrial or port use and development are prohibited, except that dams, diversion, and tailrace structures and accessory development for hydroelectric power generation may be permitted as a conditional use.~~
5. ~~Rural.~~
 - a. ~~Water-oriented port development and industrial facilities for processing, manufacturing, and storage of finished or semi-finished goods are permitted.~~
 - b. ~~Non-water-oriented industrial or port use and development may be permitted as a conditional use, subject to criteria for such uses in subsection (B)(1)(c)(iv) of this section.~~
 - c. ~~Dams, diversion and tailrace structures and accessory development for hydroelectric power generation may be permitted as a conditional use.~~
6. ~~Resource.~~
 - a. ~~Water-oriented facilities for processing, manufacturing, and storage of natural resource products are permitted subject to the policies and regulations of this program.~~
 - b. ~~Non-water-oriented facilities for processing, manufacturing and storage of natural resource products, subject to criteria for such uses in subsection (B)(1)(c)(iv) of this section, and other water-oriented industrial or port use and development may be permitted as a conditional use.~~
 - c. ~~Dams, diversion and tailrace structures and accessory development for hydroelectric power generation may be permitted as a conditional use.~~
 - d. ~~Other non-water-oriented industrial or port use and development are prohibited.~~
7. ~~Conservancy. Industrial or port use and development are prohibited, except that dams, diversion, and tailrace structures and accessory development for hydroelectric power generation may be permitted as a conditional use.~~
8. ~~Natural. Industrial or port use and development are prohibited.~~
9. ~~Aquatic. Water-dependent industrial or port use and development are permitted, subject to the use and development regulations of the abutting upland shoreline area designation. Log storage may be permitted as a conditional use.~~

23.4100.210-125 Cherry Point Management Area.

A. ~~Policies.~~

B. ~~Purpose and Intent.~~

C. ~~The purpose of the Cherry Point management area is to provide a regulatory framework that recognizes and balances the special port, industrial and natural resource needs associated with the development of this marine resource. This section identifies policies and regulations for water-dependent industrial activities that apply in addition to specific other elements of this program as referenced herein.~~

Comment [AP196]: Moved from 23.40.220.

- 1 D. ~~Washington State natural resource agencies and Whatcom County have identified certain portions~~
2 ~~of the Cherry Point management area as providing herring spawning habitat and other key habitat~~
3 ~~characteristics that warrant special consideration due to their importance to regional fisheries and~~
4 ~~other elements of the aquatic environment.~~
- 5 E. ~~Development of the Cherry Point major port/industrial urban growth area will accommodate uses~~
6 ~~that require marine access for marine cargo transfer, including oil and other materials. For this~~
7 ~~reason, water dependent terminal facilities are encouraged as the preferred use in the Cherry Point~~
8 ~~management area. Due to the environmental sensitivity of the area, it is the policy of Whatcom~~
9 ~~County to limit the number of piers to one pier, in addition to those in operation or approved as of~~
10 ~~January 1, 1998.~~
- 11 F. ~~Whatcom County should consider participation with local, state, and federal agencies, tribal~~
12 ~~governments and other stakeholders in the development of a plan to address integrated~~
13 ~~management of the uplands and public aquatic lands within the Cherry Point management area. The~~
14 ~~development of such a plan could provide a forum and process for addressing aquatic resources by~~
15 ~~all stakeholders. Elements of the plan could be adopted as future amendments to this program as~~
16 ~~appropriate.~~
- 17 G. ~~All development that is to be located within the Cherry Point management area, as defined in~~
18 ~~Chapter 23.110 WCC, shall be subject to the policies and regulations found in this section, and shall~~
19 ~~not be subject to the policies and regulations found in WCC 23.100.010 through 23.100.160, nor~~
20 ~~Chapter 23.90 WCC, unless otherwise referenced in this section. The policies and regulations found~~
21 ~~in this section are applicable only within the geographic boundaries of the Cherry Point~~
22 ~~management area and do not apply elsewhere in the county. In the event that the provisions of this~~
23 ~~section conflict with other applicable referenced provisions of this program, the policies and~~
24 ~~regulations that are most protective of shoreline resources shall prevail.~~
- 25 H. ~~Water Dependent Industrial Development. Only water dependent facilities that serve industrial~~
26 ~~facilities should be allowed in the Cherry Point management area. Industry within the major~~
27 ~~port/industrial urban growth area, as designated in the County Comprehensive Plan, which is not~~
28 ~~water dependent should locate away from shoreline jurisdiction.~~
- 29 I. ~~Multiple Use Facilities. Facilities that allow for multiple use of piers, cargo handling, storage, parking~~
30 ~~and other accessory facilities are encouraged.~~
- 31 J. ~~Public Access.~~
- 32 K. ~~Where appropriate, industrial and port development within the Cherry Point management area~~
33 ~~should provide public beach and shoreline access in a manner that does not cause interference with~~
34 ~~facility operations or present hazards to life and property. This may be accomplished through~~
35 ~~individual action or by joint, coordinated action with other developers and landowners, for example,~~
36 ~~by setting aside a common public access area.~~
- 37 L. ~~Special emphasis should be given to providing public beach and shoreline access for recreational~~
38 ~~opportunities including but not limited to crabbing, small craft launching, surf fishing, picnicking,~~
39 ~~clamming, and beach walking.~~

1 ~~M. Public access within the Cherry Point management area should be consistent with the Whatcom~~
2 ~~County Parks and Recreation Open Space Plan.~~

3 ~~N. Shoreline Ecological Functions and Processes. In recognition of the diverse and vital ecological~~
4 ~~resources in the Cherry Point management area, consideration of probable effects of all~~
5 ~~development proposals on shoreline ecological functions and processes should be assessed with the~~
6 ~~other long term statewide interests. New port development that requires dredge and fill should not~~
7 ~~be permitted in the Cherry Point management area due to potential adverse effects on ecological~~
8 ~~functions, including fish and shellfish habitat and geohydraulic processes.~~

9 ~~O. Aesthetics. All development should be designed to avoid or minimize negative visual impacts on the~~
10 ~~scenic character of the area and to ensure visual compatibility with adjacent nonindustrial zoned~~
11 ~~properties.~~

12 ~~P. Site Development. All development should be constructed and operated in a manner that, while~~
13 ~~permitting water dependent uses, also protects shoreline resources, their ecological functions and~~
14 ~~processes, and that incorporates the following:~~

15 ~~Q. Low impact development approaches to avoid or minimize adverse impact to topography,~~
16 ~~vegetation, water quality, fish and wildlife habitat, and other natural site conditions;~~

17 ~~R. Adequate temporary and permanent management measures to control erosion and sediment~~
18 ~~impacts during construction and operation; and~~

19 ~~S. Adequate stormwater management facilities.~~

20 ~~T. Regulations.~~

21 A. All uses and modifications within the Cherry Point Management Area shall be subject to the
22 regulations found in this section (as well as those of Title 20, Zoning), and not those of WCC
23 23.40.120 (Industrial and Port Development). Where this section differs from WCC 23.40.120, the
24 regulation(s) of this section shall govern.

25 A.B. Allowed Uses.

26 1. Water-dependent industrial and port uses are allowed within the Cherry Point management
27 area only upon finding; provided, that specific findings are made in a shoreline substantial
28 development permit or conditional use permit that:

29 a. Policies for optimum implementation of the statewide interest have been achieved through
30 protection of shoreline ecological functions and processes;

31 b. The long-term statewide benefits of the development have been considered with the
32 potential adverse impacts on ecological functions; and

33 c. Proposed mitigation measures to achieve no net loss of ecological functions and processes
34 are incorporated in the proposal.

35 2. Fuel Uses – Shoreline Permits and Requirements:

36 a. Existing legal fossil or renewable fuel refinery operations or existing legal fossil or renewable
37 fuel transshipment facilities [as of XXX effective date] are considered permitted shoreline
38 substantial developments.

39 b. Expansions of existing legal fossil-fuel refineries or expansions of existing legal fossil-fuel
40 transshipment facilities shall require a shoreline conditional use permit.

Comment [CES197]: To do: need to add date once it's finalized.

c. New or expansion of existing legal renewable fuel refinery or renewable fuel transshipment facility shall require a shoreline conditional use permit.

Comment [DN198]: Added per Council's pending draft fossil fuel amendments.

~~2-3.~~ Water-related and water-enjoyment uses are allowed only as part of public access and public recreation development, subject to the ~~findings criteria~~ in subsection (B)(1)(a) of this section.

~~3-4.~~ Accessory development uses, which does not require a shoreline location in order to carry out ~~its~~ their support functions, shall be sited away from the land/water interface and landward of the principal use. Accessory ~~development uses~~ shall observe critical area buffers in WCC Chapter 16.16. Accessory ~~development uses~~ includes, but ~~are~~ is not limited to, parking, warehousing, open air storage, waste storage and treatment, stormwater control facilities, utility and land transport ~~development~~.

~~4-5.~~ Road, railway and utility facilities serving approved waterfront facilities related to water-dependent uses that are located and designed to minimize shoreline alteration are permitted.

6. Waste water disposal/treatment facilities for storage or disposal of industrial or domestic waste water are prohibited, except that elements such as conveyances and outfalls shall be allowed if alternate inland sites have been demonstrated to be infeasible. Waste water conveyance systems for ships at berth shall be permitted.

~~5-7.~~ Liquid manure storage facilities and spreading and animal feeding operations and confined animal feeding operations shall be prohibited.

~~B-C.~~ **Public Access.**

1. Public access shall be provided in accordance with WCC 23.930.0780 (Public Access) unless it is demonstrated that public access poses significant interference with facility operations or hazards to life or property.
2. If public access meeting the criteria above is demonstrated to be infeasible or inappropriate, alternative access may be provided in accordance with WCC 23.930.0780 at a location not directly adjacent to the water such as a viewpoint, observation tower, or other areas serving as a means to view public waters. Such facilities may include interpretive centers and displays that explain maritime history and industry; provided, that visual access to the water is also provided.
3. As an alternative to on-site public access facilities, public access may be provided in accordance with a public access plan adopted as an element of the Whatcom County Parks and Recreation Open Space Plan.

~~C-D.~~ **Critical Areas.** In addition to meeting the provisions of WCC 23.30.01090-030, (Ecological Protection) ~~and critical areas~~, development and alteration shall not be located or expanded within critical areas designated pursuant to WCC Chapter 16.16 except where the site is approved for water-dependent use, and the following are met:

1. Mitigation to achieve no net loss of ecological functions and processes shall be conducted in accordance with WCC 23.930.0130 (Ecological Protection).
2. Development and alteration shall not be allowed in wetlands in the backshore area. Upland development shall demonstrate that changes in local hydrology will not decrease the viability of the wetland environment nor degrade the existing water quality within the wetland.

- 1 3. The minimum required setback from the OHWM for all industrial and port facilities, including
2 development components, which do not require a water's edge or water surface location shall
3 be 150 feet; provided, that bluffs and banks greater than 10 feet in height and sloping greater
4 than 30 percent and wetland shorelines shall have such setbacks measured from the crest of the
5 bank or the edge of the wetland in addition to the OHWM.
- 6 4. Development and alteration other than recreation development for public and quasi-public
7 shoreline access is prohibited on the accretion shoreforms identified on the map in Appendix C
8 of this title, ~~subject to the regulations in this section and consistent with the conservancy and~~
9 ~~aquatic shoreline area designation policies and regulations of Chapters 23.90 and 23.100 WCC;~~
10 provided, that lawfully established uses or developments may be maintained subject to the
11 provisions of WCC ~~23.50.070~~ Chapter 23.50 (Nonconforming Uses, Structures, and Lots).

12 D.E. Location and Design.

13 1. Piers.

14 a. Due to the environmental sensitivity of the area, Whatcom County shall limit the number of
15 piers to ~~one pier, in addition to~~ those in operation as of January 1, 1998.

16 ~~a.b.~~ Piers shall be designed to accommodate only the necessary and intrinsic activities
17 associated with the movement of material and cargo from land to water and water to land.
18 The length of piers shall not extend beyond that which is necessary to accommodate the
19 draft of the vessels intending to use the facility.

20 ~~b.c.~~ Piers shall be designed to minimize interference in the intertidal zone and adverse impacts
21 to fish and wildlife habitats.

22 ~~c.d.~~ Piers shall be designed to minimize impacts on steep shoreline bluffs.

23 ~~d.e.~~ All pilings in contact with water shall be constructed of materials such as concrete, steel, or
24 other materials that will not adversely affect water quality or aquatic plants or animals.
25 Materials used for decking or other structural components shall be approved by applicable
26 state agencies for contact with water to avoid discharge of pollutants from wave splash,
27 rain, or runoff. Wood treated with creosote, copper chromium arsenic or
28 pentachlorophenol is prohibited; provided, that replacement of existing wood pilings with
29 chemically treated wood is allowed for maintenance purposes where use of a different
30 material such as steel or concrete would result in unreasonable or unsafe structural
31 complications; further provided, that where such replacement exceeds 20 percent of the
32 existing pilings over a 10-year period, such pilings shall conform to the standard
33 construction provisions of this section.

34 ~~e.f.~~ All piers on piling structures shall have a minimum vertical clearance of one foot above
35 extreme high water.

36 ~~f.g.~~ Bulk storage of gasoline, oil and other petroleum products for any use or purpose is not
37 allowed on piers, except for temporary storage under emergency situations, including oil
38 spill cleanup. Bulk storage means non-portable storage in fixed tanks. Secondary
39 containment shall be provided for portable containers.

Comment [CES199]: Deleted per Council's pending draft fossil fuel amendments.

g-h. All piers shall be located and designed to avoid impediments to navigation and to avoid depriving other properties of reasonable access to navigable waters. All piers shall be marked with navigational aids and approved for compliance with U.S. Coast Guard regulations.

2. Dredging.

a. Dredging to accommodate water access to, or construction of, new development is prohibited. New development shall be located and designed to avoid the need for dredging. Dredging for existing development shall be the minimum necessary and shall minimize interference in the intertidal zone and impacts to fish and wildlife habitats.

~~b. Dredging operations, including spoil disposal, shall be conducted in accordance with policies and regulations in WCC 23.90.120, (B)(4) and (5), Dredging.~~

~~c. Dredging is prohibited in the accretion shoreform and backshore wetland areas described in Appendix C of this title.~~

3. ~~Landfill~~ is prohibited, except for the minimum necessary to access piers or other structures that provide access to the water. Pier design should accommodate the connection between the pier and uplands by employing a pile-supported structure to the point of intersection with stable upland soils. ~~Limited landfill may be allowed for pier access that does not extend further toward the OHWM than existing topography. Any fill or excavation waterward of the OHWM requires a shoreline conditional use permit.~~

4. Excavation/Stabilization.

a. Excavation/stabilization of bluffs is prohibited, except for the minimum necessary to access piers or other structures that provide access to the water; provided, that active feeder bluffs shall not be altered if alteration will adversely affect the existing littoral drift process. ~~New development shall avoid, rather than modify, feeder bluffs.~~

b. Excavation/stabilization is prohibited on accretion shoreforms and in wetlands in the backshore area.

5. ~~Shoreline stabilization defense works~~ shall be regulated in accordance with WCC ~~23.100.130~~ 23.40.190 and be consistent with the conservancy and aquatic shoreline ~~area~~ environment regulations of that section.

~~E.F.~~ Adjacent Use.

1. ~~New or expanded p~~Port or industrial development adjacent to properties which are zoned for nonindustrial purposes shall provide setbacks of adequate width, to attenuate proximity impacts such as noise, light and glare; and may address scale and aesthetic impacts. Fencing or landscape areas may be required to provide a visual screen.

2. Exterior lighting shall be designed and operated to avoid illuminating nearby properties zoned for non-port or non-industrial purposes so as to not unreasonably infringe on the use and enjoyment of such property, and to prevent hazards for public traffic. Methods of controlling illumination of nearby properties include, but are not limited to, limits on height of structure, limits on light levels of fixtures, light shields and screening.

3. The minimum setback from side property lines which intersect the OHWM for industrial and port development shall be 60 feet; provided, that:
 - i. The side yard setback shall not apply to utility or security structures such as poles, meters, fences, guard houses, power vaults or transformers; and
 - ii. The side yard setbacks for parcels adjoining the NW and SE boundaries of the Cherry Point management area shall be administered in accordance with WCC 20.68.550 (Buffer Area).
4. Required setbacks shall not be used for storage of industrial equipment or materials, or for waste disposal, but may be used for public access or outdoor recreation.

F.G. Oil and Hazardous Materials.

1. Release of oil or hazardous materials on shorelines is prohibited.
2. A management plan shall be developed for new-permitted or conditionally permitted development for the safe handling of cargo, fuels, bilge water, and toxic or hazardous materials to prevent them from entering aquatic waters, surface or ground water. Specific provisions shall address prompt and effective clean-up of spills that may occur. Management plans shall be coordinated with state or federal spill response plans. Where a spill management/response plan has been approved by the state, said plan may be used to satisfy the requirements of this section.
3. Necessary spill containment facilities associated with existing development may be permitted within shoreline jurisdiction where there are no feasible alternatives.
- ~~4. Recreational Development. All recreational development shall comply with the policies and regulations of WCC 23.100.100 and be consistent with the conservancy and aquatic shoreline area regulations of that section.~~
- ~~5. Archaeological, Historic and Cultural Resource Management. All development associated with archaeological, historic or cultural site activities shall comply with the policies and regulations of WCC 23.90.070.~~

23.40.130 Land Division

A. ~~Additional Standards for Residential Divisions~~General.

1. Land divisions, including boundary line adjustments, shall not be allowed in a configuration that will require significant vegetation removal or shoreline modification or result in a net loss of shoreline ecological functions and processes at the time of development of the subdivision and/or use of each new parcel.
- ~~1-2. All new subland divisions shall provide for vegetation conservation to mitigate cumulative impacts of intensification of use within or adjacent to the shoreline that shall include compliance with vegetation conservation requirements of WCC 23.30.05023.30.040, together with replanting and control of invasive species within setbacks and open space to assure establishment and continuation of a vegetation community characteristic of a native climax community.~~
- ~~2. Residential lots created through land division in the shoreline shall only be permitted when the following standards are met:~~

Comment [CES200]: Moved from Residential section, as there are more than just residential land divisions (e.g., commercial, industrial, etc.)

- 1 3. Land division may not be approved in cases when it can be reasonably foreseeable that the
2 development or use would require structural flood hazard reduction measures within a channel
3 migration zone or floodway during the life of the development or use.
- 4 4. ~~New~~ Land division shall assure that the lots created will not require shoreline stabilization in
5 order for reasonable development to occur. ~~New~~ Land division that would require shoreline
6 stabilization is prohibited.
- 7 ~~5. New or expanded subdivisions and all multiunit residential developments shall provide a~~
8 ~~community recreation and/or open space area for the benefit of all residents or property~~
9 ~~owners in the development; provided, that such provisions shall not apply to lot line~~
10 ~~adjustment, lot consolidation, and subdivision of land into four or fewer lots.~~
- 11 ~~6.5. New or amended sub~~Land divisions of four or fewer lots adjacent to the shoreline shall provide
12 common access to the shoreline for all lots, consistent with, ~~except those for lot line~~
13 ~~adjustment and lot consolidation purposes, shall provide public access as provided for in~~
14 WCC 23.930.0780 (Public Access) and this section.
- 15 ~~7.6. All new sub~~land divisions shall record a prohibition on ~~new~~ private docks on the face of the plat.
16 An area for shared moorage may be approved if it meets all requirements for shared moorage in
17 WCC 23.40.150400.099 (Moorage), including demonstration that ~~public and private~~ marinas and
18 ~~other boating facilities~~ launch ramps are not sufficient to meet the moorage needs of the
19 subdivision.
- 20 ~~8.7. Subdividing tidelands for sale or lease in connection with individual building lots is prohibited.~~
- 21 ~~9.8. Substandard shoreline lots unsuitable for development of a primary permitted use under the~~
22 ~~WCC Official Zoning Ordinance (Title 20 (Zoning)) and this program shall not be subdivided.~~
- 23 ~~10.9. Land divisions of more than four lots and, including subdivision of land for more than~~
24 ~~four parcels, shall incorporate public access to publicly owned shorelines or public water~~
25 ~~bodies shorelines of the state as provided for in WCC 23.390.0780 unless the site is designated in~~
26 a shoreline public access plan for a greater component of public access or public access is
27 demonstrated to be infeasible or inappropriate. The amount and configuration of public access
28 shall depend on the proposed use(s) and the following criteria:
- 29 a. Subdivisions ~~within the shoreline~~ that have views of water areas shall provide a public
30 pedestrian viewing area.
- 31 b. Subdivisions adjacent to ~~public waterways, waters of the state and marine waters~~ shall
32 provide access to a point ~~that abutts~~ the water that will provide visual access, and shall
33 provide physical access to public waterways, public marine waters, and public tidelands that
34 are physically accessible at low tide or low water.
- 35 c. Subdivisions subject to requirements for dedication of land to provide open space or
36 mitigate recreation demands of the development shall dedicate such land on or adjacent to
37 public waterways or marine shorelines, as applicable, unless the ecological sensitivity of
38 such land precludes public access. Portions of the area dedicated may be fenced or
39 otherwise restricted to limit public access to ecologically sensitive areas.

Comment [CES201]: Covered elsewhere.

~~11.10.~~ Clustering and other low-impact development techniques may be required where appropriate to minimize physical and visual impacts on shorelines.

~~23.4100.120-140~~ Mining.

Mining in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.

A. Policies.

- ~~A. Mining should not be located on shorelines where unavoidable adverse impacts on other users or resources together equal or outweigh the benefits from mining.~~
- ~~B. Mining should not interfere with public recreation on the shoreline.~~
- ~~C. Mining should be located and operated so as to provide long term protection of water quality, fish and wildlife, and fish and wildlife habitat.~~
- ~~D. Mining, particularly surface or strip mining, should provide for timely restoration of disturbed areas to a biologically productive, semi-natural, or other useful condition through a reclamation process consistent with regulations administered by the Department of Natural Resources and other applicable county standards.~~
- ~~E. Mining of marine and lake shores or accretional shoreforms, such as point bars, that have a high value for recreation or as fish or wildlife habitat should generally not be permitted.~~
- ~~F. Mining should only be permitted on accretion point and channel bars where appropriate studies and detailed operation plans demonstrate that:
 - ~~a. Fish habitat, upland habitat and water quality will not be significantly impacted; and~~
 - ~~b. The operation will not adversely affect geohydraulic processes, channel alignment, nor increase bank erosion or flood damages.~~~~
- ~~G. Mining operations should be located, designed, and managed so that other appropriate uses are not subjected to substantial or unnecessary adverse impacts from noise, dust or other effects of the operation. The operator may be required to implement measures such as buffers, limited hours, or other mitigating measures for the purpose of minimizing adverse proximity impacts.~~

~~B. Regulations.~~

A. General.

- ~~1. The removal of gravel for flood management purposes shall be regulated in accordance with the policies-regulations for underof WCC 23.100.06023.40.100 (Flood Hazard Reduction Control Works and Instream Structures) as well as this section.~~
- ~~1.2. New m~~ Mining and associated activities shall be designed and conducted to result in no net loss of shoreline ecological functions and processes in accordance with WCC ~~23.90.03023.30.010~~ (Ecological Protection). Mining should not be approved where it could interfere with shoreline ecological functions or processes or cause irreparable damage to shoreline resources or features such as accretion shoreforms. Application of this standard shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation. The determination of whether there will be no net loss of ecological function shall be based on an evaluation of the reclamation plan required for the site and shall consider impacts on ecological functions during

Comment [DN202]: Removed sections which are not required by the WAC and provided only WAC specific requirements, except for the retained section on scalping, below.

operation. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species.

3. Permit requirements for mining should be coordinated with the requirements of RCW Chapters 78.44 (Surface Mining) and 77.55 (Construction Projects in State Waters).
4. The proposed subsequent use of mined property shall be consistent with the provisions of the environment designation in which the property is located. Reclamation of disturbed shoreline areas shall provide appropriate ecological functions consistent with the setting.
5. Pursuant to RCW 90.48.615, motorized or gravity siphon aquatic mining or discharge of effluent from such activity to any waters of the state that has been designated under the endangered species act as critical habitat, or would impact critical habitat for salmon, steelhead, or bull trout is prohibited. This section does not apply to:
 - a. Aquatic mining using nonmotorized methods, such as gold panning, if the nonmotorized method does not involve use of a gravity siphon suction dredge;
 - b. Mining operations where no part of the operation or discharge of effluent from the operation is to waters of the state;
 - c. Surface mining operations regulated by the State Department of Natural Resources under Title 78 RCW;
 - d. Metals mining and milling operations as defined in chapter 78.56 RCW; or
 - e. Activities related to an industrial facility, dredging related to navigability, or activities subject to a clean water act section 404 individual permit.
- a. Mining shall not be permitted in critical areas except as a part of an approved flood control program or in conjunction with a habitat restoration or enhancement plan; provided, that such activities may be permitted where demonstrated to be water dependent. A determination of water dependency shall be based on evaluation of geologic factors such as the distribution and availability of mineral resources for that jurisdiction, as well as evaluation of need for such mineral resources, economic, transportation, and land use factors. This showing may rely on analysis or studies prepared for purposes of GMA designations, be integrated with any relevant environmental review conducted under SEPA (Chapter 43.21C RCW), or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a).
- b. Application for permits for mining operations shall be accompanied by operation plans, reclamation plans and analysis of environmental impacts in accordance with WCC 20.73.700. Such information shall provide sufficient documentation to make a determination as to whether the project will result in net loss of shoreline ecological functions and processes during the course of mining and after reclamation. Creation, restoration, or enhancement of habitat for priority species and the future productivity of the site may be considered in determining no net loss of ecological functions.
- c. The applicant/proponent must show that mining is dependent on a shoreline location, and that demand cannot reasonably be accommodated in operations outside shoreline jurisdiction. Information required to meet this criterion shall evaluate geologic factors such as the

Comment [CES203]: From RCW 90.48.615.

Comment [AP204]: Covered by CAO.

distribution and availability of mineral resources as well as evaluation of need for such mineral resources, economic, transportation, and land use factors.

d. Where a lawfully established mining operation has resulted in the creation of a lake(s) greater than 20 acres and such lake(s) is subject to the provisions of the shoreline management program and the Act, such lake(s) shall be given a resource shoreline area designation. Notwithstanding any other applicable regulations, such mining operations shall be permitted to continue and may be expanded subject to approval of a shoreline conditional use permit.

e. Reclamation Plan.

i. A reclamation plan that complies with the format and detailed minimum standards of Chapter 78.44 RCW shall be included with any shoreline permit application for mining.

ii. A reclamation plan that is inconsistent with this program or the Act shall constitute sufficient grounds for denial of a shoreline permit; provided, that the applicant/proponent shall be given reasonable opportunity to revise the plan.

f. Overburden.

i. Overburden or other mining spoil or non-putrescible solid wastes shall be disposed of in an appropriate manner to protect shoreline ecological functions and processes, other uses, and aesthetic values.

ii. Disposal of overburden or mining spoil on shorelines shall comply with landfill policies and regulations of WCC 23.90.100.

g. Surface Oil, Coal Bed or Gas Drilling. As provided in the Act (RCW 90.58.160), surface drilling for oil or gas is prohibited in the waters of Puget Sound north to the Canadian boundary and the Strait of Juan de Fuca waterward from OHWM and on all lands within 1,000 feet landward therefrom. Coal bed drilling is also prohibited.

B. Marine and Lake Shores.

a. Mining of, including but not limited to, sand, gravel, cobbles, or boulders from any marine or lake shore is prohibited.

b. Mining of quarry rock may be permitted as a conditional use; provided, that shore processes and resources are not adversely affected.

B. Additional Standards for Rivers and Streams.

1. Mining waterward of the ordinary high-water mark of a river shall not be permitted unless:

a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole; and

b. The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

a-c. The determinations required by this section shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201(2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (chapter 43.21C RCW) and the SEPA rules (chapter 197-11 WAC).

d. In considering renewal, extension, or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, the County shall require compliance with this subsection to the extent that no such review has previously been conducted. Where there has been prior review, the County shall review previous determinations comparable to the requirements of this section to assure compliance with this section under current site conditions.

Comment [AP205]: Updated for consistency with WAC 173-26-241(3)(h).

~~b.e.~~ The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WCC 23.40.080 (Dredging and Dredge Material Disposal).

2. Mining within any designated channel migration zone (CMZ) may be approved as shall require a shoreline conditional use.

~~4.3.~~ Scalping of accretional point bars may be permitted as a shoreline conditional use for flood hazard reduction control purposes and or market demands commercial purposes under the following conditions:

- a. Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole. Specific studies accompanying the application shall demonstrate that no adverse flood, erosion, or other environmental impacts occur either upstream or downstream of extraction sites. Mining extraction amounts, rates, timing, and locations shall be based on a scientifically determined sediment budget adjusted periodically according to data provided by a regular monitoring plan.
- b. Aggregate washing and ponding of waste water are prohibited in floodways.
- c. Storage within the FEMA floodway is prohibited in the shoreline during the flood season (November 1st through March 1st); provided, that temporary stockpiling is permitted during working hours if all such materials are removed from the floodway at the end of each day's operation.
- d. All applicable permits and approvals, including, but not limited to, hydraulic project approval (HPA) from the Department of Fish and Wildlife and a Whatcom County flood permit, shall be obtained and all applicable provisions attached thereto shall be adhered to.

~~c.~~ Open pit mining may be permitted in a floodplain; provided, that all of the following criteria are met:

- ~~i.~~ All pits and other operations should be located outside of the channel migration zone.
- ~~ii.~~ All pits of each operation should be located and excavated to a depth so as to function as a self-flushing chain of lakes whenever the pits are overtopped by floods in order to prevent eutrophication and fish entrapment.
- ~~iii.~~ The entire operation should be sized and designed so that neither additional bank erosion, catastrophic changes in channel location, nor adverse impact to fish resources or water quality will likely result in the long term.

Comment [DN206]: Not specifically required by the WAC. Proposed for removal.

- iv. ~~The scale and mode of operation will not have adverse impacts on fish resources, water quality, and recreation resources, nor adversely impact a stream's natural capacity to erode, shift, accrete, and/or flood.~~
- v. ~~All equipment, works and structures are designed to withstand flooding without becoming a hazard in themselves nor causing adverse effects on shore features, without the necessity for shore stabilization structures.~~
- vi. ~~All structures or equipment which are not flood-proof shall be located outside of the 100-year floodplain during the flood season (November 1st through March 1st); provided, that such equipment is permitted during daily operations.~~

C. Regulations for Specific Shoreline Environment Designations

1. In the Aquatic shoreline environment mining is prohibited, except that accretional bar scalping in streams may be permitted as a shoreline conditional use; provided, that upon approval by the County and Ecology of a sediment management plan component for a mutually designated reach of river, including incorporating the findings of a programmatic environmental impact statement, the shoreline conditional use requirement will no longer be in effect unless mutually agreed to in said management plan.

D. Shoreline Area Regulations:

~~Urban. Mining is prohibited.~~

~~Urban Resort. Mining is prohibited.~~

~~Urban Conservancy. Mining is prohibited.~~

~~Shoreline Residential. Mining is prohibited.~~

~~Rural. Mining may be permitted as a conditional use subject to policies and regulations of this program.~~

~~Resource. Mining may be permitted as a conditional use subject to policies and regulations of this program.~~

~~Conservancy. Mining may be permitted as a conditional use subject to policies and regulations of this program.~~

~~Natural. Mining is prohibited.~~

1. Aquatic. Mining is prohibited, except that accretional bar scalping in streams may be permitted as a conditional use subject to policies and regulations of this program; provided, that upon approval by the county and Ecology of a sediment management plan component for a mutually designated reach of river, including incorporating the findings of a programmatic environmental impact statement, the conditional use requirement will no longer be in effect unless mutually agreed to in said management plan.

Comment [CES207]: Moved from removed 'Shoreline Area Regulations.'

Comment [CES208]: Addressed in the use table now.

23.4100.130-150 Moorage Structures—Docks, Piers and Mooring Buoys.

A. Policies.

- ~~A. Moorage associated with a single family residence is considered a water dependent use; provided, that it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible. Moorage for water related and water enjoyment uses or shared moorage for multifamily use should be allowed as part of a mixed use development or where it provides public access.~~
- ~~B. New moorage, excluding docks accessory to single family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support the intended water dependent or public access use.~~
- ~~C. As an alternative to continued proliferation of individual private moorage, mooring buoys are preferred over docks or floats. Shared moorage facilities are preferred over single user moorage where feasible, especially where water use conflicts exist or are predictable. New subdivisions of more than two lots and new multifamily development of more than two dwelling units should provide shared moorage.~~
- ~~D. Docks, piers and mooring buoys, including those accessory to single family residences, should avoid locations where they will adversely impact shoreline ecological functions or processes, including currents and littoral drift.~~
- ~~E. Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.~~
- ~~F. Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of piers and docks should be no greater than that required for safety and practicality for the primary use.~~
- ~~G. Pile supports are preferred over fills because piles do not displace water surface and intertidal or aquatic habitat and are removable and thus more flexible in terms of long term use patterns. Floats may be less desirable than pile structures where aquatic habitat or littoral drift are significant.~~
- ~~H. The use of buoys for small craft moorage is preferred over pile or float structures because of lesser long term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.~~
- ~~I. Shoreline resources and water quality should be protected from overuse by boaters living on vessels (live aboards). Boaters living on vessels are restricted to established marinas with facilities to address waste handling and other sanitary services.~~
- ~~J. Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.~~
- ~~K. Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.~~
- ~~L. New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to~~

Comment [AP209]: Revised per Scoping Document, Items #11a and 11b and includes a general overhaul to include more specifications.

provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.

~~B. Regulations.~~

A. General.

1. This section applies to all moorage structures. Marinas and boat launches are regulated pursuant to Moorage including docks, piers and mooring buoys in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC. Shared moorage with more than four berths and Boat launching facilities are regulated under WCC 23.40.060100-040; (~~Boating Facilities~~—Marinas and Launch Ramps).
2. No pier or dock shall be used for a residence.
3. Public access facilities shall be regulated pursuant to WCC 23.30.0760 (Public Access).
4. Commercial moorage shall be permitted only for water-dependent uses, and only if the applicant/proponent demonstrates that existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for the proposed water-dependent use.
5. Commercial covered moorage may be permitted only where vessel construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including demonstration that adequate upland sites are not feasible.
6. Moorage structures shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity, and sensitivity:
 - a. Feeder bluffs and accretion shoreforms;
 - b. Marshes and other wetlands;
 - c. Kelp and eelgrass beds; and,
 - d. Areas of high energy or shallow sloping bottoms (<2% gradient) in the marine environment.
7. Moorage structures shall not be permitted within the following shoreline habitats because of their scarcity, biological productivity, and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this program:
 - a. Estuaries;
 - b. Tidal pools on rock shores;
 - c. Spawning and holding areas for forage fish (such as herring, surf smelt and sandlance);
 - d. Subsistence, commercial and recreational shellfish beds; and
 - e. Other critical saltwater or freshwater habitats.
8. Other than for day use, all vessels mooring on waters of the state must obtain a lease or permission from the State Department of Natural Resources, except as allowed by applicable state regulations.
9. ~~No moorage shall impact the rights of navigation or public access, unless mitigated.~~
10. When there is not a moorage structure, marine rails are permissible, but shall be supported with as few piles as practicable.

~~B. Dimensional Standards—Freshwater.~~

Comment [CES210]: Revised per Scoping Document, Item #8c. This language is carried over from an existing regulation in the Boating Facilities section of the SMP related to marinas and boat launches.

Comment [CES211]: Added per DOE recommendation.

- 1 | 1. Freshwater – New overwater Moorage structures in freshwater environments may be
2 permitted, subject to the following:
3

	Design and Dimensional Standards
<u>Maximum Area: surface coverage, including all attached float decking, platform lifts, covered moorage, ramps, ells, and fingers</u>	<ul style="list-style-type: none"> • 480 sq. ft. for an individual use dock or pier • 700 sq. ft. for a shared moorage facility used by 2 residential property owners • 1,000 sq. ft. for a shared moorage facility used by 3 or more residential property owners • Public and commercial moorage structures shall be limited to the minimum area needed to accommodate the intended use. • These area limitations shall include platform lifts • Where a pier or dock cannot reasonably be constructed under the area limitation above to obtain a moorage depth of 5.5 feet measured below ordinary high water mark, an additional 4 sq. ft. of area may be added for each additional foot of pier or dock length needed to reach 5.5 feet of water depth at the waterward end of the pier or dock; provided, that all other area dimensions, such as maximum width and length, have been minimized.
<u>Maximum Width</u>	<ul style="list-style-type: none"> • For moorage structures accessory to a residential use: <ul style="list-style-type: none"> ◦ 4 feet for pier or dock walkway or ramp ◦ 6 feet for ells ◦ 2 feet for fingers ◦ 6 feet for float decking • Public and marina moorage structures shall be a maximum of 6 feet for all elements unless a need for a larger size is demonstrated
<u>Height</u>	<ul style="list-style-type: none"> • Minimum of 1.5 feet above ordinary high water to bottom of pier stringers, except the floating section of a dock and float decking attached to a pier
<u>Maximum Length</u> <ul style="list-style-type: none"> ◦ Marine Rails ◦ Floats ◦ Overall Dock Length 	<ul style="list-style-type: none"> • 20 feet waterward from the ordinary high water mark • 20 feet per user (e.g. single user – 20 feet, 2-users – 40 feet, etc.)for float decking • Minimum necessary to obtain a moorage depth of 5.5 feet measured below ordinary high watermark at the waterward end of the dock.
<u>Decking for piers, docks, walkways, platform lifts, ells, and fingers</u>	<ul style="list-style-type: none"> • Floats 6 feet wide or less must have at least 30% of the deck surface covered in functional grating • Floats greater than 6 feet wide must have at least 50% of the deck surface covered in functional grating • All other dock components must have 100% of the deck surface covered in functional grating • The open area of functional grating must be at least 60% • Replacement of more than 33% or 250 sq. ft., whichever is greater, of decking or replacement of decking substructure requires installation of functional grating in the replaced portion only

C. ~~Dimensional Standards – Marine:~~

1-2. Marine – ~~New overwater~~ Moorage structures in marine environments may be permitted, subject to the following; provided that port, industrial, and commercial piers and floats shall be the minimum area, length, and width necessary for the intended use:

	Design and Dimensional Standards
<u>Maximum Area: surface coverage, including all components</u>	<ul style="list-style-type: none"> • 480 sq. ft. for an individual use dock or pier • 700 sq. ft. for a shared moorage facility used by 2 residential property owners • 1,000 sq. ft. for a shared moorage facility used by 3 or more residential property owners

Comment [CES212]: Standards updated to meet the requirements of the Army Corps of Engineers' Regional General Permit 6 (RGP-6): Structures in Inland Marine Waters of Washington State, updated 2/12/20.

	<ul style="list-style-type: none"> Where a pier or dock cannot reasonably be constructed under the area limitation above to obtain a moorage depth of -9.5 feet mean low low water as measured at the waterward end of the dock, an additional 4 sq. ft. of area may be added for each additional foot of pier or dock length needed to reach -9.5 feet mean low low water as measured at the waterward end of the pier or dock; provided, that all other area dimensions, such as maximum width and length, have been minimized
Maximum Width	<ul style="list-style-type: none"> For moorage structures accessory to a residential use: <ul style="list-style-type: none"> 4 feet for single use or 6 feet for joint use for pier or dock walkway or ramp 6 feet for ellis 2 feet for fingers 8 feet for float decking For a joint use structure pier – 86 feet Public and marina moorage structures shall be a maximum of 6 feet for all elements unless a need for a larger size is demonstrated Maximize height over the bed to improve light transmission The bottom of the pier must be at least six feet above the bed at the landward end
Height	
Maximum Length	<ul style="list-style-type: none"> Marine Rails – 20 feet Floats – 30 feet per user (e.g., single-user – 30 feet, 2-users – 60 feet, etc) Overall Dock Length – Minimum necessary to obtain a moorage depth of -9.5 feet mean low low water as measured at the waterward end of the dock .
Decking	<ul style="list-style-type: none"> Floats must have at least 50% of the deck surface covered in functional grating. Piers, stairs, ramps, and platform lifts must have 100% of the deck surface covered in functional grating Grating openings should be oriented lengthwise in the eastwest direction to the maximum extent practicable. Grating must not be covered (on the surface or underneath) with any items (e.g., kayaks, planters, sheds, lawn chairs, etc.) except utility boxes. Grating must be either multi-directional grating with a minimum of 40% open space or square grating with a minimum of 60% open space. Provide documentation to show amount of % open area. Replacement of more than 10% or 48 sq. ft. of decking or replacement of decking substructure requires installation of functional grating in the replaced portion only

Comment [DOE-Req213]: Required Change – This change removes the ambiguous reference to an 8-foot maximum associated with joint use structures. After consultation with Whatcom County PDS staff, these changes clarify the original intent that the 8-foot width maximum applied to joint-use residential moorage structures. Staff also suggested limiting the maximum width of such structures to 6-feet.

Comment [CES214]: Revised based on USACE standards.

C. Construction Standards for ~~Overwater~~ Moorage Structures.

- Piers and docks shall be the minimum size necessary to meet the needs of the proposed water-dependent use, ~~and shall observe the following criteria:~~
- ~~Piers and docks~~ Moorage structures shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions of a pier or dock, decking and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain or runoff. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited. Piers and docks in lakes providing a public water supply shall be constructed of untreated materials, such as untreated wood, approved plastic composites, concrete or steel.
- Piers and docks shall use pile supports unless engineering studies demonstrate that pile supports are insufficient to ensure public safety. Riprapped or bulkheaded fills may be approved

1 | for public projects only and only as a shoreline conditional use and only when demonstrated
2 | that no feasible alternative is available. Mitigation shall be provided to ensure no net loss of
3 | shoreline ecological functions and processes.

- 4 | 4. Approaches to piers and docks shall use piers or other structures to span the entire upper
5 | foreshore to the point of intersection with stable upland soils and shall be design to avoid
6 | interference with littoral drift or wave refraction. Limited fill or excavation may be allowed
7 | landward of the OHWM to match the upland with the elevation of the pier or dock.

- 8 | 5. Pile diameter shall be the minimum necessary and pile spacing shall be the maximum feasible to
9 | minimize shading and avoid a "wall" effect that would block or baffle wave patterns, currents,
10 | littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood
11 | impact or entrapment. Piles supporting a new pier must be spaced no closer than 20 feet apart.

- 12 | ~~5-6.~~ Offshore and foreshore pile structures shall allow for continuity of hydraulic energy patterns,
13 | unless specifically designed to reduce wave impact on shores.

- 14 | 7. Floatation for the float shall be fully enclosed and contained in a shell (e.g., polystyrene tubs not
15 | shrink wrapped or sprayed coatings) that prevents breakup or loss of the floatation material into
16 | the water and is not readily subject to damage by ultraviolet radiation and/or abrasion caused
17 | by rubbing against piling and/or waterborne debris.

- 18 | 8. Floatation components shall be installed under the solid portions of the float, not under the
19 | grating.

- 20 | 9. If the project includes the replacement of existing piling, they should be either partially cut with
21 | a new piling secured directly on top, fully extracted, or cut 2 feet below the mudline. If treated
22 | piling are fully extracted or cut, the holes or piles must be capped with clean, appropriate
23 | material.

- 24 | ~~6-10.~~ A maximum of two moorage pilings may be installed to accommodate the moorage of
25 | boats exceeding the length of the floats.

- 26 | 11. Overhead wiring or plumbing is not permitted on moorage structures.

- 27 | 12. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent
28 | unnecessarily hazardous conditions for water surface users during the day or night. Exterior
29 | finish shall be generally non-reflective.

- 30 | 13. Moorage facilities shall be constructed and maintained so that no part of a facility creates
31 | hazardous conditions nor damages other shore property or natural features during predictable
32 | flood conditions. Floats shall be securely anchored.

- 33 | 14. Water supply, sewage disposal and disposal of nonhazardous materials associated with activities
34 | on docks and piers shall conform to applicable health standards.

- 35 | 15. No private or shared moorage may be constructed to within 200 feet of OHWM on the opposite
36 | shore of any lake or semi-enclosed body of water such as a bay, cove, or natural channel. This
37 | restriction shall not apply within marinas, dredged canal systems or approved marina-home
38 | developments.

- 39 | 16. Storage of fuel, oils, and other toxic materials is prohibited on docks and piers except portable
40 | containers when provided with secondary containment.

Comment [AP215]: Added per Scoping Document, Item #5e. This provision is consistent with WAC requirements to require a CUP for any fill waterward of the OHWM.

Comment [CES216]: Updated to meet the requirements of the Army Corps of Engineers' Regional General Permit 6 (RGP-6): Structures in Inland Marine Waters of Washington State, updated 2/12/20.

17. The width of landings, stairways, or steps must not exceed 4 feet for single-use and 6 feet for joint-use.
18. Additional standards for marine moorage structures:
- a. Floats may be held in place with lines anchored with a helical screw or “duckbill” embedded anchor, piles with stoppers and/or float support/stub piles. (1) For a single-user float, a maximum of 4 piles (not including stub piles) or embedded anchors may be installed. (2) For a joint-use float, a maximum of 8 piles (not including stub piles) or embedded anchors may be installed. (3) If embedded anchors need to be utilized, the anchor lines shall not rest on the substrate at any time; each must contain a mid-line float. (4) Only if the substrate prohibits use of piles or embedded anchors may a Corps-approved alternative be used. (5) If a concrete anchor or other Corps-approved alternative is needed to hold the float, calculations showing that it will hold without dragging or breaking during storm events are required. This analysis should include the size of the float and the dry weight and dimensions of the anchor.
 - b. If the float is positioned perpendicular to the ramp, a small access float may be installed to accommodate tidal movement of the ramp. The access float cannot be larger than 6 feet wide and 10 feet long.
 - c. No floats may be installed in the Upper Shore Zone (area landward of +5 MLLW).
 - d. Float Stops:
 - i. To suspend the float above the substrate at all tides, float stops should be installed on piles anchoring floats. This method is preferred over (d)(ii) and(d)(iii) because float stops are less impacting to the marine environment.
 - ii. If float stops attached to piles are not feasible (provide explanation) then up to four 10-inch diameter stub piles may be installed.
 - iii. Float “feet” attached to the float are an option if the substrate consists of coarse material as described in the column to the right
19. Additional standards for marine mooring buoys:
- a. Mooring buoys shall be placed at a distance specified by the Washington Department of Fish and Wildlife, the Washington Department of Natural Resources, and the U.S. Coast Guard to balance the goals of avoiding nearshore habitat and minimizing obstruction to navigation. Anchors and other design features shall meet Washington Department of Fish and Wildlife standards.
 - b. The location (latitude/longitude) of the anchor for the buoy must be identified on the project drawings.
 - c. Anchor lines must not rest or drag on the substrate, and a midline float must be installed to prevent this.
 - d. Anchors should be helical screw or another type of embedded anchor. Only if the substrate prohibits use of embedded anchors may alternative anchors (i.e., concrete block) be used. If an embedded anchor cannot be used and a concrete anchor is needed, calculations showing that the anchor will hold without dragging or breaking during storm events is required. This

analysis should include the size of the vessel and the dry weight and dimensions of the anchor.

- e. No other moorage structures may be anchored within a 117-foot radius (with the proposed buoy in the center of the 117-foot radius circle, which would result in a concentration of no more than one per acre) of the proposed buoy.
- f. New mooring buoys may not be installed in any waterbody the Washington State Department of Health has designated as "threatened" or "closed" to shellfish harvesting due to the number of boats moored there.

- ~~D. Private recreational moorage for individual lots is permitted in existing subdivisions approved on or before January 28, 1993, only where shared moorage has not already been developed. Prior to development of a new dock for a single residential lot, the applicant/proponent shall demonstrate that:~~
- ~~E. Existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for use;~~
- ~~F. On marine shorelines, alternative moorage, such as mooring buoys or a dock sized to accommodate a tender to provide access in conjunction with a mooring buoy, are not adequate or feasible; and~~
- ~~G. The applicant/proponent has contacted abutting property owners and none have indicated a willingness to share an existing dock or develop a shared moorage in conjunction with the applicant/proponent.~~
- ~~H. If allowed, only one private dock shall be permitted on a shoreline residential lot.~~
- ~~I. Shared moorage shall be required in accordance with the following to prevent the proliferation of moorage facilities:~~
- ~~J. Shared moorage shall be provided for all new residential developments of more than two dwelling units. New subdivisions shall contain a restriction on the face of the plat prohibiting individual docks. A site for shared moorage should be owned in undivided interest by property owners within the subdivision. Shared moorage facilities shall be available to property owners in the subdivision for community access and may be required to provide public access depending on the scale of the facility. If shared moorage is provided, the applicant/proponent shall file at the time of plat recordation a legally enforceable joint use agreement or other legal instrument that, at minimum, addresses the following:~~
- ~~K. Apportionment of construction and maintenance expenses;~~
- ~~L. Easements and liability agreements; and~~
- ~~M. Use restrictions.~~
- ~~N. On marine shorelines a dock or pier may be approved only if it is not feasible to provide mooring buoys with an adequate landing area or a dock sized to accommodate tenders.~~
- ~~O. Where a multifamily residential development, camping club or subdivision development provides shared moorage, space for the number of waterfront lots or dwelling units may be provided with an additional provision for sites without water frontage up to a ratio of 1.25 moorage spaces per total lots or units.~~

Comment [CES217]: Added to meet the requirements of the Army Corps of Engineers' Regional General Permit 6 (RGP-6): Structures in Inland Marine Waters of Washington State, updated 2/12/20.

1 P. ~~Prior to issuing a permit for shared moorage, a proponent shall file with the Whatcom County~~
2 ~~auditor a legally enforceable joint use agreement that, at minimum, addresses the following:~~
3 Q. ~~Apportionment of construction and maintenance expenses;~~
4 R. ~~Easements and liability agreements; and~~
5 S. ~~Use restrictions.~~
6 T. ~~Commercial docks shall be permitted only for water dependent uses, and only if the~~
7 ~~applicant/proponent demonstrates that existing facilities in the vicinity, including marinas and~~
8 ~~shared moorage, are not adequate or feasible for the proposed water dependent use.~~
9 U. ~~Private moorage for float planes may be permitted as a conditional use where construction will not~~
10 ~~adversely affect shoreline functions or processes, including wildlife use. Ecological restoration may~~
11 ~~be required to compensate for the greater intensity of activity associated with the use.~~
12 V. ~~If allowed under the provisions of this program, only one private dock with one accessory float, one~~
13 ~~boat lift, and one covered moorage accessory to a permitted moorage, shall be permitted on a~~
14 ~~shoreline lot owned for residential or private recreational use.~~
15 W. ~~Docks with or without a float shall be the minimum size required to provide for moorage. Single-~~
16 ~~family docks and floats shall not exceed 40 feet in length measured perpendicularly from the OHWM~~
17 ~~nor exceed three feet in height above the extreme high water level. Shared moorage may extend to~~
18 ~~80 feet in length if demonstrated to be necessary to provide adequate moorage. In the case of pile~~
19 ~~docks at marine or river locations, the height shall be limited to that which may be reasonably~~
20 ~~necessary to accommodate landing and moorage of watercraft. Commercial docks shall be the~~
21 ~~minimum length necessary to serve the type of vessel served.~~
22 X. ~~Private docks up to 60 feet in length or shared moorage up to 100 feet in length measured~~
23 ~~perpendicularly from the OHWM, including floats, may be permitted by the administrator in shallow~~
24 ~~areas where a dock sized to accommodate a tender to provide access to a mooring buoy is not~~
25 ~~feasible and where existing docks on adjacent properties presently extend out as far as that which is~~
26 ~~proposed, and where such added length is necessary in order to allow a reasonable use of the dock,~~
27 ~~as determined based upon adjacent uses; and where the extension in dock length will not adversely~~
28 ~~affect ecological processes and functions, provided the required dock length is the minimum~~
29 ~~necessary to achieve such purposes. Docks that cannot reasonably meet this standard may request a~~
30 ~~review under the variance provisions of this program.~~
31 Y. ~~Moorage shall be designed to avoid the need for maintenance dredging. The moorage of a boat~~
32 ~~larger than provided for in the original moorage design shall not be grounds for approval of d~~
33 Z. ~~In order to minimize impacts on nearshore areas and avoid reduction in ambient light level:~~
34 AA. ~~The width of piers, docks and floats shall be the minimum necessary and shall not exceed four feet~~
35 ~~in width, except where specific information on use patterns justifies a greater width. Marine floats~~
36 ~~shall not exceed eight feet in width nor 40 feet in length and freshwater floats shall not exceed six~~
37 ~~feet in width and 20 feet in length unless authorized by a variance. Exceptionally large vessels or~~
38 ~~vessels that require a relatively deep draft may be required to use a buoy, other alternative mooring~~
39 ~~scheme, or to moor in a marina. Materials that will allow light to pass through the deck may be~~
40 ~~required where width exceeds four feet.~~

1 ~~BB. Dock surfaces designed to allow maximum light penetration shall be used on walkways or~~
2 ~~gangplanks in nearshore areas.~~

3 ~~CC. Piers, docks and floats shall be located along a north/south orientation to the maximum extent~~
4 ~~feasible.~~

5 ~~DD. Private docks shall not encroach into the required sideyard setbacks for residential development~~
6 ~~(both onshore and offshore); provided, that a shared moorage may be located adjacent to or upon a~~
7 ~~side property line of the affected properties upon filing of an easement agreement or other legal~~
8 ~~instrument by the affected property owners.~~

9 ~~EE. Dock and Pier Design.~~

10 ~~FF. Moorage buoys shall be placed at a distance specified by the Washington Department of Fish and~~
11 ~~Wildlife, the Washington Department of Natural Resources, and the U.S. Coast Guard to balance the~~
12 ~~goals of avoiding nearshore habitat and minimizing obstruction to navigation. Anchors and other~~
13 ~~design features shall meet Washington Department of Fish and Wildlife standards.~~

14 ~~GG. A covered moorage accessory to a single family pier or dock, not accessory to a marina, shall have~~
15 ~~no walls other than an open structural framework to support a roof and shall not cover more than~~
16 ~~200 square feet nor exceed 15 feet in height above OHWM. Roof materials shall be translucent, or~~
17 ~~at least 50 percent clear skylights.~~

18 ~~HH. Commercial covered moorage may be permitted only where vessel construction or repair work is to~~
19 ~~be the primary activity and covered work areas are demonstrated to be the minimum necessary~~
20 ~~over water, including demonstration that adequate upland sites are not feasible.~~

21 ~~II. No private or shared moorage may be constructed to within 200 feet of OHWM on the opposite~~
22 ~~shore of any lake or semi-enclosed body of water such as a bay, cove, or natural channel. This~~
23 ~~restriction shall not apply within marinas, dredged canal systems or approved marina-home~~
24 ~~developments.~~

25 ~~JJ. If a dock is provided with railing, such railing shall not exceed 36 inches in height and shall be an~~
26 ~~open framework that does not unreasonably interfere with shoreline views of adjoining properties~~
27 ~~or lawful use of water surface~~

28 ~~KK. Water supply, sewage disposal and disposal of nonhazardous materials associated with activities on~~
29 ~~docks and piers shall conform to applicable health standards.~~

30 ~~LL. Moorage facilities shall be marked with reflectors, or otherwise identified to prevent unnecessarily~~
31 ~~hazardous conditions for water surface users during the day or night. Exterior finish shall be~~
32 ~~generally non-reflective.~~

33 ~~MM. Moorage facilities shall be constructed and maintained so that no part of a facility creates~~
34 ~~hazardous conditions nor damages other shore property or natural features during predictable flood~~
35 ~~conditions. Floats shall be securely anchored.~~

36 ~~NN. No pier or dock shall be used for a residence.~~

37 ~~OO. Storage of fuel, oils, and other toxic materials is prohibited on docks and piers except portable~~
38 ~~containers when provided with secondary containment.~~

39 ~~PP. Public access facilities shall be provided in accordance with policies and regulations in~~
40 ~~WCC 23.90.080.~~

1 D. Additional Standards for Individual use docks and piersMoorage.

Comment [CES218]: Updated to meet current state and federal regs & guidance

- 2 1. An individual use dock may consist of one pier, one float or platform lift, one boat lift, and one
- 3 covered moorage.
- 4 2. When allowed under the provisions of this program, only one private dock shall be permitted as
- 5 an accessory use to a primary use.
- 6 3. Private recreational moorage for individual lots is permitted in subdivisions approved on or
- 7 before January 28, 1993, only where shared moorage has not already been developed.
- 8 4. Prior to development of a new dock for a single residential lot, the applicant/proponent shall
- 9 demonstrate that:
 - 10 a. Existing facilities in the vicinity, including marinas and shared moorage, are not adequate or
 - 11 feasible for use;
 - 12 b. Alternative moorage, such as mooring buoys or a dock or marine rail system sized to
 - 13 accommodate a tender to provide access in conjunction with a mooring buoy, are not
 - 14 adequate or feasible; and
 - 15 c. The applicant/proponent has contacted abutting property owners and none have indicated
 - 16 a willingness to share an existing dock or develop a shared moorage in conjunction with the
 - 17 applicant/proponent.
- 18 5. Private moorage for float planes may be permitted as a shoreline conditional use where
- 19 construction will not adversely affect shoreline functions or processes, including wildlife use.
- 20 Ecological restoration may be required to compensate for the greater intensity of activity
- 21 associated with the use.
- 22 6. Private docks shall not encroach into the required sideyard setbacks for residential development
- 23 (both onshore and offshore).
- 24 4-7. Covered moorage accessory to a single-family pier or dock shall have no walls other than an
- 25 open structural framework to support a roof and shall not cover more than 200 square feet nor
- 26 exceed 15 feet in height above OHWM. Roof materials shall be translucent, or at least 50
- 27 percent clear skylights.

28 E. Additional Standards for Shared Moorage.

- 29 1. When allowed under the provisions of this program, a shared moorage dock may be permitted
- 30 for multiple users. Such docks may consist of one pier and multiple floats or platform lifts, boat
- 31 lifts, and covered moorages, not to exceed the number of authorized users nor the total
- 32 maximum area allowed per WCC 23.40.140(B).
- 33 2. Shared moorage shall be required in accordance with the following to prevent the proliferation
- 34 of moorage facilities:
 - 35 a. Shared moorage shall be provided for all residential developments of more than two
 - 36 dwelling units.
 - 37 b. Subdivisions shall contain a restriction on the face of the plat prohibiting individual docks.
 - 38 c. Shared moorage facilities shall be available to property owners in the subdivision for
 - 39 community access and may be required to provide public access depending on the scale of

the facility. A site for shared moorage should be owned in undivided interest by property owners within the subdivision.

- d. If shared moorage is provided, the applicant/proponent shall file at the time of plat recordation a legally enforceable joint use agreement or other legal instrument that, at minimum, addresses the following:
- i. Apportionment of construction and maintenance expenses;
 - ii. Easements and liability agreements; and
 - iii. Use restrictions.
- e. On marine shorelines a dock or pier may be approved only if it is not feasible to provide mooring buoys with an adequate landing area or a dock or marine rail system sized to accommodate tenders.
- f. Where a new multifamily residential, camping club, or subdivision development proposes to provide shared moorage, space for the number of waterfront lots or dwelling units may be provided with an additional provision for sites without water frontage up to a ratio of 1.25 moorage spaces per total lots or units. This provision does not apply to existing developments.

3. Shared moorage shall be limited to the amount of moorage needed to serve lots with water frontage; provided, that a limited number of upland lots may also be accommodated. Applications for shared moorage shall demonstrate that mooring buoys are not feasible prior to approval of dock moorage. Shared moorage currently leased or proposed to be leased to upland property owners shall be reviewed as a marina.
4. Shared moorage may be located adjacent to or upon a side property line of the affected properties upon filing of an easement agreement or other legal instrument by the affected property owners.

C. Shoreline Area Regulations.

- A. Urban. Private and shared moorage are permitted subject to policies and regulations of this program. Public, commercial and industrial moorage, including expansion of existing piers, and covered moorage or floatplane moorage accessory to a permitted moorage may be permitted as a conditional use.
- B. Urban Resort. Private, shared and public moorage, and covered moorage or floatplane moorage accessory to a permitted moorage, may be permitted as a conditional use subject to the policies and regulations of this program. Commercial moorage is prohibited, except piers serving small passenger vessels may be permitted as a conditional use. Industrial moorage is prohibited.
- C. Urban Conservancy. Private and shared moorage on non-marine shorelines are permitted subject to policies and regulations of this program. Private and shared moorage on marine shorelines, other than constructed marinas or canals, may be permitted as a conditional use. Public and commercial moorage, including the expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Industrial and covered moorage are prohibited.

Comment [CES219]: Addressed by use table now.

- ~~D.— Shoreline Residential. Private and shared moorage are permitted subject to policies and regulations of this program. Public and commercial moorage, including expansion of existing piers, and covered moorage or floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Industrial moorage is prohibited.~~
- ~~E.— Rural. Private and shared moorage are permitted subject to policies and regulations of this program. Public, industrial and commercial moorage, including expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Covered moorage is prohibited.~~
- ~~F.— Resource. Private and shared moorage are permitted subject to policies and regulations of this program. Public, industrial and commercial moorage, including expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Covered moorage is prohibited.~~
- ~~G.— Conservancy. Private and shared moorage on nonmarine shorelines are permitted subject to policies and regulations of this program. Private and shared moorage on marine shorelines, other than constructed marinas or canals, may be permitted as a conditional use. Public and commercial moorage, including the expansion of existing piers, and floatplane moorage accessory to a permitted moorage may be permitted as a conditional use. Industrial and covered moorages are prohibited.~~
- ~~H.— Natural. Moorage is prohibited, except public access, interpretive or nature observation facilities that are compatible with the area's physical and visual character may be conditionally permitted subject to policies and regulations of this program. Covered and floatplane moorage are prohibited.~~
- ~~I.— Aquatic. Moorage is permitted, subject to the use and development regulations of the abutting upland shoreline area designation. Unless authorized by WA DNR or its designees, extended moorage longer than 60 consecutive days in one location shall be considered an obstruction which interferes with the normal public use of the surface of the waters of the state, and is prohibited.~~

23.4100.140-160 Recreation.

Shoreline recreation shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.

A.— Policies.

A.— Shoreline recreational development should be given priority for shoreline location to the extent that the use facilitates the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

B.— Recreational developments should facilitate appropriate use of shoreline resources while conserving them. These resources include, but are not limited to: accretion shoreforms, wetlands, soils, ground water, surface water, native plant and animal life, and shore processes.

- ~~C. Recreational development requiring extensive structures, utilities and roads and/or substantial modifications of topography or vegetation removal should not be located or expanded in areas where damage to persons, property, and/or shoreline functions and processes is likely to occur.~~
- ~~D. Recreational developments and plans should provide the regional population a varied and balanced choice of recreation experiences in appropriate locations. Public agencies and private developers should coordinate their plans and activities to provide a wide variety of recreational opportunities without needlessly duplicating facilities.~~
- ~~E. Trail links between shoreline parks and public access points should be encouraged for walking, horseback or bicycle riding and other non-motorized vehicle access where appropriate. The Whatcom County Comprehensive Park and Recreation Open Space Plan should be considered in design and approval of public trail systems.~~
- ~~F. Access to natural character recreational areas, including but not limited to beaches and fishing streams, should be a combination of linear shoreline trails or easements and small parking or access tracts to minimize user concentration on small portions of the shoreline.~~
- ~~G. Recreation facilities should incorporate public education regarding shoreline ecological functions and processes, the role of human actions on the environment and the importance of public involvement in shorelines management. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities and nature trails.~~
- ~~H. Reasonable physical or visual public access to shorelines should be provided and integrated with recreational developments in accordance with WCC 23.90.080.~~
- ~~I. Recreation development should be located only where utility and road capability is adequate, or may be provided without significant damage to shore features commensurate with the number and concentration of anticipated users.~~
- ~~J. Cooperative efforts among public and private persons toward the acquisition and/or development of suitable recreation sites or facilities should be explored to assure long-term availability of sufficient public sites to meet local recreation needs.~~
- ~~B. Regulations. Where significant adverse impacts are adequately mitigated, recreational development is a priority use for shoreline location, subject to the following:~~
- A. General.
1. Water-related and water-enjoyment uses ~~do shall~~ not displace water-dependent uses ~~and are consistent with existing water-related and water-enjoyment uses.~~
 2. Activities provided by recreational facilities must bear a substantial relationship to the shoreline, or provide physical or visual access to the shoreline. Facilities for water-dependent recreation such as fishing, clam digging, swimming, boating, and wading, and water-related recreation such as picnicking, hiking, and walking should be located near the shoreline, while non-water-related recreation facilities shall be located inland.
 3. Recreation areas or facilities ~~on the shoreline~~ shall provide physical or visual public access consistent with the criteria of WCC 23.30.06090.080 (Public Access).
 4. Recreational facilities with large grass areas, such as golf courses and playing fields, and facilities with extensive impervious surfaces shall incorporate means to prevent erosion, control the

1 amount of runoff, and prevent harmful concentrations of chemicals and sediment from entering
2 waterbodies in accordance with the ~~policies and~~ regulations of WCC 23.390.0340 (Water Quality
3 and Quantity).

4 5. Recreational use of motor vehicles including unlicensed off-road vehicles is permitted only on
5 roads or trails specifically designated for such use. Such use is prohibited on tidelands,
6 backshore beaches, streams, or wetlands; except as necessary for public health and safety or
7 maintenance.

8 6. Trails shall meet the requirements of WCC Chapter 16.16 (Critical Areas).

9 B. Regulations for Specific Shoreline Environment Designations.

10 1. In the Urban Conservancy shoreline environment, low intensity water-oriented recreational use
11 and development is permitted subject to the following criteria:

- 12 a. Structures will not result in more than 10 percent building coverage or 4,000 square feet,
13 whichever is greater, and total impervious surface will not exceed 20 percent, or 10,000
14 square feet, whichever is greater.
- 15 b. Alteration of topography shall be limited to the minimum necessary to accommodate
16 allowed development, and generally less than 30 inches.
- 17 c. Use of areas or facilities will not result in use patterns that lead to degradation of shoreline
18 ecological functions.

19 2. In the Resource shoreline environment, low intensity water-oriented recreational use and
20 development is permitted; provided, that no designated agricultural or forest resource lands of
21 long-term significance are displaced.

22 3. In the Conservancy shoreline environment, low intensity water-oriented recreational use and
23 development is permitted subject to the following criteria:

- 24 a. Structures on sites of one acre or less will not result in more than 10 percent building
25 coverage or 2,000 square feet, whichever is greater, and total impervious surface will not
26 exceed 20 percent or 5,000 square feet, whichever is greater.
- 27 b. Structures on sites greater than one acre will not result in more than five percent building
28 coverage or 2,000 square feet, whichever is greater, and total impervious surface will not
29 exceed 10 percent or 10,000 square feet, whichever is greater.
- 30 c. Alteration of topography shall be limited to the minimum necessary to accommodate
31 allowed development, and generally less than 30 inches.
- 32 d. Use of areas or facilities will not result in use patterns that lead to degradation of shoreline
33 ecological functions.

34 4. In the Natural shoreline environment, low intensity water-oriented recreational use and
35 development consisting of primitive trails or primitive campsites is permitted subject to the
36 following criteria:

- 37 a. Essential minor structures such as trails, stairs, small picnic areas, primitive roads,
38 viewpoints, restrooms, interpretive facilities, or development that will not adversely affect
39 shoreline ecological functions and processes are permitted.
- 40 b. Any necessary landscaping shall use native or similar self-maintaining vegetation.

c. Recreational development requiring extensive structures or substantial alterations to topography or native vegetation is prohibited.

5. In the Aquatic shoreline area environment, water-oriented recreational use and development is permitted, subject to the use and development regulations of the abutting upland shoreline area environment designation; provided, that underwater parks may be permitted as a shoreline conditional use.

Comment [AP220]: Carried over from removed 'Shoreline Area Regulations.'

A. Shoreline Area Regulations.

Comment [CES221]: Addressed in use table now.

1. ~~Urban. Water-oriented recreational use and development is permitted subject to policies and regulations of this program.~~
2. ~~Urban Resort. Water-oriented recreational use and development is permitted subject to policies and regulations of this program.~~
3. ~~Urban Conservancy. Low intensity water-oriented recreational use and development is permitted subject to policies and regulations of this program and the following criteria:~~
 - a. ~~Structures will not result in more than 10 percent building coverage or 4,000 square feet, whichever is greater, and total impervious surface will not exceed 20 percent, or 10,000 square feet, whichever is greater.~~
 - b. ~~Alteration of topography shall be limited to the minimum necessary to accommodate allowed development, and generally less than 30 inches.~~
 - c. ~~Use of areas or facilities will not result in use patterns that lead to degradation of shoreline ecological functions.~~
4. ~~Shoreline Residential. Water-oriented recreational use and development is permitted subject to policies and regulations of this program.~~
5. ~~Rural. Water-oriented recreational use and development is permitted subject to policies and regulations of this program.~~
6. ~~Resource. Low intensity water-oriented recreational use and development is permitted subject to policies and regulations of this program; provided, that no designated agricultural or forest resource lands of long term significance are displaced.~~
7. ~~Conservancy. Low intensity water-oriented recreational use and development is permitted subject to policies and regulations of this program and the following criteria:~~
 - a. ~~Structures on sites of one acre or less will not result in more than 10 percent building coverage or 2,000 square feet, whichever is greater, and total impervious surface will not exceed 20 percent or 5,000 square feet, whichever is greater.~~
 - b. ~~Structures on sites greater than one acre will not result in more than five percent building coverage or 2,000 square feet, whichever is greater, and total impervious surface will not exceed 10 percent or 10,000 square feet, whichever is greater.~~
 - c. ~~Alteration of topography shall be limited to the minimum necessary to accommodate allowed development, and generally less than 30 inches.~~
 - d. ~~Use of areas or facilities will not result in use patterns that lead to degradation of shoreline ecological functions.~~

1 ~~8. Natural. Low intensity water oriented recreational use and development consisting of primitive~~
2 ~~trails or primitive campsites is permitted subject to policies and regulations of this program and~~
3 ~~the following criteria:~~

4 ~~a. Essential minor structures such as trails, stairs, small picnic areas, primitive roads,~~
5 ~~viewpoints, restrooms, interpretive facilities, or development that will not adversely affect~~
6 ~~shoreline ecological functions and processes are permitted, subject to policies and~~
7 ~~regulations of this program.~~

8 ~~b. Any necessary landscaping shall use native or similar self-maintaining vegetation.~~

9 ~~c. Recreational development requiring extensive structures or substantial alterations to~~
10 ~~topography or native vegetation is prohibited.~~

11 ~~9. Aquatic. Water oriented recreational use and development is permitted, subject to the use and~~
12 ~~development regulations of the abutting upland shoreline area designation; provided, that~~
13 ~~underwater parks may be permitted as a conditional use.~~

14 **~~23.4100.150-170 Residential.~~**

15 ~~Residential development in shoreline areas shall be subject to the policies and regulations of this section~~
16 ~~and Chapter 23.90 WCC. This section applies to rResidential development, uses, and activities. as~~
17 ~~defined in WCC Chapter 23.110 includes multifamily development and the The creation of new~~
18 ~~residential lots through land division is regulated pursuant to WCC 23.40.130 (Land Division).~~

19 ~~B. Policies.~~

20 ~~A. Single family residences are designated in Chapter 90.58 RCW as a priority use in those limited~~
21 ~~instances when authorization is given for alterations of the natural condition of shorelines of the~~
22 ~~state.~~

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

29 ~~C. Allowable density of new residential development should comply with applicable comprehensive~~
30 ~~plan goals and policies, zoning restrictions, and shoreline area designation standards. The density~~
31 ~~per acre of development should be appropriate to local natural and cultural features.~~

32 ~~D. Structures or development for uses accessory to residential use should preserve shoreline open~~
33 ~~space, be visually and physically compatible with adjacent cultural and shoreline features, be~~
34 ~~reasonable in size and purpose, and result in no net loss of shoreline ecological functions and~~
35 ~~processes.~~

36 ~~E. Buildings greater than 35 feet above average grade level that will obstruct the views of a substantial~~
37 ~~number of residences on areas adjoining such shorelines are limited by the Act (RCW 90.58.320) to~~
38 ~~those cases where this program does not prohibit such development and then only when overriding~~
39 ~~considerations of the public interest will be served. This program provides opportunities for~~

buildings greater than 35 feet in height in limited areas where consistent with development objectives and the goals and policies of this program.

F. ~~New residential development should be planned and built in accordance with the policies and regulations in WCC 23.90.030 and to minimize the need for shoreline stabilization and flood hazard reduction measures.~~

G. ~~Measures to conserve native vegetation along shorelines should be required for all residential development. Vegetation conservation may include avoidance or minimization of clearing or grading, restoration of areas of native vegetation, and/or control of invasive or nonnative vegetation.~~

H. ~~Whenever possible, nonregulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for residential development. Such methods may include resource management planning, low impact development techniques, voluntary protection and enhancement projects, education, or incentive programs.~~

I. ~~New multiunit residential development, including subdivision of land for more than four parcels, should provide substantial shore space for development residents and the public, unless public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations.~~

J. ~~Development should provide open space corridors between structures, and along site boundaries, so as to provide space for outdoor recreation, preserve views, and minimize use conflicts.~~

K. ~~Recreation oriented residential development in the shoreline should be located only where substantial recreation opportunities are provided on site, and where nearby property owners and other appropriate uses will not be adversely affected.~~

C. ~~Regulations.~~

A. General.

1. ~~New~~ Over-water residence ~~cestral structures~~, including floating homes, are prohibited.

1-2. ~~New~~ Residential development may not be approved in cases when it can be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within a channel migration zone or floodway during the life of the development or use.

3. ~~New~~ Residential development shall assure through a geotechnical analysis that the development will not require shoreline stabilization for the life of structure (100 years). Prior to approval, geotechnical analysis of the site and shoreline characteristics shall demonstrate that shoreline stabilization is unlikely to be necessary; setbacks from steep slopes, bluffs, landslide hazard areas, seismic hazard areas, riparian and marine shoreline erosion areas shall be sufficient to protect structures during the life of the structure (100 years); and impacts to adjacent, downslope or down-current properties are not likely to occur. The greater setback resulting from this regulation or WCC 23.90.130 23.40.020 (Shoreline Bulk Provisions) shall apply.

2. Clustering and low impact development techniques may be required where appropriate to minimize physical and visual impacts on shorelines in accordance with policies and regulations of WCC 23.90.090.

Comment [CES222]: Moved to land division

4. Residential structures, accessory uses, and related facilities shall be designed and located so as to minimize view obstructions to and from shorelines and waterbodies.

5. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.

Comment [CES223]: Moved from Site Planning section. Required to meet WAC 173-26-241(3)(l).

B. Standards for Single-Family Residential Use on Constrained Lots.

Comment [CES224]: Moved from old nonconforming section.

1. Legally existing lots with a depth (the distance from the ordinary high water mark to the inside edge of the frontage setback) that would not allow for compliance with the reduced standard buffer may be allowed without a shoreline variance when the following criteria are met:

2. The lot is vacant or existing structures are removed; provided an existing primary single family residential structure may be enlarged, consistent to WCC 23.50.020, to the maximum building area allowed in (3) below.

3. The building area lying landward of the shoreline buffer and interior to required side yard setbacks shall not exceed 2,500 square feet or less. The building area means the proposed residence, normal appurtenances (except drainfields), and any proposed residential accessory structures the entire area that will be disturbed to construct the home, sidewalks and similar structures (except the single path allowed for shoreline access), parking areas, normal appurtenances (except drainfields). Additionally, and another 500 square feet of low-impact development (LID) landscaping, including any lawn, turf, ornamental vegetation, or gardens is allowed, provided that it is set back as far as feasible from the shoreline.

4. In no case shall the proposed residence be located waterward of the common-line setback as determined in applicable sections of Consideration shall be given to view impacts in accordance with WCC 23.40.020(D)(2) (Common-Line Setback).

5. The lot is not subject to landslide hazard areas, alluvial fan hazard areas, or riverine and coastal erosion hazard areas or associated buffers as defined in (see WCC 16.16.310);

6. The nonconforming lot was created prior to the effective date of this program (August 8, 2008);

7. Appropriate measures are taken to mitigate all adverse impacts, including but not limited to locating the building area and landscaping allowance residence in the least environmentally damaging location relative to the shoreline and any critical areas and their buffers; and provided, that;

8. All administrative reductions to side yard and/or frontage setbacks are pursued. Such reductions may be approved administratively without a zoning variance, when doing so will not create a hazardous condition or a condition that is inconsistent with this program and WCC Title 20.

9. There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity;

10. The shoreline jurisdiction shoreline area outside of the approved development is retained if fully functional, and/or enhanced with native trees, shrubs and groundcovers through development of a mitigation plan, including monitoring and maintenance contingencies per WCC 16.16.260(G) optimized to provide the maximum shoreline ecological functions and ecosystem wide functions;

Comment [DOE-Req225]: Required Change – It is unclear what the term “optimized” means but this change restores the exiting requirement that the remaining buffer areas are enhanced with trees, shrubs and groundcovers and maintained in perpetuity.

11. Development may not take place waterward of the ordinary high water mark; and

12. Accessory utilities ~~Facilities such as a conventional drainfield system may be allowed within critical areas or their buffers, subject to specific criteria in Chapter 16.16 WCC.~~

C. Additional Standards for Multifamily Residential Development.

1. ~~Due to the potential for adverse impact upon adjacent uses and the community from such high-rise and multiunit buildings that exceed 35 feet in height, the County must find proposals for such buildings to be consistent with this program and the Act, particularly as related to RCW 90.58.320, and the following factors:~~

Comment [CES226]: Already addressed by 23.40.020(C)(2)

2. ~~1.~~ Open space areas and setbacks shall be required along shorelines and between buildings ~~wherever feasible~~. These areas should be large enough so that ~~local~~ views are not extensively blocked, and building residents have privacy and ample space for outdoor recreation and circulation. The amount of open space shall increase proportionately as density and/or height increase. In general, a view corridor must be maintained across 30 percent of the average parcel width with additional width provided for the percentage increase above 35 feet to a maximum of 50 percent of the lot width. The increased area within a view corridor due to increased height must be devoted to landscaping or other open space.

3. ~~Urban services, including sanitary sewers, public water supply, fire protection, stormwater drainage, and police protection shall be provided at adequate levels to protect the public health, safety, and welfare.~~

Comment [CES227]: Covered by Title 20.

4. ~~2.~~ Circulation, parking areas, and outdoor storage or loading areas shall be adequate in size and designed so that the public safety and local aesthetic values are not diminished. Such areas shall be screened where appropriate from open space areas by landscaping, fences or other similar structures, or grade separation.

3. ~~New multiunit m~~ Multifamily development ~~with more than four units and, including subdivision of land for more than four parcels,~~ shall incorporate public access to ~~publicly owned shorelines or public waterbodies~~ waters of the state as provided for in WCC 23.390.0780 (Public Access) unless the site is designated in a shoreline public access plan for a greater component of public access or public access is demonstrated to be infeasible or inappropriate. ~~The amount and configuration of public access shall depend on the proposed use(s) and the following criteria:~~

Comment [DOE-Req228]: Required Change – This change restores the existing language that requires consideration for all multifamily development. There is nothing in the public access standards of the SMP Guidelines that exempt multifamily developments under a certain unit size [WAC 173-26-221(4)]

- a. ~~Multifamily development that have views of water areas shall provide a public pedestrian viewing area.~~
- b. ~~Multifamily development adjacent to waters of the state shall provide access to a point abutting the water that will provide visual access, and shall provide physical access to public waterways, public marine waters, and public tidelands that are physically accessible at low tide or low water.~~
- c. ~~Multifamily development subject to requirements for dedication of land to provide open space or mitigate recreation demands of the development shall dedicate such land on or adjacent to public waterways or marine shorelines, as applicable, unless the ecological sensitivity of such land precludes public access. Portions of the area dedicated may be fenced or otherwise restricted to limit public access to ecologically sensitive areas.~~

Comment [CES229]: Mimicking the public access requirements for land divisions.

5.4. Recreational needs of building residents shall be provided through on-site recreation facilities and access to shorelines. The variety and number of on-site recreation facilities should increase proportionately as density increases. ~~Where appropriate, public access should be provided and integrated with the development.~~

A. ~~Location and Design.~~

1. ~~As mandated by the Act (RCW 90.58.320), no shoreline permit may be issued for any new or expanded building or structure of more than 35 feet above average grade level on shorelines that will obstruct the view of a substantial number of residences on areas adjoining such shorelines, except where this program does not prohibit such development and only when overriding considerations of the public interest will be served.~~
2. ~~Minimum required setbacks from shorelines and side property lines, maximum height limits and open space requirements are contained in WCC 23.90.130, Shoreline bulk provisions – Buffers, setbacks, height, open space and impervious surface coverage.~~

B.D. Additional Standards for Accessory Uses and Development.

1. ~~Accessory development common to residences includes, but is not limited to, recreational moorage (mooring buoys, docks and floats), garages and shops, parking areas, water craft storage, shoreline stabilization, fences, cabanas, tennis courts, swimming pools, saunas, antennas, decks, walkways and landscaping.~~
- 2.1. ~~Shoreline permits shall be required for accessory development that does not meet the intent and definition of an appurtenance as defined in WCC 23.110.010(16).~~
2. ~~Such Non-water dependent accessory uses development shall not be located are prohibited in required shoreline setbacks; except, as provided in WCC Chapter 16.16 (Critical Areas).~~
3. ~~Non-water dependent development uses and shall be prohibited over the water, unless clearly water dependent such as moorage (mooring buoys, docks and floats) for recreational or personal use.~~
4. ~~For projects involving two or more dwelling units, only shared moorage consisting of mooring buoys, or shared moorage and/or floats, is permitted. Individual private docks are prohibited. Shared moorage may be approved if it meets all requirements in WCC 23.100.090.~~
- 5.4. ~~Private recreational docks and floats for individual lots are permitted in existing subdivisions which were approved on or before January 28, 1993, only where shared moorage has not already been developed and subject to the policies and regulations in WCC 23.100.090. For docks and piers, see WCC 23.40.150 (Moorage Structures).~~

E. Regulations for Specific Shoreline Environment Designations.

1. In the Natural shoreline environment, residential development is prohibited, except that one single-family residence per legal lot may be permitted as a shoreline conditional use where there is no feasible location outside of the shoreline.

D. ~~Shoreline Area Regulations.~~

- A. ~~Urban. Residential development is permitted subject to policies and regulations of this program.~~

Comment [CES230]: Deleted throughout, as every use has to meet the general setbacks.

Comment [DN231]: Deleted, as this is a definition and is covered there.

Comment [AP232]: Moved from 'Shoreline Area Regulations.'

Comment [CES233]: Addressed in use table now.

- ~~B. Urban Resort. Residential development is permitted subject to policies and regulations of this program.~~
- ~~C. Urban Conservancy. Single family and duplex development is permitted subject to policies and regulations of this program. Subdivision of property shall not be allowed in a configuration that will require significant vegetation removal or shoreline modification or result in a net loss of shoreline ecological functions and processes at the time of development of the subdivision and/or use of each new parcel. All other residential development may be permitted as a conditional use.~~
- ~~D. Shoreline Residential. Residential development is permitted subject to policies and regulations of this program.~~
- ~~E. Rural. Residential development is permitted subject to policies and regulations of this program.~~
- ~~F. Resource. Residential development limited to farm related residences or one residence and one accessory dwelling unit is permitted per existing parcel where there is no feasible location outside of the shoreline.~~
- ~~G. Conservancy. Single family and duplex development is permitted subject to policies and regulations of this program. Subdivision of property shall not be allowed in a configuration that will require significant vegetation removal or shoreline modification or result in a net loss of shoreline ecological functions and processes at the time of development of the subdivision and/or use of each new parcel. All other residential development may be permitted as a conditional use.~~
- ~~H. Natural. Residential development is prohibited, except that one single family residence per existing lot of record may be permitted as a conditional use where there is no feasible location outside of the shoreline.~~
- ~~I. Aquatic. Residential development is prohibited.~~

23.4100.160-180 Restoration and Enhancement.

- ~~c. Restoration in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.~~
- ~~A. Policies.~~
- ~~1. This program recognizes the importance of restoration of shoreline ecological functions and processes and encourages cooperative restoration efforts and programs between local, state, and federal public agencies, tribes, nonprofit organizations, and landowners to address shorelines with impaired ecological functions and/or processes.~~
 - ~~2. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted towards meeting the needs of sensitive and/or locally important plant, fish and wildlife species as well as the biological recovery goals for early Chinook and bull trout populations, and other salmonid species and populations.~~
 - ~~3. Restoration should be integrated with other parallel natural resource management efforts such as the WRIA 1 Salmonid Recovery Plan and the WRIA 1 Watershed Management Plan.~~
 - ~~4. Priority should be given to restoration actions that:~~

- ~~2. Create dynamic and sustainable ecosystems.~~
- ~~3. Restore connectivity between stream/river channels, floodplains and hyporheic zones.~~
- ~~4. Restore natural channel forming geomorphologic processes.~~
- ~~5. Mitigate peak flows and associated impacts caused by high stormwater runoff volume.~~
- ~~6. Reduce sediment input to streams and rivers and associated impacts.~~
- ~~7. Improve water quality.~~
- ~~8. Restore native vegetation and natural hydrologic functions of degraded and former wetlands.~~
- ~~9. Replant native vegetation in riparian areas to restore functions.~~
- ~~10. Restore nearshore ecosystem processes, such as sediment transport and delivery and tidal currents that create and sustain habitat.~~
- ~~11. Restore pocket estuaries that support salmon life histories, including feeding and growth, refuge, osmoregulation, and migration.~~
- ~~12. Address contamination along industrial shoreline regions.~~

~~A. Regulations- General.~~

1. Restoration of ecological functions and processes shall be allowed on all shorelines and shall be located, designed, and implemented in accordance with applicable policies and regulations of this program.
2. Restoration shall be carried out in accordance with an approved shoreline restoration plan, County Resolution 2007-011, and in accordance with the policies and regulations of this program.
3. The County may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

Comment [DN234]: Moved from General Regulations section (WCC 23.30)

~~1. Shoreline Area Regulations.~~

- ~~a. Urban. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~b. Urban Resort. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~c. Urban Conservancy. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~d. Shoreline Residential. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~e. Rural. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~f. Resource. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~g. Conservancy. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~h. Natural. Restoration activities are permitted subject to policies and regulations of this program.~~
- ~~i. Aquatic. Restoration activities are permitted subject to policies and regulations of this program.~~

Comment [AP235]: Added per Periodic Review Checklist, Item 2009.a, and Scoping Document, Item #2f.

Comment [CES236]: Addressed in use table now.

1 **23.4100.170-190 Shoreline Stabilization.**

2 **A. General.**

- 3 1. All development shall be located and designed to avoid the need for future shoreline
4 stabilization to the extent feasible.
- 5 2. Shoreline stabilization measures shall comply with the principals and standards of WAC 173-26-
6 231(3)(a) (Shoreline Stabilization).
- 7 3. Shoreline stabilization structures shall not result in a net loss of shoreline ecological functions. If
8 shoreline stabilization is necessary pursuant to a geotechnical analysis, the method, either hard
9 or soft, may be required to provide mitigation.
- 10 4. When authorized consistent with these provisions, shoreline stabilization measures shall be
11 designed in accordance with WDFW's Integrated Streambank Protection Guidelines or WDFW's
12 Marine Shoreline Design Guidelines, whichever is relevant to the particular environment.
- 13 4.5. Alternatives for shoreline stabilization shall be based on the following order of preference:
- 14 a. No action, increase building setbacks, relocate structures;
- 15 a-b. Nonstructural shoreline stabilization, including building setbacks, relocation of structures to
16 be protected, and groundwater management;
- 17 b-c. Other soft shoreline stabilization treatment;
- 18 d. Hybrid shoreline stabilization;
- 19 e. Hard shoreline stabilization.
- 20 6. Soft shoreline stabilization treatment shall be used unless demonstrated through a geotechnical
21 analysis not to be sufficient to protect primary structures, dwellings, or businesses.
- 22 7. Hard shoreline stabilization measures shall not be allowed except when necessity is
23 demonstrated in the following manner:
- 24 a. To protect legally existing primary structures:
- 25 i. New or enlarged structural shoreline stabilization measures for the existing primary
26 structure, including residences and their primary appurtenant structures or uses, shall
27 not be allowed unless there is conclusive evidence, documented by a geotechnical
28 analysis, that the lawfully established, primary structure will be damaged within three
29 years from shoreline erosion caused by tidal actions, currents, or waves. Where a
30 geotechnical analysis confirms a need to prevent potential damage to a primary
31 structure, but the need is not as immediate as three years, the analysis may still be used
32 to justify more immediate authorization for shoreline stabilization using soft treatment.
- 33 ii. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific
34 or geotechnical analysis, is not demonstration of need.
- 35 b. In support of water-dependent development when all of the following apply:
- 36 i. The erosion is not being caused by upland conditions, such as the loss of vegetation and
37 drainage;
- 38 ii. Nonstructural shoreline stabilization, planting vegetation, or installing on-site drainage
39 improvements are not feasible or not sufficient;

Comment [CES237]: Added per DOE recommendation.

Comment [CES238]: Added per DOE recommendation.

- 1 iii. The need to protect primary structures from damage due to erosion is demonstrated
2 through a geotechnical report;
- 3 c. In support of non-water-dependent development, including single-family residences, when
4 all of the following apply:
- 5 i. The erosion is not being caused by upland conditions, such as the loss of vegetation and
6 drainage;
- 7 ii. Nonstructural measures, such as placing the development further from the shoreline,
8 planting vegetation, or installing on-site drainage improvements, are not feasible or not
9 sufficient;
- 10 iii. The need to protect the primary structures from damage due to erosion is
11 demonstrated through a geotechnical report. The damage must be caused by natural
12 processes, such as tidal action, currents and waves;
- 13 d. To protect projects for the restoration of ecological functions or hazardous substance
14 remediation projects pursuant to Chapter 70.105D RCW when nonstructural measures,
15 planting vegetation, or installing on-site drainage improvements are not feasible or
16 sufficient.
- 17 8. When hard shoreline stabilization measures are demonstrated to be necessary, they must:
- 18 a. Limit the size of stabilization measures to the minimum necessary; and
- 19 b. Assure no net loss of shoreline ecological functions; and
- 20 9. Publicly financed or subsidized shoreline erosion control measures shall provide appropriate
21 public access to the shoreline except where such access is determined to be infeasible because
22 of incompatible uses, safety, security, or harm to ecological functions.
- 23 10. Bioengineering approaches or other soft treatment shoreline stabilization that provide
24 restoration of shoreline ecological functions may be permitted waterward of the OHWM.
- 25 11. Shoreline stabilization on streams should be located and designed to fit the physical character
26 and hydraulic energy potential of a specific shoreline reach, which may differ substantially from
27 adjacent reaches. Hard shoreline stabilization methods are prohibited in jurisdictional shoreline
28 streams on estuarine shores, in wetlands, and in salmon spawning areas, except for the purpose
29 of fish or wildlife habitat enhancement or restoration.
- 30 12. Revetments are prohibited, except for use in water-dependent and public infrastructure
31 projects, which may be permitted as conditional use.
- 32 13. Gabions are prohibited along marine shorelines, but may be permitted as a conditional use
33 along freshwater shorelines.
- 34 14. Shore stabilization should not be developed for the purpose of filling shorelines. Shoreline
35 stabilization measures shall not be for the purpose of creating dry land, leveling or extending
36 property, creating or preserving residential lawns, yards, or landscaping, and shall not be
37 allowed except when otherwise allowed in this program.
- 38 15. Minimize disturbance pertaining to beach access by avoiding trails that may be subject to loss or
39 damage by erosionrequire hard stabilization.

Comment [CES239]: Amended to comply with WAC 173-26-231(3)(a)(iii)(E).

~~Bluff stabilization walls shall be prohibited unless proven necessary through a geotechnical report.~~

Comment [CES240]: Deleted since all stabilization requires a geotech report.

16. Placement of shoreline stabilization methods shall follow the natural contour of the existing shoreline, be parallel to and at or above the OHWM.

17. When determined to be necessary pursuant to this section ~~Bulkheads and other similar hard structures are shoreline stabilization prohibited on marine feeder bluffs or on marine or lake accretion shoreforms, shall require a except as a conditional use permit where exposure to storm waves and driftwood battering seriously threaten other similar existing structures and no feasible alternatives exist. Such bulkheads shall be set back a minimum of 20 feet landward from the OHWM.~~

a. Shoreline stabilization on marine feeder bluffs may require additional mitigation measures, including those necessary to offset the loss of sediment supply.

b. Shoreline stabilization on accretion shoreforms shall be set back a minimum of 20 feet landward from the OHWM.

Comment [CES241]: Moved from below and modified based on discussion w/ DOE.

18. Shoreline stabilization must be designed by a professional engineer licensed in the state of Washington with demonstrated experience in hydraulic activities of shorelines. Alternatively, soft treatment shoreline stabilization may be designed by a habitat biologist or a professional with demonstrated expertise in designing soft treatment shoreline stabilization.

19. Depending on the degree of hard or soft elements to the project, the County, WDFW, and/or U.S. Army Corps of Engineers may require varying degrees of mitigation or other permit conditions.

20. Shoreline stabilization, as applied in this section, is generally distinguished from shoreline restoration activities. However, specific shoreline stabilization elements of restoration activities shall be guided by this section.

21. Use of shoreline armoring to protect a lot where no primary structure presently exists shall be prohibited.

22. Shoreline stabilization structures shall not be constructed with waste materials such as demolition debris, derelict vessels, tires, concrete or any other materials which might have adverse toxic or visual impacts on shoreline areas.

B. Additional Standards for Replacement or Repair of Existing Shoreline Stabilization.

1. ~~Damaged structural stabilization may be repaired up to 50% of the linear length within a 5-year period. Repair area that exceeds 50% shall be considered a replacement. Stabilization repair applications shall consider cumulative approvals of each successive application within a five-year period.~~

Comment [CES242]: DOE recommended we have a threshold to distinguish between repair & replacement. How much has to be left to be considered replair? Language from SMP Handbook chapter 15, pg. 35-36.

2. Any replacement of, additions to, or increases in the dimensions of existing shoreline stabilization measures shall be considered as a new structure.

3. An existing stabilization structure may be replaced with a similar structure if there is a demonstrated need, through a geotechnical report, to protect principal uses or structures from erosion caused by currents, tidal action or waves.

1 4. If the OHWM has been re-established, the replacement structure must be located at or near the
2 new OHWM.

3 5. Alternative or soft treatment stabilization shall be considered prior to in-kind replacement
4 through an alternatives analysis.

5 6. The replacement structure shall:

6 a. Be designed, located, sized and constructed to assure no net loss of ecological functions.

7 b. Perform the same stabilization function of the existing structure and not require additions
8 to or increases in size.

9 c. Not encroach waterward of the OHWM or existing structure unless the residence was
10 occupied prior to January 1, 1992, and there are overriding safety or environmental
11 concerns. In such cases, the replacement structure shall abut the existing shoreline
12 stabilization structure.

13 7. When possible or as an element of mitigation sequencing, failing, harmful, unnecessary, or
14 ineffective structures should be removed, and shoreline ecological functions and processes
15 should be restored using nonstructural or soft and/or long-term stabilization measures.

16 C. Supplemental Application Materials Requirements.

17 2.1 Geotechnical reports required pursuant to this section shall address the need for shoreline
18 stabilization and shall include the following:

19 a. A scaled site plan showing:

- 20 i. The location of existing and proposed shore stabilization, structures, fill, and vegetation,
21 with dimensions indicating distances to the OHWM; and
22 ii. Existing site topography, preferably with two-foot contours.

23 b. A description of the processes affecting the site, and surrounding areas that influence or
24 could be influenced by the site, including areas in which stream processes, lake or marine
25 geomorphic processes affect the site, including, but not limited to:

- 26 i. Soil erosion, deposition, or accretion;
27 ii. Evidence of past or potential channel migration;
28 iii. Evidence of past or potential erosion due to tidal action and/or waves;
29 iv. Littoral drift; and
30 v. An estimate of shoreline erosion rates.

31 c. A description and analysis of the urgency and risk associated with the specific site
32 characteristics, an alternative analysis addressing the order of preference as specified in
33 subsection (A)(4), and demonstrated need as specified in subsection (A)(7).

34 d. A discussion and analysis demonstrating conformance with the standards enumerated in
35 WCC Chapter 16.16 (Critical Areas).

36 D. Regulations for Specific Shoreline Environment Designations.

37 1. In the Urban Conservancy and Conservancy shoreline environments, breakwaters and jetties
38 may be permitted as a shoreline conditional use if accessory to a water-dependent use and
39 littoral sediment transport is not significantly disrupted.

Comment [CES243]: Added at DOE's recommendation.

2. In the Natural shoreline area environment, shoreline stabilization is prohibited; except that using bioengineering approaches may be permitted when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere.

3. In the Aquatic shoreline environment:

- a. Bioengineering approaches are permitted on tidelands and shorelands when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere.
- b. Drift sills, breakwaters, and jetties may be permitted as a shoreline conditional use if such development is permitted in the abutting upland shoreline environment designation.
- c. Bulkheads or revetments are prohibited except for an approved water-dependent development.

Comment [AP244]: Moved from 'Shoreline Area Regulations.'

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

A. Policies.

- 1. ~~Alternatives to structures for shore protection should be used whenever possible. Such alternatives may include no action (allow the shoreline to retreat naturally), increased building setbacks, building relocation, drainage controls, and bioengineering, including vegetative stabilization, and beach nourishment.~~
- 2. ~~New or expanded structural shore stabilization for new primary structures should be avoided. Instead, structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require structural shore stabilization for reasonable development to occur.~~
- 3. ~~New or expanded structural shore stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.~~
- 4. ~~New or expanded structural shore stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when nonstructural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration or remediation objectives.~~
- 5. ~~Shore stabilization on streams should be located and designed to fit the physical character and hydraulic energy potential of a specific shoreline reach, which may differ substantially from adjacent reaches.~~
- 6. ~~Shore stabilization should not be permitted to unnecessarily interfere with public access to public shorelines, nor with other appropriate shoreline uses including, but not limited to, navigation, seafood harvest, or private recreation.~~
- 7. ~~Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design and maintenance of shore stabilization for public or quasi-public developments~~

whenever safely compatible with the primary purpose. Shore stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.

~~8. Shore stabilization should be developed in a coordinated manner among affected property owners and public agencies for a whole drift sector (net shore drift cell) or reach where feasible, particularly those that cross jurisdictional boundaries, to address ecological and geohydraulic processes, sediment conveyance and beach management issues. Where beach erosion threatens existing development, a comprehensive program for shoreline management should be established.~~

~~9. In addition to conformance with the regulations in this section, nonregulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Nonregulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.~~

~~10. Shore stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shore processes, and the integrity of shore features. Ongoing stream, lake or marine processes and the probable effects of proposed shore stabilization on other properties and shore features should be considered. Shore stabilization should not be developed for the purpose of filling shorelines.~~

~~11. Failing, harmful, unnecessary, or ineffective structures should be removed, and shoreline ecological functions and processes should be restored using nonstructural methods or less harmful long-term stabilization measures.~~

~~12. Structural shoreline stabilization measures should only be used when more natural, flexible, nonstructural methods such as vegetative stabilization, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:~~

~~a. No action (allow the shoreline to retreat naturally), increase building setbacks, and relocate structures.~~

~~b. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, or vegetative stabilization.~~

~~c. Rigid works constructed of artificial materials such as riprap or concrete.~~

~~Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shore features, including aesthetic values and flexibility for future uses.~~

~~13. Larger works such as jetties, breakwaters, weirs or groin systems should be permitted only for water dependent uses when the benefits to the region outweigh resource losses from such works, and only where mitigated to provide no net loss of shoreline ecological functions and processes.~~

~~14. Alternative structures, including floating, portable or submerged breakwater structures, or several smaller discontinuous structures, should be considered where physical conditions make such alternatives with less impact feasible.~~

~~B. Regulations.~~

~~1. Allowed Use.~~

- a. ~~New or expanded structural shore stabilization for existing primary structures, including roads, railroads, public facilities, etc., is prohibited unless there is conclusive evidence documented by a geotechnical analysis that there is a significant possibility that the structure will be damaged within three years as a result of shoreline erosion caused by stream processes, tidal action or waves, and only when significant adverse impacts are mitigated to ensure no net loss of shoreline ecological functions and/or processes. Where a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the analysis may still be used to justify more immediate authorization for shoreline stabilization using bioengineering approaches.~~
- b. ~~New shore stabilization for new development is prohibited unless it can be demonstrated that the proposed use cannot be developed without shore protection, and a geotechnical analysis documents that alternative solutions are not feasible or do not provide sufficient protection. The need for shore stabilization shall be considered in the determination of whether to approve new water dependent uses. Proposed designs for new or expanded shore stabilization shall be designed in accordance with applicable Department of Ecology and Department of Fish and Wildlife guidelines and certified by a qualified professional.~~
- c. ~~Shoreline stabilization is prohibited for new non-water oriented development; provided, that such stabilization may be approved as a conditional use where a geotechnical analysis demonstrates that shore stabilization is necessary to facilitate reasonable use of a property and documents that alternative solutions, including location outside of the shoreline, are not feasible or do not provide sufficient protection, and where ongoing monitoring, maintenance and mitigation for impacts to shoreline ecological functions and processes are provided.~~
- d. ~~Where shore stabilization is allowed, it shall consist of "soft," flexible, and/or natural materials or other bioengineered approaches unless a geotechnical analysis demonstrates that such measures are infeasible.~~
- e. ~~Replacement of an existing shore stabilization structure with a similar structure is permitted if there is a demonstrated need to protect primary uses, structures or public facilities including roads, bridges, railways, and utility systems from erosion caused by stream undercutting or tidal action; provided, that the existing shore stabilization structure is removed from the shoreline as part of the replacement activity. A geotechnical analysis may be required to document that alternative solutions such as those listed in subsections (A)(12)(a) and (b) of this section are not feasible or do not provide sufficient protection. Existing shoreline stabilization structures that are being replaced shall be removed from the shoreline unless removal of such structures will cause significant damage to shoreline ecological functions or processes. Replacement walls, bulkheads or revetments shall not encroach waterward of the ordinary high water mark or the existing shore defense structure unless the primary use being protected is a residence that was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.~~

- 1 f. Groins are prohibited except as a component of a professionally designed community or
2 public beach management program that encompasses an entire drift sector or reach for
3 which alternatives are infeasible, or where installed to protect or restore shoreline
4 ecological functions or processes.
- 5 g. Jetties and breakwaters are prohibited except as an integral component of a professionally
6 designed harbor, marina, or port. Where permitted, floating, portable or submerged
7 breakwater structures, or smaller discontinuous structures, are preferred where physical
8 conditions make such alternatives with less impact feasible. Defense works that
9 substantially reduce or block littoral drift and cause erosion of downdrift shores, shall not be
10 allowed unless an adequate long-term professionally engineered beach nourishment
11 program is established and maintained.
- 12 h. New or expanded shore stabilization may be permitted to protect projects with the primary
13 purpose of enhancing or restoring ecological functions, or projects for hazardous substance
14 remediation pursuant to Chapter 70.105D RCW when nonstructural approaches, such as
15 vegetation planting, and/or on-site drainage improvements are not feasible or do not
16 provide sufficient protection.
- 17 i. Proposed designs for new or expanded shore stabilization shall be designed and certified by
18 a qualified professional.
- 19 j. No motor vehicles, appliances, other similar structures nor parts thereof, nor structure
20 demolition debris, nor any other solid waste shall be used for shore stabilization.
- 21 k. The size of shore stabilization measures shall be limited to the minimum necessary to
22 provide protection for the primary structure or use it is intended to protect.
- 23 2. Marine Shorelines and Lakes. In those limited cases where a proposed bulkhead meets the
24 criteria in this section for a shoreline permit or the exemption criteria under WCC 23.60.022,
25 and to assure that such bulkheads will be consistent with the provisions of this program, the
26 administrator shall review the proposed design as it relates to local physical conditions and issue
27 written findings that the location and design meet all criteria of this program, subject to the
28 following:
- 29 ~~a. Bulkheads and other similar hard structures are prohibited on marine or lake accretion~~
30 ~~shoreforms, except as a conditional use where exposure to storm waves and driftwood~~
31 ~~battering seriously threaten other similar existing structures and no feasible alternatives~~
32 ~~exist. Such bulkheads shall be set back a minimum of 20 feet landward from the OHWM.~~
- 33 b. Bulkheads and other similar hard structures are prohibited on marine feeder bluff and
34 estuarine shores, and on wetland and rock shores; provided, that such structures may be
35 permitted as a conditional use where valuable primary structure(s) are at risk and no
36 feasible alternatives exist and where ongoing monitoring, maintenance and mitigation for
37 impacts to shoreline ecological functions and processes are provided.
- 38 c. Bulkheads and other similar hard structures shall be located within one foot of the bank toe,
39 and shall generally parallel the shoreline.

Comment [CES245]: Moved above.

- 1 d. Bulkheads and other similar hard structures shall be designed and constructed with gravel
2 backfill and weep holes so that natural downward movement of surface or ground water
3 may continue without ponding or saturation.
- 4 e. Bulkheads exposed to significant wave action shall be designed to dissipate wave energy
5 and scouring.
- 6 f. Walls, revetments or other similar hard structures within 10 feet of the OHWM shall be
7 considered bulkheads; provided, that on accretion shoreforms walls or revetments or other
8 similar hard structures within 20 feet of the OHWM shall be considered bulkheads.
- 9 3. Shore Stabilization on Streams. In those limited cases where a proposed bulkhead, revetment or
10 other similar structure meets the criteria in this section for a shoreline permit or an exemption
11 under WCC 23.60.022, and to assure that such revetment or similar structure will be consistent
12 with this program, the administrator shall review the proposed design for consistency with state
13 guidelines for stream bank protection as it relates to local physical conditions and issue written
14 findings that the location and design meet all criteria of this program, subject to the following:
- 15 a. Revetments or similar hard structures are prohibited on estuarine shores, in wetlands, on
16 point and channel bars, and in salmon and trout spawning areas, except for the purpose of
17 fish or wildlife habitat enhancement or restoration.
- 18 b. Revetments or similar hard structures shall be placed landward of associated wetlands
19 unless it can be demonstrated that placement waterward of such features would not
20 adversely affect ecological functions.
- 21 c. A geotechnical analysis of stream geomorphology both upstream and downstream shall be
22 performed to assess the physical character and hydraulic energy potential of the specific
23 stream reach and adjacent reaches upstream or down, and assure that the physical integrity
24 of the stream corridor is maintained, that stream processes are not adversely affected, and
25 that the revetment will not cause significant damage to other properties or valuable
26 shoreline resources. In addition:
- 27 i. Revetments or similar structures shall not be developed on the low, innermost channel
28 banks in a stream except to protect public works, railways and existing commercial
29 farmsteads.
- 30 ii. Where revetments or similar structures are proposed, analysis shall assure that localized
31 shore stabilization will be effective, as compared to more extensive cooperative
32 measures to address reach scale processes. Revetments shall be set back at convex
33 (inside) bends to allow streams to maintain point bars and associated aquatic habitat
34 through normal accretion. Where revetments or similar structures have already cut off
35 point bars from the stream, consideration should be given to their relocation.
- 36 iii. Revetments shall be designed in accordance with WDFW streambank protection
37 guidelines.
- 38 d. Cut and fill slopes and backfilled areas shall be stabilized with brush matting and buffer
39 strips and revegetated with native grasses, shrubs and/or trees so that there is no net loss of
40 ecological functions.

- e. ~~All forms of shore stabilization shall be constructed and maintained in a manner that does not degrade the quality of affected waters. The county may require reasonable conditions to achieve this objective such as setbacks, buffers, or storage basins.~~
- f. ~~Shore stabilization shall allow for normal ground water movement and surface runoff.~~
- g. ~~Selection of materials for projects shall be in conformance with applicable engineering standards.~~
4. ~~Viewpoints and Public Access.~~
- a. ~~Where appropriate, larger public or private shore stabilization projects shall be required to maintain, replace or enhance existing public access opportunities by incorporating physical or visual access areas and/or facilities into the design of the project.~~
- b. ~~Publicly financed or subsidized shoreline stabilization shall not restrict appropriate public access to the shoreline and shall provide new public access except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to shoreline ecological functions.~~
5. ~~Application Materials. Geotechnical reports required pursuant to this section shall address the need for shoreline stabilization and shall include the following:~~
- a. ~~A scaled site plan showing:~~
- i. ~~The location of existing and proposed shore stabilization, structures, fill, and vegetation, with dimensions indicating distances to the OHWM; and~~
- ii. ~~Existing site topography, preferably with two foot contours.~~
- b. ~~A description of the processes affecting the site, and surrounding areas that influence or could be influenced by the site, including areas in which stream processes, lake or marine geomorphic processes affect the site, including, but not limited to:~~
- i. ~~Soil erosion, deposition, or accretion;~~
- ii. ~~Evidence of past or potential channel migration;~~
- iii. ~~Evidence of past or potential erosion due to tidal action and/or waves;~~
- iv. ~~Littoral drift; and~~
- v. ~~An estimate of shoreline erosion rates.~~
- c. ~~A description and analysis of the urgency and risk associated with the specific site characteristics.~~
- d. ~~A discussion and analysis demonstrating conformance with the standards enumerated in Chapter 16.16 WCC.~~
- C. ~~Shoreline Area Regulations.~~
1. ~~Urban.~~
- a. ~~Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this program.~~
- b. ~~Groins, breakwaters and jetties may be permitted as a conditional use.~~
- c. ~~Gabions are prohibited.~~
2. ~~Urban Resort.~~

- a. ~~Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this program.~~
- b. ~~Groins, breakwaters and jetties may be permitted as a conditional use.~~
- c. ~~Gabions are prohibited.~~
3. ~~Urban Conservancy.~~
 - a. ~~Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this program.~~
 - b. ~~Breakwaters and jetties may be permitted as a conditional use if accessory to a water-dependent use and littoral sediment transport is not significantly disrupted.~~
 - c. ~~Groins and gabions are prohibited.~~
4. ~~Shoreline Residential.~~
 - a. ~~Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this program.~~
 - b. ~~Groins, breakwaters and jetties may be permitted as a conditional use.~~
 - c. ~~Gabions are prohibited.~~
5. ~~Rural.~~
 - a. ~~Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this program.~~
 - b. ~~Groins, breakwaters and jetties may be permitted as a conditional use.~~
 - c. ~~Gabions are prohibited.~~
6. ~~Resource.~~
 - a. ~~Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this program.~~
 - b. ~~Groins, breakwaters and jetties may be permitted as a conditional use.~~
 - c. ~~Gabions are prohibited.~~
7. ~~Conservancy.~~
 - a. ~~Bulkheads, revetments, and bioengineering approaches are permitted subject to policies and regulations of this program.~~
 - b. ~~Breakwaters and jetties may be permitted as a conditional use if accessory to a water-dependent use and littoral sediment transport is not significantly disrupted.~~
 - c. ~~Groins and gabions are prohibited.~~
8. ~~Natural. Shoreline stabilization is prohibited; except that bioengineering approaches may be permitted as a conditional use when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere.~~
9. ~~Aquatic.~~
 - a. ~~Bioengineering approaches are permitted on tidelands and shorelands when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere subject to policies and regulations of this program.~~
 - b. ~~Groins, breakwaters, and jetties may be permitted as a conditional use if such development is permitted in the abutting upland shoreline area designation.~~

c. ~~Bulkheads or revetments are prohibited except for an approved water dependent development subject to policies and regulations of this program.~~

d. ~~Gabions are prohibited~~

23.4100.180-200 Signs.

~~Signs in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC.~~

~~A. Policies.~~

~~A. Whatcom County recognizes the constitutional right for property owners to communicate using signs on their property. These policies are intended to ensure that signage within shoreline areas is consistent with the purpose and intent of the Act and this program by addressing impacts to ecological functions, public safety and visual aesthetics.~~

~~B. Signs should be located, designed and maintained to be visually compatible with local shoreline scenery as seen from both land and water, especially on shorelines of statewide significance.~~

~~C. Sign location and design should not significantly impair shoreline views.~~

~~D. As a preferable alternative to continued proliferation of single purpose signs, communities, districts, and/or multiuse or multitenant commercial developments are encouraged to erect single, common use gateway signs to identify and give directions to local premises and public facilities.~~

~~E. Signs of a commercial or industrial nature should be limited to those areas or premises to which the sign messages refer.~~

~~F. Billboards and other off premises signs are not water dependent, reduce public enjoyment of or access to shorelines, and often lower values of nearby properties. Such signs should not be located on shorelines except for approved community gateway or directional signs.~~

~~G. Signs near scenic vistas and view points should be restricted in number, location, and height so that enjoyment of these limited and scarce areas is not impaired.~~

~~H. Freestanding signs should be located to avoid blocking scenic views and be located on the landward side of public transportation routes which generally parallel the shoreline.~~

~~I. To minimize negative visual impacts and obstructions to shoreline access and use, low profile, on-premises wall signs are strongly preferred over freestanding signs or off-premises wall signs.~~

~~J. Signs should be designed mainly to identify the premises and nature of enterprise without unduly distracting uninterested passersby. Moving or flashing signs should be prohibited on shorelines.~~

~~B. Regulations.~~

~~A. General.~~

1. These provisions do not apply to private informational signs posted on private property by the owner for reasonable purposes such as address, No Trespass, and temporary signs such as For Sale, Rent and campaign signs; provided, that no such sign exceeds four square feet in area.

2. In addition to the regulations in this section, signs are subject to WCC 20.80.400, et seq. (Signs)

1-3. Unless otherwise prohibited by zoning regulations or this program, shoreline developments are permitted to maintain a total of three on-premises signs. Only one may be a freestanding, roof, or projecting sign; provided, that if this sign is double faced, then only one other wall sign is

permitted. ~~This provision does not apply to private informational signs posted on private property by the owner for reasonable purposes such as address, home occupation signs, No Trespass, and temporary signs such as For Sale, Rent and campaign signs; provided, no sign exceeds four square feet in area.~~ All signs proposed for a development requiring a substantial development permit shall be designated on application and approval documents.

~~2. Multiuse or multitenant commercial developments shall erect no more than one sign at each street gateway.~~

~~3. Communities, neighborhoods and districts shall erect no more than one sign at each street gateway identifying the name of the community or neighborhood and give directions to local premises and public facilities.~~

~~4. Exception. Signs required by law and signs posted for legitimate safety purposes shall not be subject to limitations with respect to the number, location, and/or size; provided, that they are the minimum necessary to achieve the intended purpose. Such signs include but are not limited to official or legal notices issued and posted by any public agency or court, or traffic directional or warning signs.~~

~~5. All building signs shall be integrated with building design. Roof signs shall be designed to occupy a design feature of the roof such as a dormer or gable and may not be placed above the peak of a pitched roof or the eave of a flat roof. Projecting signs shall be incorporated in a marquee, canopy, or other architectural feature.~~

~~6. Applications for substantial development permits shall include a conceptual sign package addressing the size and location of all signs and shall include design standards to assure that all signs in a development are consistent in terms of material, color, height, size, and illumination.~~

~~7. Sign permits not associated with a substantial development permit shall demonstrate compliance with all provisions of this code and shall be similar to and compatible with other signs in a development under a single ownership or approved as an integrated development.~~

~~8.4.~~ Sign illumination shall be indirect, incorporating exterior lighting shining on the sign, or shadow illumination behind nontransparent materials. Internally illuminated signs are prohibited.

~~9.5.~~ Distracting Devices. Any signs or other devices which flash, blink, flutter, rotate, oscillate, or otherwise purposely fluctuate in lighting or position, in order to attract attention through their distractive character, are prohibited on shorelines; provided, that searchlights, pennants, banners and other devices of seasonal, holiday, or special event character may be ~~utilize~~used for up to 90 days in one year.

~~10.6.~~ Freestanding signs other than those private informational signs described in subsection (B)(1) of this section are prohibited between a public right-of-way and the water where the water-body is visible from the public right-of-way.

~~11.7.~~ To protect views from the water or publicly accessible beaches or lands adjacent to the water, freestanding signs other than those private informational signs described in subsection (B)(1) of this section are prohibited between buildings and OHWM, and waterward of a line drawn from the nearest point of the building parallel to the shoreline; provided, that where a

public road or path separates said building from the OHWM, up to one freestanding sign not to exceed 12 square feet is permitted between the road or path and said building.

~~12.8.~~ Signs may not be located in critical areas or buffers as established by WCC Chapter 16.16 except as otherwise provided for ~~therein~~ Chapter 16.16 WCC; provided, that pursuant to subsections (B)(1) and (4) of this section, signs may be permitted within critical area buffers where the placement of such signs does not require the removal of vegetation.

~~13.9.~~ Unless specifically exempted from setback requirements in WCC 23.40.020, the minimum required setbacks for permanent freestanding signs are 50 feet from the ordinary high water mark, where not subject to critical areas or buffers: 50 feet.

a. From side property lines: 10 feet.

b. Maximum height: 15 feet.

B. Building mounted signs are subject to setbacks applicable to buildings. Height of wall signs may be measured from the floor elevation of the uppermost finished story; provided, the sign does not project above the roof of the building. Roof signs shall not extend higher than the maximum height of the primary building.

C. Sign Area Limit.

a. The maximum area of individual sign faces shall be consistent with applicable zoning standards; provided, that the combined area of sign faces per premises shall not exceed 60 square feet with a maximum face area of freestanding signs not to exceed 12 square feet in all shoreline designations where signs are permitted, except on aquatic, urban conservancy, and conservancy shorelines and shorelines of statewide significance where the total sign area shall not exceed 24 square feet per premises and freestanding signs shall not exceed 4 square feet.

b. The size of individual building or tenant signs shall be governed in accordance with the following table:

Table 3. Sign Area Limits

Relevant building wall vertical surface area or facade area for a specific tenant ⁽¹⁾	Maximum sign surface area for that facade	Maximum sign area ⁽²⁾
Below 100 sq. ft.	4 sq. ft.	4 sq. ft.
100 – 199 sq. ft.	4 sq. ft. + 4% of the facade area over 100 sq. ft.	8 sq. ft.
200 – 499 sq. ft.	10 sq. ft. + 3% of the facade area over 200 sq. ft.	20 sq. ft.
500 sq. ft. or greater	26 sq. ft. + 2% of the facade area over 500 sq. ft. up to a maximum of 40 sq. ft.	40 sq. ft.

1. (1) Includes only vertical building walls, excludes all roof area above the eaves and any dormers or other vertical areas above roof eaves. For building tenants, includes the area of the projection of the interior partitions onto the exterior wall.

2. (2) On aquatic and conservancy shorelines and shorelines of statewide significance, no sign visible from a public right of way, the water, or publicly accessible beaches or lands adjacent to the water, shall exceed 24 square feet, and freestanding signs shall not exceed four square feet.

Comment [AP246]: Revised for consistency with WCC 23.40.020 (Bulk Provisions) per Scoping Document, Item #16b.

Comment [CES247]: Covered by 20.80.400

1 | ~~3.10.~~ Freestanding signs shall be entirely self-supporting and structurally sound without
2 | permanent use of guy wires or cables.

3 | ~~4.11.~~ Signs shall comply with the standards in this section at any time a change in use or
4 | modification of structures requiring a substantial development permit is approved. Abandoned
5 | or derelict signs should either be properly restored or completely removed within a reasonable
6 | period of time by the sign owner or property owner as necessary.

7 | B. Regulations for Specific Shoreline Environment Designations.

8 | 1. In the Natural shoreline environment, sign development is prohibited, except for trail marking,
9 | hazard warnings, or interpretive scientific or educational purposes and personal signs provided
10 | for in this section. Such permitted signs shall be limited in size and number to those required to
11 | affect their purpose.

12 | 2. In the Aquatic shoreline area environment, only wall signs and low-profile freestanding signs less
13 | than 30 inches in height for water-dependent uses are permitted, except as provided for in this
14 | section, and no premise may have more than two signs.

15 | C. Shoreline Area Regulations.

16 | A. Urban. Sign development is permitted subject to policies and regulations of this program.

17 | B. Urban Resort. Sign development is permitted subject to policies and regulations of this program.

18 | C. Shoreline Residential. Sign development is permitted subject to policies and regulations of this
19 | program.

20 | D. Urban Conservancy. Sign development is permitted subject to policies and regulations of this
21 | program.

22 | E. Rural. Sign development is permitted subject to policies and regulations of this program.

23 | F. Resource. Sign development is permitted subject to policies and regulations of this program.

24 | G. Conservancy. Sign development is permitted subject to policies and regulations of this program.

25 | H. Natural. Sign development is prohibited, except for trail marking, hazard warnings, or
26 | interpretive scientific or educational purposes and personal signs provided for in subsection
27 | (B)(1) of this section. Such permitted signs shall be limited in size and number to those required
28 | to affect their purpose.

29 | I. Aquatic. Only wall signs and low profile freestanding signs under 30 inches in height for water-
30 | dependent uses are permitted, except as provided for in subsections (B)(1) and (4) of this
31 | section. No one premises may maintain more than two signs in an aquatic shoreline area.

32 | **~~23.4100.190-210~~ Transportation.**

33 | These regulations apply to both public and private transportation projects.

34 | A. ~~General.~~ Roads, railways, and other transportation developments in shoreline areas shall be subject
35 | to the policies and regulations of this section and Chapter 23.90 WCC. These policies and regulations
36 | apply to both public transportation projects and private transportation projects.

37 | B. Policies.

38 | C. New public or private transportation facilities should be located inland from the land/water
39 | interface, preferably out of the shoreline, unless:

Comment [AP248]: Carried over from removed
'Shoreline Area Regulations.'

Comment [CES249]: Addressed in use table
now.

- ~~D. Perpendicular water crossings are required for access to authorized uses consistent with this program; or~~
- ~~E. Facilities are primarily oriented to pedestrian and non motorized use and provide an opportunity for a substantial number of people to enjoy shoreline areas, and are consistent with policies and regulations for ecological protection in WCC 23.90.030.~~
- ~~F. Transportation facilities should be located and designed to avoid public recreation and public access areas and significant natural, historic, archaeological or cultural sites.~~
- ~~G. Parking is not a preferred use in shorelines and should only be allowed to support authorized uses where no feasible alternatives exist.~~
- ~~H. New or expanded public transportation facility route selection and development should be coordinated with related local and state government land use and circulation planning.~~
- ~~I. Transportation system route planning, acquisition, and design in the shoreline should provide space wherever possible for compatible multiple uses such as utility lines, pedestrian shore access or view points, or recreational trails.~~
- ~~J. Transportation system plans and transportation projects within shorelines should provide safe trail space for non motorized traffic such as pedestrians, bicyclists, or equestrians. Space for such uses should be required along roads on shorelines, where appropriate, and should be considered when rights-of-way are being vacated or abandoned.~~
- ~~K. Public access should be provided to shorelines where safe and compatible with the primary and adjacent use, or should be replaced where transportation development substantially impairs lawful public access. Viewpoints, parking, trails and similar improvements should be considered for transportation system projects in shoreline areas, especially where a need has been identified.~~
- ~~L. Public transportation routes, particularly arterial highways and railways, should be located, designed, and maintained to permit safe enjoyment of adjacent shore areas and properties by other appropriate uses such as recreation or residences. Vegetative screening or other buffering should be considered.~~
- ~~M. Regulations.~~
- ~~A. General:~~
- ~~1. RCW 36.87.130 prohibits the County from vacating any county road that abuts a body of saltwater or freshwater except for port, recreational, educational, or industrial purposes. Therefore, development, abandonment, or alteration of undeveloped county road ends within SMP jurisdiction is prohibited unless approved in accordance with this program.~~
 - ~~2. Transportation development shall be carried out in a manner that maintains or improves state water quality standards for affected waters.~~
 - ~~3. Maintenance activity including vegetation control and erosion control shall be carried out consistent with this program. Necessary minor resurfacing of existing roadways and replacement of culverts that improve shoreline ecological functions may be exempt from substantial development permit requirements as provided by WCC 23.60.020 Title 22 (Land Use and Development).~~
 4. Transportation facilities must meet the following criteria:

- 1 | a. ~~Documentation that the proposed facilities~~ cannot be feasibly located outside of shoreline
2 | jurisdiction due to the uses served or the need to connect specific end points. An analysis of
3 | alternatives may be required. ~~New or expanded public or private transportation facilities~~
4 | should be located inland from the land/water interface, preferably out of the shoreline.
5 | b. ~~Documentation that the proposed facilities~~ are primarily oriented to pedestrian use and
6 | provide an opportunity for a substantial number of people to enjoy shoreline areas.
7 | c. ~~Documentation that the proposed facilities comply with critical area regulations in WCC~~
8 | ~~Chapter 16.16.~~
9 | d. ~~Documentation of how the location, design, and use achieves no net loss of shoreline~~
10 | ecological functions and incorporate appropriate mitigation in accordance with
11 | WCC ~~23.30.020~~23.30.010 (Ecological Protection).
12 | d. ~~Documentation that the proposed facilities~~ avoid public recreation areas and significant
13 | natural, historic, archaeological or cultural resources, or ~~that~~ no alternative is feasible
14 | outside of the shoreline and ~~that~~ all feasible measures to minimize adverse impacts have
15 | been incorporated into the proposal.

16 | B. Site Design and Operation.

- 17 | 4.1. Transportation facilities on shorelines shall be designed to generally follow natural topography,
18 | to minimize cuts and/or fills, to avoid cutting off meander bends or point bars, and to avoid
19 | adverse impacts to shoreline ecological functions and processes. Wherever such roads or
20 | railway embankments cross depressions remaining from remnant channels and oxbow bends,
21 | crossings of ample cross-section shall be provided to span the remnant feature.
22 | 5.2. Raised arterial roads or railways shall be built outside the floodway except for necessary
23 | crossings. If built in the floodway fringe, such routes should be aligned generally parallel to
24 | outside stream bends so they will also act as setback dikes. Any parking areas required along
25 | such roads shall be sited at the base of the embankment and at the downstream corner of large
26 | accretion beaches, thus requiring no or minimal flood hazard reduction control-works or
27 | shoreline stabilization. Local access roads in floodplains shall be built at valley floor grade level
28 | so that floodwaters are not abnormally obstructed nor diverted. Transportation facilities shall
29 | be designed so that no significant loss of floodway capacity or measurable increase in
30 | predictable flood levels will result. If transportation facilities are intended to secondarily provide
31 | flood hazard reduction control, they shall comply with policies of the Comprehensive Plan and
32 | regulations for flood hazard reduction control-works under WCC ~~23.40.080~~23.40.100 (Flood
33 | Hazard Reduction and Instream Structures).
34 | 6.3. If a road is demonstrated to be necessary along an accretion shoreform, the waterward road
35 | shoulder shall be set back far enough from the primary berm so that the berm may absorb the
36 | high energy of storm tide breakers, as well as prevent road bed erosion and allow optimum
37 | recreational use of these scarce shore features.
38 | 7.4. Spans on rivers shall avoid placing structures within the channel migration zone or other
39 | dynamic, shifting channel elements such as bends.

Comment [PDS250]: Redundent. Already a general regulation.

8-5. Earth cut slopes and other exposed soils shall be placed, compacted, and planted or otherwise stabilized and protected from surface runoff with native vegetation. Transportation facilities sited close to water, wetlands, or other sensitive features shall incorporate the maximum feasible buffer of native vegetation in accordance with critical area regulations in WCC Chapter 16.16.

9-6. Bridges or bottomless culverts or other similar structures shall be used in accordance with WDFW guidance to protect shoreline ecological functions and processes. Bridge approaches in floodways shall be constructed on open piling, support piers, or other similar measures to preserve hydraulic processes.

10-7. Bridge supports and abutments shall be designed and spaced so they do not act as walls baffling or blocking flood waters, or interrupting stream channel processes or littoral drift.

11-8. Transportation facilities shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Elements within or over water shall be constructed of materials approved by applicable state agencies for use in water for both submerged portions and other components to avoid discharge of pollutants from splash, rain or runoff. Wood treated with creosote, pentachlorophenol or other similarly toxic materials are prohibited. Preferred materials are concrete and steel.

12-9. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the maximum extent feasible. Elevated walkways should be utilized to cross wetlands.

10. Nonemergency construction and repair work shall be scheduled for that time of year when seasonal conditions (weather, streamflow) permit optimum feasible protection of shoreline ecological functions and processes.

N.C. Additional Standards for Parking Facilities.

1. Parking facilities are not a water-dependent use and shall only be permitted in the shoreline to support an authorized use where it can be demonstrated that there are no feasible alternative locations away from the shoreline. Parking facilities shall be buffered from the water's edge and less intense adjacent land uses by vegetation screening, undeveloped space, or structures developed for the authorized primary use.

1-2. Parking areas shall be developed utilizing using low impact development techniques whenever possible including, but not limited to, the use of permeable surfacing materials.

2-3. Impervious surfacing for parking lot/space areas shall be minimized through the use of alternative surfaces where feasible, consistent with the most current Low Impact Development Technical Guidance Manual for Puget Sound, or as amended.

3. Minimum required setbacks from shorelines are contained in WCC 23.90.130, Shoreline bulk provisions. Buffers, setbacks, height, open space and impervious surface coverage.

D. Supplemental Application Requirements.

1. In addition to the application requirements specified in WCC Title 22 (Land Use and Development), All applications for new or expanded transportation facilities shall be

Comment [DN251]: Moved from Site Planning section (WCC 23.30.080).

1 accompanied by adequate documentation that the proposal meets the policies and regulations
2 of this program, including ~~but not limited to:~~ subsection (A)(4) of this section.

- 3 ~~2. Documentation that the facility cannot be feasibly located outside of shoreline jurisdiction due~~
4 ~~to the uses served or the need to connect specific end points. An analysis of alternatives may be~~
5 ~~required. New or expanded public or private transportation facilities should be located inland~~
6 ~~from the land/water interface, preferably out of the shoreline.~~
- 7 ~~3. Documentation that the facilities are primarily oriented to pedestrian use and provide an~~
8 ~~opportunity for a substantial number of people to enjoy shoreline areas.~~
- 9 ~~4. Documentation that the proposed facilities comply with critical area regulations in~~
10 ~~Chapter 16.16-WCC.~~
- 11 ~~5. Documentation of how the location, design, and use achieves no net loss of shoreline ecological~~
12 ~~functions and incorporate appropriate mitigation in accordance with WCC 23.90.030.~~
- 13 ~~6. Documentation that facilities avoid public recreation areas and significant natural, historic,~~
14 ~~archaeological or cultural resources, or that no alternative is feasible outside of the shoreline~~
15 ~~and that all feasible measures to minimize adverse impacts have been incorporated into the~~
16 ~~proposal.~~

17 E. Regulations for Specific Shoreline Environment Designations.

- 18 1. In the Urban Conservancy and Conservancy shoreline area environments, transportation
19 facilities are permitted only for access to approved development.
- 20 2. In the Natural shoreline area environment, transportation facilities are prohibited, except to
21 access approved recreational development.
- 22 3. In the Aquatic shoreline area environment, access to water-dependent or water-related uses,
23 such as ferry terminals, is permitted. Bridge crossings for non-water-dependent or non-water-
24 related uses may be permitted as a shoreline conditional use.

25 A. Shoreline Area Regulations.

- 26 ~~1. Urban. Transportation facilities are permitted subject to policies and regulations of this~~
27 ~~program. Transportation facilities not serving a specific approved use, including roads, railways,~~
28 ~~and parking areas, may be permitted as a conditional use, provided there is no feasible location~~
29 ~~outside of the shoreline.~~
- 30 ~~2. Urban Resort. Transportation facilities are permitted subject to policies and regulations of this~~
31 ~~program. Transportation facilities not serving a specific approved use, including roads, railways,~~
32 ~~and parking areas, may be permitted as a conditional use, provided there is no feasible location~~
33 ~~outside of the shoreline.~~
- 34 ~~3. Urban Conservancy. Transportation facilities are permitted only for access to approved~~
35 ~~development, subject to policies and regulations of this program.~~
- 36 ~~4. Shoreline Residential. Transportation facilities are permitted subject to policies and regulations~~
37 ~~of this program. Transportation facilities not serving a specific approved use, including roads,~~
38 ~~railways, and parking areas, may be permitted as a conditional use, provided there is no feasible~~
39 ~~location outside of the shoreline.~~

Comment [AP252]: Carried over from removed
'Shoreline Area Regulations.'

Comment [CES253]: Addressed in use table
now.

5. ~~Rural. Transportation facilities are permitted subject to policies and regulations of this program. Transportation facilities not serving a specific approved use, including roads, railways, and parking areas, may be permitted as a conditional use, provided there is no feasible location outside of the shoreline.~~
6. ~~Resource. Transportation facilities are permitted subject to policies and regulations of this program. Transportation facilities not serving a specific approved use, including roads, railways, and parking areas, may be permitted as a conditional use, provided there is no feasible location outside of the shoreline.~~
7. ~~Conservancy. Transportation facilities are permitted only for access to approved development, subject to policies and regulations of this program.~~
8. ~~Natural. Transportation facilities are prohibited, except to access approved recreational development.~~
9. ~~Aquatic. Access to water dependent or water related uses, such as ferry terminals, is permitted subject to policies and regulations of this program. New or expanded bridge crossings for non-water dependent or non-water related uses may be permitted as a conditional use.~~

23.4100.200-220 Utilities.

Utility development in shoreline areas shall be subject to the policies and regulations of this section and Chapter 23.90 WCC. These policies and regulations apply to both ~~local and regional, both public and private utilities.~~ This section applies to regional and local utilities, both public and private, but not to accessory utilities (see definitions in WCC Chapter 23.60); however, there are regulations regarding septic systems located in WCC 23.30.020 (Water Quality and Quantity).

A. Policies.

- A. ~~New public or private utilities should be located inland from the land/water interface, preferably out of the shoreline jurisdiction, unless:~~
- a. ~~Perpendicular water crossings are unavoidable; or~~
 - b. ~~Utilities are required for authorized shoreline uses consistent with this program.~~
- B. ~~Utilities should be located and designed to avoid public recreation and public access areas and significant natural, historic, archaeological or cultural resources.~~
- C. ~~Utilities should be located, designed, constructed, and operated to result in no net loss of shoreline ecological functions and processes with appropriate mitigation as provided in WCC 23.90.030.~~
- D. ~~All utility development should be consistent with and coordinated with all local government and state planning, including comprehensive plans and single purpose plans to meet the needs of future populations in areas planned to accommodate growth. Site planning and rights of way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right of way acquisition should also be coordinated with transportation and recreation planning.~~
- E. ~~Utilities should be located in existing rights of way and corridors whenever possible.~~
- F. ~~Utilities serving new development should be located underground, wherever possible.~~
- G. ~~Development of pipelines and cables on aquatic lands and tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic~~

Comment [AP254]: Added pursuant to scoping document Item 17i.

1 maintenance which would disrupt shoreline ecological functions should be discouraged except
2 where no other feasible alternative exists. When permitted, provisions shall assure that the facilities
3 do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline
4 resources and values.

5 ~~B. Regulations.~~

6 ~~A. General Design and Operation.~~

- 7 1. ~~Components of water systems.~~ Utilities which ~~that~~ are not water-dependent shall be located
8 away from shoreline jurisdiction unless alternative locations, including alternative technology,
9 are demonstrated to be infeasible and it is demonstrated that the facilities do not result in a net
10 loss of shoreline ecological functions and processes or significant adverse impacts to other
11 shoreline resources and values such as parks and recreation facilities, public access, and
12 archaeological, historic, and cultural resources, and ~~or~~ aesthetic resources.
- 13 2. ~~Fire Protection Facilities.~~ Storage and handling facilities for water-borne firefighting or rescue
14 equipment may be permitted on shoreline jurisdiction at locations which are suitable
15 considering the purpose of the proposal and the policies of the Comprehensive Plan.
- 16 3. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever
17 feasible.

18 ~~3.4. New and expanded utilities~~ must meet the following criteria:

- 19 a. ~~Documentation that~~ The proposed facilities cannot be feasibly located outside of shoreline
20 jurisdiction due to the uses served or the need to cross shorelands to connect specific end
21 points. An analysis of alternatives may be required. ~~New or expanded public or private~~
22 ~~utilities~~ should be located inland from the land/water interface, preferably out of shoreline
23 jurisdiction.
- 24 b. ~~Documentation that the proposed facilities comply with critical area regulations in WCC~~
25 ~~Chapter 16.16.~~
- 26 c. ~~b. Documentation of how~~ The location, design, and use of the proposed facility achieves no
27 net loss of shoreline ecological functions and incorporates appropriate mitigation in
28 accordance with WCC ~~23.30.020~~ 23.30.010 (Ecological Protection).
- 29 d. ~~c. Documentation that~~ The proposed facilities will avoid public recreation areas and significant
30 natural, ~~historic, archaeological~~ or cultural ~~resources~~ sites, and that all feasible measures to
31 minimize adverse impacts to such resources have been incorporated into the proposal.
- 32 d. ~~Applications must demonstrate~~ The proposal includes adequate provisions for preventing
33 spills or leaks, as well as procedures for mitigating damages from spills or other
34 malfunctions and shall demonstrate that periodic maintenance will not disrupt shoreline
35 ecological functions.
- 36 e. If the proposal is for oil, gas, and natural gas utilities and pipelines or electrical energy and
37 communications utilities ~~Application materials, it shall~~ includes an analysis of alternative
38 routes avoiding aquatic lands, including an analysis of alternative technology.

Comment [CES255]: Moved from Site Planning section; required by WAC 173-26-241(3)(l).

Comment [PDS256]: Redundant. Already a general regulation.

- 1 B. Additional Standards for Specific Utilities Water Systems.
- 2 1. Desalinization facilities shall be located consistent with critical area regulations and buffers,
- 3 except for water-dependent components such as water intakes.
- 4 2. Solid Waste Facilities.
- 5 a. Private and public intake facilities, and wells on shorelines, should be located where there
- 6 will be no net loss in ecological functions or adverse impacts upon shoreline resources,
- 7 values, natural features, or other users.
- 8 b. Desalinization facilities shall be located consistent with critical area regulations and buffers,
- 9 except for water-dependent components such as water intakes.
- 10 c. Sewage Systems.
- 11 d. Sewage trunk lines, interceptors, pump stations, treatment plants and other components
- 12 that are not water-dependent shall be located away from shoreline jurisdiction unless
- 13 alternative locations, including alternative technology, are demonstrated to be infeasible
- 14 and it is demonstrated that the facilities do not result in a net loss of shoreline ecological
- 15 functions and processes or significant impacts to other shoreline resources and values such
- 16 as parks and recreation facilities, public access and archaeological, historic, and cultural
- 17 resources, and aesthetic resources.
- 18 e. Outfall pipelines and diffusers are water-dependent, but should be located only where there
- 19 will be no net loss in shoreline ecological functions and processes or adverse impacts upon
- 20 shoreline resources and values.
- 21 f. Septic tanks and drainfields are prohibited where public sewer is reasonably available.
- 22 g. a. Solid Waste Facilities. Facilities for processing, storage and disposal of solid waste are not
- 23 normally water-dependent. Components that are not water-dependent shall not be
- 24 permitted ~~on~~ in shoreline jurisdiction.
- 25 h. b. Disposal of solid waste on shorelines or in water-bodies has potential for severe adverse
- 26 effects upon ecological processes and functions, property values, public health, natural
- 27 resources, and local aesthetic values and shall not be permitted.
- 28 i. c. Temporary storage of solid waste in suitable receptacles is permitted as an accessory use to
- 29 a primary permitted use, or for litter control.
- 30 2.3. Oil, Gas and Natural Gas Transmission.
- 31 a. Regional ~~Oil, gas, and natural gas utility pipelines, except local service lines,~~ shall not be
- 32 located in shoreline jurisdiction unless alternatives are demonstrated to be infeasible ~~and~~
- 33 ~~shall include analysis of alternative routes avoiding aquatic lands and including alternative~~
- 34 ~~technology.~~
- 35 b. Local ~~Natural gas local service lines~~ utilities shall not be located in ~~shoreline area~~ shoreline
- 36 environments unless serving approved shoreline uses. Crossings of shorelines shall not be
- 37 approved unless alternatives are demonstrated to be infeasible. ~~Application materials shall~~
- 38 ~~include an analysis of alternative routes avoiding aquatic lands, including an analysis of~~
- 39 ~~alternative technology.~~

Comment [DN257]: Moved to the General Regs
– Water Quality section as this would apply
universally and relates more to accessory utilities

1 C. Developers and operators of pipelines and related appurtenances for gas and oil shall be required to
2 demonstrate adequate provisions for preventing spills or leaks, as well as established procedures for
3 mitigating damages from spills or other malfunctions and shall demonstrate that periodic
4 maintenance will not disrupt shoreline ecological functions.

Comment [AP258]: Captured above.

5 1.4. Electrical Energy and Communication Systems.

6 2. Energy and communication systems including substations, towers, transmission and distribution
7 lines have critical location requirements, but are not normally water dependent. Systems
8 components that are not water dependent shall not be located on shoreline jurisdiction unless
9 alternatives are infeasible. Application materials for such facilities shall include an analysis of
10 alternative routes avoiding aquatic lands, including an analysis of alternative technology.

11 a. Underground placement of lines shall be required on shorelines for new or replacement
12 lines that are parallel to the shoreline, and do not cross water or other critical areas defined
13 in WCC Chapter 16.16; provided, that maintenance of existing aerial lines above 35kv may
14 be permitted above ground where alternatives are demonstrated to be impractical and/or
15 infeasible. New or replacement lines that cross water or other critical areas defined in
16 Chapter 16.16 WCC may be required to be placed underground depending on impacts on
17 ecological functions and processes and visual impacts; provided, that maintenance of
18 existing aerial lines above 35 kv may be permitted above ground where alternatives are
19 demonstrated to be impractical and/or infeasible. Poles or supports treated with creosote
20 or other wood preservatives that may be mobile in water shall not be used along shorelines
21 or associated wetlands. Where road rights-of-way or easements are within 150 feet and also
22 are parallel to the shoreline for more than 500 feet, no new overhead wiring shall be
23 installed between the road and OHWM.

24 b. Utilities for new development within the shoreline shall be installed underground.

25 a. Other Utility Production and Processing Facilities. Other utility processing facilities, such as
26 power plants, that are non water oriented shall not be allowed in shoreline jurisdiction unless
27 no other feasible alternative is available.

Comment [AP259]: Revised for conciseness and clarity.

28 b. Minimum required setbacks from shorelines and side property lines and maximum height limits
29 are contained in WCC 23.90.130, Shoreline bulk provisions — Buffers, setbacks, height, open
30 space and impervious surface coverage.

31 c. Site Coverage. Maximum site coverage for utility development including parking and storage
32 areas shall not exceed standards in the underlying zoning in WCC Title 20 and shall not exceed
33 50 percent on urban, urban resort and shoreline residential shorelines, 35 percent on rural and
34 resource shorelines and 20 percent on urban conservancy and conservancy shorelines.

35 5. Hydropower Development. In addition to the general requirements, above, hydropower
36 facilities shall be located, designed, and operated to:

37 a. Minimize impacts to fish and wildlife resources including spawning, nesting, rearing habitat,
38 migratory routes, and critical areas. Mitigation measures to achieve no net loss of shoreline
39 ecological functions and processes shall be implemented in accordance with WCC 23.30.010
40 (Ecological Protection).

- b. Minimize impacts to geohydraulic processes; waterfalls; erosion and accretion shoreforms; agricultural land; scenic vistas; recreation sites; and sites having significant historical, cultural, scientific, or educational value.
- c. Accommodate public access to, and multiple use of, the shoreline.
- d. Comply with the instream structure regulations of 23.40.100 (Flood Hazard Reduction and Instream Structures).

C. Supplemental Application Requirements.

1. In addition to the minimum application requirements specified in WCC Title 22 (Land Use and Development), All applications for new or expanded utilities shall be accompanied by adequate documentation that the proposal meets the policies and regulations of this program, including but not limited to subsection (1)(b) of this section.

D. Regulations for Specific Shoreline Environment Designations.

1. In the Urban Conservancy and Conservancy shoreline environments, local utility development is permitted; provided, that sewage outfalls and treatment plants, over-water communication or power-lines, fuel pipelines, and other types of hazardous material pipelines may be permitted as a shoreline conditional use, provided there is no feasible location outside the shoreline.
2. In the Natural shoreline environment, utility development is prohibited. Maintenance of existing utilities is permitted and shall take extraordinary measures in protecting the natural features therein.
3. In the Aquatic shoreline environment:
 - a. Submarine electrical or communications cables, over-water public utility lines consisting of local distribution facilities if adequately flood-proofed, water intakes, and desalinization facility intakes are permitted.
 - b. Submarine water and sewer lines, fuel pipelines, sewer, and desalinization outfalls may be permitted as shoreline conditional uses.
 - c. Crossings of water-bodies by over-water transmission or distribution lines and on-site electrical communication wiring may be permitted within 100 feet of the OHWM and wetlands and over bodies of water as a shoreline conditional use. All other utility development is prohibited.

~~C. Shoreline Area Regulations.~~

- ~~A. Urban. Utility development consisting of local distribution facilities is permitted subject to policies and regulations of this program. Regional facilities, including transmission facilities serving customers outside of Whatcom County may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Desalinization facilities may be permitted as a conditional use.~~
- ~~B. Urban Resort. Utility development consisting of local distribution facilities is permitted subject to policies and regulations of this program. Regional facilities, including transmission facilities serving customers outside of Whatcom County, may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Desalinization facilities may be permitted as a conditional use.~~

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Comment [AP260]: Moved from 'Shoreline Area Regulations,' below.

Comment [CES261]: Addressed by use table now.

- ~~C. Urban Conservancy. Utility development consisting of local distribution facilities is permitted subject to policies and regulations of this program; provided, that sewage outfalls and treatment plants, over water communication or power lines, fuel pipelines, and other types of hazardous material pipelines may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Regional facilities, including transmission facilities serving customers outside of Whatcom County, may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Freestanding communication towers are prohibited. Desalinization facilities may be permitted as a conditional use.~~
- ~~D. Shoreline Residential. Utility development consisting of local distribution facilities is permitted subject to policies and regulations of this program. Regional facilities, including transmission facilities serving customers outside of Whatcom County, may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Desalinization facilities may be permitted as a conditional use.~~
- ~~E. Rural. Utility development consisting of local distribution facilities is permitted subject to policies and regulations of this program. Regional facilities, including transmission facilities serving customers outside of Whatcom County, may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Desalinization facilities may be permitted as a conditional use.~~
- ~~F. Resource. Utility development consisting of local distribution facilities is permitted subject to policies and regulations of this program. Regional facilities, including transmission facilities serving customers outside of Whatcom County, may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Desalinization facilities may be permitted as a conditional use.~~
- ~~G. Conservancy. Utility development consisting of local distribution facilities is permitted subject to policies and regulations of this program; provided, that sewage outfalls and treatment plants, over water communication or power lines, fuel pipelines, and other types of hazardous material pipelines may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Regional facilities, including transmission facilities serving customers outside of Whatcom County, may be permitted as a conditional use, provided there is no feasible location outside the shoreline. Freestanding communication towers are prohibited. Desalinization facilities may be permitted as a conditional use.~~
- ~~H. Natural.~~
- ~~a. Utility development is prohibited.~~
- ~~b. Maintenance of existing utilities is permitted and shall take extraordinary measures in protecting the natural features therein.~~
- ~~I. Aquatic.~~
- ~~a. Submarine electrical or communications cables, over water public utility lines consisting of local distribution facilities if adequately flood proofed, water intakes, and desalinization facility intakes are permitted subject to policies and regulations of this program.~~

- b. ~~Submarine water and sewer lines, fuel pipelines, sewer, and desalination outfalls may be permitted as conditional uses.~~
- c. ~~Crossings of water bodies by over water transmission or distribution lines and on-site electrical communication wiring may be permitted within 100 feet of the OHWM and wetlands and over bodies of water as a conditional use. All other utility development is prohibited.~~

Chapter 23.50 Applicability and Nonconforming Uses, Structures, and Lots

Comment [AP262]: Moved Applicability portion to Chapter 23.10, Purpose, Intent, and Applicability

23.50.010 Application to persons and development.

Comment [AP263]: Moved to Chapter 23.10

C. This program shall apply to any person as defined in Chapter 23.110 WCC.

D. This program shall apply to any use or development as defined in Chapter 23.110 WCC. All development and use of shorelines of the state shall be carried out in a manner that is consistent with this program and the policy of the Act as required by RCW 90.58.140(1), whether or not a shoreline permit or statement of exemption is required for such development pursuant to Chapter 23.60 WCC.

E. No substantial development as defined in Chapter 23.110 WCC shall be undertaken within shorelines by any person on shorelines without first obtaining a substantial development permit from Whatcom County; provided, that such a permit shall not be required for the exempt activities listed in WCC 23.60.022.

23.50.020 Relationship to other local regulations.

Comment [AP264]: Moved to Chapter 23.05.

F. In the case of development subject to the shoreline permit requirement of this program, the county building official shall not issue a building permit for such development until a shoreline permit has been granted; provided, that any permit issued by the building official for such development shall be subject to the same terms and conditions that apply to the shoreline permit.

G. In the case of development subject to regulations of this program but exempt from the shoreline substantial development permit requirement, any required statement of exemption shall be obtained prior to issuance of the building permit; provided, that for single family residences, a building permit reviewed and signed off by the administrator may substitute for a written statement of exemption. A record of review documenting compliance with bulk and dimensional standards as well as policies and regulations of this program shall be included in the permit review. The building official shall attach and enforce conditions to the building permit as required by applicable regulations of this program pursuant to RCW 90.58.140(1).

H. In the case of zoning conditional use permits and/or variances required by WCC Title 20 for development that is also within shorelines, the county decision maker shall document compliance with bulk and dimensional standards as well as policies and regulations of this program in consideration of recommendations from the administrator. The decision maker shall attach conditions to such permits and variances as required to make such development consistent with this program.

I. In the case of land divisions, such as short subdivisions, long plats and planned unit developments that require county approval, the decision maker shall document compliance with bulk and dimensional standards as well as policies and regulations of this program and attach appropriate conditions and/or mitigating measures to such approvals to ensure the design, development activities and future use associated with such land division(s) are consistent with this program.

J. ~~Other local ordinances that may be applicable to shoreline development or use include, but are not limited to:~~

- ~~1. Building, plumbing, mechanical, and fire codes.~~
- ~~2. Boating and swimming, WCC Title 11.~~
- ~~3. On-site sewage system regulations, Chapter 24.05 WCC.~~
- ~~4. Solid waste rules and regulations, Chapter 24.06 WCC.~~
- ~~5. Zoning, WCC Title 20.~~
- ~~6. Land division regulations, WCC Title 21.~~
- ~~7. Development standards.~~

23.50.030 Relationship to other state and federal laws.

Comment [AP265]: Moved to Chapter 23.05

F. ~~Obtaining a shoreline permit or statement of exemption for a development or use does not excuse the applicant/proponent from complying with any other local, tribal, state, regional or federal statutes or regulations applicable to such development or use.~~

G. ~~At the time of application or initial inquiry, the administrator shall inform the applicant/proponent of other such statutes and regulations relating to shoreline issues that may be applicable to the project to the extent that the administrator is aware of such statutes. However, the final responsibility for determining applicable statutes and regulations and complying with the same rests with the applicant/proponent or responsible person carrying out the use or development in question.~~

H. ~~Washington State statutes together with implementing regulations adopted pursuant thereto that may be applicable to shoreline development or use include, but are not limited to:~~

- ~~1. Flood Control Zone Act, Chapter 86.16 RCW.~~
- ~~2. Forest Practices Act, Chapter 76.09 RCW.~~
- ~~3. Fish and Wildlife, RCW Title 77.~~
- ~~4. Water Pollution Control Act, Chapter 90.48 RCW.~~
- ~~5. Land Subdivision Act, Chapter 58.17 RCW.~~
- ~~6. Surface Mining Act, Chapter 78.44 RCW.~~
- ~~7. Washington Clean Air Act, Chapter 70.94 RCW.~~
- ~~8. State Environmental Policy Act (SEPA), Chapter 43.21C RCW.~~
- ~~9. Camping Resorts Act, Chapter 19.105 RCW.~~
- ~~10. Water Resources Act of 1971, Chapter 90.54 RCW.~~
- ~~11. Growth Management Act, Chapter 36.70A RCW.~~
- ~~12. State Hydraulic Code, Chapter 77.55 RCW.~~

I. ~~Regional authority regulations authorized by state law that may be applicable to shoreline development or use include, but are not limited to:~~

- ~~1. Northwest Clean Air Agency regulations.~~
- ~~2. Puget Sound Water Quality Management Plan.~~

J. ~~Federal statutes together with implementing regulations adopted pursuant thereto that may be applicable to shoreline development or use include, but are not limited to:~~

1. ~~Rivers and Harbors Act of 1899.~~
2. ~~Fish and Wildlife Coordination Act of 1958.~~
3. ~~National Environmental Policy Act of 1969 (NEPA).~~
4. ~~Coastal Zone Management Act of 1972, as amended.~~
5. ~~Federal Water Pollution Control Act, as amended.~~
6. ~~Flood Insurance Act of 1968, as amended.~~
7. ~~Clean Air Act, as amended.~~
8. ~~Endangered Species Act (ESA).~~

23.50.040 Application within federal reserves.

- B. ~~The shoreline permit procedures, policies and regulations established in this program shall apply to development or use of shorelines of the state within national forests, national parks and national recreation areas by persons other than federal agencies.~~
- C. ~~As recognized by RCW 90.58.350, the provisions of this program shall not apply to lands held in trust by the United States for Indian nations, tribes or individuals.~~

Comment [AP266]: Moved to Chapter 23.05

23.50.050 Program effects on property values.

- C. ~~As provided for in RCW 90.58.290, the restrictions imposed upon use of real property through implementation of policies and regulations of the Act and this program shall be duly considered by the county assessor and the county board of equalization in establishing the fair market value of such properties.~~
- D. ~~Designation of private property as a natural or conservancy shoreline area pursuant to Chapter 23.30 WCC shall qualify the property as meeting the definition of "open space land" under the Open Space Taxation Act of 1970, as amended (RCW 84.34.020(1)) and shall qualify such land for application for open space taxation in accordance with RCW 84.34.037 and Chapter 3.28 WCC.~~

Comment [AP267]: Moved to Chapter 23.05

23.50.060 Hazardous substance remedial actions.

- A. ~~The procedural requirements of Chapter 90.58 RCW shall not apply to a project for which a consent decree, order, or agreed order has been issued pursuant to Chapter 70.105D RCW or to the Department of Ecology when it conducts a remedial action under Chapter 70.105D RCW. The Department of Ecology shall, in consultation with the administrator, assure that such projects comply with the substantive requirements of Chapter 90.58 RCW, Chapter 173-26 WAC and this program. (Ord. 2009-13 § 1 (Exh. 1)).~~

Comment [AP268]: Deleted per Periodic Review Checklist, Item 2017.c, and Scoping Document, Item #1c. Exceptions are now established in §22.07.010(G).

23.50.070 Nonconforming development.

- ~~The following provisions shall apply to lawfully established uses, buildings and/or structures that do not meet the specific standards of this program.~~
- A. ~~The lawfully established use of any building, structure, land or premises existing on the effective date of initial adoption of the program (August 27, 1976), or any subsequent amendment thereto or authorized under a permit or approval issued, or otherwise vested, prior to the effective date of initial adoption of the program or any subsequent amendment thereafter shall be considered~~

Comment [MD269]: Rewritten (below) per the latest DOE guidance that separates out nonconforming uses, development, and lots. See minor revisions to draft replacement text below.

nonconforming and may be continued, subject to the provisions of this section; provided, that agricultural activities shall conform to WCC 16.16.290; provided further, that bulkheads shall conform to WCC 23.100.130.

~~B. Nonconforming structures may be maintained, repaired, renovated, or remodeled to the extent that nonconformance with the standards and regulations of this program is not increased; provided, that a nonconforming development that is moved any distance must be brought into conformance with this program and the Act; provided further, that as a conditional use a nonconforming dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this SMP.~~

~~C. Nonconforming structures, other than single-family residences and their appurtenances that are expanded or enlarged must obtain a variance or be brought into conformance with this program and the Act; provided, that nonconforming structures with conforming uses may be expanded or enlarged within the existing building footprint as a conditional use pursuant to WCC 23.100.050(B)(1)(c).~~

~~D. Nonconforming structures (including accessory structures) that are damaged or destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind; provided, that:~~

~~1. Structures containing conforming uses, such as a single-family residence or accessory structure, that are located within a hazardous area shall be redeveloped consistent with the requirements of Chapter 16.16 WCC, Article 3 (Geologically Hazardous Areas) and Article 4 (Frequently Flooded Areas); provided, that the permit process is commenced within 18 months of the date of such damage; and the reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in subsections H and I of this section.~~

~~2. Structures containing nonconforming uses can be replaced in kind if there is no feasible alternative that allows for compliance with the provisions of this program, and the permit process is commenced within 18 months of the date of such damage, and the reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in subsection E or H of this section.~~

~~E. If a nonagricultural nonconforming use is intentionally abandoned for a period of 12 months or more, then any future use of the nonconforming building, land or premises shall be consistent with the provisions of this program.~~

~~F. Replacement of any nonconforming structures or buildings or portions thereof within the aquatic shoreline area shall comply with program requirements for materials that come in contact with the water pursuant to WCC 23.90.040(B)(5); provided, that replacement of existing wood pilings with chemically treated wood is allowed for maintenance purposes where use of a different material such as steel or concrete would result in unreasonable or unsafe structural complications; further provided, that where such replacement exceeds 20 percent of the existing pilings over a 10-year period, such pilings shall conform to the standard provisions of this section.~~

~~G. Enlargement or expansion of single-family residences by the addition of space to the main structure or by the addition of normal appurtenances as defined in Chapter 23.110 WCC that extend waterward of the existing primary residential foundation walls further into a critical area (excluding~~

the buffers of the critical areas), further into the minimum required side yard setback, or that increase the structure height above the limits established by this program shall require a variance; provided, that expansion of nonconforming single family residences other than that specified in this subsection I may be expanded without a variance where the provisions of subsection J or K of this section apply.

H. ~~The enlargement or expansion of single family residences by the addition of space to the exterior of the main structure or normal appurtenances is permitted without a conditional use permit or variance once during the life of the structure (100 years). The structure shall be located landward of the ordinary high water mark, and any expansion of the footprint is landward of the existing building footprint (not the side yard), and any vertical expansion is within the existing building footprint; provided, that the following conditions are met:~~

- ~~1. Enlargements, expansions, or additions that increase the existing primary structure or normal appurtenances by up to 250 square feet of gross floor area as defined by Chapter 23.110 WCC shall be allowed provided the expansion or addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common line setback as illustrated in Appendix F.~~
- ~~2. Enlargements, expansions, or additions that increase the total footprint of the existing primary structure or normal appurtenances by 250 to 500 square feet of gross floor area as defined by Chapter 23.110 WCC shall be allowed; provided, that the addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common line setback as illustrated in Appendix F; further provided, that the shoreline is enhanced by the equivalent area of a building footprint that is expanded. If enhanced through planting, the administrator shall require a vegetation management plan consistent with WCC 23.90.060(B)(2).~~

~~I. The administrator shall require a conditional use permit if the enlargement or expansion of single family residences by the addition of space to the exterior of the main structure or normal appurtenances is in excess of those allowances provided in subsection J of this section.~~

J. ~~A structure that is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. In addition to the conditional use criteria of WCC 23.60.040, before approving a conditional use for a change in nonconforming use, the hearing examiner shall also find that:~~

- ~~1. No reasonable alternative conforming use is practical because of the configuration of the structure and/or the property;~~
- ~~2. The proposed use will be at least as consistent with the policies and provisions of the Act and this program and as compatible with the uses in the area as the preexisting use;~~
- ~~3. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;~~
- ~~4. The structure(s) associated with the nonconforming use shall not be expanded in a manner that increases the extent of the nonconformity including encroachment into areas, such as setbacks, and any critical areas and/or associated buffers established by Chapter 16.16 WCC, where new structures, development or use would not be allowed;~~

5. ~~The vegetation conservation standards of WCC 23.90.060(B)(3) are met;~~
 6. ~~The change in use, remodel or expansion will not create adverse impacts to shoreline ecological functions and/or processes; and~~
 7. ~~Uses which are specifically prohibited or which would thwart the intent of the Act or this program shall not be authorized.~~
- K. ~~Nonconforming lots are those that have a building area of less than 2,500 square feet available for a single family residence and normal appurtenances that is unrestricted by setbacks or buffers from shorelines.~~
- L. ~~Where permitted according to shoreline areas designations (WCC Table 23.100.010), new single-family development on any legal lot in shoreline jurisdiction that is nonconforming with respect to the required shoreline buffer standards may be allowed without a shoreline variance when all of the following criteria are met:~~
1. ~~The depth of the lot (the distance from the ordinary high water mark to the inside edge of the frontage setback) is equal to or less than the standard buffer as indicated in Chapter 16.16 WCC; and~~
 2. ~~The building area lying landward of the shoreline buffer and interior to required side yard setbacks is 2,500 square feet or less; provided, that consideration shall be given to view impacts and all single family residences approved under this section shall not extend waterward of the common line setback as measured in accordance with Appendix F. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; and~~
 3. ~~The lot is not subject to landslide hazard areas, alluvial fan hazard areas, or riverine and coastal erosion hazard areas or associated buffers as provided in WCC 16.16.310; and~~
 4. ~~The nonconforming lot was created prior to August 8, 2008; and~~
 5. ~~Appropriate measures are taken to mitigate all adverse impacts, including but not limited to locating the residence in the least environmentally damaging location relative to the shoreline and any critical areas; and provided, that all administrative reductions to side yard and/or frontage setbacks are pursued, when doing so will not create a hazardous condition or a condition that is inconsistent with this program and WCC Title 20; and~~
 6. ~~There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity; and~~
 7. ~~The area between the structure and the shoreline and/or critical area shall comply with the vegetation conservation standards of WCC 23.90.060(B)(3); and~~
 8. ~~Development may not take place waterward of the ordinary high water mark; and~~
 9. ~~Facilities such as a conventional drainfield system may be allowed within critical areas or their buffers, except wetlands and buffers, outside of the building area specified above, subject to specific criteria in Chapter 16.16 WCC.~~
- M. ~~Redevelopment of nonconforming rights-of-way and associated transportation structures, such as railroad trestles, may be permitted for purposes of facilitating the development of public trails and/or public shoreline access; provided, that such redevelopment shall be otherwise consistent~~

1 with the provisions of this program, including but not limited to the provisions for public access and
2 no net loss of shoreline ecological functions and processes, except as provided for in subsections E
3 and H of this section.

4 **23.50.010 Nonconforming Uses.**

5 A. The lawfully established use of any building, structure, land, or premises existing or authorized
6 under a permit or approval issued prior to the effective date of initial adoption of this program
7 (August 27, 1976) or any applicable amendment thereafter, but which does not conform to present
8 use regulations due to subsequent changes to the master program, shall be considered legally
9 nonconforming and may be continued, subject to the provisions of this section; provided, that
10 agricultural activities shall conform to WCC Chapter 16.16, Article 8 (Conservation Program on
11 Agricultural Lands).

12 B. The expansion, alteration, and/or intensification of a nonconforming use is prohibited.

13 C. An existing use designated as a shoreline conditional use under present use regulations that lawfully
14 existed prior to the effective date of the initial adoption of this program (August 27, 1976) or any
15 applicable amendment thereafter and that has not obtained a shoreline conditional use permit shall
16 be considered a legal use and may be continued subject to the provisions of this section without
17 obtaining a shoreline conditional use permit.

18 D. Other than agricultural uses complying with WCC 16.16.800, if a use is discontinued for a period of
19 12 consecutive months or more, then any subsequent use, if allowed, shall be consistent with the
20 provisions of this program and the Act.

21 E. The change of a nonconforming use to another type of nonconforming use is prohibited. may only
22 occur upon the approval of a shoreline conditional use permit. In addition to the shoreline
23 conditional use criteria of WCC Title 22 (Land Use and Development), before approving a shoreline
24 conditional use for a change in nonconforming use, the Hearing Examiner shall also find that:

- 25 — No reasonable alternative conforming use is practical because of the configuration of the
26 structure and/or the property;
- 27 — The proposed use will be consistent with the policies and provisions of the Act and this program
28 and as compatible with the uses in the area as the preexisting use;
- 29 — The vegetation conservation management standards of WCC 23.30.050 are met;
- 30 — The change in use or remodel will not create adverse impacts to shoreline ecological functions
31 and/or processes; and
- 32 — Uses that are specifically prohibited or that would thwart the intent of the Act or this program
33 shall not be authorized.
- 34 — Public Access is provided as required by this program.
- 35 — Vegetation screening and/or view protection is provided as required by this program.

Comment [P/C270]: P/C Motion to prohibit.
Carried 8-1.

36 **23.50.011020 Nonconforming Structures.**

37 A. A lawfully established structure existing or authorized under a permit or approval issued prior to the
38 effective date of initial adoption of this program (August 27, 1976) or any applicable amendment
39 thereafter, but is no longer fully consistent with present regulations due to subsequent changes to

Comment [P/C271]: P/C Motion to delete.
Carried 7-2.

the master program, shall be considered legally nonconforming and may be continued, subject to the provisions of this section; provided that:

1. Shoreline stabilization structures shall conform to WCC 23.40.190 (Shoreline Stabilization).
2. When maintenance and repair of a nonconforming structure has lapsed such that the structure or activity area is not in a usable condition, the structure or activity shall be considered to be abandoned or derelict and may no longer be continued.
3. For structures where the ordinary high water mark establishes landward of the structure, this structure shall be considered to be abandoned or derelict and may no longer be continued.
4. Non-overwater nonconforming structures may be maintained, repaired, renovated, or remodeled to the extent that nonconformance with the standards and regulations of this program is not increased, provided that a nonconforming structure that is moved any distance must be brought into conformance with this program and the Act, except as provided in subsection (C) and (D) of this section;
5. Overwater nonconforming structures may be maintained or repaired to the extent that nonconformance with the standards and regulations of this program is not increased; provided that when replacement is the common method of repair, the replaced components shall meet the construction and materials standards of WCC 23.40.150 (Moorage Structures).

B. Nonconforming structures (including accessory structures) that are damaged or destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind; provided, that:

1. Intentional demolition or removal is not a casualty.
2. Damaged or destroyed nonconforming structures containing conforming uses that are located within a geologically hazardous area or frequently flooded area shall be reconstructed consistent with the requirements of WCC Chapter 16.16, Article 3 (Geologically Hazardous Areas) and Article 4 (Frequently Flooded Areas); provided, that the permit process is commenced within 18 months of the date of such damage; and the reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in this section.
3. Damaged or destroyed nonconforming structures containing nonconforming uses can be replaced in kind if:
 - a. There is no feasible alternative that allows for compliance with the provisions of this program;
 - b. The structure is reconstructed consistent with the requirements of WCC Chapter 16.16, Article 3 (Geologically Hazardous Areas) and Article 4 (Frequently Flooded Areas);
 - c. The permit process is commenced within 12 months of the date of such damage; and,
 - d. The reconstruction does not expand, enlarge, or otherwise increase the nonconformity.

C. Nonconforming structures that do not meet the criteria of subsection (A)(2) but are intentionally demolished or removed with a valid demolition permit may be replaced with the same bulk dimensions provided that:

1. The permit process is commenced within 12 months of the date of such demolition or removal; and

Comment [CES272]: Revised to remind folks that a demo permit is required; and clarify that this does not apply to unusable structures addressed in A.2.

1 2. Such structures that are located within a geologically hazardous area or frequently flooded area
2 shall be reconstructed consistent with the requirements of WCC Chapter 16.16, Article 3
3 (Geologically Hazardous Areas) and Article 4 (Frequently Flooded Areas).

4 D. Replacement of any nonconforming structures or buildings or portions thereof within the aquatic
5 shoreline environment shall comply with program requirements for construction design and
6 materials; provided, that replacement of existing wood pilings with chemically treated wood is
7 allowed for maintenance purposes where use of a different material such as steel or concrete would
8 result in unreasonable or unsafe structural complications; further provided, that where such
9 replacement exceeds 20% of the existing pilings over a 10-year period, such pilings shall conform to
10 the standard provisions of this section.

11 E. Other than for single-family residences and their appurtenances, nonconforming structures that
12 ~~are~~shall not be altered, expanded or enlarged, or expanded without must be brought into
13 ~~conformance with this program and the Act or obtain a variance~~ unless such alteration, enlargement
14 or expansion would bring the structure into conformance with this program and the Act; provided,
15 that nonconforming structures with conforming uses may be enlarged or expanded within the
16 existing building footprint as a shoreline conditional use pursuant to WCC Title 22 (Land Use and
17 Development) 23.100.050(B)(1)(e) when the following criteria are met:-

- 18 1. The enlargement or expansion is within the existing building footprint;
- 19 2. The enlargement or expansion is in conformance with the bulk dimensional standards; and
- 20 3. Public access is provided and/or the shoreline environment is enhanced.

21 F. Single-family residences nonconforming to the shoreline buffer.

22 1. Enlargement or expansion of a primary single-family structure may be approved when either of
23 the following are met:

- 24 a. When the vertical expansion or enlargement is within the existing building footprint and is
25 in conformance with the bulk dimensional standards; or
- 26 b. When the enlargement or expansion meets all of the following.
 - 27 i. The enlargement or expansion will not extend waterward of the building footprint of
28 the existing primary structure or the enlargement or expansion is consistent with the
29 constrained lot provisions in WCC 23.40.170 (Standards for Single-Family Residential
30 Use on Constrained Lots).
 - 31 ii. The enlargement or expansion is not within a critical area or critical area buffer in a
32 manner inconsistent with this program.
 - 33 iii. The enlargement or expansion is in conformance with the bulk dimensional standards.

34 2. The enlargement or expansion of single-family residences or normal appurtenances greater than
35 the constrained lot provisions of WCC 23.40.170(C) may be approved once during the life of the
36 structure (100 years); provided, that the following conditions are met:-

- 37 a. The existing structure must be located landward of the ordinary high water mark.
- 38 b. Building footprint enlargement or expansion:
 - 39 i. Shall not increase the total building footprint by more than 500 square feet.
 - 40 ii. Shall be landward or lateral of the existing footprint.

Comment [MD273]: Under WAC 173-27-080
variance only needed if increasing nonconformity.

- iii. Shall occur on a previously impacted impervious surface.
- iv. Shall not occur waterward of the common line setback as described in WCC 23.40.020 (Shoreline Bulk Provisions).
- v. Shall be accompanied by enhancement of an area equivalent to the enlargement or expansion if the total building footprint increases by more than 250 square feet. If enhanced through planting, the Director shall require a vegetation management plan consistent with WCC 23.30.0540 (Vegetation Management).
- c. The property has not previously received a shoreline exemption under the provisions for a nonconforming or constrained lot.

G. Redevelopment of nonconforming rights-of-way and associated transportation structures, such as railroad trestles, may be permitted for purposes of facilitating the development of public trails and/or public shoreline access; provided, that such redevelopment shall be otherwise consistent with the provisions of this program, including but not limited to the provisions for public access and no net loss of shoreline ecological functions and processes, except as provided for in this section.

23.50.012030 Nonconforming Lots.

A lawfully established lot existing or authorized under a permit or approval issued prior to the effective date of initial adoption of this program (August 27, 1976) or any applicable amendment thereafter, but which does not conform to present lot standards, shall be considered a legally nonconforming lot and may be developed subject to the provisions of this program.

- Where permitted by the shoreline areas designation (WCC Table 23.100.010), new single family development on any legal lot in shoreline jurisdiction that is nonconforming with respect to the required shoreline setback standards may be allowed without a shoreline variance when the following criteria are met:
 - The depth of the lot (the distance from the ordinary high water mark to the inside edge of the frontage setback) is equal to or less than the standard buffer as indicated in Chapter 16.16 WCC;
 - The building area lying landward of the shoreline buffer and interior to required side yard setbacks is 2,500 square feet or less. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping, including any lawn, turf, ornamental vegetation, or gardens located in the outer management zone of the buffer pursuant to WCC 23.30.060(B)(2);
 - Consideration shall be given to view impacts. Any single family residences approved under this section shall not extend waterward of fifteen (15) feet landward of the OHWM, or the common line setback as measured in accordance with WCC 23.30.060(A)(2)(b), whichever is further landward.
 - The lot is not subject to landslide hazard areas or riverine and coastal erosion hazard areas or associated buffers as defined in WCC 16.16.310;
 - The nonconforming lot was created prior to the effective date of this program (August 8, 2008);
 - Appropriate measures are taken to mitigate all adverse impacts, including but not limited to locating the residence in the least environmentally damaging location relative to the shoreline

1 and any critical areas, that all administrative reductions to side yard and/or frontage setbacks
2 are pursued; and when doing so will not create a hazardous condition or a condition that is
3 inconsistent with this program and WCC Title 20. The standard front yard setback may be
4 reduced to 20 feet pursuant to WCC 20.80.230(2). The standard side yard setbacks may be
5 reduced to 5 feet of the total required side yard setbacks on one side and the balance on the
6 other side pursuant to WCC 23.90.130.B.4; provided, that if the side yard setback reductions
7 pursuant WCC 23.90.130.B.4 are insufficient, both side yard setbacks may be reduced to 5 feet.
8 There is no opportunity to consolidate lots under common ownership that will alleviate the
9 nonconformity;
10 The area between the structure and the shoreline and/or critical area shall comply with the
11 vegetation conservation standards of WCC 23. 30.050(B);
12 Development may not take place waterward of the ordinary high water mark; and
13 Facilities such as a conventional drainfield system may be allowed within critical areas or their
14 buffers, except wetlands and buffers, outside of the building area specified above, subject to
15 specific criteria in Chapter 16.16 WCC.

Comment [RCE274]: Moved to 23.40.170(C).

23.50.080 Property rights.

Comment [AP275]: Moved to Chapter 23.10

- 16
17 A. Decisions on shoreline permits and/or approvals shall recognize all relevant constitutional and other
18 legal limitations on the regulation of private property. Findings shall assure that conditions imposed
19 relate to the governmental authority and responsibility to protect the public health, safety, and
20 welfare, are consistent with the purposes of the Act, and are roughly proportional to the expected
21 impact.
22 B. This program does not alter existing law on access to or trespass on private property and does not
23 give the general public any right to enter private property without the owner's permission.
24 C. Consistent with Whatcom County's high standard of staff conduct, county staff observe all
25 applicable federal and state laws regarding entry onto privately owned property.

Chapter 23.60 Shoreline Permits and Exemptions

Comment [MD276]: Unless otherwise noted, the contents of this chapter have been moved to T-22.

23.60.005 General requirements.

1. To be authorized, all uses and developments shall be planned and carried out in a manner that is consistent with this program and the policy of the Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.

Comment [RCE277]: Moved to applicability section.

23.60.010 Substantial development permits criteria.

- A. A substantial development permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to WCC 23.60.022.
- B. In order to be approved, the decision maker must find that the proposal is consistent with the following criteria:
 1. All regulations of this program appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under WCC 23.60.030.
 2. All policies of this program appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated.
 3. For projects located on shorelines of statewide significance, the policies of Chapter 23.40 WCC shall also be adhered to.
- C. In the granting of all shoreline substantial development permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if shoreline substantial development permits were granted for other developments in the area where similar circumstances exist, the sum of the permitted actions should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

Comment [RE278]: Moved to ecological protection and critical areas

23.60.020 Exemptions from Shoreline Substantial Development Permits process.

A. 23.60.021 Application and interpretation.

1. An exemption from the substantial development permit process is not an exemption from compliance with the Act, or this program, or from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and regulatory provisions of this program and the Act. A statement of exemption shall be obtained for exempt activities consistent with the provisions of WCC 23.60.020.
2. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.
3. The burden of proof that a development, or use is exempt is on the applicant/proponent of the exempt development action.

4. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire project.
5. A development or use that is listed as a conditional use pursuant to this program or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.
6. When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.
7. All permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the administrator, including compliance with bulk and dimensional standards and policies and regulations of this program. The administrator may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the program.

B. 23.60.022 Exemptions listed.

1. The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit. A statement of exemption, as provided for in WCC 23.60.023 of this program shall be required for those activities listed in WCC 23.60.023(B) and (C).
 - a. Any development of which the total cost or fair market value, whichever is higher, does not exceed \$5,718, or as amended by the state office of financial management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For the purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.
 - b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. Normal maintenance includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal repair means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or the environment.
 - c. Construction of the normal protective bulkhead common to single family residences. A normal protective bulkhead includes those structural and nonstructural developments

installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used for backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife.

- d. ~~Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a time too short to allow full compliance with this program. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit that would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, Chapter 173-27 WAC or this program, shall be obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.~~
- e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including, but not limited to, head gates, pumping facilities, and irrigation channels; provided, that this exemption shall not apply to agricultural activities proposed on land not in agricultural use on December 17, 2003; and further provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, or alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.
- f. Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys.

- g. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for their own use or for the use of their family, which residence does not exceed a height of 35 feet above average grade level and that meets all requirements of the state agency or local government having jurisdiction thereof. Single family residence means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance as defined in WCC 23.110.010.
- h. Construction of a dock, including a shared moorage, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single family or multifamily residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. The private dock exemption applies if either:
 - i. In saltwater, the fair market value of the dock does not exceed \$2,500;
 - ii. In fresh waters the fair market value of the dock does not exceed \$10,000, but if subsequent construction having a fair market value exceeding \$2,500 occurs within five years of the completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this program. For the purpose of this section, saltwater shall include the tidally influenced marine and estuarine water areas of the state including the Strait of Georgia, local marine waters and all associated bays, inlets and estuaries.
- i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters including return flow and artificially stored ground water for the irrigation of lands; provided, that this exemption shall not apply to construction of new irrigation facilities proposed after December 17, 2003.
- j. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
- k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on June 4, 1975, that were created, developed or utilized, primarily as a part of an agricultural drainage or diking system.
- l. Any project with a certification from the governor pursuant to Chapter 80.50 RCW.
- m. Site exploration and investigation activities that are prerequisite to preparation of a development application for authorization under this program, if:
 - i. The activity does not interfere with the normal public use of surface waters;
 - ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality and aesthetic values;
 - iii. The activity does not involve the installation of any structure and, upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity;

- iv. ~~A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the administrator to ensure that the site is restored to preexisting conditions; and~~
- v. ~~The activity is not subject to the permit requirements of RCW 90.58.550.~~
- n. ~~The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that is recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under Chapter 43.21C RCW.~~
- o. ~~Watershed restoration projects as defined in Chapter 23.110 WCC and by RCW 89.08.460. The administrator shall review the projects for consistency with the program in an expeditious manner and shall issue its decision along with any conditions within 45 days of receiving a complete application form from the applicant/proponent. No fee may be charged for accepting and processing applications for watershed restoration projects as defined in Chapter 23.110 WCC.~~
- p. ~~A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:~~
 - i. ~~The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;~~
 - ii. ~~The project received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and~~
 - iii. ~~The administrator has determined that the project is consistent with this program. The administrator shall make such determination in a timely manner and provide it by letter to the project proponent.~~

C. ~~23.60.023 Statements of Exemption.~~

- 1. ~~The administrator is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in WCC 23.60.022. Such statements shall be applied for on forms provided by the administrator. The statement shall be in writing and shall indicate the specific exemption of this program that is being applied to the development, and shall provide a summary of the administrator's analysis of the consistency of the project with this program and the Act. As appropriate, such statements of exemption shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the program and Act. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The administrator's actions on the issuance of a statement of exemption or a denial are subject to appeal pursuant to WCC 23.60.150.~~
- 2. ~~Exempt activities related to any of the following shall not be conducted until a statement of exemption has been obtained from the administrator: dredging, flood control works and instream structures, development within an archaeological or historic site, clearing and ground~~

disturbing activities such as landfill or excavation, dock, shore stabilization, freestanding signs, or any development within an aquatic or natural shoreline designation; provided, that no separate written statement of exemption is required for the construction of a single family residence when a county building permit application has been reviewed and approved by the administrator; provided further, that no statement of exemption is required for emergency development pursuant to WAC 173-27-040(2)(d).

3. ~~No statement of exemption shall be required for other uses or developments exempt pursuant to WCC 23.60.022 unless the administrator has cause to believe a substantial question exists as to qualifications of the specific use or development for the exemption or the administrator determines there is a likelihood of adverse impacts to shoreline ecological functions.~~
4. ~~Whether or not a written statement of exemption is issued, all permits issued within the area of shorelines shall include a record of review actions prepared by the administrator, including compliance with bulk and dimensional standards and policies and regulations of this program. The administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this program.~~
5. ~~A notice of decision for shoreline statements of exemption shall be provided to the applicant/proponent and any party of record. Such notices shall also be filed with the Department of Ecology, pursuant to the requirements of WAC 173-27-050 when the project is subject to one or more of the following federal permitting requirements:~~
 - a. ~~A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899. (The provisions of Section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.); or~~
 - b. ~~A Section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to any project that may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)~~
6. ~~Whenever the exempt activity also requires a U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control Act of 1972, a copy of the written statement of exemption shall be sent to the applicant/proponent and Ecology pursuant to WAC 173-27-050.~~

23.60.030 Variance permit criteria.

- A. ~~The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this program and any associated standards appended to this program such as critical areas buffer requirements where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this program would impose unnecessary hardships on the applicant/proponent or thwart the policy set forth in RCW 90.58.020. Use restrictions may not be varied.~~

- ~~B. Variances will be granted in any circumstance where denial would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.~~
- ~~C. Proposals that would otherwise qualify as a reasonable use pursuant to WCC 16.16.270(A) shall require a shoreline variance and shall meet the variance criteria in this section.~~
- ~~D. Variances may be authorized, provided the applicant/proponent can demonstrate all of the following:~~
- ~~1. That the strict application of the bulk or dimensional criteria set forth in this program precludes or significantly interferes with reasonable permitted use of the property;~~
 - ~~2. That the hardship described in subsection A of this section is specifically related to the property, and is the result of conditions such as irregular lot shape, size, or natural features and the application of this program, and not, for example, from deed restrictions or the applicant's/proponent's own actions;~~
 - ~~3. That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects on adjacent properties or the shoreline environment;~~
 - ~~4. That the variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief;~~
 - ~~5. That the public interest will suffer no substantial detrimental effect;~~
 - ~~6. That the public rights of navigation and use of the shorelines will not be materially interfered with by the granting of the variance; and~~
 - ~~7. Mitigation is provided to offset unavoidable adverse impacts caused by the proposed development or use.~~
- ~~E. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined herein, or within any wetland as defined herein, may be authorized, provided the applicant can demonstrate all of the following:~~
- ~~1. That the strict application of the bulk, dimensional or performance standards set forth in this program precludes all reasonable use of the property; and~~
 - ~~2. That the proposal is consistent with the criteria established under subsections (D)(1) through (7) of this section; and~~
 - ~~3. That the public rights of navigation and use of the shorelines will not be adversely affected.~~
- ~~Other factors that may be considered in the review of variance requests include the conservation of valuable natural resources and the protection of views from nearby roads, surrounding properties and public areas; provided, the criteria of subsection D of this section are first met. In addition, variance requests based on the applicant's/proponent's desire to enhance the view from the subject development may be granted;~~
- ~~where there are no likely detrimental effects to existing or future users, other features, or shoreline ecological functions and/or processes, and~~
- ~~where reasonable alternatives of equal or greater consistency with this program are not available.~~
- ~~4. In platted residential areas, variances shall not be granted that allow a greater height or lesser shore setback than what is typical for the immediate block or area.~~

- F. In the granting of all variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.
- G. Permits and/or variances applied for or approved under other county codes such as WCC Title 20 or 21 shall not be construed as shoreline permits under this program.

23.60.040 Conditional use permits criteria.

- A. The purpose of a conditional use permit is to allow greater flexibility in administering the use regulations of this program in a manner consistent with the policy of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the county or the Department of Ecology to control any undesirable effects of the proposed use.
- B. Uses specifically classified or set forth in this program as conditional uses and unlisted uses may be authorized, provided the applicant/proponent can demonstrate all of the following:
1. That the proposed use will be consistent with the policy of RCW 90.58.020 and this program.
 2. That the proposed use will not interfere with normal public use of public shorelines.
 3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
 4. That the proposed use will not cause adverse effects to the shoreline environment in which it is to be located.
 5. That the public interest suffers no substantial detrimental effect.
- C. Other uses not specifically classified or set forth in this program, including the expansion or resumption of a nonconforming use pursuant to WCC 23.50.070, may be authorized as conditional uses, provided the applicant/proponent can demonstrate that the proposal will satisfy the criteria set forth in subsection B of this section, and that the use clearly requires a specific site location on the shoreline not provided for under the program, and extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of this program. Uses that are prohibited cannot be authorized by a conditional use permit.
- D. In the granting of all conditional use permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the sum of the conditional uses and their impacts should also remain consistent with the policy of RCW 90.58.020 and should not produce a significant adverse effect to the shoreline ecological functions and processes or other users.
- E. Permits and/or variances applied for or approved under county zoning or subdivision code requirements shall not be construed as shoreline variances under this program.

23.60.050 Minimum application requirements.

Where other approvals or permits are required for a use or development that does not require an open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit is

granted. All shoreline approvals and permits shall include written findings prepared by the administrator documenting compliance with bulk and dimensional standards and other policies and regulations of this program.

A complete application for a substantial development, conditional use, or variance permit shall contain all materials required in the Department's administrative manual; provided, that the administrator may vary or waive these requirements as provided in the manual and may vary or waive these requirements on a case-by-case basis. The administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other county requirements.

~~23.60.060 Pre-application conference.~~

~~A. Prior to filing a permit application for a shoreline substantial development permit, variance or conditional use permit decision;~~

~~B. The applicant shall contact the County to schedule a pre-application conference, which shall be held prior to filing the application; provided, that such meetings shall not be required for development activities associated with shoreline restoration projects, agriculture, commercial forestry, or the construction of a single-family residence.~~

~~23.60.070 Fees.~~

~~B. Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals, pre-application conferences and other required reviews and/or approvals shall be paid to the county at the time of application in accordance with the Whatcom County Unified Fee Schedule in effect at that time and Chapter 22.05 WCC.~~

~~C. When any given project requires more than one of the following permits or applications, the total amount of fees shall be reduced pursuant to WCC 22.25.030:~~

- ~~1. Preliminary plat application.~~
- ~~2. Rezone application.~~
- ~~3. Major development permit.~~
- ~~4. Planned unit development.~~
- ~~5. Binding site plan.~~

~~D. When any project requires a shoreline conditional use permit or shoreline variance in addition to a shoreline substantial development permit, the fees for the conditional use or variance shall be reduced by half.~~

~~E. In the event that actions of an applicant result in the repetition of the review, inspections and other steps in the approval process, those items or steps repeated shall be charged to and paid by the applicant prior to any further processing of the application by the county. The cost shall be in accordance with the adopted fee schedule.~~

F. If an application is withdrawn within 30 days of submittal, and no work has commenced at the site of the proposal for which the application was made, a refund of not more than 50 percent of the shoreline fees paid may be granted by the administrator. This amount may be reduced where staff time, public notice and other costs exceed 50 percent of the fees paid.

23.60.080 Notice of application.

B. Upon receipt of a completed shoreline substantial development permit, shoreline variance, or shoreline conditional use permit application the County shall issue a notice of application for a proposed land use action in the manner set forth in WCC 22.05.070.

C. The rights of treaty tribes to resources within their usual and accustomed areas shall be accommodated through the notification and comment provisions of the permit review process. Tribal treaty rights may be addressed through specific permit conditions. Direct coordination between tribes and the applicant/proponent is encouraged.

Comment [RCE279]: Moved to 23.05.040

23.60.090 Permit application review.

B. All shoreline permit applications, exemptions, or other approvals shall be subject to the provisions of this program that are in effect at the time of application.

C. To facilitate review of an application the decision maker shall consider any or all of the following:

1. The application and attached information;
2. The SEPA checklist, threshold determination, environmental impact statement, or other environmental studies and/or documentation;
3. Written comments from interested persons;
4. Information and recommendations from any public agency and from the administrator in cases where the administrator is not the decision maker;
5. Information or comment presented at a public hearing, if held, on the application; and
6. The policy and provisions of the Act and this program including the criteria enumerated in WCC 23.60.010, 23.60.030 and 23.60.040, as applicable.

D. The decision maker shall process project permit applications for shoreline substantial development permits, shoreline variance, and shoreline conditional use permits in compliance with the provisions of Chapter 22.05 WCC.

E. The decision maker shall process project permit applications for shoreline statements of exemption in accordance with the provisions of Chapter 22.05 WCC and WCC 23.60.023(A).

F. Any application for a shoreline permit or approval that remains inactive for a period of 180 days shall expire and a new application and repayment of fees shall be required to reactivate the proposal; provided, that the administrator may grant a single 90-day extension for good cause. Delays such as those caused by public notice requirements, State Environmental Policy Act review, litigation directly related to the proposal, or changes in government regulations shall not be considered as part of the inactive period.

— If a shoreline permit is denied, no reapplication for the same or essentially similar development may be made until one year from the date of denial.

23.60.100 Consolidated Permit Review.

- A. Whenever an application for a project permit under the program requires a project permit or approval under another County permit authority, such as zoning or subdivision, the shoreline project permit application, time requirements, and notice provisions for processing the shoreline permit shall apply, in addition to those of other regulatory programs.
- The provisions of Chapter 22.05 WCC shall apply to the consolidated application, review, and approval of applications that require an open record hearing.
- B. Any shoreline use or development that is subject to other approvals or permits that requires an open record hearing under another permit authority, such as zoning or subdivision, shall be subject to consolidated review and the decision maker designated for the open record hearing shall be the decision maker for the consolidated review.

23.60.110 State Environmental Policy Act (SEPA) compliance.

- A. Whenever an application for shoreline substantial development permit, shoreline variance, shoreline conditional use permit, or statement of exemption is subject to the rules and regulations of SEPA (Chapter 43.21C RCW), the review requirements of SEPA, including time limitations, shall apply, where applicable.
- B. Applications for shoreline permit(s) or approval(s) that are not categorically exempt under SEPA shall be subject to environmental review by the responsible official of Whatcom County pursuant to the State Environmental Policy Act (Chapter 197-11 WAC).
- C. As part of SEPA review, the Responsible Official may require additional information regarding the proposed development in accordance with Chapter 197-11 WAC.
- D. Failure of the applicant/proponent to submit sufficient information for a threshold determination to be made shall be grounds for the Responsible Official to determine the application incomplete.

Comment [RCE280]: Covered by WCC 16.08

23.60.120 Burden of proof.

Permit applicants/proponents have the burden of proving that the proposed development is consistent with the criteria set forth in the Act and this program.

Comment [CES281]: Moved to Permit application review

23.60.130 Public Hearings.

- A. The administrator shall determine whether an application requires a public hearing pursuant to the criteria below no later than 15 days after the minimum public comment period provided by WCC 23.60.080. An open record public hearing shall be required for all of the following:
1. The proposal has a cost or market value in excess of \$100,000 except for single-family residences, agriculture, commercial forestry, and ecological restoration projects; or
 2. The proposal would result in development of an area larger than five acres; or
 3. The proposal is a new or expanded marina, pier, aquaculture structure, any building over 35 feet high, mine, dam, stream diversion, landfill; or
 4. The administrator has reason to believe the proposal would be controversial based on public response to the notice of receipt of application and other information; or

Comment [CES282]: Moved/covered by Title 22 now

5. The proposal is determined to have a significant adverse impact on the environment and an environmental impact statement is required in accordance with the State Environmental Policy Act; or
6. The proposal requires a variance and/or conditional use approval pursuant to this program; or
7. The use or development requires an open record public hearing for other Whatcom County approvals or permits.

B. An open record public hearing on shoreline permit applications shall be held in accordance with the provisions of Chapter 22.05 WCC, unless a continuance is granted pursuant to the rules and procedures of the Hearing Examiner or other hearing body and subject to time requirements for compliance with the State Environmental Policy Act.

C. Repealed by Ord. 2018-032.

D. Repealed by Ord. 2018-032.

E. Public hearing requirements for permit appeals shall be processed according to WCC 23.60.150.

23.60.140 Permit conditions.

In granting, revising, or extending a shoreline permit, the decision maker may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this program as well as the supplemental authority provided in Chapter 43.21C RCW as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance with the Act and this program. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded in accordance with WCC 23.60.180.

23.60.XXX Filing with Department of Ecology

- After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the County will hand deliver or mail or hand deliver the permit using return receipt requested mail to the Department of Ecology regional office.
- Projects/posals that require both Shoreline Conditional Use Permits and or Variances shall be hand delivered or mailed simultaneously with any shoreline permit for the project.
- The permit and documentation of final local decision will be mailed together the following information:
 - A copy of the complete application;
 - Findings and conclusions that establish the basis for the decision, including but not limited to identification of shoreline environment designation(s), applicable program policies and regulations, and the consistency of the project with appropriate review criteria for the type of permit(s);
 - The final decision of the local government;
 - A completed permit data sheet (WAC Reference); and

Comment [CES283]: Moved to Permit application review.

Comment [CES284]: Moved to Ch. 22.07

- ~~— Where applicable, local government shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under Chapter 43.21C RCW.~~
- ~~— When the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicate the final approved plan.~~
- ~~— Upon approval of a revision, the decision maker shall file a copy of the revised site plan and a detailed description of the authorized changes to the original permit with the Department of Ecology together with a final ruling and findings supporting the decision based on the requirements of this section. In addition, the decision maker shall notify parties of record of the action.~~

~~23.60.150 Notice of Decision, Reconsideration and Appeal.~~

Comment [CES285]: Moved to T-22

- ~~— A notice of decision for action on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be provided to the applicant/proponent and any party of record in accordance with the review procedures of Chapter 22.05 WCC, and at least 10 days prior to filing such decisions with the Department of Ecology pursuant to WAC 173-27-130. Decisions filed with the Department of Ecology shall contain the following information:~~
- ~~— After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the County will mail or hand deliver the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General.~~
- ~~— Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits shoreline permit for the project.~~
- ~~— The permit and documentation of final local decision will be mailed together the following information:~~
 - ~~2. A copy of the complete application;~~
 - ~~3. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation(s), applicable program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);~~
 - ~~4. The final decision of the local government;~~
 - ~~5. A completed permit data sheet (see Appendix A of this title); and~~
 - ~~6. Where applicable, local government shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under Chapter 43.21C RCW.~~
 - ~~7. When the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicate the final approved plan.~~
- ~~A. Notice of decision for shoreline statements of exemption shall comply with WCC 22.05.110(1) and 23.60.023(E).~~
- ~~— Any person with standing may appeal any order, final permit decision, or final administrative determination made by the director or designee in the administration of this program.~~

~~Administrative Appeal Procedures.~~

~~Administrative appeals are processed in accordance with WCC 22.05.160.~~

~~After the issuance of the appeal determination, a party with standing may Appeals to the Shorelines Hearings Board of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180 within 21 days of the "date of filing," as defined in this program and RCW 90.58.140(6). The appeal to the Shorelines Hearing Board shall be filed in accordance with the provisions of Chapter 461-08C WAC.~~

~~Appeals of a decision of the Department of Ecology shall be filed in accordance with the provisions of Chapter 461-08C WAC.~~

- B. This program shall only establish standing for parties of record for shoreline substantial development permits, shoreline variances, or shoreline conditional use permits. Standing as a party of record is not established by this program for exempt actions pursuant to WCC 23.60.022; provided, that in such cases standing may be established through an associated permit process that provides for public notice and provisions for parties of record.
- A. The applicant/proponent or any party of record may request reconsideration of any final action by the decision maker within 10 days of notice of the decision. Such requests shall be filed on forms supplied by the county. Grounds for reconsideration must be based upon the content of the written decision. The decision maker is not required to provide a written response or modify his/her original decision. He/she may initiate such action as he/she deems appropriate. The procedure of reconsideration shall not preempt or extend the appeal period for a permit or affect the date of filing with the Department of Ecology, unless the applicant/proponent requests the abeyance of said permit appeal period in writing within 10 days of a final action.
- B. Appeals to the Shorelines Hearings Board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180 within 21 days of filing the final decision by Whatcom County with the Department of Ecology.
- C. Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use only when the applicant/proponent waives his/her right to a single appeal to the Shorelines Hearings Board. Such waivers shall be filed with the county in writing concurrent with a notice of appeal within 10 days of a final action. When an applicant/proponent has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of subsection H of this section and shall be an open record hearing before the hearing examiner.
- D. Any order, requirement or administrative permit decision, or determination by the administrator based on a provision of this program, except a shoreline substantial development permit, may be the subject of an appeal to the office of the hearing examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of subsection H of this section and shall be an open record hearing before the hearing examiner.
- E. Appeal Procedures:

1. Appeals shall be filed on forms supplied by the county within 10 calendar days of the issuance of a substantial development permit, shoreline variance or shoreline conditional use permit and within 20 calendar days of any other action of the administrator being appealed.
2. A public hearing on the appeal shall be held within 45 working days following receipt of the application for appeal.
3. Legal notice of the public hearing shall be made by mailing notice of time, date, and location of the hearing to the appellant, any parties of record, the Washington Department of Ecology, and the administrator at least 15 days prior to the hearing.
4. A decision by the hearing examiner shall be mailed within 10 working days of the public hearing to all parties of record unless otherwise mutually agreed to by all parties to the appeal.
5. Any party of record may request a closed record review of the hearing examiner's decision issued under subsection (H)(4) of this section by the county council. Such an appeal shall be filed with the county council on forms supplied by the county within 10 calendar days of the written decision. If appeal is made to the county council, notice of appeal shall be provided to all parties of record at least 15 days prior to consideration by the county council. The council shall meet to review the hearing examiner's decision within 21 days of transmittal thereof, at which time it may approve or disapprove the application, or remand the matter to the hearing examiner.
6. The time period for appeal to the Shorelines Hearings Board shall begin after the decision maker has filed the final county decision with the Department of Ecology.

23.60.160 Initiation of development.

—Development pursuant to a shoreline substantial development permit, shoreline variance, or conditional use permit shall not begin and shall not be authorized until 21 days after the “date of filing” or until all review proceedings before the Shorelines Hearings Board have terminated.

Date of Filing.

2. “Date of filing” of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.
3. The “date of filing” for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the department to the county and the applicant/proponent.

23.60.170 Revisions.

- A. A revision is required whenever the applicant/proponent proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit and/or statement of exemption. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this program, or the Act. Changes that are not substantive in effect do not require a revision.
- B. An application for a revision to a shoreline permit shall be submitted to the administrator ~~director~~. The application shall include detailed plans and text describing the proposed changes. The County decision maker that approved the original permit may approve the request upon a finding that the

proposed changes are within the scope and intent of the original approval, and are consistent with this program and the Act.

C. "Within the scope and intent of the original approval" means all of the following:

1. No additional over-water construction is involved except that a pier, dock, or floating structure may be increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less over that approved under the original approval;
2. Ground area coverage and/or height may be increased a maximum of 10 percent over that approved under the original approval; provided, that the revised approval does not authorize development to exceed the height, impervious surface, setbacks, or any other requirements of this program except as authorized under a variance granted for the original development;
— The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under a variance granted as the original permit or a part thereof;
3. Additional or revised mitigation and/or landscaping is consistent with any conditions attached to the original approval and with this program;
4. The use authorized pursuant to the original approval is not changed; and
5. The revision will not cause adverse environmental impacts beyond those originally authorized in the approval.

— Revisions to shoreline permits and statements of exemption may be authorized after the original authorization has expired. Revisions made after the expiration of the original approval shall be limited to changes that are consistent with this program and that would not require a permit under this program. If the proposed change is a substantial development as defined by this program, then a new permit is required.

D. The provisions of this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original approval.

E. A new permit shall be required if the proposed revision and any previously approved revisions in combination would constitute development beyond the scope and intent of the original approval as set forth in subsection C of this section.

F. ~~Upon approval of a revision, the decision maker shall file a copy of the revised site plan and a detailed description of the authorized changes to the original permit with the Department of Ecology together with a final ruling and findings supporting the decision based on the requirements of this section. In addition, the decision maker shall notify parties of record of the action.~~

— If the proposed revision is to a development for which a shoreline conditional use or variance was issued, the decision maker shall submit the revision to the Department of Ecology for approval with conditions or denial, and shall indicate that the revision is being submitted under the requirements of this subsection.

— Under the requirements of WAC 173-27-110(6), the Department shall render and transmit to the decision maker and the applicant/proponent its final decision within 15 days of the date of the Department's receipt of the submittal from the decision maker. The decision maker shall notify parties on record of the Department's final decision.

~~G. Appeals of a decision of the Department shall be filed in accordance with the provisions of Chapter 461-08C WAC.~~

~~23.60.190 Rescission and modification.~~

- A. Any shoreline permit granted pursuant to this program may be rescinded or modified upon a finding by the Hearing Examiner that the permittee or his/her successors in interest have not complied with conditions attached thereto. If the results of a monitoring plan show a development to be out of compliance with specific performance standards, such results may be the basis for findings of noncompliance.
- B. The Administrator shall initiate rescission or modification proceedings by issuing written notice of noncompliance to the permittee or his/her successors and notifying parties of record at the original address provided in application review files.
- C. The Hearing Examiner shall hold a public hearing no sooner than 15 days following such issuance of notice, unless the applicant/proponent files notice of intent to comply and the Administrator grants a specific schedule for compliance. If compliance is not achieved, the Administrator shall schedule a public hearing before the Hearing Examiner. Upon considering written and oral testimony taken at the hearing, the Hearing Examiner shall make a decision in accordance with the above procedure for shoreline permits.
- D. These provisions do not limit the Administrator, the Prosecuting Attorney, the Department of Ecology or the Attorney General from administrative, civil, injunctive, declaratory or other remedies provided by law, or from abatement or other remedies.

~~23.60.190 Expiration.~~

- A. The following time requirements shall apply to all substantial development permits and to any development authorized pursuant to a variance, conditional use permit, or statement of exemption:
1. ~~Construction shall be commenced__or, where no construction is involved, the use or activity shall be commenced__within two years of the effective date of a shoreline permit or exemption or the permit shall expire; provided, that the Hearing Examiner or Administrator, as appropriate, may authorize a single extension for a period of not more than one year based on a showing of good cause if a request for extension has been filed with the hearing examiner or administrator as appropriate before the expiration date of the shoreline permit or exemption__, and notice of the proposed extension is given to parties of record and the Department of Ecology.~~
 2. ~~Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit or exemption; provided, that the Hearing Examiner or Administrator, as appropriate, may authorize a single extension for a period of not more than one year based on a showing of good cause, if a request for extension has been filed with the hearing examiner or administrator, as appropriate, before the expiration date of the shoreline permit_or exemption and notice of the proposed extension is given to parties of record and the Department of Ecology.~~
- ~~—The effective date of a shoreline permit or exemption shall be the date of filing as provided in RCW 90.58.140(6).~~

~~— Tolling. The effective date does not include The time periods in (1) and (2) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the which the issued shoreline permit authorizes, development that authorize the development to proceed, including the pendency of all reasonably related administrative appeals or legal appeal actions on any such permits or approval, last action required on the shoreline permit or exemption and all other government permits and approvals that authorize the development to proceed, including administrative and legal actions on any such permit or approval.~~

~~— The applicant/ proponent shall be responsible for informing the County of the of such pendency, of other permit applications filed with agencies other than the County and of any related administrative and legal actions on any permit or approval.~~

~~3. If no notice of the pendency of other permits or approvals is given to the County prior to the date of the last action by the County to grant County permits and approvals necessary to authorize the development to proceed, including administrative and legal actions of the county, and actions under other County development regulations, the date of the last action by the County shall be the effective date.~~

~~B. Notwithstanding the time limits established in subsections (A)(1) and (2) of this section, upon a finding of good cause based on the requirements and circumstances of the proposed project and consistent with the policies and provisions of this program and the Act, the Hearing Examiner or Administrator, as appropriate, may set different time limits for a particular substantial development permit or exemption as part of the action to approve the permit or exemption. The Hearing Examiner may also set different time limits on specific conditional use permits or variances with the approval of the Department of Ecology. The different time limits may be longer or shorter than those established in subsections (A)(1) and (2) of this section but shall be appropriate to the shoreline development or use under review. "Good cause based on the requirements and circumstances of the proposed project" shall mean that the time limits established for the project are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources.~~

~~C. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to the commencement of a nonstructural activity; provided, that different time limits for compliance may be specified in the conditions of approval as appropriate.~~

~~— The Hearing Examiner or Administrator, as appropriate, shall notify the Department of Ecology in writing of any change to the effective date of a permit, authorized by subsections A through C of this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by the sections of this program previously listed shall require a new permit application.~~

~~D. —~~

Chapter 23.70 Administration

Comment [MD286]: Entire chapter moved to T-22

~~23.70.010 Administrator.~~

~~D. The Administrator, as defined in WCC 23.110.010, is hereby vested with the authority to:~~

- ~~1. Overall administrative responsibility for this program.~~
- ~~2. Determine if a public hearing should be held on a shoreline permit application by the Hearing Examiner pursuant to WCC 23.60.130.~~
- ~~3. Grant or deny statements of exemption.~~
- ~~4. Authorize, approve or deny shoreline substantial development permits, except for those for which the Hearing Examiner or County Council is the designated decision maker.~~
- ~~5. Issue a stop work order pursuant to the procedure set forth in WAC 173-27-270 upon a person undertaking an activity on shorelines in violation of Chapter 90.58 RCW or this program; and seek remedies for alleged violations of this program's regulations, or of the provisions of the Act, or of conditions attached to a shoreline permit issued by Whatcom County.~~
- ~~6. Decide whether or not a proposal is subject to the consolidated review process of Chapter 22.05 WCC and determine what other permits are required to be included in the consolidated review.~~
- ~~7. Make field inspections as needed, and prepare or require reports on shoreline permit applications.~~
- ~~8. Make written recommendations to the County Council or Hearing Examiner as appropriate and, insofar as possible, assure that all relevant information, testimony, and questions regarding a specific matter are made available during their respective reviews of such matter.~~
- ~~9. Propose amendments to the Planning Commission deemed necessary to more effectively or equitably achieve the purposes and goals of this program.~~
- ~~10. The Administrator shall perform the following administrative responsibilities:~~
- ~~11. Advise interested persons and prospective applicants/proponents as to the administrative procedures and related components of this program;~~
- ~~12. Collect fees as provided for in WCC 23.60.070; and~~
- ~~13. Assure that proper notice is given to interested persons and the public through news media, posting or mailing of notice.~~
- ~~14. Review administrative and management policies, regulations, plans and ordinances relative to lands under county jurisdiction that are adjacent to shorelines so as to achieve a use policy on such lands that is consistent with the Act and this program.~~
- ~~15. Review and evaluate the records of project review actions in shoreline areas shoreline environments and report on the cumulative effects of authorized development of shoreline conditions. The Administrator Director shall coordinate such review with the Washington Department of Ecology, the Washington Department of Fish and Wildlife, the Lummi Nation and Nooksack Tribe, and other interested parties.~~
- ~~16. Make recommendations to the Planning Commission for open space tax designations pursuant to Chapter 84.34 RCW.~~

1 E. ~~The Director of Planning and Development Services shall have the authority to develop~~
2 ~~administrative guidance materials related to the interpretations of principles and terms in this~~
3 ~~program as required to provide for consistent and equitable implementation of this program. Such~~
4 ~~administrative guidance documents shall be developed in consultation with the Washington State~~
5 ~~Department of Ecology to ensure that any formal written interpretations are consistent with the~~
6 ~~purpose and intent of Chapter 90.58 RCW, the applicable guidelines, and the goals and objectives of~~
7 ~~this program.~~

Comment [RCE287]: Moved to 23.10.

8 **~~23.70.020 SEPA official.~~**

9 ~~The Whatcom County SEPA responsible official is designated by WCC 16.08.040. The responsible official~~
10 ~~or his/her designee is hereby authorized to conduct environmental review of all use and development~~
11 ~~activities subject to this program, pursuant to Chapter 197-11 WAC and Chapter 43-21C RCW.~~

Comment [CES288]: Authority in WCC 16.08

12 **~~23.70.030 Hearing Examiner.~~**

13 ~~The Whatcom County Hearing Examiner is hereby vested with the authority to conduct open record~~
14 ~~hearings and prepare a record thereof pursuant to WCC 2.11.210.~~

15 **~~23.70.040 Planning Commission.~~**

16 ~~The Whatcom County Planning Commission is hereby vested with the responsibility to review the~~
17 ~~program from time to time as a major element of the County's planning and regulatory program, and~~
18 ~~make recommendations for amendments thereof to the County Council.~~

19 **~~23.70.050 County Council.~~**

20 ~~The Whatcom County Council is hereby vested with authority to:~~

- 21 ~~A. Initiate an amendment to this program according to the procedures prescribed in WAC 173-26-100.~~
22 ~~B. Adopt all amendments to this program, after consideration of the recommendation of the Planning~~
23 ~~Commission and pursuant to the procedural requirements of Chapter 2.02 WCC; provided, that~~
24 ~~substantive amendments shall become effective immediately upon adoption by the Department of~~
25 ~~Ecology.~~
26 ~~C. Make final decisions with regard to shoreline permit, shoreline variance or shoreline conditional use~~
27 ~~applications that require County Council action on a consolidated review as provided by Chapter~~
28 ~~22.05 WCC.~~
29 ~~D. Review and decide appeals to Hearing Examiner decisions pursuant to the procedures of WCC~~
30 ~~23.60.150.~~

Chapter 23.80 Legal Provisions

Comment [MD289]: Entire chapter moved to 23.05 or 23.10

23.80.010 Amendments.

- ~~B. The County Council or the Planning Commission may initiate an amendment to this program according to the procedures prescribed in WAC 173-26-100. The Planning Commission shall conduct a public hearing on any amendment proposed by the county council.~~
- ~~C. Any person may petition the County Council or Planning Commission to amend this program. Petitions shall specify the changes requested and any and all reasons therefor. The County Council or Planning Commission may schedule a public hearing on said petition(s) if it deems the proposed amendment would make this program more consistent with the Act and/or any applicable Department of Ecology Guidelines, or more equitable in its application to persons or property due to changed conditions in an area.~~
- ~~D. After approval or disapproval of a program amendment by the Department of Ecology as provided in RCW 90.58.090, the County shall publish a notice that the program amendment has been approved or disapproved by the Department of Ecology. For the purposes of RCW 36.70A.290, the date of publication for the amendment of a program is the date the County publishes notice that the program amendment has been approved or disapproved by the Department of Ecology.~~
- ~~E. The administrator shall submit an annual report to the County Council reviewing the effectiveness of the program in achieving its stated purpose, goals, and objectives. Such report may also include any proposed amendments deemed necessary to increase its effectiveness or equity. If said report contains proposed amendments, the Council may schedule a public hearing to consider such matter in accordance with the procedure described in subsection A of this section. Said report shall also include a determination of whether or not the goal of no net loss of shoreline ecological function is being achieved and provide recommendations for achieving and maintaining the goal.~~
- ~~F. Upon County Council adoption of a detailed community or subarea plan under the Whatcom County Comprehensive Plan, the Planning and Development Services Department shall prepare amendments, as appropriate, for the purpose of incorporating the goals, objectives, and standards of the community or subarea plan into this program. The Planning Commission shall schedule a public hearing upon receipt of such proposals, and shall give due consideration to the community objectives so expressed.~~

23.80.020 Violations and Penalties.

- ~~A. In the event any person violates any of the provisions of this chapter, the County may issue a correction notice to be delivered to the owner or operator, or to be conspicuously posted at the site. In a nonemergency situation, such notice may include notice of the intent to issue a stop work order no less than 10 calendar days following the receipt of the correction notice, and provide for an administrative predeprivation hearing within 10 calendar days of the notice. In an emergency situation where there is a significant threat to public safety or the environment, the County may issue a stop work order. The stop work order shall include, in writing, the right to request an administrative predeprivation hearing within 72 hours following receipt of the stop work order.~~

~~B. In addition to incurring civil liability under WCC 23.80.030 and RCW 90.58.210, pursuant to RCW 90.58.220 any person found to have willfully engaged in activities on shorelines of the state in violation of the provisions of the Act or of this program, or other regulations adopted pursuant thereto shall be punished by:~~

- ~~1. A fine of not less than \$25.00 or more than \$1,000;~~
- ~~2. Imprisonment in the county jail for not more than 90 days; or~~
- ~~3. Both such fine and imprisonment;~~

~~provided, that the fine for the third and all subsequent violations in any five-year period shall not be less than \$500.00 nor more than \$10,000. Provided further, that fines for violations of RCW 90.58.550, or any rule adopted thereunder, shall be determined under RCW 90.58.560. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.~~

~~C. The penalty provided in subsection B of this section shall be assessed and may be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity. In appropriate cases, corrective action shall be taken within a specific and reasonable time.~~

~~D. Within 30 calendar days after the notice is received, the person incurring the penalty may apply in writing to the county for remission or mitigation of such penalty. Upon receipt of the application, the county may remit or mitigate the penalty upon whatever terms the county in its discretion deems proper. The county's final decision on mitigation or revisions may be reviewed by the hearing examiner if the aggrieved party files a written appeal therewith of said decision within 10 calendar days of its issuance.~~

~~E. If work activity has occurred on a site in violation of this program, prompt corrective action, restoration or mitigation of the site will be required when appropriate. If this provision is not complied with, the county may restore or mitigate the site and charge the responsible person for the full cost of such an activity. Additionally, any and all permits or approvals issued by the county may be denied for that site for a period of up to six years.~~

~~F. The county may suspend or revoke a permit if the applicant violates the conditions or limitations set forth in the permit or exceeds the scope of the work set forth in the permit.~~

~~G. Any person who willfully violates any court order or regulatory order of injunction issued pursuant to this program shall be subject to a fine of not more than \$5,000, imprisonment in the county jail for not more than 90 days, or both.~~

23.80.030 Remedies.

~~A. The Whatcom County prosecuting attorney or administrator, where authorized, shall bring such injunctive, declaratory, or other actions as are necessary to ensure that no uses are made of the shorelines of the state located within Whatcom County in conflict with the provisions of this program, the Act, or other regulations adopted pursuant thereto, and to otherwise enforce the provisions of this program.~~

1 ~~B.—Any person subject to the regulatory provisions of this program or the Act who violates any~~
2 ~~provision thereof, or permit, or permit condition issued pursuant thereto shall be liable for all~~
3 ~~damage to public or private property arising from such violation, including the cost of restoring the~~
4 ~~affected area to its condition prior to violation. The Whatcom County prosecuting attorney shall~~
5 ~~bring suit for damages under this section on their own behalf and on the behalf of all persons~~
6 ~~similarly situated. If liability has been established for the cost of restoring an area affected by a~~
7 ~~violation, the court shall make provision to assure that restoration will be accomplished within a~~
8 ~~reasonable time at the expense of the violator. In addition to such relief, including money damages,~~
9 ~~the court in its discretion may award attorney's fees and costs of the suit to the prevailing party.~~
10 ~~C.—A person who fails to conform to the terms of a substantial development permit, conditional use~~
11 ~~permit or variance issued under RCW 90.58.140, who undertakes a development or use on~~
12 ~~shorelines of the state without first obtaining any required permit or authorization, or who fails to~~
13 ~~comply with a stop work order may be subject to a civil penalty. The penalty shall be imposed~~
14 ~~pursuant to the procedure set forth in WAC 173-27-280 and become due and recovered as set forth~~
15 ~~in WAC 173-27-290(3) and (4). Persons incurring a penalty may appeal the same to the shoreline~~
16 ~~hearings board or the county council pursuant to WAC 173-27-290(1) and (2).~~
17 ~~D.—Any order, requirement or determination by the administrator pursuant to WCC 23.80.020 may be~~
18 ~~appealed in accordance with the provisions of WCC 23.60.150(G) and (H).~~

19 **23.80.040 Abatement.**

20 Structures or development on shorelines considered by the administrator to present a hazard or other
21 public nuisance to persons, properties or natural features may be abated by the County under the
22 provisions of the applicable provisions of the Uniform Code for the Abatement of Dangerous Buildings,
23 1997 Edition, or successor as adopted by Whatcom County, or by other appropriate means.

Chapter 23.11060 Definitions

23.1160.005 Generally.

The terms used throughout this program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular. Any words not defined herein shall be defined pursuant to WWC Chapter 16.16 (Critical Areas) or Titles 20 (Zoning) or 22 (Land Use and Development), or their common meanings when not defined in code.

23.1160.010 "A" definitions.

~~1. "Accessory development" means any development incidental to and subordinate to a primary use of a shoreline site and located adjacent thereto.~~

Comment [CES290]: This term is not used now; use "accessory use" throughout, which is defined in T-20.

~~2-1. "Accessory structure" means a structure that is incidental and subordinate to a primary use and located on the same lot as the primary use, such as barns, garages, storage sheds, and similar structures. Structures that share a common wall with a primary residential structure shall be considered an extension of the primary structure, rather than an accessory structure.~~

Comment [AP291]: Added for consistency with revisions made to Bulk Provisions Table per Scoping Document, Item #17d.

~~"Accessory use" means a use customarily incidental to a permitted use; provided, that such use shall be located on the same lot as the permitted use except where specifically permitted elsewhere in zoning district regulations.~~

Comment [AP292]: Captured in Zoning Code (Title 20).

~~3-2. "Accretion shoreform" means a shoreline with a relatively stable berm and backshore that has been built up by long-term deposition of sand and gravel transported by wind and/or water from a feeder bluff or other material source. Such shoreforms are scarce locally and Examples include, but are not limited to, barrier beaches, points, spits, tombolos, pocket beaches, and point and channel bars on streams.~~

~~4-3. "Act" means the Shoreline Management Act of 1971 (Chapter 90.58 RCW) as amended.~~

~~5. "Activity" means human activity associated with the use of land or resources.~~

Comment [CES293]: Term already defined in CAO.

~~6. "Administrator" or "Shoreline Administrator" means the director of the department of planning and development services who is to carry out the administrative duties enumerated in this program, or his/her designated representative.~~

Comment [CES294]: Term no longer used; has been replaced with "Director," in keeping with general direction of other, recent code overhauls.

~~7-4. "Adverse impact" means an impact that can be measured or is tangible and has a reasonable likelihood of causing moderate or greater harm to ecological functions or processes or other elements of the shoreline environment.~~

~~8-5. "Agricultural activities" means agricultural uses and practices including, but not limited to:~~

producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; and maintaining

agricultural lands under production or cultivation. The construction of new structures or activities that bring a new, non-ongoing agricultural area into agricultural use are not considered agricultural activities.

Comment [CES295]: From the CAO definition.

9.6. "Agricultural equipment" and "agricultural facilities" include, but are not limited to:

- a. The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
- b. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;
- c. Farm residences and associated equipment, lands, and facilities; and
- d. Roadside stands and on-farm markets for marketing fruit or vegetables.

10.7. "Agricultural land" means areas on which agricultural activities are conducted as of the date of adoption of this program pursuant to the State Shoreline Guidelines as evidenced by aerial photography or other documentation. After the effective date of this program, land converted to agricultural use is subject to compliance with the requirements herein.

11.8. "Agricultural products" includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within 20 years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, poultry and poultry products, and dairy products.

12. "Alluvial fan" means a fan-shaped deposit of sediment and organic debris formed where a stream flows or has flowed out of a mountainous upland onto a level plain or valley floor because of a sudden change in sediment transport capacity (e.g., significant change in slope or confinement).

Comment [CES296]: Already defined in Ch. 16.16

13.9. "Alteration" means any human-induced change in an existing condition of a shoreline, critical area and/or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the area.

14. "Anadromous fish" means fish species that spend most of their lifecycle in saltwater, but return to freshwater to reproduce.

Comment [CES297]: Term not used in this document.

15.10. "Appurtenance" means development that is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and/or the perimeter of a wetland. For the purposes of single-family residential exemptions, normal Appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which that does not exceed 250 cubic yards (except to construct a conventional drainfield) and that does not involve placement of fill in any wetland or waterward of the ordinary high water mark.

16.11. "Aquaculture" means the culture or farming or culture of food fish, shellfish, or other aquatic plants or animals, in freshwater or saltwater areas, and may require development such as fish hatcheries, rearing pens and structures, and shellfish rafts, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of wild geoduck associated with the state

Comment [CES298]: Definition amended to state definition from WAC 173-26-020(6).

1 managed wildstock geoduck fishery-free swimming fish or the harvest of shellfish not artificially
2 planted or maintained, including the harvest of wild stock geoducks on DNR-managed lands.

3 ~~17. "Aquaculture practices" means any activity directly pertaining to growing, handling, or harvesting of~~
4 ~~aquaculture produce including, but not limited to, propagation, stocking, feeding, disease~~
5 ~~treatment, waste disposal, water use, development of habitat and structures. Excluded from this~~
6 ~~definition are related commercial or industrial uses such as wholesale and retail sales, or final~~
7 ~~processing and freezing.~~

Comment [CES299]: Term not used

8 ~~18,12.~~ "Aquatic shoreline areaenvironment" means an area designated pursuant to WCC
9 Chapter 23.230 (Shoreline Jurisdiction and Environment Designations).

10 ~~19. "Archaeological object" means an object that comprises the physical evidence of an indigenous and~~
11 ~~subsequent culture including material remains of past human life including monuments, symbols,~~
12 ~~tools, facilities, graves, skeletal remains and technological byproducts.~~

13 ~~20. "Archaeological resource/site" means a geographic locality in Washington, including, but not limited~~
14 ~~to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that~~
15 ~~contains archaeological objects. "Significant" is that quality in American history, architecture,~~
16 ~~archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and~~
17 ~~objects that possess integrity of location, design, setting, materials, workmanship, feeling, and~~
18 ~~association, and:~~

Comment [AP300]: Re-located to "Cultural resource" and "Cultural resource site" definitions

- 19 a. ~~That are associated with events that have made a significant contribution to the broad patterns~~
20 ~~of our history; or~~
21 b. ~~That are associated with the lives of significant persons in our past; or~~
22 c. ~~That embody the distinctive characteristics of a type, period or method of construction, or that~~
23 ~~represent the work of a master, or that possess high artistic values, or that represent a~~
24 ~~significant and distinguishable entity whose components may lack individual distinction; or~~
25 d. ~~That have yielded or may be likely to yield information important in history or prehistory.~~

26 ~~21,13.~~ "Archaeologist" means a person who has designed and executed an archaeological study as
27 evidenced by a thesis or dissertation and has been awarded an advanced degree such as an M.A.,
28 M.S. or Ph.D. from an accredited institution of higher education in archaeology, anthropology, or
29 history or other germane discipline with a specialization in archaeology; has a minimum of one year
30 of field experience with at least 24 weeks of field work under the supervision of a professional
31 archaeologist, including no less than 12 weeks of survey or reconnaissance work, and at least eight
32 weeks of supervised laboratory experience. Twenty weeks of field work in a supervisory capacity
33 must be documentable with a report produced by the individual on the field work.

34 ~~22. "Archaeology" means systematic, scientific study of the human past through material remains.~~

Comment [CES301]: Term already found in T-20 definitions.

35 ~~23,14.~~ "Associated wetlands" means wetlands that are in proximity to tidal waters, lakes, rivers, or
36 streams that are subject to the Shoreline Management Act and either influence or are influenced by
37 such waters. Factors used to determine proximity and influence include, but are not limited to:
38 location contiguous to a shoreline waterbody, formation by tidally influenced geohydraulic
39 processes, presence of a surface connection including through a culvert or tide gate, location in part
40 or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

24-15. "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property that will be directly under a proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure. ~~on that part of the lot to be occupied by the building or structure as measured by averaging the elevations at the center of all exterior walls of the proposed structure.~~

23.1160.020 "B" definitions.

1. "Backshore" means the accretion or erosion zone, located landward of the line of ordinary high water, which is normally wetted only by storm tides. A backshore may take the form of a more or less narrow storm berm (ridge of wave-heaped sand and/or gravel) under a bluff, or it may constitute a broader complex of berms, marshes, meadows, or dunes landward of the line of ordinary high water. It is part of the littoral drift process along its waterward boundary. ~~a zone of accretion or erosion lying landward of the average high-tide mark, wetted by tides during storm events.~~
2. "Barrier beach" means a linear ridge of sand or gravel extending above high tide, built by wave action and sediment deposition seaward of the original coastline; includes a variety of depositional coastal landforms. ~~accretion shoreform of sand and/or gravel berm(s) accreted waterward of bluffs, bays, marshes or estuaries by littoral drift; the berm acts as a natural dike and seawall to its backshore or marsh hinterland.~~
3. "Beach nourishment" means a restoration or shoreline stabilization activity in which selected beach material is deposited at one or several locations in the updrift portion of a drift sector. The material is then naturally transported by waves or currents downdrift to stabilize or restore accretion shoreforms and other berms, which may be eroding due to artificial obstructions in the shore process corridor.
4. "Bed and Breakfast" means a privately owned dwelling that is the primary residence(s) of the owner in which, for compensation, one to five rooms are used as sleeping units to house or lodge individuals or families for periods of less than 30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented.

Comment [CES302]: Amended to BAS definition (from Hugh Shippman's *A geomorphic classification of Puget Sound*)

~~3-5.~~ "Bedlands" means those submerged lands below the line of extreme low tide in marine waters and below the line of navigability or navigable lakes and rivers. Where the line of navigability has not been established, bedlands would be those submerged lands below the OHWM in lakes and rivers.

~~4-6.~~ "Bedrock" means a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

~~5-7.~~ "Berm" or "protective berm" means one or several accreted linear mounds of sand and gravel generally paralleling the shore at or landward of OHWM; berms are normally stable because of material size or vegetation, and are naturally formed by littoral drift.

Comment [CES303]: Incorporated from Resolution 2016-039, Council's action on vacation rentals.

- 1 | ~~6-8.~~ “Best management practices” means conservation practices or systems of practices and
2 management measures that:
- 3 a. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins,
4 and sediment;
- 5 b. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to
6 the chemical, physical, and biological characteristics of waters, wetlands, and other fish and
7 wildlife habitats;
- 8 c. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.
- 9 | ~~7.~~ ~~“Bioengineered shoreline stabilization” means biostructural and biotechnical alternatives to~~
10 ~~hardened structures (bulkheads, walls) for protecting slopes or other erosive features.~~
11 ~~Bioengineered stabilization uses vegetation, geotextiles, geosynthetics and similar materials. An~~
12 ~~example is vegetated reinforced soil slopes (VRSS), which uses vegetation arranged and embedded~~
13 ~~in the ground to prevent shallow mass movement and surficial erosion.~~
- 14 | ~~9.~~ “Boathouse.” See “Moorage Structure.”
- 15 | ~~10.~~ “Boat lift” or “lift.” See “Moorage Structure.” means an in-water structure used for the dry berthing
16 of vessels above the water level and lowering of vessels into the water. A boat lift as herein defined
17 is used to berth and launch a single vessel suspended over the water’s surface. A boat lift is
18 generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a
19 dock or as stand-alone structure. A boat lift may be designed either for boats or personal watercraft.
20 A boat lift is to be differentiated from a hoist or crane used for the launching of vessels. A boat lift
21 with a canopy cover shall be considered a covered moorage for the purposes of this program.
- 22 | ~~8-11.~~ “Bog” means a type of wetland dominated by mosses that form peat. Bogs are very acidic,
23 nutrient poor systems, fed by precipitation rather than surface inflow, with specially adapted plant
24 communities.
- 25 | ~~9-12.~~ “Breakwater” means an offshore structure that is generally built parallel to shore that may or
26 may not be connected to land, and may be floating or stationary. Their primary purpose is to protect
27 harbors, moorages and navigation activity from wave and wind action by creating stillwater areas
28 along shore. A secondary purpose is to protect shorelines from wave-caused erosion.
- 29 | ~~10-13.~~ “Buffer (buffer zone)” means the area adjacent to a shoreline and/or critical area that separates
30 and protects the area from adverse impacts associated with adjacent land uses.
- 31 | ~~11-14.~~ “Building” means any structure used or intended for supporting or sheltering any use or
32 occupancy as defined in the International Building Code.
- 33 | ~~12-15.~~ “Building area” means the entire area that will be disturbed to construct the home, normal
34 appurtenances (except on-site sewage systems), and landscaping.
- 35 | ~~13-16.~~ “Building footprint” means, for the purposes of this program, the ground area contained by the
36 exterior walls of a building.
- 37 | ~~14-17.~~ “Bulkhead” means a wall-like structure ~~such as a revetment or seawall~~ that is placed parallel to
38 shore primarily for retaining uplands and fills prone to sliding or sheet erosion, and to protect
39 uplands and fills from erosion by wave action.

Comment [CES304]: Now found under
“Shoreline stabilization, soft-treatment”

1 **23.1160.030 “C” definitions.**

2 **1. “Canopy.” See “Moorage Structure.”**

3 **1. “Channel migration zone (CMZ)” means the area along a river or stream within which the channel**
4 **can reasonably be expected to migrate over time as a result of normally occurring processes. It**
5 **encompasses that area of current and historic lateral stream channel movement that is subject to**
6 **erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent**
7 **areas that are susceptible to channel erosion. There are three components of the channel migration**
8 **zone: (a) the historical migration zone (HMZ) — the collective area the channel occupied in the**
9 **historical record; (b) the avulsion hazard zone (AHZ) — the area not included in the HMZ that is at risk**
10 **of avulsion over the timeline of the CMZ; and (c) the erosion hazard area (EHA) — the area not**
11 **included in the HMZ or the AHZ that is at risk of bank erosion from stream flow or mass wasting over**
12 **the timeline of the CMZ. The channel migration zone may not include the area behind a lawfully**
13 **constructed flood protection device. Channel migration zones shall be identified in accordance with**
14 **guidelines established by the Washington State Department of Ecology.**

Comment [CES305]: Already defined in Ch.
16.16

15 **2. “Channelization” means the straightening, relocation, deepening or lining of stream channels,**
16 **including construction of continuous revetments or levees for the purpose of preventing gradual,**
17 **natural meander progression.**

18 **3. “Cherry Point management area” means a geographic area defined as all the shoreline areas within**
19 **the jurisdiction of the Whatcom County shoreline management program lying between the eastern**
20 **property boundary of Tax Lots 2.27 and 2.28 within the SE 1/4 of Section 11, Township 39 North,**
21 **Range 1 West, as it existed on June 18, 1987, and the southern boundary of Section 32, Township 39**
22 **North, Range 1 East, extending waterward a distance of 5,000 feet and extending landward for 200**
23 **feet as measured on a horizontal plane from the OHWM.**

Comment [CES306]: Moved to “Official Map”
section

24 **3. “Clearing” means the removal or destruction of vegetation or plant cover by manual, chemical, or**
25 **mechanical means and that may result in exposed soils. Clearing includes, but is not limited to,**
26 **actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.**

27 **4. “Coastal high hazard area” means the area subject to high velocity waters, including, but not limited**
28 **to, storm surge or tsunamis. The area is designated on the Flood Insurance Rate Map as Zone V1-**
29 **V30, VE or V.**

30 **5. “Commercial development” means those developments whose primary use is for retail, service or**
31 **other commercial business activities. Included in this definition are developments such as hotels,**
32 **motels, bed and breakfast establishments, shops, restaurants, banks, professional offices, grocery**
33 **stores, laundromats, recreational vehicle parks, commercial rental campgrounds and cabins,**
34 **whether public or private, and indoor or intensive outdoor commercial recreation facilities. Not**
35 **included are private camping clubs, marinas, signs, utilities, bed and breakfasts, short term vacation**
36 **rentals, and other development.**

Comment [Co/C307]: Staff recommended
amendment to Council 11/23/21

37 **6. “Commercial fish” means those species of fish that are classified under the Washington Department**
38 **of Fish and Wildlife Food Fish Classification as commercial fish (WAC 220-12-010).**

Comment [CES308]: Incorporated from
Resolution 2016-039, Council’s action on vacation
rentals.

39 **7. “Compensatory mitigation” means a project for the purpose of mitigating, at an equivalent or**
40 **greater level, unavoidable impacts that remain after all appropriate and practicable avoidance and**

Comment [CES309]: Already in Ch. 16.16

minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, wetland creation, restoration, enhancement, and preservation; stream restoration and relocation, rehabilitation; and buffer enhancement.

Comment [CES310]: Already in Ch. 16.16

8. "Conditional use" for the purposes of this program means a use, development or substantial development listed in the regulations as being permitted only as a conditional use, or not classified in this program. Conditional uses are subject to review and approval pursuant to the criteria in Chapter 23.60 WCC regardless of whether or not the proposal requires a substantial development permit.

Comment [AP311]: Moved to "Shoreline Conditional Use" definition.

9.6. "Conservancy shoreline area environment" means an area so designated in WCC Chapter 23.230 (Shoreline Jurisdiction and Environment Designations).

10. "Conservation" means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources to prevent depletion or harm to the environment.

Comment [CES312]: Already in Ch. 16.16

11. "Conservation easement" means a legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

Comment [CES313]: Already in Ch. 16.16

12. "Contaminant" means any chemical, physical, biological, or radiological substance that does not occur naturally in ground water, air, or soil or that occurs at concentrations greater than those in the natural levels (Chapter 173-200 WAC).

Comment [CES314]: Already in Ch. 16.16

13.7. "County" means Whatcom County, Washington.

14.8. "Covered moorage" means a roofed floating or fixed offshore structure without walls, other than a minimal structural framework needed to support the roof, for moorage of water craft or float planes.

15. "Critical aquifer recharge area" means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2).

Comment [CES315]: Already in Ch. 16.16

16.9. "Critical areas" means the following areas as designated in WCC Chapter 16.16:

- a. Critical aquifer recharge areas.
- b. Wetlands.
- c. Geologically hazardous areas.
- d. Frequently flooded areas.
- e. Fish and wildlife habitat conservation areas.

10. "Critical habitat" means habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified in WCC Chapter 16.16 with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the Priority Habitat and Species (PHS) program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

1 17.11. "Critical saltwater habitat" includes all kelp beds, eelgrass beds, spawning and holding areas for
2 forage fish, such as Pacific herring, surf smelt and Pacific sandlance; subsistence, commercial and
3 recreational shellfish beds; mudflats, intertidal habitats with vascular plants; and areas with which
4 priority species have a primary association.

Comment [AP316]: Added for consistency with CAO.

5 25.16. "Archaeological object/Cultural resource" refers to any archaeological, historic, cemetery, or
6 other cultural sites or artifacts; as well as those traditional food, medicine, fibers, and objects that
7 sustain the religious, ceremonial, and social activities of affected Native American tribes that may be
8 regulated under state or federal laws administered by the Washington State Department of
9 Archaeologic and Historic Preservation (DAHP). means an object that comprises the physical
10 evidence of an indigenous and subsequent culture including material remains of past human life
11 including monuments, symbols, tools, facilities, graves, skeletal remains and technological
12 byproducts.

Comment [CES317]: From DAHP guidance.

13 26. "Archaeological resource/site/Cultural resource site" means a geographic locality in Washington,
14 including, but not limited to, submerged and submersible lands and the bed of the sea within the
15 state's jurisdiction, that contains archaeological objects/cultural resources. "Significant" is that
16 quality in American history, architecture, archaeology, engineering, and culture that is present in
17 districts, sites, buildings, structures, and objects that possess integrity of location, design, setting,
18 materials, workmanship, feeling, and association, and:

- 19 a. That are associated with events that have made a significant contribution to the broad patterns
20 of our history; or
21 b. That are associated with the lives of significant persons in our past; or
22 c. That embody the distinctive characteristics of a type, period or method of construction, or that
23 represent the work of a master, or that possess high artistic values, or that represent a
24 significant and distinguishable entity whose components may lack individual distinction; or
25 d. That have yielded or may be likely to yield information important in history or prehistory.

Comment [CES318]: Deleted, as LNTPO commented, "The definition that is included for this term on page 227 is taken from the Federal process and it does not apply here. Under state law a different process is followed." Proposed for removal, as term "significant" is no longer used.

26 18.12. "Current deflector" means an angled "stub-dike," groin, or sheet-pile structure which projects
27 into a stream channel to divert flood currents from specific areas, or to control downstream current
28 alignment.

29 **23.1160.040 "D" definitions.**

30 1. "Dam" means a barrier across a stream or river to confine or regulate flow or raise water levels for
31 purposes such as flood or irrigation water storage, erosion control, power generation, or collection
32 of sediment or debris.

33 2. "Date of filing" refers to the beginning of the state Shorelines Hearings Board's 21 day appeal
34 period. Consistent with RCW 90.58.140(6), "date of filing" is defined as follows:

- 35 a. For projects that only require a substantial development permit: the date that Ecology receives
36 the County's decision.
37 b. For a shoreline conditional use permit or variance: the date the Ecology's decision on the
38 shoreline conditional use permit or variance is transmitted to the applicant and the County.

c. For substantial development permits simultaneously mailed with a shoreline conditional use permit or variance: the date that Ecology's decision on the shoreline conditional use permit or variance is transmitted to the applicant and the County.

~~“Debris flow” means a moving mass of rock fragments, soil, and mud; more than half of the particles being larger than sand size; a general term that describes a mass movement of sediment mixed with water and air that flows readily on low slopes.~~

Comment [AP319]: Added per Periodic Review Checklist, Item 2017.d, and Scoping Document Item #2a.

Comment [CES320]: Already in Ch. 16.16

3. “Department” means the Whatcom County Department of Planning and Development Services.

~~2-4. “Department of Ecology” or “Ecology” means the Washington State Department of Ecology.~~

Comment [AP321]: Added per Scoping Document, Item #7a.

~~3-5. “Development” means any land use activity, action, or manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, site work, and installation of utilities; land division, binding site plans, and planned unit developments; dredging, drilling, dumping, filling, grading, clearing, or removal of any sand, gravel, or minerals; shoreline stabilization works, driving of piling, placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. “Development” does not include dismantling or removing structures if there is no other associated development or redevelopment. a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level. This term may include activities related to subdivision and short subdivisions; binding site plans; planned unit developments; clearing activity; fill and grade work; building or construction; and activities that are exempt from the substantial development permit process or that require a shoreline variance or conditional use.~~

Comment [CES322]: Amended for consistency with WAC 173-27-030.

~~4-6. “Dike” means an artificial embankment placed at a stream mouth or delta area to hold back sea water for purposes of creating and/or protecting arable land from flooding.~~

~~7. “Dock.” See “Moorage Structure.” means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for water dependent recreation including, but not limited to, floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps.~~

Comment [CES323]: Amended to reflect DOE definitions.

~~5-8. “Director” means the Whatcom County Planning and Development Services director, or his/her designee. The Director is the Shoreline Administrator and is authorized to carry out the administrative duties enumerated in his program.~~

~~6-9. “Ditch” or “dDitch” means an artificially created watercourse constructed to drain convey surface or ground water. Ditches are graded (manmade) channels installed to collect and convey runoff from fields and roadways. Ditches may include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Ditched channels that support fish are considered to be streams.~~

~~7-10. “Dredge spoil” means the material removed by dredging.~~

1 ~~8-11.~~ "Dredging" means the removal, displacement, and disposal of unconsolidated earth material
2 such as silt, sand, gravel, or other submerged material from ~~the bottom~~ waterward of the OHWM of
3 water-bodies or from wetlands. ~~With the exception of regular maintenance of an approved barge~~
4 ~~landing site,~~ maintenance dredging and other support activities are included in this definition.

5 ~~12.~~ "Drift sector" or "drift cell" means a particular reach of marine shore in which littoral drift may occur
6 without significant interruption, and which contains any and all natural sources of such drift, and
7 also any accretion shoreform(s) accreted by such drift. Each normal drift sector contains these shore
8 process elements: feeder bluff or estuary, driftway, littoral drift, and accretion shoreform.

9 ~~9-13.~~ "Drift sill" means a low elevation groin, typically constructed of rock, installed along with beach
10 nourishment filled up to height of sill, that is sometimes used to hold or slow littoral transport of
11 placed sediment without blocking longshore drift.

12 ~~10-14.~~ "Driftway" means that portion of the marine shore process corridor, primarily the upper
13 foreshore, through which sand and gravel are transported by littoral drift. The driftway is the
14 essential component between the feeder bluff(s) and accretion shoreform(s) of an integral drift
15 sector. Driftways are also characterized by intermittent, narrow berm beaches.

16 **23.1160.050 "E" definitions.**

17 1. "Ecological functions" or "shoreline functions" means the work performed or role played by the
18 physical, chemical, and biological processes that contribute to the maintenance of the aquatic and
19 terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-
20 201(2)(c). Functions include, but are not limited to, habitat diversity and food chain support for fish
21 and wildlife, ground water recharge and discharge, high primary productivity, low flow stream water
22 contribution, sediment stabilization and erosion control, storm and flood water attenuation and
23 flood peak desynchronization, and water quality enhancement through biofiltration and retention of
24 sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.

25 2. "Ecology" or "Department of Ecology" means the Washington State Department of Ecology.

26 3. "Ecosystem processes" or "ecosystem-wide processes" means the suite of naturally occurring
27 physical and geologic processes of erosion, transport, and deposition; and specific chemical
28 processes that shape landforms within a specific shoreline ecosystem and determine both the types
29 of habitat and the associated ecological functions.

30 ~~2-4.~~ "Ells." See "Moorage Structure."

31 ~~3-5.~~ "Emergency activities" means an unanticipated and imminent threat to public health, safety, or the
32 environment which requires immediate action within a time too short to allow full compliance with
33 the master program. Emergency construction is construed narrowly as that which is necessary to
34 protect property from the elements and does not include development of new permanent
35 protective structures where none previously existed. Where new protective structures are deemed
36 by the Director to be the appropriate means to address the emergency situation, upon abatement
37 of the emergency, pursuant to the master program and RCW 90.58.030(3)(e)(iii), WAC 173-27-
38 040(2)(d), or their successors. As a general matter, flooding or other seasonal events that can be
39 anticipated and may occur but that are not imminent are not considered an emergency. ~~those~~

Comment [AP324]: Added per Scoping Document, Item #7a.

activities that require immediate action within a time too short to allow full compliance with this program due to an unanticipated and imminent threat to public health, safety or the environment. Emergency construction does not include development of new permanent protective structures where none previously existed. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

4-6. "Enhancement" means actions performed within an existing degraded shoreline, critical area and/or buffer to intentionally increase or augment one or more functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing nonindigenous plant or animal species.

5- "Erosion" means the wearing away of land by the action of natural forces, such as wind, rain, water and other natural agents that mobilize, transport, and deposit soil particles; on a beach, the carrying away of beach material by wave actions, tidal currents, or littoral currents. a process whereby wind, rain, water and other natural agents mobilize, and transport, and deposit soil particles.

6-7. "Erosion hazard areas" means lands or areas underlain by soils identified by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) as having "severe" or "very severe" erosion hazards and areas subject to impacts from lateral erosion related to moving water such as river channel migration and shoreline retreat.

7-8. "Essential public facility" means those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, and group homes, and secure community transition facilities as defined in RCW 71.09.020 (RCW 36.70A.200, Siting of essential public facilities).

8-9. "Excavation" means the disturbance, displacement and/or disposal of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material from all areas landward of OHWM.

9-10. "Exempt development" means a use or development activity that is not a substantial development and that is specifically listed as exempt from the substantial development permit requirement in WAC 173-27-040 and WCC ~~Chapter 23.60~~ Title 22 (Land Use and Development).

10-11. "Extreme high water level" means the highest tide level reached in a 19-year tidal cycle, or on lakes, the highest water level reached in the past 10 years.

11-12. "Extreme low tide" means the lowest line on the land reached by a receding tide.

23.1160.060 "F" definitions.

1. "Fair market value" of a development means the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the

- development shall include the fair market value of any donated, contributed or found labor, equipment or materials.
2. "Farm pond" means an open water depression created from a non-wetland site in connection with agricultural activities.
3. "Feasible" means an action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:
- The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
 - The action provides a reasonable likelihood of achieving its intended purpose; and
 - The action does not physically preclude achieving the project's primary intended legal use.
- In cases where this program requires certain actions, unless they are infeasible, the burden of proving infeasibility is on the applicant/proponent. In determining an action's infeasibility, the County may weigh the action's relative costs and public benefits, considered in the short- and long-term time frames.
4. "Feasible alternative" means an action, such as development, mitigation, or restoration, that meets all of the following conditions: (a) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) the action provides a reasonable likelihood of achieving its intended purpose; and (c) the action does not physically preclude achieving the project's primary intended legal use. Feasibility shall take into account both short- and long-term monetary and nonmonetary costs and benefits.
5. "Feasible location" means a location that accommodates a development in a manner that achieves its intended purpose consistent with the constraints of the applicable land use regulations and characteristics of the property, including but not limited to lot size, configuration, presence/absence of critical areas and compatibility with adjacent land use/development. Feasibility shall take into account both short- and long-term monetary and nonmonetary costs and benefits.
6. "Feeder bluff" or "erosional bluff" means any bluff (or cliff) experiencing periodic erosion from waves, sliding or slumping, and/or whose eroded sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform; these natural sources of beach material are limited and vital for the long-term stability of driftways and accretion shoreforms.
7. "Feeder bluff exceptional" means relatively rapidly eroding bluff segments identified by the presence of landslide scarps, bluff toe erosion, and a general absence of vegetative cover and/or portions of bluff face fully exposed. Other indicators included the presence of colluvium (slide debris), boulder or cobble lag deposits, and fallen trees across the beachface. Feeder bluff exceptional segments lack a backshore, old or rotten logs, and coniferous bluff vegetation.
8. "Feedlot" means a concentrated, confined animal or poultry operation for production of meat, milk or eggs; or stabling in yards, barns, pens or houses wherein animals or poultry are fed at the place of

confinement; and crop or forage growth or production is not sustained within the place of confinement.

9. "Filling" means the ~~act of transporting or placing~~ by any manual or mechanical means of fill material from, to, or on an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land ~~any soil surface~~, including temporary stockpiling of fill material.

10. "Fill material" means any solid or semi-solid material, including rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure that, when placed, changes the grade or elevation of the receiving site.

11. "Fish and wildlife habitat conservation areas" means ~~those areas as defined in WCC Chapter 16.16 (Critical Areas) important for maintaining species in suitable habitats within their natural geographic distribution so that isolated populations are not created, as designated in Chapter 16.16 WCC.~~

12. "Fish habitat" means a complex of physical, chemical, and biological conditions that provide the life-supporting and reproductive needs of a species or life stage of fish. Although the habitat requirements of a species depend on its age and activity, the basic components of fish habitat in rivers, streams, ponds, lakes, estuaries, marine waters, and nearshore areas include, but are not limited to, the following:

- a. Clean water and appropriate temperatures for spawning, rearing, and holding.
- b. Adequate water depth and velocity for migrating, spawning, rearing, and holding, including off-channel habitat.
- c. Abundance of bank and instream structures to provide hiding and resting areas and stabilize stream banks and beds.
- d. Appropriate substrates for spawning and embryonic development. For stream- and lake-dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand.
- e. Presence of riparian vegetation as defined in this program. Riparian vegetation creates a transition zone, which provides shade, and food sources of aquatic and terrestrial insects for fish.
- f. Unimpeded passage (i.e., due to suitable gradient and lack of barriers) for upstream and downstream migrating juveniles and adults.

13. "Fisheries" means all species of fish and shellfish commonly or regularly originating or harvested commercially or for sport in Puget Sound and its tributary freshwater bodies, together with the aquatic plants and animals and habitat needed for continued propagation and growth of such species.

14. "Fisheries enhancement" means actions taken to rehabilitate, maintain or create fisheries habitat, including but not limited to hatcheries, spawning channels, lake rehabilitation, and planting of fisheries stocks. Fisheries enhancement differs from aquaculture in that the increase in fisheries stocks eventually becomes available for public harvest.

Comment [CES325]: Updated to be consistent with WAC 173-26-020(16)

- 1 15. "Float" means an anchored (not directly to the shore) floating platform that is free to rise and fall
2 with water levels and is used for water-dependent recreational activities such as boat mooring,
3 swimming or diving. Floats may stand alone with no over-water connection to shore or may be
4 located at the end of a pier or ramp. ~~a floating platform similar to a dock that is anchored or~~
5 ~~attached to pilings.~~
- 6 16. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of
7 normally dry land areas from the overflow of inland waters and/or the unusual and rapid
8 accumulation of runoff of surface waters from any source.
- 9 17. "Flood control works" means all development on rivers and streams designed to retard bank
10 erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a
11 reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative
12 stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.
- 13 18. "Flood management" means a long-term program to reduce flood damages to life and property and
14 to minimize public expenses due to floods through a comprehensive system of planning,
15 development regulations, building standards, structural works, and monitoring and warning
16 systems.
- 17 19. "Flood-proofing" means structural provisions, changes, adjustments or a combination thereof, to
18 buildings, structures, and works in areas subject to flooding in order to reduce or eliminate damages
19 from flooding to such development and its contents, as well as related water supplies and utility
20 facilities.
- 21 ~~20. "Floodplain, 100-year" means all lands along a river or stream that may be inundated by the base~~
22 ~~flood of such river or stream.~~
- 23 ~~21. "Floodway" means those portions of the area of a river valley lying streamward from the outer~~
24 ~~limits of a watercourse upon which flood waters are carried during periods of flooding that occur~~
25 ~~with reasonable regularity, although not necessarily annually; said floodway being identified, under~~
26 ~~normal conditions, by changes in surface soil conditions or changes in types or quality of vegetation~~
27 ~~ground cover condition, topography, or other indicators of flooding that occurs with reasonable~~
28 ~~regularity, although not necessarily annually. The floodway shall not include those lands that can~~
29 ~~reasonably be expected to be protected from flood waters by flood control devices maintained by or~~
30 ~~maintained under license from the federal government, the state, or the County. The limit of the~~
31 ~~floodway is that which has been established in the program and approved by the Department of~~
32 ~~Ecology.~~
- 33 ~~22.20. "Floodway fringe" means that fringe of land in the floodplain outside the floodway, which is~~
34 ~~subject to inundation by the base flood. Flooding in the fringe is limited to flood surge storage of~~
35 ~~water currents moving at a negligible velocity of less than one-half mile per hour.~~
- 36 ~~23.21. "Food chain" means the hierarchy of feeding relationships between species in a biotic~~
37 ~~community. The food chain represents the transfer of material and energy from one species to~~
38 ~~another within an ecosystem.~~
- 39 ~~24.22. "Foreshore" means the intertidal area between mean higher high water and mean low water.~~

Comment [AP326]: Defined in CAO.

Comment [AP327]: Update per Periodic Review Checklist, Item 2007.a, and Scoping Document, Item #2g.

Comment [CES328]: Already defined in Ch. 16.16

1 23. "Fossil fuels" include coal, petroleum, crude oil, natural gas, oil shales, bitumens, tar sands, propane,
2 butane, and heavy oils. All contain carbon and were formed as a result of geologic processes acting
3 on the remains of organic matter. Renewable fuels are not fossil fuels.

4 ~~25-24.~~ "Fossil Fuel Transshipment Facility" is a facility engaging primarily in the process of off-loading of
5 fossil fuels materials, refined or unrefined, refinery feedstocks, products or by products from one
6 transportation method (such as a ship, truck, or railcar) facility and loading it onto another
7 transportation facility method for the purposes of transporting the fossil fuel such products into or
8 and out of Whatcom County. Examples of transportation facilities include ship, truck, or freight car.
9 Fossil fuel transshipment facilities may also include pump and compressor stations and associated
10 facilities. This definition shall include bulk storage or transfer facilities for the shipment of crude oil
11 without refining or consuming within the Cherry Point Industrial District and shall excludes Small
12 Fossil or Renewable Fuel Storage and Distribution Facilities.

13 ~~26.~~ "Fossil Fuel Refinery" means a facility that converts crude oil and other liquids into petroleum
14 products including but not limited to gasoline, distillates such as diesel fuel and heating oil, jet fuel,
15 petrochemical feedstocks, waxes, lubricating oils, and asphalt. Activities that support refineries
16 include but are not limited to: bulk storage, manufacturing, or processing of fossil fuels or by
17 products. This definition excludes Small Fossil or Renewable Fuel Storage and Distribution Facilities.
18 "Forest land" means all land that is capable of supporting a merchantable stand of timber and is not
19 being actively used, developed, or converted in a manner that is incompatible with timber
20 production.

21 ~~27.~~ "Forest practices" means any activity conducted on or directly pertaining to forest land and relating
22 to growing, harvesting, or processing of timber; including, but not limited to: (a) road and trail
23 construction, (b) fertilization, (c) prevention and suppression of diseases and insects; or other
24 activities that qualify as a use or development subject to the Act.

25 ~~28-25.~~ Excluded from this definition is preparatory work such as tree marking, surveying and removal
26 of incidental vegetation such as berries, greenery, or other natural products whose removal cannot
27 normally be expected to result in damage to shoreline natural features. Also excluded from this
28 definition is preparatory work associated with the conversion of land for non-forestry uses and
29 developments. Log storage away from forest land is considered industrial.

30 ~~29.~~ "Freestanding sign" means a self-supporting sign placed off and away from the building to which it is
31 related.

32 ~~30-26.~~ "Frequently flooded areas" means lands in the floodplain subject to a one percent or greater
33 chance of flooding in any given year and those lands that provide important flood storage,
34 conveyance and attenuation functions, as determined by the County in accordance with WAC 365-
35 190-080(3). Classifications of frequently flooded areas include, at a minimum, the 100-year
36 floodplain "special flood hazard area" designations of the Federal Emergency Management Agency
37 and the National Flood Insurance Program, as designated in WCC Chapter 16.16 (Critical Areas).

Comment [P/C329]: Showing amendments (in different color) from the P/C from their action on concurrent fossil fuel regulations in Title 20.

Comment [DN330]: Added per Council's pending draft fossil fuel amendments.

Comment [AP331]: Removed. Relying on Title 20 (Zoning).

Comment [AP332]: Removed. Already defined in Title 20 (Zoning).

Comment [AP333]: Removed. Already defined in Title 20 (Zoning).

1 | **23.1160.070 “G” definitions.**

2 | 1. “Gabions” means works composed of masses of rock, rubble, or masonry tightly enclosed usually by
3 | wire mesh so as to form massive blocks. They are used to form walls on beaches to retard wave
4 | erosion or as foundations for breakwaters or jetties.

5 | 2. “Gangway.” See “Moorage Structure.”

6 | ~~2.3.~~ “Geologically hazardous areas” means areas designated in WCC Chapter 16.16 that, because of their
7 | susceptibility to erosion, sliding, earthquake, or other geological events, pose unacceptable risks to
8 | public health and safety and may not be suited to commercial, residential, or industrial
9 | development.

10 | ~~3.4.~~ “Geotechnical report” or “geotechnical analysis/assessment” is an umbrella term used for the
11 | evaluation completed by a qualified professional to meet the requirements of WCC 16.16.255
12 | (Critical areas assessment reports) and WCC 16.16, Article 3 (Geologically Hazardous Areas). means
13 | ~~a scientific study or evaluation conducted by a qualified professional that includes a description of~~
14 | ~~the ground and surface hydrology and geology, the affected land form and its susceptibility to mass~~
15 | ~~wasting, erosion, and other geologic hazards or processes, conclusions and recommendations~~
16 | ~~regarding the effect of the proposed development on geologic conditions, the adequacy of the site~~
17 | ~~to be developed, the impacts of the proposed development, alternative approaches to the proposed~~
18 | ~~development, and measures to mitigate potential site specific and cumulative geological and~~
19 | ~~hydrological impacts of the proposed development, including the potential adverse impacts to~~
20 | ~~adjacent and down-current properties. Geotechnical reports shall conform to accepted technical~~
21 | ~~standards.~~

22 | 4.5. “Gradient” means a degree of inclination, or a rate of ascent or descent, of an inclined part of the
23 | earth’s surface with respect to the horizontal; the steepness of a slope. It is expressed as a ratio
24 | (vertical to horizontal), a fraction (such as meters/kilometers or feet/miles), a percentage (of
25 | horizontal distance), or an angle (in degrees).

26 | 5.6. “Grading” means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other
27 | material on a site in a manner that alters the natural contour of the land.

28 | 6.7. “Groins” means wall-like structures extending on an angle waterward from the shore into the
29 | intertidal zone. Their purpose is to build or preserve an accretion shoreform or berm on their updrift
30 | side by trapping littoral drift. Groins are relatively narrow in width but vary greatly in length. Groins
31 | are sometimes built in series as a system, and may be permeable or impermeable, high or low, and
32 | fixed or adjustable.

33 | 7. ~~“Gross floor area” means, for the purposes of WCC 23.50.070(J), the sum total of the area included~~
34 | ~~within the surrounding exterior walls of a building.~~

35 | 8. “Ground water” means all water that exists beneath the land surface or beneath the bed of any
36 | stream, lake or reservoir, or other body of surface water within the boundaries of the state,
37 | whatever may be the geological formation or structure in which such water stands or flows,
38 | percolates or otherwise moves (Chapter 90.44 RCW).

39 | 9. “Growth Management Act” means Chapters 36.70A and 36.70B RCW, as amended.

Comment [MD334]: Deleted as term removed from referenced provision.

1 **23.160.080 "H" definitions.**
2 1. "Habitat conservation areas." See "Fish and wildlife habitat conservation areas."
3 4.2. "Harbor area" means the navigable waters between inner and outer harbor lines as established by
4 the State Harbor Lines Commission waterward of and within one mile of an incorporated city.
5 Harbor areas have been established offshore of Bellingham and Blaine.
6 2. ~~Repealed by Ord. 2019 013.~~
7 3. "Hazard tree" See WCC Chapter 16.16 (Critical Areas).
8 3.4. "Hazardous area" means any shoreline area environment which is hazardous for intensive human
9 use or structural development due to inherent and/or predictable physical conditions, such as, but
10 not limited to, geologically hazardous areas, frequently flooded areas, and coastal high hazard areas.
11 4.5. "Hazardous materials" means any substance containing such elements or compounds which, when
12 discharged in any quantity in shorelines, present an imminent and/or substantial danger to public
13 health or welfare, including, but not limited to: fish, shellfish, wildlife, water quality, and other
14 shoreline features and property.
15 5.6. "Hazardous substance" means any liquid, solid, gas, or sludge, including any material, substance,
16 product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or
17 biological properties described in WAC 173-303-090 or 173-303-100.
18 6.7. "Hearings board" means the State Shorelines Hearings Board referenced in RCW 90.58.170.
19 7.8. "Height (building)" means the distance measured from the average grade level to the highest point
20 of a structure. Television antennas, chimneys, and similar structures or appurtenances shall not be
21 used in calculating height except where they obstruct the view of residences adjoining such
22 shorelines. Temporary construction equipment is excluded in this calculation (WAC 173-27-030(9) or
23 its successor). For all moorage structures, height shall be measured from the ordinary high water
24 mark the vertical dimension measured from average grade to the highest point of a structure;
25 provided, that antennas, chimneys, and similar appurtenances shall not be used in calculating
26 height, unless such appurtenance obstructs the view of a substantial number of adjacent residences.
27 8.9. "High intensity land use" means land use that includes the following uses or activities: commercial,
28 urban, industrial, institutional, retail sales, residential (more than one unit/acre), high intensity new
29 agriculture (dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling,
30 raising and maintaining animals), high intensity recreation (golf courses, ball fields), and hobby
31 farms.
32 9.10. "Historic preservation professional" means those individuals who hold a graduate degree in
33 architectural history, art history, historic preservation, or closely related field, with coursework in
34 American architectural history, or a bachelor's degree in architectural history, art history, historic
35 preservation or closely related field plus one of the following:
36 a. At least two years of full-time experience in research, writing, or teaching in American
37 architectural history or restoration architecture with an academic institution, historical
38 organization or agency, museum, or other professional institution; or
39 b. Substantial contribution through research and publication to the body of scholarly knowledge in
40 the field of American architectural history.

1 | ~~10.11.~~ “Historic site” means those sites that are eligible or listed on the Washington Heritage Register,
2 | National Register of Historic Places, or any locally developed historic registry formally adopted by
3 | the Whatcom County Council.

4 | ~~11.12.~~ “Hydraulic project approval (HPA)” means a permit issued by the State Department of Fish and
5 | Wildlife for modifications to waters of the state in accordance with Chapter 77.55 RCW.

6 | ~~12.13.~~ “Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing
7 | season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be
8 | determined following the methods described in the NRCS “Field Indicators of Hydric Soils” Version 7,
9 | and/or the Corps of Engineers Wetlands Delineation Manual, as amended. ~~Washington State~~
10 | ~~Wetland Identification and Delineation Manual (RCW 36.70A.175).~~

Comment [AP335]: Updated for consistency with CAO.

11 | ~~13.14.~~ “Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that
12 | is at least periodically deficient in oxygen as a result of excessive water content.

13 | ~~14.15.~~ “Hyporheic zone” means the saturated zone located beneath and adjacent to streams that
14 | contain some proportion of surface water from the surface channel mixed with shallow ground
15 | water. The hyporheic zone serves as a filter for nutrients, as a site for macroinvertebrate production
16 | important in fish nutrition, and provides other functions related to maintaining water quality.

17 | **~~23.1160.090~~ “I” definitions.**

18 | ~~1.~~ “Impervious surface” means a hard surface area which either prevents or retards the entry of water
19 | into the soil mantle as under natural conditions prior to development, and/or a hard surface area
20 | which causes water to run off the surface in greater quantities or at an increased rate of flow from
21 | the flow present under natural conditions prior to development. Common impervious surfaces
22 | include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas,
23 | concrete or asphalt paving, gravel roads, and oiled macadam or other surfaces which similarly
24 | impede the natural infiltration of stormwater. Natural surface water and open, uncovered
25 | detention/retention facilities shall not be calculated when determining total impervious surfaces.
26 | Impervious surfaces do not include surfaces created through proven low impact development
27 | techniques.

Comment [AP336]: Removed. Relying on definition in Title 20 (Zoning).

28 | ~~2.1.~~ “In-kind compensation” means to replace critical areas with substitute areas whose characteristics
29 | and functions mirror those destroyed or degraded by a regulated activity.

30 | ~~3.2.~~ “Instream structure” means a structure placed by humans within a stream or river waterward of the
31 | ordinary high-water mark that either causes or has the potential to cause water impoundment or
32 | the diversion, obstruction, or modification of water flow. Instream structures may include those for
33 | hydroelectric generation, irrigation, water supply, flood control, transportation, utility service
34 | transmission, fish habitat enhancement, or other purpose.

35 | ~~4.3.~~ “Industrial development” means facilities for processing, manufacturing, and storage of finished or
36 | semi-finished goods, including but not limited to oil, metal or mineral product refining, power
37 | generating facilities, including hydropower, ship building and major repair, storage and repair of
38 | large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial
39 | storage and repair of fishing gear, warehousing, construction contractors’ offices and

material/equipment storage yards, wholesale trade or storage, and log storage on land or water, together with necessary accessory uses such as parking, loading, and waste storage and treatment. Excluded from this definition are mining, including on-site processing of raw materials, and off-site utility, solid waste, road or railway development, and methane digesters that are accessory to an agricultural use. This definition excludes fossil or renewable fuel refineries or transshipment facilities.

Comment [DN337]: Amended per Council's pending draft fossil fuel amendments.

~~5-4.~~ "Infiltration" means the downward entry of water into the immediate surface of soil.

~~6-5.~~ "Institutional development" means those public and/or private facilities including, but not limited to, police and fire stations, libraries, activity centers, schools, educational and religious training centers, water-oriented research facilities, and similar noncommercial uses, excluding essential public facilities.

~~7-6.~~ "Intertidal zone" means the substratum from extreme low water of spring tides to the upper limit of spray or influence from ocean-derived salts. It includes areas that are sometimes submerged and sometimes exposed to air, mud and sand flats, rocky shores, salt marshes, and some terrestrial areas where salt influences are present.

~~8-7.~~ "Invasive species" means a species that is (a) nonnative (or alien) to Whatcom County and (b) whose introduction causes or is likely to cause economic or environmental harm, or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

~~23.1160.100~~ "J" definitions.

1. "Jetties" means structures that are generally perpendicular to shore extending through or past the intertidal zone. They are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents, and stabilize inlets through barrier beaches. On the West Coast and in this region, most jetties are of riprap mound construction.

~~23.1160.110~~ "K" definitions.

Reserved.

~~23.1160.120~~ "L" definitions.

1. "Lake." See WCC Chapter 16.16 (Critical Areas). means a body of standing water in a depression of land or expanded part of a stream, of 20 acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters the lake, the extension of the lake's OHWM within the stream. Wetland areas occurring within the standing water of a lake are to be included in the acreage calculation of a lake.

Comment [AP338]: Updated for consistency with CAO.

2. "Landslide" means a general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence of soil and rock material *en masse*; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

1 3. "Landslide hazard areas" means areas that, due to a combination of site conditions, like slope
2 inclination and relative soil permeability, are susceptible to mass wasting, as designated in WCC
3 Chapter 16.16 (Critical Areas).

4 ~~3.4. "Launch Rail." See "Moorage Structure."~~

5 ~~4.5. "Launch Ramp" or "Boat Ramp." See "Moorage Structure." means an inclined slab, set of pads, rails,~~
6 ~~planks, or graded slope used for launching boats with trailers or by hand.~~

7 ~~5.6. "Levee" means a natural or artificial embankment on the bank of a stream for the purpose of~~
8 ~~keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.~~

9 ~~6.7. "Liberal construction" means an interpretation that applies in writing in light of the situation~~
10 ~~presented that tends to effectuate the spirit and purpose of the writing.~~

11 ~~7.8. "Littoral drift" means the natural movement of sediment, particularly sand and gravel, along~~
12 ~~shorelines by wave action in response to prevailing winds or by stream currents (see also "drift~~
13 ~~sector," "driftway").~~

14 ~~8.9. "Live-aboard" means any noncommercial habitation of a vessel, as defined in WCC 23.110.220(3),~~
15 ~~when any one of the following applies:~~

16 a. Any person or succession of different persons resides on the vessel in a specific location, and/or
17 in the same area on more than a total of 30 days in any 40-day period or on more than a total of
18 90 days in any 365-day period. "In the same area" means within a radius of one mile of any
19 location where the same vessel previously moored or anchored on state-owned aquatic lands. A
20 vessel that is occupied and is moored or anchored in the same area, but not for the number of
21 days described in this subsection, is considered used as a recreational or transient vessel;

22 b. The city or county jurisdiction, through local ordinance or policy, defines the use as a residential
23 use or identifies the occupant of the vessel as a resident of the vessel or of the facility where it is
24 moored;

25 c. The operator of the facility where the vessel is moored, through the moorage agreement, billing
26 statement, or facility rules, defines the use as a residential use or identifies the occupant of the
27 vessel as a resident of the vessel or of the facility; or

28 d. The occupant or occupants identify the vessel or the facility where it is moored as their
29 residence for voting, mail, tax, or similar purposes.

30 ~~9.10. "Log booming" means assembling and disassembling rafts of logs for water-borne~~
31 ~~transportation.~~

32 ~~10.11. "Log storage" means the holding of logs in the water for more than 60 days.~~

33 ~~11. "Lot" means land described by final plat, short plat or metes and bounds description and is~~
34 ~~established pursuant to applicable state and local regulations in effect at the date a legal instrument~~
35 ~~creating the lot is recorded at the Whatcom County auditor's office. A lot bisected by a public or~~
36 ~~private road, railroad, trail or other feature is considered a single building site unless the portion of~~
37 ~~the parcel on each side of the bisecting road or other feature separately meets all dimensional,~~
38 ~~buffer and other requirements established by local and state regulations.~~

39 ~~12. "Lot area" or "lot size" means the portion of a total parcel determined to be usable for the purpose~~
40 ~~of creating a building lot, pursuant to all applicable regulations. The area below the ordinary high~~

Comment [AP339]: Removed. Relying on Title 20 (Zoning).

Comment [CES340]: Defined in T-20.

water mark shall not be considered a part of the lot area. Lot area shall exclude any portion included within the lot description used as a public road or as an access easement for another parcel; provided, that the area of parcels of five acres or greater may be regarded as nominal and may be measured to the center of bounding roads. Easements or restrictions that preclude use to the present or future surface owner of the parcel shall be excluded from lot area.

23.1160.130 "M" definitions.

1. "Maintenance or repair" means those usual activities required to prevent a decline, lapse or cessation from a lawfully established condition or to restore the character, scope, size, and design of a serviceable area, structure, or land use to a state comparable to its previously authorized and undamaged condition. This does not include any activities that change the character, scope, or size of the original structure, facility, utility or improved area beyond the original design.

~~2. "Major development" means any project for which a major project permit is required pursuant to Chapter 20.88 WCC. For the purposes of this program, "major development" shall also mean any project associated with an existing development for which a major development permit has been required or other existing legal nonconforming development for which a major development permit would otherwise be required if developed under the current land use regulations outlined in WCC Title 20.~~

Comment [AP341]: Removed term as it's no longer used.

~~3.2.~~ "Marina" means a facility that provides wet moorage and/or dry storage facility for pleasure craft and/or commercial craft where goods, moorage or services related to boating may be sold commercially or provided for a fee, e.g., yacht club, etc. Launching facilities and covered moorage may also be provided. Marinas may be open to the general public or restricted on the basis of property ownership or membership. Manufacturing of watercraft is considered industrial. Shared moorage of 5 or more residential units is considered a marina.

~~4.3.~~ "Marsh" means a low flat wetland area on which the vegetation consists mainly of herbaceous plants such as cattails, bulrushes, tules, sedges, skunk cabbage or other hydrophytic plants. Shallow water usually stands on a marsh at least during part of the year.

~~5.4.~~ "Mass wasting" means downslope movement of soil and rock material by gravity. This includes soil creep, erosion, and various types of landslides, not including bed load associated with natural stream sediment transport dynamics.

~~6.5.~~ "May" means the action is allowable, provided it conforms to the provisions of this program.

~~7.6.~~ "Mean annual flow" means the average flow of a river, or stream (measured in cubic feet per second) from measurements taken throughout the year. If available, flow data for the previous 10 years should be used in determining mean annual flow.

~~8.7.~~ "Mean higher high water" or "MHHW" means the mean elevation of all higher tides, generally occurring twice each day in Whatcom County at any given location on the marine shoreline.

~~9.8.~~ "Mean lower low water" or "MLLW" means the mean elevation of all lower tides, generally occurring twice each day in Whatcom County at any given location on the marine shoreline.

~~10.9.~~ "Mining" means the removal of naturally occurring metallic and nonmetallic minerals or other materials from the earth for ~~economic commercial and other uses.~~

- 1 | ~~11.10.~~ “Mitigation” means individual actions that may include a combination of the following
2 | measures, listed in order of preference:
- 3 | a. Avoiding an impact altogether by not taking a certain action or parts of actions;
 - 4 | b. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
 - 5 | c. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
 - 6 | d. Reducing or eliminating an impact over time by preservation and maintenance operations
7 | during the life of the action;
 - 8 | e. Compensating for an impact by replacing or providing substitute resources or environments;
9 | and
 - 10 | f. Monitoring the mitigation and taking remedial action when necessary.
- 11 | ~~12.11.~~ “Mitigation plan” means a detailed plan indicating actions necessary to mitigate adverse impacts
12 | to critical areas.
- 13 | ~~13.12.~~ “Mixed use” means a combination of uses within the same building or site as a part of an
14 | integrated development project with functional interrelationships and coherent physical design.
- 15 | 13. “Monitoring” means evaluating the impacts of development proposals over time on the biological,
16 | hydrological, pedological, and geological elements of ecosystem functions and processes and/or
17 | assessing the performance of required mitigation measures through the collection and analysis of
18 | data by various methods for the purpose of understanding and documenting changes in natural
19 | ecosystems and features compared to baseline or pre-project conditions and/or reference sites.
- 20 | 14. “Moorage Buoy.” See “Moorage Structure.”
- 21 | 15. “Boat Lift” or lift. See “Moorage Structure.”
- 22 | 16. “Mooring Pile” or piling. See “Moorage Structure.”
- 23 | 17. “Moorage Structure” means any in- or overwater structures, used for mooring, launching, or storing
24 | vessels and may contain any one or combination of the following:
- 25 | a. Piers and docks adjoin the shoreline, extend over the water, and serve as a landing or
26 | moorage place for commercial, industrial and pleasure watercraft.
 - 27 | i. Piers are built on fixed platforms and sit above the water.
 - 28 | ii. Docks are anchored to the land, substrate or the pier with pilings or anchors and float on
29 | the water.
 - 30 | b. Gangways are walkways that connect the pier to the dock. Gangways are often used in areas
31 | where the water level changes due to tides or seasonal variations.
 - 32 | c. Ells are extensions of piers, often in a U-shape or L shape, that provide additional watercraft
33 | moorage.
 - 34 | d. Recreational floats are platforms that float on the water’s surface. They are anchored offshore
35 | and are used for swimming and fishing. Some floats have components such as slides and
36 | trampolines.
 - 37 | e. Boathouses basically serve as garages for boats. They have walls and a roof, and are situated
38 | on the water or just above the water’s edge.
 - 39 | f. Mooring buoys typically include an anchoring system with an anchor and anchor line, a float
40 | marking its location, and a fitting for a vessel’s mooring chain or hawser. Washington laws

establish two categories for mooring buoys -- commercial and recreational [RCW 79.105.430]. Commercial buoys are typically used for temporary moorage of a vessel that is awaiting transit or loading or offloading. Recreational buoys are used as semi-permanent moorage for recreational vessels.

g. Mooring piles or pilings are fixed poles or groups of poles set in the substrate and extending above the water line.

h. Lifts or boat lifts raise watercraft out of the water for launching or storing. They may be attached to the substrate, a pier or dock, bulkhead or float or be located upland.

i. Canopies are covers that protect watercraft from the sun and rain.

j. Boat or launch ramps are solid or relatively solid surfaces that bridge land and water and are used for moving watercraft into and out of the water.

k. Railways are rails attached to the substrate used for launching and retrieving watercraft, usually with a cradle and winch system.

l. Others such as Jet Ski floats and boat dry docks provide storage of watercraft out of the water. Some floats serve as helicopter pads, while others are used for docking seaplanes.

Comment [CES342]: From DOE shoreline manual.

14. "Multifamily dwelling" means a single building, or portion thereof, designed for or occupied by three or more families living independently of each other in separate dwelling units on one lot of record and, for the purpose of this code, includes triplexes, fourplexes, apartment buildings, and residential condominiums.

Comment [AP343]: Already defined in Title 20 (Zoning).

15-18. "Must" means a mandate; the action is required.

23.1160.140 "N" definitions.

1. "Native vegetation" means plant species that are indigenous to the Whatcom County and the local area.

Comment [AP344]: Already defined in Title 20 (Zoning).

2-1. "Natural shoreline area environment" means an area designated pursuant to WCC Chapter 23.320 (Shoreline Jurisdiction and Environment Designations).

3-2. "Navigable waters" means a waterbody that in its ordinary condition, or by being united with other water-bodies, forms a continued route or area over which commerce or recreational activities are or may be carried on in the customary modes in which such commerce or recreation is conducted on water.

4-3. "Nearshore habitat" or "nearshore zone" means the area of marine and estuarine shoreline, generally extending from the top of the shoreline bank or bluff to the depth offshore where light penetrating the water falls below a level supporting plant growth, and upstream in estuaries to the head of the tidal influence. It includes bluffs, beaches, mudflats, kelp and eelgrass beds, salt marshes, gravel spits, and estuaries. zone that extends waterward from the marine shoreline (OHWM) to a water depth of approximately 20 meters (66 feet). Nearshore habitat is biologically rich, providing important habitat for a diversity of plant and animal species.

4. "No net loss" as a public policy goal means the maintenance of the aggregate total of the county's shoreline ecological and/or critical area functions and values at its current level of environmental resource productivity. As a development and/or mitigation standard, no net loss requires that the

impacts of a particular shoreline development and/or use, whether permitted or exempt, be identified and prevented or mitigated, such that it has no resulting adverse impacts on shoreline ecological functions or ~~processes~~ values. Each project shall be evaluated based on its ability to meet the no net loss standard commensurate with its scale and character.

5. "Nonconforming lot" means, for the purposes of WCC 23.50.070(K) and 23.90.060(B)(3), a vacant lot under contiguous ownership and with less than a total of 20,000 square feet, including within shoreline jurisdiction, a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.
5. that was lawfully established prior to the effective date of this program (August 27, 1976) or amendments hereto, but which does not conform to the setback or buffer standards of this program.
6. "Nonconforming structure" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.
7. "Nonconforming use," "nonconforming development" or "nonconforming structure" means an existing shoreline use, development or structure that was lawfully constructed or established prior to the effective date of initial adoption of this program (August 27, 1976) or any applicable amendments thereafter hereto, but which does not conform to present use regulations due to subsequent changes to or standards of the master program.
8. "Non-water-oriented use" means uses that are not water-dependent, water-related or water-enjoyment. Non-water-oriented uses have little or no relationship to the shoreline and are not considered priority uses under the Shoreline Management Act except single-family residences. Any use that does not meet the definition of water-dependent, water-related or water-enjoyment is classified as non-water-oriented.

23.160.150 "O" definitions.

16. "Off premises sign" means a sign situated on premises other than those premises to which the sign's message is related.
1. "Oil" means petroleum or any petroleum product in liquid, semi-liquid, or gaseous form including, but not limited to, crude oil, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredging spoil. See Fossil Fuels.
2. "Ongoing agriculture" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use, or has lain idle for more than five consecutive years unless that idle land is

Comment [AP345]: Differentiating nonconforming lots, structures, and uses per Periodic Review Checklist, Item 2017.g, and Scoping Document, Item #2d and 10a.

Comment [AP346]: Already defined in Title 20 (Zoning).

Comment [DN347]: Added per Council's pending draft fossil fuel amendments.

1 registered in a federal or state soils conservation program. Forest practices are not included in this
2 definition.

3 ~~3. "On premises sign" means a sign situated on the premises to which the sign's message is related.~~

Comment [AP348]: Already defined in Title 20 (Zoning).

4 ~~4.3. "Open space" means any parcel or area of land or water not covered by structures, hard surfacing,~~
5 ~~parking areas and other impervious surfaces except for pedestrian or bicycle pathways, or where~~
6 ~~otherwise provided by this title or other County ordinance and set aside or dedicated for active or~~
7 ~~passive recreation, visual enjoyment, or critical area development buffers as established in WCC~~
8 ~~Chapter 16.16. Submerged lands and/or tidelands within the boundaries of any waterfront parcel~~
9 ~~that are located waterward of the ordinary high water mark shall not be used in open space~~
10 ~~calculations. Required open space percentages, as applicable, are not to be used for purposes of~~
11 ~~calculating total impervious surface.~~

12 ~~5.4. "Ordinary high water mark (OHWM)" or "OHWM" means the mark or line on all lakes, rivers,~~
13 ~~streams, and tidal water means that mark that will be found by examining the bed and banks and~~
14 ~~ascertaining where the presence and action of waters are so common and usual, and so long~~
15 ~~continued in all ordinary years, as to mark upon the soil a character distinct from that of the~~
16 ~~abutting upland, in respect to vegetation as that condition existed on June 1, 1971, as it may~~
17 ~~naturally change thereafter, or as it may change thereafter in accordance with approved~~
18 ~~development; provided, that in any area where the OHWM cannot be found, the OHWM adjoining~~
19 ~~saltwater shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be~~
20 ~~the line of mean high water. For braided streams, the OHWM is found on the banks forming the~~
21 ~~outer limits of the depression within which the braiding occurs.~~

22 **23.1160.160 "P" definitions.**

- 23 1. "Party of record" means all persons, agencies or organizations who have submitted written
24 comments in response to a notice of application; made oral comments in a formal public hearing
25 conducted on an application; or notified local government of their desire to receive a copy of the
26 final decision on a permit and who have provided an address for delivery of such notice by mail.
- 27 2. "Permit or approval" means any form or permission required under this program prior to
28 undertaking activity on shorelines of the state, including substantial development permits, variance
29 permits, shoreline conditional use permits, permit revisions, and shoreline exemptions from the
30 substantial development permit process.
- 31 3. "Person" means any individual, trustee, executor, other fiduciary, corporation, firm, partnership,
32 association, organization, or other entity, either public or private, acting as a unit~~an individual,~~
33 ~~partnership, corporation, association, organization, cooperative, public or municipal corporation,~~
34 ~~state agency or local governmental unit, however designated, or Indian nation or tribe.~~
- 35 4. "Pier:" See "Moorage Structure." ~~means any platform structure, fill, or anchored device in or floating~~
36 ~~upon waterbodies and extending waterward from ordinary high water to provide moorage for~~
37 ~~industrial, commercial, and/or pleasure watercraft engaged in commerce, including, but not limited~~
38 ~~to: wharves, mono-buoys, sea islands, quays, ferry terminals, and fish weighing stations.~~

5. ~~“Planned unit development (PUD)” means one or a group of specified uses, such as residential, resort, commercial or industrial, to be planned and constructed as a unit. Zoning or subdivision regulations with respect to lot size, building bulk, etc., may be varied to allow design innovations and special features in exchange for additional and/or superior site amenities or community benefits.~~

6-5. “Pocket beach” means an isolated beach existing usually without benefit of littoral drift from sources elsewhere. Pocket beaches are produced by erosion of immediately adjacent bluffs or banks and are relatively scarce and therefore valuable shoreforms in Whatcom County; they are most common between rock headlands and may or may not have a backshore.

7-6. “Point” means a low profile shore promontory that may be either the wave-cut shelf remaining from an ancient bluff or the final accretional phase of a hooked spit that closed the leeward side gap. Points are accretion shoreforms characterized by converging berms accreted by storm waves that enclose a lagoon, marsh, or meadow, depending on the point’s development stage.

8-7. “Point bar” means an accretion shoreform created by deposition of sand and gravel on the inside, convex side of a meander bend. Most material is transported downstream as sediment and bedload at times of high current velocity, or flood stage, from eroding banks or other bars upstream.

9-8. “Pond” means an open body of water, generally equal to or greater than 6.6 feet deep, that persists throughout the year and occurs in a depression of land or expanded part of a stream and has less than 30 percent aerial coverage by trees, shrubs, or persistent emergent vegetation. Ponds are generally smaller than lakes. Farm ponds are excluded from this definition. Beaver ponds that are two years old or less are excluded from this definition. For the purpose of this program, any pond whose surface water extends into the OHWM of any shoreline of the state shall be considered part of that shoreline of the state.

10-9. “Port development” means public or private facilities for transfer of cargo or passengers from water-borne craft to land and vice versa, including, but not limited to: piers, wharves, sea islands, commercial float plane moorages, offshore loading or unloading buoys, ferry terminals, and required dredged waterways, moorage basins, and equipment for transferring cargo or passengers between land and water modes. Excluded from this definition and addressed elsewhere are airports, marinas, boat ramps or docks used primarily for recreation, cargo storage and parking areas not essential for port operations, boat building or repair. The latter group is considered industrial or accessory to other uses. This definition excludes fossil or renewable fuel transshipment facilities.

11-10. “Potable” means water that is suitable for drinking by the public (Chapter 246-290 WAC).

12-11. “Preservation” means actions taken to ensure the permanent protection of existing, ecologically important areas that the County has deemed worthy of long-term protection.

13-12. “Primary association” means the use of a habitat area by a listed or priority species for breeding/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a frequent and/or regular basis during the appropriate season(s), as well as habitats that are used less frequently/regularly but which provide for essential life cycle functions such as breeding, nesting, or spawning.

Comment [AP349]: Already defined in Title 20 (Zoning).

Comment [DN350]: Added per Council’s pending draft fossil fuel amendments.

1 | ~~14.13.~~ “Priority habitat” means a habitat type with unique or significant value to one or more species.
2 | An area classified and mapped as priority habitat must have one or more of the following attributes:
3 | comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish
4 | spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important
5 | fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal
6 | haulout; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent
7 | species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a
8 | dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or
9 | eelgrass meadows). A priority habitat may also be described by a successional stage (such as old
10 | growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat
11 | element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value
12 | to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife
13 | (WAC 173-26-020(24)).

14 | ~~15.14.~~ “Priority species” means wildlife species of concern due to their population status and their
15 | sensitivity to habitat alteration, as defined by the Washington Department of Fish and Wildlife.

16 | ~~16.15.~~ “Private dock” means a dock and/or float for pleasure craft moorage or water recreation for
17 | exclusive use by one waterfront lot owner.

18 | ~~17.16.~~ “Private sign” means a sign used on a private residence to indicate only the owner’s name or
19 | address, that the premises are for rent or sale, or for other reasonable purposes related to
20 | residential use including permitted home occupations.

21 | ~~18.17.~~ “Project” means any proposed or existing activity regulated by Whatcom County.

22 | ~~19.~~ “Project permit” or “project permit application” means any land use or environmental permit or
23 | approval required by Whatcom County, including, but not limited to, building permits, subdivisions,
24 | binding site plans, planned unit developments, conditional uses, shoreline substantial development
25 | permits, variances, lot consolidation relief, site plan review, permits or approvals authorized by a
26 | comprehensive plan or subarea plan.

27 | ~~20.~~ “Projecting sign” means a sign that is attached to and projects at an angle from a building’s exterior
28 | wall.

29 | ~~21.18.~~ “Public access” means the public’s right to get to and use the state’s public waters, both
30 | saltwater and freshwater, the water/land interface and associated shoreline area environment. It
31 | includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an
32 | easement or public corridor to the shore), and/or visual access facilitated by means such as scenic
33 | roads and overlooks, viewing towers and other public sites or facilities.

34 | ~~22.19.~~ “Public interest” means the interest shared by the citizens of the state or community at large in
35 | the affairs of government, or some interest by which their rights or liabilities are affected including,
36 | but not limited to, an effect on public property or on health, safety, or general welfare resulting
37 | from adverse effects of a use or development.

38 | ~~23.~~ “Public utility” means a use owned or operated by a public or publicly licensed or franchised agency
39 | that provides essential public services such as telephone exchanges, electric substations, radio and

Comment [AP351]: Already defined in Title 20 (Zoning).

Comment [CES352]: Already defined in Title 20 (Zoning).

1 television stations, wireless communications services, gas and water regulation stations, and other
2 facilities of this nature.

Comment [AP353]: Already defined in Title 20 (Zoning).

3 **23.1160.170 “Q” definitions.**

- 4 ~~1. “Qualified professional” or “qualified consultant.” See WCC 16.16 (Critical Areas). means a person~~
5 ~~with experience and training with expertise appropriate for the relevant critical area subject in~~
6 ~~accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or~~
7 ~~equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology,~~
8 ~~geomorphology or related field, and related work experience and meet the following criteria:~~
9 ~~a. A qualified professional for wetlands must have a degree in biology, ecology, soil science,~~
10 ~~botany, or a closely related field and a minimum of three years of professional experience in~~
11 ~~wetland identification and assessment associated with wetland ecology in the Pacific Northwest~~
12 ~~or comparable systems.~~
13 ~~b. A qualified professional for habitat conservation areas must have a degree in wildlife biology,~~
14 ~~ecology, fisheries, or closely related field and a minimum of three years’ professional experience~~
15 ~~related to the subject species/habitat type.~~
16 ~~c. A qualified professional for geologically hazardous areas must be a professional engineering~~
17 ~~geologist or geotechnical engineer, licensed in the state of Washington.~~

- 18 ~~2.1. A qualified professional for critical aquifer recharge areas means a Washington State licensed~~
19 ~~hydrogeologist, geologist, or engineer.~~

20 **23.1160.180 “R” definitions.**

- 21 1. “Recharge” means the process involved in the absorption and addition of water from the
22 unsaturated zone to ground water.
23 2. “Recreation” means an experience or activity in which an individual engages for personal enjoyment
24 and satisfaction. Most shore-based recreation includes outdoor recreation such as: fishing, hunting,
25 clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling,
26 horseback riding, camping, picnicking, watching or recording activities such as photography,
27 painting, bird watching or viewing of water or shorelines, nature study and related activities.
28 3. “Recreational development” means the modification of the natural or existing environment to
29 accommodate recreation. This includes clearing land, earth modifications, structures and other
30 facilities such as parks, camps, camping clubs, launch ramps, golf courses, viewpoints, trails, public
31 access facilities, public parks and athletic fields, hunting blinds, wildlife enhancement (wildlife ponds
32 are considered excavation), and other low intensity use outdoor recreation areas. Recreational
33 homes/condominiums and related subdivisions of land are considered residential; resorts, motels,
34 hotels, recreational vehicle parks, intensive commercial outdoor or indoor recreation, and other
35 commercial enterprises are considered commercial.
36 4. “Recreational Float.” See “Moorage Structure.”
37 ~~4.5. “Reestablishment” means measures taken to intentionally restore an altered or damaged natural~~
38 ~~feature or process including:~~

- a. Active steps taken to restore damaged wetlands, streams, protected habitat, and/or their buffers to the functioning condition that existed prior to an unauthorized alteration;
 - b. Actions performed to reestablish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or other events; and
 - c. Restoration can include restoration of wetland functions and values on a site where wetlands previous existed, but are no longer present due to lack of water or hydric soils.
5. "Rehabilitation" means a type of restoration action intended to repair natural or historic functions and processes. Activities could involve breaching a dike to reconnect wetlands to a floodplain or other activities that restore the natural water regime.
6. "Renewable biomass" includes but is not limited to the following:
- a. Planted crops and crop residue harvested from agricultural land.
 - b. Planted trees and tree residue from a tree plantation.
 - c. Animal waste material and animal byproducts.
 - d. Slash and pre-commercial thinnings.
 - e. Organic matter that is available on a renewable or recurring basis.
 - f. Algae.
 - g. Separated yard waste or food waste, including recycled cooking and trap grease.
 - h. Items a through g including any incidental, de minimis contaminants that are impractical to remove and are related to customary feedstock production and transport.
7. "Renewable Fuel" means liquid fuels produced from renewable biomass and limited in terms of blending with fossil fuels. Common renewable fuels include ethanol and biodiesel:
- a. "E85 motor fuel" means an alternative fuel that is a blend of ethanol and hydrocarbon of which the ethanol portion is nominally seventy-five to eighty-five percent denatured fuel ethanol by volume that complies with the most recent version of American society of testing and materials specification D 5798.
 - b. "Renewable diesel" means a diesel fuel substitute produced from nonpetroleum renewable sources, including vegetable oils and animal fats, that meets the registration requirements for fuels and fuel additives established by the federal environmental protection agency in 40 Code of Federal Regulations (C.F.R.) Part 79 (2008) and meets the requirements of American society of testing and materials specification D 975.
 - c. Renewable fuels shall include those designed to result in a lifecycle greenhouse gas emission reduction of at least 50% or more under the Federal Clean Air Act. Renewable fuels shall not include products produced from palm oil or other feedstocks that cannot be proven to reduce greenhouse gas emissions ~~utilizing~~ using accepted methods of the Washington State Department of Ecology or US EPA.
8. "Renewable Fuel Refinery" means a facility that processes or produces renewable fuels. This definition excludes Small Fossil or Renewable Fuel Storage and Distribution Facilities.

Comment [P/C354]: Deleted by the P/C during their deliberations on concurrent fossil fuel regulations in Title 20, since federal regulations may be amended over time.

Comment [DN355]: Added per Council's pending draft fossil fuel amendments.

1 | ~~6.9.~~ “Renovate” means to restore to an earlier condition as by repairing or remodeling. Renovation shall
2 | include any interior changes to a building and those exterior changes that do not substantially
3 | change the character of an existing structure.

4 | ~~7.10.~~ “Residential development” means ~~buildings, earth modifications, development subdivision~~ and
5 | use of land primarily for human residence, including, but not limited to: single-family and
6 | multifamily dwellings, condominiums, mobile homes and mobile home parks, boarding homes,
7 | family daycare homes, adult family homes, retirement and convalescent homes, ~~bed and~~
8 | ~~breakfasts, and vacation rental units,~~ together with accessory uses common to normal residential
9 | use. Camping sites or clubs, recreational vehicle parks, motels, ~~and hotels, and other transient~~
10 | ~~housing~~ are not included in this definition.

11 | ~~11.~~ “Resource shoreline ~~area~~ environment” means an area designated pursuant to WCC
12 | Chapter 23.240 (Shoreline Jurisdiction and Environment Designations).

13 | ~~8.12.~~ “Responsible Party” or “Party Responsible.” The “responsible party” shall be assumed, in
14 | singular or plural, to be any individual, business, organization, or entity, property owner, or person
15 | having control of a property who has created or allowed to exist a violation of any applicable
16 | regulations, whether or not the violation is known to that person at the time the violation occurred
17 | or is occurring. A responsible party includes any person who aids, assists, or perpetuates a
18 | violation.

19 | ~~9.13.~~ “Restore,” “restoration” or “ecological restoration” means the reestablishment or upgrading of
20 | impaired ecological shoreline processes or functions. This may be accomplished through measures
21 | including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal
22 | or treatment of toxic materials. Restoration does not imply a requirement for returning the
23 | shoreline ~~area~~ environment to aboriginal or pre-European settlement conditions.

24 | ~~10.14.~~ “Revetment” means a ~~sloped wall~~ sloping structure built to protect a scarp, embankment, or
25 | shore against erosion by waves or currents. Usually built of riprap, with heavy armor layer, one or
26 | more filter layers of smaller rock or filter cloth, and “toe” protection. A revetment slopes
27 | shoreward and has a rough or jagged face. Its sloping face absorbs wave energy and differentiates
28 | it from a bulkhead, which is a near vertical structure. ~~constructed of riprap or other suitable~~
29 | ~~material placed on stream banks or other shorelines to retard bank erosion and minimize lateral~~
30 | ~~stream movement.~~

31 | ~~11.15.~~ “Riprap” means dense, hard, angular rock free from cracks or other defects conducive to
32 | weathering used for revetments or other flood control works.

33 | ~~12.16.~~ “Riparian zone” means the area adjacent to a waterbody (stream, lake or marine water) that
34 | contains vegetation that influences the aquatic ecosystem, nearshore area and/or fish and wildlife
35 | habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment
36 | filtration, and terrestrial insects (prey production). Riparian areas include those portions of
37 | terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic
38 | ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide
39 | sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that
40 | connect different parts of a watershed for dispersal and migration.

Comment [CES356]: Incorporated from Resolution 2016-039, Council’s action on short-term rentals.

Comment [CES357]: Updated to be more accurate.

- 13-17. "Riparian vegetation" means vegetation that tolerates and/or requires moist conditions and periodic free-flowing water, thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilizes stream banks, attenuates high water flows, provides wildlife habitat and travel corridors, and provides a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.
- 14-18. "River delta" means those lands formed as an aggradational feature by stratified clay, silt, sand and gravel deposited at the mouths of streams where they enter a quieter body of water. The upstream extent of a river delta is that limit where it no longer forms distributary channels.
- 15-19. "Rock shore" means those shorelines whose bluffs and banks are typically composed of natural rock formations.
- 16-20. "Roof sign" means a sign erected upon, against, or directly above a roof, or on top of or above the parapet of a building; signs on mansard roofs shall be considered wall signs.
- 17-21. "Rural shoreline area environment" means an area designated pursuant to WCC Chapter 23.230 (Shoreline Jurisdiction and Environment Designations).
- 23.1160.190 "S" definitions.**
1. "Seismic hazard areas" means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.
 2. "Shall" means a mandate; the action must be done.
 3. "Shared moorage" means moorage for pleasure craft and/or landing for water sports for use in common by shoreline residents of a certain subdivision or community within shoreline jurisdiction or for use by patrons of a public park or quasi-public recreation area, including rental of non-powered craft. If a shared moorage provides commercial services or is of a large scale (~~more than~~ four or more slips), it shall be considered a marina. Shared moorage proposed to be leased to upland property owners shall also be considered as a marina. If a proposal includes covered moorage, commercial sale of goods or services, or a means of launching other than a ramp, swinging boom, or davit style hoist, it shall be considered a marina.
 4. "Shellfish" means invertebrates of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.
 5. "Shellfish habitat conservation areas" means all public and private tidelands suitable for shellfish, as identified by the Washington Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington Department of Ecology are designated as shellfish habitat conservation areas pursuant to WAC 365-190-080. Any area that is or has been designated as a shellfish protection district created under Chapter 90.72 RCW is also a shellfish habitat conservation area.
 6. "Shellfish protection district" means the Drayton Harbor shellfish protection district (DHSPD) (Ordinance 95-036) and the Portage Bay shellfish protection district (PBSPD) (Ordinance 98-069), or other area formed by the County based on RCW Title 90, in response to State Department of Health (DOH) closures or downgrades of a commercial shellfish growing area due to a degradation of water

quality as a result of pollution. These areas include the watershed draining to the shellfish beds as part of the shellfish habitat conservation area.

7. "Shorelands" or "shoreland areas" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of Chapter 90.58RCW.
8. "Shorelines" means all of the water areas of the state as defined in RCW 90.58.030, including reservoirs and their associated shorelands, together with the lands underlying them except:
 - a. Shorelines of statewide significance;
 - b. Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and
 - c. Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.
9. "Shoreline Administrator" means the Director of the Department of Planning and Development Services ~~Department~~, or his/her designee, who is authorized to carry out the administrative duties enumerated in this program ~~or staff member designated by the director to perform the review functions required in this program.~~
10. "Shoreline Conditional Use" for the purposes of this program means a use, development or substantial development listed in the regulations as being permitted only as a shoreline conditional use, or not classified in this program. Shoreline Conditional uses are subject to review and approval pursuant to the criteria in WCC Chapter 23.60 Title 22 (Land Use and Development) regardless of whether or not the proposal requires a substantial development permit.
11. "Shoreline jurisdiction" means all "shorelines of the state" and "shorelands."
12. "Shoreline permit" means a shoreline substantial development permit, a shoreline conditional use, or a shoreline variance, or any combination thereof issued by Whatcom County pursuant to Chapter 90.58 RCW.
13. "Shoreline residential ~~area~~ environment" means an area designated pursuant to WCC Chapter 23.240 ~~(Shoreline Jurisdiction and Environment Designations).~~
14. "Shoreline stabilization" means structural or nonstructural modifications to the existing shoreline intended to reduce or prevent erosion of uplands or beaches. They are generally located parallel to the shoreline at or near the OHWM. Other construction classified as shore defense works include groins, jetties and breakwaters, which are intended to influence wave action, currents and/or the natural transport of sediments along the shoreline.
15. "Shoreline stabilization, bioengineered" means biostructural and biotechnical alternatives to hardened structures (bulkheads, walls) for protecting slopes or other erosive features including soft-treatment techniques. Bioengineered stabilization uses vegetation reinforced soil slopes (VRSS), which uses vegetation arranged embedded in the ground to prevent shallow mass-movements and surficial erosion.
16. "Shoreline stabilization, nonstructural" means a soft treatment which does not use driftwood, logs, geotextile fabric, or other organic or nonorganic structural materials. Examples include:

Comment [AP358]: Relocated from "Conditional Use."

Comment [CES359]: All shoreline stabilization definitions from WAC and DOE guidance.

- a. Addressing upland drainage issues;
- b. Planting stabilization vegetation without fill, grading, or use of nonbiodegradable geotextile fabric, gabions or other stabilizing structures to provide temporary erosion control.
17. "Shoreline stabilization, replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing legally established shoreline stabilization structure which can no longer adequately serve its purpose. Where ordinary high water has established behind the structure replacement is considered a new shoreline stabilization.
18. "Shoreline stabilization, soft-treatment" means shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment. This technique mimics natural conditions for ecological functions and ecosystem-wide processes. When used, organic/biodegradable structural components are to be placed to avoid significant disruption of sediment recruitment, transportation, and accretion. Examples include:
- a. Bioengineered shoreline stabilization;
- b. Beach nourishment/replenishment;
- c. Vegetated soil stabilization retention methods;
- d. Driftwood;
- e. Coir fiber logs or other natural materials;
- f. Nonstructural shoreline stabilization;
- g. Beach berm.
19. "Shoreline stabilization, hard structure" means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion.
20. "Shoreline stabilization, hybrid structure" means an approach to erosion control that combines soft-treatment shoreline treatment placed waterward of more conventional structural shoreline stabilization elements. The soft treatment preserves natural beach contours and mimics habitat structure in order to preserve ecological functions. The hard structure provides long-term stability to the upland site, but is located sufficiently landward of the OHWM as not to impair ecological processes.
21. Shoreline Stabilization, New. Placement of shoreline stabilization where no such structure previously existed, including additions to or increases in size of existing shoreline stabilization measures, are considered new structures.
22. "Shoreline stabilization, structural" means shoreline stabilization which includes a footing, foundation, or anchors. Materials are typically hardened structures which armor the shoreline. See also "shoreline stabilization, hard structure" and "shoreline stabilization, hybrid structure."
23. "Shoreline view area" means any area looking waterward within the jurisdiction of this program between the OHWM and a public road, park, pathway, or other public area that is undeveloped or developed with accessory uses only; and that does not obstruct the view of the shoreline or would not obstruct the view if natural vegetation, fences, walls, antennas or similar obstructions were removed.
24. "Shorelines of statewide significance" means the following shorelines in Whatcom County:
- a. Those areas of Puget Sound and adjacent saltwaters between the ordinary high water mark and the line of extreme low tide as follows: Birch Bay from Point Whitehorn to Birch Point; and

- b. Those areas of Puget Sound and adjacent saltwaters north to the Canadian line and lying waterward from the line of extreme low tide; and
- c. Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of 1,000 acres or more measured at the ordinary high water mark including Lakes Whatcom, Baker and Ross; and
- d. Those natural rivers or segments thereof as follows: any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second or more; including the Nooksack River's mainstream, the North Fork upstream to its confluence with Glacier Creek in Section 6, Township 39 North, Range 7 East, W.M.; and the South Fork upstream to its confluence with Hutchinson Creek in Section 9, Township 37 North, Range 5 East, W.M.
- e. Shoreline jurisdiction associated with subsections ~~(15)~~(a), (c), and (d) of this section.
25. "Shorelines of the state" means the total of all "shorelines" and "shorelines of statewide significance" within the state.
- ~~17.~~ 17. "Short term rental" means a dwelling unit where the owner is not present on site during the rental period, which, for compensation, is used to lodge individuals or families for a period of less than 30 days.
- ~~18.~~ 26. "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Act and this chapter, against taking the action.
- ~~19.~~ 27. "Sign" means any placard, billboard, display, message, design, letters, symbol, light, figure, illustration, set of pennants, or other device intended to identify, inform, advertise, or attract attention to any private or public premises, and placed mainly outdoors so as to be seen from any public or quasi-public place. Double-faced signs are counted as two signs. Excluded from this definition are official traffic, directional or warning devices, other official public notices, signs required by law, or flag of a government or other noncommercial institution.
- ~~20.~~ 28. "Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant impacts to ecological functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.
- ~~21.~~ 29. "Single-family development" means the development of a single-family residence permanently installed and served with utilities on a lot of record.
- ~~22.~~ 30. "Site" means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way under the applicant's/proponent's ownership or control that is the subject of a development proposal or change in use.
- ~~23.~~ 31. "Slope" means:
- a. Gradient.
- b. The inclined surface of any part of the earth's surface delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

Comment [Co/C360]: Staff recommends deleting. This definition is duplicative of the definition of "vacation rental" and is not needed.

- 1 32. "Small Fossil or Renewable Fuel Storage and Distribution Facilities" means:
2 a. Equipment and buildings used for purposes of direct sale or distribution to consumers of fossil
3 fuels or renewable fuels, or
4 b. Accessory equipment that supplies fossil fuels or renewable fuels to an onsite allowed
5 commercial or industrial operation, and that does not meet the definitions of fossil fuel or
6 renewable refinery or transshipment facilities
7 ~~24-33.~~ "Soil" means all unconsolidated materials above bedrock described in the Soil Conservation
8 Service Classification System or by the Unified Soils Classification System.
9 ~~25-34.~~ "Solid waste" means all putrescible and non-putrescible solid and semi-solid waste including
10 garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned
11 vehicles and parts thereof, and any other discarded commodities.
12 35. "Spit" means an accretion shoreform that is narrow in relation to length and extends parallel to or
13 curves outward from shore; spits are also characterized by a substantial wave-built sand and gravel
14 berm on the windward side, and a more gently sloping silt or marsh shore on the lagoon or leeward
15 side; curved spits are called hooks.
16 36. "Standing" is the status required for a person, agency, or other entity to bring an action before an
17 appeal body. A person has standing per RCW 36.70C.060 if they are:
18 a. The applicant and the owner of property to which the land use decision is directed; or
19 b. Another person, county department, and/or public agency aggrieved or adversely affected by
20 the land use decision, or who would be aggrieved or adversely affected by a reversal or
21 modification of the land use decision. A person is aggrieved or adversely affected within the
22 meaning of this section only when all of the following conditions are present:
23 i. The land use decision has prejudiced or is likely to prejudice that person;
24 ii. That person's asserted interests are among those that the local jurisdiction was required to
25 consider when it made the land use decision;
26 iii. A judgment in favor of that person would substantially eliminate or redress the prejudice to
27 that person caused or likely to be caused by the land use decision; and
28 ~~i-iv.~~ The petitioner has exhausted his or her administrative remedies to the extent required by
29 law.
30 ~~26-37.~~ "Statement of exemption" means a written statement by the administrator/Director that a
31 particular development proposal is exempt from the substantial development permit requirement
32 and is generally consistent with this program including the policy of the Act (RCW 90.58.020),
33 pursuant to WCC ~~23.60.020~~ Title 22 (Land Use and Development).
34 ~~27-38.~~ "Streams" means those areas where surface waters produce a defined channel or bed. A
35 defined channel or bed is an area that demonstrates clear evidence of the annual passage of water
36 and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined
37 channel swales. The channel or bed need not contain water year-round. This definition includes
38 drainage ditches or other artificial water courses where natural streams existed prior to human
39 alteration, and/or the waterway is used by anadromous or resident salmonid or other fish
40 populations or flows directly into shellfish habitat conservation areas.

Comment [P/C361]: Added by the P/C during their deliberations on concurrent fossil fuel regulations in Title 20.

Comment [DN362]: Added per Council's pending draft fossil fuel amendments.

1 ~~28-39.~~ "Strict construction" means an interpretation that considers only the literal words of a writing.

2 ~~29-40.~~ "Structure" means a permanent or temporary building or edifice of any kind, or any piece of
3 work artificially built up or composed of parts joined together in some definite matter whether
4 installed on, above, or below the surface of the ground or water, except for vessels (after
5 International Building Code).

6 ~~30-41.~~ "Substantial development" means any development of which the total cost or fair market value
7 exceeds \$5,718 or as amended by the State Office of Financial Management, or any development
8 which that materially interferes with the normal public use of the water or shorelines of the state;
9 except the classes of development, listed in ~~WCC 23.60.022(A) through (P)~~ WAC 173-27-040.

10 ~~31-42.~~ "Substantially degrade" means to cause significant ecological impact.

11 ~~32.~~ "Surface mining" means all or any part of the processes involved in mining by removing the soil or
12 rock overburden and mining directly from deposits thereby exposed, including also open pit mining,
13 gravel bar scalping and mining of deposits naturally exposed at earth's surface, and including
14 production of surface mining refuse.

15 ~~33-43.~~ "Sustained yield" means the continuing yield of a biological resource, such as timber from a
16 forest, by controlled and periodic harvesting.

17 ~~34-44.~~ "Swamp" means a wetland that is often inundated and composed of woody vegetation.

18 **~~23.1160.200~~ "T" definitions.**

- 19 1. "Tideland" means the land on the shore of marine water-bodies between OHWM and the line of
20 extreme low tide which is submerged daily by tides.
- 21 2. "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees.
- 22 3. "Toe" means the lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide, etc.
- 23 4. "Tombolo" means an accretion shoreform that began as a spit and accreted into a causeway-like
24 connection to an island or offshore rock; tombolos normally develop from offshore bars (submarine
25 berms) that build up in a low energy "wave-shadow" zone between the offshore, wave barrier
26 element and an active driftway.
- 27 5. "Top" means the top of a slope; or in this program it may be used as the highest point of contact
28 above a landslide hazard area.
- 29 6. "Transportation" means roads and railways, related bridges and culverts, fills, embankments,
30 causeways, parking areas, truck terminals and rail switchyards, sidings, spurs, and air fields. Not
31 included are recreational trails, highway rest areas, ship terminals, seaplane moorages, nor logging
32 roads; they are included respectively under "recreation," "pier," "dock," "residential," and "forest
33 practices."

34 **~~23.1160.210~~ "U" definitions.**

- 35 1. "Unavoidable" means adverse impacts that remain after all appropriate avoidance and minimization
36 measures have been implemented.
- 37 2. "Upland" means dry lands landward of OHWM.
- 38 3. "Urban conservancy shoreline area environment" means an area designated pursuant to WCC
39 Chapter ~~23.30~~ 23.20 (Shoreline Jurisdiction and Environment Designations).

Comment [AP363]: Updated per Periodic Review Checklist, Items 2019.a, 2017.a, and 2016.a, and Scoping Document, Item #1a and 1e.

Comment [AP364]: Already defined in Title 20 (Zoning).

- 1 4. "Urban resort shoreline ~~area~~ environment" means an area designated pursuant to WCC
2 Chapter ~~23.30~~ 23.20 (Shoreline Jurisdiction and Environment Designations).
- 3 5. "Urban shoreline ~~area~~ environment" means an area designated pursuant to WCC
4 Chapter ~~23.30~~ 23.20 (Shoreline Jurisdiction and Environment Designations).
- 5 6. "Utilities" means all lines and facilities used to distribute, collect, transmit, or control electrical
6 power, natural gas, petroleum products, information (telecommunications), water, and sewage.
- 7 a. "Accessory utilities" means on-site utility features such as a water, sewer, septic, electrical, or
8 gas lines serving a primary use. Accessory utilities shall be considered part of the primary use.
- 9 b. "Local utilities" means utilities that serve adjacent properties and include, but are not limited to,
10 powerlines, water, sewer, and stormwater facilities, fiber optic cable, pump stations and
11 hydrants, switching boxes, and other structures normally found in a street right-of-way.
- 12 c. "Regional utilities" means utilities that serve more than one community or major attractions;
13 examples include, but are not limited to, two hundred thirty (230) kv power transmission lines,
14 natural gas transmission lines, and regional water storage tanks and reservoirs, regional water
15 transmission lines or regional sewer collectors and interceptors. Regional utilities may also
16 include facilities serving an entire community, such as subregional switching stations (one
17 hundred fifteen (115) kv and smaller), and municipal sewer, water, and storm water facilities.
18 Regional utilities include regional transmission pipelines for the bulk conveyance of natural gas,
19 or pipelines termed a distribution pipeline but having characteristics that fit the definition of a
20 transmission pipeline. Natural gas pipelines which are owned and operated by a gas utility
21 company regulated by the State Utilities and Transportation Commission and which are
22 distribution lines owned by the utility that provide natural gas service directly to county citizens
23 and businesses shall not be considered regional transmission lines.
- 24 6-7. "Utility development" means development including, but not limited to, facilities for distributing,
25 processing, or storage of water, sewage, solid waste, storm drainage, electrical energy including
26 electronic communications, and their administrative structures, as well as pipelines for petroleum
27 products, and fire-fighting facilities. Power plants are considered industrial.
- 28 **23.1160.220 "V" definitions.-**
- 29 1. "Vacation Rental Unit" means a single-family dwelling unit, detached accessory dwelling unit, or
30 accessory apartment that, for compensation, is rented as a single unit used to lodge individuals or
31 families for a period of less than 30 days and where the owner is not present in the rented unit
32 during the rental period. Individual sleeping rooms shall not be rented individually.
- 33 1-2. "Variance" means an adjustment in the application of this program's bulk and dimensional
34 regulations to a particular site pursuant to WCC Chapter 23.60 Title 22 (Land Use and Development).
- 35 2-3. "Vegetative stabilization" means planting of vegetation to retain soil and retard erosion, reduce
36 wave action, and retain bottom materials. It also means utilization-use of temporary structures or
37 netting to enable plants to establish themselves in unstable areas.
- 38 3-4. "Vessel" means a floating structure that is designed primarily for navigation, is normally capable of
39 self-propulsion and use as a means of transportation, and meets all applicable laws and regulations

Comment [AP365]: Language from WCC 20.82.030(2).

Comment [CES366]: Definitions added per Scoping Document, Item #7b to distinguish different levels of utility facilities.

Comment [CES367]: Incorporated from Resolution 2016-039, Council's action on short-term rentals.

1 pertaining to navigation and safety equipment on vessels, including, but not limited to, registration
2 as a vessel by an appropriate government agency. -

3 **23.1160.230 “W” definitions.**

4 ~~1. “Wall sign” means a sign placed upon and parallel to the exterior of a building.~~

Comment [AP368]: Already defined in Title 20 (Zoning).

5 ~~2.1.~~ “Waterbody” means a body of still or flowing water, fresh or marine, bounded by the OHHM.

6 ~~3.2.~~ “Water-dependent use” means a use or portion of a use that requires direct contact with the water
7 and cannot exist at a non-water location due to the intrinsic nature of its operations.

8 ~~4.3.~~ “Water-enjoyment use” means a recreational use, or other use facilitating public access to the
9 shoreline as the primary character of the use; or a use that provides for recreational use or aesthetic
10 enjoyment of the shoreline for a substantial number of people as a general character of the use and
11 that through the location, design and operation assure the public’s ability to enjoy the physical and
12 aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be
13 open to the general public and the water-oriented space within the project must be devoted to the
14 specific aspects of the use that fosters shoreline enjoyment.

15 ~~5.4.~~ “Water-oriented use” means any one or a combination of water-dependent, water-related or water-
16 enjoyment uses and serves as an all-encompassing definition, together with single-family
17 residences, for priority uses under the Act.

18 ~~6.5.~~ “Water quality” means the characteristics of water, including flow or amount, and related physical,
19 chemical, aesthetic, recreation-related, and biological characteristics.

20 ~~7.6.~~ “Water-related use” means a use or portion of a use that is not intrinsically dependent on a
21 waterfront location but depends upon a waterfront location for economic viability. These uses have
22 a functional relationship to the water, or the use provides a necessary support service for a water-
23 dependent use and physical separation is not feasible.

24 ~~8.7.~~ “Watershed” means a geographic region within which water drains into a particular river, stream or
25 body of water. There are approximately 122 watersheds (e.g., Bertrand, Ten Mile, Dakota, Canyon
26 Creek, Lake Whatcom, Lake Samish) identified in WRIA 1 and WRIA 3. These are nested within
27 approximately 14 sub-basins (e.g., North Fork Nooksack, Drayton Harbor, Sumas River, Friday
28 Creek), which are nested within four basins (e.g., Nooksack River, Fraser River, Samish River,
29 Coastal).

30 ~~9.8.~~ “Watershed restoration plan” means a plan developed or sponsored by the Department of Fish and
31 Wildlife, the Department of Ecology, the Department of Transportation, a federally recognized
32 Indian tribe acting within and pursuant to its authority, a city, a county or a conservation district that
33 provides a general program and implementation measures or actions for the preservation,
34 restoration, recreation, or enhancement of the natural resource character and ecology of a stream,
35 stream segment, drainage area or watershed for which agency and public review have been
36 conducted pursuant to Chapter 43.21C RCW, the State Environmental Policy Act.

37 ~~10.9.~~ “Watershed restoration project” means a public or private project authorized by the sponsor of
38 a watershed restoration plan that implements the plan or part of the plan and consists of one or
39 more of the following activities:

- a. A project that involves less than 10 miles of stream reach, in which less than 25 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
- b. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control erosive forces of flowing water; or
- c. A project primarily designated to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state; provided, that any structures, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than 200 square feet in floor area and is located above the ordinary high water mark.

~~11.10.~~ 11.10. "Weir" means a structure in a stream or river for measuring or regulating stream flow.

~~12.11.~~ 12.11. "Wet season" means the period generally between November 1st and March 30th of most years when soils are wet and prone to instability. The specific beginning and end of the wet season can vary from year to year depending on weather conditions.

~~13.12.~~ 13.12. "Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created for non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

~~14.13.~~ 14.13. "Wetland edge" means the boundary of a wetland as delineated based on the definitions contained in WCC this eChapter 16.16 (Critical Areas).

~~15.14.~~ 15.14. "Wood waste" means solid waste consisting of wood pieces or particles generated as a byproduct or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hog fuel, and log sort yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

~~23.1160.240~~ 23.1160.240 "X" definitions.

Reserved.

~~23.1160.250~~ 23.1160.250 "Y" definitions.

Reserved.

~~23.1160.260~~ 23.1160.260 "Z" definitions.

Reserved.

Planning Commission Approved Draft,
updated to incorporate as existing text the
County Council's amendments regarding
the Cherry Point UGA pursuant to Ord.
2021-046, October 29, 2021

Exhibit E: Proposed Amendments to WCC Title 22

Shoreline Management
Program Periodic Update
2020

Whatcom County Planning and Development
Services

Chapter 22.05 Project Permit Procedures

22.05.010 Purpose and Applicability.

- (1) The purpose of this chapter is to combine and consolidate the application, review, and approval processes for project permits and appeals as defined in WCC 20.97-221 (Definitions). It is further intended for this chapter to comply with the provisions of Chapter 36.70B RCW. These procedures provide for a consolidated land use permit process and integrate the environmental review process with the procedures for review of land use decisions.
- (2) This chapter applies to the processing of project permit applications for development and appeals related to the provisions of WCC Title 15, Buildings and Construction; WCC Title 16, Environment; WCC Title 17, Flood Damage Prevention; WCC Title 20, Zoning; WCC Title 21, Land Division Regulations; and WCC Title 23, Shoreline Management Program. The provisions of this chapter shall apply to all project permit applications as defined in RCW 36.70B.020, and other administrative decisions, as listed in the table in WCC 22.05.020 Table 1.
- (3) The meaning of words used in this chapter shall be as defined in WCC Chapters 20.97 (Definitions) or 23.60 (Definitions), as appropriate to the permit being applied for.

22.05.020 Project Permit Processing Table.

- (1) ~~Table 1. Project Permit Processing Table~~ Marked boxes in the table below indicates the required general steps for processing all project permit applications or administrative actions. Check marks indicate a step is required; reference letters refer to the notes in subsection (2) of this section. The requirements for each step listed in the top row of the table are provided in WCC [22.05.040](#) through [22.05.160](#), as indicated. Specific requirements for each project permit can be found through the references given in the table.

1 **Table 1. Project Permit Processing Table**

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210 , 22.05.120)	Appeal Body (see 2.11.210 , 2.05.160 , 23.60.150)
Type I Applications (Administrative Decision with No Public Notice or Hearing)									
Boundary Line Adjustment	21.03		✓					Director	Hearing Examiner
Building Permit	15.04	✓ (fd)	✓					Director	Hearing Examiner (ig)
Natural Resource Assessment	Title 16		✓					Director	Hearing Examiner
Commercial Site Plan Review			✓					Director	Hearing Examiner
Exempt Land Division	21.03		✓					Director	Hearing Examiner
Floodplain Development Permit	Title 17							Director	Hearing Examiner
Land Disturbance Permit	15.04 and 20.80		✓					Director	Hearing Examiner
Lot of Record/Lot Consolidation	20.83 and 20.97.220		✓					Director	Hearing Examiner
Nonconforming Use	20.83		✓					Director	Hearing Examiner
Removal of Forest Practices Development Moratorium	20.80.738 (3)							Director	Hearing Examiner
Shoreline Exemption	23.60 22.05 & 07	✓ (a)	✓					Director	Hearing Examiner

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210 , 22.05.120)	Appeal Body (see 2.11.210 , 2.05.160 , 23.60.150 (H))
Zoning Interpretation	22.20							Director	Hearing Examiner
Type II Applications (Administrative Decision with Public Notice; No Public Hearing)									
Administrative Use	20.84.235	✓	✓	✓	✓			Director	Hearing Examiner
Lot Consolidation Relief	20.83.070		✓	✓	✓			Director	Hearing Examiner
Reasonable Use (b)	16.16	✓	✓	✓	✓			Director	Hearing Examiner
Shoreline Substantial (ea)	23.60 22.05 & 07	✓ (a)	✓	✓	✓			Director (db)	Shorelines Hearings Board (H)
Shoreline Conditional Use for single-family development, uses, and activities (ea)	23.60 22.05 & 07	✓ (a)	✓	✓	✓			Director (db)	Hearing Examiner
Zoning or Critical Areas Minor Variance, Minor	22.05.024	✓	✓	✓	✓			Director	Hearing Examiner
Short Subdivision	21.04	✓	✓	✓	✓			Director	Hearing Examiner
Type III Applications (Hearing Examiner Decision with Public Notice and Public Hearing)									
Conditional Use	20.84.200	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court

Comment [CES1]: Commensurate with proposal to have reasonable use permits decided on by the H/E.

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210 , 22.05.120)	Appeal Body (see 2.11.210 , 2.05.160 , 23.60.150(H))
Floodplain Development Variance	Title 17		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Long Subdivision	21.05	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (ee)	Superior Court
Binding Site Plan	21.07	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (ee)	Superior Court
Reasonable Use (ec)	16.16	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Removal of Development Moratorium	20.80.738(2)		✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Shoreline Conditional Use	22.05 & 0723.60	✓ (a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (eb)	Shorelines Hearings Board (bf)
Shoreline Substantial	22.05 & 0723.60	✓ (a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (eb)	Shorelines Hearings Board (bf)
Shoreline Variance	22.05 & 0723.60	✓ (a)	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner (eb)	Shorelines Hearings Board (bf)
Zoning or Critical Areas Major Variance, Major	22.05.024 or 16.16.273	✓	✓	✓	✓	✓	Hearing Examiner	Hearing Examiner	Superior Court
Type IV Applications (County Council Decision with Public Notice and Public Hearing)									
Development Agreement	2.11.205	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court

Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210 , 22.05.120)	Appeal Body (see 2.11.210 , 2.05.160 , 23.60.150(H))
Major Project Permit	20.88	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court
Planned Unit Development	20.85	✓	✓	✓	✓	✓	Hearing Examiner	County Council	Superior Court

Check marks indicate a step is required; reference letters refer to the notes in subsection (2) of this section.

- (2) **Project Permit Processing Table Notes.** As indicated in Table 1 the table in subsection (1) of this section, project permits are subject to the following additional requirements:
- ~~(a)~~ Pre application conference subject to WCC Title 23, Shoreline Management Program.
 - ~~(b)~~ Single family residential uses in critical areas or critical area buffers, except all uses in geological hazardous areas and setbacks.
 - ~~(c)~~ (a) Shoreline permit public hearing decision determined pursuant to 22.07.030(A) (Shoreline Substantial Development Permits) ~~WCC Title 23, Shoreline Management Program~~. If a public hearing is required the shoreline permit shall be processed as a Type III application.
 - ~~(d)~~ (b) Pursuant to ~~Chapters 23.60 and 23.70~~ WCC 22.07.060, final administrative determinations or decisions as appropriate shall be filed with, or approved by, the Washington State Department of Ecology.
 - ~~(e)~~ (c) All reasonable use exception applications in geological hazardous areas and setbacks and all non-single-family residential uses in critical areas or critical area buffers.
 - ~~(f)~~ (d) Building permit pre-application conference, subject to WCC 15.04.020(A)(3)(a).
 - ~~(g)~~ (e) The Hearing Examiner may choose to consult with the development standards technical advisory committee concerning technical matters relating to land division applications.
 - ~~(h)~~ (f) Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use only when the applicant waives his/her right to a single appeal to the Shorelines Hearings Board. When an applicant has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of section WCC 23.60.1560 ~~(H)~~ (Appeals).
 - ~~(i)~~ (g) Except that appeals of WCC Title 15 fire and building code requirements shall be made to the board of appeals per current building code, as adopted in WCC 15.04.010.

22.05.024 Variances.

- (1) Variances from the terms of Title 20 (Zoning) or Chapter 16.16 (Critical Areas Ordinance) may be authorized in specific cases that will not be contrary to the public interest, and where, due to special conditions, literal enforcement of the provisions of those codes would result in unnecessary hardship. Generally, variances shall only be considered for dimensional standards, unless otherwise specified in those codes. Under no circumstances shall a variance be granted that allows a use not permissible or otherwise prohibited in the zoning district in which the subject property is located.
- (2) There are two types of variances: Minor and Major Variances.
 - (a) Minor variances include those that are unlikely to have impacts on surrounding properties or people. These shall be limited to variances for:
 - i. A reduction of up to 10% of a front yard setback
 - ii. A reduction in parking stall dimensions down to 9 feet by 18 feet.
 - ~~iii.~~ A 25% to 50% reduction of critical area buffers pursuant to 16.16.273 (Variances).
 - (b) Major variances include all other variances.

- 1 (3) The appropriate decision maker, as specified in 22.05.020 (Project permit processing table) shall
2 have the authority to grant variances when the conditions set forth in subsection (4) have been
3 found to exist. In such cases, a variance may be granted so that the spirit of the County's land use
4 codes shall be observed, public safety and welfare secured, and substantial justice done.
- 5 (4) Before any variance may be granted, it shall be shown that the following circumstances are found to
6 apply:
- 7 (a) That any variance granted shall not constitute a grant of special privilege, be based upon
8 reasons of hardship caused by previous actions of the property owner, nor be granted for
9 pecuniary reasons alone;
- 10 (b) Because of special circumstances applicable to the subject property, including size, shape,
11 topography, location, or surrounding, the strict application of Title 20 (Zoning) or Chapter 16.16
12 (Critical Areas Ordinance) is found to cause a hardship and deprive the subject property of a use
13 or improvement otherwise allowed in its zoning district. Aesthetic considerations or design
14 preferences without reference to restrictions based upon the physical characteristics of the
15 property do not constitute sufficient hardship under this section;
- 16 (c) The granting of the variance will not be materially detrimental to the public welfare, or injurious
17 to the property or improvements in the vicinity and zone in which the subject property is
18 situated.

19 **22.05.026 Conditional Use Permits.**

- 20 (1) **Application.** Conditional use permit applications shall be processed per the provisions of this
21 chapter.
- 22 (2) Conditional use permits shall be nontransferable unless said transfer is approved by the Hearing
23 Examiner.
- 24 (3) **Approval Criteria.** Before approving an application, the Director or Hearing Examiner shall ensure
25 that any specific standards of the zoning district defining the use are fulfilled, and shall find
26 adequate evidence showing that the proposed use at the proposed location:
- 27 (a) Will be harmonious and in accordance with the general and specific objectives of Whatcom
28 County's Comprehensive Plan, zoning regulations, and any other applicable regulations.
- 29 (b) Will be designed, constructed, operated, and maintained so as to be harmonious and
30 appropriate in appearance with the existing or intended character of the general vicinity, and
31 that such use will not change the essential character of the same area.
- 32 (c) If located in a rural area (as designated in the Comprehensive Plan), will be consistent with rural
33 land use policies as designated in the rural lands element of the Comprehensive Plan.
- 34 (d) Will not be hazardous or disturbing to existing or future neighboring uses.
- 35 (e) Will be serviced adequately by necessary public facilities such as highways, streets, police and
36 fire protection, drainage structures, refuse disposal, water, sewers, and schools; or that the
37 persons or agencies responsible for the establishment of the proposed use shall be able to
38 provide adequately any such services.

- 1 (f) Will not create excessive additional requirements at public cost for public facilities and services,
2 and will not be detrimental to the economic welfare of the community.
- 3 (g) Will not involve uses, activities, processes, materials, equipment, and conditions of operation
4 that will be detrimental to any persons, property, or the general welfare by reasons of excessive
5 production of traffic, noise, smoke, fumes, glare or odors.
- 6 (h) Will have vehicular approaches to the property which shall be so designed as not to create an
7 interference with traffic on surrounding public streets.
- 8 (i) Will not result in the destruction, loss or damage of any natural, scenic, or historic feature of
9 major importance.
- 10 (4) Approval Criteria for expansion of Fossil Fuel Refineries pursuant to WCC 20.68.153 and expansion
11 of Fossil Fuel Transshipment Facilities pursuant to WCC 20.68.154. Before approving an application,
12 the hearing examiner shall ensure that any specific standards of the zoning district defining the use
13 are fulfilled, and shall find adequate evidence showing that:
- 14 (a) The conditional use permit approval criteria listed under WCC 22.05.026(3) are met;
- 15 (b) Within shorelines, if applicable, County approval shall be contingent upon approval of a
16 shoreline permit;
- 17 (c) The applicant has documented to the County decision maker (as applicable):
- 18 (i) All of the anticipated types and volumes of substances to be processed, stored, or
19 transferred in bulk with the proposed expansion,
- 20 (ii) Changes in the Maximum Transshipment Capacity or the Maximum Atmospheric Crude
21 Distillation Capacity occurring as a result of the proposed expansion, as applicable; and
- 22 (iii) The mode of shipment vessels to be loaded or unloaded with the proposed equipment
23 and/or as a result of the proposed expansion.
- 24 (iv) The permit shall be limited exclusively to those types and volumes of materials or products
25 as documented and approved.
- 26 (d) Insurance requirements meet the provisions of WCC 22.05.125.
- 27 (e) Mitigation of transportation impacts consistent with Chapter 20.78 WCC, Transportation
28 Concurrency Management, and Chapter 16.24 WCC, Commute Trip Reduction.
- 29 (f) Mitigation of impacts to other services including fire and emergency response capabilities,
30 water supply and fire flow, to address risks created by expansions.
- 31 (g) Plans for stormwater and wastewater releases have been approved.
- 32 (h) Prior to commencement of any site preparation or construction activities, all necessary state
33 leases shall be acquired for any piers or aquatic lands improvements, and it shall be
34 demonstrated to the zoning administrator that the project applicant has met any federal or
35 state permit consultation requirements, including tribal treaty rights or the provisions of the
36 Magnuson Amendment through state and federal permitting decisions.
- 37 (i) The County decision maker may approve a conditional use permit with a condition to obtain
38 relevant leases and complete any necessary federal and state permitting requirements, and may
39 restrict the conditional use permittee from undertaking site preparation or construction
40 activities until it has fulfilled that condition.

Comment [CES2]: This section has been added since the P/C acted on it to incorporate as existing text Council's Cherry Point amendments (Ord. 2021-046, 7/27/2021)

- (j) The permittee must inform the county permitting authorities of a change in the aforementioned disclosures so that the department can document current capacity levels to ensure that the cumulative thresholds under WCC 20.68.153 or WCC 20.68.154 (as applicable) have not been exceeded.
- (k) The County decision maker shall include, in any approval of an application for an expansion, as per 20.68.153 or 20.68.154, a condition that the permitted equipment shall only be used in the manner described by the project proponent in the application and approved in the permit. The application shall describe the intended use, including the type of fuel to be stored and, if located at a Fossil Fuel Refinery or Renewable Fuel Refinery, whether the equipment will or will not be used for transshipment.
- (5) **Revisions.** The Hearing Examiner may administratively approve revisions to conditional use permits; provided, that the proposed changes are within the scope and intent of the original permit. "Within the scope and intent of the original permit" shall mean the following:
- (a) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the original permit; provided, that:
- (i) revisions involving new structures not shown on the original site plan shall require a new permit;
- (ii) any revisions shall not exceed height, lot coverage, setback, or any other requirements of the regulations for the area in which the project is located; and,
- (iii) any revisions shall be reviewed for consistency with the Comprehensive Plan;
- (b) Landscaping may be added to a project without necessitating an application for a new permit; provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with the regulations for the area in which the project is located;
- (c) The use authorized pursuant to the original permit is not changed;
- (d) No additional over-water construction will be involved for shoreline conditional use permits;
- (e) No substantial increase in adverse environmental impact will be caused by the project revision.

22.05.028 Administrative Approval Uses.

- (1) Administrative approval applications shall be processed per the provisions of this Chapter.
- (2) The Director of Planning and Development Services is authorized to approve, approve with conditions, or deny all administrative approval use applications.
- (3) **Approval Criteria.** Decisions for all administrative approval use permits shall be based upon compliance with:
- (a) The criteria established for the proposed use in the appropriate zone district;
- (b) The Comprehensive Plan policies governing the associated land use designation;
- (c) In rural areas, consideration will be given to the cumulative impacts of permitted uses in relation to the governing Comprehensive Plan policies and zoning district; and
- (d) The criteria of WCC 22.05.026 (Conditional Use Permits), subsection (3) (Approval Criteria).
- (e) Additionally, decisions for administrative approval use permits for adult businesses shall be based on the criteria in subsection (4) of this section.

- 1 (4) **Additional Approval Criteria for Adult Businesses.** Prior to granting administrative approval for an
2 adult business, the Director shall find that the proposed use at the proposed location satisfies or will
3 satisfy all the following criteria:
- 4 (a) The adult business will be consistent with WCC 20.66.131 (Light Impact Industrial District,
5 Administrative Approval Uses).
 - 6 (b) The adult business shall be closed from 2:00 a.m. to 10:00 a.m. if it contains:
 - 7 (i) An adult eating or drinking establishment; or
 - 8 (ii) An adult theater; or
 - 9 (iii) Another adult commercial establishment; or
 - 10 (iv) One or more viewing booths.
 - 11 (c) If the adult business includes one or more viewing booths, the interior of the adult business will
12 incorporate all of the following measures:
 - 13 (a) Each viewing booth shall have at least a three-foot wide opening where a customer enters
14 and exits the booth that is without doors, physical barriers, or visual barriers; and
 - 15 (b) Each viewing booth shall have at least one 100-watt light bulb that is properly working and
16 turned on when business is open. The light bulb shall not be covered or otherwise shielded
17 except with a commercially available lighting fixture. A minimum of one 12-inch by 12-inch
18 durable metal sign shall be located at the entrance to each viewing booth area stating that
19 lights shall remain on; and
 - 20 (c) Aisles or hallways adjacent to viewing booths shall be a minimum of five feet wide; and
 - 21 (d) There shall be no holes or openings in common walls between viewing booths.
 - 22 (d) Additionally for adult businesses containing one or more viewing booths, a condition of approval
23 shall allow an unannounced inspection by Whatcom County every six months during business
24 hours to ensure that measures in subsections (4)(c)(i) through (iv) of this section are being
25 implemented on an ongoing basis.
- 26 (5) **Revisions.** The Director may approve revisions to administrative approval use permits; provided,
27 that the proposed changes are within the scope and intent of the original permit. "Within the scope
28 and intent of the original permit" shall mean the following:
- 29 (a) Lot coverage and height may be increased a maximum of 10 percent from the provisions of the
30 original permit; provided, that:
 - 31 (i) revisions involving new structures not shown on the original site plan shall require a
32 new permit; and
 - 33 (ii) any revisions shall not exceed height, lot coverage, setback, or any other requirements
34 of the regulations for the area in which the project is located; and
 - 35 (iii) any revisions shall be reviewed for consistency with the Comprehensive Plan;
 - 36 (b) Landscaping may be added to a project without necessitating an application for a new permit;
37 provided, that the landscaping is consistent with conditions (if any) attached to the original
38 permit and is consistent with the regulations for the area in which the project is located;
 - 39 (c) The use authorized pursuant to the original permit is not changed;
 - 40 (d) No additional over-water construction will be involved for shoreline conditional use permits;

(e) No substantial increase in adverse environmental impact will be caused by the project revision.

22.05.030 Consolidated Permit Review.

The County shall integrate and consolidate the review and decision on two or more project permits subject to this chapter that relate to the proposed project action unless the applicant requests otherwise. Consolidated Type I, II, III and IV permits shall be reviewed under the process required for the permit with the highest process type number per WCC [22.05.020](#). Level IV is considered the highest and Level I is considered the lowest process type.

22.05.040 Pre-Application Conference.

The purpose of a pre-application conference is to assist applicants in preparing development applications for submittal to the County by identifying applicable regulations and procedures. It is not intended to provide a staff recommendation on future permit decisions. Pre-application review does not constitute acceptance of an application by the County nor does it vest an application, unless otherwise indicated in Whatcom County Code.

- (1) A pre-application conference is required as indicated in WCC [22.05.020](#), unless the Director or designee grants a written waiver. For other permits, the applicant may request a pre-application conference.
- (2) The County shall charge the applicant a fee for a pre-application conference per the unified fee schedule. If the County makes a determination of completeness on a project permit submitted within one year of the notice of site-specific submittal requirements per subsection (6) of this section, the pre-application fee shall be applied to the application cost.
- (3) It is the responsibility of the applicant to initiate a pre-application conference through a written application. The application shall, at a minimum, include all items identified on the pre-application form and the department's administrative manual. The applicant may provide additional information to facilitate more detailed review.
- (4) A pre-application conference shall be scheduled as soon as possible and held no later than 30 calendar days from the date of the applicant's request, unless agreed upon by the applicant and the County.
- (5) The County shall invite the appropriate city to the pre-application meeting if the project is located within that city's urban growth area or which contemplates the use of any city utilities. Notice shall also be given to appropriate public agencies and public utilities, if within 500 feet of the area submitted in the application.
- (6) The County should provide the applicant with notice of site-specific submittal requirements for application no later than 14 calendar days from the date of the conference.
- (7) A new pre-application conference shall be required if an associated project permit application is not filed with the County within one year of the notice of site-specific submittal requirements per subsection (6) of this section or the application is substantially altered, unless waived per WCC [22.05.040](#)(1).

1 **22.05.050 Application and Determination of Completeness.**

2 (1) Project permit applications shall be submitted using current forms provided by the review authority.

3 The submittal shall include: all applicable fees per Chapter [22.25](#) WCC, all materials required by the
4 department's administrative manual (unless waived pursuant to subsection (2), and all items
5 identified in the pre-application notice of site-specific submittal requirements. If a permit is denied,
6 no reapplication for the same or essentially similar development may be made until one year from
7 the date of denial.

8 (2) The Director may vary or waive the requirements provided in the department's administrative
9 manual on a case-by-case basis, though may also require additional specific information depending
10 on the nature of the proposal and the presence of sensitive ecological features or issues related to
11 compliance with other county requirements.

12 ~~(2)(3)~~ Upon submittal by the applicant, the County will accept the application and note the date of
13 receipt. Receipt of an application does not constitute approval of the project proposal.

14 ~~(3)(4)~~ Within 14 calendar days of receiving the application, the County shall provide to the applicant a
15 written determination which states either that the application is complete or the application is
16 incomplete. To the extent known by the County, other agencies of local, state, or federal
17 government that may have jurisdiction shall be identified on the determination.

18 ~~(4)(5)~~ A project permit application is complete when it meets the submittal requirements of the
19 department's administrative manual, includes items identified through the pre-application
20 conference process and contains sufficient information to process the application even if additional
21 information will be required. A determination of completeness shall not preclude the County from
22 requiring additional information or studies at any time prior to permit approval. A project permit
23 application shall be deemed complete under this section if the County does not issue a written
24 determination to the applicant that the application is incomplete by the end of the fourteenth
25 calendar day from the date of receipt.

26 ~~(5)(6)~~ If the application is determined to be incomplete, the following shall take place:

27 (a) The County will notify the applicant that the application is incomplete and indicate what is
28 necessary to make the application complete.

29 (b) The applicant shall have 90 calendar days from the date that the notification was issued to
30 submit the necessary information to the County. If the applicant does not submit the necessary
31 information to the County in writing within the 90-day period, the application shall be rejected.
32 The Director or designee may extend this period for an additional 90 calendar days upon written
33 request by the applicant.

34 (c) Upon receipt of the necessary information, the County shall have 14 calendar days to make a
35 determination and notify the applicant whether the application is complete or what additional
36 information is necessary.

37 (7) A determination of an incomplete application is an appealable final administrative determination,
38 subject to WCC [22.05.160](#)(1).

Comment [CES3]: Moved from 23.60.090
(Permit Application Review)

22.05.060 Vesting.

- (1) **Complete Applications.** For a project permit application the department has determined to be complete per WCC [22.05.050](#)(4), the application shall be considered under the zoning or other land use control ordinances in effect on the date the application was submitted to the department.
- (2) **Incomplete Applications.** For a project permit application the department has determined to be incomplete per WCC [22.05.050](#)(5), the application shall be considered under the zoning or other land use control ordinances in effect on the date the department determines the application to be complete based on the necessary information required by the department.
- (3) **Applications Subject to Pre-Application Conference.** Notwithstanding the provisions of subsections (1) and (2) of this section, for a project permit application that is (a) subject to a pre-application conference per WCC [22.05.020](#) and [22.05.040](#), (b) submitted no more than 28 calendar days from the date the department issued its notice of site-specific submittal requirements, and (c) determined complete by the department, the application shall be considered under the zoning or other land use control ordinances in effect on the date the pre-application conference request was submitted to the department.
- (4) **Continuation of Vesting.** Building or land disturbance permit applications that are required to complete a valid (i.e., not expired) project permit approval for project permits identified in the following list (subsections (4)(a) through (m) of this section) shall vest to the zoning and land use control ordinances in effect at the time the project permit application identified below was determined complete:
 - (a) Administrative use;
 - (b) Commercial site plan review;
 - (c) Conditional use;
 - (d) Critical areas variance;
 - (e) Major project permit;
 - (f) Natural resource review;
 - (g) Planned unit development;
 - (h) Reasonable use ~~exceptions~~(Type II and III);
 - (i) Shoreline conditional use permit;
 - (j) Shoreline exemption;
 - (k) Shoreline substantial;
 - (l) Shoreline variance;
 - (m) Zoning variance.
- (5) **Building Permit Applications within Recorded Long and Short Subdivisions and Binding Site Plans.** Building permit applications, including associated land disturbance permits, shall be governed by conditions of approval, statutes, and ordinances in effect at the time of final approval pursuant to RCW [58.17.170](#). Vesting duration for those building permit applications shall be governed by the time limits established for long subdivisions in RCW [58.17.170](#), unless the County finds that a change in conditions creates a serious threat to the public health or safety.

1 (6) **Building and Fire Code Requirements.** Building and fire code provisions adopted per WCC
2 Title [15](#) vest at the time a building permit application is determined complete.

3 (7) **Duration.** Vesting status established through subsections (1) through (5) of this section runs with
4 the application and expires upon denial of the application by the County, withdrawal of the
5 application by the applicant, rejection of the application per WCC [22.05.050](#)(5), expiration of the
6 application per WCC [22.05.130](#)(1)(a)(i), or expiration of the approved permit per WCC [22.05.140](#).

7 **22.05.070 Notice of Application.**

8 (1) For Type II, III, and IV applications per WCC [22.05.020](#), the County shall issue a notice of application
9 within 14 calendar days of a determination of completeness. The date of notice shall be the date of
10 mailing.

11 (2) If the County has made a State Environmental Policy Act (SEPA) threshold determination of
12 significance concurrently with the notice of application, the County shall combine the determination
13 of significance and scoping notice with the notice of application.

14 (3) Notice shall include:

15 (a) The date of application, the date of determination of completeness for the application, and the
16 date of the notice of application;

17 (b) A description of the proposed project action and a list of the project permits included in the
18 application, and, if applicable, a list of any studies requested by the County;

19 (c) The identification of other permits not included in the application to the extent known by the
20 County;

21 (d) The identification of environmental reviews conducted, including notice of existing
22 environmental documents that evaluate the proposed project (including but not limited to
23 reports, delineations, assessments and/or mitigation plans associated with critical area reviews)
24 and, if not otherwise stated on the document providing notice of application, the location where
25 the application and any studies can be reviewed;

26 (e) Any other information determined appropriate by the County;

27 (f) A statement indicating those development regulations that will be used for project mitigation or
28 a determination of consistency if they have been identified at the time of notice;

29 (g) A statement of the minimum public comment period which shall be 14 calendar days for all
30 project permits except for shoreline substantial development, shoreline conditional use,
31 shoreline variance and major project permits for mitigation banks which shall have a minimum
32 comment period of no more than 30 calendar days;

33 (h) A statement of the right of any person to comment on the application and receive notice of and
34 participate in any hearings, request a copy of the decision once made and to appeal a decision
35 when allowed by law. The department may accept public comments at any time prior to the
36 close of the open record public hearing, or if there is no public hearing, prior to the decision on
37 the project permit. In addition, the statement shall indicate that any person wishing to receive
38 personal notice of any decisions or hearings must notify the department.

39 (4) The department shall issue a notice of application in the following manner:

- (a) The notice shall be published once in the official County newspaper and on the Whatcom County website. The applicant shall bear the responsibility of paying for such notice.
- (b) Additional notice shall be given using the following method:
- i. For sites within urban growth areas: Application notice shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the County assessor;
 - ii. For sites outside urban growth areas: Application notice shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the County assessor.
- (5) The County shall send notices of application to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. Notice shall also be given to public utilities, if within 500 feet of the area submitted in the application.
- (6) All public comments received on the notice of application must be received by the department of planning and development services by 4:30 p.m. on or before the last day of the comment period.
- (7) Except for a determination of significance, the County shall not issue its SEPA threshold determination or issue a decision or recommendation on a permit application until the end of the public comment period on the notice of application. If an optional Determination of Nonsignificance (DNS) process is used, the notice of application and DNS comment period shall be combined.
- (8) Public notice given for project permit applications, SEPA documents, project hearings, and appeals hearings as required by this chapter and other provisions of the County code may be combined when practical, where such combined notice will expedite the permit review process, and where provisions applicable to each individual notice are met through the combined notice.

22.05.080 Posting of Application.

Where posting of public notice is required per WCC [22.05.020](#), the department shall post public notices of the proposal on all road frontages of the subject property and adjacent shorelines on or before the notice of application date and shall be visible to adjacent property owners and to passing motorists. Said notices shall remain in place until three days after the comment period closes.

22.05.090 Open Record Public Hearings.

- (1) ~~As shown in~~ Pursuant to WCC [22.05.020](#) (Project Permit Processing Table), Type III and Type IV applications and appeals of Type I and Type II applications require an open record public hearing.
- (2) ~~These Open Record Hearing Notice. Public hearings are subject to the~~ shall be noticed as follows:
- ~~(a)~~ a. _____ The Hearing Examiner shall publish a notice of open record hearing once in the official County newspaper and on the Whatcom County website at least 14 calendar days prior to the hearing. The notice shall consist of the date, time, place, and type of the hearing. In addition, personal notice shall be provided to any person who has requested such notice in a timely manner, consistent with WCC [22.05.070](#) ~~(3)(h)~~ (Notice of Application).
 - ~~(b)~~ b. _____ Within two days of the published notice the applicant shall be responsible for posting three copies of the notice in a conspicuous manner on the property upon which the use is proposed. Notices shall be provided by the Hearing Examiner.

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1 | ~~(c)~~c. _____ An affidavit verifying distribution of the notice must be submitted to the Hearing
2 | Examiner two working days prior to the open record hearing.

3 | ~~(d)~~d. _____ The Hearing Examiner shall send notice of an open record hearing to neighboring cities
4 | and other agencies or tribes that will potentially be affected, either directly or indirectly by the
5 | proposed development. The Hearing Examiner shall be responsible for such notification.

6 | ~~(e)~~e. _____ The applicant shall pay all costs associated with providing notice.

7 | ~~(2)~~(3) **One Open Record Hearing.** A project proposal subject to this chapter shall be provided with no
8 | more than one open record hearing and one closed record hearing pursuant to RCW Chapter [36.70B](#)
9 | ~~RCW~~. This restriction does not apply to an appeal of a determination of significance as provided in
10 | RCW [43.21C.075](#).

11 | ~~(3)~~(4) **Combined County and Agency Hearing.** Unless otherwise requested by an applicant, the County
12 | shall allow an open record hearing to be combined with a hearing that may be necessary by another
13 | local, state, regional, federal or other agency for the same project if the joint hearing can be held
14 | within the time periods specified in Chapter [22.05](#) WCC, or if the applicant agrees to waive such
15 | time periods in the event additional time is needed in order to combine the hearings. The combined
16 | hearing shall be conducted in Whatcom County pursuant to Chapter [36.70B](#) RCW.

17 | ~~(4)~~(5) Quasi-judicial actions, including applications listed as Type III and IV applications in
18 | WCC [22.05.020](#), are subject to the appearance of fairness doctrine, Chapter [42.36](#) RCW. The Hearing
19 | Examiner shall administer the open record hearing and issue decisions or recommendations in
20 | accordance with Chapter [42.36](#) RCW.

21 | **22.05.100 Application Consistency Review and Recommendations.**

22 | (1) During project permit review, the review authority shall determine if the project proposal is
23 | consistent with the County's comprehensive plan, other adopted plans, and existing regulations and
24 | development standards.

25 | ~~(1)~~(i) _____ For Type I and II applications, the conclusions of a consistency determination made
26 | under this section shall be documented in the project permit decision.

27 | ~~(2)~~(ii) _____ For Type III and IV applications the department shall prepare a staff report on the
28 | proposed development or action. Staff shall file one consolidated report with the Hearing
29 | Examiner at least 10 calendar days prior to the scheduled open record hearing. The staff report
30 | shall:

31 | ~~(i)~~ii. _____ Summarize the comments and recommendations of County departments, affected agencies,
32 | special districts and public comments received within the 14-day or 30-day comment period
33 | as established in WCC [22.05.070](#)(6).

34 | ~~(ii)~~iii. _____ Provide an evaluation of the project proposal for consistency as indicated in this section.

35 | ~~(iii)~~iii. _____ Include recommended findings, conclusions, and actions regarding the proposal.

36 | (2) Additional Requirements. For all project permit applications, if more information is required to
37 | determine consistency at any time in review of the application, the department may issue a notice
38 | of additional requirements. The applicant notice of additional requirements shall have allow the

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applicant 180 calendar days from the date of issuance of said notice to submit all required information.

(3) **Permit Inactivity.** Any application that remains inactive for a period of 180 days shall expire and a new application and repayment of fees shall be required to reactivate the proposal; provided, that the Director or designee may grant a 1-year extension for good cause extend this period for no more than cumulative 24 months upon written request by the applicant, provided the request is submitted before the end of the first 180-day period. A notice of additional requirements is not a final administrative determination.

(4) **Burden of Proof.** Permit applicants/proponents have the burden of proving that the proposed development is consistent with all applicable policies and regulations

(5) **Permit conditions.** In granting, revising, or extending a permit, the decision maker may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the applicable policies and regulations (including the policies and provisions of the Shoreline Management Act for shoreline permits). In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be revoked in accordance with WCC 22.05.150 (Permit Revocation).

22.05.110 Final Decisions – Type I, II, and III applications.

- (1) The Director or designee's final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.
- (2) The Hearing Examiner's final decision on all Type III applications per WCC 22.05.020 or appeals per WCC 22.05.160(1) shall either grant or deny the application or appeal.
 - (a) The Hearing Examiner may grant Type III applications subject to conditions, modifications or restrictions that the Hearing Examiner finds are necessary to make the application compatible with its environment, carry out the objectives and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.
 - (b) Requirements:
 - (i) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.
 - (ii) Fossil or Renewable Fuel Refinery or Fossil or Renewable Fuel Transshipment Facilities: The applicant shall provide insurance or other financial assurance acceptable to the prosecuting attorney consistent with Section 22.05.125.
 - (c) The Hearing Examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the Hearing Examiner shall be in writing and shall include findings and conclusions based on the record to support the decision.

Comment [CES4]: Combined 23.60.090 (Permit application review) with this section and normalized the extension date to 1-year.

Comment [CES5]: Moved from 23.60.120

Comment [CES6]: Moved from 23.60.140 (Permit Conditions).

Comment [CES7]: This section has been revised since the P/C acted on it to incorporate as existing text Council's Cherry Point amendments (Ord. 2021-046, 7/27/2021).

- (d) No final decision of the Hearing Examiner shall be subject to administrative or quasi-judicial review, except as provided herein.
- (e) The applicant, any person with standing, or any County department may appeal any final decision of the Hearing Examiner to superior court, except as otherwise specified in WCC 22.05.020.

22.05.120 Recommendations and Final Decisions to County Council – Type IV Applications.

- (1) For Type IV applications per WCC [22.05.020](#) the Hearing Examiner's recommendations to the County Council may be to grant, grant with conditions or deny an application. The Hearing Examiner's recommendation may include conditions, modifications or restrictions as may be necessary to make the application compatible with its environment, carry out the objectives and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.
- (2) Each recommended decision of the Hearing Examiner for an application identified as a Type IV application per WCC [22.05.020](#) shall be in writing to the clerk of the County Council and shall include findings and conclusions based upon the record to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the County's comprehensive plan and complies with the applicable statutes, ordinances or regulations.
- (3) The deliberation of the County Council on quasi-judicial actions shall be in accordance with WCC [22.05.090](#)(4) and Chapter [42.36](#) RCW.
- (4) For planned unit developments and major project permits the following shall apply:
- (a) The recommendation of the Hearing Examiner regarding planned unit developments and major project permits shall be based upon the criteria set forth in WCC [20.85.335](#) and [20.88.130](#), respectively.
- (b) The Hearing Examiner shall file the recommendation with the clerk of the County Council within 21 calendar days following the conclusion of the open record hearing.
- (c) The County Council shall conduct the following within the specified time frames, except as provided in subsection (4)(c)(iii) of this section:
- i. Hold a public meeting, not an open record public hearing, to deliberate on the project application within 28 calendar days after receiving the Hearing Examiner's recommendation.
- ii. Issue a final written decision within 21 calendar days of the public meeting.
- iii. The County Council may exceed the time limits in subsection (4)(c)(i) or (ii) of this section if the County Council meeting schedule does not accommodate a meeting within the above time frames, or if the County Council makes written findings that a specified amount of additional time is needed to process a specific application or project type, per RCW [36.70B.080](#)(1).
- (5) The County Council's final written decision may include conditions when the project is approved and shall state the findings of fact upon which the decision is based.
- (a) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.

Comment [CES8]: This section has been revised since the P/C acted on it to incorporate as existing text Council's Cherry Point amendments (Ord. 2021-046, 7/27/2021)

(b) Fossil or Renewable Fuel Refinery or Fossil or Renewable Fuel Transshipment Facilities: The applicant shall provide insurance or other financial assurance acceptable to the prosecuting attorney consistent with Section 22.05.125.

- (6) Any deliberation or decision of the County Council shall be based solely upon consideration of the record established by the Hearing Examiner, the recommendations of the Hearing Examiner and the criteria set forth in applicable County code, the County Comprehensive Plan if applicable, and the County Shoreline Management Program, including compliance with SEPA, WAC 197-11 (SEPA Rules) as adopted and modified in the County Code, and the County's adopted SEPA policies.

22.05.125 Proof of Insurance for Hazards Created in the County

For expansion projects requiring approval under a Conditional Use Permit or Major Project Permit at new or existing facilities per WCC 20.68.153 or WCC 20.68.154, financial assurance for the benefit of Whatcom County shall be required. For such expansion projects, a permittee must demonstrate proof of financial assurance (such as trust funds, letters of credit, insurance, self-insurance, financial tests, corporate guarantees, payment bonds, or performance bonds) sufficient to comply with the financial responsibility requirements set forth in State and Federal law, as applicable, prior to permit approval by a Whatcom County Decision Maker. If the financial assurance is in the form of insurance policies, the policies must name Whatcom County as an additional insured and provide Whatcom County with a certificate of insurance to that effect.

The permittee must maintain the approved level of financial assurance coverage for new or expanded uses while operating the permitted facility. At the request of the permittee, the Whatcom County Decision Maker may approve new or altered forms of financial assurance to meet the requirements of this section, provided that the new or altered form is consistent with the scope and intent of the original permit condition.

22.05.126 Supplemental Procedures for Fossil Fuel Refinery and Fossil Fuel Transshipment Facility Permitting

- (1) Upon request of the County, Fossil Fuel Refineries or Fossil Fuel Transshipment Facilities shall fill out a supplemental checklist for the purpose of determining whether a project qualifies as a permitted use or requires a conditional use permit as specified in WCC 20.68.153 or WCC 20.68.154. The checklist shall contain supplemental information to include:

- (a) Impact on Maximum Atmospheric Crude Distillation Capacity (MACDC), Maximum Transshipment Capacity, and fossil fuel unit train shipment frequency from the proposed activity;
- (b) Confirmation of the acceptance of potential permit conditions as outlined in 20.68.068 subsection (23);
- (c) Applicant name, property owner information, and parcel information as appropriate; and
- (d) An attestation by the applicant regarding the accuracy of the information contained therein, signed by the applicant and certified by a Notary Public.

- (2) Confidential Business Information

Comment [CES9]: This section has been inserted since the P/C acted on it to incorporate as existing text Council's Cherry Point amendments (Ord. 2021-046, 7/27/2021).

Comment [CES10]: This section has been inserted since the P/C acted on it to incorporate as existing text Council's Cherry Point amendments (Ord. 2021-046, 7/27/2021).

- 1 (a) For the purpose of checklists, permit applications and all other materials submitted by Fossil
2 Fuel Refineries or Fossil Fuel Transshipment Facilities for activities in the Cherry Point Heavy
3 Impact Industrial District, the following shall apply:
4 (i) The applicant shall clearly identify information the applicant considers to be Confidential
5 Business Information, not subject to disclosure under chapter 42.56 RCW (Public Records
6 Act) and/or WCC 1.32.090. If such information is contained in submittal documents, the
7 applicant shall submit two copies of materials for County use as follows:
8 1. A copy with Confidential Business Information clearly identified, with a watermark
9 indicating the document contains such information; and
10 2. A copy with Confidential Business Information redacted, and a watermark added
11 indicating that the document does not contain such information and is suitable for
12 public disclosure.
13 (ii) Confidential Business Information may include:
14 1. Processing equipment technical specifications on internals, sidestream/pumparounds,
15 design specifications, and process controls;
16 2. Process unit design, instrumentation and controls;
17 3. Feedstock, product, or process unit pump capacity and configuration; and
18 4. Contractual agreements and all terms contained therein.
19 (iii) The information listed above is not meant to be all-inclusive. Other information related to
20 the applicant's processing activities, feedstock and product purchase, and/or sale and
21 transportation methods and costs may be Confidential Business Information and, if so, shall
22 be marked as such when submitted.
23 (iv) Calculation and permit material submittals may contain, but are not required to contain any
24 of the above information.
25 (v) Where no increase to MACDC, Maximum Transshipment Capacity, or unit train frequency is
26 proposed, submittal of Confidential Business Information specifically related to the criteria
27 of WCC 20.68.153 and WCC 20.68.154 shall not be required to be submitted with the permit
28 application materials.
29 (3) Where calculations are to be submitted for Maximum Transshipment Capacity of Maximum
30 Atmospheric Crude Distillation Capacity, the applicant shall provide calculations performed and
31 certified by a professional engineer licensed in the state of Washington, clearly indicating the impact
32 on MACDC and Transshipment Capacity. Confidential Business Information shall be clearly identified
33 as required by WCC 22.05.126(2)(a)(i) above.
34 (4) If the County receives a public records request for records containing information the applicant has
35 clearly indicated to be Confidential Business Information pursuant to WCC 22.05.126(2)(a)(i), the
36 County will notify the applicant of the request and provide the applicant with at least 30 days to file
37 for an injunction under RCW 42.56.540 to prevent the disclosure of such information. If the
38 applicant does not file for an injunction within the period of time set by the County, the County will
39 disclose the records containing the information that the applicant has designated as Confidential
40 Business Information pursuant to WCC 22.05.126(2)(a)(i).

22.05.130 Permit Review Time Frames.

- (1) The County shall issue a notice of final decision for all permit types, including procedures for administrative appeal and notice that affected property owners may request a change in valuation for property tax purposes, to the applicant, the Whatcom County assessor, and any person who requested notice or submitted substantive comments on the application within 120 calendar days of the date the department determined the application complete, except as provided below:
- (a) The following time periods shall be excluded from the calculation of the number of days elapsed:
- i. Any period during which the applicant has been required by the County to correct plans, perform required studies, or provide additional, required information through a notice of additional requirements, per WCC [22.05.100\(3\)](#). The period shall be calculated from the date the County issues a notice of additional requirements until the date the County receives all of the requested additional information;
 - ii. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter [43.21C](#) RCW and WCC Title [16](#);
 - iii. The period specified for administrative appeals of project permits as provided in Chapter [2.11](#) WCC;
 - iv. The period specified for administrative appeals of development standards as provided in WCC [12.08.035\(I\)](#);
 - v. Any period in which the applicant has not met public notification requirements;
 - vi. Any period of time mutually agreed upon in writing by the applicant and the County.
- (b) The time limits established by this section shall not apply to a project permit application that:
- i. Requires an amendment to the Whatcom County comprehensive plan or a development regulation in order to obtain approval.
 - ii. Requires approval of a new fully contained community as provided in RCW [36.70A.350](#), a master planned resort as provided in RCW [36.70A.360](#), or the siting of an essential public facility as provided in RCW [36.70A.200](#).
 - iii. Is substantially revised by the applicant, including all redesigns of proposed land divisions, in which case a new time period shall start from the date at which the revised project application is determined to be complete.
- (c) Additionally, for shoreline permits and exemptions, and pursuant to WAC 173-27-125, the following special procedures apply to Washington State Department of Transportation (WSDOT) projects:
- i. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.
 - ii. Pursuant to RCW 90.58.140, WSDOT projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.
- (d) The County may extend notice of final decision on the project if the County can document legitimate reasons for such a delay. In such a case the County shall provide written

Comment [CES11]: Added per Periodic Review Checklist, Item 2015.a, and Scoping Document, Item #2e.

notice to the applicant at least 14 calendar days prior to the deadline for the original notice of final decision. The notice shall include a statement of reasons why the time limits have not been met and a date of issuance of a notice of final decision.

(2) If an applicant believes a project permit application has not been acted upon by the County in a timely manner or otherwise consistent with this chapter, the applicant or authorized representative may request a meeting with the Director to resolve the issue. Within 14 calendar days ~~of~~ after the meeting, the Director shall:

(a) Approve the permit if it is within the Director's authority to do so, provided the approval would not violate state or County regulations; or

(b) Deny the permit if it is within the Director's authority to do so; or

(c) Respond in writing with the department's position, or a mutually acceptable resolution of the issue, which may include a partial refund of application fees at the Director's discretion.

(3) Any final order, permit decision or determination issued by Whatcom County shall include a notice to the applicant of his or her appeal rights per WCC [22.05.160](#) (Appeals).

22.05.140 Expiration of Project Permits.

(1) This section shall apply to non-shoreline project permits and shoreline statements of exemption.

Expiration of shoreline permits shall be subject to the rules of WCC 22.07.080 (Expiration of Shoreline Permits).

~~(1)~~(2) Project permit approval status shall expire two years from the date of approval except where a different duration of approval is authorized by Whatcom County Code, or is established by a court decision or state law, or executed by a development agreement. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.

~~(2)~~(3) Any complete project permit application for which no information has been submitted in response to the department's notice of additional requirements per WCC [22.05.100](#)(3) shall expire at the end of the time limit established in 22.05.100(3).

~~(3)~~(4) For projects that have received a SEPA determination of significance per Chapter [16.08](#) WCC, all underlying project permit applications shall expire when one of the following occurs:

(a) The applicant has not in good faith maintained a contract with a person or firm to complete the environmental impact statement (EIS) as specified in the scoping document. The applicant is responsible for informing the County of the status of such contract. If there is no notice given to the County, all underlying project permit applications shall expire upon the end date of the contract; or

(b) The mutually agreed time frame to complete the draft EIS or final EIS has lapsed.

(4) Project permits which received preliminary approval or a final decision prior to February 22, 2009, that did not include an expiration time frame in the conditions of approval shall expire on June 16, 2020.

22.05.150 Permit Revocation Procedure.

- (1) Upon notification by the Director that a substantial violation of the terms and conditions of any previously granted zoning conditional use, shoreline substantial development, or shoreline conditional use permit exists, the Hearing Examiner shall issue a summons as per WCC [2.11.220](#) to the permit holder requiring said permit holder to appear and show cause why revocation of the permit should not be ordered. Failure of the permit holder to respond may be deemed good cause for revocation.
- (2) Upon issuance of a summons as set forth in subsection (1) of this section, the Hearing Examiner shall schedule an open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the Director of planning and development services no less than 12 calendar days prior to the date of the hearing. At the hearing the Hearing Examiner shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the Hearing Examiner's office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division's evidence may include the testimony of witnesses.
- (3) Upon a showing of violation by a preponderance of the evidence as alleged, the Hearing Examiner may revoke the permit or allow the permit holder a reasonable period of time to cure the violation. If the violation is not cured within the time set by the Hearing Examiner, the permit shall be revoked. Where a time to cure the violation has been set out, no further hearing shall be necessary prior to the revocation. The permit holder shall have the burden of proving that the violation has been cured within the time limit previously set. Such evidence as is necessary to demonstrate that the violation has been cured may be submitted to the Hearing Examiner by either the permit holder or the Director of planning and development services. Any revocation shall be accompanied by written findings of fact and conclusions of law. The permit holder shall be notified of any revocation within 14 calendar days of the revocation.

22.05.160 Appeals.

- (1) Any person with standing may appeal any order, final permit decision, or final administrative determination made by the Director or designee in the administration or enforcement of any chapter to the Hearing Examiner, who has the authority to hear and decide such appeals per WCC [2.11.210](#).
 - (a) To be valid, an appeal shall be filed, on a form provided by the department, with the department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:
 - i. The action or decision being appealed and the date it was issued;
 - ii. Facts demonstrating that the person is adversely affected by the decision;
 - iii. A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
 - iv. The specific relief requested; and

- 1 v. Any other information reasonably necessary to make a decision on the appeal.
- 2 (b) The Hearing Examiner shall schedule an open record public hearing on the appeal to be held
- 3 within 60 calendar days following the department's receipt of the application for appeal unless
- 4 otherwise agreed upon by the County and the appellant.
- 5 (c) A party who fails to appeal within 14 calendar days is barred from appeal, per
- 6 Chapter [2.11](#) WCC.
- 7 (d) The business rules of the Hearing Examiner shall govern appeal procedures. The Hearing
- 8 Examiner shall have the authority granted in the business rules, and that authority is
- 9 incorporated herein by reference. See also WCC [2.11.220](#).

10 (2) ~~For non-shoreline permits, The applicant, any person with standing, or any County department may~~

11 ~~appeal any final decision of the Hearing Examiner to superior court or other body as specified by~~

12 ~~WCC [22.05.020](#). The appellant shall file a written notice of appeal within 21 calendar days of the~~

13 ~~final decision of the Hearing Examiner, as provided in RCW [36.70C.040](#).~~

14 (2)(3) For shoreline permits, after the issuance of the appeal determination, a party with standing

15 may appeal to the Shorelines Hearings Board a decision on a shoreline substantial development

16 permit, shoreline variance, or shoreline conditional use pursuant to RCW 90.58.180 within 21 days

17 of the "date of filing" as defined in this program and RCW 90.58.140(6). The appeal to the Shorelines

18 Hearing Board shall be filed in accordance with the provisions of Chapter 461-08C WAC. Appeals of a

19 decision of the Department of Ecology shall be filed in accordance with the provisions of Chapter

20 461-08C WAC.

Comment [AP12]: Updated per Periodic Review Checklist, Item 2017.d, and Scoping Document Item #2a.

Comment [CES13]: Moved from 23.60.150 (Notice of Decision, Reconsideration, and Appeal)

21 **22.05.170 Annual Report.**

22 Staff shall prepare an annual report on the implementation of this chapter and submit it to the Council.

23 **22.05.180 Interpretation, Conflict and Severability.**

- 24 (1) **Interpret to Protect Public Welfare.** In the event of any discrepancies between the requirements
- 25 established herein and those contained in any other applicable regulation, code or program, the
- 26 regulations which are more protective of the public health, safety, environment and welfare shall
- 27 apply.
- 28 (2) **Severability.** The provisions of this chapter are severable. If a section, sentence, clause, or phrase of
- 29 this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect
- 30 the remaining portions of this chapter.

Chapter ~~23.60~~ 22.07 Additional Requirements for Shoreline Permits and Exemptions

Comment [CES14]: Though this is a new chapter, the existing language from Title 20 is not shown as new; only changes to that existing language is shown in strikeout/underline.

~~23.60.005~~ 22.07.010 General Requirements.

- A. In addition to the requirements of WCC Chapter 22.05 (Project Permits), shoreline permits shall be subject to the provisions of this chapter.
- B. To be authorized, all shoreline activities, uses, and developments shall be ~~planned and carried out~~ done in a manner ~~that is~~ consistent with this program and ~~the policy of the Shoreline Management Act~~ as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
- C. All final shoreline substantial development, variance, and conditional use permit decisions or recommendations shall be filed with the Department of Ecology pursuant to WCC 22.07.060.
- D. A development or use that is listed as a shoreline conditional use pursuant to this program or is an unlisted use must obtain a shoreline conditional use permit even if the development or use does not require a substantial development permit.
- E. When a development, use, or activity is proposed that does not comply with the bulk, dimensional and/or performance standards of the program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.
- F. All permits or statements of exemption issued for development, use, or activity within shoreline jurisdiction shall include written findings prepared by the Director, including compliance with bulk and dimensional standards and policies and regulations of this program. The Director may attach conditions to the approval to project permits as necessary to assure consistency of the project with the Act and the program.
- G. Pursuant to WAC 173-27-044, requirements to obtain a substantial development permit, shoreline conditional use permit, shoreline variance, letter of exemption, or other review conducted by a local government to implement the Shoreline Management Program do not apply to:
1. **Remedial Action.** Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the Department of Ecology (Ecology) when it conducts a remedial action under chapter 70.105D RCW. Ecology must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the Ecology-conducted remedial action, through the procedures developed by Ecology pursuant to RCW 70.105D.090;
 2. **Boatyard Facilities.** Any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit. Ecology must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard stormwater treatment facilities; or

Comment [CES15]: Moved from 22.07.020

3. Washington State Department of Transportation (WSDOT) facility maintenance and safety improvements. Any Washington State Department of Transportation (WSDOT) projects or activities that meet the conditions of RCW 90.58.356.

Comment [CES16]: Language from RCW 90.58.355.

A.H. All applications for shoreline substantial development permits or permit revisions shall be submitted to the Department of Ecology upon a final decision by local government pursuant to WAC 173-27-130. "Final decision by local government" shall mean the order of ruling, whether it be an approval or denial, that is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

22.60.22.07.020 Exemptions from Shoreline Substantial Development Permits process.

A. 23.60.021 Application and interpretation.

1. An exemption from the substantial development permit process is not an exemption from compliance with the Act, ~~or this program~~, or from any other regulatory requirements. To be authorized, all uses, ~~and developments~~, and activities must be consistent with the policies and regulatory provisions of this program and the Act. A statement of exemption shall be obtained for exempt activities consistent with the below provisions of WCC 23.60.020.
2. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemptions from the substantial development permit process.
3. The burden of proof that a development, ~~or use, or activity~~ is exempt is on the applicant/proponent of the exempt development action.
4. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire project.
5. ~~A development or use that is listed as a conditional use pursuant to this program or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.~~
6. ~~When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of the program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.~~
7. ~~All permits or statements of exemption issued for development or use within shoreline jurisdiction shall include written findings prepared by the administrator, including compliance with bulk and dimensional standards and policies and regulations of this program. The administrator may attach conditions to the approval of exempt developments and/or uses as necessary to assure consistency of the project with the Act and the program.~~

Comment [CES17]: Moved to 22.07.010

B. 23.60.022 Exemptions listed.

1.B. The following activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit. A statement of exemption, as provided for in WCC 23.60.023 of this program shall be required for those activities listed in WCC 23.60.023(B) and (C). Certain developments, uses, or activities are exempt from the substantial development permit

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requirements of the Act and this program. These developments, uses, or activities are those set forth in WAC 173-27-040 (or as amended), and do not meet the definition of substantial development under RCW 90.58.030(3)(e). A summary of exempt developments is listed below, the application of which shall be guided by WAC 173-27-040 (or as amended).

2-1. Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~\$5,718,047~~, or as amended by the state Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For the purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.

Comment [CES18]: This number gets updated every 5 years by OFM. As of 2017 it was \$7,047. (Though set in code here, PDS updates our permit application, website, and handouts to reflect OFM's newest threshold amount whenever it's published.

3-2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. Normal maintenance includes those usual acts to prevent a decline, lapse or cessation from a lawfully established condition. Normal repair means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or the environment.

4-3. Construction of the normal protective bulkhead common to single-family residences. A normal protective bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used for backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington Department of Fish and Wildlife.

5-4. Emergency construction necessary to protect property from damage by the elements. An emergency is an unanticipated and imminent threat to public health, safety or the environment

1 that requires immediate action within a time too short to allow full compliance with this
2 program. Emergency construction does not include development of new permanent protective
3 structures where none previously existed. Where new protective structures are deemed by the
4 ~~administrator~~Director to be the appropriate means to address the emergency situation, upon
5 abatement of the emergency situation the new structure shall be removed or any permit that
6 would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, Chapter 173-
7 27 WAC or this program, shall be obtained. All emergency construction shall be consistent with
8 the policies of Chapter 90.58 RCW and this program. As a general matter, flooding or other
9 seasonal events that can be anticipated and may occur but that are not imminent are not an
10 emergency.

11 ~~6-5.~~Construction and practices normal or necessary for farming, irrigation, and ranching activities,
12 including agricultural service roads and utilities, construction of a barn or similar agricultural
13 structure, and the construction and maintenance of irrigation structures including, but not
14 limited to, head gates, pumping facilities, and irrigation channels; provided, that this exemption
15 shall not apply to agricultural activities proposed on land not in agricultural use on December
16 17, 2003; and further provided, that a feedlot of any size, all processing plants, other activities of
17 a commercial nature, or alteration of the contour of the shorelands by leveling or filling other
18 than that which results from normal cultivation shall not be considered normal or necessary
19 farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being
20 used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for
21 growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal
22 livestock wintering operations.

23 ~~7-6.~~Construction or modification, by or under the authority of the Coast Guard or a designated port
24 management authority, of navigational aids such as channel markers and anchor buoys.

25 ~~8-7.~~Construction on shorelands by an owner, lessee, or contract purchaser of a single-family
26 residence for their own use or for the use of their family, which residence does not exceed a
27 height of 35 feet above average grade level and that meets all requirements of the state agency
28 or local government having jurisdiction thereof. Single-family residence means a detached
29 dwelling designed for and occupied by one family including those structures and developments
30 within a contiguous ownership which are a normal appurtenance as defined in Chapter 23.60
31 ~~WCC 23.110.010.~~

32 ~~9-8.~~Construction of a dock, including a shared moorage, designed for pleasure craft only, for the
33 private noncommercial use of the owners, lessee, or contract purchaser of a single-family or
34 multifamily residence. A dock is a landing and moorage facility for watercraft and does not
35 include recreational decks, storage facilities or other appurtenances. The private dock
36 exemption applies if either:

37 a. In salt waters, the fair market value of the dock does not exceed \$2,500; or

38 b. In fresh waters the fair market value of the dock does not exceed:

39 i. \$20,000 for docks that are constructed to replace existing docks, are of equal or lesser
40 square footage than the existing dock being replaced

ii. \$10,000 for all other docks constructed in fresh waters,
~~but However, if subsequent construction having a fair market value exceeding \$2,500 occurs~~
~~within five years of the completion of the prior construction, and the combined fair market~~
~~value of the subsequent and prior construction exceeds the amount specified above, the~~
~~subsequent construction shall be considered a substantial development for the purpose of this~~
~~program. For the purpose of this section, saltwater shall include the tidally influenced marine~~
~~and estuarine water areas of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait~~
~~of Georgia, and Puget Sound local marine waters and all associated bays, inlets, and estuaries.~~
 10.9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or
 other facilities that now exist or are hereafter created or developed as a part of an irrigation
 system for the primary purpose of making use of system waters including return flow and
 artificially stored ground water for the irrigation of lands; provided, that this exemption shall not
 apply to construction of new irrigation facilities proposed after December 17, 2003.
 11.10. The marking of property lines or corners on state-owned lands, when such marking does
 not significantly interfere with normal public use of the surface of the water.
 12.11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities
 existing on June 4, 1975, that were created, developed or utilized, primarily as a part of an
 agricultural drainage or diking system.
 13.12. Any project with a certification from the governor pursuant to Chapter 80.50 RCW.
 14.13. Site exploration and investigation activities that are prerequisite to preparation of a
 development application for authorization under this program, if:
 i.a. The activity does not interfere with the normal public use of surface waters;
 ii.b. The activity will have no significant adverse impact on the environment including but not
 limited to fish, wildlife, fish or wildlife habitat, water quality and aesthetic values;
 iii.c. The activity does not involve the installation of any structure and, upon completion of the
 activity, the vegetation and land configuration of the site are restored to conditions existing
 before the activity;
 iv.d. A private entity seeking development authorization under this section first posts a
 performance bond or provides other evidence of financial responsibility to the
~~administrator~~Director to ensure that the site is restored to preexisting conditions; and
 v.e. The activity is not subject to the permit requirements of RCW 90.58.550.
 15.14. The process of removing or controlling aquatic noxious weeds, as defined in RCW
 17.26.020, through the use of an herbicide or other treatment methods applicable to weed
 control that is recommended by a final environmental impact statement published by the
 Department of Agriculture or the Department of Ecology jointly with other state agencies under
 Chapter 43.21C RCW.
 16.15. Watershed restoration projects as defined in Chapter 23.60 ~~23.110~~ WCC and WAC 193-
27-040(2)(o) ~~by RCW 89.08.460.~~ The ~~administrator~~Director shall review the projects for
 consistency with the program in an expeditious manner and shall issue its decision along with

Comment [CES19]: Amended to more precisely reflect WAC 173-27-040

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any conditions within 45 days of receiving a complete application form from the applicant/proponent. No fee may be charged for accepting and processing applications for watershed restoration projects as defined in Chapter ~~23.60~~ ~~23.110~~ WCC (Definitions).

~~17.16.~~ A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, including restoring native kelp, eelgrass beds and native oysters, when all of the following apply:

- ~~i.~~ a. The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;
- ~~ii.~~ b. The project received hydraulic project approval by the Department of Fish and Wildlife pursuant to Chapter 77.55 RCW; and
- c. The ~~administrator~~ Director has determined that the project is consistent with this program. The ~~administrator~~ Director shall make such determination in a timely manner and provide it by letter to the project proponent.

~~18.17.~~ The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.

C. ~~23.60.023~~ **Statements of Exemption.**

1. Statements of Exemption are considered Type I applications pursuant to WCC 22.05.020 (Project Permit Processing Table).

~~1.2.~~ The ~~administrator~~ Director is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit ~~requirement~~ process for developments, uses, or activities and developments within shorelines that are specifically listed in ~~WCC 23.60.022~~ in subsection (B). Such statements shall be applied for on forms provided by the administrator. The statement shall be in writing and shall indicate the specific exemption of this program that is being applied to the development, and shall provide a summary of the administrator's analysis of the consistency of the project with this program and the Act. As appropriate, such statements of exemption shall contain conditions and/or mitigating measures of approval to achieve consistency and compliance with the provisions of the program and Act. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. The administrator's actions on the issuance of a statement of exemption or a denial are subject to appeal pursuant to WCC 23.60.150.

~~2.3.~~ Exempt activities ~~related to any of the following~~ shall not be conducted until a statement of exemption has been obtained from the ~~administrator~~ Director: ~~dredging, flood control works and instream structures, development within an archaeological or historic site, clearing and ground disturbing activities such as landfill or excavation, dock, shore stabilization, freestanding signs, or any development within an aquatic or natural shoreline designation; provided, that no separate written statement of exemption is required for the construction of a single family residence when a county building permit application has been reviewed and approved by the administrator; provided further, that no statement of exemption is required for emergency~~

Comment [CES20]: Added pursuant to DOE checklist.

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Comment [CES21]: Covered by other sections of code

development pursuant to WAC 173-27-040(2)(d) and that other project permits (e.g., building permits), may serve as a statement of exemption when they contain a statement of review and compliance with the Shoreline Management Program.

~~3.4. No statement of exemption shall be required for other uses or developments exempt pursuant to WCC 23.60.022 unless the administrator has cause to believe a substantial question exists as to qualifications of the specific use or development for the exemption or the administrator determines there is a likelihood of adverse impacts to shoreline ecological functions. Whether or not a written statement of exemption is issued, all permits issued within the area of shorelines shall include a record of review actions prepared by the administrator/Director, including compliance with bulk and dimensional standards and policies and regulations of this program. The administrator may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and this program.~~

Comment [CES22]: Covered by the new language in (2)

~~4.5. A notice of decision for shoreline statements of exemption shall be provided to the applicant/proponent and any party of record. Such notices shall also be filed with the Department of Ecology, pursuant to the requirements of WAC 173-27-050 when the project is subject to one or more of the following federal permitting requirements:~~

- ~~a. A U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899. (The provisions of Section 10 of the Rivers and Harbors Act generally apply to any project occurring on or over navigable waters. Specific applicability information should be obtained from the Corps of Engineers.); or~~
- ~~b. A Section 404 permit under the Federal Water Pollution Control Act of 1972. (The provisions of Section 404 of the Federal Water Pollution Control Act generally apply to any project that may involve discharge of dredge or fill material to any water or wetland area. Specific applicability information should be obtained from the Corps of Engineers.)~~

Comment [CES23]: Covered by 22.05.100(5)

~~5. Whenever the exempt activity also requires a U.S. Army Corps of Engineers Section 10 permit under the Rivers and Harbors Act of 1899 or a Section 404 permit under the Federal Water Pollution Control Act of 1972, a copy of the written statement of exemption shall be sent to the applicant/proponent and Ecology pursuant to WAC 173-27-050.~~

Comment [CES24]: Covered by (5)

22.07.030 23.60.010 Shoreline Substantial Development Permits criteria.

~~A. A shoreline substantial development permit shall be required for all proposed uses, development, and activities within the shoreline jurisdiction unless the proposal is specifically exempt pursuant to WCC 22.07.020 (Exemptions).~~

Comment [CES25]: Moved from below.

~~B. All shoreline substantial development permits are considered Type II permits (see WCC 22.05.020, Project Permit Processing Table), except those the Director has determined meets the following criteria, in which case it shall be considered a Type III permit:~~

~~A. The administrator shall determine whether an application requires a public hearing pursuant to the criteria below no later than 15 days after the minimum public comment period provided by WCC 23.60.080. An open record public hearing shall be required for all of the following:~~

- 1 1. The proposal has a cost or market value in excess of ~~\$1500,000~~, except for single-family
2 residences, agriculture, and commercial forestry, ~~and ecological restoration projects~~; or
3 2. ~~The proposal would result in development of an area larger than five acres; or~~
4 3. ~~The proposal is a new or expanded marina, pier, aquaculture structure, any building over 35 feet~~
5 ~~high, mine, dam, stream diversion, landfill; or~~
6 4. ~~The administrator has reason to believe the proposal would be controversial based on public~~
7 ~~response to the notice of receipt of application and other information; or~~
8 5. ~~2.~~ The proposal is determined to have a significant adverse impact on the environment and an
9 environmental impact statement is required in accordance with the State Environmental Policy
10 Act; ~~or~~.
11 6. ~~3.~~ The proposal requires a major variance and/or conditional use approval pursuant to this
12 program; or
13 7. ~~The use or development requires an open record public hearing for other Whatcom County~~
14 ~~approvals or permits.~~
15 B. ~~A substantial development permit shall be required for all proposed uses, and development, and~~
16 ~~activities within the of shorelines jurisdiction unless the proposal is specifically exempt pursuant to~~
17 ~~WCC 23.60.0220.~~
18 C. In order to be approved, the decision maker must find that the proposal is consistent with the
19 Shoreline Management Act and the Shoreline Management Program. ~~following criteria:~~
20 1. ~~All regulations of this program appropriate to the shoreline designation and the type of use or~~
21 ~~development proposed shall be met, except those bulk and dimensional standards that have~~
22 ~~been modified by approval of a shoreline variance under WCC 23.60.030.~~
23 2. ~~All policies of this program appropriate to the shoreline area designation and the type of use or~~
24 ~~development activity proposed shall be considered and substantial compliance demonstrated.~~
25 3. ~~For pProjects located on shorelines of statewide significance, the policies of Chapter 23.40 WCC~~
26 ~~shall also be adhered to.~~
27 D. ~~In the granting of all shoreline substantial development permits, consideration shall be given to the~~
28 ~~cumulative environmental impact of additional requests for like actions in the area. For example, if~~
29 ~~shoreline substantial development permits were granted for other developments in the area where~~
30 ~~similar circumstances exist, the sum of the permitted actions should also remain consistent with the~~
31 ~~policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline~~
32 ~~ecological functions and processes or other users.~~

Comment [CES26]: Increased due to inflation. This amount has not been changed since 1986.

Comment [CES27]: Proposed for deletion since developments of 5 acres or more would undoubtedly be valued at more than \$500,000.

Comment [CES28]: Covered by the shoreline use table in conjunction with subsection (c).

Comment [CES29]: Not necessary; already covered by the modified use table in T-23.

Comment [CES30]: Proposed for deletion as there is no criteria for staff to objectively determine when a project might be controversial.

Comment [CES31]: Covered by 22.05.030

Comment [CES32]: Moved to (A)

Comment [CES33]: P/C motion to amend as shown. Carries 7-2

33 **22.07.040 23.60.040-Shoreline Conditional Use Permits-criteria.**

- 34 A. The purpose of a shoreline conditional use permit is to allow greater flexibility in administering the
35 use regulations of this program in a manner consistent with the policy of RCW 90.58.020. In
36 authorizing a shoreline conditional use, special conditions may be attached to the permit by the
37 county or the Department of Ecology to control any undesirable effects of the proposed use.
38 B. Uses specifically classified or set forth in this program as shoreline conditional uses and unlisted uses
39 may be authorized, provided the applicant/proponent can demonstrate all of the following:

1. That the proposed use will be consistent with the policy of RCW 90.58.020 and this program.
2. That the proposed use will not interfere with normal public use of public shorelines.
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
4. That the proposed use will not cause adverse effects to the shoreline environment in which it is to be located.
5. That the public interest suffers no substantial detrimental effect.

C. All shoreline conditional use permits are considered Type III permits (see WCC 22.05.020, Project Permit Processing Table), except those for single-family residential development, uses, or activities, which shall be processed as a Type II permit.

~~D.~~ Other uses not specifically classified or set forth in this program, including the ~~expansion or~~ resumption of a nonconforming use pursuant to WCC 23.50.0170 (Nonconforming Uses), may be authorized as shoreline conditional uses, provided the applicant/proponent can demonstrate that the proposal will satisfy the criteria set forth in subsection (B) of this section, and that the use clearly requires a specific site location on the shoreline not provided for under the program, and extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of this program. Uses that are prohibited cannot be authorized by a shoreline conditional use permit.

~~D.E.~~ In the granting of all shoreline conditional use permits, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if shoreline conditional use permits were granted for other developments in the area where similar circumstances exist, the sum of the shoreline conditional uses and their impacts should also remain consistent with the policy of RCW 90.58.020 and should not produce a significant adverse effect to the shoreline ecological functions and processes or other users.

~~E. Permits and/or variances applied for or approved under county zoning or subdivision code requirements shall not be construed as shoreline variances under this program.~~

Comment [CES34]: Moved to General Requirements section.

23.60.03022.07.050 Shoreline Variances permit criteria.

A. The purpose of a shoreline variance is to grant relief to specific bulk or dimensional requirements set forth in ~~this the Shoreline Management~~ Program and any associated standards appended to this program such as critical areas buffer requirements where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this program would impose unnecessary hardships on the applicant/proponent or thwart the policy set forth in RCW 90.58.020. Use restrictions may not be varied.

B. Shoreline variances are considered Type III applications pursuant to WCC 22.05.020 (Project Permit Processing Table).

~~B.C.~~ Shoreline variances will be granted in any circumstance where denial would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

- 1 C. ~~Proposals that would otherwise qualify as a reasonable use pursuant to WCC 16.16.270(A) shall~~
2 ~~require a shoreline variance and shall meet the variance criteria in this section.~~
- 3 D. Shoreline variances for development and/or uses that will be located landward of the ordinary high
4 water mark (OHWM) and/or landward of any wetland may be authorized provided the applicant can
5 demonstrate all of the following: ~~Variances may be authorized, provided the applicant/proponent can~~
6 ~~demonstrate all of the following:~~
- 7 1. That the strict application of the bulk or dimensional criteria set forth in ~~this program~~ the
8 Shoreline Management Program precludes or significantly interferes with reasonable permitted
9 use of the property;
 - 10 2. That the hardship described in subsection (A1) of this section is specifically related to the
11 property, and is the result of unique conditions such as irregular lot shape, size, or natural
12 features and the application of this program, and not, for example, from deed restrictions or the
13 applicant's/proponent's own actions;
 - 14 3. That the design of the project ~~will be~~ is compatible with other ~~permitted~~ authorized uses
15 activities within the area and with uses planned for the area under the comprehensive plan and
16 shoreline master program and will not cause adverse effects on adjacent properties or impacts
17 to the shoreline environment;
 - 18 4. That the variance authorized does not constitute a grant of special privilege not enjoyed by the
19 other properties in the area, and will be the minimum necessary to afford relief;
 - 20 5. That the public interest will suffer no substantial detrimental effect;
 - 21 6. That the public rights of navigation and use of the shorelines will not be materially interfered
22 with by the granting of the variance; and
 - 23 7. Mitigation is provided to offset unavoidable adverse impacts caused by the proposed
24 development or use.
- 25 E. ~~Shoreline variances permits~~ for development and/or uses that will be located waterward of the
26 ordinary high water mark (OHWM), as defined herein, or within any wetland as defined herein, may
27 be authorized, provided the applicant can demonstrate all of the following:
- 28 1. ~~That the strict application of the bulk, dimensional or performance standards set forth in this~~
29 ~~program precludes all reasonable use of the property; and~~
 - 30 2. 1. That the proposal is consistent with the criteria established under subsections (D) (1) through
31 (7) of this section; and
 - 32 3. 2. That the public rights of navigation and use of the shorelines will not be adversely affected.
- 33 ~~Other factors that may be considered in the review of variance requests include the conservation of~~
34 ~~valuable natural resources and the protection of views from nearby roads, surrounding properties~~
35 ~~and public areas; provided, the criteria of subsection D of this section are first met. In addition,~~
36 ~~variance requests based on the applicant's/proponent's desire to enhance the view from the subject~~
37 ~~development may be granted;~~
- 38 ~~where there are no likely detrimental effects to existing or future users, other features, or shoreline~~
39 ~~ecological functions and/or processes, and~~
- 40 ~~where reasonable alternatives of equal or greater consistency with this program are not available.~~

Comment [CES35]: This section's text amended to mimic WAC 173-27-170(3)

Comment [CES36]: Already addressed in subsection (D).

4. ~~In platted residential areas, variances shall not be granted that allow a greater height or lesser shore setback than what is typical for the immediate block or area.~~

F. In the granting of all shoreline variances, consideration shall be given to the cumulative environmental impact of additional requests for like actions in the area. For example, if shoreline variances were granted to other developments in the area where similar circumstances exist, the total of the variances should also remain consistent with the policy of RCW 90.58.020 and should not produce significant adverse effects to the shoreline ecological functions and processes or other users.

G. ~~Permits and/or variances applied for or approved under other county codes such as WCC Title 20 or 21 shall not be construed as shoreline permits under this program.~~

23.60.050 Minimum application requirements.

~~Where other approvals or permits are required for a use or development that does not require an open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit is granted. All shoreline approvals and permits shall include written findings prepared by the administrator documenting compliance with bulk and dimensional standards and other policies and regulations of this program.~~

~~A complete application for a substantial development, conditional use, or variance permit shall contain all materials required in the Department's administrative manual; provided, that the administrator may vary or waive these requirements as provided in the manual and may vary or waive these requirements on a case-by-case basis. The administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other county requirements.~~

23.60.060 Pre-application conference.

~~Prior to filing a permit application for a shoreline substantial development permit, variance or conditional use permit decision:~~

~~The applicant shall contact the County to schedule a pre-application conference, which shall be held prior to filing the application; provided, that such meetings shall not be required for development activities associated with shoreline restoration projects, agriculture, commercial forestry, or the construction of a single-family residence.~~

23.60.070 Fees.

A. ~~Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals, pre-application conferences and other required reviews and/or approvals shall be paid to the county at the time of application in accordance with the Whatcom County Unified Fee Schedule in effect at that time and Chapter 22.05 WCC.~~

B. ~~When any given project requires more than one of the following permits or applications, the total amount of fees shall be reduced pursuant to WCC 22.25.030:~~

1. ~~Preliminary plat application.~~

Comment [AP37]: Revised per Scoping Document, Item #3a and staff comment #28

Comment [CES38]: This is covered by the Variance Criteria for protection of public interest.

Comment [CES39]: Moved to General Requirements section.

Comment [CES40]: General provision moved to appropriate section.

Comment [RCE41]: Don't need, as permit review consolidation is required

Comment [CES42]: Moved to 22.05.050

Comment [CES43]: Covered by 22.05.040

Comment [CES44]: Covered by 22.05.050(1)

- 1 2. ~~Rezone application.~~
2 3. ~~Major development permit.~~
3 4. ~~Planned unit development.~~
4 5. ~~Binding site plan.~~
5 C. ~~When any project requires a shoreline conditional use permit or shoreline variance in addition to a~~
6 ~~shoreline substantial development permit, the fees for the conditional use or variance shall be~~
7 ~~reduced by half.~~
8 D. ~~In the event that actions of an applicant result in the repetition of the review, inspections and other~~
9 ~~steps in the approval process, those items or steps repeated shall be charged to and paid by the~~
10 ~~applicant prior to any further processing of the application by the county. The cost shall be in~~
11 ~~accordance with the adopted fee schedule.~~
12 E. ~~If an application is withdrawn within 30 days of submittal, and no work has commenced at the site~~
13 ~~of the proposal for which the application was made, a refund of not more than 50 percent of the~~
14 ~~shoreline fees paid may be granted by the administrator. This amount may be reduced where staff~~
15 ~~time, public notice and other costs exceed 50 percent of the fees paid.~~

16 **~~23.60.080 Notice of application.~~**

- 17 A. ~~Upon receipt of a completed shoreline substantial development permit, shoreline variance, or~~
18 ~~shoreline conditional use permit application the County shall issue a notice of application for a~~
19 ~~proposed land use action in the manner set forth in WCC 22.05.070.~~
20 (9) ~~The rights of treaty tribes to resources within their usual and accustomed areas shall be~~
21 ~~accommodated through the notification and comment provisions of the permit review process.~~
22 ~~Tribal treaty rights may be addressed through specific permit conditions. Direct coordination~~
23 ~~between tribes and the applicant/proponent is encouraged.~~

Comment [MD45]: Covered by 22.05.070. Draft revision per Scoping Document, Item #4a (staff comment #31).

Comment [RCE46]: Moved to 23.05.040(F)(3)

24 **~~23.60.090 Permit application review.~~**

- 25 A. ~~All shoreline permit applications, exemptions, or other approvals shall be subject to the provisions~~
26 ~~of this program that are in effect at the time of application.~~
27 B. ~~To facilitate review of an application the decision maker shall consider any or all of the following:~~
28 1. ~~The application and attached information;~~
29 2. ~~The SEPA checklist, threshold determination, environmental impact statement, or other~~
30 ~~environmental studies and/or documentation;~~
31 3. ~~Written comments from interested persons;~~
32 4. ~~Information and recommendations from any public agency and from the administrator/rector in~~
33 ~~cases where the administrator/rector is not the decision maker;~~
34 5. ~~Information or comment presented at a public hearing, if held, on the application; and~~
35 6. ~~The policy and provisions of the Act and this program including the criteria enumerated in WCC~~
36 ~~23.60.010, 23.60.030 and 23.60.040, as applicable.~~
37 C. ~~The decision maker shall process project permit applications for shoreline substantial development~~
38 ~~permits, shoreline variance, and shoreline conditional use permits in compliance with the provisions~~
39 ~~of Chapter 22.05 WCC.~~

Comment [CES47]: Covered by 22.05.060 (Vesting)

Comment [CES48]: Moved to 22.05.100 Consistency Review and Recommendations

- 1 D. ~~The decision maker shall process project permit applications for shoreline statements of exemption~~
2 ~~in accordance with the provisions of Chapter 22.05 WCC and WCC 23.60.023(A).~~
- 3 E. ~~Any application for a shoreline permit or approval that remains inactive for a period of 180 days~~
4 ~~shall expire and a new application and repayment of fees shall be required to reactivate the~~
5 ~~proposal; provided, that the administrator may grant a single 90-day extension for good cause.~~
6 ~~Delays such as those caused by public notice requirements, State Environmental Policy Act review,~~
7 ~~litigation directly related to the proposal, or changes in government regulations shall not be~~
8 ~~considered as part of the inactive period.~~
- 9 ~~If a shoreline permit is denied, no reapplication for the same or essentially similar development may~~
10 ~~be made until one year from the date of denial.~~

Comment [CES49]: No longer needed as permit procedures have been combined.

11 **23.60.100 Consolidated Permit Review.**

- 12 A. ~~Whenever an application for a project permit under the program requires a project permit or~~
13 ~~approval under another County permit authority, such as zoning or subdivision, the shoreline~~
14 ~~project permit application, time requirements, and notice provisions for processing the shoreline~~
15 ~~permit shall apply, in addition to those of other regulatory programs.~~
- 16 ~~provisions of Chapter 22.05 WCC shall apply to the consolidated application, review, and approval of~~
17 ~~applications that require an open record hearing.~~
- 18 B. ~~Any shoreline use or development that is subject to other approvals or permits that requires an~~
19 ~~open record hearing under another permit authority, such as zoning or subdivision, shall be subject~~
20 ~~to consolidated review and the decision maker designated for the open record hearing shall be the~~
21 ~~decision maker for the consolidated review.~~

Comment [CES50]: Moved to 22.05.050
Application and Determination of Completeness

Comment [CES51]: Don't need this; covered by
22.05.030

22 **23.60.110 State Environmental Policy Act (SEPA) compliance.**

- 23 A. ~~Whenever an application for shoreline substantial development permit, shoreline variance,~~
24 ~~shoreline conditional use permit, or statement of exemption is subject to the rules and regulations~~
25 ~~of SEPA (Chapter 43.21C RCW), the review requirements of SEPA, including time limitations, shall~~
26 ~~apply, where applicable.~~
- 27 B. ~~Applications for shoreline permit(s) or approval(s) that are not categorically exempt under SEPA~~
28 ~~shall be subject to environmental review by the responsible official of Whatcom County pursuant to~~
29 ~~the State Environmental Policy Act (Chapter 197-11 WAC).~~
- 30 C. ~~As part of SEPA review, the Responsible Official may require additional information regarding the~~
31 ~~proposed development in accordance with Chapter 197-11 WAC.~~
- 32 D. ~~Failure of the applicant/proponent to submit sufficient information for a threshold determination to~~
33 ~~be made shall be grounds for the Responsible Official to determine the application incomplete.~~

Comment [RCE52]: Deleted, as this is covered
in permit application and permit types.

34 **23.60.120 Burden of proof.**

- 35 ~~Permit applicants/proponents have the burden of proving that the proposed development is consistent~~
36 ~~with the criteria set forth in the Act and this program.~~

Comment [CES53]: Moved to 22.05.100 Permit
Consistency Review and Recommendations

23.60.130 Public Hearings.

A. ~~An open record public hearing on shoreline permit applications shall be held in accordance with the provisions of Chapter 22.05 WCC, unless a continuance is granted pursuant to the rules and procedures of the Hearing Examiner or other hearing body and subject to time requirements for compliance with the State Environmental Policy Act.~~

B. ~~Repealed by Ord. 2018-032.~~

C. ~~Repealed by Ord. 2018-032.~~

D. ~~Public hearing requirements for permit appeals shall be processed according to WCC 23.60.150.~~

Comment [CES54]: Pertinent sections moved to 22.05.090 Open Record Public Hearings

23.60.140 Permit conditions.

~~In granting, revising, or extending a shoreline permit, the decision maker may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this program as well as the supplemental authority provided in Chapter 43.21C RCW as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance with the Act and this program. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded in accordance with WCC 23.60.180.~~

Comment [CES55]: Moved to 22.05.100 Permit Consistency Review and Recommendations

22.07.060 Filing Shoreline Permits with the Department of Ecology

A. After all local permit administrative appeals or reconsideration periods are complete, the County will deliver the final permit using return receipt requested mail or email to the Department of Ecology regional office and the attorney general.

B. Proposals that require both shoreline conditional use permits and/or shoreline variances shall be delivered simultaneously with any shoreline permit for the project.

C. The permit and documentation of final local decision will be delivered together the following information:

1. A copy of the complete application;

2. Findings and conclusions that establish the basis for the decision, including but not limited to identification of shoreline environment designation(s), applicable program policies and regulations, and the consistency of the project with appropriate review criteria for the type of permit(s);

3. The final decision of the local government;

4. A completed permit data sheet (WAC 173-27-990, Appendix A); and

5. Where applicable, local government shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under Chapter 43.21C RCW.

6. When the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicate the final approved plan.

F. Development pursuant to a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall not begin and shall not be authorized until 21 days after the

Comment [AP56]: Updated per Periodic Review Checklist, Item 2017.d, and Scoping Document Items #2a and 5c.

"date of filing," as defined in this program Title 23 (Shoreline Management Program) and RCW 90.58.140(6), or until all review proceedings before the Shorelines Hearings Board have terminated.

G. Upon approval of a permit revision, the decision maker shall file a copy of the revised site plan and a detailed description of the authorized changes to the original permit with the Department of Ecology together with a final ruling and findings supporting the decision based on the requirements of this section. In addition, the decision maker shall notify parties of record of the action.

23.60.150 Notice of Decision, Reconsideration and Appeal.

~~A notice of decision for action on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be provided to the applicant/proponent and any party of record in accordance with the review procedures of Chapter 22.05 WCC, and at least 10 days prior to filing such decisions with the Department of Ecology pursuant to WAC 173-27-130. Decisions filed with the Department of Ecology shall contain the following information:~~

~~After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the County will mail or hand deliver the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General.~~

~~Projects that require both Conditional Use Permits and or Variances shall be mailed simultaneously with any Substantial Development Permits shoreline permit for the project.~~

~~The permit and documentation of final local decision will be mailed together the following information:~~

- a. A copy of the complete application;
- b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation(s), applicable program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
- c. The final decision of the local government;
- d. A completed permit data sheet (see Appendix A of this title); and
- e. Where applicable, local government shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under Chapter 43.21C RCW.
- f. When the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicate the final approved plan.

A. Notice of decision for shoreline statements of exemption shall comply with WCC 22.05.110(1) and 23.60.023(E).

~~Any person with standing may appeal any order, final permit decision, or final administrative determination made by the irector or designee in the administration of this program.~~

~~Administrative Appeal Procedures.~~

~~Administrative appeals are processed in accordance with WCC 22.05.160.~~

Comment [AP57]: Updated per Periodic Review Checklist, Item 2017.d, and Scoping Document Item #2a.

Comment [CES58]: Moved from 23.60.160
Initiation of development

Comment [CES59]: Covered by 22.05.110

Comment [CES60]: Moved to 22.07.070

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Comment [CES61]: Covered by 22.05.110(1)

1 — After the issuance of the appeal determination, a party with standing may appeals to the
2 Shorelines Hearings Board of a decision on a shoreline substantial development permit,
3 shoreline variance, or shoreline conditional use pursuant to RCW 90.58.180 within 21 days of
4 the "date of filing," as defined in this program and RCW 90.58.140(6). The appeal to the
5 Shorelines Hearing Board shall be filed in accordance with the provisions of Chapter 461-08C
6 WAC.

Comment [CES62]: Moved to 22.05.160
(Appeals)

7 B. This program shall only establish standing for parties of record for shoreline substantial
8 development permits, shoreline variances, or shoreline conditional use permits. Standing as a party
9 of record is not established by this program for exempt actions pursuant to WCC 23.60.022;
10 provided, that in such cases standing may be established through an associated permit process that
11 provides for public notice and provisions for parties of record.

12 —
13 F. The applicant/proponent or any party of record may request reconsideration of any final
14 action by the decision maker within 10 days of notice of the decision. Such requests shall be
15 filed on forms supplied by the county. Grounds for reconsideration must be based upon the
16 content of the written decision. The decision maker is not required to provide a written
17 response or modify his/her original decision. He/she may initiate such action as he/she deems
18 appropriate. The procedure of reconsideration shall not preempt or extend the appeal period
19 for a permit or affect the date of filing with the Department of Ecology, unless the
20 applicant/proponent requests the abeyance of said permit appeal period in writing within 10
21 days of a final action.

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22 G. Appeals to the Shorelines Hearings Board of a decision on a shoreline substantial
23 development permit, shoreline variance or shoreline conditional use permit may be filed by the
24 applicant/proponent or any aggrieved party pursuant to RCW 90.58.180 within 21 days of filing
25 the final decision by Whatcom County with the Department of Ecology.

26 C. Whatcom County shall consider an appeal of a decision on a shoreline substantial development
27 permit, shoreline variance or shoreline conditional use only when the applicant/proponent waives
28 his/her right to a single appeal to the Shorelines Hearings Board. Such waivers shall be filed with the
29 county in writing concurrent with a notice of appeal within 10 days of a final action. When an
30 applicant/proponent has waived his/her right to a single appeal, such appeals shall be processed in
31 accordance with the appeal procedures of subsection H of this section and shall be an open record
32 hearing before the hearing examiner.

Comment [AP63]: Removed per Scoping
Document, Item #5c.

33 H. With the exception of a shoreline substantial development permit, any order, requirement or
34 administrative permit decision, or determination by the administrator based on a provision of this
35 program, including the issuance of a statement of exemption or denial, except a shoreline
36 substantial development permit, may be the subject of an appeal to the office of the hearing
37 examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal
38 procedures of subsection H of this section and shall be an open record hearing before the hearing
39 examiner.

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40 I. Appeal Procedures.

Comment [MD64]: Draft revision per Scoping
Document, Items #4a and 5c (staff comment #34).

1. Appeals shall be filed on forms supplied by the county within 10 calendar days of the issuance of a substantial development permit, shoreline variance or shoreline conditional use permit and within 20 calendar days of any other action of the administrator being appealed.
2. A public hearing on the appeal shall be held within 45 working days following receipt of the application for appeal.
3. Legal notice of the public hearing shall be made by mailing notice of time, date, and location of the hearing to the appellant, any parties of record, the Washington Department of Ecology, and the administrator at least 15 days prior to the hearing.
4. A decision by the hearing examiner shall be mailed within 10 working days of the public hearing to all parties of record unless otherwise mutually agreed to by all parties to the appeal.
5. Any party of record may request a closed record review of the hearing examiner's decision issued under subsection (H)(4) of this section by the county council. Such an appeal shall be filed with the county council on forms supplied by the county within 10 calendar days of the written decision. If appeal is made to the county council, notice of appeal shall be provided to all parties of record at least 15 days prior to consideration by the county council. The council shall meet to review the hearing examiner's decision within 21 days of transmittal thereof, at which time it may approve or disapprove the application, or remand the matter to the hearing examiner.
6. The time period for appeal to the Shorelines Hearings Board shall begin after the decision maker has filed the final county decision with the Department of Ecology.

~~23.60.160~~ Initiation of development.

~~Development pursuant to a shoreline substantial development permit, shoreline variance, or conditional use permit shall not begin and shall not be authorized until 21 days after the "date of filing" or until all review proceedings before the Shorelines Hearings Board have terminated.~~

~~A. Date of Filing.~~

1. "Date of filing" of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.
2. The "date of filing" for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the department to the county and the applicant/proponent.

~~22.07.07023.60.170~~ Revisions to Shoreline Permits.

- A. A revision is required whenever the applicant/proponent proposes substantive changes to the design, terms, or conditions of a project from that which is approved in the permit and/or statement of exemption. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this program, or the Act. ~~Changes that are not substantive in effect do not require a revision.~~
- B. An application for a revision to a shoreline permit shall be submitted to the ~~administrator~~ Director. The application shall include detailed plans and text describing the proposed changes. The County decision maker that approved the original permit may approve the request upon a finding that the

Comment [CES65]: Moved to 22.07.060 (Filing Shoreline Permits with the Department of Ecology)

Comment [AP66]: Updated per Periodic Review Checklist, Item 2017.d, and Scoping Document Item #2a.

Comment [CES67]: Moved to permit application review section.

Comment [AP68]: Definition for "date of filing" added to definitions section.

1 proposed changes are within the scope and intent of the original approval, and are consistent with
2 this program and the Act.

3 C. "Within the scope and intent of the original approval" means all of the following:

- 4 1. No additional over-water construction is involved except that a pier, dock, or floating structure
5 may be increased by 500 square feet or 10 percent from the provisions of the original permit,
6 whichever is less over that approved under the original approval;
- 7 2. Ground area coverage and/or height may be increased a maximum of 10 percent over that
8 approved under the original approval; ~~provided, that the revised approval does not authorize~~
9 ~~development to exceed the height, impervious surface, setbacks, or any other requirements of~~
10 ~~this program except as authorized under a variance granted for the original development;~~
- 11 3. The revised permit does not authorize development to exceed height, lot coverage, setback, or
12 any other requirements of the applicable master program except as authorized under a variance
13 granted as the original permit or a part thereof;
- 14 ~~3-4.~~ Additional or revised mitigation and/or landscaping is consistent with any conditions attached to
15 the original approval and with this program;
- 16 ~~4-5.~~ The use authorized pursuant to the original approval is not changed; and
- 17 ~~5-6.~~ The revision will not cause adverse environmental impacts beyond those originally authorized in
18 the approval.

19 ~~D.~~ Revisions to shoreline permits and statements of exemption may be authorized after the original
20 authorization has expired pursuant to WCC 22.07.080 (Expiration of Shoreline Permits). Revisions
21 made after the expiration of the original approval shall be limited to changes that ~~are meet the~~
22 definition of a shoreline exemption and are consistent with this program, and that would not
23 require a permit under this program. If the proposed change is a substantial development as defined
24 by this program, then a new permit is required.

25 ~~D-E.~~ The provisions of this subsection shall not be used to extend the time requirements or to authorize
26 substantial development beyond the time limits or scope of the original approval; ~~provided the~~
27 revision approval shall expire within 1 year from the date of approval, tolling of expiration does not
28 apply to revision approvals.

29 ~~E-F.~~ A new permit shall be required if the proposed revision and any previously approved revisions in
30 combination would constitute development beyond the scope and intent of the original approval as
31 set forth in subsection (C) of this section.

32 G. The revision approval, including the revised site plans and text consistent with the provisions of
33 WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on
34 consistency with this section shall be filed with the Department of Ecology pursuant to WCC
35 22.07.060 (Filing Shoreline Permits with the Department of Ecology). In addition, the County shall
36 notify parties of record of their action.

37 ~~F.~~ Upon approval of a revision, the decision maker shall file a copy of the revised site plan and a
38 detailed description of the authorized changes to the original permit with the Department of
39 Ecology together with a final ruling and findings supporting the decision based on the requirements
40 of this section. In addition, the decision maker shall notify parties of record of the action.

Comment [RCE69]: Changes made to match
WAC 173-27-100

H. If the proposed revision is to a development for which a shoreline conditional use or shoreline variance was issued, the decision maker shall submit the revision to the Department of Ecology for approval with conditions or denial, and shall indicate that the revision is being submitted under the requirements of this subsection.

I. Under the requirements of WAC 173-27-110(6), the Department shall render and transmit to the decision maker and the applicant/proponent its final decision within 15 days of the date of the Department's receipt of the submittal from the decision maker. The decision maker shall notify parties on record of the Department's final decision.

~~G.A. Appeals of a decision of the Department shall be filed in accordance with the provisions of Chapter 461-08C WAC.~~

23.60.180 Rescission and modification.

A. Any shoreline permit granted pursuant to this program may be rescinded or modified upon a finding by the Hearing Examiner that the permittee or his/her successors in interest have not complied with conditions attached thereto. If the results of a monitoring plan show a development to be out of compliance with specific performance standards, such results may be the basis for findings of noncompliance.

B. The Administrator shall initiate rescission or modification proceedings by issuing written notice of noncompliance to the permittee or his/her successors and notifying parties of record at the original address provided in application review files.

C. The Hearing Examiner shall hold a public hearing no sooner than 15 days following such issuance of notice, unless the applicant/proponent files notice of intent to comply and the Administrator grants a specific schedule for compliance. If compliance is not achieved, the Administrator shall schedule a public hearing before the Hearing Examiner. Upon considering written and oral testimony taken at the hearing, the Hearing Examiner shall make a decision in accordance with the above procedure for shoreline permits.

D. These provisions do not limit the Administrator, the Prosecuting Attorney, the Department of Ecology or the Attorney General from administrative, civil, injunctive, declaratory or other remedies provided by law, or from abatement or other remedies.

22.07.08023.60.190 Expiration of Shoreline Permits.

A. Expiration of shoreline statements of exemptions shall be in accordance with WCC 22.05.140 (Expiration of Project Permits).

~~A.B.~~ The following time requirements shall apply to all substantial development permits and to any development authorized pursuant to a shoreline variance, or shoreline conditional use permit, or statement of exemption:

1. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced, within two years of the effective date of a shoreline permit or exemption or the permit shall expire; provided, that the Hearing Examiner or Administrator/Director, as appropriate, may authorize a single extension for a period of not more than one year based on a showing of good cause if a request for extension has been filed with Planning and Development

Comment [CES70]: Covered under 22.05.150 Permit Revocation

1 ~~Services with the hearing examiner or administrator as appropriate~~ before the expiration date of
2 the shoreline permit ~~or exemption~~, and The Director shall provide notice of the proposed
3 extension ~~is given~~ to parties of record and the Department of Ecology.

- 4 2. Authorization to conduct development activities shall terminate five years after the effective
5 date of a shoreline permit ~~or exemption~~; provided, that the Hearing Examiner or
6 ~~Administrator~~ Director, as appropriate, may authorize a single extension for a period of not more
7 than one year based on a showing of good cause, if a request for extension has been filed with
8 Planning and Development Services with the hearing examiner or administrator, as appropriate,
9 before the expiration date of the shoreline permit ~~or exemption~~ and The Director shall provide
10 notice of the proposed extension ~~is given~~ to parties of record and the Department of Ecology.

- 11 3. The effective date of a shoreline permit ~~or exemption~~ shall be the date of filing as provided in
12 RCW 90.58.140(6).

13 ~~—~~ **Tolling.** The effective date does not include the time during which a development, use, or
14 activity was not actually pursued due to the need to obtain other government permits and
15 approvals for which the issued shoreline permit authorizes, including the pendency of all
16 reasonably related administrative appeals or legal actions on any such permits or approval. Last
17 action required on the shoreline permit or exemption and all other government permits and
18 approvals that authorize the development to proceed, including administrative and legal actions
19 on any such permit or approval.

- 20 4. The applicant/ proponent shall be responsible for informing the County ~~of the~~ of such pendency,
21 ~~of other permit applications filed with agencies other than the County and of any related~~
22 ~~administrative and legal actions on any permit or approval.~~

- 23 3. ~~If no notice of the pendency of other permits or approvals is given to the County prior to the~~
24 ~~date of the last action by the County to grant County permits and approvals necessary to~~
25 ~~authorize the development to proceed, including administrative and legal actions of the county,~~
26 ~~and actions under other County development regulations, the date of the last action by the~~
27 ~~County shall be the effective date.~~

28 ~~B.C.~~ Notwithstanding the time limits established in subsections ~~(AB)(1) and (2)~~ of this section, upon a
29 finding of good cause based on the requirements and circumstances of the proposed project and
30 consistent with the policies and provisions of this program and the Act, the Hearing Examiner or
31 ~~Administrator~~ Director, as appropriate, may set different time limits for a particular substantial
32 development permit or exemption as part of the action to approve the permit or exemption. The
33 Hearing Examiner may also set different time limits on specific shoreline conditional use permits or
34 shoreline variances with the approval of the Department of Ecology. The different time limits may
35 be longer or shorter than those established in subsections ~~(A)(1) and (2)~~ of this section but shall be
36 appropriate to the shoreline development or use under review. "Good cause based on the
37 requirements and circumstances of the proposed project" shall mean that the time limits
38 established for the project are reasonably related to the time actually necessary to perform the
39 development on the ground and complete the project that is being permitted, and/or are necessary
40 for the protection of shoreline resources.

1 | ~~C.D.~~ When permit approval includes conditions, such conditions shall be satisfied prior to occupancy
2 | or use of a structure or prior to the commencement of a nonstructural activity; provided, that
3 | different time limits for compliance may be specified in the conditions of approval as appropriate.
4 | E. The Hearing Examiner or ~~Administrator~~ Director, as appropriate, shall notify the Department of
5 | Ecology in writing of any change to the effective date of a permit, ~~authorized by subsections A~~
6 | ~~through C of this section~~, with an explanation of the basis for approval of the change. Any change to
7 | the time limits of a permit other than those authorized ~~by the sections of this program previously~~
8 | ~~listed~~ shall require a new permit application.
9 | ~~D.F.~~ All shoreline permits shall expire 8 years from the date of filing unless a different time period is
10 | granted by the outcome of an administrative appeal or legal action.

Comment [CES71]: Proposed to deal with permits that span multiple versions of the SMP.

1

2

Shoreline Management Program Update Proposed Amendments to WCC Chapter 16.16 Critical Areas Planning Commission Approved Draft with Department of Ecology Required & Recommended Amendments



Planning and Development Services
Whatcom County
11/23/2021

Chapter 16.16 CRITICAL AREAS

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Article 1. Purpose and Intent

16.16.100 Purpose and Intent.

- A. The purposes of this chapter ~~are to help achieve~~~~carry out~~ the goals of the Whatcom County comprehensive plan and the State of Washington Growth Management Act (Chapter [36.70A](#) RCW) and its implementing rules by designating and classifying critical areas, and by protecting the functions and values of critical areas and the ecological processes that sustain them, while allowing for appropriate economically beneficial or productive use of land and property. Critical areas regulated under this chapter include geologically hazardous areas, frequently flooded areas, critical aquifer recharge areas, wetlands, and habitat conservation areas. This chapter seeks to maintain harmonious relationships between human activity and the natural environment.
- B. The Growth Management Act requires the designation of critical areas and the adoption of regulations for the protection of such areas by all counties and cities. The Washington Department of Commerce has adopted minimum guidelines in Chapter [365-190](#) WAC detailing the process involved in establishing a program to protect critical areas. "Protection" in this context means preservation of the functions and values of the natural environment, or to safeguard the public from hazards to health and safety. Critical areas that must be protected include the following areas and ecosystems:
1. Wetlands;
 2. Areas of critical recharging effect on aquifers used for potable water;
 3. Fish and wildlife habitat conservation areas;
 4. Frequently flooded areas; and
 5. Geologically hazardous areas.
- C. By regulating development and minimizing critical area alterations, this chapter seeks to:
1. Reduce harm due to landslides, earthquakes, erosion, volcanic events, flooding, and other natural hazards.
 2. Minimize unnecessary maintenance of public facilities, and costs associated with property damage, emergency rescue relief operations, and environmental degradation.
 3. Protect against adverse impacts to water quality and quantity resources.
 4. Alert appraisers, assessors, real estate agents, owners, potential buyers or lessees, and other members of the public to natural conditions that pose a hazard or otherwise limit development.
 5. Protect wetlands, floodplains, critical aquifer recharge areas, and habitat conservation areas by applying the best available science to ensure no net loss of ecological functions and values.
 6. Protect species listed as threatened or endangered and their habitats.
 7. Protect unique, fragile, and/or valuable elements of the environment, including ground and surface waters, wetlands, anadromous fish species, shellfish, and other fish and wildlife and their habitats.
 8. Provide County officials with information to approve, condition, or deny project proposals.
 9. Protect property rights, while allowing for economic development, including agriculture, and allowing for the development and maintenance of adequate and appropriate public services and essential public facilities.

10. Prevent adverse and cumulative environmental impacts to critical areas and mitigate unavoidable impacts.
 11. Coordinate Whatcom County's critical areas protection activities and programs with those of other jurisdictions.
 12. Coordinate environmental reviews and permitting of proposals with other departments and agencies to avoid duplication and delay.
 13. Allow for reasonable use of property in accordance with the provisions of WCC [16.16.270](#).
 14. Establish critical areas protection standards and procedures that are consistent with state and federal regulations pertaining to critical areas.
- D. The goals, policies, and purposes set forth in this chapter serve as a basis for exercise of the County's substantive authority under the State Environmental Policy Act (SEPA) and the County's SEPA rules.
 - E. The County's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public.
 - F. Nothing in this chapter is intended to preclude or discourage beneficial actions that protect, restore, and/or maintain critical areas or minimize risks associated with critical areas.
 - G. Consistent with Whatcom County's high standard of staff conduct, County staff shall observe all applicable County, state, and federal ~~and Washington~~ laws regarding entry onto privately owned property.

Article 2. Administrative Provisions

16.16.200 Authority.

- A. This chapter is adopted under the authority of Chapter [36.70](#) RCW, which empowers a county to enact a critical area ordinance and provide for its administration, enforcement and amendment, and Chapter [36.70A](#) RCW and Article 11 of the Washington State Constitution.
- B. The Director shall administer and enforce the provisions of this chapter and have the responsibility for reviewing development proposals for compliance with this chapter. Additionally, s/he shall also have the:
1. Authority to approve, deny, or condition permits in accordance with the standards set forth herein.
 2. Authority to convene an interdisciplinary team to assist in reviewing development proposals or to solicit review from outside experts in accordance with WCC 16.16.220(C) (Interdisciplinary Team).
 3. Authority to post a stop work order pursuant to WCC 16.16.285 upon a person undertaking activity within a critical area or buffer in violation of this chapter.
 4. Any additional responsibility and/or authority specifically provided for in this chapter.
 5. For project permits subject to consolidated review the Director's authority shall transfer to another County decision maker when another decision maker is specified for a separate project permit. In such cases, the Director shall ensure that all procedural requirements of this chapter are met and shall make a recommendation to the designated decision maker as to how the provisions of this chapter apply to the permit action, including project permits.
- C. The Whatcom County Hearing Examiner authority is provided in is hereby vested with responsibility and authority to perform the following duties:
1. Those duties as assigned in WCC Chapter 2.11 (Hearing Examiner).
 2. Those duties as assigned in WCC Title 22 (Land Use and Development)
 3. To grant or deny variances to the standards of this Chapter pursuant to WCC 16.16.275 (Variances).
 4. To grant, condition, or deny reasonable use exception permits for all developments affecting critical areas pursuant to WCC 16.16.270 (Reasonable Use Exceptions).
 5. To decide on appeals of administrative decisions issued by the Director.
- D. In granting, revising, or extending a permit, the Director, or Hearing Examiner as applicable, may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other features of the proposed development deemed necessary to assure that the development is consistent with criteria set forth in this chapter. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to allow for future review or reevaluation to assure conformance with this chapter. The Director and/or Hearing Examiner shall render a final decision in accordance with the timelines established in WCC Chapter 22.05, as applicable. All decisions of the Director and Hearing Examiner may be appealed pursuant to WCC 22.05.160.

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Comment [CES1]: Moved from 16.16.240, which has been deleted.

16.16.205 Authorizations Required.

- A. No action shall be taken by any person, ~~company, agency, governmental body (including Whatcom County), applicant, owner, or owner's agent, which~~ that results in any alteration of a critical area or its setback or buffer without prior authorization by submitting an application ~~to the technical administrator on a form provided by Whatcom County~~ and obtaining either the required permit or an approval of a notice of activity, as specified herein.
- B. No land use ~~development project~~ permit, construction permit, or land division approval required by County ordinance shall be granted until the County decision maker has determined that the applicant has complied with the applicable purposes, requirements, objectives, and goals of this chapter including the mitigation standards set forth in WCC [16.16.260](#).
- C. Project permits shall comply with all provisions of this chapter, WCC Title [22](#) and the department's administrative manual.
- D. The requirements of this chapter shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA) (RCW Chapter [43.21C](#)), as locally adopted (WCC Chapter [16.08](#)). Any conditions required pursuant to this chapter shall be coordinated with the SEPA review and threshold determination.
- E. Areas characterized by a particular critical area may also be subject to other regulations established by this chapter due to the overlap or multiple functions of some critical areas. When one critical area adjoins or overlaps another, the more restrictive standards shall apply.

Comment [CES2]: Definition of person now covers these.

16.16.210 Applicability and Severability.

This chapter shall be consistently applied to any alteration or development within geographical areas of unincorporated Whatcom County that meets the definition and criteria for critical areas and critical area buffers or setbacks as set forth in this chapter. No development shall be constructed, located, extended, modified, converted or altered, or land subdivided without full compliance with this chapter. Should any section or provision of this chapter be declared invalid, such decision shall not affect the validity of this chapter as a whole.

16.16.215 Relationship to Other Jurisdictions.

- A. Permit applicants are responsible for complying with all federal, state, tribal, and local regulations that may pertain to a proposed development. Compliance with the provisions of this chapter does not necessarily constitute compliance with other regulations and permit requirements.
- B. In cases where other agencies have jurisdiction over critical areas and the ~~technical administrator~~ Director determines that the permit conditions imposed by such agencies are no less protective and satisfy the requirements of this chapter, those permit conditions may be substituted as the conditions of approval for the requirements of this chapter. Such agencies may include, but are not limited to, the Lummi Nation; the Nooksack Tribe; the United States Army Corps of Engineers; the United States Environmental Protection Agency; the United States Fish and Wildlife Service; the National Marine Fisheries Service or NOAA Fisheries; and the Washington State Departments of Ecology, Natural Resources, and Fish and Wildlife.

- C. The County shall make detailed written findings required by WCC Chapter [22.05](#) and WCC [16.16.250](#) when adopting conditions of another jurisdiction's permit. Such requirements shall be a condition of critical area approval and enforceable by the County. In the event that there is a conflict between permit requirements and the standards of this chapter, the more restrictive standards shall apply.
- D. The County shall notify the applicant in writing when adopting other agencies' conditions pursuant to this section.

16.16.220 Identification and mapping of Critical Areas.

A. **Critical Area Maps.** The County has identified critical areas and areas where the conditions under which critical areas typically occur and/or have the potential to occur. The approximate location and extent of critical areas within the County's jurisdiction are shown on maps; ~~however, this information is for increasing public awareness of critical areas. These "static" maps may be too inexact for regulatory purposes. These maps which~~ shall be available at the Department of Planning and Development Services department and online for public inspection.

1. Property owners, the ~~technical administrator~~ Director, and/or members of the public may use these maps as a general guide, but the maps do not provide a comprehensive accounting of areas subject to this chapter nor do they provide a definitive critical areas designation. Maps showing known critical areas are only for information or illustrative purposes. Critical area locations and boundaries shown on the County's maps are approximate and do not include buffers that may be associated with critical areas, and some critical areas may not be shown on the maps at all. It is also possible that some maps showing critical areas in certain areas may not be accurate.

2. Planning and Development Services has the authority to update critical areas maps and shall do so as new critical areas are identified and as new information becomes available.

3. The approximate location and extent of frequently flooded areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide a definitive critical area designation. The County shall update the maps as new hazard areas are identified and as new information becomes available. This article does not imply that land outside mapped frequently flooded areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Whatcom County, any officer or employee thereof, or the Federal Insurance and Mitigation Administration (FIMA), for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

B. **Identification.** ~~Field investigation, analysis by a qualified professional, and/or consideration of other sources of credible scientific information may be required to confirm the presence or absence of a critical area and its boundaries and buffers. When County critical area maps, indicators, or other sources of credible information indicate that a site may be located in, contain, or abut critical areas or their buffers or setbacks, the Director shall require technical studies in accordance with the~~

Comment [CES3]: Moved from 16.16.410

Comment [CES4]: Moved to 16.16.250 (Review Process)

requirements for that critical area specified herein to determine the extent of critical areas on the property.

Comment [CES5]: Moved from 16.16.250

C. **Interdisciplinary Team.** The Director may call upon outside expertise including an interdisciplinary team if s/he determines that additional technical assistance is required to assess a critical areas development proposal or ensure the application of best available science.

1. The Director will coordinate this effort and seek advice from the team.
2. The interdisciplinary team shall include the applicant and/or their technical representative, local, state, or federal agency or tribal representatives with expertise in the field, and/or independent qualified professionals with expertise relating to the critical area issue.
3. The functions of the interdisciplinary team are to field check and verify critical area determinations/boundaries and assess species/habitat presence by providing written peer review of the information included with an application, identify areas of concern in the application of best available science, provide professional opinions and recommendations relevant to the provisions of this chapter, and help focus the preparation of subsequent reports and environmental documentation on the most relevant issues.
4. In lieu of convening an interdisciplinary team, the County may require third-party review by a qualified professional for any development proposal, mitigation plan, mitigation bank proposal, or other project for which additional technical expertise is needed. The cost of the third-party review shall be the permit applicant's responsibility.

~~C.A. Planning and Development Services has the authority to update critical areas maps and shall do so as new critical areas are identified and as new information becomes available.~~

16.16.225 Regulated activitiesGeneral Regulations.

A. The following activities shall be subject to the provisions of this chapter when they occur within critical areas or their buffers or will impair the functions and values of a critical area:

1. Clearing, grading, dumping, excavating, discharging, or filling with any material. This includes creating impervious surfaces.
2. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure, subject to the provisions for a nonconforming structure pursuant to WCC 16.16.275, Chapter 20.83 WCC, and WCC 23.50.070.
3. Any other activity for which a county permit is required, excluding permits for interior remodeling.

Comment [RE6]: Deleted, as it is redundant with 16.16.235(A)

A. General regulations apply to all critical areas and critical area buffers. Specific critical area articles describe standards applied to authorized alterations.

B. Alteration of critical areas and/or buffers is prohibited except when any impacts are mitigated pursuant to this Chapter, and:

1. Alteration is approved pursuant to the reasonable use or variance provisions of WCC 16.16.270 and 16.16.273, respectively; or
2. Alteration is necessary to accommodate an essential public facility or public utility where no feasible alternative location will accommodate the facility and the facility is located, designed,

and constructed to minimize and, where possible, avoid critical areas disturbance to the maximum extent feasible; or

3. Alteration is necessary to accommodate an approved water-dependent use and any associated development, use, or activity and/or the development activities listed in WCC Title 23.90.130(B)(7)(a) when permitted in accordance with the Whatcom County Shoreline Management Program (SMP); provided, that such development is operated, located, designed and constructed to minimize and, where possible, avoid critical areas disturbance to the maximum extent feasible; or
4. Alteration is part of an essential element of an activity allowed by this chapter and all feasible measures to avoid and minimize impacts have been employed. Such feasible measures shall include, but not be limited to, clustering where permitted by zoning and as appropriate to protect critical areas. The purposes of clustering shall be to minimize adverse effects of development on critical area functions and values, minimize land clearing, maintain soil stability, preserve native vegetation, provide for wildlife corridors, maintain hydrology, and mitigate risk to life and property; or
5. ~~Alteration is associated with an exempt activity under WCC 16.16.230, or is allowed pursuant to the notification provisions of WCC 16.16.235, or is allowed pursuant to the specific regulatory standards for each designated critical area, as enumerated in the subsequent articles of this chapter; or~~
6. ~~Alteration is associated with an alternative mitigation plan or watershed-based management plan approved pursuant to WCC 16.16.261 or 16.16.262, respectively; or~~
6. Alteration is associated with a conservation farm plan pursuant to Article 8 of this chapter; or
7. ~~Alteration of Type III or IV wetlands not subject to WCC Title 23 that have a habitat area score of less than 6 when associated with an approved commercial development within an Urban Growth Area; or;~~
8. ~~Alteration of a shoreline habitat conservation area buffers as allowed by Title 23 (Shoreline Management Program).~~

C. Development proposals shall seek to maintain ecological connectivity and habitat corridors whenever possible. Restoration of ecological connectivity and habitat corridors shall be considered a priority restoration and mitigation action.

D. In order to preserve native plant communities within shoreline jurisdiction and/or critical areas and their buffers, associated with marine, river, or lake shorelines and wetlands, mitigation sequencing shall be applied during site planning for uses and activities so that the design and location of the structure or development minimizes native vegetation removal. Development, uses, or activities that require vegetation clearing shall be designed to avoid the following, in order of preference:

1. Native trees;
2. Other native vegetation;
3. Nonnative trees; and
4. Other nonnative vegetation.

Comment [CES7]: Already addressed by (4)

Comment [DOE-Req8]: Required Change – This change is based on conversations with Whatcom County clarifying that this exception does not apply within shoreline jurisdiction.

Comment [CES9]: Policy change: This would allow “alteration of Type III or IV wetlands that have a habitat area score of less than 6 when associated with an approved commercial development within an Urban Growth Area” when impacts are mitigated. This would allow the alteration of certain wetlands in Urban Growth Areas (UGAs) (in particular, Birch Bay) so as to encourage development of commercially zoned property. Commercial development in Birch Bay has been stifled because so much of the remaining commercially zoned property contains small, isolated wetlands. Yet under the Growth Management Act we’re supposed to encourage development within UGAs so that development doesn’t sprawl to less developed areas of the County.

Comment [CES10]: Policy change: This would allow modification of shoreline buffers pursuant to the new system being proposed in the SMP update.

Comment [AP11]: Added per SMP Scoping Document, Item #8b.

Comment [P/C12]: P/C moved to amend. Passed 7-0

Comment [CES13]: To provide clear guidance on order of preference in what vegetation should be avoided when clearing in shorelines.

16.16.230 Exempt Activities Allowed without Notification.

The following activities do not require authorization from Whatcom County. However, ~~Exemptions from permit requirements of this chapter shall not be construed deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction. The following activities as specified are exempt from the requirements of this chapter~~ Activities within the shoreline jurisdiction (WCC 23.20.10) may require a shoreline permit or statement of exemption.

- A. Class I, II, III, and IV special (not Class IV general) forest practices conducted in accordance with the applicable standards of the Washington State Forest Practices rules, WAC Title [222](#), except where the lands have been or are proposed to be converted to a use other than commercial forest product production.
- B. Maintenance of lawfully established vegetation, landscaping, and gardens within a regulated critical area or its buffer, ~~including, but not limited to, cutting, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of noninvasive ornamental vegetation or indigenous native species (excluding trees)~~ to maintain the general condition and extent of such areas; provided, that native growth protection areas, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exception.
- C. Maintenance activities necessary to implement approved mitigation plans.
- D. Low impact activities, when the activity does not cause adverse impacts, such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education, or scientific research.
- E. Activities undertaken to comply with a United States Environmental Protection Agency Superfund-related order, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act (such as the Swift Creek Sediment Management Action Plan), or a Department of Homeland Security order that specifically preempts local regulations in the findings of the order.
- F. Maintenance and/or repair of lawfully established single-family residences and appurtenant features; provided, that the activity does not further alter, impact, or encroach upon critical areas or buffers or further affect their functions. The maintenance activity shall not result in increased risk to life or property.
- G. Fish, wildlife, and/or wetland restoration or enhancement activities not required as project mitigation; provided, that the project is approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, or other appropriate local, state, federal, or tribal jurisdiction and/or that meet the criteria of RCW [77.55.181](#)(1) and that are reviewed and approved according to the provisions of RCW [77.55.181](#).

16.16.235 Activities Allowed with Notification.

- A. The activities specified in subsection B of this section are authorized within critical areas and buffers; provided, that:

Comment [DOE-Req14]: Required Change – This change is required for consistency with minimum procedural requirements for permit review in WAC 173-27. There may be instances where a shoreline permit or statement of exemption are required for developments that may otherwise be exempt outside of shoreline jurisdiction. The required language mimics that included in WCC 16.16.235.1 – Activities Allowed with Notification

Comment [P/C15]: P/C moved to delete. Carries 7-0-0-2

1. The applicant provides a written notification to the ~~technical administrator~~ Director on a form provided by the Department. Activities within the shoreline jurisdiction (WCC 23.20.010) ~~may~~ shall require a shoreline permit or statement of exception.
2. The notification will provide a site plan (in a common scale), photos, and specific information describing the activity and the mitigation to be implemented, if required ~~by the technical administrator~~, to document that the activity will not result in increased risk to public health, safety, and welfare; that adverse impacts to critical areas are minimized; and that disturbed areas are restored as soon as possible following the activity.
3. Notification shall be submitted ~~to the technical administrator~~ at least 10 full business days prior to initiating work.
4. Upon receipt of the notification, the ~~technical administrator~~ Director shall issue a decision within 10 days unless additional information is required from the applicant or other review processes necessitate additional time. Additionally, the ~~technical administrator~~ Director may provide guidance on best management practices for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and use of chemical applications to be used in the execution of the activities listed in subsection B of this section.
5. Unless otherwise specified, notification shall be valid for one year per activity; provided, that there is no change in the scope of the project including, but not limited to, the location and/or extent of the activity allowed under the notification process.

B. Activities Allowed with Notification.

1. **Emergency construction or activity** necessary for the immediate preservation of the public health, safety, and welfare as determined by the ~~technical administrator~~ Director; provided, that:
 - a. An emergency is an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time period too short to allow full compliance with this chapter.
 - b. Emergency construction does not include development of new permanent protective structures where none previously existed. Where the ~~technical administrator~~ Director determines that new protective structures are the appropriate means to address an emergency situation, the project proponent shall either obtain any permits that would have been required absent an emergency, pursuant to Chapter [90.58](#) RCW, Chapter [173-27](#) WAC, or this chapter, or remove the structure upon abatement of the emergency situation.
 - c. Within the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title [23](#)), all emergency construction shall be consistent with the policies and procedural requirements of WCC Title [23](#) and this chapter.
 - d. The applicant shall make a reasonable attempt to contact the ~~technical administrator~~ Director prior to activity; provided, that when prior notice is not feasible, notification of the action shall be submitted to the ~~technical administrator~~ Director as soon as the emergency is addressed and no later than 14 days following such action.

Comment [DOE-Req16]: Required Change – This change clarifies the fact that some actions allowed through this process may not meet the definition of “Development” as defined by the SMP. In such cases, a shoreline permit or statement of exemption would technically not be required. In such instances, any applicable standards of the SMP would still apply but the process outlined within this section could still be utilized. For example, removal of a single hazard tree would not require a development permit or exemption per the SMP, however mitigation would still be required consistent with the SMP, including applicable sections of the CAO.

2. **Maintenance, operation, and/or repair of existing infrastructure improvements**, including dikes and drainage ditches, rights-of-way, trails, roads, fences, and utilities or utility corridors; provided, that the activity does not further alter, impact, or encroach upon critical areas or buffers or further affect their functions. The maintenance or repair activity shall not result in increased risk to life or property. Maintenance or repair shall be allowed pursuant to the provisions set forth in this chapter; provided, that:

- a. The applicant shall submit to the ~~technical administrator~~ Director a written description of the maintenance activity with all of the following general information:
 - i. Type, timing, frequency, and sequence of maintenance activity to be conducted;
 - ii. Type of equipment to be used (hand or mechanical);
 - iii. Manner in which the equipment will be used; and
 - iv. Best management practices to be used.
- b. The applicant's written description shall be valid for up to five years; provided, that there is no significant change in the type or extent of maintenance activity.

3. **Utility Installation**. Construction of electrical, telecommunications, cable, water, sewer, and other utility lines and equipment within existing structures, facilities, infrastructure systems, development areas and uses, utility easements, and public and private rights-of-way, provided:

- a. There is no further intrusion into geologically hazardous areas, frequently flooded areas, wetlands, or fish and wildlife habitat conservation areas or their buffers;
- b. Soil erosion is controlled;
- c. Disturbed areas are promptly stabilized; and
- d. Any adverse impacts to critical areas are mitigated in accordance with this chapter.

3.4. **Select Removal or Pruning of Vegetation Management**. No vegetation shall be removed from a wetland, habitat conservation area, coastal or riverine erosion hazard area, or landslide hazard area, or their buffers, unless specifically listed in subsection (a) and meeting the conditions of subsection (b), below subject to the following:

- a. Exceptions. ~~Vegetation removal or pruning will be done in a manner that minimizes disturbance and prevents adverse effects on soil stability, fish or wildlife habitat, water quality, or water quantity.~~
 - i. Except for lawn, pasture, ornamental vegetation, and similar introduced vegetation, provided all areas of vegetation removal are revegetated no vegetation shall be removed from a wetland, habitat conservation area, coastal or riverine erosion hazard area, or landslide hazard area or their buffers unless otherwise authorized by the technical administrator for safety reasons.
 - ii. Restoration projects.
 - iii. Maintenance of legally established views so long as the criteria subsection (B)(6) of this section are met.
 - iv. The felling of hazard trees within critical areas and buffers, with an approved tree risk assessment completed by a qualified professional.

Comment [CES17]: Added to address Scoping Document item #12a.

- v. To improve overall slope or bank stability selective vegetation limbing, clearing, and/or thinning may be allowed in landslide hazard areas and/or riverine and coastal erosion hazard areas and/or their buffers pursuant to an approved habitat management plan designed. The plan shall be prepared by a qualified professional and reviewed by a licensed geologist or geotechnical engineer.
- b. Conditions.
- i. Vegetation removal or pruning will be done in a manner that minimizes disturbance and prevents adverse effects on soil stability, fish or wildlife habitat, water quality, or water quantity. Shrubs shall not be pruned to a height of less than 6 feet.
- ii. Cut vegetation shall be left within the critical area or buffer where practicable unless removal is warranted due to the presence of an established disease infestation, noxious weeds, environmental or other hazards, or because of access or maintenance needs if the area is a utility or access right-of-way.
- iii. All limb removal, crown thinning, or pruning shall meet the American National Standard Institute (ANSI) tree pruning standards. Pruning shall retain branches that overhang the water. No tree topping shall occur. In no circumstance shall removal of more than one-fourth (1/4) of the original crown be permitted within a three year period.
- iv. Hazard Tree Mitigation.
- (A) The landowner shall replace any trees that are removed at a three to one ratio (3:1). When approved by the Director, a landowner may choose to convert a hazard tree proposed for removal to a wildlife snag as an alternative if recommended by a certified arborist.
- (B) In addition to the requirements of WCC 20.80.300 through 20.80.380 (Landscaping), replacement trees shall meet the following criteria:
- (1) Replacement trees shall be exclusively species native to the coastal region of the Pacific Northwest.
- (2) At a minimum, 50% of replacement trees shall be evergreen species. If only one replacement tree is required, it shall be an evergreen species, unless otherwise approved by the Director.
4. ~~The felling of hazard trees within critical areas and buffers, with an approved tree risk assessment completed by a qualified professional.~~
5. **View Corridors.** Clearing and/or thinning for limited view corridors shall be allowed Except in landslide hazard areas and buffers and riverine and coastal erosion hazard areas and buffers, the clearing, pruning, and revegetation of buffer areas for view purposes where it does not adversely impact ecological and/or aesthetic values, and/or slope stability, provided:
- a. The proposed view corridor is not located in a landslide, riverine, or coastal erosion hazard areas hazard areas or their buffers.
- b. Clearing shall only be allowed when the applicant can demonstrate that a limited view corridor cannot be achieved through limb removal, crown thinning, or pruning. With

Comment [AP18]: This language is modeled after Tree Replacement Requirements for Lake Whatcom.

Comment [CES19]: New text added per Scoping Document, Item #18a.

clearing, a combination such strategies may be required to establish a view shall be required.

- ~~a-c.~~ A window or view opening is limited to the minimum necessary for view purposes and shall not exceed a cumulative total of 15% percent of buffer length, ~~unless the applicant can demonstrate to the technical administrator's satisfaction that a larger dimension is warranted because of slope or other site considerations. Trees greater than 12 inches in diameter at breast height shall be preserved, but may be shaped, windowed/thinned or pruned.~~ Whenever possible, view corridors shall be located in areas dominated with non-native vegetation and invasive species.
 - ~~b-d.~~ Significant ~~t~~ Trees greater than 12 inches in diameter at breast height shall be preserved, but may be shaped, windowed/thinned or pruned.
 - ~~e-e.~~ Low-growing native vegetation shall be retained and/or planted in the view corridor to provide habitat, stabilize the area, and achieve dense growth.
 - ~~d.~~ ~~This activity shall not be conducted more than once every 10 years for any individual residential property.~~
 - ~~e-f.~~ Clearing shall not take place where increased risks or adverse impacts, including cumulative impacts, to critical area functions and values are likely to occur.
 - ~~f-g.~~ This provision does not apply to open space set aside in a subdivision or other approval to which specific conditions are attached that prohibit clearing of vegetation without a written approval or permit.
 - ~~g-h.~~ View areas established under this section shall be considered lawfully established and may be maintained as provided for in subsection (B)(~~34~~) of this section.
6. **Navigation Aids.** The installation of navigation aids and boundary markers in accordance with applicable state and federal laws or the installation of mooring buoys in accordance with the Department of Fish and Wildlife design guidelines and the Whatcom County Shoreline Management Program (WCC Title [23](#)).
7. **Site investigation.** Routine site investigation work in wetlands, landslide hazard areas, and riverine and coastal erosion hazard areas. This includes geotechnical soil borings, groundwater monitoring wells, percolation tests, sediment sampling, and similar or related activities required for land use application submittals or permit compliance. Land survey and shallow soil test pits dug in conjunction with wetland delineation studies do not require notification.
8. **Household Garden Products.** ~~f~~ Fertilizers or ~~household~~ herbicides to address noxious weed infestation may be used in critical area buffers, but not in critical areas. Either must be applied at times and rates specified on the label in accordance with Washington State Department of Agriculture and other applicable regulations.
9. **Ditch Maintenance.** ~~Routine maintenance of ditches o~~ On agricultural lands maintenance of ditches is allowed; provided, that all of the following are met:
- a. The maintenance is necessary to support ongoing agricultural operations;
 - b. The maintenance activity does not expand the dimensions of the drainage channel beyond the original, lawfully established dimensions;

- c. The agricultural activities are conducted pursuant to an approved conservation farm plan prepared pursuant to Article 8 of this chapter;
 - d. The farm operator obtains a hydraulic project approval (HPA), if required, from the Washington State Department of Fish and Wildlife (WDFW) prior to the maintenance activity; and
 - e. The farm operator provides a copy of the HPA to the ~~technical administrator~~ Director as part of the written notification.
10. Alteration or removal of beaver-built structures two years old or less; provided, that:
- a. There is no adverse impact to wetland or river or stream functions.
 - b. The property owner obtains an HPA from WDFW (if required) prior to the maintenance activity.
 - c. The property owner provides a copy of the HPA to the ~~technical administrator~~ Director as part of the written notification.

16.16.240 Technical administrator and hearing examiner authority.

The technical administrator is the Whatcom County director of planning and development services or his/her designee. The hearing examiner is appointed by the county council. The technical administrator and the county hearing examiner shall administer and enforce the provisions of this chapter pursuant to the following:

- A. ~~The technical administrator shall have the primary responsibility for reviewing development proposals for compliance with this chapter and is authorized to approve, deny, or condition permits in accordance with the standards set forth herein. The technical administrator shall also have the following authority:~~
 - 1. ~~Authority to convene an interdisciplinary team to assist in reviewing development proposals or to solicit review from outside experts in accordance with WCC 16.16.245.~~
 - 2. ~~Authority to grant, condition, or deny reasonable use permits for single-family residential building permits within critical areas and/or their buffers.~~
 - 3. ~~Authority to grant, condition, or deny reasonable use permits for other development proposals that would affect critical area buffers, but not the critical areas themselves.~~
 - 4. ~~Authority to serve a cease and desist order pursuant to WCC 16.16.285 upon a person undertaking activity within a critical area or buffer in violation of this chapter.~~
 - 5. ~~Any additional responsibility and/or authority specifically provided for in the subsequent articles of this chapter.~~
- B. ~~The technical administrator's authority shall transfer to another county decision maker when another decision maker is specified for a separate project permit. In such cases, the technical administrator shall ensure that all procedural requirements of this chapter are met and shall make a recommendation to the designated decision maker as to how the provisions of this chapter apply to the permit action, including project permits.~~
- C. ~~The Whatcom County hearing examiner is hereby vested with responsibility and authority to hear appeals and perform the following duties:~~

Comment [RE20]: Moved to 16.16.200 (Authority)

1. Authority to grant or deny variances.
2. Authority to grant, condition, or deny reasonable use permits for all developments, except single-family building permits, affecting critical areas.
3. Authority to decide on appeals of administrative decisions including, but not limited to, reasonable use permits issued by the technical administrator.
4. Authority to hold public hearings pursuant to Chapter 22.05 WCC.

D.A. In granting, revising, or extending a permit, the technical administrator, or hearing examiner as applicable, may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other features of the proposed development deemed necessary to assure that the development is consistent with criteria set forth in this chapter. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to allow for future review or reevaluation to assure conformance with this chapter. The technical administrator and/or hearing examiner shall render a final decision in accordance with the timelines established in Chapter 22.05 WCC, as applicable. All decisions of the technical administrator and hearing examiner may be appealed pursuant to WCC 22.05.160.

16.16.245 Interdisciplinary team.

The technical administrator may call upon outside expertise including an interdisciplinary team if the technical administrator determines that additional technical assistance is required to assess a critical areas development proposal or ensure the application of best available science.

- A. The interdisciplinary team shall include the applicant and/or their technical representative, local, state, or federal agency or tribal representatives with expertise in the field, and/or independent qualified professionals with expertise relating to the critical area issue.
- B. The functions of the interdisciplinary team are to field check and verify critical area determinations/boundaries and assess species/habitat presence by providing written peer review of the information included with an application, identify areas of concern in the application of best available science, provide professional opinions and recommendations relevant to the provisions of this chapter, and help focus the preparation of subsequent reports and environmental documentation on the most relevant issues.
- C. The technical administrator will coordinate this effort and seek advice from the team.
- D. In lieu of convening an interdisciplinary team, the county may require third-party review by a qualified professional for any development proposal, mitigation plan, mitigation bank proposal, or other project for which additional technical expertise is needed. The cost of the third-party review shall be the permit applicant's responsibility.

Comment [RE21]: Moved to 16.16.220(C)
(Interdisciplinary Team)

16.16.250 Submittal requirements and Critical Areas Review Process.

- A. All applicants shall complete a prescreening meeting with the technical administrator Director prior to submitting an application subject to this chapter. The purpose of this meeting shall be to discuss the requirements for a complete application; the critical area standards and procedures; to review conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methods; and to determine reporting requirements.

B. Review and approval of a proposed development within a critical area or its buffer may be initiated through the application for any project permit in Whatcom County on department-approved forms and containing the materials listed in the department's Administrative Manual.

~~When County critical area maps, indicators, or other sources of credible information indicate that a site may be located in, contain, or abut critical areas or their buffers or setbacks, the shall require technical studies in accordance with the requirements for that critical area specified herein.~~

Comment [CES22]: Moved to 16.16.220

C. The ~~technical administrator~~ Director shall be responsible, in a timely manner, to make one of the following determinations regarding critical areas review:

~~1. Initial Determination. When county critical area maps or other sources of credible information indicate that a site may be located, contain or abut critical areas, critical area buffers or setbacks the technical administrator shall require technical studies in accordance with that critical area's specific article.~~

~~2.1~~ **Determination of Impacts.** The ~~technical administrator~~ Director shall use best available science, including but not limited to the County's critical areas maps, his/her field investigation results, his/her own knowledge of the site, information from appropriate resource agencies, or documentation from a scientific or other credible source to determine if the project will more probably than not adversely impact a critical area or its buffer. Identified adverse impacts shall be fully mitigated in accordance with WCC [16.16.260](#).

~~3.2~~ **Determination of Compliance.** If the applicant demonstrates to the satisfaction of the ~~technical administrator~~ Director that the project meets the provisions of this chapter and is not likely to adversely affect the functions and values of critical areas or buffers or provides mitigation to reduce the adverse impact to meet no net loss of the function and values of critical areas or buffers, the ~~technical administrator~~ Director shall make the determination that the proposal complies with this chapter.

~~4.3~~ **Decision to Approve, Condition, or Deny.** The ~~technical administrator~~ Director shall review all pertinent information pertaining to the proposed development and shall approve, approve with conditions, or deny the permit based on their review, and shall provide a detailed written decision. This determination shall be included in the project review record for the project permit in accordance with WCC Chapter [22.05](#).

D. The ~~technical administrator~~ Director may waive the requirement for critical areas review under this chapter when s/he determines that all of the following conditions are met:

1. The proposed development activity is located on a parcel that received approval of a previous critical areas review within the prior five years, site conditions have not changed, and the applicable regulations have not substantively changed;
2. All critical areas within 300 feet of the new proposed development, use, or activity on the parcel have been identified and delineated and the effects of the pro-posed development activity have been thoroughly considered in accordance with the most current regulations and best available science;

3. The activity is in compliance with all permit conditions including mitigating measures, as applicable, that were imposed as part of the prior review and there are no outstanding violations of conditions that were imposed as part of the previous review;
4. The development activity involves a use that is equally or less intensive than the development activity that was subject to the prior permit. Land use intensity shall be based on factors including development density, critical areas impacts, impervious surface, noise, glare, dust, hours of operation, and traffic.

~~E. Submittal Materials.~~

- ~~1. Complete application.~~
- ~~2. A detailed site map drawn to a common scale, or survey, showing at least the following:~~
 - ~~a. Vicinity map.~~
 - ~~b. Topographic, hydrologic, and vegetative features.~~
 - ~~c. The location and description of known wildlife and habitat features and all known critical areas.~~
 - ~~d. Proposed development activity with dimensions.~~
- ~~3. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc. Structures shall be dimensioned.~~

~~F. Elements of a critical area assessment are encouraged to be submitted together for timely review. However, the technical administrator may allow the various components to be submitted independently at different phases of a project if s/he determines piecemeal review will benefit the review process or at the request of the applicant.~~

Comment [CES23]: Deleted because we're moving away from the code listing everything needed in an application and just referring PDS's admin manual, which is referenced in subsection (B) now.

Comment [CES24]: Moved to 16.16.255

16.16.255 Critical Areas Assessment Reports.

- A. When the ~~technical administrator~~ Director determines a need for a critical area assessment pursuant to WCC [16.16.250](#), s/he shall have the authority to require a critical areas assessment report, to be prepared by a qualified professional and be consistent with best available science. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity. A critical area assessment shall have all of the following elements, unless determined by the ~~technical administrator~~ Director not to be needed:

1. The requirements found in subsections ~~B-(C)~~ and ~~H-(I)~~ of this section;
2. Geological hazard assessment;
3. Critical aquifer recharge assessment;
4. Frequently flooded area assessment;
5. Wetland assessment;
6. Fish and wildlife habitat conservation area assessment;
7. A mitigation plan addressing all mitigation requirements of this title.
8. Habitat Management Plan, when required by this chapter or Title 23.

- B. Elements of a critical area assessment are encouraged to be submitted together for timely review. However, at the request of the applicant the Director may allow the various components to be

submitted independently at different phases of a project if s/he determines piecemeal review is reasonable and will benefit the review process.

Comment [CES25]: Moved from 16.16.250

~~B.C.~~ The critical areas assessment report shall:

1. Demonstrate that the submitted proposal is consistent with the purposes and specific standards of this chapter;
2. Describe all relevant aspects of the development proposal and critical areas adversely affected by the proposal including any geological hazards and risks associated with the proposal, and assess impacts on the critical area from activities and uses proposed; and
3. Identify impacts of the proposed use/development on habitat corridors, ecological connectivity, and habitat for salmon and forage fish as identified in WCC 16.16.710.

Comment [CES26]: Added per SMP Scoping Document, Items #8b and 8c.

Comment [P/C27]: P/C moved to approve. Passed 7-0

- ~~3.4.~~ Where impacts are unavoidable, demonstrate through an alternatives analysis that no other feasible alternative exists. Such an analysis shall explore alternatives that might pose fewer impacts or better protect ecological functions, and address such issues as project design, location on the property, and type and location of mitigation, as applicable to the proposed development.

- ~~4.5.~~ Identify and evaluate the cumulative impacts of individual development proposals to assure that no net loss standards are achieved. ~~Consider the cumulative impacts of the proposed action that includes past, present, and reasonably foreseeable future actions to facilitate the goal of no net loss of critical areas.~~ Such impacts shall include those to wildlife, habitat, and migration corridors; water quality and quantity; and other watershed processes that relate to critical area condition, process, and/or service.

Comment [CES28]: Moved from 23.90.030
30.010 Ecological Protection

- ~~5.6.~~ Identify proposed mitigation and protective measures as required by this chapter.

~~C.D.~~ The ~~technical administrator~~ Director shall review the critical areas assessment report for completeness and accuracy and shall consider the recommendations and conclusions of the critical areas assessment report to assist in making administrative decisions concerning approval, conditional approval, or denial of the subject project and to resolve issues concerning critical areas jurisdiction and appropriate mitigation and protective measures.

E. The Director shall reject or request revision of the field and literature findings and conclusions reached in a critical areas assessment report when s/he can demonstrate that the assessment is inaccurate, incomplete, or does not fully address the critical areas impacts involved.

~~D.F.~~ Critical areas assessment reports shall generally be valid for a period of five years from the date the assessment is approved by the ~~technical administrator~~ Director. Future land use applications may require preparation of new or supplemental critical area assessment reports unless it can be demonstrated to the satisfaction of the ~~technical administrator~~ Director that the previously prepared report is adequate for current analysis. The ~~technical administrator~~ Director may also require the preparation of a new critical area assessment report or a supplemental report when new information is found demonstrating that the initial assessment is in error. If the ~~technical administrator~~ Director requires more information in the report, s/he shall make the request in writing to the applicant stating what additional information is needed and why.

~~F.A. The technical administrator shall reject or request revision of the field and literature findings and conclusions reached in a critical areas assessment report when s/he can demonstrate that the assessment is inaccurate, incomplete, or does not fully address the critical areas impacts involved.~~

F.G. To avoid duplication, the reporting requirements of this chapter shall be coordinated if more than one critical area assessment report is required for a site or development proposal. Similarly, where other agencies' assessments or reports are required pursuant to other state or federal laws, the applicant is encouraged to submit one report that satisfies all such agencies' requirements.

G.H. In addition to a hard copy, applicants shall provide reports and maps to the County in an electronic format that allows site data to be incorporated into the County critical areas database; however, the County may waive the electronic format requirement for single-family building permits. Applicants shall follow Whatcom County electronic submittal guidelines. This requirement shall not be construed as a requirement to use specific computer software, though it must be in a format usable by the County.

H.I. The intent of these provisions is to require a reasonable level of technical study and alternatives analysis pursuant to WCC [16.16.250](#) sufficient to assess potential project impacts and to protect critical areas. At a minimum, a critical areas assessment report shall include the following information:

1. A site plan showing the proposed development footprint and clearing limits, all relevant critical areas and buffers within and abutting the site, a written description of the project, an examination of project on-site design alternatives, and an explanation of why the proposed activity requires a location on, or access across, a critical area and why alternatives are not feasible;
2. A written description of the critical areas and buffers on or in the vicinity of the site, including their size, type, classification or rating, condition, disturbance history, and functions and values. Projects in frequently flooded areas must comply with the reporting requirements of WCC Title [17](#). Projects on or adjacent to geologically hazardous areas shall identify the type of hazard and assess the associated risks posed by the development or that the development may be subject to;
3. An analysis of potential adverse critical area impacts associated with the proposed activity including, but not limited to, effects related to clearing, grading, noise, light/glare, drilling, damming, draining, creating impervious surface, managing stormwater, releasing hazardous materials, and other alterations, and including an explanation of critical area processes and functions that may be affected;
4. An analysis of how critical area impacts or risks will be avoided and/or minimized, and/or an analysis of the proposed measures to prevent or minimize hazards. When impacts cannot be avoided, the report shall include a plan describing mitigation that will be provided to replace critical area functions and values altered as a result of the proposal. The mitigation plan shall be consistent with the provisions of WCC [16.16.260](#) and provide written documentation showing what the applicant considered for each step in the mitigation sequencing and the other applicable articles of this chapter;

5. The dates, names, signatures, and qualifications of the persons preparing the report and documentation of analysis methods including any fieldwork performed on the site; and
6. Additional reasonable information requested by the ~~technical administrator~~ Director for the assessment of critical areas impacts or otherwise required by the subsequent articles of this chapter.

16.16.260 General Mitigation Requirements.

- A. ~~Developments permitted pursuant to this chapter~~ that adversely impacts or alters a critical area or buffer shall include mitigation sufficient to minimize risks associated with geologic hazards and/or ~~maintain or replace~~ or improve critical areas functions and values. Any proposed development that cannot adequately mitigate critical area impacts as determined by the ~~technical administrator~~ Director shall be denied.
- B. In determining the extent and type of mitigation required, the Director may consider all of the following:
1. The ecological processes that affect and influence critical area structure and function within the watershed or sub-basin;
 2. The individual and cumulative effects of the action upon the functions of the critical area and associated watershed;
 3. Observed or predicted trends regarding the gains or losses of specific habitats or species in the watershed, in light of natural and human processes;
 4. The likely success of the proposed mitigation measures;
 5. Effects of the mitigation actions on neighboring properties; and
 6. Opportunities to implement restoration actions formally identified by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the watershed management board habitat project list or by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.
- C. Though in general on-site mitigation is preferred, the County shall not risk mitigation success or bypass opportunities for improving ecological processes in a watershed by precluding other mitigation options when it is more effective and sustainable. In order to provide the greatest ecological benefit, a combination of mitigation options may be used to achieve no net loss of ecological functions. In some cases it may be necessary to mitigate at multiple sites or on-site and out-of-kind. In determining the extent and type of mitigation required for impacts to critical areas, the Director may consider all of the following when applicable:
1. On-site and in-kind. Unless otherwise approved by the Director, all critical areas impacts shall be compensated by creation or restoration of replacement areas that are in-kind, on-site, and of similar critical area category.
 2. Off-site and in-kind. The Director may consider and approve off-site mitigation when the applicant demonstrates that greater biological and/or hydrological functions and values will be achieved. The mitigation may include restoration, creation, or enhancement of critical areas

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Comment [CES29]: Was repeated in several articles; moved to general mitigation regs.

Comment [CES30]: Policy change. This would allow off-site mitigation when it's better for the environment and assists w/ developing an offsite buffer mitigation program.

and/or their buffers. The process to determine the ratios of on-site mitigation shall apply to off-site ratios as well.

3. On-site and out-of-kind. The Director may consider and approve out-of-kind mitigation when the applicant demonstrates an ecological uplift of biological and/or hydrological functions and values will be achieved. The mitigation may include restoration, creation, or enhancement of other types of critical areas and/or their buffers. The process to determine the ratios of out-of-kind mitigation shall be based on a habitat management plan with a functional replacement assessment.

4. Alternative Mitigation Plans pursuant to 16.16.261 (Alternative Mitigation Plans)

5. Use of Mitigation Bank Credits, pursuant to 16.16.263 (Mitigation Banking)

- D. Where feasible, mitigation projects shall be completed prior to activities that will disturb habitat conservation areas critical areas or their buffers. In all other cases, mitigation shall be completed concurrently with development as quickly as possible following disturbance and prior to use or occupancy of the activity or development.

- E. Construction of mitigation projects shall be timed to reduce impacts; provided, that the Director may adjust the timing requirements to allow grading, planting, and other activities to occur during the appropriate season(s).

Comment [CES31]: Moved from 16.16.760

A-F. Mitigation Sequence.

1. When an alteration or impact to a critical area or buffer is proposed, the applicant shall conduct an alternatives/mitigation sequencing analysis and demonstrate that all reasonable efforts have been taken to mitigate adverse impacts in the following prioritized order:
 - a. Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action.
 - b. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or by taking affirmative steps to avoid or reduce adverse impacts.
 - c. Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment.
 - d. Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action.
 - e. Compensating for the adverse impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the adverse impact and the mitigation project and taking appropriate corrective measures.
2. Mitigation shall be provided for all unavoidable adverse alterations of a critical area or buffer. Mitigation for individual projects may include a sequenced combination of the above measures as needed to achieve the most effective protection, compensation for buffer functions and values, or mitigation for critical area functions and values.

B-G. Mitigation Plan.

1. A mitigation plan shall be developed in accordance with an approved critical areas assessment report and be consistent with best available science. Where appropriate, the mitigation plan

should be compatible with watershed and recovery planning goals for Whatcom County. The intent of these provisions is to require a level of technical study and analysis sufficient to protect critical areas and/or protect developments and occupants from critical areas involving hazards. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.

2. The mitigation plan shall provide for construction, maintenance, monitoring, and contingencies as required by conditions of approval and consistent with the requirements of this chapter.

3. The mitigation plan shall demonstrate that all reasonable efforts have been taken to provide sufficient mitigation such that the activity does not have significant adverse impacts and results in no net loss of shoreline and critical area ecological functions.

- ~~3.4.~~ The mitigation plan shall be prepared by a qualified professional; provided, that the ~~technical administrator~~ Director may waive the requirement to hire a qualified professional to prepare a mitigation plan when the required mitigation involves standard planting or enhancement practices. The waiver shall not be granted for mitigation practices involving wetland creation, rehabilitation, and/or restoration.

- ~~4.5.~~ The mitigation plan shall contain the following information:

- i. A description and scaled drawings of the activities proposed to reduce risks associated with geologic hazards and/or flooding, and/or to mitigate for impacts to critical area functions and values. This shall include all clearing, grading/ excavation, drainage alterations, planting, invasive weed management, installation of habitat structures, construction sequencing, best management practices, site protection, irrigation, and other site treatments associated with the development activities.
- ii. Specific information on construction or the proposed mitigation activity including timing, sequence, equipment needs, best management practices, and responsible parties.
- iii. A description of the functions and values that the proposed mitigation area(s) shall provide, and/or a description of the level of hazard mitigation provided.
- iv. The goals, objectives, and performance standards that the proposed mitigation action(s) shall achieve or demonstrate consistency with.
- v. A description of how the mitigation area(s) will be evaluated and monitored to determine if the performance standards are being met.
- vi. A program and schedule for construction and post-construction performance monitoring of the mitigation project.
- vii. An evaluation of potential adverse impacts on adjacent property owners resulting from the proposed mitigation and measures to address such impacts. Mitigation projects shall not result in adverse impacts to adjacent property owners.
- viii. Identification of potential courses of action or contingencies, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met.
- ix. Plan sheets with scale identified, showing the edge of the critical area and buffer area. The affected critical area and buffer shall be clearly staked, flagged, and/or fenced prior to and

Comment [CES32]: Moved from 23.90.030/30.010 Ecological Protection

during any site clearing and construction to ensure protection for the critical area and buffer during construction.

- x. A description of other permits and approvals being sought, including the need for permits from state and/or federal agencies.
- xi. Additional information as required by the subsequent articles of this chapter.

C.H. Mitigation Monitoring and Maintenance.

1. ~~All mitigation areas shall be maintained and managed to prevent degradation and ensure protection of critical area functions and values subject to field verification by the Director.~~

Comment [CES33]: Moved from below.

2. The ~~technical administrator~~ Director shall have the authority to require that compensatory mitigation projects be monitored annually for at least five years to establish that performance standards have been met. Required monitoring reports shall be submitted to the County annually during the monitoring period to document milestones, successes, problems, and contingency actions of the compensatory mitigation.
- i. ~~At year three, if the mitigation is meeting year 5 performance standards, The technical administrator~~ Director may reduce the monitoring timeframe to three years for minor mitigation projects involving critical area or buffer revegetation or vegetation enhancement, but not for projects involving wetland creation, wetland restoration, stream restoration or other activities that require manipulation of soils or water. ~~All mitigation areas shall be maintained and managed to prevent degradation and ensure protection of critical area functions and values subject to field verification by the technical administrator.~~
 - ii. The ~~technical administrator~~ Director shall have the authority to extend the monitoring period, require corrective measures, and/or require additional monitoring reports beyond the initial monitoring period for any project that does not meet the performance standards identified in the mitigation plan, or does not provide adequate replacement for the functions and values of the impacted critical area.

Comment [CES34]: Moved to (1)

~~2.3.~~ Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with WCC [16.16.265](#).

D.I. Mitigation Assurance.

- 1. The applicant and his/her representatives shall demonstrate sufficient scientific expertise and capability to implement the mitigation, monitor the site, and make corrections if the project fails to meet projected goals. The ~~technical administrator~~ Director may require the following to ensure that the mitigation is fully functional:
 - i. The applicant shall post a mitigation surety in the amount of ~~125 percent~~ of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The surety shall be based on an itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring, and other costs.
 - ii. The surety shall be in the form of an assignment of funds or other means approved by the ~~technical administrator~~ Director.

- iii. Surety authorized by this section shall remain in effect until the ~~technical administrator~~ Director determines, in writing, that the standards bonded for have been met. Surety shall generally be held by the County for a period of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary. Surety for construction may be reduced after initial completion in an amount not to exceed the cost of monitoring plus not less than ~~25% percent~~ of the construction cost.
- iv. Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, or monitoring.
- v. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, or monitoring.
- vi. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default subject to the provisions of WCC [16.16.285](#), and the County may demand payment of any financial guarantees or require other action authorized by the County code or any other law.
- vii. Any funds recovered pursuant to this section shall be used to complete the required mitigation or equivalent.

E.J. Permanent Protection. All mitigation areas shall be protected and managed to prevent degradation and ensure protection of critical area functions and values in perpetuity. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with WCC [16.16.265](#). If additional development is proposed that impacts a mitigation area and those impacts are accounted for under a new, approved mitigation plan, such protection may be removed so long as the final plan meets the requirements of this chapter for all cumulative impacts.

16.16.261 Alternative ~~or innovative~~ Mitigation Plans.

- A. The County shall consider and may approve alternative ~~or innovative~~ mitigation plans for major developments (as defined in Article 9 of this chapter), planned unit developments (pursuant to WCC Chapter [20.85](#)), and/or development agreements (pursuant to RCW [36.70B.170](#) through [36.70B.210](#)).
- B. If approved, said plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof; provided, that the standards of impact avoidance and minimization shall remain as guiding principles in the application of these provisions and when it is demonstrated that all of the following circumstances exist:
 - 1. The proponent(s) demonstrate the organizational and fiscal capability to carry out the purpose and intent of the plan;

2. The proponent(s) demonstrate that long-term management, maintenance, and monitoring will be adequately funded and effectively implemented;
 3. There is a clear likelihood for success of the proposed plan based on supporting scientific information or demonstrated experience in implementing similar plans;
 4. In terms of functional value, the proposed mitigation plan results in equal or greater protection and conservation of critical areas functions, services, and values than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;
 5. The plan is consistent with the general purpose and intent of this chapter, the Shoreline Management Program (WCC Title [23](#)), and the comprehensive plan;
 6. The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and
 7. The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
- C. Alternative mitigation plans shall be reviewed concurrently with the underlying land use permit(s) and decisions to approve or deny such plans shall be made in accordance with the underlying permit process. The plan shall be reviewed by the ~~technical administrator~~ Director to ensure compliance with the general purpose and intent of this chapter and to ensure accuracy of the data and effectiveness of proposed management strategies. In making this determination the ~~technical administrator~~ Director shall consult with the State Departments of Fish and Wildlife, Ecology, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts. If the ~~technical administrator~~ Director finds the plan to be complete, accurate, and consistent with the purposes and intent of this chapter, the designated decision maker shall solicit comment pursuant to the public notice provisions of WCC Chapter [22.05](#) prior to final approval/denial of permission of the plan to substitute for the requirements and standards of this chapter.

16.16.262 Watershed-Based Management Plans.

- A. The County may consider watershed-based management plans sponsored by watershed improvement districts, other special purpose districts, or other government agencies.
- B. If approved, said plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof; provided, that the standards of impact avoidance and minimization shall remain as guiding principles in the application of these provisions and when it is demonstrated that all of the following circumstances exist:
 1. The proponent(s) demonstrate the organizational and fiscal capability to carry out the purpose and intent of the plan;
 2. The proponent(s) demonstrate that long-term management, maintenance, and monitoring of the watershed will be adequately funded and effectively implemented;

3. There is a clear likelihood for success of the proposed plan based on supporting scientific information or demonstrated experience in implementing similar plans;
 4. In terms of functional value, the proposed mitigation plan results in equal or greater restoration, protection, and conservation of the impacted critical areas than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;
 5. The plan is consistent with the general purpose and intent of this chapter, the comprehensive plan, and an approved watershed plan prepared pursuant to Chapter [90.82](#) RCW (the State Watershed Management Act) or the plan is prepared under other local or state authority that is consistent with the goals and policies of an applicable and approved watershed plan prepared pursuant to Chapter [90.82](#) RCW;
 6. The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and
 7. The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
- C. Watershed-based management plans shall be approved by the County Council by ordinance and appended to this chapter. The process for approval shall be as follows:
1. The plan shall be reviewed by the ~~technical administrator~~ Director to ensure compliance with the purposes of this chapter, the Whatcom County Shoreline Management Program (WCC Title [23](#)), and with the comprehensive plan, and to ensure accuracy of the data and effectiveness of proposed management strategies. In making this determination the ~~technical administrator~~ Director shall consult with the State Departments of Fish and Wildlife, Ecology, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts.
 2. If the ~~technical administrator~~ Director finds the plan to be complete, accurate, and consistent with the purposes and intent of this chapter, the designated decision maker shall solicit comments pursuant to the public notice provisions of WCC Chapter [22.05](#) prior to final approval/denial of permission of the plan to substitute for the requirements and standards of this chapter.
 3. The designated decision maker shall not approve watershed-based management plans that conflict with Chapter [90.82](#) RCW.

16.16.263 Mitigation Banksing.

- A. **Mitigation Bank Credits.** The County may approve ~~the use of~~ mitigation banking credits as a form of compensatory mitigation for wetland and habitat conservation area impacts when the provisions of this chapter require mitigation and when it is clearly demonstrated that the use of a bank will provide equivalent or greater replacement of critical area functions and values when compared to on-site mitigation; provided, that all of the following criteria are met:
1. Banks shall only be used when they provide significant ecological benefits including long-term conservation of critical areas, important species, habitats and/or habitat linkages, and when

they are consistent with the County comprehensive plan and create a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.

2. The bank shall be established in accordance with the Washington State Draft Mitigation Banking Rule, Chapter [173-700](#) WAC or as revised, and Chapter [90.84](#) RCW and the federal mitigation banking guidelines as outlined in the Federal Register, Volume 60, No. 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain state and federal certification.
3. Preference shall be given to mitigation banks that implement restoration actions that have been identified formally by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter [90.82](#) RCW, a salmonid recovery plan or project that has been identified on the watershed management board habitat project list or by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.

B. **Establishing a Mitigation Banks.** Establishing a mitigation bank shall require a major project permit in accordance with WCC Chapter [20.88](#) and shall be subject to a formal review process including public review as follows:

1. The bank sponsor shall submit a bank prospectus for County review. The prospectus shall identify the conceptual plan for the mitigation bank, including:
 - i. The ecological goals and objectives of the bank;
 - ii. The rationale for site selection, including a site map and legal description of the prospective bank site;
 - iii. A narrative demonstrating compliance with the Whatcom County comprehensive plan, associated development standards and this chapter, shoreline restoration plan, watershed planning documents prepared and adopted pursuant to Chapter [90.82](#) RCW, and/or the salmonid recovery plan;
 - iv. A description of the existing site conditions and expected changes in site conditions as a result of the banking activity, including changes on neighboring lands;
 - v. A conceptual site design;
 - vi. A description of the proposed protective mechanism such as a conservation easement; and
 - vii. Demonstration of adequate financial resources to plan, implement, maintain, and administer the project.
2. The ~~technical administrator~~ Director shall review the bank prospectus either by participating in the state's Mitigation Bank Review Team (MBRT) process and/or by hiring independent, third-party expertise to assist in the review.
3. If the ~~technical administrator~~ Director determines that the bank prospectus is complete, technically accurate, and consistent with the purpose and intent of this chapter, s/he shall forward the prospectus to the County Council for initial review. If the proposed bank involves conversion of agricultural land to nonagricultural uses, the County Council shall seek a

recommendation from the agricultural advisory committee as to whether the conversion should be allowed. The committee's recommendation shall be nonbinding. The County Council may require mitigation for the loss of agricultural lands.

4. If the County Council determines, based on the initial review, that the prospectus is valid, it shall issue a notice to proceed to the bank sponsor. Following receipt of the notice to proceed, the bank sponsor may submit application for a major project permit in accordance with WCC Chapter [20.88](#). The notice to proceed shall not be construed as final approval of the bank proposal, but shall indicate approval to proceed with the development of the mitigation bank instrument, which details all of the legal requirements for the bank.
5. Upon receipt of a draft mitigation banking instrument from the bank sponsor and major project permit application, the ~~technical administrator~~ Director shall review the banking instrument and major project permit in consultation with the MBRT and/or other third-party expert. Following review of the mitigation banking instrument and major project permit, the ~~technical administrator~~ Director shall make a recommendation to certify and approve, conditionally certify and approve, or deny the bank proposal and major project permit in accordance with the provisions of WCC Chapters [20.88](#) and [22.05](#).
6. Following receipt of the recommendation, the County Council shall proceed with review in accordance with the provisions outlined in WCC Chapters [20.88](#) and [22.05](#).
7. The bank sponsor shall be responsible for the cost of any third-party review.

C. **Award of Bank Credits.** The award of bank credits for an approved bank may be negotiated based on habitat acreage, habitat quality, and contribution to a regional conservation strategy that has been approved by the County and other appropriate regulatory agency(ies). Credit availability may vary in accordance with agreed-upon performance criteria for the development of the resource value in question. Awarded bank credits, subject to the approval of the County and regulatory agency(ies), may be made transferable. Whether out-of-kind mitigation credit will be allowed at a particular bank will require a fact-specific inquiry on a case-by-case basis for the project creating the impacts.

D. **Use of Bank Credits.**

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - a. The bank is certified under state rules;
 - b. The administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - c. The proposed use of credits is consistent with the terms and conditions of the certified bank instrument.
2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the certified bank instrument.
3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the certified bank instrument. In some cases, the service area

of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

16.16.264 In-Lieu Fees.

To aid in the implementation of off-site mitigation, the County may develop an in-lieu-fee program. This program shall be developed and approved through a public process and be consistent with federal rules, state policy on in-lieu-fee mitigation, and state water quality regulations. An approved in-lieu-fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu-fee program sponsor, a governmental or nonprofit natural resource management entity. Credits from an approved in-lieu-fee program may be used when subsections A through F of this section apply:

- A. The approval authority determines that it would provide environmentally appropriate compensation for the proposed impacts.
- B. The mitigation will occur on a site identified using the site selection and prioritization process in the approved in-lieu-fee program instrument.
- C. The proposed use of credits is consistent with the terms and conditions of the approved in-lieu-fee program instrument.
- D. Land acquisition and initial physical and biological improvements of the mitigation site must be completed within five years of the credit sale.
- E. Projects using in-lieu-fee credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland scientist using the method consistent with the credit assessment method specified in the approved instrument for the in-lieu-fee program.
- F. Credits from an approved in-lieu-fee program may be used to compensate for impacts located within the service area specified in the approved in-lieu-fee instrument.

16.16.265 Critical Areas Protective Measures.

~~When an impact to critical area or a buffer will occur due to a proposed development, a standard buffer width has been altered, or mitigation is required, one or more of the following protective measures shall be applied:~~

A. General measures (applicable to all projects)

1. **Building Setbacks.** ~~The County shall require b~~ Buildings and other structures shall ~~to be set back~~ a minimum distance of 10 feet from the edge of geological hazard setback, a critical area buffer, or from the critical area where no buffer is required-, unless otherwise determined by the Director that a shorter distance will suffice. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. ~~The following uses may be are-allowed in the building set-back~~ from the buffer if they do not cause damage to the critical root zone of trees in the buffer:
- a. Landscaping;
- b. Uncovered decks less than 30 inches in height;
- c. Building overhangs 18 inches or less;

Comment [CES35]: Moved from below. Then amended on recommendation of our consultants. Mirrors COB regs.

- d. Impervious surfaces, including such as driveways, parking lots, roads, and patios; provided, that such surfaces conform to the applicable water quality standards and that construction equipment does not enter or damage the buffer or critical area;
 - e. Clearing and grading;
 - f. Utilities, including ~~W~~wells, septic systems, and propane tanks with fuel capacities up to 500 gallons;
2. Temporary protection measures to identify location of critical areas and buffers such as construction fencing, erosion and sediment control, or similar shall be required during construction of the proposed project.

B. Project Specific Measures. Based on the specifics of the project, the Director will determine which of the following apply:

1. **Tree Protection.** If significant trees are identified, such that their drip line extends beyond the reduced buffer edge, the following tree protection requirements must be followed:
 - a. A tree protection area shall be designed to protect each tree or tree stand during site development and construction. Tree protection areas may vary widely in shape, but must extend a minimum of five feet beyond the existing tree canopy area along the outer edge of the dripline of the tree(s), unless otherwise approved by the department.
 - b. Tree protection areas shall be added and clearly labeled on all applicable site development and construction drawings submitted to the department.
 - c. Temporary construction fencing at least thirty inches tall shall be erected around the perimeter of the tree protection areas prior to the initiation of any clearing or grading. The fencing shall be posted with signage clearly identifying the tree protection area. The fencing shall remain in place through site development and construction.
 - d. No clearing, grading, filling or other development activities shall occur within the tree protection area, except where approved in advance by the department and shown on the approved plans for the proposal.
 - e. No vehicles, construction materials, fuel, or other materials shall be placed in tree protection areas. Movement of any vehicles within tree protection areas shall be prohibited.
 - f. No nails, rope, cable, signs, or fencing shall be attached to any tree proposed for retention in the tree protection area.
 - g. The department may approve the use of alternate tree protection techniques if an equal or greater level of protection will be provided.

Comment [CES36]: Added in keeping with similar tree protection measures adopted by Co/C in other parts of the WCC.

A-2. Deterrent Devices. The ~~technical administrator~~ Director, as a condition of permit approval, may require that the outer boundary of a wetland or habitat conservation area and its buffer, a mitigation site, a designated open space, or a conservation easement be identified with signs, markers, and/or fencing to minimize potentially harmful intrusions from adjacent land uses, to alert citizens to a potential public health or safety risk associated with a critical area, or to accomplish other objectives specifically provided for elsewhere in this chapter. The ~~technical administrator~~ Director shall provide specifications on the type, content, and size of the signs

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prior to permit approval. The signs shall be posted near primary access points and approximately every 200 feet along the critical area boundary.

3. **Notice on Title.** The owner of any property containing any critical area or buffer ~~that are not altered by a proposed development for which a development permit is about to be issued~~ shall record a ~~notice document~~ with the County Auditor Real Estate Records, ~~in a format approved provided by the technical administrator~~ Director, and provide a copy of the filed notice to the Department of Planning and Development Services ~~department at the time prior to the project permit is being issued~~. This requirement may be waived by the Director for certain geologically hazardous areas if s/he finds that the risk is so low as to not warrant notification (e.g., old alluvial deposits). The notice on title shall provide notice of:

- a. ~~advise of~~ The presence of a critical area(s) or buffer(s) on the property, and that limitations on actions in or affecting the critical area or buffer exist.
- b. ~~The notice shall provide that~~ That restrictions on uses within the critical area ~~apply exist until such time as the Technical Administrator~~ Director approves a change ~~in to the restriction(s) and such approval is filed.~~

~~This~~ Such notice on title shall not be required for a development proposal by a public agency or public or private utility within a right-of-way or easement for which they do not have fee-simple title. This requirement shall be waived by the technical administrator for certain geologically hazardous areas if s/he finds that the risk is so low as to not warrant notification (e.g., old alluvial deposits).

- 1.4. **Tracts and Easements.** Prior to final approval of any ~~development project~~ permit, the ~~part of the critical areas and required buffers that is located on the site within the review area (as specified in the Review & Reporting Requirements of each Article of this Chapter)~~ shall be protected using ~~one of the following mechanisms:~~

- a. ~~For land divisions other than short plats, p~~Placed in a separate tract or tracts owned in common by all lots ~~within a subdivision, short subdivision, or binding site plan or dedicated to a public or private land trust for conservation.~~
- b. ~~For all other project permit types, Covered by~~Placed in a protective conservation easement, on a form provided or approved by Whatcom County; ~~or~~
- c. Mitigation areas shall be placed in a native growth protection area (NGPA) easement, on a form provided or approved by Whatcom County.
- b. ~~public or private land trust dedication; or~~
- e. ~~Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as designation of a separate tract or tracts as determined by the county technical administrator or hearing examiner.~~

Comment [CES37]: Added to meet permanent protection requirements of existing text.

~~B. A. Building Setback. The county shall require buildings and other structures to be set back a minimum distance of 10 feet from the edge of geological hazard setback, a critical area buffer, or from the critical area where no buffer is required. The following uses are allowed in the building set back:~~

~~1. Landscaping;~~

~~2.1. Uncovered decks;~~

~~3.1 Building overhangs 18 inches or less;~~

~~4.1 Impervious surfaces such as driveways, parking lots, roads, and patios; provided, that such surfaces conform to the applicable water quality standards and that construction equipment does not enter or damage the buffer or critical area;~~

~~5.1 Clearing and grading;~~

~~6.1 Wells;~~

- C. **Indemnification.** At the ~~technical administrator~~ Director's discretion, when a permit is granted for development or use within a geologic, flood, or other hazard area, the property owner shall sign an indemnification agreement acknowledging hazards posed to the development and absolving the County of all responsibility, to be recorded against the property prior to permit issuance.

~~D.A. Temporary protection measures to identify location of critical areas and buffers such as construction fencing, erosion and sediment control, or similar shall be required during construction of the proposed project.~~

16.16.270 Reasonable Use Exceptions.

- A. If the application of this Chapter would result in denial of all reasonable and economically viable use of a property, and if such reasonable and economically viable use of the property cannot be obtained by consideration of a variance pursuant to WCC 16.16.273 (Variances), then a landowner may seek a reasonable use exception from the standards of this Chapter. Reasonable use exceptions are intended as a last resort when no plan for mitigation and/or variance can meet the requirements of this Chapter and allow the applicant a reasonable and economically viable use of his or her property. The reasonable use exception shall follow the variance and public notification procedures of WCC Title 22 (Land Use and Development).
- B. Requests for reasonable use exceptions shall be a Type III project permit application (See WCC Title 22, Land Use & Development).
- C. The Hearing Examiner shall only grant a reasonable use exception under all of the following conditions:
1. The proposed development is otherwise allowed under Whatcom County code.
 2. There is no portion of the site where the provisions of this chapter allow reasonable economic use, including agricultural use or continuation of legal nonconforming uses.
 3. The application of this Chapter would deny all reasonable and economically viable use of the property so that there is no reasonable and economically viable use with a lesser impact on the critical area than that proposed.
 4. There is no feasible alternative to the proposed activities that will provide reasonable economic use with less adverse impact on critical areas and/or buffers. Feasible alternatives may include, but are not limited to, locating the activity on a contiguous parcel that is under the ownership or control of the applicant, change in use, reduction in size, change in timing of activity, and/or revision of project design.
 5. Activities will be located as far as possible from critical areas and the project employs all reasonable methods to avoid adverse effects on critical area functions and values, including

Comment [CES38]: Policy change: Staff is proposing that reasonable use exceptions be the last method of altering standards to allow reasonable economic use of constrained property, and that they be decided upon by the Hearing Examiner. However, to counter the additional time and cost of this process, staff is also proposing to use the new category of minor variances that Council recently created. (16.16.273 Variances.) They would be limited to variances for a 25% to 50% reduction of critical area buffers (when mitigated and they meet certain criteria) but would address most of the instances that reasonable use exceptions are currently applied for. We believe that overall, these changes would significantly reduce the number cases having to go to the Hearing Examiner.

Comment [CES39]: Moved from below

maintaining existing vegetation, topography, and hydrology. Where both critical areas and buffer areas are located on a parcel, buffer areas shall be disturbed in preference to the critical area.

6. The proposed development does not pose a threat to the public health and safety.
7. The proposed activities comply with all state, local and federal laws, such as special flood hazard areas restrictions and on-site wastewater disposal.
8. Measures shall be taken to ensure the proposed activities will not cause degradation of groundwater or surface water quality, or adversely affect drinking water supply.
9. Any proposed modification to a critical area will be evaluated by the Hearing Examiner through consideration of an approved critical area assessment report and habitat management plan and will be the minimum modification necessary to allow reasonable use of the property.
10. The inability of the applicant to derive reasonable use of the property is not the result of actions by the current or previous owners in segregating or dividing the property and/or creating the condition of lack of use after September 30, 2005.
11. The applicant has requested and been denied a variance under the provisions of WCC 16.16.273 (Variances).

12. For single-family residences, the maximum impact area shall not exceed 10% of the lot area or 2,500 square feet, whichever is greater; provided that in no instance shall it exceed ~~may be no larger than~~ 4,000 square feet. This impact area shall include the residential structure as well as appurtenant development that ~~are~~ is necessarily connected to the use and enjoyment of a single-family residence. ~~These~~ Such appurtenant developments includes garages, decks, driveways, parking, on-site septic systems, and all lawn and nonnative landscaping, with the following exceptions:

a. ~~On lots outside of the shoreline jurisdiction, w~~When an extended driveway is necessary to access a portion of a development site with the least impact on critical area and/or buffers, those portions of the driveway shall be excluded from the 4,000-square-foot maximum impact area; provided, that the access road or driveway meets the standards of WCC 16.16.620(~~ED~~) or 16.16.720(~~ED~~), as applicable.

~~On lots within the shoreline jurisdiction, when an extended driveway is necessary to access a portion of a development site with the least impact on critical areas and/or buffers, approval of those driveway portions shall be sought through a shoreline variance (WCC 23.60.030) and the applicant shall demonstrate that the size and location of the driveway is the minimum relief necessary to access the development site.~~

A.D. The Hearing Examiner may issue conditions of approval including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers. The Hearing Examiner may also specify mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible using best available science.

A. ~~Permit applicants for a property so encumbered by critical areas and/or buffers that application of this chapter, including buffer averaging, buffer reduction, or other mechanism, would deny all~~

Comment [DOE-Req40]: Required Change – This and the subsequent change removes any reference to the SMP as 16.16.270 is not incorporated by reference as part of the SMP at 23.05.065.A.

Comment [P/C41]: P/C moved to keep but slightly modify the original language as shown. Passes 9-0.

Comment [DOE-Req42]: To do: Ryan says to keep a but move b to T-23

Comment [DOE-Req43]: Required Change – This and the previous change removes any reference to the SMP as 16.16.270 is not incorporated by reference as part of the SMP at 23.05.065.A.

reasonable use may seek approval pursuant to the reasonable use standards and procedures provided in this section.

~~B. Reasonable Use Standards.~~

- ~~1. Nothing in this chapter is intended to preclude all reasonable economic use of property. If the application of this chapter would deny all reasonable economic use of the subject property, including agricultural use, use or development shall be allowed if it is consistent with the zoning code and the purposes of this chapter.~~
- ~~2. To qualify as a reasonable use, the technical administrator or hearing examiner, as appropriate, must find that the proposal is consistent with all of the following criteria:~~
 - ~~a. There is no portion of the site where the provisions of this chapter allow reasonable economic use, including agricultural use or continuation of legal nonconforming uses;~~
 - ~~b. There is no feasible alternative to the proposed activities that will provide reasonable economic use with less adverse impact on critical areas and/or buffers. Feasible alternatives may include, but are not limited to, locating the activity on a contiguous parcel that has been under the ownership or control of the applicant since September 30, 2005, change in use, reduction in size, change in timing of activity, and/or revision of project design;~~
 - ~~c. Activities will be located as far as possible from critical areas and the project employs all reasonable methods to avoid adverse effects on critical area functions and values, including maintaining existing vegetation, topography, and hydrology. Where both critical areas and buffer areas are located on a parcel, buffer areas shall be disturbed in preference to the critical area;~~
 - ~~d. The proposed activities will not result in adverse effects on endangered or threatened species as listed by the federal government or the state of Washington, or be inconsistent with an adopted recovery plan;~~
 - ~~e. Measures shall be taken to ensure the proposed activities will not cause degradation of groundwater or surface water quality, or adversely affect drinking water supply;~~
 - ~~f. The proposed activities comply with all state, local and federal laws, including those related to erosion and sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;~~
 - ~~g. The proposed activities will not cause damage to other properties;~~
 - ~~h. The proposed activities will not increase risk to the health or safety of people on or off the site;~~
 - ~~i. The inability to derive reasonable economic use of the property is not the result of segregating or dividing the property and/or creating the condition of lack of use after September 30, 2005;~~
 - ~~j. The project includes mitigation for unavoidable critical area and buffer impacts in accordance with the mitigation requirements of this chapter;~~
 - ~~k. a. For single family residences, the maximum impact area may be no larger than 4,000 square feet. This impact area shall include the residential structure as well as appurtenant development that are necessarily connected to the use and enjoyment of a single family~~

~~residence. These appurtenant developments include garages, decks, driveways, parking, on-site septic systems, and all lawn and nonnative landscaping, with the following exceptions:~~

- ~~i. On lots outside of the shoreline jurisdiction, when an extended driveway is necessary to access a portion of a development site with the least impact on critical area and/or buffers, those portions of the driveway shall be excluded from the 4,000-square-foot maximum impact area; provided, that the access road meets the standards of WCC 16.16.620(E) or 16.16.720(C), as applicable.~~
- ~~ii.i. On lots within the shoreline jurisdiction, when an extended driveway is necessary to access a portion of a development site with the least impact on critical areas and/or buffers, approval of those driveway portions shall be sought through a shoreline variance (WCC 22.60.030) and demonstrate that the size and location of the driveway is the minimum relief necessary to access the development site.~~

C. Reasonable Use Procedures:

1. Procedural requirements for reasonable use exception applications shall be as follows:
 - a. Reasonable use exception applications shall be subject to an open record public hearing; except, that reasonable use exception applications for single family residential building permits, or for other development proposals that would affect critical area buffers, but not the critical areas themselves, shall be processed administratively by the technical administrator.
 - b. Reasonable use exception applications that require an open record hearing shall be processed in accordance with Chapter 22.05 WCC.
 - c. Reasonable use exception applications that are subject to administrative approval by the technical administrator shall be processed in accordance with Chapter 22.05 WCC.
 - d. The hearing examiner or technical administrator shall have the authority to set an expiration date for any or all reasonable use approvals. The development proposal must be completed before the approval expires.
 - e. Any person aggrieved by the granting, denying, or rescinding of a reasonable use exception by the technical administrator or any party of record may appeal the technical administrator's decision pursuant to WCC 16.16.280 or the hearing examiner decision pursuant to Chapter 22.05 WCC.
 - f. Any application for a reasonable use exception or approval which remains inactive for a period of 180 days shall expire and a new application and repayment of fees shall be required to reactivate the proposal; provided, that the technical administrator may grant a single 90-day extension for good cause. Delays such as those caused by public notice requirements, environmental (SEPA) review, litigation directly related to the proposal, or changes in government regulations shall not be considered as part of the inactive period.
2. All reasonable use exception applications or other approvals shall be subject to the provisions of this chapter, which are in effect at the time of application.
3. Each application for a reasonable use exception shall be accompanied by a fee as stated in the unified fee schedule.

4. ~~In making reasonable use decisions, the technical administrator shall have the authority to require submittal of technical reports in accordance with WCC 16.16.255 and/or 16.16.260(B).~~

16.16.273 Variances.

- A. ~~Where strict application of and compliance with the dimensional requirements of this chapter renders compliance with these provisions an undue hardship and when no other feasible alternative exists, permit applicants may seek a variance for relief.~~
- B. ~~As described in WCC 22.05.024 (Variances) there are two types of variances pertaining to this Chapter: Minor and Major variances.~~
1. ~~Minor variances shall be limited to variances for a 25% to 50% reduction of critical area buffers.~~
2. ~~Major variances include all other variances.~~
- ~~A-C. pursuant to WCC 20.84.100. A-V~~ Variance applications shall be processed pursuant to WCC 22.05.024 (Variances), or if in the shoreline jurisdiction WCC 22.07.050 (Shoreline Variances), Chapter 22.05 WCC and meet the criteria therein.

16.16.275 Nonconforming Uses, Structures, and Lots ~~uses/buildings.~~

The following provisions shall apply to legally existing uses, ~~and/or buildings and/or~~ structures, or lots that do not meet the specific standards of this chapter:

- A. ~~The lawful use of any legal nonconforming building, structure, land, or premises existing on September 30, 2005, or authorized under a permit or approval issued, or otherwise vested, prior to that date may be continued, subject to this section and the provisions for a nonconforming structure in WCC Chapter 20.83; provided, that agricultural activities shall conform to Article 8 of this chapter (Conservation Program on Agriculture Lands).~~
- ~~A-B.~~ If a nonagricultural nonconforming use or structure is intentionally abandoned for a period of five years ~~12 months~~ or more, then any future use of the ~~nonconforming building, land, or premises~~ shall be consistent with the provisions of this chapter.
- ~~B-C.~~ Expansion, alteration, and/or intensification of a nonconforming use is prohibited.
- ~~C-D.~~ Expansion, alteration, and/or intensification of a legal nonconforming building, or structure (including normal maintenance and repair), is allowed unless such use will produce impacts that degrade the critical area, including but not limited to vegetation clearing; additional impervious surfaces; generation of surface water runoff; discharge, or risk of discharge of pollutants; increased noise, light or glare; or increased risk associated with geologically hazardous areas.
- ~~D-E.~~ Nonconforming structures that are completely destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind if there is no alternative that allows for compliance with the standards of this chapter; provided, that:
1. Intentional demolition or removal is not a casualty.
- ~~1-2.~~ The reconstruction process is commenced within five years ~~18 months~~ of the date of such damage; and
- ~~2-3.~~ The reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in subsection C of this section.

Comment [CES44]: To make consistent with T-20

Comment [CES45]: To be consistent with SMP

Comment [CES46]: To be consistent with SMP

~~E.F.~~ Nonconforming uses, structures, and lots in the shoreline areas-jurisdiction shall be governed by the shoreline management provisions of WCC Title [23](#).

~~F.G.~~ When a development project permit is sought for a parcel containing a nonconforming building or structure that has been intentionally abandoned for a period of five years or more, the technical administrator/Director may require removal of the nonconforming building and restoration of the critical area or buffer in accordance with this chapter as a condition of permit approval.

16.16.280 Appeals.

Final permit decisions shall be subject to appeal in accordance with the procedures of WCC Chapter [22.05](#).

16.16.285 Penalties and Enforcement.

- A. Any person who violates any of the provisions of this chapter shall be liable for a civil offense and may be fined a sum not to exceed \$1,000 for each offense. After a notice of violation has been given, each day of site work in conjunction with the notice of violation shall constitute a separate offense.
1. The penalty provided in subsection A of this section shall be assessed and may be imposed by a notice in writing either by certified mail with return receipt requested or by personal service to the person incurring the same. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity. In appropriate cases, corrective action shall be taken within a specific and reasonable time.
 2. Within 30 business days after the notice is received, the person incurring the penalty may apply in writing to the County for remission or mitigation of such penalty. Upon receipt of the application, the County may remit or mitigate the penalty upon whatever terms the County in its discretion deems proper. The County's final decision on mitigation or revision shall be reviewed by the Hearing Examiner if the aggrieved party files a written appeal therewith of said decision within 10 business days of its issuance.
- B. If work activity has occurred on a site in violation of this chapter, prompt corrective action, restoration, or mitigation of the site will be required when appropriate. If this provision is not complied with, the County may restore or mitigate the site and charge the property owner for the full cost of such an activity. Additionally, any and all permits or approvals issued by the County may be denied for that site for a period of up to six years.
- C. In the event any person violates any of the provisions of this chapter, the County may issue a correction notice to be delivered to the owner or operator, or to be conspicuously posted at the site. In a nonemergency situation, such notice may include notice of the intent to issue a stop work order no less than 10 business days following the receipt of the correction notice, and provide for an administrative pre-deprivation hearing within 10 business days of the notice. In an emergency situation where there is a significant threat to public safety or the environment, the County may issue a stop work order. The stop work order shall include, in writing, the right to request an administrative pre-deprivation hearing within 72 hours following receipt of the stop work order. Failure to comply with the order to stop work shall be a gross misdemeanor punishable upon

conviction by a minimum fine of \$500.00 up to a maximum fine of \$1,000 or one year in jail, or both. Under no circumstance may the court defer or suspend any portion of the minimum \$500.00 fine for any conviction under this section. Each day or part thereof of noncompliance with said order to stop work shall constitute a separate offense.

- D. The County may suspend or revoke a permit if the applicant violates the conditions or limitations set forth in the permit or exceeds the scope of the work set forth in the permit.
- E. The prosecuting attorney may enforce compliance with this chapter by such injunctive, declaratory, or other actions as deemed necessary to ensure that violations are prevented, ceased, or abated.
- F. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.
- G. After the Fact Permit Fee. After the fact permit application fees shall be double the amount established by the unified fee schedule.

16.16.295 Open Space and Conservation.

The following programs may be employed to ~~achieve the purposes of this chapter and~~ minimize the burden to individual property owners from application of the provisions of this chapter:

- A. Open Space. Any property owner whose property contains a critical area or buffer and who meets the applicable qualifying criteria may apply for open space taxation assessment pursuant to Chapter [84.34](#) RCW.
- B. ~~Native Growth Protection Area (NGPA) Conservation~~-Easement. Any person who owns an identified critical area or its associated buffer may place a ~~conservation-NGPA~~ easement over that portion of the property by naming the County or its qualified designee under RCW [64.04.130](#) as beneficiary of the conservation. This ~~conservation-NGPA~~ easement may be in lieu of separate critical areas tracts that qualify for open space tax assessment described in subsection A of this section. The purpose of the easement shall be to preserve, protect, maintain, and limit use of the affected property. The terms of the ~~conservation-NGPA~~ easement may include prohibitions or restrictions on access and shall be approved by the property owner and the County.
- C. Conservation Futures Fund. The County may consider using the conservation futures property tax fund as authorized by RCW [84.34.230](#) for the acquisition of properties containing significant critical areas and their associated buffers.

Article 3. Geologically Hazardous Areas

16.16.300 Purpose.

The purpose of this article is to reduce risks to human life and safety and reduce the risk of damage to structures and property from geologic hazards, to allow for natural geologic processes supportive of forming and maintaining fish and wildlife habitat, and to regulate and inform land use and planning decisions. It is recognized that the elimination of all risk from geologic hazards is not feasible to achieve but the purpose of this article is to reduce the risk to acceptable levels.

16.16.310 Geologically Hazardous Areas – Designation, Mapping, and Classification.

- A. Designation. Lands determined to be landslide, seismic, alluvial fan, volcanic, erosion (including channel migration zones), tsunami, seiche and landslide generated waves or mine hazard areas are hereby designated as geologically hazardous areas. Development in these geologic hazard areas can put human life, safety, health, and development at risk, alter geologic processes, adversely affect natural resources, and put the development and surrounding developments and uses at risk.
- B. Mapping. The approximate location and extent of known potential geologically hazardous areas are shown on maps maintained by the County. These maps are useful as a guide for project applicants and/or property owners, and County review of development proposals. However, they do not provide a conclusive or definitive indication of geologically hazardous area presence or extent. Potential geologically hazardous areas may exist that do not appear on the maps, and some potential geologically hazardous areas that appear on the maps may not meet the geologically hazardous areas designation criteria. The County shall update the maps periodically as new information becomes available and may require additional studies during the development review process to supplement and/or confirm the mapping. This chapter does not imply that land outside mapped geologically hazardous areas or uses permitted within such areas will be without risk. This chapter shall not create liability on the part of Whatcom County or any officer or employee thereof for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
- C. Classification. For purposes of this chapter, geologically hazardous areas shall include all of the following:
 - 1. Landslide Hazard Areas. Landslide hazard areas shall include areas potentially susceptible to landslides based on a combination of geologic, topographic, and hydrologic factors, as specified below. They include any areas susceptible to mass movement due to any combination of bedrock, soil, slope (gradient), slope aspect, slope form (concave, convex, planar), geological structure, surface and subsurface hydrology, or other factors. Landslide hazard areas shall also include areas along which landslide material may be routed or which may be subject to deposition of landslide-delivered material. Potential landslide hazard areas include but are not limited to the following areas:
 - a. Potential Landslide Hazard Areas. Potential landslide hazard areas exhibit one or more of the following characteristics:

- i. Areas designated as quaternary slumps, earthflows, mudflows, or landslides on maps published by the U.S. Geological Survey, Washington State Department of Natural Resources, or other reputable sources;
- ii. Areas with all three of the following characteristics:
 - (A) Slopes steeper than ~~15%-percent~~;
 - (B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
 - (C) Springs or groundwater seepage;
- iii. Areas that have shown movement and/or are underlain or covered by mass wastage debris;
- iv. Potentially unstable slopes resulting from river or stream erosion or undercutting by wave erosion;
- v. Slopes having gradients steeper than ~~80%-percent~~ subject to rockfall during seismic shaking;
- vi. Areas that show past sloughing or calving of sediment or rocks resulting in a steep slope that is poorly vegetated;
- vii. Slopes that are parallel or sub-parallel to planes of weakness (which may include but not be limited to bedding planes, soft clay layers, joint systems, and fault planes) in subsurface materials;
- viii. Areas that show evidence of, or are at risk from, snow avalanches;
- ix. Deep-seated landslide areas characterized by one or more of the following features: scalloped ridge crests at the top of the slope, crescent-shaped depressions, head scarps, side scarps, ponds or sag areas on midslopes, benches and scarps on midslope areas, hummocky ground, or linear fractures in the ground. These features may be evident in aerial images, topographic maps, LiDAR imagery or on the ground;
- x. Areas below unstable slopes that could be impacted by landslide run-out;
- xi. Areas above or adjacent to unstable slopes that could be impacted if the landslide area expands;
- xii. Any area with a slope of ~~40%-percent~~ or steeper and with a vertical relief of 10 or more feet except areas composed of competent bedrock or properly engineered slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site;
- xiii. Areas within which land use activities could affect the slope stability, including but not limited to areas with subsurface hydrologic flow, groundwater recharge areas and surface water flow;
- xiv. Areas of historical landslide movement including coastal shoreline areas mapped by the Department of Ecology Coastal Zone Atlas or the Department of Natural Resources slope stability mapping as unstable ("U" or Class 3), unstable old slides ("UOS" or Class 4), or unstable recent slides ("URS" or Class 5).

- b. **Active Landslide Hazard Areas.** Active landslide hazard areas are areas that exhibit indicators noted in subsection (C)(1)(a) of this section that have been determined through geological assessment to be presently failing or very likely to fail in the near future.
- 2. **Seismic Hazard Areas.** Whatcom County is located in a seismically active area that will be subject to ground motion during local and regional earthquakes. Seismic hazards and risk are partially addressed in the International Building Code (IBC) or International Residential Code (IRC). Additional seismic hazard areas for the purpose of this chapter include:
 - a. Areas designated as having a “high” and “moderate to high” risk of liquefaction susceptibility as mapped on the Liquefaction Susceptibility Map by the Washington State Department of Natural Resources.
 - b. Areas that are identified as underlain by liquefiable soils and due to local topography are also subject to or interpreted as being potentially impacted by lateral spreading.
 - c. Areas located within 500 feet of quaternary fault zones with surface offsets.
- 3. **Alluvial Fan Hazard Areas.** Any area located at the base of a confined mountain channel and determined to be susceptible to clear water flooding, debris-laden flows and floods, and erosional impacts shall be designated as an alluvial fan hazard area. Watershed hydrology, geology, slope conditions, topography, current and historic land uses, roads and road drainage, valley bottom conditions, and channel conditions upstream of an alluvial fan area are all fundamental to potential hazards and risks on alluvial fans. Alluvial fan hazard areas shall include those areas on alluvial fans potentially impacted by:
 - a. Sediment-laden flows (e.g., debris flows and debris floods);
 - b. Clear water floods;
 - c. Stream channel changes (including channel avulsion, incision, aggradation or lateral erosion and migration);
 - d. Erosion.
- 4. **Volcanic Hazard Areas.** Volcanic hazard areas are those areas that have been affected, or have the potential to be affected, by pyroclastic flows, pyroclastic surges, lava flows, or ballistic projectiles, ash and tephra fall, volcanic gases, and volcanic landslides. Also included are areas that have been or have the potential to be affected by Case M, Case I, or Case II lahars, or by debris flows or sediment-laden events originating from the volcano or its associated deposits. In addition, volcanic hazards include secondary effects such as sedimentation and flooding due to the loss of flood conveyance as a result of river channel and flood plain aggradation. The implications of secondary effects may be observed at some distance from the initiating event, and may continue to impact affected drainages over many decades following the initiating event. Secondary effects may significantly alter existing stream and river channels, associated channel migration zones and floodplains due to stream and river bed aggradation and channel avulsion. Volcanic hazards include areas that have not been affected recently, but could be affected by future events. Volcanic hazard areas are classified into the following categories:
 - a. **Pyroclastic Flow Hazard Areas.** Areas that could be affected by pyroclastic flows, pyroclastic surges, lava flows, and ballistic projectiles in future eruptions. During any single eruption,

some drainages may be unaffected by any of these phenomena, while other drainages are affected by some or all phenomena. Recurrence interval is not known.

- b. Ash/Tephra Fall Hazard Areas. The location of ash/tephra fall hazards at Mount Baker is predominantly controlled by the prevailing westerly winds observed on the west coast of North America. However, easterly winds do occur in the region and direct ash/tephra fall impacts to Whatcom County population centers are certainly a possibility. Health hazards, power outages, negative impacts to machinery and aircraft, structural damage (e.g., roof collapse) and extensive disruption of daily activities are all potential hazards.
- c. Lateral Blast Hazard Areas. Lateral blast hazards result from low-angle, explosive volcanic eruptions that emanate from the flank of a volcano. The occurrence of a lateral blast is largely unpredictable, both with respect to timing and direction, and does not appear to be a common feature of eruptive activity at Mount Baker or at other volcanoes globally. Extensive destruction is likely within the lateral blast zone, and mitigation is generally considered unachievable.
- d. Volcanic Landslide Hazard Areas. Landslides are common on volcanoes due to their relative height, steepness, and weakness in both the underlying bedrock and the volcanic deposits due to magma movement and chemical weathering. Landslide size is highly variable depending on site conditions and type, but may achieve high velocity and momentum which can carry a landslide across valleys and ridgelines. Given the range of possible landslide types and sizes, specific hazards, risk zones and recurrence interval have not been delineated at Mount Baker. Volcanic landslide hazards are associated with lahar hazards as they pose the potential to generate small- to large-scale cohesive lahars.
- e. Lahar Hazard Areas.
 - a. Case M Lahar Hazard Areas. Areas that could be affected by cohesive lahars that originate as enormous avalanches of weak, chemically-altered rock from the volcano. Case M lahars can occur with or without eruptive activity. A single, post-glacial Case M lahar deposit is known to have traveled down the Middle Fork Nooksack River, and is postulated to have continued down the main stem of the Nooksack River, eventually reaching Bellingham Bay, and to have also flowed north to Canada along the prehistoric path of the Nooksack River. Case M lahars are thus interpreted to pose a threat to the Sumas River drainage due to the potential for bed aggradation and channel avulsion to overtop the low-lying drainage divide that exists between the Nooksack and Sumas River drainages. Case M lahars are considered high-consequence, low-probability events.
 - b. Case I Lahar Hazard Areas. Areas that could be affected by relatively large non-cohesive lahars, which most commonly are caused by the melting of snow and glacier ice by magmatic activity and associated processes, but which can also have a non-eruptive origin. The average recurrence interval for Case I lahars, based on deposits identified along the flanks of Mount Baker, is postulated to be 500 years or greater. However, renewed magmatic activity at Mount Baker would be indicative of greatly increased

potential for Case I lahar generation; this may reduce the recurrence interval to approximate that of Case II lahars.

- c. Case II Lahar Hazard Areas. Areas that could be affected by moderately large debris avalanches or small cohesive lahars, or other types of debris flow generated on the east flank of Mount Baker at Sherman Crater or the upper Avalanche Gorge. Case II lahars impact the Baker Lake basin and drainage, and are considered correlative to Case I lahars that may impact the primary drainages on the west and north of Mount Baker, but with increased frequency and comparable volume. The postulated recurrence interval for Case II lahars at Mount Baker is less than 100 years.
5. Erosion Hazard Areas. Erosion hazard areas shall include:
 - a. Channel migration zones, also known as riverine erosion areas, are defined as the areas along a river or stream within which the channel(s) can be reasonably predicted to migrate over time. This is a result of natural and normally occurring geomorphic, hydrological, and related processes when considered with the characteristics of the river or stream and its surroundings, and in consideration of river and stream management plans. Channel migration hazard areas shall include potential channel migration, channel avulsion, bank erosion, and stability of slopes along the river or stream;
 - b. Coastal erosion areas that are subject to shoreline retreat from wind, wave, and tidal erosion.
6. Tsunami Hazard Areas. Tsunami hazard areas include coastal areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of a tsunami generated by seismic events.
7. Seiche and Landslide Generated Wave Hazard Areas. Seiche and landslide generated wave hazard areas include lake and marine shoreline areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of a seiche or landslide generated waves. No known best available science is currently available to characterize potential seiche hazards in Whatcom County.
8. Mine Hazard Areas. Mine hazard areas shall include those lands in proximity to abandoned mines and associated underground mine workings where mine workings are less than 200 feet below ground level. Mine workings include adits (mine entrances), gangways (haulage tunnels), rooms and chutes (large voids), drifts, pillars (rock left for support) and air shafts. Mine hazards include subsidence, which is the uneven downward movement of the ground surface caused by underground workings caving in; sink holes; contamination of ground and surface water from tailings and underground workings; concentrations of lethal or noxious gases; and underground mine fires.

16.16.320 Geologically Hazardous Areas – ~~Protective Measures~~General standards.

In addition to the applicable general protective measures found in WCC [16.16.265](#), the following requirements shall apply to all activities in geologically hazardous areas:

- A. **Generally.** New developments shall be located and/or engineered and constructed to reduce risks to life, health, safety, and buildings, and not increase potential for landslides or erosion that could impact either other properties, public resources, or other critical areas. The County may impose conditions on development activity in a geologically hazardous area as needed to:
1. Protect human life and safety;
 2. Minimize the potential for property damage related to seismic events, erosion and/or landslides;
 3. Minimize the need for stream or riverbank or coastal bluff stabilization in the future;
 4. Reduce public liabilities for damages associated with geologic hazards;
 5. Protect slope stability and minimize erosion, seismic, and/or landslide hazard risks;
 6. Maintain natural sediment and erosion processes that are integral to the health and sustainability of freshwater and marine ecosystems as well as minimizing impacts to stream, river, and coastal processes such as channel infill, channel migration, sediment transport, or flooding;
- B. **Impact Avoidance.** Impact avoidance measures shall include, but not be limited to, locating the use/development outside of the hazard area, reducing the number, size or scale of buildings and appurtenant features; altering the configuration or layout of the proposed development; implementing special engineering methods for construction, drainage, runoff management, etc.; preserving native vegetation; and other feasible protective measures as determined by an alternatives analysis. For some geologic hazards (except for lahar hazards), impact avoidance may mean no development will be permitted on a property. So long as an applicant complies with WCC [16.16.350\(B\)](#), the County shall not require lahar hazard impact avoidance measures that reduce the number, size, or scale of buildings or appurtenant features; or prevent uses otherwise allowed per the property's zoning district based solely on the property's location within a lahar hazard zone.
- C. **Stormwater Management.** Development shall manage on-site stormwater by developing a properly sized stormwater management system using appropriate stormwater techniques to protect geologically hazards areas. Low Impact Development and Low Impact Development Best Management Practices are preferred, unless demonstrated to be infeasible.
- ~~C.D.~~ **Location of Alterations.** New development shall be directed toward portions of a parcel or parcels under contiguous ownership that are not subject to, or at risk from, geological hazards (except for lahar hazards) and/or are outside any setback or buffer established by this chapter.
- ~~D.~~ **Critical Facilities Prohibited.** Critical facilities as defined in WCC [16.16.900](#) shall not be constructed or located in geologically hazardous areas if there is a feasible alternative location outside geologically hazardous areas that would serve the intended service population. If allowed, the critical facility shall be designed and operated to minimize the risk and danger to public health and safety to the maximum extent practicable.
- E. **Review by Qualified Professional.** A geologist or other qualified professional, licensed in the state of Washington, shall review development proposals that occur in potentially geologically hazardous areas to determine the potential risk. If development takes place within an identified geologically

Comment [CES47]: Moved to 16.16.322

hazardous area requiring design or structural elements to minimize the hazard, the mitigation shall be designed by a qualified professional licensed in the state of Washington with expertise in mitigation of geological hazards.

- F. **Life of Structure.** Proposed development shall be sited far enough from erosion and landslide hazard areas to ensure at least 100 years of useful life for the proposed structure(s) or infrastructure. The location ~~should~~ shall be determined by a geologist or other qualified professional licensed in the state of Washington and ~~should~~ be based on site-specific evaluation of the landslide and/or erosion hazard.

16.16.322 Geologically Hazardous Areas – General Use or Modification.

- A. **Remodels and Additions.** Any proposed remodel or addition to an existing permitted or nonconforming structure that exceeds a valuation of greater than 50% ~~percent~~ of the fair market value shall be required to ensure that the entire structure is improved in accordance with all Article 3 requirements.

- B. **Critical Facilities Prohibited.** Critical facilities as defined in WCC 16.16.900 shall not be constructed or located in geologically hazardous areas if there is a feasible alternative location outside geologically hazardous areas that would serve the intended service population. If allowed, the critical facility shall be designed and operated to minimize the risk and danger to public health and safety to the maximum extent practicable.

Comment [CES48]: Moved from 16.16.320

- ~~B.C.~~ **Agricultural Activities.** Agricultural activities (uses and structures) may be allowed within geologically hazardous areas without a conservation farm plan as long as the activity does not increase the potential for landslides, channel migration, or alluvial fan hazards on or off the site; except, that a conservation farm plan shall be required for agricultural activities within landslide hazard areas and associated landslide hazard area setbacks (WCC [16.16.325\(C\)](#)).

- ~~C.D.~~ **Land SubDivision.** Land that is located wholly within a landslide hazard area, riverine or coastal erosion hazard area, alluvial fan hazard area, lahar hazard area, or mine hazard area or its buffer may not be subdivided to create buildable parcels entirely within the hazardous area. Land that is located partially within a hazard area or its setback may be divided; provided, that each resulting lot has sufficient buildable area outside of the hazardous area with provision for drainage, erosion control and related features that will not adversely affect the hazard area or its setback.

16.16.325 Landslide Hazard Areas – Use and Modification Standards.

- A. **~~General Standards.~~ Allowed Uses and Modifications.** The following ~~uses and modifications activities~~ may be allowed in active landslide hazard areas when all reasonable measures have been taken to minimize risks and other adverse effects associated with landslide hazards, and when the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose:
1. **Reasonable Use.** Developments that will not increase the threat to the health or safety of people and will not increase potential for landslides on or off the site and meet the reasonable use standards as set forth in WCC [16.16.270](#).
 2. **Utilities.** Utility lines and pipes that are above ground, properly anchored and/or designed so that they will continue to function in the event of a slope failure or movement of the underlying

materials and will not increase the risk or consequences of static or seismic slope instability or result in a risk of mass wasting. Such utility lines may be permitted only when the applicant demonstrates that no other feasible alternative is available to serve the affected population.

3. **Trails.** Trails shall meet all of the following:

- a. The applicant demonstrates that no other feasible alternative exists.
- b. The trail engineering design and construction methods minimize the need for major repair or reconstruction.
- c. Specific construction standards to minimize impacts, including drainage and drainage maintenance plans, may be required.
- d. Exceptions or deviations from technical standards for width or other dimensional measurements may require a variance.

4. **Development Access.** Access driveways and roads shall meet all of the following:

- a. The applicant demonstrates that no other feasible alternative exists, including through the provisions of Chapter 8.24 RCW.
- b. A qualified professional designs the driveway or access road to minimize the need for major repair or reconstruction. The design shall provide a greater level of protection than road or driveway standards outside of geological hazardous areas.
- c. Specific construction standards to minimize impacts, including drainage and drainage maintenance plans, may be required.
- d. Exceptions or deviations from technical standards for width or other dimensional measurements may require a variance.

~~3. Access roads and trails that are engineered and built to standards that minimize the need for major repair or reconstruction beyond that which would be required in nonhazard areas. Access roads and trails may be permitted only if the applicant demonstrates that no other feasible alternative exists, including through the provisions of Chapter 8.24 RCW. If such access through critical areas is granted, exceptions or deviations from technical standards for width or other dimensions and specific construction standards to minimize impacts, including drainage and drainage maintenance plans, may be required.~~

4.5. **Stormwater.** Stormwater conveyance through a properly designed stormwater pipe when no other storm-water conveyance alternative is available feasible. The pipe shall be located above ground and be properly anchored and/or designed so that it will continue to function in the event of a slope failure or movement of the underlying materials and will not increase the risk or consequences of static or seismic slope instability or result in increased risk of mass wasting activity.

B. **Landslide Hazard Management Zone Standards.** Alteration may be allowed within 300 feet of an active landslide hazard area when the ~~technical administrator~~ Director determines that the following standards are met:

- 1. The proposed alteration includes all appropriate measures to avoid, eliminate, reduce, or otherwise mitigate risks to health and safety.

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2. The proposed alteration is located outside of a landslide hazard area and any required setback, as set forth in WCC [16.16.325](#)(C).
3. The development will not decrease slope stability on adjacent properties. The development shall not increase the risk or frequency of landslide occurrences.
4. The removal and disturbance of vegetation, clearing, or grading shall be limited to the area of the approved development.
5. The development is outside of the area of potential upslope or downslope surface movement or potential deposition in the event of a slope failure.
6. The development will not increase or concentrate surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions.
7. The proposed alterations will not adversely impact other critical areas.
8. Structures and improvements shall minimize alterations to the slope contour, and shall be designed to minimize impervious lot coverage unless such alterations or impervious surfaces are needed to maintain slope stability.

C. **Landslide Hazard Area Setbacks.** ~~In addition to the applicable general protective measures found in WCC 16.16.265, the technical administrator shall have the authority to require~~ Setbacks shall be required from the edges of any identified landslide hazard area in accordance with the following:

1. The size of the setback shall be based on the findings of a qualified professional and shall minimize the risk of property damage, death, or injury resulting from landslides both on and off the property; provided, that the Director may require a minimum setback in accordance with International Building Codes adopted by Whatcom County.
2. The setback shall include consideration of the hydrologic contribution area to the potential landslide area and/or the area subject to the potential for mass movement, and the downhill area subject to potential deposition.
3. The setback shall include consideration of vegetation on the potential landslide area and in areas above and below the potential landslide area. ~~The technical administrator~~ Director shall have the authority to require vegetation or other measures to protect or improve slope stability and shall have the authority to require a mitigation plan developed in accordance with WCC [16.16.260](#), and a conservation easement in accordance with WCC [16.16.265](#)(C) to ensure appropriate vegetation improvements are installed, maintained, and preserved.
4. Developments on sites that are directly adjacent to a wetland, marine shoreline, or other habitat conservation area as defined in Article 7 of this chapter may be subject to additional buffer requirements and standards as set forth in the subsequent articles of this chapter.

16.16.340 Seismic Hazard Areas – ~~Use and Modification~~Standards.

Development may be allowed in seismic hazard areas when all of the following apply:

- A. Structures in seismic hazard areas shall conform to applicable analysis and design criteria of the International Building Code.
- B. Public roads, bridges, utilities, and trails shall be allowed when there are no feasible alternative locations, and geotechnical analysis and design are provided that minimize potential damage to roadway, bridge, and utility structures, and facilities will not be susceptible to damage from

seismically induced ground deformation. Mitigation measures shall be designed in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual or other appropriate document.

16.16.345 Alluvial Fan Hazard Areas – Use and Modification Standards.

The following uses and modifications activities may be allowed in alluvial fan hazard areas when all reasonable measures have been taken to minimize risks and other adverse effects associated with alluvial fan hazards, when the amount and degree of alteration are limited to the minimum needed to accomplish the project purpose, and when the applicable general protective measures found in WCC [16.16.265](#) have been applied:

- A. **Reasonable Use.** Developments that will minimize the threat to the health or safety of people and will not increase the risks of alluvial fan hazards on or off the site and meet the reasonable use standards as set forth in WCC [16.16.270](#).
- B. **Infrastructure.** Roads, utilities, bridges, and other infrastructure that are located and designed to minimize adverse impacts on critical areas and avoid the need for channel dredging or diking or other maintenance activities that have the potential to substantially degrade river and stream functions.
- C. Permanent residential structures and commercial developments shall be allowed in alluvial fan hazard areas only if the fan has undergone a County-approved study to assess potential hazards, determine risks, and identify mitigation measures and is deemed suitable for development. The ~~technical administrator~~ **Director** shall make this determination based on a detailed assessment by a qualified professional that identifies the risks associated with a 500-year return period debris flow or the maximum credible event that could impact the alluvial fan.
- D. Accessory structures not involving human occupancy shall be allowed as long as the structure will not increase the alluvial fan hazards on or off the site.

16.16.350 Volcanic Hazard Areas – Use and Modification Standards.

- A. Ash/Tephra Fall and Lateral Blast Hazard Areas. Development may be allowed in these areas; provided, that all reasonable measures have been taken to minimize risks and adverse effects, and when the amount and degree of the alteration is limited to the minimum needed to accomplish the project purpose, and when the applicable general protective measures found in WCC [16.16.265](#) and the standards of WCC [16.16.320](#) have been applied.
- B. Lahar Hazard Zones.
 - 1. Subject to WCC [16.16.320](#)(A) through (C) and WCC [16.16.265](#), the following uses are allowed in any volcanic hazard areas:
 - a. Single-family residences and duplexes.
 - b. Accessory structures not involving human occupancy.
 - c. Sewer collection facilities, communication facilities, and other utilities that are not likely to cause harm to people or the environment if inundated by a lahar. Underground utilities such as pipelines shall be allowed if demonstrated through a geotechnical analysis to be sufficiently buried as to not likely be damaged by scour caused by a lahar.

- d. Agricultural and forestry uses not including human habitation.
- 2. Subject to WCC [16.16.320](#)(A) through (C) and WCC [16.16.265](#) (except subsection D when located wholly within a lahar hazard zone), the following uses are allowed in volcanic hazard areas subject to the submittal and approval of a volcanic hazard emergency management plan meeting the requirements of subsection (B)(3) of this section; however, this requirement may be waived for properties located in an area with an estimated lahar arrival time of more than 60 minutes. The County will maintain travel time projection maps to estimate lahar approach times.
 - a. Expansion of legal nonconforming uses meeting criteria of WCC [16.16.275](#) and WCC Chapter [20.83](#).
 - b. All other uses allowed per the property's zoning district.
- 3. Where required by subsection (B)(2) of this section, a volcanic hazard emergency management plan shall be submitted for approval and meet the following requirements:
 - a. Is consistent with and integrated into a community emergency plan maintained by the sheriff's office of emergency management.
 - b. Includes an emergency evacuation plan.
 - c. Is required to be updated every five years.
 - d. Evacuation route maps must be posted on the premises.

16.16.355 Erosion Hazard Areas – Use and Modification Standards.

- A. General Standards. For coastal, riverine, and stream erosion hazard areas, the following activities shall be allowed when the applicable general protective measures found in WCC [16.16.265](#) have been applied and as follows:
 - 1. Developments that minimize the threat to the health or safety of people and will not increase the risks of erosion hazards on or off the site and meet the reasonable use or variance standards as set forth in WCC [16.16.270](#) or [16.16.273](#), respectively.
 - 2. Discharge of surface water drainage into a coastal or riverine erosion hazard area, provided there are no other alternatives for discharge, and the drainage is collected upland of the top of the active erosion hazard area and directed downhill in an appropriately designed stormwater pipe that includes an energy dissipating device at the base of the hazard area. The pipe shall be located on the surface of the ground and be properly anchored so that it will continue to function under erosion conditions and not create or contribute to adverse effects on downslope critical areas. The number of pipes ~~should~~ shall be minimized along the slope frontage.
 - 3. Stormwater retention and detention systems, such as dry wells and infiltration systems using buried pipe or French drains, provided they are located outside the identified channel migration zone, designed by a qualified professional and shall not affect the stability of the site.
 - 4. Utility lines when no feasible conveyance alternative is available. The line shall be located above ground and properly anchored and/or designed so that it will not preclude or interfere with channel migration and will continue to function under erosion conditions; provided, that utility

lines may be located within channel migration zones if they are buried below the scour depth for the entire width of the Channel Migration Zone (CMZ).

5. Public roads, bridges, and trails when no feasible alternative alignment is available. Facilities shall be designed such that the roadway prism and/or bridge structure will not be susceptible to damage from active erosion.
6. Access to private development sites may be allowed to provide access to portions of the site that are not critical areas if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter [8.24](#) RCW. Exceptions or deviations from technical standards for width or other dimensions and specific construction standards to minimize impacts may be specified.
7. Shoreline stabilization may be permitted when consistent with the shoreline stabilization regulations found in 23.40.190 (Shoreline Stabilization), regardless of whether the proposed project is within shoreline jurisdiction or not.~~Stream bank stabilization and shoreline protection may be permitted subject to all of the following standards:~~
 - ~~a. Shoreline protection measures located within coastal or riverine erosion areas shall use soft armoring techniques (bioengineering erosion control measures as identified by the State Department of Ecology and the Department of Fish and Wildlife guidance) unless the applicant provides a geotechnical analysis demonstrating that bioengineering approaches will not adequately protect the property.~~
 - ~~b. The armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply from feeder bluffs.~~
 - ~~c. The armoring will not adversely affect critical areas including habitat conservation areas or mitigation will be provided to compensate for adverse effects where avoidance is not feasible.~~
 - ~~d. The proposal shall comply with WCC Title 23.~~
 - ~~e. Hard bank armoring is discouraged and may occur only when the property contains an existing permanent structure(s) that is in danger from shoreline erosion caused by wave action or riverine processes and not erosion caused by upland conditions, such as the alteration of natural vegetation or drainage, and the armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply.~~
 - ~~f. The erosion is not being caused by upland conditions, such as the removal of vegetation or human alteration of existing drainage.~~
 - ~~g. Nonstructural measures, such as placing or relocating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.~~
8. New residences shall be located outside of channel migration hazard areas or marine shoreline retreat areas. Accessory structures not involving human occupancy with a footprint equal to or less than 2,500 square feet shall be allowed; provided, that they are located at the outer edge of the migration zone as defined by this chapter; and provided, that the ~~technical administrator~~

Director may allow larger accessory structures where mitigating measures are feasible and provided for by the applicant.

9. New public flood protection measures and expansion of existing ones may be permitted, subject to WCC Title [17](#), Article 4 of this chapter, and a state hydraulic project approval; provided, that bioengineering or soft armoring techniques shall be used where feasible. Hard bank armoring may occur only in situations where soft approaches do not provide adequate protection.

B. Erosion Hazard Area Setbacks. In addition to the applicable general protective measures found in WCC [16.16.265](#), the ~~technical administrator~~ Director shall have the authority to require setbacks from the edges of any coastal, stream, or riverine hazard erosion area in accordance with the following:

1. The size of the setback shall be based on the findings of a qualified professional and shall protect critical areas and processes and minimize the risk of property damage, death or injury resulting from erosion over the life of the development, typically identified as 100 years; provided, that the Director may require a minimum setback in accordance with International Building Codes adopted by Whatcom County.
2. The setback shall include the uphill area subject to potential erosion, the downhill area subject to potential deposition, and any area subject to landslide as a result of erosion.
3. The setback shall include woody vegetation adequate to stabilize the soil and prevent soil movement. If the designated setback area lacks adequate woody vegetation, the ~~technical administrator~~ Director shall have the authority to require vegetation enhancement or other measures to improve slope stability.
4. Developments on sites that are directly adjacent to a wetland or marine shoreline or other habitat conservation area as defined in Article 7 of this chapter may be subject to additional setback requirements and standards as set forth in the subsequent articles of this chapter.

16.16.365 Tsunami Hazard Areas – ~~Use and Modification~~Standards.

The standards of WCC [16.16.320](#) shall apply. For development within tsunami hazard areas the proposed development shall be designed to provide protection from the tsunami hazard that meets the projected hazard on the Department of Natural Resources Tsunami Inundation Maps. For other low-lying coastal areas not included on the inundation maps, development shall be designed to provide protection for debris impact and an inundation as determined by current Department of Natural Resource modeling, unless other measures can be shown to provide equal or greater protection.

16.16.367 Seiche and Landslide Generated Wave Hazard Areas – ~~Use and Modification~~Standards.

Standards for seiche and landslide generated wave hazards will only apply if the hazard area is mapped by the United States Geologic Survey or the Department of Natural Resources, Division of Geology and Earth Resources or other credible source approved by Whatcom County. If a mapped hazard is present, the standards of WCC [16.16.320](#) and [16.16.350](#) shall apply. For residential development within mapped seiche and landslide generated wave hazard areas, the proposed development ~~should~~ shall be designed to withstand the mapped hazard. If the risk of the event is less than 0.1% ~~percent~~ on a yearly basis, development standards may not be required, but notice on property title will be required.

16.16.370 Mine Hazard Areas – ~~Use and Modification Standards.~~

The standards of WCC [16.16.320](#) and [16.16.350](#) shall apply.

16.16.375 Geologically Hazardous Areas – Review and Reporting Requirements.

- A. When County critical area maps or other sources of credible information indicate that a site proposed for development or alteration is, or may be, located within an active or potential geologically hazardous area, the ~~technical administrator~~ Director shall have the authority to require the submittal of a geological assessment report.
- B. A geologic hazards assessment report for a geologically hazardous area shall include a field investigation and contain an assessment of whether or not the type of potential geologic hazard identified is present or not present and if development of the site will increase the potential for landslides or erosion on or off the site. Geology hazard assessment reports shall be prepared, stamped, and signed by a qualified professional. The report should:
 1. Be appropriate for the scale and scope of the project;
 2. Include a discussion of all geologically hazardous areas on the site and any geologically hazardous areas off site potentially impacted by or which could impact the proposed project. If the affected area extends beyond the subject property, the geology hazard assessment may utilize existing data sources pertaining to that area;
 3. Clearly state that the proposed project will not decrease slope stability or pose an unreasonable threat to persons or property either on or off site and provide a rationale as to those conclusions based on geologic conditions and interpretations specific to the project;
 4. Provide a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, and other adequate information to determine compliance with the requirements of this article;
 5. Provide conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties.
- ~~5-6.~~ Geotechnical reports shall conform to accepted technical standards and ~~G~~generally follow the guidelines set forth in the Washington State Department of Licensing Guidelines for Preparing Engineering Geology Reports in Washington (2006). In some cases, such as when it is determined that no landslide or erosion risk is present, a full report may not be necessary to determine compliance with this article, and in those cases a stamped letter or abbreviated report may be provided;
- ~~6-7.~~ If a landslide or erosion hazard is identified, provide minimum setback recommendations for avoiding the landslide or erosion hazard, recommendations on stormwater management and vegetation management and plantings, other recommendations for site development so that the frequency or magnitude of landsliding or erosion on or off the site is not altered, and recommendations are consistent with this article;

7.8. For projects in seismic hazard areas, the report shall also include a detailed engineering evaluation of expected ground displacements, amplified seismic shaking, or other liquefaction and/or dynamic settlement effects and proposed mitigation measures to ensure an acceptable level of risk for the proposed structure type or other development facilities such as access roads and utilities;

8.9. For projects in mine hazard areas, the report shall also include a description of historical data and remnant mine conditions, if available, dates of operation, years of abandonment, strength of overlying rock strata, and other information needed to assess stability of the site together with analysis of surface displacement or foundation stress from collapse of workings.

- C. A geological assessment for a specific site may be valid for a period of up to five years when the proposed land use activity and site conditions affecting the site are unchanged. However, if any surface and subsurface conditions associated with the site change during that five-year period, the applicant may be required to submit an amendment to the geological assessment.

Article 4. Frequently Flooded Areas

16.16.400 Purpose.

The purposes of this article are to:

- A. Reduce the risk to life and safety, public facilities, and public and private property that results from floods.
- B. Avoid or minimize impacts to fish and wildlife habitats that occur within frequently flooded areas.
- C. Protect and maintain the beneficial ecological functions and values of frequently flooded areas, including providing the necessary flow regime to form and maintain a full range of functional and accessible salmonid habitats both within and outside of frequently flooded areas.
- D. To ensure compliance with FEMA National Flood Insurance Program (NFIP) protection standards for critical habitats of species listed under the Endangered Species Act.
- E. In conjunction with the provisions of WCC Title 17, establish review procedures that provide an integrated approach to managing floodplain development and maintaining the capacity of the floodplain or floodway to convey and store flood waters.

16.16.410 Frequently Flooded Areas – Designation and Mapping—~~Frequently Flooded Areas.~~

- A. Frequently flooded areas are areas located along major rivers, streams, and coastal areas where the depth, velocity, intensity and frequency of flood water during major events present a risk to human life and property. Areas susceptible to these types of hazards are hereby designated as frequently flooded areas and subject to the provisions of this article.

- ~~B. The approximate location and extent of frequently flooded areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide a definitive critical area designation. The County shall update the maps as new hazard areas are identified and as new information becomes available. This article does not imply that land outside mapped frequently flooded areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Whatcom County, any officer or employee thereof, or the Federal Insurance and Mitigation Administration (FIMA), for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.~~

Comment [CES49]: Moved to 16.16.220

- ~~C.~~ B. Frequently flooded areas shall include, but not be limited to:

1. ~~Areas subject to a one percent recurrence interval of flood water inundation or a 100 year base flood~~ Special flood hazard areas as mapped on the current effective Federal Emergency Management Agency's Flood Insurance Rate Maps (FIRM). This includes coastal high hazard areas as defined by this chapter and as identified and designated on the FIRM maps as Zone VE or V; provided, that tsunami hazard areas are designated as geologically hazardous areas and subject to the provisions of Article 3 of this chapter.
2. Other flood hazard areas identified by the County public works department based on review of historical data, high water marks, photographs of past flooding, or similar information from federal, state, county, or other valid sources when base flood elevation data from the Federal Insurance and Mitigation Administration has not been provided or is not accurate.

Comment [CES50]: FEMA definition added to definitions

16.16.420 Frequently Flooded Areas – General Standards.

- A. All development shall conform to the provisions of WCC Title [17](#), Flood Damage Prevention, and the applicable provisions of this chapter.
- B. Development within frequently flooded areas shall be allowed only when it is consistent with all of the following:
 - 1. FEMA’s National Flood Insurance Program (NFIP), including the protection standards for critical habitats for listed species;
 - 2. The mitigation sequence in WCC [16.16.260](#);
 - 3. Article 7, Habitat Conservation Areas, of this chapter;
 - 4. The applicable general protective measures found in WCC [16.16.265](#).
- C. The ~~technical administrator~~ Director shall have the authority to require a habitat assessment and, if necessary, a mitigation plan prepared by a qualified professional, in accordance with the FEMA Regional Guidance for the Puget Sound Basin, and mitigate for adverse impacts to the ecological functions of frequently flooded areas; provided, that such mitigation shall be consistent and compatible with the goal of protecting health and safety and minimizing risks to property.

16.16.430 Frequently Flooded Areas – Review and Report Requirements.

- A. When County critical area maps or other sources of credible information indicate that a site proposed for development is or may be located within a frequently flooded area, the County public works department’s river and flood division and/or the ~~technical administrator~~ Director shall have the authority to require a critical area assessment report.
- B. The public works department shall have primary responsibility for reviewing and approving proposed developments for consistency with WCC Title [17](#). The ~~technical administrator~~ Director shall review development proposals for consistency with the standards provided in this chapter. Either may place conditions for approval and/or require mitigation in accordance with this chapter.
- C. In addition to the requirements of WCC [16.16.255](#), critical areas assessment reports for frequently flooded areas shall:
 - 1. Identify any federally listed species and associated habitats, and demonstrate that no harm will occur to such species or habitats as a result of development (inclusive of mitigation) within frequently flooded areas.
 - 2. Address adverse impacts to ecological functions and processes, including riparian vegetation. Positive impacts may also be discussed.
 - 3. Include mitigation for adverse effects on frequently flooded areas’ ecological functions, where applicable.
- D. The ~~technical administrator~~ Director shall have the authority to modify the requirements of subsection C of this section when s/he determines that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development.
- E. The ~~technical administrator~~ Director shall have the authority to require additional information to that required in subsection C of this section that discloses and describes the effects of proposed development on frequently flooded area functions, including, but not limited to, impacts on: storage

and conveyance of flood water; channel migration; peak flows and flow velocities; redd scour and displacement of rearing juvenile fish; sediment quality in streams; shear stress and bank erosion; water quality; wildlife habitat; fish access; and nutrients cycling or other hyporheic functions that link surface and groundwater systems.

- F. Critical areas assessment report requirements may be waived for single-family developments and structures accessory to agricultural uses when the ~~technical administrator~~ Director and the Public Works department determine that the development does not meet the FEMA requirements for a habitat assessment in FEMA Regional Guidance for the Puget Sound Basin ~~no adverse impacts or risks to life, property, or ecological functions will occur.~~

Article 5. Critical Aquifer Recharge Areas

16.16.500 Purpose.

The purposes of this article are to:

- A. Preserve, protect, and conserve Whatcom County's groundwater resources and their functions and values for current and future generations by protecting critical aquifer recharge areas from contamination.
- B. Prevent adverse impacts on groundwater quantity by regulating development activities that could deplete aquifer storage, reduce groundwater levels, and/or diminish infiltration and replenishment of groundwater.
- C. Prioritize the management, protection, and conservation of groundwater recharge areas as sources of potable water supply.
- D. Establish review procedures for development activities that have the potential to adversely affect critical aquifer recharge areas.

16.16.510 Critical Aquifer Recharge Areas – Designation, Classification and Mapping—~~Critical Aquifer Recharge Areas.~~

- A. Critical aquifer recharge areas play a crucial role in supplying potable water (as defined by WAC [365-190-030\(2\)](#)). These recharge areas have geologic conditions that allow high infiltration rates, which contribute significantly to the replenishment of groundwater. These conditions also create a high potential for groundwater contamination. These areas are hereby designated as critical areas and subject to the provisions of this chapter.
- B. The approximate location and extent of critical aquifer recharge areas are shown on the County's critical area maps. These maps are to be used as a guide and do not provide a definitive critical area designation. The County shall update the maps as recharge areas are identified and as new information becomes available.
- C. Critical aquifer recharge areas shall be designated and classified as follows:
 - 1. Low, Moderate, and High Susceptibility Aquifer Recharge Areas. Aquifer recharge areas susceptible to degradation or depletion because of hydrogeologic characteristics are those areas meeting the criteria established by the State Department of Ecology (Guidance Document for the Establishment of Critical Aquifer Recharge Area Ordinances, July 2000, Publication No. 97-30, Version 4.0).
 - 2. Wellhead Protection Areas. The area defined by the boundaries of the 10-year time of groundwater travel, in accordance with WAC [246-290-135](#). For purposes of this chapter, all wellhead protection areas shall be designated as highly susceptible critical aquifer recharge areas.
- D. If special groundwater management areas or susceptible groundwater management areas are established in Whatcom County in accordance with WAC [173-200-090](#) or [173-100-010](#), respectively, then these areas shall be incorporated into the highly susceptible aquifer designation.

16.16.520 Critical Aquifer Recharge Areas – General Standards.

In addition to the applicable general protective measures found in WCC [16.16.265](#), all development in a critical aquifer recharge area shall meet the following standards:

- A. The proposed development will not cause contaminants to enter the aquifer and will not significantly affect the recharging of the aquifer in an adverse manner.
- B. The proposed development must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Health, and the Whatcom County health department.
- C. The proposed development must be designed and constructed in accordance with the County stormwater management requirements or other applicable stormwater management standards (Whatcom County Development Standards Chapter 2, WCC Title [20](#)).

16.16.525 Critical Aquifer Recharge Areas – Use and Modification Activity Subject to Critical Areas Review.

The following development activities, when proposed in moderate and high susceptibility critical aquifer recharge areas, have the potential to adversely affect groundwater quality and/or quantity and shall require submittal of a critical areas assessment report as defined in WCC [16.16.255](#) and [16.16.535](#):

- A. Any development with an on-site domestic septic system at a gross density greater than one system per residence per acre.
- B. All storage tanks and storage facilities for hazardous substances and/or hazardous wastes; provided, that:
 - 1. The tanks must comply with Department of Ecology regulations contained in Chapters [173-360](#) and [173-303](#) WAC as well as International Building Code requirements;
 - 2. All new underground tanks and facilities shall be designed and constructed so as to prevent releases due to corrosion or structural failure for the operational life of the tank, or have a secondary containment system to prevent the release of any stored substances;
 - 3. All new aboveground storage tanks and facilities shall be designed and constructed so as to prevent the release of a hazardous substance to the ground, groundwaters, or surface waters by having primary and secondary containment.
- C. Vehicle repair, servicing and salvaging facilities; provided, that the facility must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur. Dry wells shall not be allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the State Department of Ecology prior to commencement of the proposed activity.
- D. Use of reclaimed wastewater must be in accordance with adopted water or sewer comprehensive plans that have been approved by the State Departments of Ecology and Health and the Whatcom County council per Chapter [57.16](#) RCW; provided, that:
 - 1. Surface spreading must meet the groundwater recharge criteria given in RCW [90.46.010](#)(10) and [90.46.080](#).

2. Direct injection must be in accordance with the standards developed by authority of RCW [90.46.042](#).

- E. Any other development activity that the ~~technical administrator~~ Director determines is likely to have a significant adverse impact on groundwater quality or quantity, or on the recharge of the aquifer. The determination must be made based on credible scientific information.
- F. Metals and hard rock mining and new sand and gravel mining subject to the provisions of the County's current mineral resource lands (MRL) review procedures in WCC Chapter [20.73](#); provided, that for new MRLs such activities shall be prohibited within the 10-year travel time zone of wellhead protection areas.

16.16.530 Critical Aquifer Recharge Areas – Prohibited Uses.

The following developments and uses are prohibited in critical aquifer recharge areas:

- A. New landfills, including hazardous or dangerous waste, municipal solid waste, special waste, wood waste of more than 2,000 cubic yards, and inert and demolition waste landfills.
- B. Underground Injection Wells. Class I, III, and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells.
- C. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade).
- D. Facilities that store, process, or dispose of chemicals containing perchloroethylene (PCE) or methyl tertiary butyl ether (MTBE).
- E. Facilities that store, process, or dispose of radioactive substances.
- F. Other activities that the ~~technical administrator~~ Director determines would significantly degrade groundwater quality and/or reduce the recharge to aquifers currently, or potentially used as a potable water source, or that may serve as a significant source of base flow to a regulated stream. The determination must be made based on credible scientific information.

16.16.535 Critical Aquifer Recharge Areas – Review and Report Requirements.

- A. When County critical area maps or other sources of credible information indicate that the proposed development activities listed in WCC [16.16.525](#) occur within a critical aquifer recharge area, the ~~technical administrator~~ Director shall have the authority to require a critical area assessment report and to regulate developments accordingly. Critical areas assessment reports for aquifer recharge areas shall meet the requirements of WCC [16.16.255](#) and this section. Assessment reports shall include the following site- and proposal-related information unless the ~~technical administrator~~ Director determines that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:
 - 1. Available information regarding geologic and hydrogeologic characteristics of the site, including the surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site, and permeability of the unsaturated zone;
 - 2. Groundwater depth, flow direction and gradient based on available information;
 - 3. Currently available data on wells and springs within 1,300 feet of the project area;

4. The presence and approximate location of other critical areas, including surface waters, within 1,300 feet of the project area based on available data and maps;
 5. Existing and available historic water quality data for the area to be affected by the proposed activity;
 6. Proposed best management practices;
 7. The effects of the proposed project on the groundwater quality and quantity, including:
 - a. Potential effects on stream flow, wetlands and/or other resources, and on ecosystem processes;
 - b. Predictive evaluation of groundwater withdrawal effects on nearby wells and surface water features; and
 - c. Predictive evaluation of contaminant transport based on potential releases to groundwater; and
 8. A spill plan that identifies equipment and/or structures that could fail, resulting in an impact. Spill plans shall include provisions for emergency response provisions as well as regular inspection, repair, and replacement of structures and equipment that could fail.
- B. If the applicant can demonstrate through a valid hydrogeological assessment that geologic and soil conditions underlying their property do not meet the criteria for low, moderate, or high susceptibility, the property shall not be considered a critical aquifer recharge area.

Article 5.5. Areas within the Rural Residential District of Lummi Island

16.16.540 Areas within the Rural Residential District of Lummi Island.

16.16.541 Exempt Wells.

Wells drilled as a replacement of an existing well are exempt from this article as long as the withdrawal rate is not increased by more than ~~20% percent~~ of the existing well. If baseline withdrawal rate information is not available, this must be established by a licensed well driller prior to well replacement.

16.16.542 Minimum Well Spacing for all New Wells.

Wells shall have a minimum of 200 feet distance between a new well and an existing operating well.

16.16.543 Requirements for Public Water System Wells, Non-Group B Two Party Wells, and Non-Domestic Wells.

In addition to the minimum well spacing, the following measures are required for public water system wells, non-Group B two party wells, and nondomestic wells. (Includes “public water system” wells and non-Group B two party wells as defined under Whatcom County drinking water regulations and nondomestic use wells pumping greater than 250 gpd. “Public water system” is defined under WCC Chapter [24.11](#) as any water system providing piped water for consumption, excluding a system serving only one single-family residence and any system with four or fewer connections serving only residences on the same farm. A “non-Group B two party well” is defined in WCC Chapter [24.11](#) as a water system using one well to serve two single-family residences for which the director of health has waived all public water system requirements.)

A. Chloride Monitoring and Testing.

1. Monitoring. Well owners shall collect and have water samples analyzed for chloride concentration twice annually, in April and August, and submitted to the Whatcom County health department.
2. Chloride Determinations for New Wells or Increased Pumping of Existing Wells. Applications for new wells, applications to convert an existing private well into a two party well, any application to expand the number of connections of a public water system, and nondomestic use wells proposing a greater than ~~20% percent~~ increase in groundwater withdrawals in an existing well require a minimum 24-hour-duration pumping test at ~~100% percent~~ of the proposed average daily demand, at the end of which a water sample will be collected for analysis of chloride concentration. Subdivisions using individual wells are required to test wells simultaneously or, alternatively, have a licensed hydrogeologist evaluate well interference and water quality changes. Subdivision wells shall remain accessible for future testing in the event of subdivision expansion.
3. Restrictions on New Wells or Increased Pumping of Existing Wells. New wells cannot be permitted, existing private wells cannot be converted to two party wells, existing public water systems cannot expand beyond their existing number of approved connections, and nondomestic wells cannot increase pumping rates greater than ~~20% percent~~ if chloride

concentrations measured at the end of the test specified in subsection (A)(2) of this section are greater than 100 mg/L. For systems expanding ~~20% percent~~ or less within one year, the highest chloride determination within the past year in subsection (A)(1) of this section cannot be greater than 100 mg/L.

4. Limit on Water Use by Existing Wells. Any increase (0 to ~~20% percent~~) in water use will not be permitted if either semiannual analysis in the previous 12-month period indicates greater than 100 mg/L chloride concentration. If the semi-annual chloride determinations have not been submitted as required, then the pump testing requirement of subsection (A)(2) of this section shall apply.
5. Prior to 10 days before the pumping test, all property owners within 1,000 feet of the well location shall be notified by first class mail informing them of the test and providing contact information of the person responsible for the testing.

B. Arsenic Monitoring and Testing in the Unconsolidated Aquifer.

1. The following monitoring and testing is required unless the well is determined not to be located in the unconsolidated sandstone aquifer. A Washington State licensed hydrogeologist must make the determination in a submitted report.
2. Arsenic Determinations for New Wells or Increased Pumping of Existing Wells. Applications for new wells, applications to convert an existing private well into a two party well, any application to expand the number of connections of a public water system, and nondomestic use wells proposing a greater than ~~20% percent~~ increase in groundwater withdrawals in an existing well require a minimum 24-hour-duration pumping test at ~~100% percent~~ of the proposed average daily demand, at the end of which a water sample will be collected for analysis of arsenic concentration.
3. Restrictions on New Wells or Increased Pumping of Existing Wells. New wells cannot be permitted, existing private wells cannot be converted to two party wells, existing public water systems cannot expand beyond their existing number of approved connections, and nondomestic wells cannot increase pumping rates greater than ~~20% percent~~ if arsenic concentrations measured at the end of the test specified in subsection (B)(2) of this section are greater than 10 µg/L.
4. Limit on Water Use by Existing Wells. Any increase (0 to ~~20% percent~~) in water use will not be permitted if the most recent arsenic determination indicated greater than 10 µg/L arsenic concentration. If no arsenic concentration has been determined in the past three years, the pumping test requirement in subsection (B)(2) of this section shall apply.
5. Prior to 10 days before the pumping test, all property owners within 1,000 feet of the well location shall be notified by first class mail informing them of the test and providing contact information of the person responsible for the testing.

16.16.544 Administrative Waiver.

Administrative waivers may be granted to any section of these requirements by petition to the administering agency. Waiver request must demonstrate that the project is consistent with the intent of

these requirements; no health hazard would result from this action; and must be stamped by a licensed Washington State hydrogeologist.

Article 6. Wetlands

16.16.600 Purpose.

The purposes of this article are to:

- A. Recognize and protect the beneficial functions, values, and services performed by wetlands, which include, but are not limited to, providing food, breeding, nesting and/or rearing habitat for fish and wildlife; recharging and discharging groundwater; contributing to stream flow during low flow periods; stabilizing stream banks and shorelines; storing storm and flood waters to reduce flooding and erosion; and improving water quality through biofiltration, adsorption, retention and transformation of sediments, nutrients, and toxicants.
- B. Regulate land use to avoid adverse effects on wetlands and maintain the functions, services, and values of freshwater and estuarine wetlands throughout Whatcom County.
- C. Establish review procedures for development proposals in and adjacent to wetlands.
- D. Establish minimum standards for identifying and delineating wetlands.

16.16.610 Wetlands – Designation, Rating, and Mapping.

- A. Wetlands shall be delineated in accordance with the requirements of RCW [36.70A.175](#). Unless otherwise provided for in this chapter, all areas within the county determined to be wetlands in accordance with the U.S. Army Corps of Engineers Wetlands Delineation Manual, 1987 Edition, and the Western Mountains, Valleys, and Coast Region Supplement (Version 2.0), 2010 or as revised, are hereby designated critical areas and are subject to the provisions of this article.
- B. The approximate location and extent of wetlands are shown on the County's critical area maps. ~~However, this information has come from multiple sources over many years' time and is not precise, only general. Thus, these maps are to be used as a guide and do not provide a definitive critical area designation; a property-specific assessment is necessary for that to determine the wetland boundary. The County shall update the maps as new wetlands are identified and as new information becomes available.~~
- C. Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington, revised 2014, and as amended thereafter, as determined using the appropriate rating forms and associated figures contained in that publication. These categories are generally defined as follows:
 1. Category I. Category I wetlands are: (a) relatively undisturbed estuarine wetlands larger than one acre; (b) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (c) bogs; (d) mature and old-growth forested wetlands larger than one acre; (e) wetlands in coastal lagoons; (f) interdunal wetlands that score eight or nine habitat points and are larger than one acre; and (g) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (a) represent unique or rare wetland types; (b) are more sensitive to disturbance than most wetlands; (c) are relatively undisturbed

Comment [CES51]: Deleted sections moved to 16.16.220 Identification of critical areas

and contain ecological attributes that are impossible to replace within a human lifetime; or (d) provide a high level of functions.

2. Category II. Category II wetlands are: (a) estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre; (b) interdunal wetlands larger than one acre or those found in a mosaic of wetlands; or (c) wetlands with a moderately high level of functions (scoring between 20 and 22 points).
3. Category III. Category III wetlands are: (a) wetlands with a moderate level of functions (scoring between 16 and 19 points); (b) can often be adequately replaced with a well-planned mitigation project; and (c) interdunal wetlands between 0.1 and one acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
4. Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

16.16.612 Exceptions to Regulation.

- A. All wetlands shall be regulated regardless of size; provided, that the following wetlands may be exempt from the requirement to avoid impacts (WCC 16.16.225 General Regulations), and they may be filled if the impacts are fully mitigated based on the remaining actions in WCC 16.16.260 (General Mitigation Requirements). In order to verify the following conditions, a critical area report for wetlands meeting the requirements in WCC 16.16.255 (Critical Areas Assessment Reports) must be submitted. hydrologically isolated Category IV wetlands less than 1,000 square feet in size may be adversely impacted when all of the following criteria are met:
1. All isolated Category IV wetlands less than 4,000 square feet that:
 - a. Are not associated with riparian areas or their buffers;
 - b. Are not associated with shorelines of the state or their associated buffers;
 - c. Are not part of a wetland mosaic;
 - d. Do not score 56 or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology);
 - e. Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in WCC 16.16.710 (Habitat Conservation Areas – Designation, Mapping, and Classification).
 2. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.

Comment [Co/C52]: Amended by Council 11/23/21

1. ~~The wetland does not provide significant suitable breeding habitat for native amphibian species. Suitable breeding habitat may be indicated by adequate and stable seasonal inundation, presence of thin stemmed emergent vegetation, and clean water;~~
2. ~~The wetland does not have unique characteristics that would be difficult to replace through standard compensatory mitigation practices;~~
3. ~~The wetland is not located within a habitat conservation area, as defined in WCC 16.16.710, or buffer;~~
4. ~~The wetland is not located within a floodplain and/or not associated with a shoreline of the state as defined by the County's shoreline master program (WCC Title 23);~~
5. ~~The wetland is not part of a mosaic of wetlands and uplands. This criterion shall be determined using the guidance provided in Ecology's Wetland Rating System for Western Washington (Publication No. 14-06-029); and~~
6. ~~The wetland is not identified as locally significant by a local watershed plan prepared pursuant to Chapter 400-12 WAC;~~

Comment [CES53]: Updated, using language from DOE Wetland Guidance for CAO Updates, Western Washington Version, 2016

16.16.620 Wetlands – Use and Modification ~~general standards.~~

The following uses and modifications activities may be permitted in wetlands and/or wetland buffers as specified when, pursuant to WCC 16.16.255, 16.16.260, and 16.16.630, all reasonable measures have been taken to avoid adverse effects on wetland functions and values as documented through an alternatives analysis, the amount and degree of alteration are limited to the minimum needed to accomplish the project purpose, and compensatory mitigation is provided for all adverse impacts to wetlands and their buffers that cannot be avoided:

A. **Reasonable Use.** Developments that meet the reasonable use exception or variance standards as set forth in WCC 16.16.270 and 16.16.273, respectively.

B. Utilities.

1. **Utility lines** in Category II, III, and IV wetlands and their buffers and/or Category I wetland buffers when no feasible conveyance alternative is available shall be designed and constructed to minimize physical, hydrologic, and ecological impacts to the wetland, and meet all of the following:
 - a. The utility line is located as far from the wetland edge and/or buffer as possible and in a manner that minimizes disturbance of soils and vegetation.
 - b. Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line and the area is restored following utility installation.
 - c. Buried utility lines shall be constructed in a manner that prevents adverse impacts to surface and subsurface drainage. This may include regrading to the approximate original contour or the use of trench plugs or other devices as needed to maintain hydrology.
 - d. Best management practices are used in maintaining said utility corridors such that maintenance activities do not expand the corridor further into the critical area.
 - ~~d.e.~~ The least impactful construction or installation method is used as demonstrated through an alternatives analysis.

2. **On-site sewage disposal systems (OSS)** may be permitted in wetland buffers when accessory to an approved single-family residence residential structure when:

- a. ~~When it~~ is not feasible to connect to a public sanitary sewer system; and
- b. It is located as far as possible from the wetland; and
- c. ~~When it~~ is operated and maintained in accordance with WCC 24.05.160; provided, that adverse effects on water quality are avoided.

B.C. Public Roads or Bridges. New or expanded public roads or bridges in Category II, III, and IV wetlands and their buffers and/or Category I wetland buffers when no feasible alternative alignment is available and the road or bridge is designed and constructed to minimize physical, hydrologic, and ecological impacts to the wetland, including placement on elevated structures as an alternative to fill, where feasible.

D. Private Access. Access to private development sites may be permitted to cross Category II, III, or IV wetlands or their buffers, provided the access meets the following:

1. For direct wetland fill, there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW.
2. Design and construction methods ~~there are no feasible alternative alignments and measures are taken to~~ maintain preconstruction hydrologic connectivity across the access road or driveway. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW.
3. The access is designed to cause the least impact to the wetland and/or its buffer (which may require the applicant to apply for an ~~Exceptions or deviations from the technical Development Standards~~) for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

~~1.4.~~ Access is not achievable through the administrative provisions of WCC 16.16.640 (Wetland Buffer Modification).

D.E. Agricultural Uses, as follows:

1. Construction of an appurtenant structure that is associated with a primary agricultural use; or the reconstruction, remodeling, or maintenance of such structures in wetland buffers, subject to all of the following specific criteria:
 1. The structure is located within an existing lot of record and is an ongoing agricultural use.
 2. There is no other feasible location with less impact to critical areas.
 3. Clearing and grading activity and impervious surfaces are limited to the minimum necessary to accommodate the proposed structure and, where possible, surfaces shall be made of pervious materials.
2. Ongoing agricultural activities, subject to the following:
 - a. The activities are conducted in accordance with all applicable provisions of this chapter and WCC Title 17; or
 - b. The agricultural activity is in compliance with the Conservation Program on Agricultural Lands (CPAL) as described in Article 8 of this chapter.

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E.F. Domestic wells serving single-family developments (including plats, short plats, and individual single-family residences) and necessary appurtenances, including a pump and appropriately sized pump house, but not including a storage tank, in wetland buffers when all of the following conditions are met:

1. There is no viable alternative to the well site outside of the buffer and the well is located as far back from the wetland edge as is feasible;
2. The well is more than 75 feet deep; and
3. Any impacts to the wetland and buffer from staging equipment and the well-drilling process are mitigated.

F.G. Stormwater Management Facilities.

1. Stormwater management facilities, limited to detention/retention/treatment ponds, media filtration facilities, and lagoons or infiltration basins, or bioretention cells (engineered or rain gardens) may be permitted within the outer 50%~~percent~~ of a Category II, III or IV wetland buffer; provided, that:
 - a. Construction of the stormwater facility does not displace or impact a forested buffer;
 - b. The width of the buffer between the stormwater facility and the wetland edge is not less than the low intensity land use buffer standards in WCC [16.16.630](#);
 - c. There is no other feasible location for the stormwater facility and the facility is located, constructed, and maintained in a manner that minimizes adverse effects on the buffer and adjacent critical areas;
 - d. The stormwater facility is designed to mimic and resemble natural wetlands and meets applicable county or state stormwater management standards and the discharge water meets state water quality standards; and
 - e. Low impact development approaches have been implemented to the maximum extent feasible per the Department of Ecology stormwater manual.
2. Surface water or stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a Category III or IV wetland buffer on a case-by-case basis when the ~~technical administrator~~ **Director** determines that all of the following are met:
 - a. Due to topographic or other physical constraints, there are no feasible alternative locations for these facilities in the outer buffer area or outside the buffer.
 - b. The discharge is located as far from the wetland edge and/or buffer as possible and in a manner that minimizes disturbance of soils and vegetation.
 - c. The discharge outlet is designed to prevent erosion and promote infiltration.
 - d. The dispersion outfall is within the outer 25%~~percent~~ of the buffer, unless a closer location is demonstrated to be the only feasible location. Alternative locations shall be the maximum distance from the wetland to alleviate the site constraint.
3. Phosphorus-reducing BMP structures approved and installed through the homeowners' improvement program (or as may be renamed) within the Lake Whatcom watershed to treat

runoff from existing development may be permitted within the outer 50%-percent of a Category II, III or IV wetland buffer.

G.H. **Recreation.** Passive recreation facilities that are part of a non-motorized trail system or environmental education program, including walkways, wildlife viewing structures, or public education trails; provided, that all of the following criteria are met:

1. There is no other feasible alternative route with less impact on the critical area.
2. The trail minimizes erosion and sedimentation, hydrologic alteration, and disruption of natural processes such as wood recruitment and natural wildlife movement patterns.
- 1-3. Private trails shall not exceed six-four feet in width, and public trails shall not exceed 10 feet in width, though some portions may be wider to meet the requirements of the Americans with Disabilities Act.
- 2-4. They shall be made of pervious material or elevated where feasible.
- 3-5. They shall be designed to avoid removal of significant trees.
6. Trails may include limited viewing platforms that shall not exceed eight feet in width and shall be made of pervious materials where feasible.
- 4-7. When located in the buffer, they should be located in the outer 25%-percent of the buffer, except, that public trails may be permitted closer to the wetland when necessary to provide wetland educational opportunities or for public health and safety; provided, that when closer than the outer 25%, the trail width is the minimum necessary for the trail class.
- 5-8. They shall be constructed and maintained in a manner that minimizes disturbance of the buffer and associated critical areas.
- 6-9. If they must cross a wetland, they shall be elevated, constructed to minimize supports, and be the minimum size necessary to accommodate the level of service.

H. Single family developments may be permitted to encroach into wetland buffers subject to the technical administrator's approval; provided, that all of the criteria in WCC 16.16.270(B) (Reasonable Use) are met.

16.16.630 Wetland Buffers widths.

To protect the integrity, functions, and values of wetlands, the technical administrator Director shall have the authority to require buffers from the edges of all wetlands-, including reestablished or created wetlands, (in addition to the building setback required by WCC 16.16.265(DA)(1)) in accordance with the following:

A. Wetland buffers shall be established to protect the integrity, functions and values of the wetland.

Wetland buffers shall be measured horizontally from a perpendicular line established by the wetland boundary based on the base buffer width identified in Table 1.

A-B. Wetland B buffers shall not include areas that are functionally and effectively disconnected from the wetland by an existing, legally established road or other that are functionally and effectively disconnected from the wetland by an of existing, legally established road or other substantially developed surface.

Comment [CES54]: Added per Scoping Document item #13c to give County Parks flexibility to increase public awareness and stewardship of critical areas.

Comment [CES55]: Not needed. 16.16.270 would apply to any type of development and is covered by (A)

Comment [P/C56]: P/C moved to retain existing text. Passed 4-3

- ~~B.C.~~ The wetland buffer standards required by this Article presume the existence of a dense, multi-storied native vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the ~~technical administrator~~ Director may increase the standard buffer, require buffer planting or enhancement, and/or deny a proposal for buffer reduction or buffer averaging.
- ~~C.D.~~ The standard wetland buffer shall be based on a combination wetland category, habitat function score (from the wetland rating form), and land use intensity. The intensity of the land use shall be determined in accordance with the definitions found in Article 9 of this chapter unless the ~~technical administrator~~ Director determines that a lesser level of impact is appropriate based on information provided by the applicant demonstrating that the proposed land use will have a lesser impact on the wetland than that contemplated under the buffer standard otherwise appropriate for the land use, as specified in WCC 16.16.640.
- ~~D.E.~~ Standard buffer widths are shown in Table 1. However, for Category I or II wetlands with “special characteristics” as determined and defined through the Washington State Department of Ecology (2014) Wetland Rating System (including estuarine, coastal lagoons, wetlands of high conservation value, bogs, forested, and interdunal wetlands), only buffers in the highest habitat score (8 to 9) group are applied.

Table 1. Standard Wetland Buffer Widths

Wetland Category	Habitat Function Score	Land Use Intensity*		
		High Buffer Width (feet)	Moderate Buffer Width (feet)	Low Buffer Width (feet)
Category I				
	8 – 9	300	225	150
	5-6 – 7	150	110	75
	<3 – 5	100	75	50
Category II				
	8 – 9	275 <u>300</u>	150 <u>225</u>	100 <u>150</u>
	5-6 – 7	150	110	75
	3 – <5	80 <u>100</u>	60 <u>75</u>	50
Category III				
	8 – 9	150 <u>300</u>	110 <u>225</u>	75 <u>150</u>
	5-6 – 7	150	100 <u>110</u>	60 <u>75</u>
	3 – <5	80	60	50 <u>40</u>
Category IV				
	8-3 – <59	50	40	25

* Definitions for high, moderate, and low intensity land use are provided in Article 9 of this chapter.

Comment [CES57]: Amending wetland buffer widths and habitat function score thresholds to make them consistent with the Department of Ecology’s most recent 2018 guidance. We have been notified by the DOE that though the Critical Areas Ordinance was only updated a few years ago, our wetland buffer widths and habitat function score thresholds do not meet their current guidance, and that they would be reviewing our SMP update to ensure we updated these during this process (linked because our CAO is a part of our SMP, see above). While many of the buffer widths would increase, the change in the habitat function score thresholds would place fewer wetlands in the higher buffer categories. Staff has worked with the local wetland consultants over the past year to analyze what differences this would make for most property owners, and based on data received from them it appears to be awash for the most common types of wetlands.

16.16.640 Wetland Buffer Modification.

Buffer widths may be increased, decreased, or averaged in accordance with the following provisions, which provide flexible approaches to maximize both ecological functions and allowed uses. All mitigation proposed shall be consistent with State and this Chapter.

A. **Buffer Width Increasing.** The Director may require the standard buffer width to be increased by the distance necessary to protect wetland functions and provide connectivity to other wetland and habitat areas for one of the following:

1. To protect the function and value of that wetland including, but not limited to, compensating for a poorly vegetated buffer or a buffer that has a steep slope (greater than 30% percent); or
2. To prevent windthrow damage; or
3. To protect wetlands or other critical areas from landslides, erosion or other hazards.
4. To maintain viable populations of existing species listed by the Federal or State government as endangered, threatened or sensitive; or
5. When a Category I or II wetland is located within 300 feet of:
 - a. Another Category I, II or III wetland; or
 - b. A fish and wildlife HCA; or
 - c. A Type S or F stream; or
 - d. A high impact land use that is likely to have additional impacts.

The increased buffer distance may be limited to those areas that provide connectivity or are necessary to protect wetland and habitat functions. If the wetland contains variations in sensitivity, increasing the buffer widths will only be done where necessary to preserve the structure, function and value of the wetland.

B. **Buffer Width Averaging.** Buffer width averaging allows limited reductions of buffer width in specified locations while requiring increases in others. The widths of buffers may be averaged if this will improve the protection of wetland functions.

1. Averaging of required buffer widths will be allowed only if the applicant demonstrates that all of the following criteria are met:
 - a. The area of the buffer proposed for averaging has not been reduced pursuant to subsection (C). Buffer averaging is not allowed if the buffer has been reduced.
 - b. Averaging is necessary to accomplish the purpose of the proposal and no reasonable alternative is available; and
 - c. Averaging width will not adversely impact the wetland functions and values; and
 - d. The wetland has significant differences in characteristics that affect its habitat functions; and
 - e. The total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging; and
 - f. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion; and

Comment [CES58]: Combined 16.16.640, 650, & 660 into better language from Skagit County

Comment [CES59]: Moved from 16.16.660

g. The buffer width of a Category I, II, or III wetland shall not be reduced below 75% of the standard buffer width.

2. Averaging of required buffer widths will be allowed for the following when the dimensional standards of subsection (B)(1) are met:

a. To protect a natural feature (e.g., a stand of trees or snags) that otherwise would fall outside of the standard buffer.

b. To provide connections with adjacent habitats or to address those situations where pre-existing development has reduced a buffer area to a width less than the required standard.

In the specified locations where a buffer has been reduced to achieve averaging, the Director may require enhancement to the remaining buffer to ensure no net loss of ecologic function, services, or value.

C. **Buffer Width Reduction.** The Director shall have the authority to reduce the standard buffer widths identified in WCC 16.16.630 (Wetland Buffers) as follows:

1. The buffers of moderate and low impact land use projects may be reduced when all of the following apply:

a. The area of the buffer proposed for reduction has not been averaged pursuant to subsection (B). Buffer reduction is not allowed if the buffer has been averaged.

b. The applicant demonstrates buffer averaging is not feasible.

c. The buffer shall not be reduced to less than 75% of the required buffer.

d. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in WCC 16.16.260 (General Mitigation Requirements).

e. To minimize impacts and provide equivalent functions and values as required by this section, the Director may require any or all of the following:

i. The use of alternative on-site wastewater systems in order to minimize site clearing, where appropriate;

ii. Using low impact development (LID) and LID best management practices where appropriate;

~~In order to offset habitat loss from buffer reduction, retaining existing native vegetation on other portions of the site equal to no more than the area impacted.~~

f. The buffer reduction shall not adversely affect the functions and values of the adjacent wetlands;

g. All buffer reduction impacts are mitigated and result in equal or greater protection of the wetland functions and values. This includes enhancement of existing degraded buffer area and provide mitigation for the disturbed buffer area.

2. High impact land use projects may apply moderate land use intensity buffers when:

a. For wetlands that score 3-5 habitat points, all applicable impact reduction measures from the following list are implemented (from Department of Ecology Publication No. 05-06-008, Wetlands in Washington State, Volume 2, Appendix 8C (as updated in 2018):

i. Directing lights away from the wetland and buffer.

ii. Locating activities that generate noise away from the wetland and buffer.

Comment [CES60]: Based on public comments, staff has amended this section to better meet DOE Guidance.

Comment [CES61]: Section amended to be consistent with DOE guidance (Wetlands in Washington State, Volume 2, Appendix 8C, updated 2018 and Guide for Developing CAOs, 2016)

Comment [CES62]: Based on public comments, staff has amended this section to better meet DOE Guidance.

Comment [P/C63]: P/C motion to strike. Carries 7-1-1

- iii. Routeing all new, untreated runoff away from wetland while ensuring wetland is not dewatered.
- iv. Establishing covenants limiting use of pesticides within 150 feet of wetland.
- v. Applying integrated pest management.
- vi. Retrofitting stormwater detention and treatment for roads and existing adjacent development.
- vii. Preventing channelized flow from lawns that directly enters the buffer.
- viii. Infiltrateing or treating, detaining, and dispersinge into the buffer new runoff from impervious surfaces and new lawns.
- ix. Posting signs at the outer edge of the critical area or buffer to clearly indicate the location of the critical area according to the direction of the County.
- x. Useing privacy fencing.
- xi. Planting with dense native vegetation appropriate for the County to delineate buffer edge and to discourage disturbance.
- xii. Usinge low impact development (LID) and LID best management practices where appropriate.
- xiii. Establishing a permanent conservation easement or tract to protect the wetland and the associated buffer.
- xiv. Useing best management practices to control dust.

b. For wetlands that score 6 points or more for habitat function:

- i. All applicable impact reduction measures of subsection (C)(2)(a) are implemented, and;
 - ii. A relatively undisturbed, vegetated corridor at least 100 feet wide between the wetland and any other Priority Habitats is protected pursuant to WCC 16.16.260(l) (General Mitigation Requirements – Permanent Protection). If no option for providing such a corridor is available, then only subsection (i) applies.
3. In all circumstances when the buffer between the area of reduction and the wetland is degraded, this degraded portion of the buffer shall include replanting with native vegetation in order to achieve a dense vegetative community.
4. Any person who alters or proposes to alter regulated wetlands shall reestablish, create, rehabilitate, or enhance (or a combination thereof) areas of wetland in order to compensate for wetland losses at the ratios described in mitigation ratios for projects in Western Washington in Table 8C-11 (as updated in 2014) in Department of Ecology Publication No. 05-06-008, Wetlands in Washington State, Volume 2, Section 8C.2.3.

D. **Buffer Width Variance.** Standard buffer widths may be reduced by more than 25% through a variance pursuant to WCC 16.16.273 (Variances); provided, that buffer averaging beyond that allowed in subsection (B) is prohibited.

Comment [CES64]: Moved from the old 16.16.640

Comment [P/C65]: P/C Motion to approve. Carries 9-0

~~16.16.640 Wetland buffer reduction.~~

The technical administrator shall have the authority to reduce the standard buffer widths identified in WCC ~~16.16.630~~; provided, that the general standards for avoidance and minimization per WCC ~~16.16.260(A)(1)(a)~~ and (b) shall apply; and provided further, that all of the following apply:

- ~~A. The buffer reduction shall not adversely affect the functions and values of the adjacent wetlands;~~
- ~~B. The buffer of a Category I, II, or III wetland shall not be reduced to less than 75 percent of the required buffer or 50 feet, whichever is greater;~~
- ~~C. The buffer of a Category IV wetland shall not be reduced to less than 50 percent of the required buffer, or 25 feet, whichever is greater;~~
- ~~D. The applicant implements all reasonable measures to minimize the adverse effects of adjacent land uses and ensure no net loss of buffer functions and values. Such measures may include, but are not limited to, the following:
 - ~~1. Direct lights away from the wetland and buffer.~~
 - ~~2.1. Locate activities that generate noise away from the wetland and buffer.~~
 - ~~3.1. Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered.~~
 - ~~4.1. Establish covenants limiting use of pesticides within 150 feet of wetland.~~
 - ~~5.1. Apply integrated pest management.~~
 - ~~6.1. Retrofit stormwater detention and treatment for roads and existing adjacent development.~~
 - ~~7.1. Prevent channelized flow from lawns that directly enters the buffer.~~
 - ~~8.1. Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.~~
 - ~~9.1. Post signs at the outer edge of the critical area or buffer to clearly indicate the location of the critical area according to the direction of the County.~~
 - ~~10.1. Use privacy fencing.~~
 - ~~11.1. Plant with dense native vegetation appropriate for the County to delineate buffer edge and to discourage disturbance.~~
 - ~~12.1. Use low impact development (LID) and LID best management practices where appropriate.~~
 - ~~13.1. Establish a permanent conservation easement or tract to protect the wetland and the associated buffer.~~
 - ~~14.1. Use best management practices to control dust.~~~~

~~16.16.650 Wetland buffer averaging.~~

The technical administrator shall have the authority to average wetland buffer widths on a case-by-case basis; provided, that the general standards for avoidance and minimization per WCC ~~16.16.260(A)(1)(a)~~ and (b) shall apply, and when all of the following criteria are met:

- ~~A. The buffer averaging does not reduce the functions or values of the wetland;~~
- ~~B. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer, and all increases in buffer dimension for averaging must be~~

generally parallel to the wetland boundary to avoid creating buffer “panhandles” unless it constitutes a wildlife corridor;

- C. ~~The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;~~
- D. ~~The minimum buffer width of a Category I, II, or III wetland shall not be less than 75 percent of the widths established under WCC 16.16.630, or 50 feet, whichever is greater;~~
- E. ~~The minimum buffer width of a Category IV wetland shall not be less than 50 percent of the widths established under WCC 16.16.630, or 25 feet, whichever is greater; and~~
- F. ~~The buffer has not been reduced in accordance with WCC 16.16.640. Buffer averaging is not allowed if the buffer has been reduced.~~

~~16.16.660 Wetland buffer increases.~~

~~The technical administrator shall have the authority to increase the width of the standard buffer width on a case-by-case basis when there is sound evidence that a larger buffer is required by an approved habitat management plan as outlined in WCC 16.16.750, or such increase is necessary to:~~

- ~~A. Protect the function and value of that wetland including, but not limited to, compensating for a poorly vegetated buffer or a buffer that has a steep slope (greater than 30 percent); or~~
- ~~B. A. Prevent windthrow damage; or~~
- ~~C. A. Maintain viable populations of species such as herons and other priority fish and wildlife; or~~
- ~~D. A. Protect wetlands or other critical areas from landslides, erosion or other hazards.~~

16.16.670 Wetlands – Review and Reporting Requirements.

- A. When County critical area maps or other sources of credible information indicate that a site proposed for development or alteration may contain wetland indicators, contain or abut wetlands or wetland buffers, the ~~technical administrator~~ Director may require a site evaluation (reconnaissance) or critical area assessment report by a qualified professional to determine whether or not a regulated wetland is present and, if so, its relative location in relation to the proposed project area or site. If no regulated wetlands are present, then wetland review will be considered complete.
- B. If the ~~technical administrator~~ Director determines that a wetland indicator is more likely than not present, ~~ts/he technical administrator~~ shall require a wetland assessment report pursuant to WCC [16.16.255](#) and sub-sections C and D of this section.
- C. A wetland assessment is an element of a critical area assessment report that describes the characteristics of the subject property and adjacent areas. The wetland assessment shall include the occurrence, distribution, delineation, and determination of the wetland category and standard wetland buffers as set forth in WCC [16.16.630](#), and may include analysis of historical aerial photos, and review of public records.
- D. A wetland assessment shall include the following site- and proposal-related information unless the ~~technical administrator~~ Director determines that any portion of these requirements is already required by Article 2, or unnecessary given the scope and/or scale of the proposed development:
 - 1. Location information (legal description, parcel number, and address);

2. A vicinity map;
3. A site plan that includes scale and wetlands and associated buffers and proposed development if appropriate;
4. A qualitative written assessment and accompanying maps of wetlands and buffers within 300 feet of the site and an estimate of the existing acreage for each. For on-site wetlands, the assessment shall include the dominant and subdominant plant species; soil type, color and texture; sources of hydrology (patterns of surface and subsurface water movement, precipitation, etc.); topography; and other pertinent information. The assessment of off-site wetlands shall be based on available information and shall not require accessing off-site properties;
5. Wetland Analysis. An analysis of all wetlands and buffers (to the extent they can be legally accessed) including, at a minimum, the following information:
 - a. Wetland delineation conducted by a qualified professional and completed in accordance with WCC [16.16.610\(A\)](#).
 - b. The wetland boundary shall be marked in the field (with flagging left in the field for Whatcom County verification and placed high enough to allow line of sight with vegetation growth) and surveyed using a methodology appropriate to scale of development. The surveyed wetlands areas shall be mapped showing location and size of all wetlands. Methodology used shall be in the report with description of equipment (specs), accuracy, and pertinent description of how the coordinates were gathered.
 - c. Determination of each wetland size.
 - d. Description of each wetland class and category.
 - e. Description of overall water sources and drainage patterns on site. Include all streams and drainages (Type S, F, Np, or Ns streams), shorelines, floodplains, flood-prone areas.
 - f. Description of vegetation, hydrologic conditions, and soil and substrate conditions.
 - g. Description of wildlife and habitat. Include all critical habitat for threatened and endangered species within 300 feet of the development footprint.
 - h. Topographic elevation, at two-foot contours provided by Whatcom County PDS for single-family proposals.
 - i. Functional assessment of the wetland and adjacent buffer using a local or state agency-recognized method and including the reference of the method and all data sheets.
 - j. Standard buffer requirements for each wetland. Copies of the wetland rating forms and associated figures from the Ecology Wetland Rating System for Western Washington, as amended.
- E. For single-family building permits, the applicant may hire a qualified professional to prepare the assessment report or may request that the County assess the regulated wetland(s) and buffers and determine the impacts associated with the project, subject to the following:
 1. ~~Availability of Field investigation by~~ County staff shall be at the discretion of the ~~technical administrator~~ Director and subject to workload and scheduling constraints.
 2. Fees for County staff services shall be in accordance with the unified fee schedule.

- F. If a regulated wetland buffer from a neighboring property extends onto a proposed development site for which review under this chapter is required, the ~~technical administrator~~ Director shall have the authority to require that deterrent devices be placed at the edge of the buffer in accordance with WCC [16.16.265](#). The applicant shall provide ~~written~~ documentation that no buffer encroachment will occur. The documentation shall be on a form provided by the Department ~~in the form of a letter or similar affidavit.~~

16.16.680 Wetlands – Mitigation Standards.

In addition to the applicable general protective measures found in WCC [16.16.265](#), activities that adversely affect wetlands and/or wetland buffers shall include mitigation sufficient to achieve no net loss of wetland function and values in accordance with WCC [16.16.260](#) and this section.

- A. In determining the extent and type of mitigation required, the ~~technical administrator~~ Director may consider all of the following when applicable:
1. The ecological processes that affect and influence critical area structure and function within the watershed or sub-basin;
 2. The individual and cumulative effects of the action upon the functions of the critical area and associated watershed;
 3. Observed or predicted trends regarding the gains or losses of specific wetland types in the watershed, in light of natural and human processes;
 4. The likely success of the proposed mitigation measures;
 5. Effects of the mitigation actions on neighboring properties; and
 6. Opportunities to implement restoration actions formally identified by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter [90.82](#) RCW, a watershed plan prepared pursuant to Chapter [400-12](#) WAC, a salmonid recovery plan or project that has been identified on the watershed management board habitat project list or by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement, a fully authorized mitigation bank (WCC [16.16.263](#)), or an in-lieu-fee program.

~~Compensatory mitigation shall be provided on site or off site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed as the permitted alteration. This provision may be waived upon demonstration through a watershed- or landscape-based analysis that mitigation within an alternative sub-basin of the same basin would have the greatest ecological benefit and the greatest likelihood of success; provided, that limiting functions shall not be removed from sensitive watersheds identified in WCC Title 20. Mitigation shall occur within WRIA 1 or 2.~~

~~All mitigation areas shall be protected and managed to prevent degradation and ensure permanent protection of critical area functions and values. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with WCC 16.16.265.~~

~~Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed as quickly as possible following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fish, wildlife and flora; provided, that the technical administrator may adjust the timing requirements to allow grading, planting, and other activities to occur during the appropriate season(s).~~

Comment [CES66]: Now covered in 16.16.260

B. Type of Mitigation.

1. **Wetland Alterations.** Compensatory mitigation projects shall restore, create, rehabilitate, enhance, and/or preserve equivalent wetland functions and values pursuant to no net loss of function and area. Compensation for wetland alterations shall occur in the following order of preference:
 - a. Reestablishing (also referred to as restoring) wetlands on upland sites that were formerly wetlands.
 - b. Creating wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.
 - c. Rehabilitation of existing wetlands for the purposes of repairing or restoring natural and/or historic hydrologic functions.
 - d. Enhancing existing significantly degraded wetlands.
 - e. Preserving Category I or II wetlands that are under imminent threat; provided, that preservation shall only be allowed in combination with other forms of mitigation ~~and when the technical administrator~~ Director determines that the overall mitigation package fully replaces the functions and values lost due to development.
2. **Buffer Alterations.** Compensatory mitigation for buffer impacts:
 - a. Shall be consistent with WCC [16.16.630](#) through [16.16.660](#); and
 - b. May include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures to achieve equivalent or greater buffer functions.

C. Mitigation Ratios.

1. ~~Compensation for wetland buffer impacts shall occur at a minimum 1:1 ratio on an area basis.~~ Compensatory mitigation for wetland alterations shall be based on the wetland category and the type of mitigation activity proposed. The replacement ratio shall be determined according to the ratios provided in Table 2; provided, that the replacement ratio for preservation shall be 10 times the ratio for reestablishment or creation. The created, reestablished, rehabilitated, or enhanced wetland area shall, at a minimum, provide a level of function equivalent to the wetland being altered and shall be located in an appropriate landscape setting.
2. The mitigation ratios noted in Table 2 shall not apply to mitigation banks as defined by this chapter. Credit and debit procedures for mitigation banks shall be determined in accordance with the mitigation banking provisions outlined in WCC [16.16.263](#).

3. The ~~technical administrator~~ Director shall have the authority to adjust the ~~replacement~~ mitigation ratios in Table 2 when one or more of the following apply:
 - a. When a combination of mitigation approaches is proposed. In such cases, the area of altered wetland shall be replaced at a 1:1 ratio through reestablishment or creation, and the remainder of the area needed to meet the ratio can be replaced by enhancement or rehabilitation using Table 2.
 - b. When the project proponent has a demonstrated ability, based on past performance, to successfully design, construct, monitor and maintain wetland mitigation projects/sites.
 - c. When use of the guidance for Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (Department of Ecology Publication No. 10-06-011, as amended) results in a lower mitigation ratio than the standard ratios.
4. For permanent impacts to wetland buffers, unless the Director approves a habitat management plan with different ratios, mitigation shall be provided at the following ratios:
 - a. Where the mitigation is in place and functional before the impact occurs (i.e., advanced mitigation), at a ratio determined by the functions, values, and goals of an advanced mitigation plan.
 - b. Where the mitigation is in place and functional before within 1 year of the impacts occur occurring (i.e., advanced mitigation), at a 1:1 ratio (area or function); and
 - c. Where the mitigation is placed after 1 year of the impact occurs occurring, at a 1.25:1 ratio (area or function); and
 - d. For retroactive permits the Director may require the ratio to be up to ~~shall be double the~~ ratio in subsection (c) above.

Comment [P/C67]: P/C motion to amend as shown. Passes 7-0

Table 2. Compensatory Mitigation Ratios for Projects in Western Washington¹

Category and Type of Wetland Impacts	Reestablishment or Creation	Rehabilitation Only	Reestablishment or Creation (R/C) and Rehabilitation (RH)	Reestablishment or Creation (R/C) and Enhancement (E)	Enhancement Only
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Estuarine	Case-by-case	4:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case
All other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I	No alteration allowed unless an essential public facility				

(Ratios indicate mitigation area to area disturbed.)

¹ From Wetlands in Washington, Volume 2, Appendix 8C, Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System, Table 8C-11.

D. Reestablished or created wetlands established pursuant to these mitigation provisions shall have adequate buffers to ensure their protection. The buffer shall be based on the category of the reestablished, created, rehabilitated, enhanced, or preserved wetland.

~~F.A. Compensatory mitigation shall be provided on site or off site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed as the permitted alteration. This provision may be waived upon demonstration through a watershed or landscape based analysis that mitigation within an alternative sub-basin of the same basin would have the greatest ecological benefit and the greatest likelihood of success; provided, that limiting functions shall not be removed from sensitive watersheds identified in WCC Title 20. Mitigation shall occur within WRIA 1 or 3.~~

~~F.A. All mitigation areas shall be protected and managed to prevent degradation and ensure permanent protection of critical area functions and values. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with WCC 16.16.265.~~

~~G.A. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed as quickly as possible following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fish, wildlife and flora; provided, that the technical administrator may adjust the timing requirements to allow grading, planting, and other activities to occur during the appropriate season(s).~~

16.16.690 Wetland Compensatory Wetland Mitigation Plan.

- A. In addition to meeting the requirements of WCC [16.16.260](#)(B), a ~~compensatory~~ mitigation plan for wetland and wetland buffer impacts shall meet the following:
1. Provide an analysis of existing wetland functions and values and a detailed description of the effects of the proposed development on wetland and buffer function and value, including the area of direct wetland disturbance, area of buffer disturbance, area of buffer reduction, and area of buffer averaging, including documentation that the functions and values will be increased through reduction or average; effects of stormwater management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light, and human intrusion.
 2. The plan shall be based on applicable portions of the Washington State Department of Ecology's Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals, 2004, or other appropriate guidance document that is consistent with best available science.
 3. The plan shall contain sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Specific information to be provided in the plan shall include:
 - a. The rationale for site selection;
 - b. General goals of the plan, including wetland function, value, and acreage;

- c. Description of baseline (existing) site conditions including topography, vegetation, soils, hydrology, habitat features (e.g., snags), surrounding land use, and other pertinent information;
- d. Field data confirming the presence of adequate hydrology (surface and/or groundwater) to support existing and ~~compensatory-mitigated~~ wetland area(s);
- e. Nature of mitigation activities, including area of restored, created, enhanced, rehabilitated and preserved wetland, by wetland type;
- f. Detailed grading and planting plans showing proposed post-construction topography; general hydrologic patterns; spacing and distribution of plant species; size and type of proposed planting stock; watering or irrigation plans; and other pertinent information;
- g. To facilitate establishment of a stable community of native plants, A description of site treatment measures including removal of noxious weeds and/or invasive species ~~removal~~, use of mulch and fertilizer, placement of erosion and sediment control devices, and best management practices that will be used to protect existing wetlands and desirable vegetation;
- ~~g-h.~~ A demonstration that the site will have adequate buffers sufficient to permanently protect the wetland functions.

- B. All ~~compensatory~~ mitigation projects shall be monitored in accordance with WCC [16.16.260](#)(C) for a period necessary to establish that performance standards have been met. The ~~technical administrator~~ Director shall have the authority to extend the monitoring period for up to 10 years and require additional monitoring reports when any of the following conditions apply:
 - 1. The project does not meet the performance standards identified in the mitigation plan.
 - 2. The project does not provide adequate replacement for the functions and values of the impacted critical area.
 - 3. The project involves establishment of forested plant communities, which require longer time for establishment.
- C. Reports shall be submitted annually for the first three years following construction and at the completion of years five, seven and 10 if applicable to document milestones, successes, problems, and contingency actions of the ~~compensatory~~ mitigation.

Article 7. Fish & Wildlife Habitat Conservation Areas (HCA)

16.16.700 Purpose.

The purposes of this article are to:

- A. Protect, restore, and maintain native fish and wildlife populations by protecting and conserving fish and wildlife habitat and protecting the ecological processes, functions and values, and biodiversity that sustain these resources.
- B. Protect marine shorelines, valuable terrestrial habitats, lakes, ponds, rivers, and streams and their associated riparian areas, and the ecosystem processes on which these areas depend.
- C. Regulate development so that isolated populations of species are not created and habitat degradation and fragmentation are minimized.
- D. Maintain the natural geographic distribution, connectivity, and quality of fish and wildlife habitat and ensure no net loss of such important habitats, including cumulative impacts.

16.16.710 Habitat Conservation Areas – Designation, Mapping, and Classification.

- A. ~~Habitat conservation areas, as defined in Article 9 of this chapter, are those areas identified as being of critical importance to the maintenance of certain fish, wildlife, and/or plant species. These areas are typically identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both. All areas within the county meeting these criteria are hereby designated critical areas and are subject to the provisions of this article.~~
- B. The approximate location and extent of identified fish, wildlife, and sensitive plant habitat areas are shown on the County's critical area maps as well as state and federal maps. ~~However, these maps are to be used as a guide and do not provide a definitive critical area determination; each applicant is responsible for having a property-specific determination assessment is necessary to determine the extent of the HCA made pursuant to Article 2 of this chapter. The County shall update the maps as new habitat conservation areas are identified and/or more comprehensive information on function, condition, cover type, and resolution is developed.~~
- C. Habitat conservation areas shall include all of the following:
 1. Surface Waters of the State~~Streams~~.
 - a. All waterbodies~~streams~~ which ~~that~~ meet the criteria for Type S, F, Np, or Ns waters as set forth in WAC [222-16-030](#) of the Washington Department of Natural Resources' (DNR) Water Typing System, as now or hereafter amended.
 - i. Type S ~~streams~~ waters are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC [222-16-030](#)(1) as now or hereafter amended, as a Type S water and are inventoried as "shorelines of the state" under the Shoreline Management Master Program for Whatcom County, pursuant to Chapter [90.58](#) RCW. Type S waters contain salmonid fish habitat.
 - ii. Type F ~~waters~~ streams are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC [222-16-030](#)(2) as now or

Comment [CES68]: Covered by 16.16.220

hereafter amended, as Type F water. Type F streams contain habitat for salmonid fish, game fish and other anadromous fish.

- iii. Type Np ~~waters streams~~ are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC [222-16-030](#)(3) as now or hereafter amended, as Type Np water. Type Np waters do not contain fish habitat.
 - iv. Type Ns ~~waters streams~~ are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC [222-16-030](#)(4) as now or hereafter amended, as a Type Ns water. These streams are areas of perennial or intermittent seepage, ponds, and drainage ways having short periods of spring or storm runoff. Type Ns waters do not contain fish.
2. ~~Ditches or other artificial watercourses are considered streams for the purposes of this chapter when:~~
- a. ~~Used to convey natural streams existing prior to human alteration; and/or~~
 - b. ~~The waterway is used by anadromous or resident salmonid or other resident fish populations; or~~
 - c. ~~Flows directly into shellfish habitat conservation areas.~~
3. Areas in which federally listed species are found, have a primary association with, or contain suitable ~~or federally defined critical~~ habitat for said listed species, as listed in the U.S. Fish and Wildlife's Threatened and Endangered Species List or Critical Habitat List (<http://ecos.fws.gov/ecp/>) or the National Marine Fisheries Service (NMFS) (<https://www.fisheries.noaa.gov/species-directory/threatened-endangered>), as amended.
4. Areas in which state-listed priority species are found, have a primary association with, or contain suitable habitat for said listed species, as listed in the Washington Department of Fish and Wildlife's Priority Habitats and Species List (<http://wdfw.wa.gov/mapping/phs/> or <http://wdfw.wa.gov/conservation/phs/list/>), as amended.
5. State priority habitats and areas associated with state priority species as listed in Washington Department of Fish and Wildlife's Priority Habitats and Species List (<http://wdfw.wa.gov/mapping/phs/> or <http://wdfw.wa.gov/conservation/phs/list/>), as amended.
6. Areas in which state-listed rare plant species are found, or contain suitable habitat for said listed species, as listed in the Department of Natural Resources' Natural Heritage Program (<http://www1.dnr.wa.gov/nhp/refdesk/plants.html>), as amended.
7. Areas in which state-listed saltwater critical areas are found, as listed in WAC [173-26-221](#)(2)(c)(iii).
8. ~~Areas in which state-listed freshwater critical areas are found, as listed in WAC 173-26-221(2)(c)(iv).~~
- ~~8.9. Naturally occurring ponds or manmade ponds and lakes under 20 acres in size and created prior to September 30, 2005, excluding agricultural, fire protection, and stormwater facilities.~~
- ~~9.10. All other waters defined as w~~Waters of the state, including marine waters.

Comment [P/C69]: Reinserted by the P/C 7-0-2-0.

Comment [RE70]: This is covered by Type S or Type F, Np, Ns water types

~~10.11.~~ Natural area preserves, aquatic reserves, and natural resource conservation areas as defined by the Washington Department of Natural Resources.

~~11.12.~~ Portions of the San Juan Islands National Monument within Whatcom County (including Chuckanut Rock, tip of Eliza Island, Eliza Island Rocks, Lummi Rocks, Baker's Reef, Carter Point, Carter Point Rock, and Seal Rock at the north end of Lummi Island, and subsequently designated areas).

~~12.13.~~ Frequently flooded areas that are subject to the Federal Emergency Management Agency's National Flood Insurance Program Biological Opinion (FEMA BiOp).

~~13.14.~~ Species and Habitats of Local Importance. Locally important species and habitats that have recreational, cultural, and/or economic value to citizens of Whatcom County, including the following:

- a. Species. The Department of Planning and Development Services shall maintain a current list of species of local importance as designated by the County Council.
- b. Habitats.
 - i. The marine nearshore habitat, including coastal lagoons, and the associated vegetated marine riparian zone. These areas support productive eelgrass beds, marine algal turf, and kelp beds that provide habitat for numerous priority fish and wildlife species including, but not limited to, forage fish, seabird and shorebird foraging and nesting sites, and harbor seal pupping and haulout sites. This designation applies to the area from the extreme low tide limit to the upper limits of the shoreline jurisdiction; provided, that reaches of the marine shoreline that were lawfully developed for commercial and industrial uses prior to the original adoption of this chapter may be excluded from this designation, but not otherwise exempt from this chapter.
 - ii. The Chuckanut wildlife corridor, which extends east from Chuckanut Bay and adjacent marine waters, including Chuckanut Mountain, Lookout Mountain, the northern portions of Anderson Mountain, and Stewart Mountain continuing along the southern Whatcom County border to Mount Baker/Snoqualmie National Forest boundary. This area represents the last remaining place in the Puget Trough where the natural land cover of the Cascades continues to the shore of Puget Sound.
 - iii. The Department of Planning and Development Services shall maintain a current list and map of habitats of local importance, as designated by the County Council.

D. In addition to the species, habitats, and wildlife corridors identified in subsection (C)(12) of this section, the Council may designate additional species, habitats of local importance, and/or wildlife corridors as follows:

1. In order to nominate an area, species, or corridor to the category of "locally important," an individual or organization must:
 - a. Demonstrate a need for special consideration based on:
 - i. Identified species of declining population;
 - ii. Documented species sensitive to habitat manipulation and cumulative loss;
 - iii. Commercial, recreational, cultural, biological, or other special value; or

- iv. Maintenance of connectivity between habitat areas;
 - b. Propose relevant management strategies considered effective and within the scope of this chapter;
 - c. Identify effects on property ownership and use; and
 - d. Provide a map showing the species or habitat location(s).
2. Submitted proposals shall be reviewed by the County and may be forwarded to the State Departments of Fish and Wildlife, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.
 3. If the proposal is found to be complete, accurate, and consistent with the purposes and intent of this chapter and the various goals and objectives of the Whatcom County comprehensive plan and the Growth Management Act, the County Council will hold a public hearing to solicit comment. Approved nominations will become designated locally important habitats, species, or corridors and will be subject to the provisions of this chapter.
 4. The Council may remove species, habitats, or corridors from this list if it can be shown that there is no longer a need to provide protection beyond that afforded by WDFW management strategies. Species and habitats of local importance that are not regulated elsewhere in this chapter may be removed if sufficient evidence has been provided by qualified professionals that demonstrates that the species no longer meets any provisions of subsection (D)(1)(a) of this section.

16.16.720 Habitat Conservation Areas – ~~General standards~~ Use and Modification.

The following activities may be permitted in habitat conservation areas and/or their buffers when, pursuant to WCC Chapter 16.16 (Critical Areas), ~~255 and 16.16.260~~, all reasonable measures have been taken to avoid adverse effects on species and habitats, any applicable Washington Department of Fish and Wildlife management recommendations have been applied, mitigation is provided for all adverse impacts that cannot be avoided, and the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose; provided, that locally important species and habitats shall be subject to WCC ~~16.16.730~~ 16.16.710(C)(12):

A. **Reasonable Use.** Developments that meet the reasonable use ~~and or~~ variance standards set forth in WCC 16.16.270 and 16.16.273, respectively.

B. **Utilities.**

1. ~~New~~ **Utility lines** and facilities may be permitted when all of the following criteria are met:
 - a. The least impactful construction or installation methodology is used as demonstrated through an alternatives analysis.
 - ~~a-b.~~ Impacts to fish and wildlife habitat and/or corridors shall be avoided to the maximum extent possible.
 - ~~b-c.~~ Where feasible, installation shall be accomplished by boring beneath the scour depth of the stream or waterbody and the width of the channel migration zone where present.

Comment [CES71]: Note: The order of the existing text has been changed to match that in 16.16.620, though not shown in track changes as it would become too confusing.

~~e.d.~~ Trenching of utilities across a stream channel shall be conducted as perpendicular to the channel centerline as possible whenever boring under the channel is not feasible. Utilities shall be installed below potential scour depth regardless of method.

~~d.e.~~ Crossings shall be contained within the footprint of an existing road or utility crossing where possible.

~~e.f.~~ The utility installation shall not increase or decrease the natural rate, extent, or opportunity of channel migration.

2. On-site sewage disposal systems (OSS) may be permitted in FWHCA buffers when accessory to an approved single-family residence when:

a. It is not feasible to connect to a public sanitary sewer system; and

b. It is located as far as possible from the FWHCA buffer; and

a-c. It is operated and maintained in accordance with WCC 24.05.160; provided, that adverse effects on water quality are avoided. ~~may be permitted in nonaquatic HCA buffers and in the outer 50 percent of streams or other aquatic HCA buffers when accessory to an approved residential structure for which there are no alternatives and when it is not feasible to connect to a public sanitary sewer system and when operated and maintained in accordance with WCC Chapter 24.05; provided, that adverse effects on water quality and slope stability are avoided.~~

~~2-3.~~ Domestic wells serving single-family developments (including plats, short plats, and individual single-family residences) and necessary appurtenances, including a pump and appropriately sized pump house, but not including a storage tank, in HCA buffers when all of the following conditions are met:

- a. There is no viable alternative to the well site outside of the buffer and the well is located as far back from the wetland edge as is feasible;
- b. Any impacts to the HCA buffer from staging equipment and the well-drilling process are mitigated.

~~B-C.~~ Stream crossings, provided they meet all the following criteria:

1. The stream crossing is for an allowed use.

~~1-2.~~ There is no other feasible alternative route with less impact on critical areas.

~~2-3.~~ The crossing minimizes interruption of natural processes such as channel migration, the downstream movement of wood and gravel, and the movement of all fish and wildlife. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream substrate and gradient, span the bankfull width, or be proven to not have an appreciable increase in backwater elevation at a minimum of a 100-year event and provide adequate vertical clearance for debris likely to be encountered at high water.

~~3-4.~~ Culverts shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Water Crossing Design Guidelines, WDFW 2013, as amended, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions), and in accordance with a state hydraulic project approval. The applicant or property owner shall maintain fish passage ~~through the bridge or culvert.~~

Comment [JPS72]: Guidelines also indicate relocation is an acceptable solution and may provide ecological lift if relocation is back to original stream bed location.

4.5. The County may require that existing culverts be removed, replaced, or fish passage barrier status corrected as a condition of approval if the culvert is detrimental to fish passage or water quality.

5.6. Roadway widths at culvert crossings shall be limited to the minimum width necessary to accommodate the roadway's classification. Culvert length shall be the minimum that is compatible with the roadway width.

6.7. Shared common crossings are the preferred approach where multiple properties can be accessed by one crossing.

D. **Private Access.** Access to private development sites may be permitted to cross habitat conservation areas FWHCAs and their buffers if: there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards may be considered by the technical administrator on a case-by-case basis where the resulting outcome reduces overall impacts to any identified critical area.

1. If there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW.

2. The access is designed to cause the least impact to the habitat conservation area and/or its buffer (which may require the applicant to apply for an exception or deviation from the Development Standards)

7.3. Access is not achievable through the administrative provisions of WCC 16.16.740 (Buffer Modification).

Comment [CES73]: Reworded for clarity

E. **Agricultural Uses.** Construction or improvements, other than a buildings, that are associated with an agricultural use in the outer 25% percent of the CPAL designated buffer; or the reconstruction, remodeling, or maintenance of such structures in a habitat conservation area buffer, subject to all of the following criteria:

1. The structure is located within an existing lot of record and is an ongoing agricultural use.
2. There is no other feasible location with less impact to critical areas. However, this provision does not apply to the reconstruction, maintenance and/or remodeling of preexisting structures.
3. Clearing and grading activity and impervious surfaces are limited to the minimum necessary to accommodate the proposed structure and, where possible, surfaces shall be made of pervious materials.
4. Unavoidable adverse effects on critical areas are mitigated in accordance with this chapter.

F. **Stormwater Management Facilities.**

1. Stormwater management facilities limited to detention/retention/treatment ponds, media filtration, lagoons and infiltration basins may be permitted in a stream buffer, subject to all of the following standards:

a. The facility is located in the outer 50% percent of the standard stream buffer and does not displace or impact a forested riparian community;

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~~2-b.~~ There is no other feasible location for the stormwater facility and the facility is located, constructed, and maintained in a manner that minimizes adverse effects on the buffer and adjacent critical areas;

~~3-c.~~ The stormwater facility meets applicable county or state stormwater management standards and the discharge water meets state water quality standards; and

~~4-d.~~ Low impact development approaches have been considered and implemented to the maximum extent feasible.

~~E-2.~~ Stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted in a habitat conservation area buffer on a case-by-case basis when the ~~technical administrator~~ Director determines that all of the following are met:

~~1-a.~~ Due to topographic or other physical constraints, there are no feasible locations for these facilities outside the buffer;

~~2-b.~~ The discharge is located as far from the ordinary high water mark as possible and in a manner that minimizes disturbance of soils and vegetation, except on shoreline slopes where location shall be determined by site characteristics to minimize adverse impacts;

~~3-c.~~ The discharge outlet is designed to prevent erosion and promote infiltration;

~~4-d.~~ The discharge meets freshwater and marine state water quality standards, including the need to evaluate cumulative impacts to 303(d) impaired water bodies and total maximum daily load (TMDL) standards as appropriate at the point of discharge. Standards should include filtration through mechanical or biological means, vegetation retention, timely reseeding of disturbed areas, use of grass-lined bioswales for drainage, and other mechanisms as appropriate within approved stormwater "special districts"; and

~~5-e.~~ The discharge outlet is designed to exclude fish from entering or migrating into stormwater conveyance systems.

~~6-3.~~ Phosphorus-reducing BMP structures approved and installed through the homeowners' improvement program (or as may be renamed) within the Lake Whatcom watershed to treat runoff from existing development may be permitted within fish and wildlife habitat conservation area buffers, provided that they are located the maximum feasible distance from the ordinary high water mark ~~25 feet of the lake shoreline.~~

G. Recreation.

~~F-1.~~ **Trails.** Construction of trails and roadways may be permitted in a habitat conservation area buffer when not directly related to a crossing and are subject to all of the following standards:

~~1-a.~~ There is no other feasible alternative route with less impact on the critical area.

~~2-b.~~ The ~~road or~~ trail minimizes erosion and sedimentation, hydrologic alteration, and disruption of natural processes such as channel migration, wood recruitment and natural wildlife movement patterns.

~~3-c.~~ Private trails shall not exceed four feet in width, and public trails shall not exceed 10 feet in width, though some portions may be wider to meet the requirements of the Americans with Disabilities Act.

~~d.~~ and They shall be made of pervious material or ~~on an elevated structure~~ where feasible.

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Comment [CES74]: Amended per Scoping Document item #13c

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e. They shall be designed to avoid removal of significant trees.

~~a.f.~~ Trails may include limited viewing platforms that shall not exceed eight feet in width and shall be made of pervious materials where feasible.

~~4.g.~~ The ~~road or~~ trail through riparian (stream) buffer shall be located in the outer 25% ~~percent~~ of the standard buffer, unless necessary to provide educational opportunities.

~~5.h.~~ The ~~road or~~ trail is constructed and maintained in a manner that minimizes disturbance of the buffer and associated critical areas.

~~G.2.~~ **Marinas and Launch Ramps.** Construction, reconstruction, repair, and maintenance of marinas and launch ramps may be permitted when consistent with the regulations found in WCC 23.40.060 (Marinas and Launch Ramps), regardless of whether the proposed project is within shoreline jurisdiction or not.

~~H.3.~~ **Docks.** Construction, ~~of docks and public launching ramps,~~ and reconstruction, repair, and maintenance of docks and ~~public or private launching ramps~~ may be permitted when consistent with the Army Corps of Engineers' Regional General Permit 6 (Structures in Inland Marine Waters of Washington State) and the regulations found in WCC 23.40.150 (Mooring Structures), regardless of whether or not the proposed project is within shoreline jurisdiction. subject to the following:

- ~~1.~~ The dock or ramp is located and oriented and constructed in a manner that minimizes adverse effects on navigation, wave action, water quality, movement of aquatic and terrestrial life, ecological processes, critical saltwater habitats, wetlands, or other critical areas.
- ~~2.~~ Docks or ramps on shorelines of the state shall comply with WCC Title 23 and state hydraulic project approval requirements.
- ~~3.~~ Natural shoreline processes will be maintained to the maximum extent practicable. The activity will not result in increased erosion and will not alter the size or distribution of shoreline or stream substrate, or eliminate or reduce sediment supply from feeder bluffs.
- ~~4.~~ No net loss to habitat conservation areas or associated wetlands will occur.
- ~~5.~~ No net loss of juvenile fish migration corridors will occur.
- ~~6.~~ No net loss of intertidal or riparian habitat function will occur.

~~4.~~ **Accessory Uses Structures.** When located in the shoreline jurisdiction, residential ~~water oriented~~ recreational accessory structures—such as a boat equipment storage shed, an small uncovered boat storage rack, a fire pit, and a pathway leading to the shoreline—may be permitted in an HCA buffer; provided,

- a. Such structures are located as far from the shoreline as feasible and on previously-impacted buffer areas;
- b. The maximum area, inclusive of existing lawfully-established accessory structures, ~~They shall~~ be limited to 10% of the buffer's area or 500 square feet, whichever is less;
- c. No more than 20% of the linear length of shoreline is occupied by a building or structure;
- d. Individual structures shall be limited to a total footprint area of 100-square feet and 10-feet in height; and

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Comment [CES75]: Policy Change. This section allows for some recreational uses at the water's edge while meeting no net loss.

Comment [DOE-Req76]: Required Changes – These changes are required for consistency with the SMP Guidelines governing principle that SMP regulations must be designed to achieve no net loss of ecological functions (WAC 173-26-186(8)). The changes add appropriate sideboards to allow a limited and predictable list of common residential developments that may be located within regulated buffers. The changes include more emphasis on the required mitigation sequence including avoidance, minimization and mitigation of impacts to buffers [WAC 173-26-201(2)(e)]

e. The shoreline is 75% or at ratios outlined in WCC 16.16.760, whichever is greater, planted (or replanted) with native vegetation to a minimum depth of 15 feet landward from the ordinary high water mark.

f. This provision shall not apply to residential developments authorized using the constrained lot provisions of WCC 23.40.150(B).

H. Relocation of streams, or portions of streams, when there is no other feasible alternative and when the relocation will result in equal or better habitat and water quality and quantity, and will not diminish the flow capacity of the stream or other natural stream processes; provided, that the relocation meets state Hydraulic Project Approval requirements and that relocation of shoreline streams shall be prohibited unless the relocation has been identified formally by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement or identified in watershed planning documents prepared and adopted pursuant to Chapter [90.82](#) RCW, the WRIA 1 Salmonid Recovery Plan, or the WRIA 1 Watershed Management Board Habitat Project List, or the County's Shoreline Restoration Plan.

I. Clearing and grading, when allowed as part of an authorized activity or as otherwise allowed in these standards, may be permitted; provided, that the following shall apply:

1. Grading is allowed only during the designated dry season, which is typically regarded as May to October of each year; provided, that the County may extend or shorten the designated dry season on a case-by-case basis, based on actual weather conditions. Special scrutiny shall be given to Lakes Samish, Padden, and Whatcom watersheds, and water resource special management areas as described in WCC [20.80.735](#).
2. Appropriate erosion and sediment control measures shall be used at all times, consistent with best management practices in the Department of Ecology's Stormwater Management Manual for Western Washington. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, disturbed topsoil shall be salvaged and/or redistributed to other areas of the site. Areas shall be revegetated as needed to stabilize the site.
3. The moisture-holding and infiltration capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all are-as of the project area not covered by impervious surfaces.

J. Shoreline Streambank Stabilization and shoreline protection may be permitted when consistent with the shoreline stabilization regulations found in 23.40.190 (Shoreline Stabilization), regardless of whether the proposed project is within shoreline jurisdiction or not. subject to all of the following standards:

- ~~1. The stabilization or protection measures shall be designed in accordance with the techniques contained within the Washington Department of Fish and Wildlife's most recent Integrated Streambank Protection Guidelines. Deviation from these techniques requires written justification from a qualified professional/engineer.~~
- ~~2. Natural shoreline processes will be maintained to the maximum extent practicable.~~
- ~~3. The activity will not result in increased erosion and will not alter the size or distribution of shoreline or stream substrate, or eliminate or reduce sediment supply from feeder bluffs.~~

4. ~~Stream and shoreline protection and launching ramps on shorelines of the state shall comply with WCC Title 23 and with state hydraulic project approval requirements.~~
5. ~~No net loss to habitat conservation areas or associated wetlands will occur.~~
6. ~~No net loss of juvenile fish migration corridors will occur.~~
7. ~~No net loss of intertidal or riparian habitat function will occur.~~
8. ~~Nonstructural measures, such as placing or relocating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not practicable or not sufficient.~~
9. ~~Stabilization is achieved through bioengineering or soft armoring techniques in accordance with an applicable hydraulic permit approval issued by the Washington State Department of Fish and Wildlife.~~
10. ~~Hard bank armoring is discouraged and may occur only when the property contains an existing permanent structure(s) that is in danger from shoreline erosion caused by wave action or riverine processes and not erosion caused by upland conditions, such as the alteration of natural vegetation or drainage, and the armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply. An objective alternatives analysis, addressing upstream and downstream impacts, shall be conducted to demonstrate that there is no other less environmentally damaging alternative to the more impacting proposed action.~~
11. ~~Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not a demonstration of need.~~
12. ~~The bank stabilization or shore protection will not adversely affect habitat conservation areas or mitigation will be provided to compensate for adverse effects where avoidance is not feasible.~~

~~L.K.~~ **New Public Flood Protection Measures** and expansion of existing ones may be permitted, subject to WCC Title 17, Article 4 of this chapter and a state hydraulic project approval; provided, that bioengineering or soft armoring techniques shall be used where feasible. Hard bank armoring may occur only in situations where soft approaches do not provide adequate protection.

~~L.~~ **In-stream structures** such as, but not limited to, high-flow bypasses, dams, and weirs, shall be allowed only as part of a watershed restoration project as defined pursuant to WCC ~~Title 23.410.230(10)~~ or identified in watershed planning documents prepared and adopted under Chapter 90.82 RCW, the salmonid recovery plan or watershed management board habitat project list, and the County's shoreline restoration plan and upon acquisition of any required state or federal permits. The structure shall be designed to avoid adverse effects on stream flow, water quality, or other habitat functions and values.

~~M.~~ ~~Single family developments may be permitted to encroach into stream buffers subject to the technical administrator's approval; provided, that all of the criteria in WCC 16.16.270(B) are met.~~

~~N.M.~~ All other development may be allowed in shellfish protection districts outside of actual shellfish habitats with a valid ~~development project~~ permit and when the requirements of subsection O of this section are met.

~~O.N.~~ Alteration or removal of **beaver-built structures** more than two years old; provided, that:

Comment [CES77]: Not needed. 16.16.270 would apply to any type of development and is covered by (A)

1. The property owner can show that the beaver dam is harming or likely to harm his or her property.
2. It has been demonstrated that beaver deceivers or auto leveler devices cannot appropriately resolve ponding/backwatering that is negatively affecting adjacent land or property.
3. Impacts to wetland, river, or stream functions are minimized and mitigation is provided to compensate for lost ecological value.
4. The property owner obtains an HPA from WDFW prior to initiating alteration or removal of the beaver-built structure.
5. The property owner provides a copy of the HPA to the ~~technical administrator~~ Director.

P.O. On Eliza Island, applicants shall complete the U.S. Fish and Wildlife Service (USFWS) self-assessment (<https://www.fws.gov/pacific/eagle/>) to determine whether a USFWS bald eagle permit is needed and, if so, apply for one. Development activities near bald eagle habitat shall be carried out consistent with the National Bald Eagle Guidelines.

P. **Timber Removal.**

1. To allow for greater flexibility in a development proposal when an application has been submitted for a Conversion Option Harvest Plan (COHP) or a Class IV General FPA, an applicant has the opportunity to remove timber within the standard buffers if the applicant's mitigation measures incorporate all of the performance standards based upon water type listed in Table 3. In conformance with professional standards used by the Washington Department of Natural Resources for forest practices in sensitive areas, all removal of timber within HCA buffers shall be subject to conditions specified by the Director in conjunction with an on-site technical team review in which participation by representatives of the proponent, Ecology, WDFW, WDNR and natural resource representatives of affected Indian tribes is solicited.
2. The intent of this section is to provide an additional opportunity for an applicant to propose some level of timber removal within the riparian habitat zone, as long as it can be demonstrated that the function of the buffer can be maintained at the levels described below. If the buffer, in its current state, cannot meet these standards, then the Director will not be able to give its approval for any activity which would inhibit recovery of or degrade the current buffer.
3. The current performance of a given buffer area is compared to its potential performance as rated by the Soil Conservation Service's most recent Soil Survey of Whatcom County. In consultation with a representative from the Natural Resource Conservation Service, Soil Conservation District, or professional forester, the applicant will determine the capability of the site for woodland management, using the most suitable tree species according to the soil survey, and establish the stand characteristics that would be expected from a mature stand of those species established on site:
4. If the current stand can exceed the riparian protection that could be expected based on site potential, then additional activity may be allowed provided the following performance standards can be met. For Type S streams, an alternative method may be utilized to allow limited timber harvest within the outer 100 feet of a buffer:

Comment [CES78]: Borrowed from Skagit County, this section would allow timber harvesting to occur w/in buffers while still retaining the HCA's functions. This is aimed at closing a loophole wherein applicants remove timber before applying for a development permit, which is when the CAO becomes applicable (the CAO is not applicable to forest practices except for Class IV Conversions).

Table 3. Performance-Based Riparian Standards*

Watertype	Performance Standards
<u>Type S</u>	<p><u>Maintain 95% of total LWD recruitment expected to enter freshwater stream(s) from a mature stand; and</u></p> <p><u>Maintain 85% of the trees which are greater than 24 inches DBH within 100 feet of the water(s); and</u></p> <p><u>Maintain an average of 75% canopy cover (based on canopy densitometer readings at the water(s) edge).</u></p> <p><u>The applicant may further request some limited timber harvest of up to 30% of the merchantable timber within the outer 100 feet of any 200-foot required buffer provided the harvest:</u></p> <ul style="list-style-type: none"> <u>(a) Does not reduce the LWD and canopy requirements; and</u> <u>(b) The applicant will increase the total buffer size by 50 feet to mitigate for the limited timber harvest in the required buffer to provide additional wildlife habitat. The additional 50-foot buffer shall retain a minimum of 50% of the total number of trees with 25% of the total trees left having a diameter at breast height (DBH—4-1/2 feet) greater than 12 inches; and</u> <u>(c) No more than 50% of the dominant trees in the outer 100 feet may be harvested.</u>
<u>Type F</u>	<p><u>Maintain 85% of total LWD recruitment expected to enter freshwater stream(s) from a mature stand; and</u></p> <p><u>Maintain 85% of the trees which are greater than 18 inches DBH within 100 feet of the water(s); and</u></p> <p><u>Maintain an average of 75% canopy cover (based on canopy densitometer readings at the water(s) edge).</u></p>
<u>Types Np and Ns</u>	<p><u>Maintain 50% of total LWD recruitment expected to enter freshwater stream(s) from a mature stand; and</u></p> <p><u>Maintain 85% of the trees which are greater than 24 inches DBH within 50 feet of the water(s); and</u></p> <p><u>Maintain an average of 75% canopy cover (based on canopy densitometer readings at the water(s) edge).</u></p>

* Note: These standards must be exceeded before additional activity can be permitted within the riparian zone. Applicants electing to employ performance-based mitigation in accordance with the above matrix shall include appropriate analysis and justification in their site assessment/habitat management plan.

~~16.16.730 Locally Important Habitats and Species — Standards.~~

~~Alterations that occur within a locally important habitat area or that may affect a locally important species as defined herein shall be subject to review on a case-by-case basis. The technical administrator shall have the authority to require an assessment of the effects of the alteration on species or habitats~~

and may require mitigation to ensure that unmitigated adverse effects do not occur. This standard is intended to allow for flexibility and responsiveness with regard to locally important species and habitats.

16.16.740-730 Habitat Conservation Area Buffers—Standards.

In addition to the applicable general protective measures found in WCC [16.16.265](#) and [16.16.720](#), the ~~technical administrator~~ Director shall have the authority to require buffers from the edges of all habitat conservation areas (in addition to the building setback required by [16.16.265\(D\)](#)) in accordance with the following:

A. General.

- A.1. Buffers shall be established for activities adjacent to habitat conservation areas as necessary to protect the integrity, functions, and values of the resource. Buffer widths shall reflect the sensitivity of the species or habitat present and the type and intensity of the proposed adjacent human use or activity. Buffers shall not include areas ~~that are functionally and effectively disconnected from the habitat conservation area by an existing, legally established road or other that are functionally and effectively disconnected from the habitat area by of an existing, legally established road or other substantially developed surface.~~

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Comment [P/C79]: P/C moved to retain existing language. Passed 4-3

B. Stream Buffers.

- C.2. The standard buffer widths required by this Article are considered to be the minimum required and presume the existence of a dense vegetation community in the buffer zone adequate to protect the ~~stream ecological~~ functions and values at the time of the proposed activity. When a buffer lacks adequate vegetation to protect critical area functions, the ~~technical administrator~~ Director may increase the standard buffer, require buffer planting or enhancement, and/or deny a proposal for buffer reduction or buffer averaging.

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3. The standard buffer shall be measured landward horizontally ~~from the edge of the ordinary high water mark as identified in the field. The required buffer shall be extended to include any abutting regulated wetland(s), landslide hazard areas, and/or erosion hazard areas and required buffers.~~

- 1.4. For streams, the standard buffer is measured ~~on both sides of the stream~~ from the ordinary high water ~~on both sides of the stream~~ mark as identified in the field; provided, that for streams with identified channel migration zones, the buffer shall extend outward horizontally from the outer edge of the channel migration zone on both sides. ~~The required buffer shall be extended to include any abutting regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers, but shall not be extended across roads or other lawfully established structures or hardened surfaces.~~

2. The following standard buffer width requirements are established:

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- a. ~~Shoreline streams: 150 feet;~~
- b. ~~Fish bearing streams: 100 feet;~~
- c. ~~Non fish bearing streams: 50 feet.~~

Comment [CES80]: Moved to Table 4

3.5. Portions of streams that flow underground may be exempt from these buffer standards at the ~~technical administrator~~ Director's discretion when it can be demonstrated that no adverse effects on aquatic species will occur.

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B. ~~Buffers for Other Habitat Conservation Areas~~ Buffer Widths.

1. Standard buffer widths for habitat conservation areas shall be as identified in Table 4.

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~~D.2.~~For habitat conservation areas not listed in Table 4, including those of locally important habitats and species and State priority habitats and areas with which federally listed or state priority species have a primary association, ~~minimum buffers shall be based on habitat a management plan prepared pursuant to WCC 16.16.750~~the technical administrator shall determine appropriate buffer widths for other habitat conservation areas. The Director shall have the authority to require a critical area assessment report and/or habitat management plan (HMP) pursuant to WCC 16.16.750, and may require mitigation to ensure that unmitigated adverse effects do not occur. based on the best available information. Buffer widths for non-stream habitat conservation areas shall be as identified in Table 3:

Table 4. Buffer Requirements for HCAs

Habitat Conservation Area	Buffer Requirement
Type S – Freshwater	200 feet
Type S – Marine	150 feet
Type F – Lake	100 feet
Type F – Stream	150 feet
Type Np	50 feet
Type Ns	50 feet
manmade ponds identified in 16.16.710(D)(10)	25 feet, unless otherwise approved through an Habitat Management Plan pursuant to subsection (B)(2), above, or a Conservation Farm Plan pursuant to Article 8
Areas with which federally listed species have a primary association State priority habitats and areas with which priority species have a primary association	Minimum buffers shall be based on recommendations provided by the Washington State Department of Fish and Wildlife PHS Program; provided, that local and site-specific factors shall be taken into consideration and the buffer width based on the best available information concerning the species/habitat(s) in question and/or the opinions and recommendations of a qualified professional with appropriate expertise. When there are no state recommendations or species management guidelines then only the building setback (WCC 16.16.265) shall be applied.
Critical saltwater habitats	Buffers shall extend 150 feet landward from ordinary high water mark of the marine shore. Buffers shall not be required adjacent to shellfish protection districts, but only in nearshore areas where shellfish reside.

Comment [CES81]: Policy change: 200' is the Court recommended based on National Wildlife Federation v. FEMA (Federal District Court Case No. 2:11cv-02044-rsm; NMFS Doc. #2006-00472)

Comment [CES82]: Now covered by subsection (B)(2)

Habitat Conservation Area	Buffer Requirement
Natural ponds and lakes	Ponds under 20 acres — Buffers shall extend 50 feet from the ordinary high water mark. Lakes 20 acres and larger (which are subject to WCC Title 23) — Buffers shall extend 100 feet from the ordinary high water mark; provided, that where vegetated wetlands are associated with the shoreline, the buffer shall be based on the wetland buffer requirements in WCC 16.16.630.
Natural area preserves and natural resource conservation areas	Buffers shall not be required adjacent to these areas. These areas are assumed to encompass the land required for species preservation.
Locally important habitat areas	The buffer for marine nearshore habitats shall extend landward 150 feet from the ordinary high water mark. The need for and dimensions of buffers for other locally important species or habitats shall be determined on a case-by-case basis, according to the needs of the specific species or habitat area of concern. Buffers shall not be required adjacent to the Chuckanut wildlife corridor. The technical administrator shall coordinate with the Washington State Department of Fish and Wildlife and other state, federal or tribal experts in these instances, and may use WDFW-PHS management recommendations when available.

Comment [CES83]: Now covered by the water types, above.

Comment [CES84]: Now covered by the water types, above.

Comment [CES85]: Now covered in subsection (B)(2)

16.16.740 Habitat Conservation Area Buffer Modification.

Buffer widths may be increased, decreased, or averaged in accordance with the following provisions, which provide flexible approaches to maximize both ecological functions and allowed uses. All mitigation proposed shall be consistent this Chapter.

A. **Buffer Width Increasing.** The Director may require the standard buffer width to be increased or to establish a non-riparian buffer, when such buffers are necessary for one of the following:

1. To protect priority fish or wildlife using the HCA.
2. To provide connectivity when a Type S or F waterbody is located within 300 feet of:
 - a. Another Type S or F water body; or
 - b. A fish and wildlife HCA; or
 - c. A Category I, II or III wetland;
3. ~~€~~To comply with the requirements of a habitat management plan prepared pursuant to WCC 16.16.750.
4. ~~P~~To protect fish and wildlife habitat, maintain water quality, ensure adequate flow conveyance, provide adequate recruitment for large woody debris, maintain adequate streamwater temperatures, or maintain in-streamwater conditions.
5. ~~€~~To compensate for degraded vegetation communities, Clean Water Act 303(d) impaired water bodies, or steep slopes adjacent to the habitat conservation area.
6. ~~M~~To maintain areas for channel migration and/or frequently flooded areas.
7. ~~P~~To protect adjacent or downstream gradient areas from erosion, landslides, or other hazards.

8. ~~P~~To protect streamswaters from high intensity adjacent land uses.

The increased buffer distance may be limited to those areas that provide connectivity or are necessary to protect habitat functions. Increasing the buffer widths will only be done where necessary to preserve the structure, function and value of the habitat.

B. Buffer Width Averaging.

1. Buffer width averaging allows limited reductions of buffer width in specified locations while requiring increases in others. Averaging of required buffer widths shall be allowed only where the applicant demonstrates that all of the following criteria are met:
 - a. The buffer has not been reduced pursuant to subsection (C). Buffer averaging is not allowed if the buffer has been reduced.
 - b. Averaging is necessary to accomplish the purpose of the proposal and no reasonable alternative is available due to site constraints caused by existing physical characteristics such as slope, soils, or vegetation; and
 - c. The habitat contains variations in sensitivity due to existing physical characteristics; and
 - d. Averaging will not adversely impact the functions and values of fish and wildlife conservation areas; and
 - e. Averaging meets performance standards for protecting fish species; and
 - f. The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging; and
 - g. The slopes adjacent to the habitat conservation area within the buffer area are stable and the gradient does not exceed 30%-percent; and;
 - h. The buffer width shall not be reduced below 75% of the standard buffer width.
2. In the specified locations where a buffer has been reduced to achieve averaging, the Director may require enhancement to the remaining buffer to ensure no net loss of ecologic function, services, or value.

C. Buffer Width Reduction.

1. The Director shall have the authority to reduce buffer widths on a case-by-case basis; provided, that the general standards for alternatives analysis and mitigation sequencing per WCC 16.16.260 have been applied, and when the applicant demonstrates to the satisfaction of the Director that all of the following criteria are met:
 - a. The buffer has not been averaged pursuant to subsection (B). Buffer reduction is not allowed if the buffer has been averaged.
 - b. The applicant demonstrates buffer averaging is not feasible.
 - c. The buffer shall not be reduced to less than 75%-percent of the standard buffer specified in Table 4~~Table 3~~.
 - d. The slopes adjacent to the habitat conservation area within the buffer area are stable and the gradient does not exceed 30%-percent (see Article 3 of this chapter).
 - e. The applicant has demonstrated application of mitigation sequencing as required in WCC 16.16.260 (General Mitigation Requirements).

f. To minimize impacts and provide equivalent functions and values as required by this section, the Director may require any or all of the following:

i. The use of alternative on-site wastewater systems in order to minimize site clearing, where appropriate;

ii. Using low impact development (LID) and LID best management practices where appropriate;

~~In order to offset habitat loss from buffer reduction, retaining existing native vegetation on other portions of the site equal to no more than the area impacted.~~

g. All buffer reduction impacts are mitigated and result in equal or greater protection of the HCA functions and values. This includes enhancement of existing degraded buffer area and provide mitigation for the disturbed buffer area.

2. In all circumstances when the buffer between the area of reduction and the habitat conservation area is degraded, this degraded portion of the buffer shall include replanting with native vegetation in order to achieve a dense vegetative community.

Comment [P/C86]: P/C motion to strike. Carries 7-1-1

Comment [P/C87]: P/C motion to approve. Carries 9-0

D. **Buffer Width Variance.** Standard buffer widths may be reduced by more than 25% through a variance pursuant to WCC 16.16.273 (Variances); provided, that buffer averaging beyond that allowed in subsection (B) is prohibited.

E. The technical administrator shall have the authority to reduce buffer widths on a case-by-case basis; provided, that the general standards for alternatives analysis and mitigation sequencing per WCC 16.16.260 have been applied, and when the applicant demonstrates to the satisfaction of the technical administrator that all of the following criteria are met:

1. The buffer reduction shall not adversely affect the habitat functions and values of the adjacent habitat conservation area or other critical area.

~~2.1. The buffer shall not be reduced to less than 75 percent of the standard buffer specified in Table 3.~~

~~3.1. The slopes adjacent to the habitat conservation area within the buffer area are stable and the gradient does not exceed 30 percent (see Article 3 of this chapter).~~

4. The area that has been reduced shall be mitigated at least at a ratio of 1:1, on an area basis.

F. The technical administrator shall have the authority to average buffer widths on a case-by-case basis; provided, that the general standards for avoidance and minimization per WCC 16.16.260(A)(1)(a) and (b) shall apply, and when the applicant demonstrates to the satisfaction of the technical administrator that all of the following criteria are met:

1. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer and all increases in buffer dimension are parallel to the habitat conservation area.

2. The buffer averaging does not reduce the functions or values of the habitat conservation area or riparian habitat, or the buffer averaging, in conjunction with vegetation enhancement, increases the habitat function.

3. The buffer averaging is necessary due to site constraints caused by existing physical characteristics such as slope, soils, or vegetation.

4. The buffer width is not reduced to less than 75 percent of the standard width specified in Table 3.

~~5.1. The slopes adjacent to the habitat conservation area within the buffer area are stable and the gradient does not exceed 30 percent.~~

6. Where a buffer has been reduced, the technical administrator may require enhancement to the remaining buffer to ensure no net loss of ecologic function, services, or value.

G. **Buffer Increases.** The technical administrator shall have the authority to increase the width of a habitat conservation area buffer on a case-by-case basis when there is clear evidence that such increase is necessary to achieve any of the following:

~~1. Comply with the requirements of a habitat management plan prepared pursuant to WCC 16.16.750.~~

~~2.1. Protect fish and wildlife habitat, maintain water quality, ensure adequate flow conveyance, provide adequate recruitment for large woody debris, maintain adequate stream temperatures, or maintain in-stream conditions.~~

~~3.1. Compensate for degraded vegetation communities, Clean Water Act 303(d) impaired water bodies, or steep slopes adjacent to the habitat conservation area.~~

~~4.1. Maintain areas for channel migration and/or frequently flooded areas.~~

~~5.1. Protect adjacent or downstream areas from erosion, landslides, or other hazards.~~

~~6.1. Protect streams from high-intensity adjacent land uses.~~

16.16.750 Habitat Conservation Areas – Review and Reporting Requirements.

A. When County critical area maps or other sources of credible information indicate that a site proposed for development or alteration is more likely than not to contain habitat conservation areas or buffers, or could adversely affect a habitat area or buffer, the ~~technical administrator~~ Director shall require a site evaluation (field investigation) by a qualified professional or other measures to determine whether or not the species or habitat is present. If no habitat conservation areas are present, then review will be considered complete. If the site evaluation determines that the species or habitat is present, the ~~technical administrator~~ Director shall require a critical areas assessment report or habitat management plan (HMP), except; provided, that

1. No report or evaluation shall be required for developments outside of buffers within the upland portions of shellfish conservation areas.
2. The ~~technical administrator~~ Director shall have the authority to waive the report requirement when he/she determines that the project is a single-family building permit development that involves less than one-half acre of clearing and/or vegetation removal and will not directly disturb the species, or specific areas or habitat features that comprise the habitat conservation area (nest trees, breeding sites, etc.) as indicated by a site plan or scaled drawing of the proposed development.

B. In addition to the reporting requirements of WCC [16.16.255](#), the habitat conservation area assessment report/HMP shall describe the characteristics of the subject property and adjacent areas, including condition, quality, function, and values of the habitat conservation area at a scale

appropriate to the function being evaluated (see WAC [365-196-830\(6\)](#)). The assessment shall include determination of appropriate buffers as set forth in WCC [16.16.740](#). The assessment shall also include field identification and/or delineation of habitat areas, analysis of historical aerial photos, and review of public records as necessary to determine potential effects of the development action on critical areas. Assessment reports shall include the following site- and proposal-related information unless the ~~technical administrator~~ Director determines that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

1. A map drawn to a common scale or survey showing the following information:
 - a. Topographic, hydrologic, and vegetative features.
 - b. The location and description of wildlife and habitat features, and all critical areas on or within 200 feet of the site, or farther, given the scale appropriate to the function being evaluated.
 - c. Proposed development activity.
 - d. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.
 - e. Surrounding land uses and zoning (to ensure appropriate buffer).
2. An analysis, including an analysis of cumulative impacts, of how the proposed development activities will affect the fish and wildlife habitat conservation area and/or buffer, including the area of direct disturbance; effects of stormwater management; effects on any 303(d) impaired water bodies; proposed alteration to surface or subsurface hydrology; natural drainage or infiltration patterns; clearing and grading impact; temporary construction impacts; effects of increased intensity of use (including noise, light, human intrusion, etc.).
3. Provisions to reduce or eliminate adverse impacts of the proposed development activities on the functions and values of the habitat conservation area including, but not limited to:
 - b. Buffering;
 - c. Clustering of development;
 - d. Retention of native vegetation;
 - e. Access limitations;
 - f. Seasonal restrictions on construction activities in accordance with the guidelines developed by the Washington State Department of Fish and Wildlife, the U.S. Army Corps of Engineers, the salmonid recovery plan and/or other agency or tribe with expertise and jurisdiction over the subject species/habitat; and
 - g. Other appropriate and proven low impact development techniques.
4. Management recommendations developed by WDFW through its Priority Habitat and Species program.
5. Additional information including, but not limited to, direct observations of species use or detailed physical and biological characteristics both on and off site at an appropriate scale (see WAC [365-196-830\(6\)](#)). The assessment of off-site conditions shall be based on available information and shall not require accessing off-site properties.

6. Applicants near a bald eagle nest shall complete the U.S. Fish and Wildlife Service (USFWS) self-assessment (<https://www.fws.gov/pacific/eagle>) to determine whether a USFWS bald eagle permit is needed, and if so, apply for one. Development activities near bald eagle habitat shall be carried out consistent with the National Bald Eagle Guidelines.

C. All habitat management plans ~~shall~~ should be prepared in consultation with the State Department of Fish and Wildlife and/or other federal, state, local or tribal resource agencies with jurisdiction and expertise in the subject species/habitat, and shall contain a review of the most current best available science applicable to the subject species/habitat.

D. For single-family building permits, the applicant may hire a qualified professional to prepare the assessment report or may request that the County assess the regulated wetland(s) and buffers and determine the impacts associated with the project, subject to the following: ~~At the request of the applicant, the County may gather the required information in this section for applicants seeking to develop a single family home; provided, that:~~

1. Availability of County staff shall be at the discretion of the ~~technical administrator~~ Director and subject to workload and scheduling constraints.
2. Fees for County staff services shall be in accordance with the unified fee schedule.

16.16.760 Habitat Conservation Areas – Mitigation Standards.

Activities that adversely affect habitat conservation areas and/or their buffers as determined by the ~~technical administrator~~ Director shall include mitigation sufficient to achieve no net loss of habitat functions and values or an ecological lift in accordance with WCC [16.16.260](#) and this section.

A. ~~In determining the extent and type of mitigation required, the technical administrator may consider all of the following:~~

1. ~~The ecological processes that affect and influence critical area structure and function within the watershed or sub-basin;~~
2. ~~The individual and cumulative effects of the action upon the functions of the critical area and associated watershed;~~
3. ~~Observed or predicted trends regarding the gains or losses of specific habitats or species in the watershed, in light of natural and human processes;~~
4. ~~The likely success of the proposed mitigation measures;~~
5. ~~Effects of the mitigation actions on neighboring properties; and~~
6. ~~Opportunities to implement restoration actions formally identified by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the watershed management board habitat project list or by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.~~

B. ~~The following additional mitigation standards shall apply:~~

B. ~~Mitigation for alterations to habitat areas shall achieve equivalent or greater biologic functions, and shall provide similar functions to those that are lost or altered.~~

Comment [PDS88]: An approved habitat management plan may require a lift to comply.

Comment [CES89]: Moved to 16.16.260 General Mitigation Requirements

~~C.A.~~ Mitigation in the form of habitat restoration or enhancement is required when a habitat is altered permanently as a result of an approved project. Alterations shall not result in net loss of habitat.

1. ~~Where feasible, mitigation projects shall be completed prior to activities that will disturb habitat conservation areas. In all other cases, mitigation shall be completed as quickly as possible following disturbance and prior to use or occupancy of the activity or development.~~ Construction of mitigation projects shall be timed to reduce impacts to existing fish, wildlife and flora; provided, that the technical administrator may adjust the timing requirements to allow grading, planting, and other activities to occur during the appropriate season(s).

Comment [CES90]: Moved to 16.16.260 General Mitigation Requirements

2. Mitigation shall be provided on site whenever feasible. Off-site mitigation in a location that will provide a greater ecological benefit to the species and/or habitats affected and have a greater likelihood of success may be accepted at the discretion of the technical administrator. Mitigation shall occur as close to the impact site as possible. As mitigation is moved further away from the impacted habitat, the technical administrator may increase the amount of mitigation required. If off-site mitigation is proposed, the applicant must demonstrate through an alternatives/mitigation sequencing analysis (WCC 16.16.260) that the mitigation will have greater ecological benefit.

Comment [CES91]: Now covered by 16.16.260(D)

~~D.B.~~ All mitigation sites shall have buffers consistent with the buffer requirements established in WCC 16.16.740; provided, that the ~~technical administrator~~ Director shall have the authority to approve a smaller buffer when existing site constraints (such as a road) prohibit attainment of the standard buffer. Mitigation actions shall not create buffer encumbrances on adjoining properties.

3. ~~The technical administrator shall require annual monitoring of mitigation activities and submittal of annual monitoring reports in accordance with WCC 16.16.260(C) to ensure and document that the goals and objectives of the mitigation are met. Monitoring shall be for a period of up to five years.~~

Comment [CES92]: Covered by 16.16.260(I)(2).

~~E.C.~~ Mitigation projects involving in-stream water work including, but not limited to, installation of large woody debris shall be designed to ensure there are no adverse hydraulic effects on ~~upstream up- or downstream downgradient~~ properties. The County Public Works River and Flood Division shall review any such mitigation projects for compliance with this provision.

D. As applicable, apply mitigation standards of the Army Corps of Engineer Regional General Permit 6 for inland marine waters as amended February 12, 2020.

Comment [CES93]: Added for consistency with RGP-6

~~F.E.~~ On a case by case basis, the technical administrator shall have the authority to require mitigation ~~for permanent impacts to a habitat conservation areas or their buffers, mitigation shall be provided at the following ratios, unless the Director approves a habitat management plan with greater ratios:~~

1. Where the mitigation is in place and functional before the impacts occur (i.e., advanced mitigation), at a ratio determined by the functions, values, and goals of an advanced mitigation plan, at a 1:1 ratio (area or function).
2. Where the mitigation is in place within 1 year of the impact occurring, at a 1:1 ratio (area or function). Where the mitigation is placed after the impact occurs, at a 1.25:1 ratio (area or function); and
- 2.3. Where the mitigation is placed after 1 year of the impact occurring, at a 1.25:1 ratio (area or function).

4. For retroactive permits the Director may require the ratio shall be up to double the ratio in subsection (3) above.

Comment [P/C94]: P/C motion to amend as shown. Passes 7-0

Article 8. Conservation Program on Agriculture Lands (CPAL)

16.16.800 Purpose.

- A. The well-being of farms and ranches in Whatcom County depends in part on good quality soil, water, air, and other natural resources. Agricultural operations that incorporate protection of the environment, including critical areas and their buffers as defined by this chapter, are essential to achieving this goal.
- B. The purpose of the CPAL program is to allow farmers practicing ongoing agricultural activities that may affect critical areas, their functions and values, and/or their buffers to do so either (1) in accordance with the standard requirements of this chapter or (2) pursuant to a conservation farm plan voluntarily prepared and approved pursuant to this article. If farmers and ranchers are willing to enter into the CPAL program, then flexibility in these provisions may be extended to them. If not, then they must observe the standard provisions of this chapter.
- C. This program shall be subject to continued monitoring and adaptive management to ensure that it meets the purpose and intent of this chapter.

16.16.810 Resource Concerns.

Agricultural operations, including the keeping of horses and other large animals, have the potential to create adverse impacts to critical areas. It is the County's policy to minimize such impacts.

- A. **Nutrient Pollution of Water.** Animal waste contains nutrients (nitrogen and phosphorous). With each rain, these wastes can wash off the land and into the nearest stream, lake, or wetland. In surface water, phosphorous and nitrogen fertilize aquatic plants and weeds. As the plants and weeds proliferate and decay, the dissolved oxygen that fish need to survive is depleted. Nitrogen in the form of nitrate is easily dissolved in and carried with rainfall through our permeable soils to groundwater. Nitrate concentrations exceeding the maximum contaminate level for safe drinking water are found in many wells of Whatcom County. These can present a significant human health risk, particularly to the very old and young.
- B. **Pathogen Pollution of Water.** Manure contains bacteria and other pathogens. These can make the water unfit for drinking without treatment or shellfish unfit for human consumption. They can also make water unsafe for human contact and recreational sports such as fishing, swimming or water skiing. Both surface and groundwater are vulnerable to this type of pollution.
- C. **Sediment Pollution to Surface Water.** Regardless of the amount of supplemental feed provided, large animals will continue grazing until all palatable vegetation is gone. On especially small lots (one or two acres), the animals that are allowed free and continuous access to vegetation quickly graze-out and trample pasture grasses and forbs. These areas are then susceptible to invasion by weeds, including noxious weeds, and brush. The resulting bare ground is subject to erosion from wind and water. Lands that lack adequate vegetation are subject to erosion, and contaminated runoff from these areas can enter water bodies and wetlands and interfere with fish and wildlife habitat.
- D. **Degradation of Riparian Areas.** The term "riparian" is defined in Article 9 of this chapter and includes the areas adjacent to streams, lakes, marine shorelines and other waters. A healthy riparian area is

essential to protecting fish and wildlife, including salmon and shellfish. Dense riparian vegetation along the water's edge will slow and protect against flood flows; provide infiltration and filtering of pollutants; secure food and cover for fish, birds and wildlife; and keep water cooler in summer. If it occurs, uncontrolled grazing has the potential to remove important riparian vegetation.

16.16.820 Classification and Applicability.

- A. A conservation farm plan identifies the farming or ranching activities and the practice(s) necessary to avoid their potential negative impacts (resource concerns). Practice selection depends upon the types of livestock raised and crops grown. Based upon the type and intensity of the operation, some generalizations can be made as to the resource concerns and remedies that apply.
- B. Some operations present relatively low risks to critical areas because of their benign nature, timing, frequency, or location. For these operations, the resource concerns and remedies are relatively easy to identify and implement. These are described in more detail as Type 1 agricultural operations subject to standardized conservation farm plans in WCC [16.16.830](#) and [16.16.840\(A\)](#).
- C. Where the potential negative impacts to critical areas are moderate or high, solutions are more difficult to formulate and implement. In those circumstances, a more rigorous planning process is required. In such cases, a formal written plan shall provide the desired environmental protection. These types of operations are described as agricultural operations requiring custom conservation farm plans in WCC [16.16.830](#) and [16.16.840\(B\)](#) or (C).
- D. Agricultural activities that qualify for coverage include:
 1. Type 1 Operations.
 - a. To qualify as a Type 1 operation, a farm shall not exceed one animal unit per one acre of grazable pasture. These operations present a low potential risk to critical area degradation including ground/surface water contamination because the animals kept generate fewer nutrients than can be used by the crops grown there.
 - b. Critical areas on Type 1 operations are protected against the potential negative impacts of agricultural activities through the implementation of an approved standard conservation farm plan prepared in accordance with WCC [16.16.830](#) and [16.16.840\(A\)](#).
 - c. Those operators qualifying for a Type 1 (standard) conservation farm plan may elect to do a Type 2 (custom) conservation farm plan if they want to use "Prescribed Grazing" (NRCS Practice 528A) to manage vegetative filter strips installed alongside critical areas.
 2. Type 2 Operations.
 - a. Type 2 operations are farms that include, but are not limited to, those that exceed one animal unit per one acre of grazable pasture; farms that have orchards, vineyards, small-fruit field or row crops; and drainage improvement districts. These operations present a potential moderate risk to critical area degradation, including ground or surface water contamination, because the nutrients applied from manure or commercial fertilizers may exceed that which can be easily used by the crops grown there without careful planning and management. The agricultural activities are also likely to be much more intense than Type 1 operations, posing greater potential risks to other critical areas.

- b. Critical areas on Type 2 operations are protected against the potential negative impacts of agricultural activities through the implementation of an approved custom conservation farm plan prepared in accordance with WCC [16.16.830](#) and [16.16.840](#)(B).
- 3. Type 3 Operations.
 - a. Type 3 operations include dairies and animal feeding operations/concentrated animal feeding operations (AFO/CAFOs). These operations are already regulated by state and federal governments (see Chapter [90.64](#) RCW et seq.; [40](#) CFR [122.23](#) and [40](#) CFR Part 412).
 - b. Critical areas are protected against the potential negative impacts of Type 3 agricultural activities through the implementation of an approved custom conservation farm plan prepared in accordance with WCC [16.16.830](#) and [16.16.840](#)(C).

16.16.830 Conservation Farm Plans – General Standards.

- A. All conservation farm plans shall include all practicable measures, including best management practices, to maintain existing critical area functions and values.
- B. A conservation farm plan shall not recommend nor authorize:
 - 1. Filling, draining, grading, or clearing activities within critical areas or buffers:
 - a. Except on ongoing agricultural land where such activities are a demonstrated essential part of the ongoing agricultural use or part of routine maintenance; and
 - b. When it does not expand the boundaries of the ongoing agricultural use; and
 - c. The appropriate permits for doing so have been obtained.
 - 2. The construction of new structures. New structures shall be constructed in compliance with the applicable standard requirements of this chapter and the Whatcom County Code.
 - 3. New or expanded drainage systems. Routine maintenance of existing drainage systems may be allowed, but only in compliance with the Washington State Hydraulic Code (Chapter [220-660](#) WAC) and the best management practices found in the “Drainage Management Guide for Whatcom County Drainage Improvement Districts.”
 - 4. The conversion of land to agricultural use.
- C. Other plans prepared for compliance with state or federal regulations (e.g., nutrient management plans), or to obtain an accredited private third-party certification (e.g., GLOBALG.A.P.), or similar plans may be used as part of or in lieu of a conservation farm plan if the ~~technical administrator~~ Director determines they adequately address the requirements of this title.

16.16.840 Conservation Farm Plan Requirements.

- A. **Type 1 (Standard) Conservation Farm Plans.** Owners of Type 1 operations have limited options to control animal waste because their operations are small. The required conservation farm plan can be prepared by the landowner and include a simple map of the property, a standard checklist designed to protect water quality, and the following additional components:
 - 1. System Siting and Design. Barns, corrals, paddocks, or lots are to be sited to avoid runoff directly into critical areas.

- a. Where structures exist in critical areas or buffers and cannot be relocated, corrective measures must be taken if necessary to avoid runoff of pollutants and bacteria to critical areas.
- b. Along regulated streams², lakes, ponds, or wetlands:
 - i. Where trees and shrubs already exist, they shall be retained and managed to preserve the existing functions of the buffer pursuant to the USDA Natural Resource Conservation Service's (NRCS) Conservation Practice 391, "Riparian Forest Buffer."
 - ii. Where trees and shrubs are absent, a strip or area of herbaceous vegetation shall be established and maintained between barns, corrals, paddocks, and grazing areas pursuant to the NRCS Conservation Practice 393, "Vegetative Filter Strip," and USDA's buffer width design tool for surface runoff found in the publication "Conservation Buffers Design Guidelines for Buffers, Corridors, and Greenways." Livestock shall be excluded from the vegetative filter strips established to protect critical areas pursuant to NRCS Practice 472, "Access Control."
2. Manure Collection, Storage, and Use. Manure and soiled bedding from stalls and paddocks are to be removed and are to be placed in a storage facility protected from rainfall so that runoff does not carry pollutants and bacteria to critical areas. Manure is to be used as cropland fertilizer. The rate and timing of manure application shall not exceed crop requirements or cause surface or groundwater water quality degradation. It is to be applied in a manner to avoid runoff of nutrients and bacteria to critical areas.
3. Pasture Management. Pastures are to be established and managed pursuant to "Prescribed Grazing" (NRCS Practice 528A).
4. Exercise or Barn Lots. These normally bare areas must be stabilized and managed to prevent erosion and sediment movement to critical areas. A diversion terrace shall be installed, where necessary, to hinder flow to and across the lot or paddock. Runoff from the lot must be treated via the vegetative filter strip or riparian buffer as described in subsection (A)(1) of this section to avoid contaminants reaching critical areas.
5. Existing native vegetation within critical areas and their buffers shall be retained.
6. Chemical additions, including fungicides, herbicides, and pesticides, shall not be applied within 50 feet of standing or flowing water except by a licensed applicator.
7. Fertilizers Other Than Manure. The rate and timing of fertilizer application shall not exceed crop requirements, or cause surface or groundwater quality degradation.
- B. **Type 2 (Custom) Conservation Farm Plans.** In addition to the elements of a Type 1 conservation farm plan, Type 2 plans must address the following:
 1. In developing the elements that an approved conservation farm plan must contain, the ~~technical administrator~~ Director may authorize the use of the methods, technologies, and best management practices of the Natural Resources Conservation Service. Other standards may be

² Note that ditched channels may or may not meet the definition of a stream. See Article 9, Definitions.

used when such alternatives have been developed by a land grant college or a professional engineer with expertise in the area of farm conservation planning.

2. Implementation of the conservation farm plan must protect existing values and functions of critical areas. Benchmark conditions are to be captured and described in the plan. This may consist of photo documentation, written reports or both.
3. Wetlands shall be conserved pursuant to the provisions of Title 180 – National Food Security Act Manual (see <http://www.nrcs.usda.gov/programs/wetlands/index.html>).
4. Custom conservation farm plans need not address the application, mixing, and/or loading of insecticides, fungicides, rodenticides, and pesticides; provided, that such activities are carried out in accordance with the Washington State Department of Agriculture and all other applicable regulations including, but not limited to: the provisions of Chapter [90.48](#) RCW, the Clean Water Act, United States Code (USC) Section 136 et seq. (Federal Insecticide, Fungicide, and Rodenticide Act), Chapter [15.58](#) RCW (Pesticide Control Act), and Chapter [17.21](#) RCW (Pesticide Application Act).
5. Where potential significant impacts to critical areas are identified through a risk assessment, then plans shall be prepared to prevent and/or mitigate same by:
 - a. A planning advisor; or
 - b. Through the USDA Natural Resources Conservation Service; or
 - c. The Whatcom conservation district; or
 - d. An eligible farmer or rancher, who participates in this program by:
 - i. Attending a County-sponsored or approved workshop, and
 - ii. Conducting a risk assessment of their farm or ranch, alone or with a planning advisor's assistance, and
 - iii. Developing a plan to prevent and/or mitigate any identified risks, and
 - iv. Having the plan approved pursuant to WCC [16.16.290](#).

One resource for guidance is "Tips on Land and Water Management for Small Farm and Livestock Owners in Whatcom County, Washington." It can be obtained from the Whatcom conservation district's website: <http://www.whatcomcd.org/small-farm>. Other guidance may also be used, provided it is consistent with the best available science criteria in WAC [365-195-900](#) through [365-195-925](#).

- C. **Type 3 (Custom) Conservation Farm Plans.** Conservation farm plans meeting the criteria of state and federal laws pertaining to AFO/CAFOs (see Chapter [90.64](#) RCW et seq., [40](#) CFR [122.23](#) and [40](#) CFR Part 412) fulfill the requirements of this chapter. (See U.S. EPA "Final Guidance – Managing Manure Operations for Concentrated Animal Feeding Operations (CAFOs)" at: <http://epa.gov/guide/cafo/>).

16.16.850 Preparation and Approval of Conservation Farm Plans.

Conservation farm plans shall be subject to County review, approval, monitoring, adaptive management, and enforcement in accordance with the following:

- A. The ~~technical administrator~~ Director shall review and approve all conservation farm plans.

- B. Table 5Table 4 shows which entities may prepare and/or provide technical assistance and recommendations in preparing which type of conservation farm plan:

Table 5. Who May Prepare Conservation Farm Plans

Who May Prepare	Type 1 Operations	Type 2 and 3 Operations
The farm operator	X	
Whatcom County planning and development services	X	X
A qualified consultant	X	
A watershed improvement district (for a farm or ranch that is within its boundaries)	X	
The Whatcom conservation district	X	X
A planning advisor	X	X

- C. The farm operator can seek conservation farm plan approval directly through the department of planning and development services, or grant permission to any of the entities listed in Table 5Table 4 to prepare and submit it. If the conservation farm plan is prepared by any entity listed in Table 5Table 4 other than the Whatcom conservation district, the Department will conduct a site visit prior to plan approval in order to assess critical areas and sufficiency of the plan to protect water quality and critical areas.

16.16.860 Monitoring and Compliance.

- A. The ~~technical administrator~~ Director and/or the farm operator shall periodically monitor plan implementation and compliance beginning one year after plan approval and every two years thereafter, through the life of the plan, or more frequently at the ~~technical administrator~~ Director's discretion. The monitoring may include periodic site inspections, self-assessment by the farm operator, or other appropriate actions. For a time period of up to every five years, self-certification is allowed for Type 1 conservation farm plans, or if the plan is prepared by the Whatcom conservation district or planning advisor and approved by the department. If a sufficient self-certification monitoring report (must include photos and implemented best management practices) is not submitted within 30 days of request, County staff may make a site visit. Site visits will be coordinated with the landowner/farm operator. Prior to carrying out a site inspection, the ~~technical administrator~~ Director shall provide reasonable notice to the owner or manager of the property as to the purpose or need for the entry, receive confirmation, and afford at least two weeks in selecting a date and time for the visit. At the landowner's/farm operator's discretion, staff may be accompanied by the planning advisor or Whatcom conservation district planner.
- B. Where the planning advisor has reason to believe that there is an imminent threat to public health or significant pollution with major consequences occurring as a result of the agricultural operations, the planning advisor will advise the agricultural operator of his or her concerns in writing. While the

planning advisor may provide suggestions for resolving the issue, the responsibility for compliance and resolution of issues rests solely with the farm operator. If compliance issues are not promptly resolved, the planning advisor shall promptly withdraw from representing the farm operator, notify the ~~technical administrator~~ Director of such, and may report such situations to the ~~technical administrator~~ Director for subsequent action and enforcement in accordance with WCC [16.16.285](#).

- C. The farm practices described in an approved conservation farm plan will be deemed to be in compliance with this chapter so long as the landowner/farm operator is properly and fully implementing the practices and responding to possible adaptive management requirements according to the timeline in the plan. This will be verified through conservation farm plan implementation monitoring.
- D. Agricultural operations shall cease to be in compliance with this article, and a new or revised conservation farm plan will be required, when the ~~technical administrator~~ Director determines that any of the following has occurred:
 - 1. When a farm or ranch operator fails to properly and fully implement and maintain their conservation farm plan.
 - 2. When implementation of the conservation farm plan fails to protect critical areas. If so, a new or revised conservation farm plan shall be required to protect the values and functions of critical areas at the benchmark condition.
 - 3. When substantial changes in the agricultural activities of the farm or livestock operation have occurred that render the current conservation farm plan ineffective. Substantial changes that render a conservation farm plan ineffective are those that:
 - a. Degrade baseline critical area conditions for riparian and wetland areas that existed when the plan was approved; or
 - b. Result either in a direct discharge or substantial potential discharge of pollution to surface or ground water; or
 - c. The type of agricultural practices change from Type 1 to Type 2, Type 2 to Type 3, or Type 1 to Type 3 operations.
 - 4. When the increase in livestock or decrease in land base or nutrient export results in the farm being out of balance between the nutrients generated and to be used by growing crops.
 - 5. When a new or revised conservation farm plan is required, and the farm operator has been so advised in writing and a reasonable amount of time has passed without significant progress being made to develop said plan. Refusal or inability to provide a new plan within a reasonable period of time shall be sufficient grounds to revoke the approved conservation farm plan and require compliance with the standard provisions of this chapter.
 - 6. When an owner or manager denies the ~~technical administrator~~ Director reasonable access to the property for technical assistance, monitoring, or compliance purposes, then the ~~technical administrator~~ Director shall document such refusal of access and notify the owner of his/her findings. The owner shall be given an opportunity to respond in writing to the findings of the ~~technical administrator~~ Director, propose a prompt alternative access schedule, and to state any other issues that need to be addressed. Refusal or inability to comply with an approved

conservation farm plan within a reasonable period of time shall be sufficient grounds to revoke said plan and require compliance with the standard provisions of this chapter.

- E. With one exception, Whatcom County will not use conservation farm plans (standard or custom) as an admission by the landowner that s/he has violated this chapter. Disclosure of current farm practices, structures on conservation farm plan documents, or observations made through monitoring inspections or conservation farm plan approval, will not be used to bring other enforcement actions against a farm operator. The exception is that when matters of major life, health, environment, or safety issues, as determined by the ~~technical administrator~~ Director, are observed and the landowner fails to immediately and permanently remediate, then the observations may be used in an enforcement action.

16.16.870 Limited Public Disclosure.

- A. Conservation farm plans will not be subject to public disclosure unless required by law or a court of competent jurisdiction;
- B. Provided, that the County will collect summary information related to the general location of a farming enterprise, the nature of the farming activity, and the specific best management practices to be implemented during the conservation farm plan review process. The summary information shall be provided by the farm operator or his/her designee and shall be used to document the basis for the County's approval of the plan.
- C. The County will provide to the public via its website information regarding which farms have approved conservation farm plans and the date of their approval.
- D. Upon request, the County may provide a sample conservation farm plan, exclusive of site- or property-specific information, to give general guidance on the development of a conservation farm plan.

Article 9. Definitions

16.16.900 Definitions.

The terms used throughout this program shall be defined and interpreted as indicated below. When consistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular. Any words not defined herein shall be defined pursuant to Titles 20 (Zoning), 22 (Land Use and Development), 23 (Shoreline Management Program), or their common meanings when not defined in code.

“Accessory structure” means a structure that is incidental and subordinate in intensity to a primary use and located on the same lot as the primary use. Barns, garages, storage sheds, and similar appurtenances are examples. Structures that share a common wall with a primary residential structure shall be considered an extension of the primary structure, rather than an accessory structure.

Comment [AP95]: Added for consistency with revisions made to the SMP Bulk Provisions Table per Scoping Document, Item #17d.

“Active alluvial fan” means a portion or all of a fan that has experienced channel changes, erosion, or deposition. Active fans can be identified based on determination by field geomorphic and topographic evidence, and by historical accounts.

“Activity” means human activity associated with the use of land or resources.

“Adaptive management” means using scientific methods to evaluate how well regulatory and non-regulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. Management policy may be adapted based on a periodic review of new information.

“Adequate water supply” means a water supply that meets requirements specified in the Whatcom County drinking water ordinance (WCC Chapter 24.11 ~~WCC~~).

“AFO” is an acronym for animal feeding operation.

“Agricultural activities” means those activities directly pertaining to the production of crops or livestock including, but not limited to: cultivation; harvest; grazing; animal waste storage and disposal; fertilization; the operation and maintenance of farm and stock ponds or drainage ditches, irrigation systems, and canals; and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. The construction of new structures or activities that bring a new, non-ongoing agricultural area into agricultural use are not considered agricultural activities.

“Agricultural land” is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, or animal products, or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and/or lands that have been designated as capable of producing food and fiber, which have not been developed for urban density housing, business, or other uses incompatible with agricultural activity.

“Alluvial fan” means a fan-shaped deposit of sediment and organic debris formed where a stream flows or has flowed out of a mountainous upland onto a level plain or valley floor because of a sudden change in sediment transport capacity (i.e., significant change in slope or confinement).

“Alluvium” is a general term for clay, silt, sand, gravel, or similar other unconsolidated detrital materials, deposited during comparatively recent geologic time by a stream or other body of running water, as a sorted or semi-sorted sediment in the bed of the stream or on its floodplain or delta.

“Alteration” means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the critical area.

“Anadromous fish” means fish species that spend most of their lifecycle in salt water, but return to freshwater to reproduce.

“Animal unit” means 1,000 pounds of livestock live weight.

“Aquifer” means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs (Chapter [173-160](#) WAC).

“Aquifer susceptibility” means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

“Aquifer vulnerability” is the combined effect of susceptibility to contamination and the presence of potential contaminants.

“Bankfull width” means:

1. For streams – The measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross section (see Forest Practices Board Manual, Section 2).
2. For lakes, ponds, and impoundments – Line of mean high water.
3. For tidal water – Line of mean high tide.
4. For periodically inundated areas of associated wetlands – Line of periodic inundation, which will be found by examining the edge of inundation to ascertain where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

“Base flood” is a flood event having a ~~one percent~~ 1% chance of being equaled or exceeded in any given year, also referred to as the 100-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A (zone subject to flooding during a 100-year flood, but less so

than V zones) or V (zone subject to the highest flows, wave action, and erosion during a 100-year flood).

“Bedrock” is a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

“Best available science” means information from research, inventory, monitoring, surveys, modeling, synthesis, expert opinion, and assessment that is used to designate, protect, or restore critical areas. As defined by WAC [365-195-900](#) through [365-195-925](#), best available science is derived from a process that includes peer-reviewed literature, standard methods, logical conclusions and reasonable inferences, quantitative analysis, and documented references to produce reliable information.

“Best management practices” means conservation practices or systems of practices and management measures that:

1. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
2. Minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitat;
3. Control plant site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

“Buffer (the buffer zone)” means the area adjacent to the outer boundaries of critical areas including wetlands; habitat conservation areas such as streams, lakes, and marine shorelines; and/or landslide hazard areas that separates and protects critical areas from adverse impacts associated with adjacent land uses.

“CAFO” is an acronym for concentrated animal feeding operation.

“CFR” is an acronym for Code of Federal Regulations.

“Channel migration zone (CMZ)” means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring processes. It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion. There are three components of the channel migration zone: (1) the historical migration zone (HMZ) – the collective area the channel occupied in the historical record; (2) the avulsion hazard zone (AHZ) – the area not included in the HMZ that is at risk of avulsion over the timeline of the CMZ; and (3) the erosion hazard area (EHA) – the area not included in the HMZ or the AHZ that is at risk of bank erosion from stream flow or mass wasting over the timeline of the CMZ. The channel migration zone may not include the area behind a lawfully constructed flood protection device. Channel migration zones shall be identified in accordance with guidelines established by the Washington State Department of Ecology.

“Clearing” means destruction of vegetation by manual, mechanical, or chemical methods and that may result in exposed soils. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

“Commercial fish” means those species of fish that are classified under the Washington State Department of Fish and Wildlife Food Fish Classification as commercial fish (WAC [220-12-010](#)).

“Compensatory mitigation” means a project for the purpose of mitigating, at an equivalent or greater level, unavoidable critical area and buffer impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to: wetland creation, restoration, enhancement, and preservation; stream restoration and relocation; rehabilitation; and buffer enhancement.

“Conservation” means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful use of natural resources in order to prevent depletion or harm to the environment.

“Conservation easement” means a legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property.

“Contaminant” means any chemical, physical, biological, or radiological substance that does not occur naturally in groundwater, air, or soil or that occurs at concentrations greater than those in the natural levels (Chapter [172-200](#) WAC).

“County” means Whatcom County, Washington.

“CPAL” is an acronym for Conservation Program on Agriculture Lands.

“Critical aquifer recharge areas” means areas designated by WAC [365-190-080](#)(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC [365-190-030](#)(2).

“Critical area tract” means land held in private ownership and retained in an open undeveloped condition (native vegetation is preserved) in perpetuity for the protection of critical areas.

Critical Areas. The following areas shall be regarded as critical areas:

1. Critical aquifer recharge areas;
2. Wetlands;
3. Geologically hazardous areas;
4. Frequently flooded areas;
5. Fish and wildlife habitat conservation areas.

“Critical areas report” means a report prepared by a qualified professional or qualified consultant based on best available science, and the specific methods and standards for technical study required for each applicable critical area. Geotechnical reports and hydrogeological reports are critical area reports specific to geologically hazardous areas and critical aquifer recharge areas, respectively.

“Critical facilities (essential facilities)” means buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes pursuant to the most recently adopted International Building Code (IBC).

“Critical habitat” means habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified herein with reference to lists, categories, and definitions promulgated by the Washington State Department of Fish and Wildlife as identified in WAC [232-12-011](#) or [232-12-014](#); in the Priority Habitat and Species (PHS) Program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

“Critical saltwater habitat” includes all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as Pacific herring, surf smelt and Pacific sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants; and areas with which priority species have a primary association.

“Cumulative impact” means effects on the environment that are caused by the combined results of past, current and reasonably foreseeable future activities. Evaluation of such cumulative impacts should consider: (1) current circumstances affecting the critical area and relevant natural processes; (2) reasonably foreseeable future development that may affect the critical area; and (3) beneficial effects of any established regulatory programs under other local, state, and federal laws.

“Debris flow” means a moving mass of rock fragments, soil, and mud, more than half of the particles being larger than sand size; a general term that describes a mass movement of sediment mixed with water and air that flows readily on low slopes.

“Debris torrent” means a violent and rushing mass of water, logs, boulders and other debris.

“Deepwater habitats” means permanently flooded lands lying below the deepwater boundary of wetlands. Deepwater habitats include environments where surface water is permanent and often deep, so that water, rather than air, is the principal medium in which the dominant organisms live. The boundary between wetland and deepwater habitat in the marine and estuarine systems coincides with the elevation of the extreme low water of spring tide; permanently flooded areas are considered deepwater habitats in these systems. The boundary between wetland and deepwater habitat in the riverine and lacustrine systems lies at a depth of two meters (6.6 feet) below low water; however, if emergent vegetation, shrubs, or trees grow beyond this depth at any time, their deepwater edge is the boundary.

“Delineation” means the precise determination of wetland/non-wetland boundaries in the field according to the application of the specific method described in the Corps of Engineers Wetlands Delineation Manual, 1987 Edition, as amended, and the Western Mountains, Valleys, and Coast Region Supplement (Version 2.0) 2010, or as revised.

Designated Species, Federal. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

Designated Species, State. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife, that are in danger of extinction, threatened to become endangered, vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. State designated endangered, threatened, and sensitive species are periodically recorded in WAC [232-12-014](#) (state endangered species) and WAC [232-12-011](#) (state threatened and sensitive species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

"Development" means any land use activity, action, or manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, site work, and installation of utilities; land division, binding site plans, and planned unit developments; dredging, drilling, dumping, filling, grading, clearing, or removal of any sand, gravel, or minerals; shoreline stabilization works, driving of piling, placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level. "Development" does not include dismantling or removing structures if there is no other associated development or redevelopment, any activity that requires federal, state, or local approval for the use or modification of land or its resources. These activities include, but are not limited to: subdivisions and short subdivisions; binding site plans; planned unit developments; variances; shoreline substantial development permits and exemptions; clearing activity; fill and grade work; activity conditionally allowed; building or construction; revocable encroachment permits; and septic approval.

Comment [CES96]: Amended to be consistent with that in T-23.

"Director" means the director of the Whatcom County Department of Planning and Development Services, or his/her designee.

"Ditch" or "drainage ditch" means an artificially created watercourse constructed to convey surface or groundwater. Ditches are graded (manmade) channels installed to collect and convey water to or from fields and roadways. Ditches may include:

1. Irrigation ditches;
2. Waste ways;
3. Drains;
4. Outfalls;
5. Operational spillways;
6. Channels;

7. Stormwater runoff facilities; or

8. Other wholly artificial watercourses.

This definition is not meant to include artificial water courses that conveys or historically conveyed (prior to human alteration) waters of the state, is used by anadromous or other fish populations, or flows directly into shellfish habitat conservation areas.

“Emergency activities” means those activities which require immediate action within a time too short to allow full compliance with this chapter due to an unanticipated and imminent threat to public health, safety or the environment. Emergency construction does not include development of new permanent protective structures where none previously existed. All emergency construction shall be consistent with the policies of Chapter [90.58](#) RCW and this chapter. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

“Emergent wetland” means a wetland with at least ~~30 percent~~ of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

“Enhancement” means actions performed within an existing degraded critical area and/or buffer to intentionally increase or augment one or more functions or values of the existing critical area or buffer. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing nonindigenous plant or animal species.

“Erosion” means a process whereby wind, rain, water and other natural agents mobilize, transport, and deposit soil particles.

“Erosion hazard areas” means lands or areas underlain by soils identified by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) as having “severe” or “very severe” erosion hazards and areas subject to impacts from lateral erosion related to moving water such as river channel migration and shoreline retreat.

“Estuarine wetland” means the zero-gradient sector of a stream where it flows into a standing body of water together with associated natural wetlands; tidal flows reverse flow in the wetland twice daily, determining its upstream limit. It is characterized by low bank channels (distributaries) branching off the main stream to form a broad, near-level delta; bank; bed and delta materials are silt and clay; banks are stable; vegetation ranges from marsh to forest; and water is usually brackish due to daily mixing and layering of fresh and salt water.

“Exotic” means any species of plants or animals that is not indigenous to the area.

“Farm pond” means an open water depression created from a non-wetland site in connection with agricultural activities.

“Feasible” means an action, such as a development project, mitigation, or preservation requirement that meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
2. The action provides a reasonable likelihood of achieving its intended purpose; and
3. The action does not physically preclude achieving the project's primary intended legal use.

In cases where this chapter requires certain actions "unless they are infeasible," the burden of proving infeasibility is on the applicant/ proponent. In determining an action's infeasibility, the County may weigh the action's relative costs and public benefits, considered in the short- and long-term time frames.

"Feasible alternative" means an action, such as development, mitigation, or restoration, that meets all of the following conditions: (1) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (2) the action provides a reasonable likelihood of achieving its intended purpose; and (3) the action does not physically preclude achieving the project's primary intended legal use. Feasibility shall take into account both short- and long-term monetary and nonmonetary costs and benefits.

"Fen" means a mineral-rich wetland formed in peat that has a neutral to alkaline pH. Fens are wholly or partly covered with water and dominated by grass-like plants, grasses, and sedges.

"Fill material" means any solid or semisolid material, including rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure that, when placed, changes the grade or elevation of the receiving site.

"Filling" means the act of transporting or placing by any manual or mechanical means fill material from, to or on any soil surface, including temporary stockpiling of fill material.

"Fish and wildlife habitat conservation areas" are areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to: rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. Counties and cities may also designate locally important habitats and species. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company unless they meet the qualifications of WCC 16.16.710(B).

"Fish habitat" means a complex of physical, chemical, and biological conditions that provide the life-supporting and reproductive needs of a species or life stage of fish. Although the habitat requirements of a species depend on its age and activity, the basic components of fish habitat in

ivers, streams, ponds, lakes, estuaries, marine waters, and nearshore areas include, but are not limited to, the following:

1. Clean water and appropriate temperatures for spawning, rearing, and holding;
2. Adequate water depth and velocity for migrating, spawning, rearing, and holding, including off-channel habitat;
3. Abundance of bank and in-stream structures to provide hiding and resting areas and stabilize stream banks and beds;
4. Appropriate substrates for spawning and embryonic development. For stream- and lake-dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand;
5. Presence of riparian vegetation as defined in this article. Riparian vegetation creates a transition zone, which provides shade and food sources of aquatic and terrestrial insects for fish;
6. Unimpeded passage (i.e., due to suitable gradient and lack of barriers) for upstream and downstream migrating juveniles and adults.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

“Floodplain” is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act. “Floodplain” means the total land area adjoining a river, stream, watercourse, or lake subject to inundation by the base flood.

“Floodway” means the area, as identified in a master program, that either: (a) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (b) Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. “Floodway” means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than one foot. Also known as the “zero rise floodway.”

“Forested wetland” means a wetland with at least 30% percent of the surface area covered by woody vegetation greater than 20 feet in height, excluding monotypic stands of red alder or cottonwood that average eight inches in diameter at breast height or less.

Comment [CES97]: Revised per language of WAC 173-26-020(20).

Comment [P/C98]: P/C moved to approve. Carries 9-0

“Frequently flooded areas” means lands in the floodplain subject to a ~~one percent~~ 1% or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance and attenuation functions, as determined by the County in accordance with WAC [365-190-080](#)(3). Classifications of frequently flooded areas include, at a minimum, the “special flood hazard area” designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

“Function assessment” or “functions and values assessment” means a set of procedures, applied by a qualified consultant, to identify the ecological functions being performed in a wetland or other critical area, usually by determining the presence of certain characteristics, and determining how well the critical area is performing those functions. Function assessments can be qualitative or quantitative and may consider social values potentially provided by the wetland or other critical area. Function assessment methods must be consistent with best available science.

“Functions” means the processes or attributes provided by areas of the landscape (e.g., wetlands, rivers, streams, and riparian areas) including, but not limited to, habitat diversity and food chain support for fish and wildlife, groundwater recharge and discharge, high primary productivity, low flow stream water contribution, sediment stabilization and erosion control, storm and flood water attenuation and flood peak desynchronization, and water quality enhancement through biofiltration and retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.

“Functions, services, and value” means the beneficial functions that critical areas perform, the services they provide humans, and the values people derive from these roles including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, protection from hazards, providing historical and archaeological resources, noise and visual screening, open space, and recreation. These beneficial roles are not listed in order of priority.

“Game fish” means those species of fish that are classified by the Washington State Department of Wildlife as game fish (WAC [232-12-019](#)).

“Geologically hazardous areas” means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

“Gradient” means a degree of inclination, or a rate of ascent or descent, of an inclined part of the earth’s surface with respect to the horizontal; the steepness of a slope. It is expressed as a ratio (vertical to horizontal), a fraction (such as meters/kilometers or feet/miles), a percentage (of horizontal distance), or an angle (in degrees).

“Grading” means any excavating or filling of the earth’s surface or combination thereof.

“Grazable acres” means both pasture and hay land as described in the Whatcom County Standard Farm Conservation Planning Workbook.

“Groundwater” means all water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter [90.44](#) RCW).

“Groundwater management area” means a specific geographic area or subarea designated pursuant to Chapter [173-100](#) WAC for which a groundwater management program is required.

“Groundwater management program” means a comprehensive program designed to protect groundwater quality, to assure groundwater quantity, and to provide for efficient management of water resources while recognizing existing groundwater rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated groundwater management area or subarea and developed pursuant to Chapter [173-100](#) WAC.

“Growing season” means the portion of the year when soil temperatures are above biologic zero (41 degrees Fahrenheit).

“Growth Management Act” means Chapters [36.70A](#) and [36.70B](#) RCW, as amended.

“Habitats of local importance” designated as fish and wildlife habitat conservation areas include those areas found to be locally important by Whatcom County pursuant to WCC [16.16.710](#)(C)(12).

“Hazard tree” (outside the shoreline jurisdiction) means a tree whose risk evaluation, as determined through a Whatcom County approved tree risk assessment method, is high. Risk evaluation is the combined measurement of: tree failure identification, probability of failure, potential damage to permanent physical improvements to property causing personal injury, and consequences. A tree that constitutes an airport hazard is considered a hazard tree. A hazard tree whose failure is imminent and consequences of damage to permanent physical improvements to property causing personal injury are significant is considered an emergency. “Imminent” in this instance means failure has started or is most likely to occur in the near future, even if there is no significant wind or increased load. Imminent may be determined by a qualified consultant (defined in this section) or when mutually agreed upon by a landowner and Whatcom County.

“Hazard tree” (within the shoreline jurisdiction) means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.

“Hazardous substance” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC [173-303-090](#) or [173-303-100](#).

“High intensity land use” means land use that includes the following uses or activities: commercial, urban, industrial, institutional, retail sales, residential (more than one unit/acre), high-intensity new agriculture (dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high-intensity recreation (golf courses, ball fields), hobby farms,

Comment [P/C99]: P/C Motion to move these uses to moderate intensity land use definition. Motion carries 4-3-1-0

and Class IV special forest practices, including the building of logging roads (note that pursuant to WCC 16.16.230(A), all other forest practices are exempt from this chapter).

Comment [CES100]: They are not exempt; however, they do not require review under this chapter.

“Hydraulic project approval (HPA)” means a permit issued by the State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 75.20 RCW.

“Hydric soil” means a soil that is or has been saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the NRCS “Field Indicators of Hydric Soils” Version 7, and/or the Corps of Engineers Wetlands Delineation Manual, as amended.

“Hydrologic soil groups” means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups:

1. Low runoff potential and a high rate of infiltration potential;
2. Moderate infiltration potential and a moderate rate of runoff potential;
3. Slow infiltration potential and a moderate to high rate of runoff potential; and
4. High runoff potential and very slow infiltration and water transmission rates.

“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

“Hyporheic zone” means the saturated zone located beneath and adjacent to streams that contain some proportion of surface water from the surface channel. The hyporheic zone serves as a filter for nutrients, as a site for macroinvertebrate production important in fish nutrition and provides other functions related to maintaining water quality.

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow compared to natural conditions prior to development. Common impervious surfaces may include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. Impervious surfaces do not include surface created through proven low impact development techniques.

“In-kind compensation” means to replace critical areas with substitute areas whose characteristics and functions mirror those destroyed or degraded by a regulated activity.

“Infiltration” means the downward entry of water into the immediate surface of soil.

“Intertidal zone” means the substratum from extreme low water of spring tides to the upper limit of spray or influence from ocean-derived salts. It includes areas that are sometimes submerged and sometimes exposed to air, mud and sand flats, rocky shores, salt marshes, and some terrestrial areas where salt influences are present.

“Invasive species” means a species that is: (1) nonnative (or alien) to Whatcom County, and (2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

“Lahar” means a mudflow and debris flow originating from the slopes of a volcano.

“Lahar hazard area” means areas that have been or potentially could be inundated by lahars or other types of debris flows, according to a map showing volcano hazards from Mount Baker, Washington.

“Lake” means a naturally or artificially created body of deep (generally greater than 6.6 feet) open water that persists throughout the year. A lake is larger than a pond, greater than one acre in size, equal to or greater than 6.6 feet in depth, and has less than 30% ~~percent~~ aerial coverage by trees, shrubs, or persistent emergent vegetation. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake’s ordinary high water mark with the stream where the stream enters the lake.

“Landfill” means a disposal facility or part of a facility at which solid waste is permanently placed in or on land including facilities that use solid waste as a component of fill.

“Landslide” means a general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

“Landslide hazard areas” means areas that, due to a combination of site conditions like slope inclination and relative soil permeability, are susceptible to mass wasting.

“Low intensity land use” means land use that includes the following uses or activities: forestry (cutting of trees only), low intensity open space (such as passive recreation and natural resources preservation), ~~and unpaved trails,~~ utility corridors without maintenance roads and little or no vegetation management, or similar uses that do not require land disturbance.

“LWD” is an acronym for large woody debris.

“Maintenance or repair” means those usual activities required to prevent a decline, lapse or cessation from a lawfully established condition or to restore the character, scope, size, and design of a serviceable area, structure, or land use to a state comparable to its previously authorized and undamaged condition. This does not include any activities that change the character, scope, or size of the original structure, facility, utility or improved area beyond the original design.

Comment [CES101]: Added to make consistent with DOE’s guidance.

“Major development” means any project for which a major project permit is required pursuant to WCC Chapter 20.88 ~~WCC~~. For the purposes of this chapter, “major development” shall also mean any project associated with an existing development for which a major development permit has been required or other existing legally nonconforming development for which a major development permit would otherwise be required if developed under the current land use regulations outlined in WCC Title 20.

“Mass wasting” means downslope movement of soil and rock material by gravity. This includes soil creep, erosion, and various types of landslides, not including bed load associated with natural stream sediment transport dynamics.

“Mature forested wetland” means a wetland with an overstory dominated by mature trees having a wetland indicator status of facultative (FAC), facultative-wet (FACW), or obligate (OBL). Mature trees are considered to be at least 21 inches in diameter at breast height.

“Maximum credible event” means the largest debris flow event that can be hypothesized from geologic processes within a watershed above an alluvial fan with consideration of the volume of sediment and debris that would be available within the drainage combined with material from landslides that would enter the drainage, and the volume of water that could become trapped behind and within the debris flow or dammed within the drainage.

“May” means the action is allowable, provided it conforms to the provisions of this title.

“Mean annual flow” means the average flow of a river or stream (measured in cubic feet per second) from measurements taken throughout the year. If available, flow data for the previous 10 years should be used in determining mean annual flow.

“Mitigation” means individual actions that may include a combination of the following measures, listed in order of preference:

1. Avoiding an impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
3. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for an impact by replacing or providing substitute resources or environments; and
6. Monitoring the mitigation and taking remedial action when necessary.

“Mitigation bank” means a site where wetlands or similar habitats are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to aquatic resources.

“Mitigation bank instrument” means the documentation of agency and bank sponsor concurrence on the objectives and administration of the bank. The “bank instrument” describes in detail the physical

and legal characteristics of the bank, including the service area, and how the bank will be established and operated.

“Mitigation bank review team” or “MBRT” means an interagency group of federal, state, tribal and local regulatory and resource agency representatives that are invited to participate in negotiations with the bank sponsor on the terms and conditions of the bank instrument.

“Mitigation bank review team process” or “MBRT process” means a process in which the County and other agencies strive to reach consensus with the MBRT members on the terms, conditions, and procedural elements of the bank instrument.

“Mitigation bank sponsor” means any public or private entity responsible for establishing and, in most circumstances, operating a bank.

“Mitigation plan” means a detailed plan indicating actions necessary to mitigate adverse impacts to critical areas.

“Moderate intensity land use” means land use that includes the following uses or activities: residential (one unit/gross acre or less), moderate-intensity open space (parks with biking, jogging, etc.), moderate-intensity new agriculture (orchards, ~~and~~ hay fields, nurseries, raising and harvesting crops requiring annual tilling), ~~and~~ paved trails, building of logging roads, and utility corridors or rights-of-way shared by several utilities and including access/maintenance roads.

Comment [P/C102]: Motion to move these uses to moderate intensity land use definition. Motion carries 4-3-1-0

“Monitoring” means evaluating the impacts of development proposals over time on the biological, hydrological, pedological, and geological elements of ecosystem functions and processes, and/or assessing the performance of required mitigation measures through the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features compared to baseline or pre-project conditions and/or reference sites.

Comment [CES103]: Making consistent w/ DOE guidance.

“Native vegetation” means plant species that are indigenous to Whatcom County and the local area.

“Nearshore habitat” means the zone that extends seaward from the marine shoreline to a water depth of approximately 20 meters (66 feet). Nearshore habitat is rich biologically, providing important habitat for a diversity of plant and animal species.

“No net loss” means the maintenance of the aggregate total of the County’s critical area functions and values as achieved through a case-by-case review of development proposals. Each project shall be evaluated based on its ability to meet the no net loss goal.

“Off-site mitigation” means to replace critical areas away from the site on which a critical area has been adversely impacted by a regulated activity.

“Ongoing agriculture” means those activities conducted on lands defined in RCW [84.34.020](#)(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that bring an area into agricultural use are not part of an ongoing activity. An

operation ceases to be ongoing when the area on which it was conducted has been converted to a nonagricultural use, or has lain idle for more than five consecutive years unless that idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition.

“Ordinary high water mark” means the mark or line on all lakes, rivers, streams, and tidal water that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation (RCW [90.58.030](#)(2)(b)).

“Person” means any individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity, either public or private, acting as a unit cooperative, public or municipal corporation, state agency or local governmental unit, however designated, or Indian nation or tribe.

Comment [CES104]: Making consistent w/ other Titles.

“Planned unit development (PUD)” means one or a group of specified uses, such as residential, resort, commercial or industrial, to be planned and constructed as a unit. Zoning or subdivision regulations with respect to lot size, building bulk, etc., may be varied to allow design innovations and special features in exchange for additional and/or superior site amenities or community benefits.

“Planning advisor” means those qualified individuals who have technical experience and training necessary to prepare conservation farm plans for agricultural lands and who have been certified a technical service provider by the USDA Natural Resources Conservation Service (see <http://techreg.usda.gov>) and signed the practice and confidentiality agreement.

“Pond” means an open body of water, generally equal to or greater than 6.6 feet deep, that persists throughout the year and occurs in a depression of land or expanded part of a stream and has less than 30% percent aerial coverage by trees, shrubs, or persistent emergent vegetation. Ponds are generally smaller than lakes. Farm ponds, ponds built for the primary purpose of combating fires, stormwater facilities, and beaver ponds less than two years old are excluded from this definition.

“Potable” means water that is suitable for drinking by the public (Chapter [246-290](#) WAC).

“Preservation” means actions taken to ensure the permanent protection of existing, ecologically important critical areas and/or buffers that the County has deemed worthy of long-term protection.

“Primary association” means the use or potential use of a habitat area by a listed or priority species for breeding/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a frequent and/or regular basis during the appropriate season(s) as well as habitats that are used less frequently/regularly but which provide for essential life cycle functions such as breeding/nesting/spawning.

“Priority habitat” means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

comparatively high fish or wildlife density; comparatively high fish or wildlife species diversity; fish spawning habitat; important wildlife habitat; important fish or wildlife seasonal range; important fish or wildlife movement corridor; rearing and foraging habitat; important marine mammal haulout; refuge; limited availability; high vulnerability to habitat alteration; unique or dependent species; or shellfish bed. A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife (WAC [173-26-020](#)(24)).

“Priority species” means wildlife species of concern due to their population status and their sensitivity to habitat alteration, as defined by the Washington State Department of Fish and Wildlife.

“Project” means any proposed or existing activity regulated by Whatcom County.

“Project permit” or “project permit application” means any land use or environmental permit or approval required by Whatcom County, including, but not limited to, building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, variances, lot consolidation relief, site plan review, permits or approvals authorized by a comprehensive plan or subarea plan.

“Qualified professional” or “qualified consultant” means a person with experience and training with expertise appropriate for the relevant critical area subject in accordance with WAC [365-195-905](#)(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or a related field, and related work experience, and meet the following criteria:

1. Is listed on a roster of qualified professionals or qualified consultants prepared by the ~~PDS Natural Resource Supervisor~~ [Director](#) and made available to the public.
2. A qualified professional for wetlands must have a degree in wildlife biology, ecology, soil science, botany, or a closely related field and a minimum of five years of professional experience in wetland delineation and assessment associated with wetland ecology in the Pacific Northwest or comparable systems. The following is required to be submitted to be placed on the roster:
 - a. Curriculum vitae or resume;
 - b. Three complete and approved wetland delineations (as primary author on at least one), conducted in accordance with the U.S. Army Corps of Engineers Wetlands Delineation Manual, 1987, or as amended; and
 - c. One complete and approved wetland delineation using the U.S. Army Corps of Engineers Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region, 2010, or as amended. Successful completion of a wetland class using this manual may be substituted for this requirement.

Comment [Co/C105]: Added by Council
11/23/21

3. A qualified professional for habitat conservation areas must have a degree in wildlife biology, ecology, fisheries, or a closely related field and a minimum of three years of professional experience related to the subject species/habitat type or approved equivalent work experience.
4. A qualified professional for geologically hazardous areas must be a professional engineering geologist or geotechnical engineer, licensed in the state of Washington.
5. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydrogeologist, geologist, or engineer.
6. A qualified professional for tree risk assessment means a certified arborist or certified tree professional with a current ISA Tree Risk Assessment Qualification.
7. Anyone who's profession license is currently revoked or has had two (2) or more reports denied by the Hearing Examiner with a 12-month period ~~has had their professional licensure, or certification, or professional membership revoked for violations of the provisions of their professional licensure, certification, or professional membership~~ does not meet the definition of a qualified professional or qualified consultant.

Comment [Co/C106]: Amended by Council
11/23/21

"RCW" is an acronym for Revised Code of Washington.

"Reasonable use" means a property that is deprived of all reasonable use when the owner can realize no reasonable return on the property or make any productive use of the property. "Reasonable return" does not mean a reduction in value of the land, or a lack of a profit on the purchase and sale of the property, but rather, where there can be no beneficial use of the property; and which is attributable to the implementation of the critical areas ordinance.

"Reasonable use exception" means an exception to the standards of this title that allows for any one of the uses allowed within a given zoning designation which cannot otherwise conform to the requirements set forth in this title, including the variance criteria; that have the least impact on the critical areas found on the subject property.

"Recharge" means the process involved in the absorption and addition of water from the unsaturated zone to groundwater.

"Reestablishment" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former critical area. Reestablishment results in rebuilding a former critical area and results in a gain in acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.

"Rehabilitation" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded critical area. Rehabilitation results in a gain in function but does not result in a gain in area. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

"Resident fish" means a fish species that completes all stages of its life cycle within freshwater and frequently within a local area.

“Restoration” means measures taken to restore an altered or damaged natural feature, including:

1. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
2. Actions performed to reestablish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or catastrophic events.

“Retroactive Permit” means a permit applied for after the development, use, or activity has occurred, generally to bring such development, use, or activity into compliance through code enforcement.

“Rills” means steep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

“Riparian corridor” or “riparian zone” means the area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian areas include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration.

“Riparian vegetation” means vegetation that tolerates and/or requires moist conditions and periodic free-flowing water, thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilize stream banks, attenuate high water flows, provide wildlife habitat and travel corridors, and provide a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

“Scrub-shrub wetland” means a wetland with at least 30% ~~percent~~ of its surface area covered by woody vegetation less than 20 feet in height as the uppermost strata.

“Seiche” is a standing wave in an enclosed or partially enclosed body of water. Seiches are typically caused when strong winds and rapid changes in atmospheric pressure push water from one end of a body of water to the other. When the wind stops, the water rebounds to the other side of the enclosed area. The water then continues to oscillate back and forth for hours or even days. In a similar fashion, earthquakes, tsunamis, or severe storm fronts may also cause seiches along ocean shelves and ocean harbors. Seiches and seiche-related phenomena have been observed on lakes, reservoirs, swimming pools, bays, harbors and seas. The key requirement for formation of a seiche is that the body of water be at least partially bounded, allowing the formation of the standing wave.

“Seismic hazard areas” means areas that are subject to severe risk of damage as a result of earth-quake-induced ground shaking, slope failure, settlement, or soil liquefaction.

“SEPA” is a commonly used acronym for the State Environmental Policy Act.

“Shellfish” means invertebrates of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.

“Shellfish habitat conservation areas” means all public and private tidelands suitable for shellfish, as identified by the Washington State Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington State Department of Ecology are designated as shellfish habitat conservation areas pursuant to WAC [365-190-80](#). Any area that is or has been designated as a shellfish protection district created under Chapter [90.72](#) RCW is also a shellfish habitat conservation area.

“Shellfish protection district” means the Drayton Harbor shellfish protection district (DHSPD) and the Portage Bay shellfish protection district (PBSPD) (~~WCC Chapter 16.20-WCC~~), or other area formed by the County based on RCW Title [90](#), in response to State Department of Health (DOH) closures or downgrades of a commercial shellfish growing area due to a degradation of water quality as a result of pollution. These areas include the watershed draining to the shellfish beds as part of the shellfish habitat conservation area.

“Shorelands” or “shoreland areas” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of Chapter [90.58](#)RCW.

“Shoreline” (Shoreline Management Act) means all of the water areas of the state, including reservoirs and their associated wetlands, together with lands underlying them, except:

1. Shorelines on segments of streams upstream from a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and
2. Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

“Shorelines” means all of the water areas of the state as defined in RCW [90.58.030](#), including reservoirs and their associated shorelands, together with the lands underlying them, except:

1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second (cfs) or less and the wetlands associated with such upstream segments; and
3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

“Shoreline Jurisdiction.” See WCC [23.20.010](#).

“Shorelines of statewide significance” means those areas defined in RCW [90.58.030](#)(2)(e).

“Shorelines of the state” means the total of all “shorelines,” as defined in RCW [90.58.030](#)(2)(d), and “shorelines of statewide significance” within the state, as defined in RCW [90.58.030](#)(2)(e).

“Single-family development” means the development of a single-family residence permanently installed and served with utilities on a lot of record.

“Site” means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way, under the applicant’s/proponent’s ownership or control that is the subject of a development proposal or change in use.

“Slope” means:

1. Gradient.
2. The inclined surface of any part of the earth’s surface, delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

“Soil” means all unconsolidated materials above bedrock described in the Soil Conservation Service Classification System or by the Unified Soils Classification System.

“Special Flood Hazard Area (SFHA)” means the area that will be inundated by the flood event having a 1% chance of being equaled or exceeded in any given year. The 1% annual chance flood is also referred to as the base flood or 100-year flood. On the FIRM maps, SFHAs are labeled as Zone A, Zone AO, Zone AH, Zones A1-A30, Zone AE, Zone A99, Zone AR, Zone AR/AE, Zone AR/AO, Zone AR/A1-A30, Zone AR/A, Zone V, Zone VE, and Zones V1-V30.

“Species of local importance” are those species that are of local concern due to their population status or their sensitivity to habitat alteration or that are game species.

“Sphagnum bog” means a type of wetland dominated by mosses that form peat. Sphagnum bogs are very acidic, nutrient-poor systems, fed by precipitation rather than surface inflow, with specially adapted plant communities.

“Stormwater Manual” or “Stormwater Management Manual for Western Washington” means the version of the Department of Ecology’s Stormwater Management Manual for Western Washington most recently adopted by council.

“Streams” means those areas where surface water flows are sufficient to produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include ditches or other artificial water courses unless they are used to convey streams naturally occurring prior to human alteration, and/or the waterway is used by anadromous or other fish populations, or flows directly into shellfish habitat conservation areas.

“Structure” means a permanent or temporary building or edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner whether installed on, above, or below the surface of the ground or water, except for vessels.

“Substantially Developed Surface” is a legally established area of non-vegetated impervious surface.

“Surface waters of state.” See definition for “waters of the state”

“Survey” means one of the following:

1. Mapping using a compass and tape; or

2. Mapping using a smart phone or hand held GPS; or
3. A survey completed by a licensed surveyor.

“Swale” means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot.

~~“Technical administrator” means the director of the planning and development services department or staff member designated by the director to perform the review functions required in this chapter.~~

Comment [CES107]: Term no longer used; replaced by “director.”

“Toe” means the lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide, etc.

“Top” means the top of a slope; or in this chapter it may be used as the highest point of contact above a landslide hazard area.

“Unavoidable” means adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

“USDA” is an acronym for the United States Department of Agriculture

“Utilities” means all lines and facilities used to distribute, collect, transmit, or control electrical power, natural gas, petroleum products, information (telecommunications), water, and sewage.

“Volcanic hazard areas” means geologically hazardous areas that are subject to pyroclastic flows, lava flows, debris avalanche, or inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.

“WAC” is an acronym for Revised Code of Washington.

~~“Waters of the state” or “state waters” means all lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and other surface waters and watercourses within the jurisdiction of Washington State (RCW 90.48.020). salt and freshwaters waterward of the ordinary high water line and within the territorial boundary of the state.~~

“Watershed” means a geographic region within which water drains into a particular river, stream or body of water. There are approximately 122 watersheds (e.g., Bertrand, Ten Mile, Dakota, Canyon Creek, Lake Whatcom, Lake Samish) identified in WRIA 1 and 3. These are nested within approximately 14 sub-basins (e.g., North Fork Nooksack, Drayton Harbor, Sumas River, Friday Creek), which are nested within four basins (e.g., Nooksack River, Fraser River, Samish River, coastal).

“Watershed improvement district” means a special district established pursuant to Chapter [85.38](#) RCW citation.

“WDFW” is an acronym for the Washington State Department of Fish and Wildlife.

“Wellhead protection area” means the area (surface and subsurface) managed to protect ground-water-based public water supplies.

“Wet meadow” means palustrine emergent wetlands, typically having disturbed soils, vegetation, or hydrology.

“Wet season” means the period generally between November 1st and March 30th of most years when soils are wet and prone to instability. The specific beginning and end of the wet season can vary from year to year depending on weather conditions.

“Wetland” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands include those artificial wetlands intentionally created to mitigate wetland impacts.

“Wetland buffer” means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and ecological stability of the wetland.

“Wetland class” means the general appearance of the wetland based on the dominant vegetative life form or the physiography and composition of the substrate. The uppermost layer of vegetation that possesses an aerial coverage of ~~30% percent~~ or greater of the wetland constitutes a wetland class. Multiple classes can exist in a single wetland. Types of wetland classes include forest, scrub/shrub, emergent, and open water.

“Wetland delineation” means the precise determination of wetland boundaries in the field according to the application of specific methodology as described in the Corps of Engineers Wetlands Delineation Manual, 1987 Edition, and the Western Mountains, Valleys, and Coast Region Supplement (Version 2.0) 2010, or as revised, and the mapping thereof.

“Wetland edge” means the boundary of a wetland as delineated based on the definitions contained in this chapter.

Wetland Enhancement. See “mitigation.”

“Wetland mitigation bank” means a site where wetlands and buffers are restored, created, enhanced or, in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

Wetland Restoration. See “mitigation” and “reestablishment.”

“Windthrow” means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

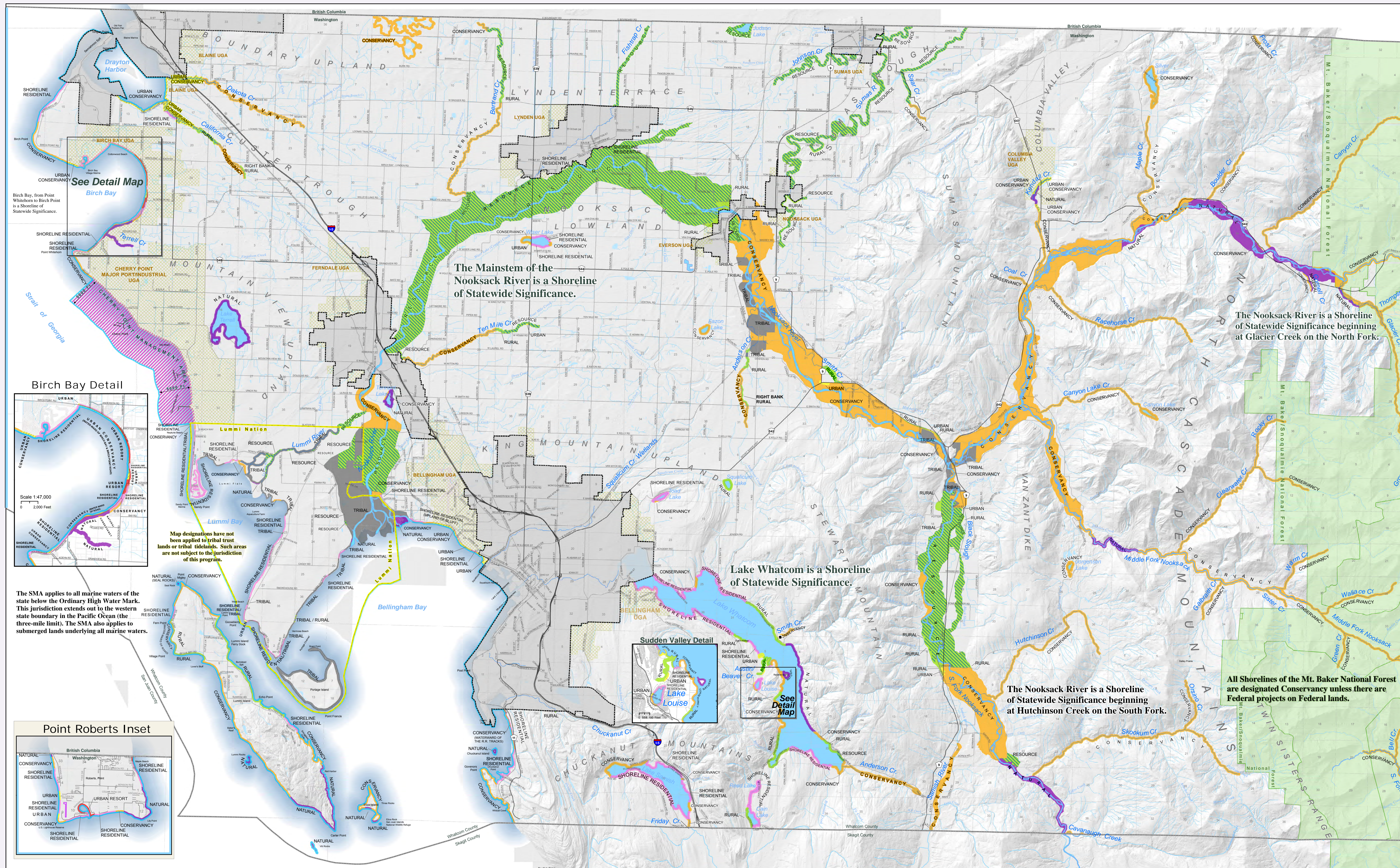
“Wood waste” means solid waste consisting of wood pieces or particles generated as a byproduct or waste from the manufacturing of wood products, handling and storage of raw materials and trees

and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, hog fuel, and log sort yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

“WRIA” is an acronym for Water Resource Inventory Area

Exhibit G

DRAFT Shoreline Environment Designations 2/24/2021



Official Shoreline Map

Shoreline Area Designations

- Urban
- Urban Resort
- Urban Conservancy

Shoreline Residential

- Rural
- Resource
- Conservancy

Natural

- Tribal
- Cherry Point Mgmt. Area
- Aquatic

Lummi Nation Boundaries

- City Boundaries
- Urban Growth Area

Applies to all areas waterward of OHWM on Shorelines of the State

0 0.5 1 2 3 4 Miles
1 inch = 5,417 feet
0 1,000 2,000 4,000 Meters



About this Map:

The information depicted on this map is intended to be used with Whatcom County's Shoreline Management Plan, adopted May 27, 1976. Revised to comply with Washington Administrative Code 173-28. Approved by Department of Ecology

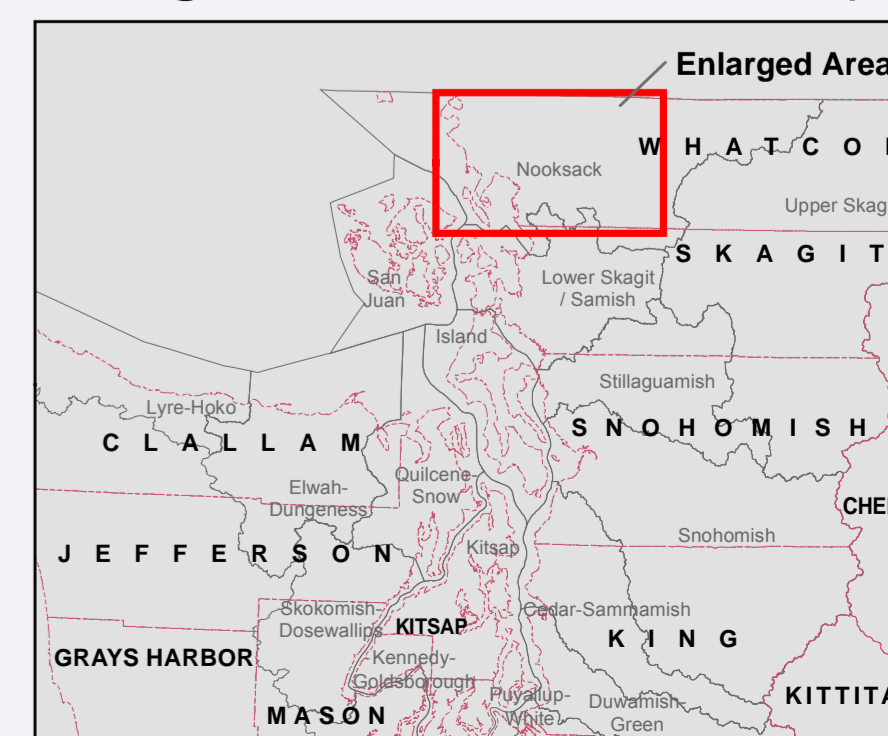
Shoreline Jurisdiction:

The purpose of the official shoreline environment designations map is to depict graphically those areas of Whatcom County falling under the jurisdiction of this program, and the shoreline environment designations of those areas. The map does not necessarily identify or depict the lateral extent of shoreline jurisdiction nor does it identify all associated wetlands. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis based on the location of the ordinary high water mark (OHWM), floodway, floodplain, and presence of associated wetlands.

USE OF WHATCOM COUNTY'S MAP IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:

Whatcom County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damage, loss, or liability arising from any use of this map.

Puget Sound Area Map



TECHNICAL MEMORANDUM



Date: December 31, 2020
To: Cliff Strong, Ryan Ericson
From: Dan Nickel, Mark Daniel, Devin Melville
Project Name: Whatcom County SMP

Subject: Whatcom County SMP Periodic Update - No Net Loss Statement

Introduction

Whatcom County (County) is conducting a periodic review of its Shoreline Master Program (SMP). While the majority of amendments are to comply with current State law and address recent legislative updates, to clarify prior interpretations, and reorganize the SMP to improve usability for both applicants and staff), several amendments are substantive in nature and merit additional documentation to ensure that implementation of the updated SMP and future development will not result in a net loss of shoreline ecological functions.

The Shoreline Management Act guidelines (Guidelines) require local shoreline master programs to regulate new development to “achieve no net loss of ecological function.” The County’s 2007 comprehensive SMP update was approved under this benchmark based on the analyses performed then¹. This memorandum builds on those analyses and addresses the amendments proposed for this year’s periodic review and specifically identifies amendments that are more substantive in nature.

The following areas of the SMP have amendments that warrant evaluation:

- Pier and dock standards
- Common line setback evaluation
- Trail location standards
- Nonconforming residential development
- Buffer reduction mechanisms
- Residential accessory structures

¹ See <https://www.whatcomcounty.us/3119/SMP-Update-2020-Documents>

The purpose of this memo is to describe these amendments and evaluate their potential effects on shoreline ecological functions to ensure the County will continue to meet the Washington State Department of Ecology no net loss criteria.

No Net Loss Evaluation

Pier and Dock Standards

Amendment Description: WCC 23.40.150(B) (Moorage Structures) (formerly titled Docks, Piers, and Mooring Buoys) contain revised dimensional standards, including overall square footage, for both freshwater and marine moorage (overwater) structures.

NNL Evaluation: The amended pier and dock standards in WCC 23.40.150(B), subsections 1 and 2, are extrapolated from the U.S. Army Corps of Engineers (Corps) Regional General Permit 6 and consistent with the Washington Department of Fish and Wildlife standards provided in the hydraulic code rules (WAC 220-660-140 and -380). These state and federal requirements contain provisions to allow overwater structures while ensuring implementation of impact reduction mechanisms to protect aquatic habitats. Furthermore, moorage structures are required to be constructed of materials that will not adversely affect water quality or aquatic plants or animals over the long term (WCC 23.40.150(C)).

While the proposed amendments to the Whatcom County SMP do not explicitly limit the number of future overwater structures, the proposed amendments minimize impacts by regulating overall footprint and dimensional standards, which are known to have a direct correlation to habitats and species. In general, the updated pier and dock standards allow for reduced square footage of overwater structures and a reduction in the total number of docks by prioritizing shared docks over single-user docks. The proposed amendments also avoid future impacts by prohibiting such moorage structures in key shoreline habitat areas (WCC 23.40.150(A)(6)).

Common-Line Setback

Amendment Description: To protect views of the shoreline from existing structures when new development is proposed, WCC 23.30.040 (Views and Aesthetics) of the updated SMP includes a new subsection (B) that now allows setbacks in Urban, Shoreline Residential and Rural environments to be modified pursuant to WCC 23.40.020(D) (Shoreline Bulk Provisions, Setbacks, Common-Line Setback for Single-Family Residences). That section (incorporated from former Appendix F, where it had only applied to nonconforming lots) allows for setbacks to be

reduced or increased, depending on how existing adjacent homes are situated, to provide the greatest view opportunities for both the existing and new development. Furthermore, WCC 23.30.040 (Views and Aesthetics) new subsection (L) precludes new uses or development from substantially obscuring shoreline views within shoreline view areas or from existing residences on adjacent property.

NNL Evaluation: When the use of a common-line setback is allowed, compliance with buffer width reduction and mitigation sequencing pursuant to WCC 23.30.010 (Ecological Protection) shall be required. WCC 23.30.010 (B) states that development, use, and activities within the shoreline jurisdiction shall avoid and minimize adverse impacts, and any unavoidable impacts shall be mitigated to meet no net loss of ecological function and ecosystem-wide processes pursuant to WAC 173-26-186, Governing Principles of the Guidelines. Furthermore, WCC 23.30.010 (C) has been added to specifically to add flexibility in buffer modification when approaches include “increased protection of shoreline ecological function and processes.” To minimize impacts to views from the water, a new subsection (C) was added to WCC 23.30.040 (Views and Aesthetics), that now allows the Director to require the planting of vegetation to mitigate the impacts.

Trail Location Standards

Amendment Description:

WCC 16.16.620 (Wetlands – Use and Modification), Subsection (H) (Recreation) has been amended to allow public trails to include viewing platforms to be closer than the outer 25% of the buffer “when necessary to provide wetland educational opportunities or for public health and safety,” and to be wider than the standard widths when necessary to meet ADA requirements. Corresponding amendments have also been made to WCC 16.16.720(G)(1) (Habitat Conservation Areas – Use and Modification).

NNL Evaluation: This allowance is permissible provided that all criteria in WCC 23.40.160(A)(6) (Recreation) are met; this amendment adopts by reference the requirements of WCC Chapter 16.16 (Critical Areas), which contains the standards for trails in critical areas. WCC 16.16.620(H) criteria for passive recreation facilities that are part of a non-motorized trail system or environmental education program, including walkways, wildlife viewing structures, or public education trails, states the trail must minimize erosion and sedimentation, hydrologic alteration, and disruption of natural processes such as wood recruitment and natural wildlife movement patterns. Such trails must be made of pervious material or elevated where feasible,

be designed to avoid removal of significant trees, and be constructed in a manner that minimizes disturbance of the buffer and associated critical areas.

Nonconforming Residential Development

Amendment Description: Standards for addressing the enlargement or expansion of single-family residences non-conforming to the shoreline buffer have been clarified in WCC 23.50.020 (Nonconforming Structures), subsection (F). Expansion of a nonconforming single-family structure may be approved when the expansion does not extend waterward of the existing primary structure's building footprint or the when the expansion is consistent with the constrained lot provisions in WCC 23.40.170.

NNL Evaluation: Approved expansion of single-family residences non-conforming to the shoreline buffer is not anticipated to have further impacts to the shoreline under the clarified standards provided in WCC 23.50.020 (F). Subsection (2) includes the following specific restrictions to ensure protection of existing ecological functions and mitigate for impacts. The expansion of nonconforming single-family residences or normal appurtenances greater than the constrained lot provisions of WCC 23.40.170 may be approved once during the life of the structure (100 years), with a total building footprint expansion of no more than 500 square feet. Additionally, the expansion must be landward or lateral of the existing footprint, shall occur on a previously impacted impervious surface, shall not occur waterward of the common line setback, and shall be accompanied by enhancement of an area equivalent to the expansion if the total building footprint increases by more than 250 square feet.

Buffer Reduction Mechanisms

Amendment Description: WCC 16.16.745 and 16.16.640 address buffer modifications within wetlands and habitat conservation areas, including buffer width averaging, buffer width reductions, and buffer width variances. Buffer averaging allows limited reductions of buffer width in specified locations, while requiring increases in others. In such cases, the width of buffers may be averaged if it will improve the protection of functions and the applicant can demonstrate that all specified criteria are met. Buffer width reduction may be approved by the Director on a case-by-case basis, provided that the general standard for alternatives analysis and mitigation sequencing per WCC 16.16.260 have been applied and the applicant demonstrates to the satisfaction of the Director that all of the specified criteria have been met. Standard buffer widths may be reduced more than 25% though a variance pursuant to WCC 16.16.273, provided that buffer averaging beyond the limits allowed by the variance is prohibited.

NNL Evaluation: The updated SMP adopts the CAO by reference, allowing for limited buffer reduction mechanisms provided specified criteria are met. For buffer averaging proposals, both WCC 16.16.745 (B)(2) and WCC 16.16.640 (B)(2) state the Director may require enhancement to the remaining buffer to ensure no net loss of ecological function, services, or value in the specified locations where a buffer has been reduced to achieve averaging. For buffer reduction proposals, both WCC 16.16.745 (C) and WCC 16.16.640 (C) allow the Director to require retention of existing native vegetation on other portions of the site to offset habitat loss from buffer reduction. Additionally, all buffer reduction impacts are required to be mitigated with the result being equal or greater protection of functions and values. In all circumstances where a substantial portion of the remaining buffer is degraded, buffer reduction plans shall include replanting with native vegetation in the degraded portions of the remaining buffer area to further ensure the no net loss standard is achieved.

Residential Accessory Structures

Amendment Description: WCC 16.16.720(G)(4), Accessory Uses, allows for water-oriented accessory structures associated with a residential use to be located in habitat conservation area buffers. Such structures would be limited in area to either 10 percent of the buffer area or 500 square feet, whichever is less. Additionally, no more than 20 percent of the linear length of shoreline could be occupied by such a structure. Per this section, such recreation-oriented applications would only be allowed when all reasonable measures have been taken to avoid adverse effects on species and habitats, including applying recommendations from the Washington Department of Fish and Wildlife, providing mitigation for all adverse impacts that cannot be avoided, and limiting the amount and degree of the alteration to the minimum needed to accomplish the project purpose. As required mitigation for the development, the shoreline must be planted with native vegetation extending at least 15 feet landward from the ordinary high water mark for at least 75 percent of the shoreline length.

NNL Evaluation: This allowance for small water-oriented residential accessory structures is intended to offer flexibility to waterfront landowners who would like to enhance their water enjoyment opportunities, typically for viewing or direct water access. To balance these direct impacts to HCA buffers, the County has proposed a planting requirement immediately adjacent to the shoreline. Native vegetation in these locations are known to provide a variety of positive ecological benefits including habitat, water quality, and vegetation functions. Assuming an average waterfront lot width of 100 feet, such a requirement would require a minimum planting area of 1,125 square feet (100 feet long x 15 feet wide x 0.75). This planting area represents over a 2:1 mitigation ratio to the maximum potential impact area of 500 square feet. Even a small lot width of 50 feet would result in approximately 562.5 square feet of native shoreline planting.

Implementation of this provision is expected to improve habitat, water quality, and vegetative conditions as vegetation matures over time.

Restoration Plan Implementation

The Shoreline Restoration Plan prepared as part of the Comprehensive SMP update in 2007 serves as a valuable resource for the County and its restoration partners to improve impaired ecological functions on the County's shorelines. The plan provides a framework for restoration on all County shorelines outside of incorporated areas.

The plan focuses on restoration projects that are reasonably likely to occur in the foreseeable future. This list has been updated during the periodic SMP update process². Potential restoration opportunities were identified based on recommendations in existing restoration planning documents, as well as input from County staff and restoration partners. The plan lists restoration and protection strategies, including opportunities for specific projects, for each of the County's watersheds.

The plan provides an implementation framework by identifying existing and ongoing plans and programs as well as potential restoration partners at the federal, state, regional, and local levels. The framework builds on local and regional planning coordination among these programs and partners, identifying mechanisms for implementation including development incentives for restoration; landowner outreach and engagement; maximizing mitigation outcomes; and monitoring the effectiveness of restoration actions.

Restoration projects which have been completed or are in progress since 2007 include:

- Removing groins and bulkheads along Birch Bay Drive (ongoing)
- Removal of a failed solid fill pier, large rock groin, concrete debris and derelict piles in the western portion of Legoe Bay (ongoing)
- Lummi Island Quarry Restoration (ongoing)
- Bulkhead removal along Gooseberry Point (ongoing)
- Little Squalicum Creek mouth/estuary debris removal (ongoing)
- Debris removal and restoration of the armored shore at Mount Baker Plywood (ongoing)
- Point Roberts, Lighthouse Park structure removal (complete)
- Lummi View Drive Relocated (complete)

² Restoration Plan Addendum, March 31, 2020

- West Beach, Lummi Peninsula bulkhead removal (ongoing)

Cumulative Impacts

The Cumulative Impacts Analysis during the 2007 comprehensive SMP update evaluated the effects of foreseeable development under the SMP and demonstrated that the goals, policies, and regulations, combined with recommendations in the Shoreline Restoration Plan, would prevent degradation of ecological functions relative to baseline conditions.

The Cumulative Impacts Analysis determined that the proposed SMP provides a high level of protection to shoreline ecological functions. The report indicated that on its own, the proposed SMP, which includes the Shoreline Restoration Plan, is expected to protect and improve shorelines within Whatcom County while accommodating foreseeable future shoreline development, resulting in no net loss of shoreline ecological function.

Emphasis is placed on achieving no net loss of ecological function throughout the SMP, with all uses and modifications subject to general and/or specific standards addressing the preservation of water quality, water quantity, and habitat function in the shoreline, as well as basin-wide ecological processes. The following are some of the key features that protect and enhance shoreline ecological functions to ensure that the no net loss standard is met.

- Shoreline environment designations are assigned to shorelines to minimize use conflicts and designate appropriate areas for specific uses and modifications.
- The SMP contains general policies and regulations designed to provide the basis for achieving no net loss of shoreline ecological functions, such as mitigation sequencing, critical areas and flood hazard regulations, and vegetation conservation standards.
- The critical area protection standards ensure that vegetated buffers are retained on wetlands, fish and wildlife habitat conservation areas, and geologically hazardous areas.
- More shoreline uses and modifications are permitted in areas with higher levels of existing disturbance, and allowed uses and modifications are more limited in areas with lower levels of disturbance. Regulations prohibit uses that are incompatible with the existing land use and ecological conditions and emphasize appropriate location and design of various uses.
- The Shoreline Restoration Plan identifies a number of project-specific opportunities for restoration inside and outside of shoreline jurisdiction, and also identifies ongoing

county programs and activities, restoration partners, and recommended strategies and actions consistent with a variety of watershed-level planning efforts.

Conclusion

The proposed amendments to the SMP described above are not anticipated to have adverse effects on shoreline ecological functions at the planning level. Further, the updated SMP includes a variety of other amendments that are either insignificant when it comes to evaluating impacts to ecological functions or anticipated to strengthen the shoreline ecological protections provided by the SMP. Therefore, the proposed amendments to the SMP are not anticipated to result in a net loss of ecological functions when implemented in tandem with the Shoreline Restoration Plan. Monitoring key indicators is an effective way to ensure the standard of no net loss is being achieved. This can best be implemented by requiring the submission of short-term and long-term monitoring reports as part of permit approvals for development applications and maintaining consistency throughout the permitting process in evaluating mitigation sequencing. Additionally, ongoing efforts by state agencies to monitor land cover change detection, specifically work generated by the Washington Department of Fish and Wildlife, will continue to offer a valuable resource to ensure compliance with no net loss standards.

TECHNICAL MEMORANDUM



Date: March 31, 2020
To: Whatcom County
From: Dan Nickel, The Watershed Company
Jonathan Waggoner, Herrera Environmental
Project Name: Whatcom County SMP Periodic Update
Project Number: 181232

Subject: Whatcom County Shoreline Restoration Plan Addendum

The purpose of this memorandum is to update the previous Shoreline Restoration Plan adopted by Whatcom County in 2007. The Shoreline Restoration Plan is meant to help identify restoration or enhancement projects and areas of the shoreline for improvement. Generally, uses and developments within shorelines cannot always be fully mitigated, which may result in incremental and unavoidable degradation to the baseline conditions of the shoreline. The Restoration Plan aims to counter these incremental degradations by identifying areas and projects for enhancement and restoration which can improve degraded baseline conditions along the shoreline over time.

This addendum references projects listed in the Shoreline Restoration Plan containing enhancement and restoration project proposals and updates them based on information received by the County, agencies, tribes and stakeholder organizations (Table 1). New projects which have been completed or are planned for construction are included in Table 2.

Table 1. Project updates for restoration actions

Project Location / Identifier	Environmental component(s)	Status (2020)	Proponent	Notes
Drayton Harbor	The large platform and foundation could be removed to restore the beach and fringing marsh	No change		
Drayton Harbor	Remove bulkheads in two separate locations that protrude into the intertidal	No change		
Drayton Harbor	Remove dilapidated dock	No change		
Birch Bay	Birch Bay Drive & Pedestrian Facility Project – Remove groins and bulkheads along Birch Bay Drive to restore upper beach and backshore habitats	Under construction	Whatcom County	Phase I under construction. Completion expected in 2021. Will restore 7,500 linear feet of shoreline.

Project Location / Identifier	Environmental component(s)	Status (2020)	Proponent	Notes
Pt Whitehorn	Remove bulkheads along these bluffs, which are the sole sediment source for accretionary shoreforms and valuable habitat in Birch Bay and State Park reaches	No change		
Cherry Pt	Remove dumped debris from bluff face and beach	No change		
Conoco Phillips	Sediment would be excavated from landward of the berm and bypassed to the south side of the pier fill area in stages. This would free up impounded sediment to southern shores and create a saltmarsh or estuary in the backshore	No change		
Sandy Pt	Marsh Restoration – Reduce intertidal slope and impervious surfaces and create riparian buffer/dune habitat to aid with flood control issues in the basin. Portions of the undeveloped (filled) uplands could be restored to marsh	No change		
Lummi River Delta	Tidal Connectivity – Restoration opportunities include removing extensive dikes and tide gates across the Red River Delta to restore tidal inundation and greatly increase fish habitat	No change		
Lummi Island, Pt Migley	Remove Bulkheads – Bulkheads could be scaled back or moved landward where possible and picnic structures over what would be active beach should be removed	No change		
Lummi Island, Village Pt	Remove Structures – Remove relict structures in backshore/marsh environments with marsh restoration	No change		
Lummi Island, Village Pt	Remove pier, groin, debris – Removal of a failed solid fill pier, large rock groin, concrete debris and derelict piles in the western portion of Legoe Bay would benefit the nearshore	In early design		Goal is to restore ~150 linear feet
Lummi Island, Village Pt	Remove derelict piles which are likely creosote	No change		
Lummi Island, Smugglers Cove	Lummi Island Quarry Restoration – The shore that is not in use could be restored through removal of fill and riparian restoration to resemble the rocky shore prior to mining operations	In early design	Northwest Straits Foundation	Goal is to restore ~600 linear feet
Eliza Island	Remove derelict piles which are likely creosote in two locations	No change		
Gooseberry Pt	Remove bulkheads	Ongoing	Lummi Tribe	Likely saving as mitigation – goal is to restore ~160 linear feet

Project Location / Identifier	Environmental component(s)	Status (2020)	Proponent	Notes
Gooseberry Pt	Remove bulkheads	No change		
Lummi Shore Rd	Beach monitoring – Conduct beach monitoring to ensure the beach nourishment is continued, as begun under the USACE-constructed revetment	Ongoing	Lummi Tribe	
Lummi Shore Rd	Remove derelict drift nets, debris, and other foreign material from the Lummi Shore Road beaches	No change		
Cliffside Community Beach	Remove abundant wood debris smothering nearshore sediments along the Cliffside community beach	Complete	WDOE	Study complete, removal not recommended
Squalicum Creek	Debris removal and exotic species removal and revegetation with native plants at Little Squalicum Creek mouth/estuary	Permits acquired	City of Bellingham	Funding sources still being sought
Mt Baker Plywood	Debris removal and restoration of the armored shore around the west side of the Mount Baker Plywood area would provide habitat improvements	Design in process	Port of Bellingham	Preliminary design near completion
Chuckanut Bay	Beach Nourishment	No change		
Pt Roberts, Boundary Bluff	Removal of rock bulkheads in the southern and central portion of the reach, where erosion does not appear to be substantial	No change		
Pt Roberts, Boundary Bluff	Remove abandoned pilings north of Lighthouse Park (including by the west end of Gulf Road)	No change		
Pt Roberts, Lighthouse Park	Remove the old telephone building and associated shore defense structures, this includes a soldier pile bulkhead and boulder and debris revetment	Complete	Whatcom County	250 linear feet restored
Pt Roberts, Lilly Pt	A row of houses/cabins with revetments cause bluff sediment impoundment; restore marine riparian vegetation	No change		
Pt Roberts, Lilly Pt	Remove old cannery – Old Cannery - Pilings, slag piles, and various debris such as concrete pieces could be cleaned up from the intertidal and backshore	No change		
Pt Roberts, Maple Beach	The Elm St outfall structure, short groin, and the old pilings could be at least partially removed to free up beach area and remove the foreign material	No change		

Table 2. Completed or planned projects not Included in the previous Shoreline Restoration Plan.

Project Location	Project Description	Status (2020)	Proponent	Notes
Lummi Peninsula	Lummi View Drive Relocated	Complete	Lummi Tribe	The southern end of Lummi View Drive was moved landward to avoid erosion
West Beach, Lummi Peninsula	Bulkhead Removal	In Process	Lummi Commercial Corp	2751 Haxton Way, Restoration design complete
Waypoint Park	Waypoint Park	Complete	City of Bellingham	New beach included in park
Boulevard Park Beach	Boulevard Park Beach	Complete	City of Bellingham	Phase 1 complete, phase 2 to be part of overwater walkway
Post Point Lagoon	Post Point Lagoon	Complete	City of Bellingham	Lagoon shoreline restoration
Chuckanut Bay Shorelands	Chuckanut Bay Shorelands	Complete	City of Bellingham	Beach restoration and fish passage improvements in Mud Bay



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-733

File ID:	AB2021-733	Version:	1	Status:	Introduced for Public Hearing
File Created:	11/23/2021	Entered by:			
Department:		File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: dbrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance Authorizing the Levy of Taxes for Conservation Futures Purposes for 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Pursuant to Home Rule Charter Section 6.10, this ordinance requests authorization to levy taxes for Conservation Futures purposes in 2022 (alternate version proposed for introduction 11.23.2021)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/23/2021	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Proposed Ordinance (\$100K)

PROPOSED BY: Executive
INTRODUCTION DATE: November 23, 2021

ORDINANCE NO. _____
ORDINANCE AUTHORIZING THE LEVY OF TAXES
FOR CONSERVATION FUTURES PURPOSES FOR 2022

WHEREAS, pursuant to Home Rule Charter Section 6.10 the County Executive is required to submit for Council consideration a budget and proposed tax and revenue ordinances necessary to raise sufficient revenues to balance the budget; and,

WHEREAS, the County Council has approved a budget for the 2021-2022 biennium, including all sources of revenues and anticipated expenditures on November 24, 2020; and,

WHEREAS, the County Council has determined it is necessary to increase the Conservation Futures Fund property tax levy for 2022; and,

WHEREAS, the County Council held a public hearing regarding the county biennial budget which included property taxes, and other revenues;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Whatcom County Council that amounts collected through the County Conservation Futures levy shall be increased \$100,000 in addition to the amount resulting from the addition of new construction and improvements to property and any increase in the value of state assessed property. A property tax increase, in addition to the amount resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, is hereby authorized for the 2022 levy in the amount of \$100,000, which is a percentage increase of 8.6% from the previous year.

ADOPTED this ____ day of _____, 2021

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

() APPROVED () NOT APPROVED

Approved by email/K Frakes/M Caldwell

Civil Deputy Prosecutor

Satpal Singh Sidhu Executive

Date:_____



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-704

File ID:	AB2021-704	Version:	1	Status:	Agenda Ready
File Created:	11/18/2021	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: chalka@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request Council appointment of Eli Wainman to the Stakeholder Advisory Committee for the Justice Project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request Council appointment of Eli Wainman to the Stakeholder Advisory Committee for the Justice Project (Public Health, Safety, and Justice Facilities Needs Assessment)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Application

Subject: Online Form Submittal: Board and Commission Application
Date: Wednesday, November 17, 2021 6:13:59 PM

Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

Title Mr.

First Name Eli

Last Name Wainman

Today's Date 11/17/2021

Street Address 2929 Northwest Ave

City Bellingham

Zip 98225

Do you live in & are you registered to vote in Whatcom County? Yes

Do you have a different mailing address? *Field not completed.*

Primary Telephone 3102103729

Secondary Telephone *Field not completed.*

Email Address eli.wainman@gmail.com

Step 2

1. Name of Board or Justice Project Stakeholder Advisory Committee

Committee

Justice Project Stakeholder Advisory Committee	Citizen: Criminal Justice Advocate
--	------------------------------------

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?	Yes
--	-----

3. Which Council district do you live in?	District 1
---	------------

4. Are you a US citizen?	Yes
--------------------------	-----

5. Are you registered to vote in Whatcom County?	Yes
--	-----

6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	No
--	----

7. Have you ever been a member of this Board/Commission?	No
--	----

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?	No
---	----

You may attach a resume or detailed summary of experience, qualifications, & interest in response to	Eli Wainman.pdf
--	---------------------------------

the following questions

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education	<i>Field not completed.</i>
---	-----------------------------

10. Please describe why you're interested in serving on this board or commission	In my profession and in the streets around me I see individuals with behavioral health needs not being addressed by the healthcare system, but by the criminal justice system, which is not tooled to handle this crisis.
--	---

References (please include daytime telephone number):	<i>Field not completed.</i>
---	-----------------------------

Signature of applicant:	Eli Wainman
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Place Signed / Submitted	Bellingham, WA
--------------------------	----------------

(Section Break)

Email not displaying correctly? [View it in your browser.](#)

Eli Wainman
2929 Northwest Dr, Bellingham WA 98225
310-210-3729
eli.wainman@gmail.com

EXPERIENCE

- | | |
|--|--------------|
| PUBLIC DEFENDER
<i>Skagit County</i> <ul style="list-style-type: none">District court unit | 2021-Present |
| PUBLIC DEFENDER
<i>Bellingham Assigned Council</i> <ul style="list-style-type: none">Court appointed defense council representing indigent clients accused of misdemeanors in district, municipal, and superior court | 2018-2021 |
| VOLUNTEER LAWYER COORDINATOR
<i>Law Advocates</i> <ul style="list-style-type: none">Developed and implemented systems for volunteer attorney recruitment, support, and retention | 2018-2019 |
| GENERAL PRACTITIONER
<i>Wainman Law Firm, PLLC</i> <ul style="list-style-type: none">Plaintiffs' attorney in civil litigation of personal injury, IFCA, CPA, employment discrimination /harassment, insurance bad faith, and products liability | 2012-2021 |
| PUBLIC DEFENDER INTERN
<i>Whatcom County</i> <ul style="list-style-type: none">Defense of indigent clients in misdemeanor and felony cases | 2014-2015 |
| ASSOCIATE ATTORNEY
<i>Hewitt & Truskowski</i> <ul style="list-style-type: none">Associate attorney in civil litigation of insurance defense matters | 2010-2011 |
| WATER & SANITATION ADVISOR
<i>United States Peace Corps</i> <ul style="list-style-type: none">Manager of municipal community development projectsOperational responsibility in collaboration with local elected government officials and community groups | 2007-2009 |

EDUCATION

- Reed College** *Bachelor of Arts*
- Loyola Law School** *Juris Doctor*

COMMUNITY SERVICE EXPERIENCE

- | | |
|--|--------------|
| Whatcom County Ethics Commission <i>Chair</i> | 2016-Present |
|--|--------------|
-

SKILLS

- WDRC Mediation training (80 hours)
- Spanish language (fluent)
- Business & Personnel Management
- De-escalation trainer



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-722

File ID:	AB2021-722	Version:	1	Status:	Agenda Ready
File Created:	11/22/2021	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Executive Appointment		
Assigned to:	Council	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: Tschroed@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request confirmation of the County Executive's appointment of Allison Hunt, M.D. to serve as Whatcom County Medical Examiner

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request confirmation of Executive's appointment of Allison Hunt, M.D. to serve as Whatcom County Medical Examiner

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Appointment memo.docx



MEMORANDUM

TO: Members of Whatcom County Council

FROM: Satpal Sidhu, County Executive

RE: Appointment of Allison Hunt, M.D. -
Whatcom County Medical Examiner

DATE: December 7, 2022

I would like to take this opportunity to request confirmation of my appointment of Dr. Allison Hunt as Whatcom County Medical Examiner.

For the first time in over 34 years, Whatcom County will be entering a new era with a new Medical Examiner. Dr. Gary Goldfogel, who has served as the County's Medical Examiner for 34 years will be retiring. Dr. Goldfogel has served the County with pride and professionalism over the last three decades and finding his replacement was no easy task.

To prepare for his retirement the County initiated a solicitation process that would ensure a broad recruitment effort. A candidate by the name of Dr. Allison Hunt responded to the RFP with a long resume and some local experience. Dr. Hunt was raised in Kentucky, completed her Doctorate of Medicine at the University of Louisville, and her pathology residency in Mobile, Alabama. She worked as a Forensic Pathologist in Miami-Dade County, Florida and after a year traveled to the West Coast to work as a Forensic Pathologist for the Riverside County Sheriff-Coroner. Over her ten years working in Riverside, Dr. Hunt earned a deep respect from her colleagues and superiors and gained a reputation and high regard for her integrity, proficiency and down-to-earth personality.

In February of last year, Dr. Hunt pursued her dream of re-locating to the Pacific Northwest and started her own business, Hunt Forensics and moved to Washington State. She was soon employed with Pierce County Medical Examiner's Office and contracting with Skagit County as a Forensic Pathologist.

We look forward to welcoming and introducing Dr. Hunt as the Whatcom County Medical Examiner. She will be working with Dr. Goldfogel over the next few months so she can hit the ground running as we transition to a new Medical Examiner. As we welcome Dr. Hunt to our community, please also thank Dr. Goldfogel on his many years of service and congratulate him on his well-deserved retirement.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-678

File ID:	AB2021-678	Version:	1	Status:	Agenda Ready
File Created:	11/09/2021	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Special Council Only Item		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Approval of standing Special County Council meeting dates for 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Approval of standing Special County Council meeting dates for 2022

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Proposed Dates

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.

COUNTY COURTHOUSE
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038
(360) 778-5010



COUNCILMEMBERS
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

WHATCOM COUNTY COUNCIL

**SPECIAL STANDING MEETING
DATES FOR 2022**
(OFFICIAL ACTION MAY BE TAKEN AT THESE MEETINGS)

HEALTH BOARD – 10 A.M.

**FEBRUARY 1, 2022
APRIL 5, 2022
AUGUST 2, 2022
OCTOBER 4, 2022**

WATER WORK SESSIONS – 10:30 A.M.

**JANUARY 18, 2022
FEBRUARY 15, 2022
MARCH 15, 2022
APRIL 19, 2022
MAY 17, 2022
JUNE 14, 2022
JULY 19, 2022
SEPTEMBER 20, 2022
OCTOBER 18, 2022
NOVEMBER 15, 2022**

LAKE WHATCOM JOINT COUNCILS AND COMMISSION MEETING

DATE AND TIME TO BE ANNOUNCED



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-745

File ID:	AB2021-745	Version:	1	Status:	Agenda Ready
File Created:	11/30/2021	Entered by:			
Department:		File Type:	Special Council Only Item		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Appointment of members to serve on pro and con statement writing committees for a proposed ballot measure to establish a Birch Bay Library Capital Facility Area

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Per RCW 29A.32.280, the Council will formally appoint a committee to prepare arguments advocating voters' approval of the two measures listed below and shall formally appoint a committee to prepare arguments advocating voters' rejection of the two measures. The Council will appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve on the committee advocating rejection. Each committee shall have not more than three members, however, a committee may seek the advice of any person or persons. If the Council fails to make such appointments, the county auditor shall whenever possible make the appointments.

PROPOSAL - ESTABLISH A BIRCH BAY LIBRARY CAPITAL FACILITY AREA

On December 7, 2021, the Whatcom County Council will consider adopting an ordinance requesting the Whatcom County Auditor include on the ballot at the February 2022 Special Election the question of establishing a Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay. This ordinance will submit to the qualified voters within the boundaries of the proposed district, as requested by the Whatcom County Library System Board of Trustees, a proposal to establish a Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay.

HISTORY OF LEGISLATIVE FILE

Date:

Acting Body:

Action:

Sent To:

Attachments: Pro-Con Committee Member Sheet

PROPOSAL – ESTABLISHMENT OF A BIRCH BAY LIBRARY CAPITAL FACILITY AREA

ESTABLISHING THE BIRCH BAY LIBRARY CAPITAL FACILITY AREA

The Whatcom County Council adopted Ordinance No. 2021-_____ concerning a proposition to establish the Birch Bay Library Capital Facility Area to finance a new library facility in Birch Bay. If approved, this proposition would establish the Birch Bay Library Capital Facility Area with boundaries as described in County Council Ordinance No. 049, authorize it to acquire, construct, furnish and equip a new library in Birch Bay, incur indebtedness to finance such improvements through the issuance of up to \$4,500,000 in general obligation bonds maturing within 20 years, and levy annual excess property taxes to repay such bonds. Should this proposition be Approved?

PRO COMMITTEE

Ruth Higgins

Doralee Booth

Keith Alesse

CON COMMITTEE



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-606

File ID:	AB2021-606	Version:	1	Status:	Agenda Ready
File Created:	10/15/2021	Entered by:	CStrong@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	12/07/2021	Enactment #:			

Primary Contact Email: cstrong@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to the Whatcom County Code Title 20, Zoning, to provide additional affordable housing options, including allowing and regulating tiny homes and allowing duplexes in planned unit developments

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Proposed amendments to the Whatcom County Code Title 20 (Zoning) to provide additional affordable housing options by allowing and regulating tiny homes and allowing duplexes in planned unit developments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
10/26/2021	Council	WITHDRAWN	
11/09/2021	Council	WITHDRAWN	

Attachments: Staff report, Proposed ordinance, Exhibit A

**Whatcom County
Planning & Development Services
Staff Report**

Affordable Housing Options

I. File Information

File #: PLN2021-00012

File Name: Affordable Housing Options

Applicant: Whatcom County Planning and Development Services (PDS)

Project Summary: Proposed amendments to the Whatcom County Code Title 20 (Zoning) to provide additional affordable housing options by allowing and regulating tiny homes and allowing duplexes in planned unit developments.

Location: Countywide.

Attachments

- Draft Ordinance
- Exhibit A – Proposed Amendments

II. Background

The Council has expressed interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes within mobile home or RV parks or on individual lots, as newly authorized under amendments to RCW 58.17.040 via ESSB 5383. Staff is also proposing amendments to the Planned Unit Development (PUD) code to allow and encourage duplexes in urban growth areas. Both are intended to provide additional affordable housing options for Whatcom County citizens.

Tiny Homes

What are Tiny Homes?

To decipher how best to develop the regulatory structure to allow tiny homes, staff first identified the key characteristics of the various types of tiny homes to compare with our existing types of analogous residential units. Broadly, but in more detail in Table 1, these characteristics have to do with what type of state or federal license or certification they can obtain, whether or not they're self-contained¹, and whether they have chassis and axles/wheels, all of which have to do with whether they are intended or can be used for long-term (residential) or short-term (recreational) use. There are other differences, like how much insulation they have or whether they have basic sanitary facilities such as toilets, showers, and sinks, but these are built into the certification/licensing standards and the characteristics we've used seem to suffice for classification.

¹ Meaning do they have tanks to hold water and sewage and have batteries for power, or do they need to be connected to utilities to operate?

Based on this analysis, we have identified four types of tiny homes, each corresponding to one of our existing unit types. The two that are intended for long-term residential use are:

- *Site-Built Tiny Homes* are built on-site, are not self-contained, are intended for long-term use, and meet the International Residential Code (IRC) standards. They are analogous to standard site-built homes, except that they're smaller (< 400 sq. ft.).
- *Manufactured Tiny Homes* are built off-site (generally at a manufacturing plant) with a chassis, axles, and wheels and transported to their final location (though the wheels may be removed) where the unit is placed on a permanent foundation. They are not self-contained, are intended for long-term use, and would have to meet the IRC standards *or* be HUD certified *and* be L&I certified as a permanent dwelling unit. They are analogous to standard mobile (or manufactured) homes, except that they're smaller.

The other types of tiny homes that are getting a lot of interest are Tiny Homes on Wheels (or THOWs, and yes, a real acronym). These tend to be homemade but, because of their construction standards, they are only intended and can only be certified for short-term recreational use or occupancy. But even among them, based on key characteristics, there are two different types. We're designating them:

- *Type 1 Tiny Homes on Wheels* have a chassis, axles, and wheels and are intended for trailering. They are *not* self-contained so must be hooked up to utilities. They do not meet the IRC standards nor are they certified by HUD for long-term residential use, but can be certified by L&I for short-term recreational use. And they must be licensed by the state Department of Licensing for transport on the highways. They are analogous to park model trailers.
- *Type 2 Tiny Homes on Wheels* are similar to Type 1 THOWs, but *are* self-contained, meaning they have tanks to hold water and sewage and have batteries for power so that they don't always need to be connected to utilities. They do not meet the IRC standards nor can they be certified by HUD for long-term residential use, but can be certified by L&I for short-term recreational use. And they must be licensed by the state Department of Licensing for transport on the highways. They are analogous to recreational vehicles (RVs).

Regarding building permit requirements, please note that the Council already adopted the newest International Residential Code, including Appendix Q, which contains the building code rules for tiny homes.

We would also like to point out that staff met several times with some tiny home proponents who proposed a third type of THOW. This type wouldn't meet IRC or HUD standards, but would be based on standards we specifically adopt in our code. These standards, they claimed, would be based on ANSI standards (what L&I uses to certify RVs) plus some additional standards (they referred to them as ANSI++) and our Building Official would have to certify them for use in Whatcom County. However, this approach would create significant jurisdictional regulatory inconsistencies since such units wouldn't be able to be used in any other jurisdiction (including the cities in Whatcom County) as they would only be "certified" for use in unincorporated Whatcom County under our own unique standards.

These proponents were also asking that these types of THOWs be able to be used for guest lodging for longer than 120 days², which is our standard "temporary recreational occupancy" time limit under existing code. Extending temporary recreational occupancy would essentially make these THOW's

² For all Temporary Recreational Occupancies – On individual lots, the maximum length of stay of any recreational vehicle on a lot may not exceed a total of 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days nor more than 30 days total per calendar year.

permanent accessory dwelling units and raise potential GMA challenges and cause greater impacts that come with such increased densities, especially in rural areas.

Council should also be aware that staff tried very hard to figure out a way to allow “tiny home villages” (including those allowing site built tiny homes) in rural areas. However, GMA rural density restrictions significantly limit the potential for such “villages” in rural areas—meaning they would have to meet the underlying rural low density zoning just like any other subdivision. Our conclusion was that such tiny home villages are more likely to be created in cities or UGAs (which allow higher urban densities) and then only when adequate utilities are available, which our cities generally won’t extend until the property is annexed. But we do have existing (nonconforming at least in terms of density) mobile home and RV parks, so allowing the appropriate type of tiny homes within them at least furthers the affordable housing goal.

Allowing Duplexes in Planned Unit Developments

Another amendment proposed as a way to increase affordable housing options is to allow duplexes in certain zones when a project is developed as a Planned Unit Development (PUD) (WCC Chapter 20.85). PUDs:

- Allow certain uses beyond those allowed in the underlying zone when a project is developed as a planned neighborhood community;
- Can only be developed within Urban Growth Areas and have to be at least two acres in size (except under certain conditions listed in WCC 20.85.020);
- Have additional standards for buffering, open space, circulation, access, parking, storage, and utilities;
- Allow for increased densities (WCC 20.85.108);
- Allow a relaxation of dimensional standards (WCC 20.85.109); and,
- Can only be approved by Council.

Currently PUDs allow single-family and multi-family residential uses, but not duplexes. To rectify this incongruity and help promote affordable housing, staff is proposing amendments to WCC 20.85.050.

Table 1. Defining characteristics of the various types of "homes"

Characteristic	Site-Built Home	Site-Built Tiny Home	Manufactured (Mobile) Home	Manufactured Tiny Home	Park Model Trailer	Type 1 Tiny Home on Wheels	Recreational Vehicle	Type 2 Tiny Home on Wheels
Meets IRC standards for permanent dwelling unit	Yes	Yes	Yes	Yes	No	No	No	No
OR Is HUD certified	No	No	Yes	Yes	No	No	No	No
Is L&I certified for Use ³	No	No	Yes, as a permanent dwelling unit	Yes, as a permanent dwelling unit	Yes, for recreational use	Yes, for recreational use	Yes, for recreational use	Yes, for recreational use
Is DOL licensed	No	No	No	No	No	No	Yes	Yes
Is intended/ licensed for long-term or short-term residential use	long-term	long-term	long-term	long-term	short-term	short-term	short-term	short-term
Is self-contained (wastewater, water, power) (if not, must be connected to utilities)	No	No	No	No	No	No	Yes	Yes
Has chassis and axles/wheels	No	No	Yes when manufactured, but wheels removed once sited	Yes when manufactured, but wheels removed once sited	Yes, when manufactured, but wheels removed once sited	Yes, when manufactured, but wheels removed once sited	Yes	Yes

³ Certified as a (long-term) permanent dwelling unit or for (short-term) recreational use, as noted.

III. Amendments

The proposed amendments are found in Exhibit A. Please refer to that attachment; explanations are provided therein. Here is an overview, though.

Proposed Tiny Home Regulatory Structure

Based on the characteristics shown in Table 1 each of the four types of tiny homes corresponds or is analogous to a type of (either long- or short-term) residence that the County already regulates. Thus, to simplify or streamline the means to regulate these units, we can just define each of these types of tiny homes as one of our existing types and they would be regulated under existing regulations for that type.

So staff is proposing to add definitions for each of the types: “Tiny Homes,” with subcategories for “site-built tiny homes” and “manufactured tiny homes”; and “Tiny Homes on Wheels,” with subcategories for “Type 1 THOWs” and “Type 2 THOWs” (see Exhibit A, §20.97.435.03 & §20.97.435.04). Then we’re proposing to amend the definitions for “Mobile Home” to include “Manufactured Tiny Homes” (Exhibit A, §20.97.250), “Recreational Vehicle” to include “Type 2 THOWs” (Exhibit A, §20.97.335), and “Park Model Trailer” to include “Type 1 THOWs” (Exhibit A, §20.97.292) (plus some grammatical edits).

With these definitional amendments, each of these tiny home types would then be allowed wherever their existing corresponding standard type is allowed under existing code:

- Site-built tiny homes would generally be allowed wherever and under whatever circumstances and standards standard site-built homes are allowed (either as a primary use or an accessory dwelling unit (ADU));
- Manufactured tiny homes would generally be allowed wherever and under whatever circumstances and standards standard mobile (or manufactured) homes are allowed (as a primary use, an ADU, or in a mobile home park);
- Type 1 THOWs would generally be allowed wherever and under whatever circumstances and standards park model trailers are allowed (as temporary guest lodging or in an RV park in a space designated for park models, meaning they have utility hookups); and,
- Type 2 THOWs would generally be allowed wherever and under whatever circumstances and standards recreational vehicles are allowed (as temporary guest lodging or in an RV park).

Table 2 more specifically identifies in which zones the various tiny home types would be allowed, as what type of use, and what permit would be required. These are identical to where we currently allow their existing counterpart (single-family residences, mobile homes, park model trailers, and recreational vehicles). Do note, however, that for simplicity’s sake there may be additional standards or requirements in some zones not shown in the table, but they’d be the same as for their counterparts.

Apart from these definitional amendments, staff is also proposing to clarify our Mobile Home and RV Park Standards. First, we’re proposing to separate the two into distinct sections. We’re also identifying the process by which such a park can be permitted (binding site plan or condominium), and that CC&R’s must be submitted and approved (so that we can ensure long-term maintenance and operations are dealt with properly). Apart from that, we’re keeping the rules that applied to both in both, but putting the rules that only apply to one type of park in their respective sections. (See Exhibit A, §20.80.950 and §20.80.955.)

Under the proposed regulations, one could develop a mobile home park for mobile homes, manufactured tiny homes, or a mix of the two; and an RV park for RV’s, Type 2 THOWs, or a mix of the two. Mobile home parks are allowed as a conditional use in the Resort Commercial (RC), Urban

Residential Mixed (UR-MX), and Urban Residential – Medium Density (URM) Districts. Recreational vehicle (RV) parks are allowed as a conditional use in the Resort Commercial (RC), Tourist Commercial (TC), and Point Roberts Special Districts.

Table 3 shows how many mobile home and RV parks currently exist in the County. In total there are 39 mobile home parks and 7 RV parks, containing 2,858 spaces, 1,881 of which can be used for park models or Type 1 THOWS.

Duplexes in Planned Unit Developments

While most of the changes to WCC 20.85.053 shown in Exhibit A are just cleaning up grammar, the two that are policy changes are where “duplexes” has been added to subsections (1) and (2).

IV. Comprehensive Plan Evaluation

The proposed amendments to the regulations (WCC Title 20) have been developed using the guidance of the Comprehensive Plan so as to remain consistent. Particularly relevant are:

Goal 3C:	Create opportunity for a broad range of housing types and encourage mixed affordability.
Policy 3C-1:	Support lot clustering, varied lot sizes, small-scale multi-family dwellings, accessory housing, especially accessory dwelling units (ADUs) in single-family zoning, and reductions in infrastructure requirements for subdivisions as incentives for development of housing obtainable by purchasers with the greatest possible mix of needs and household incomes.
Policy 3C-3:	Support development of manufactured and mobile home parks and establish design criteria that will enable them to fit into the surrounding community.
Goal 3E:	Provide for future housing needs by responding to changing household demographics.
Policy 3E-1:	Review and revise existing regulations to identify inhibitions to housing for the varying preferences of those needing housing. Focus on population segments with particular needs such as temporary, transitional, or emergency housing.
Goal 3F:	Provide incentives to create affordable housing.
Policy 3F-3:	Support innovative housing ideas including co-housing (essentially a micro-community with some centralized facilities), elder cottages (housing units for healthy but aging family members), accessory dwelling units (ADUs) in single family zoning of all jurisdictions, including cottage designs available at planning department front desk, and shared living residences or group quarters in UGAs, and educate the public about them.

Table 2. Zoning Districts where Tiny Homes would be allowed (and by what Permit⁴) under the proposed rules

Zoning District	Tiny Home Type			
	Site-Built Tiny Homes	Manufactured Tiny Homes	Type 1 Tiny Homes on Wheels	Type 2 Tiny Homes on Wheels
Urban Residential (UR)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit⁵ (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence⁶ (ADM) • Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM)
Urban Residential – Medium Density (URM)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (AAU) • Mobile Home Parks (CUP) • Sited in a Mobile Home Park (P) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM)
Urban Residential Mixed (UR-MX)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (AAU) • Mobile Home Parks (CUP) • Sited in a Mobile Home Park (P) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM)
Residential Rural (RR)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Temporarily within pre-existing recreational subdivisions of the Foothills Subarea (ADM)
Rural Residential-Island (RR-I)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM)
Eliza Island (EI)	<ul style="list-style-type: none"> • Primary residence (P) 	<ul style="list-style-type: none"> • Primary residence (P) 		

⁴ P = Permitted; ACC = Accessory Use; ADM = Administrative Approval; CUP = Conditional Use

⁵ For all ADUs – Some zoning districts have a minimum lot size requirement for detached ADUs and some areas require that accessory apartments and detached ADUs are consistent with the underlying zoning.

⁶ For all Temporary Caregiver/Invalid Residences – One year, renewable, plus additional standards.

Zoning District	Tiny Home Type			
	Site-Built Tiny Homes	Manufactured Tiny Homes	Type 1 Tiny Homes on Wheels	Type 2 Tiny Homes on Wheels
Rural (R)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Temporary Recreational Occupancy (P)
Point Roberts Transitional Zone (TZ)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM)
Agriculture (AG)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Farm Worker Residence (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Farm Worker Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Farm Worker Residence (ADM)
Rural Forestry (RF)	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> • Primary residence (P) • Accessory Dwelling Unit (ADM) • Forestry Worker Residence (ADM) • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) 	<ul style="list-style-type: none"> • Temporary Caregiver/ Invalid Residence (ADM) • Temporary Recreational Occupancy⁷ (P) • Recreational Vehicle Parks (CUP) • Temporarily⁸ in an RV Park (P)
Commercial Forestry (CF)				<ul style="list-style-type: none"> • Temporary (6 mos.) living quarters for trail crews, fire crews, nursery crews, logging crews, maintenance crews and watchmen (P)
Recreation & Open Space (ROS)	<ul style="list-style-type: none"> • Caretaker's Residence (P) 	<ul style="list-style-type: none"> • Caretaker's Residence (P) 		
Rural General Commercial (RGC)				
Neighborhood Commercial Center (NC)				

⁷ For all Temporary Recreational Occupancies – On individual lots, the maximum length of stay of any recreational vehicle on a lot may not exceed a total of 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days nor more than 30 days total per calendar year.

⁸ In RV Parks the maximum length of stay may not exceed 180 days for any one-year time period.

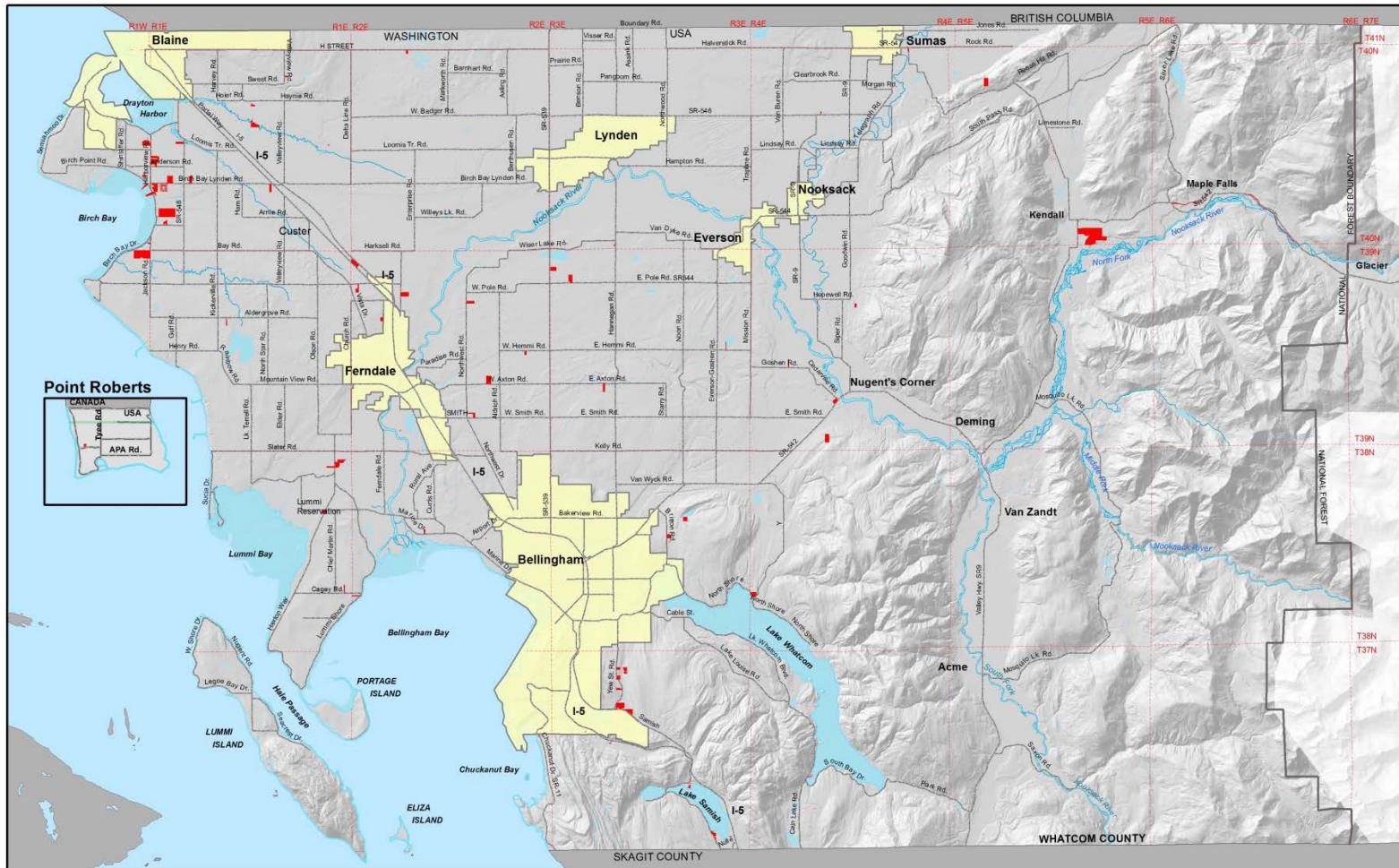
Zoning District	Tiny Home Type			
	Site-Built Tiny Homes	Manufactured Tiny Homes	Type 1 Tiny Homes on Wheels	Type 2 Tiny Homes on Wheels
Small Town Commercial (STC)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 		<ul style="list-style-type: none"> Recreational Vehicle Parks (CUP) Temporarily in an RV Park (P)
General Commercial (GC)				
Tourist Commercial (TC)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) Recreational Vehicle Parks (CUP) Temporarily in an RV Park (P)
Resort Commercial (RC)	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) 	<ul style="list-style-type: none"> Primary residence (P) Accessory Dwelling Unit (ADM) Mobile Home Parks (CUP) Sited in a Mobile Home Park (P) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) 	<ul style="list-style-type: none"> Temporary Recreational Occupancy (P) Recreational Vehicle Parks (CUP) Temporarily in an RV Park (P)
Light Impact Industrial (LII)	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 		
General Manufacturing (GM)				
Heavy Impact Industrial (HII)				
Rural Industrial And Manufacturing (RIM)	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 		
Airport Operations (AO)	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 	<ul style="list-style-type: none"> Security/Caretaker Residence (ACC) 		
Point Roberts Special District (overlay zone)	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone 	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone 	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone, plus: Temporary Recreational Occupancy (P) 	<ul style="list-style-type: none"> Allows whatever is allowed in the underling zone, plus: Temporary Recreational Occupancy (P)
Cherry Point Industrial (CP)				

Table 3. Mobile Home & RV Parks in Whatcom County

Name	Type	Zone	Acres	Assessor LUCODE	Total No. of Units	No. of Park Model Spaces	No. of MH Spaces
Agate Bay Mobile Estates	MH Park - Leased Spaces	R5A	10.9	1525 M/H PK 25 SP	25		25
Baywood MHP	MH Park - Leased Spaces	URM6	23.4	1599 M/H PK+99 SP	47		47
Birch Bay Retirement Park	MH Park - Leased Spaces	UR4	3.9	1518 M/H PK 18 Sp	17		17
Birch Bay Trailer Court	MH Park - Leased Spaces	RC	33.9	1152 M/H IO-inPK	151	18	133
Britton Rd. MH Court	MH Park - Leased Spaces	UR	4.8	1500 M/H PK	4		4
Calmore Cove MHP	MH Park - Leased Spaces	RR2/R2A	15.8	1545 M/H PK 45 SP	41	5	36
Cedar Grove MHP	MH Park - Leased Spaces	R10A	26.3	1599 M/H PK+99 SP	105		105
Double L Ranch MHP	MH Park - Leased Spaces	R5A	15.3	1524 M/H PK 24 SP	24	2	22
Edgewater Resourt MHP	MH Park - Leased Spaces	RC	4.8	1547 M/H PK 47 SP	25	12	13
Evergreen Manor MHP	MH Park - Leased Spaces	R5A	19.6	1560 M/H PK 60 SP	43		43
Evergreen Retreat MHP	MH Park - Leased Spaces	R10A	1.5	1516 M/H PK 16 SP	16		16
Fairfield Mobile Court	MH Park - Leased Spaces	UR4	10.2	1526 M/H PK 26 SP	17		17
Forest Park MHP	MH Park - Leased Spaces	URMX6-12	5.6	1553 M/H PK 53 SP	50		50
Gulfside MHP	MH Park - Leased Spaces	RR1	1.0	1505 M/H PK 5 SP	4		4
Harborview MHP	MH Park - Leased Spaces	R5A	19.9	1516 M/H PK 16 SP	15		15
Hartvig MHP	MH Park - Leased Spaces	UR4	6.1	1508 M/H PK 8 SP	7		7
Hidden Valley MHP	MH Park - Leased Spaces	R5A	1.3	1508 M/H PK 8 SP	6	4	2
Hidden Village Estates	MH Park - Leased Spaces	R2A	14.6	1599 M/H PK+99 SP	12	2	10
Hilltop Haven MHP	MH Park - Leased Spaces	URM6-12/R10A	8.5	1525 M/N PK 25 SP	25		25
Lake Terrell Mobile Ranch	MH Park - Leased Spaces	R5A	5.0	1516 M/H PK 16 SP	7		7
Larsens Mobile Manor	MH Park - Leased Spaces	RR2A	9.3	1555 M/H PK 55 SP	55		55
Mantheys MHP	MH Park - Leased Spaces	R10A	23.2	1557 M/H PK 57 SP	57		57
Maple Leaf Court	MH Park - Leased Spaces	R10A	9.6	1522 M/H PK 22 SP	22		22
Maplewood Meadows	MH Park - Leased Spaces	R5A	20.4	1520 M/H PK 20 SP	19		19
Marine Dr. MHP	MH Park - Leased Spaces	RR2A	4.3	1511 M/H PK 11 SP	10		10
Mobile Home Manor	MH Park - Leased Spaces	AG	1.3	1511 M/H PK 11 SP	11		11
Mt. Baker MHP	MH Park - Leased Spaces	R5A	8.5	1530 M/H PK 30 SP	20		20
Nooksack Valley MHP	MH Park - Leased Spaces	AG	1.7	1507 M/H PK 7 SP	7		7
NW Mobile Park	MH Park - Leased Spaces	AG	11.8	1526 M/H PK 26 SP	27		27

Plaza Park	MH Park - Leased Spaces	R5A	14.1	1591 M/H PK 91 SP	27	2	25
Royal Coachman Mobile Estates	MH Park - Leased Spaces	R5A	9.9	1528 M/H PK 28 SP	28		28
See Haven MHP	MH Park - Leased Spaces	UR4	1.3	1512 M/H PK 12 SP	9		9
Sumas MHP	MH Park - Leased Spaces	AG	2.1	1508 M/H PK 8 SP	8		8
Sunny Point Trailer Park	MH Park - Leased Spaces	STC	4.2	1508 M/H PK 8 SP	2		2
Gulf Aire Condo	MH Park - Owned Spaces	TZ		1417 M/H IN CONDO PP	16		16
Lake Samish Terrace	MH Park - Owned Spaces	RR2		1417 M/H IN CONDO PP	53		53
Latitude 49 Resort Park Condo	MH Park - Owned Spaces	RC		1418 PRK MOD IN CONDO RP	315	315	0
Smallwood Shores Condo	MH Park - Owned Spaces	R5A		1416 M/H IN CONDO RP	10		10
Wildwood Resort Condo	MH Park - Owned Spaces	R5A		1418 PRK MOD IN CONDO RP	84	84	0
Beachwood Resort	RV Park	URM6	76.6	7516 RV PARKS	326	326	
Birch Bay Leisure Park	RV Park	URM6	81.1	7816 RV PARKS	603	603	
Black Mt. Ranch	RV Park	R5A	171.7	7499 OTHER RECREAT	315	315	
North Bay Park	RV Park	URM6	2.5	7516 RV PARKS	33	33	
Richmond Resort	RV Park	RC	1.4	7516 RV Parks	10	10	
Sea Breeze RV Park (PM within RV Park)	RV Park	RC	7.9	1155 PM IO-in PK	4	4	
Whatcom Meadows	RV Park	R5A	159.1	7519 OTHER RESORTS	146	146	
Total					2858	1881	977

Table 4. Locations of Mobile Home and RV Parks in Whatcom County



Whatcom County

Legend

■ Mobile Home Park

June 2021

USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT: Whatcom County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Whatcom County harmless from and against any damage, loss, or liability arising from any use of this map.

0 0.75 1.5 3 4.5 6 Miles



V. Draft Findings of Fact and Reasons for Action

Staff recommends the Council adopt the following findings of fact and reasons for action:

1. The County Council has expressed interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes.
2. Additionally, Planning and Development Services (PDS) has identified that in addition to allowing single- and multi-family dwellings in Planned Unit Developments, allowing duplexes would also increase affordable housing options.
3. PDS submitted an application (PLN2021-00012) to make amendments to Whatcom County's zoning regulations (WCC Title 20) to provide these affordable housing options.
4. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 20, 2021.
5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on May 20, 2021, for their 60-day review.
6. On June 24, 2021, the Planning Commission held a duly noticed public hearing to consider testimony on the proposed amendments.
7. The County Council held a duly noticed public hearing on the proposed amendments on October 29, 2021, and reviewed and considered the Planning Commission recommendation, staff recommendations, and public comments on the proposed amendments.
8. The amendments are consistent with the Growth Management Act, Whatcom County Comprehensive Plan, and other applicable requirements.
9. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.

VI. Proposed Conclusions

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. Recommendations

1. Planning and Development Services recommends that the Council adopts the proposed regulations shown in Exhibit A.
2. The Planning Commission voted 7-0 to recommend approval of the proposed amendments to the County Council.

PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE NO. _____

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 20 ZONING TO PROVIDE ADDITIONAL AFFORDABLE HOUSING OPTIONS, INCLUDING ALLOWING AND REGULATING TINY HOMES AND ALLOWING DUPLEXES IN PLANNED UNIT DEVELOPMENTS

WHEREAS, The County Council is interested in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes.

WHEREAS, Planning and Development Services (PDS) has identified that in addition to allowing single- and multi-family dwellings in Planned Unit Developments, allowing duplexes would also increase affordable housing options; and,

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The County Council has expressed interest in increasing affordable housing options, in particular by amending the Whatcom County Code to allow for the siting of tiny homes.
2. Additionally, Planning and Development Services (PDS) has identified that in addition to allowing single- and multi-family dwellings in Planned Unit Developments, allowing duplexes would also increase affordable housing options.
3. PDS submitted an application (PLN2021-00012) to make amendments to Whatcom County's zoning regulations (WCC Title 20) to provide these affordable housing options.
4. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 20, 2021.
5. Notice of the subject amendments was submitted to the Washington State Department of Commerce on May 20, 2021, for their 60-day review.
6. On June 24, 2021, the Planning Commission held a duly noticed public hearing to consider testimony on the proposed amendments.
7. The County Council held a duly noticed public hearing on the proposed amendments on October 23, 2021, and reviewed and considered the Planning Commission recommendation, staff recommendations, and public comments on the proposed amendments.
8. The amendments are consistent with the Growth Management Act, Whatcom County Comprehensive Plan, and other applicable requirements.
9. The proposed amendments reflect current local circumstances and promote the general public health, safety, morals and welfare.

CONCLUSIONS

1. The amendments to the development regulations are in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.

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

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. Staff is authorized to work with Code Publishing to correct and update any cross-references made ineffective by these amendments.

ADOPTED this _____ day of _____, 2021.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham (approved via e-mail) / JL
Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Exhibit A: Proposed Amendments to the Whatcom County Code to Allow and Regulate Tiny Homes & to Allow Duplexes in Planned Unit Developments

Regarding Tiny Homes:

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.950 Mobile Home (including Manufactured Tiny Home) and Recreational Vehicle Park Standards.

All mobile home ~~and recreational vehicle~~ parks shall meet the following standards:

- (1) Mobile home parks shall be developed through either a Binding Site Plan pursuant to WCC Title 21 (Land Division) or by condominium pursuant to Chapter 64.34 RCW (Condominium Act). In either case:
 - (a) An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.
 - ~~(a)~~(b) A declaration of covenants addressing and ensuring long-term compliance with the appropriate requirements herein shall be submitted for review and approval.
 - (c) Each rental or lease space shall be numbered on the site plan and the number shall be prominently displayed on the site.
- (2) Where not specified by the applicable zoning district, mobile home parks shall have:
 - (a) A maximum density of ~~seven~~ 7 lease spaces per acre when public water and sewer are provided;
 - (b) A maximum density of ~~three~~ 3 lease spaces per acre when public water and sewer are not provided;
 - (c) A minimum parcel size of ~~two~~ 2 acres.
- ~~(3) Where not specified by the applicable zoning district, recreational vehicle parks shall have:~~
 - ~~(a) A maximum density of 15 lease spaces per acre when public water and sewer are provided;~~
 - ~~(b) A maximum density of seven lease spaces per acre when public water and sewer are not provided;~~
 - ~~(c) A minimum parcel size of two acres.~~
- ~~(4)~~(3) Mobile home parks shall provide storage area for boats, recreational vehicles, and other large items. Recreational vehicle parks may provide such storage areas. Said storage areas shall be screened consistent with these standards.
- ~~(5)~~(4) Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property. Within a mobile home park, no mobile home, other major structure, or outdoor storage shall be located closer than 20 feet to the perimeter of the site.

Comment [CES1]: Mobile home and RV park standards have been separated into 2 sections, with the appropriate existing & new rules placed into each

Comment [CES2]: A requirement of ESSB 5383 for tiny home parks (and it should be for mobile home parks).

~~(6)~~(5) Along the edges of mobile home parks, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise, or other off-site influences, or to protect occupants of adjoining property from potentially adverse influences within the mobile home park. In particular, extensive off-street parking areas and service areas for loading and unloading other than passenger vehicles, and for storage and collection of trash and garbage, shall be screened.

~~(7)~~ A 30-foot landscaped buffer area or screening composed of suitable native vegetation shall be placed around all common storage areas and at all perimeters of any recreational vehicle park. The purpose of said buffer is to protect on a year-round basis the adjacent property or roadways from unsightliness, visual distraction and/or noise impacts. The buffer area may be reduced where it can be demonstrated that alternative screening can adequately accomplish the purposes stated in this subsection. Perimeter buffers shall be supplemented by a fence or other device where trespass is a potential problem. No structures, development or other activities shall occur within any buffer areas; provided, that trails may be located within those buffer areas which are at least 50 feet in width.

~~(8)~~(6) There shall be landscaping developed consistent with WCC 20.80.300 ([Landscaping](#)) within open areas of ~~the mobile home park and recreational vehicle~~ parks not otherwise used for park purposes. Such open areas and landscaping shall be continually and properly maintained.

~~(9)~~(7) Mobile homes ~~and recreational vehicle~~ parks shall keep ~~40% percent~~ of the site free of buildings, structures, parking areas, and other impervious surfaces.

~~(10)~~ An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.

~~(11)~~(8) On-site recreational amenities with at least one substantial facility serving the users of a park or identified area shall be provided. Such substantial facilities may include tennis courts, children's play areas with equipment, or a swimming pool. The type and size of facility shall be appropriate to the type and amount of clientele being served.

~~(12)~~ Maximum length of stay in recreational vehicle parks shall not exceed 180 days for any one-year time period.

~~(13)~~(9) Interior roads within mobile home ~~and recreational vehicle~~ parks shall be private, unless the County Engineer determines that the development of public roads is necessary.

~~(14)~~(10) For each mobile home space there shall be provided and maintained at least two parking spaces conforming ~~with to zoning ordinance~~ the requirements of WCC 20.80.500, et seq. (Off-Street Parking and Loading Requirements). In addition to occupant parking, guest and service parking shall be provided within the boundaries of the park at a ratio of one parking space for each two mobile home spaces.

~~(15)~~(11) There shall be a minimum of 10 feet of separation maintained between all mobile homes on the site. Accessory structures may be located no closer than 10 feet to any mobile home or five feet to other accessory structures.

~~(12)~~ Each rental space shall be numbered on the site plan and the number shall be prominently displayed on the site. All mobile home parks shall comply with WCC Chapter 24.04 (Recreational Vehicle Park and Subdivision Rules) regarding utility provision. Utility (wastewater, water, electricity) hook-ups shall be provided for each rentable or leasable space.

Comment [CES3]: Moved above

20.80.955 Recreational Vehicle (including Tiny Homes on Wheels) Park Standards.

All recreational vehicle parks shall meet the following standards:

- (1) Recreational vehicle parks shall be developed through either a Binding Site Plan pursuant to WCC Title 21 (Land Division) or by condominium pursuant to Chapter 64.34 RCW (Condominium Act). In either case:
 - (a) An organization or individual with proper funding to maintain common facilities and operate the parks shall be provided.
 - (b) A declaration of covenants addressing and ensuring long-term compliance with the appropriate requirements herein shall be submitted for review and approval.
 - (c) Each rental or lease space shall be numbered on the site plan and the number shall be prominently displayed on the site.
- (2) Where not specified by the applicable zoning district, recreational vehicle parks shall have:
 - (a) A maximum density of 15 lease spaces per acre when public water and sewer are provided;
 - (b) A maximum density of 7 lease spaces per acre when public water and sewer are not provided;
 - (c) A minimum parcel size of 2 acres.
- (3) Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property.
- (4) A 30-foot landscaped buffer area or screening composed of suitable native vegetation shall be placed around all common storage areas and at all perimeters of any recreational vehicle park. The purpose of said buffer is to protect on a year-round basis the adjacent property or roadways from unsightliness, visual distraction, and/or noise impacts. The buffer area may be reduced where it can be demonstrated that alternative screening can adequately accomplish the purposes stated in this subsection. Perimeter buffers shall be supplemented by a fence or other device where trespass is a potential problem. No structures, development, or other activities shall occur within any buffer areas; provided, that trails that are at least 5 feet in width may be located within those buffer areas.
- (5) There shall be landscaping developed consistent with WCC 20.80.300 (Landscaping) within open areas of recreational vehicle parks not otherwise used for park purposes. Such open areas and landscaping shall be continually and properly maintained.
- (6) Recreational vehicle parks shall keep 40% of the site free of buildings, structures, parking areas, and other impervious surfaces.
- (7) On-site recreational amenities with at least one substantial facility serving the users of a park or identified area shall be provided. Such substantial facilities may include tennis courts, children's play areas with equipment, or a swimming pool. The type and size of facility shall be appropriate to the type and amount of clientele being served.
- (8) Maximum length of stay in recreational vehicle parks shall not exceed 180 days for any one-year time period.
- (9) Interior roads within recreational vehicle parks shall be private, unless the County Engineer determines that the development of public roads is necessary.
- (10) All recreational vehicle parks shall comply with WCC Chapter 24.04 (Recreational Vehicle Park and Subdivision Rules) regarding utility provision. Utility (wastewater, water, electricity) hook-ups shall be provided for each rentable or leasable space designated for park model trailers and Type 1

Comment [CES4]: A requirement of ESSB 5383 for tiny home parks.

Comment [CES5]: Moved from 20.97.340 (definition of RV Park), as these are regulations, not definitions.

Comment [CES6]: A requirement of ESSB 5383 for tiny home parks.

THOWs. Spaces designated solely for self-contained recreational vehicles may use communal facilities.

Chapter 20.97 Definitions

20.97.250 Mobile Home (a.k.a, Manufactured Home).

"Mobile home" means a dwelling unit designed for long-term human habitation by one family and having complete living facilities; constructed and fabricated into a complete unit at a factory and capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer; and designed primarily for placement on an impermanent footing. This includes manufactured tiny homes (see "Tiny Home.") A unit ~~which-that~~ was originally built as a mobile home but ~~which~~ has substantially lost its mobility ~~through-by~~ being placed on a permanent footing, the tongue and axle removed, skirting is installed, and ~~which-that~~ wholly meets state standards for such units, shall not be considered to be a mobile home and shall be treated as a single-family dwelling for the purpose of this ~~ordinance code only when it is fixed to a permanent footing and tongue and axle have been removed and skirting installed.~~

20.97.255 Mobile Home Park.

"Mobile home park" means any parcel or adjacent parcels of land in the same ownership ~~which-that~~ is ~~utilized-used~~ for occupancy by more than two mobile homes. This term shall not be construed to mean campgrounds, recreational vehicle parks, or tourist facilities for camping.

20.97.292 Park Model Trailer.

"Park model trailer" means a trailer designed to provide seasonal or temporary living quarters; ~~which are not self-contained and thus may needs to~~ be ~~used-with~~ temporarily connected ~~edions~~ to utilities ~~necessary~~ for operation of installed fixtures and appliances; ~~it~~ has a gross trailer area not exceeding 400 square feet; ~~or-and~~ is approved by the state as a park model trailer. This includes Type 1 THOWs (see "Tiny Home on Wheels").

20.97.335 Recreational Vehicle.

"Recreational vehicle" means a motor vehicle; or portable structure capable of being transported on ~~the~~ highways by a motor vehicle; ~~that is~~ designed and intended for casual or short-term human occupancy for travel, recreational, and vacation uses without a permanent foundation; identified by a model number (RV), serial number, and vehicle registration number; and equipped with limited water storage and other self-contained living facilities. For the purposes of these regulations, the term "recreational vehicle" shall include self-contained campers, motor-homes, Type 2 Tiny Home on Wheels, and travel trailers, ~~and-but~~ shall not include park model trailers or Type 1 Tiny Home on Wheels, as they are not self-contained units.

20.97.340 Recreational Vehicle Park.

"Recreational vehicle park" means a parcel of private land in which three or more contiguous sites are primarily for occupancy by recreational vehicles for travel, recreation, or vacation uses. ~~For-Within~~

mobile home parks, only spaces that are designated and/or are used for recreational vehicles shall constitute a recreational vehicle park. ~~Recreational vehicles set up for occupancy shall be at least 10 feet from each other and any structures on the property. Whether or not intended for occupancy, they shall be at least 10 feet from all structures not on the same property.~~ For the purposes of these regulations, the term “recreational vehicle park” shall include camping clubs.

Comment [CES7]: These are regulations, not definitions, and have been moved to 20.80.955.

20.97.435.03 Tiny Home.

~~A tiny home is a dwelling unit that is 400 square feet or less in floor area (excluding sleeping lofts). For the purposes of this code there are two types of tiny homes, as described below. For Tiny homes on Wheels see WCC 20.97.435.04.~~

Comment [CM8]: This portion matches the definition in appendix Q in the IRC. The size is also consistent with the definition of a park model in WAC 296-150P-00200.

- ~~1. *Site-Built Tiny Home.* A tiny home built on-site on a permanent foundation that meets the minimum requirements of the International Residential Code (IRC), including provisions of Appendix Q, and is reviewed and inspected by Whatcom County. For the purposes of this code they are equivalent to and are permissible under the same rules as any standard single-family dwelling.~~
- ~~2. *Manufactured Tiny Home.* A factory-built tiny home bearing a certification tag from the Washington State Department of Labor and Industries (L&I) or other approved third party inspection agency stating it is approved for use as a single-family residence per the current edition of the International Residential Code (IRC) or Housing and Urban Development (HUD) requirements. Manufactured tiny homes usually have wheels and a chassis when they come out of the factory, and typically have the wheels removed prior to placing it on its manufacturer-approved foundation. For the purposes of this code they are equivalent to and are permissible under the same rules as any standard mobile home.~~

20.97.435.04 Tiny Home on Wheels (THOWs)

~~A Tiny Home on Wheels is a portable structure licensed to be transported on the highways by a motor vehicle; designed and intended for casual or short-term human occupancy for travel, recreational, vacation and other temporary uses without a permanent foundation; in a space of 400 square feet or less in floor area (excluding sleeping lofts). For the purposes of this code there are two types of tiny homes on wheels, as described below.~~

- ~~1. *“Type 1 THOW”* is a THOW that is not self-contained, and thus needs to be temporarily connected to utilities necessary for operation of installed fixtures and appliances. For the purposes of this code they are equivalent to and are permissible under the same rules as for Park Model Trailers.~~
- ~~2. *“Type 2 THOW”* is a THOW that is self-contained and may use communal utility services (water, wastewater). For the purposes of this code they are equivalent to and are permissible under the same rules as for Recreational Vehicles (RVs).~~

Regarding Duplexes in Urban Zones via Planned Unit Developments:

Title 20 ZONING

Chapter 20.85 Planned Unit Developments (PUD)

20.85.050 Permitted Uses.

.051 Uses ~~outright permitted-allowed~~ in a planned unit development shall include those permitted, accessory, and conditional uses allowed in the underlying zone district(s), ~~as well as and~~ such other uses as provided in WCC 20.85.052 ~~to through~~ 20.85.055. For areas located within a Water Resource Protection Overlay District, the more restrictive use provisions of Chapter 20.71 WCC shall apply.

.052 In addition to the uses allowed in the underlying zone, the following uses shall be allowed outright ~~where when~~ they are only serving the planned unit development and ~~where~~ all other applicable standards are met:

- (1) Community buildings;
- (2) Indoor recreation facilities, including athletic clubs or fitness centers, racquetball courts, swimming pools, tennis courts, or other similar uses;
- (3) Outdoor recreation facilities, including swimming pools, tennis courts, recreational trails, or similar use; and
- (4) Recreational vehicle storage areas.

.053 ~~Even though they may not be allowed in the underlying zone(s).~~ A planned unit development may also authorize add the following additional land uses ~~activities, as follows;~~ provided the criteria of WCC 20.85.054 are met:

- (1) ~~For In~~ the Urban Residential and Rural zones, duplexes and multifamily dwellings consistent with the density requirements of the underlying zone, except as that may be modified by the provisions of WCC 20.85.108 (Density Increases). The number of units attached may be greater than would otherwise be allowed by the underlying zoning.
- (2) ~~In For~~ the Urban Residential and Urban Residential Medium zones, duplexes and those uses allowed in the Neighborhood Commercial zone ~~are may~~ also be permitted. In addition, both resort- and non-resort-oriented transient accommodations, such as inns or hotels, may be permitted; provided, that:
 - (a) The total number of sleeping units shall not exceed 50%-percent of the total number of dwelling units that would be allowed on the property by the underlying zone regulations;
 - (b) Each sleeping unit shall count as one dwelling unit for the purpose of determining the total number of dwelling and sleeping units, in combination, permitted on the property;
 - (c) It can be demonstrated that the overall development will not generate more traffic than conventional residential development at the density allowed in the zone.
- (3) ~~In For~~ the General Commercial zone, those uses allowed in the Urban Residential Medium zone are ~~appropriate~~ allowed.
- (4) ~~In For~~ the Resort Commercial zone:

Comment [CES9]: Policy change

Comment [CES10]: Policy change

- (a) Multiple single-family dwellings per lot are permitted if developed as condominiums under state law; and
- (b) Single-family attached dwellings (at a base gross density of ~~seven-7~~ units/acre); ~~and~~.
- (5) ~~In For~~ the Light Impact Industrial zone, those uses allowed in the Urban Residential Medium, Neighborhood Commercial, ~~and/or~~ General Commercial zones are ~~appropriate~~ allowed.

.054 In order ~~to expand for those additional~~ uses listed ~~allowed~~ in WCC 20.85.053 to be authorized, the applicant ~~shall~~ must demonstrate:

- (1) That the primary land use activity of the planned unit development ~~shall be those uses~~ is one allowed by the underlying zone district;
- (2) That the ~~expanded~~ additional uses will benefit and serve the residents or employees of the proposed planned unit development; and
- (3) That all other applicable approval criteria and standards are met.

.055 Where a proposed development is located in two or more zone districts, the uses allowed in the applicable districts may be located on any portion of the site; provided, that all applicable standards are met.

.056 For purposes of determining appropriate standards, the requirements of the zone district allowing the use would apply. If the use is allowed by two or more districts, the lesser standards would apply.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-664

File ID:	AB2021-664	Version:	1	Status:	Agenda Ready
File Created:	11/05/2021	Entered by:	RMcconne@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance Establishing a Speed Limit on a Portion of Alderson Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments


HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Ordinance, Vicinity Map, Traffic Study

MEMORANDUM

To: The Honorable Satpal Singh Sidhu, Whatcom County Executive and
The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director 

From: James P. Karcher, P.E., County Engineer  for JPK

Date: November 2, 2021

Re: **Ordinance Establishing a Speed Limit on a Portion of Alderson Road**

Requested Action

At the request of the Whatcom County Council, the Public Works Department respectfully submits the attached ordinance to establish a 25 mph speed limit on Alderson Road from East Loft Lane to Gemini Street, in the Birch Bay Area.

Background and Purpose

On April 27th, 2021 the Public Works Department received a request from the Birch Bay Chamber of Commerce to extend the Golf Cart Zone on Alderson Road from its current terminus at East Loft Lane to the Gemini Street, which leads to the Birch Bay Activity Center and Bay Horizon Park. This ordinance will lower the speed limit on Alderson Road to 25 mph. It will effectively extend the Golf Cart Zone to Gemini Street because Ordinance 2018-023 *Creating a "Golf Cart Zone" on Certain Roads in the Birch Bay Area* included the following language when describing the zone: "all county roads posted 25 mph or less that lead to, and are contiguous with, Birch Bay Drive."

Information

Creation of golf cart zones is allowed per RCW 46.08.175, while "golf carts" are defined under RCW 46.04.1945, see attached. RCW 46.08.175 requires that a roadway designated as a "Golf Cart Zone" have a posted speed limit of 25 MPH or less. All roads within this zone will have posted speed limits of 25 MPH with the adoption of this ordinance.

Please contact Douglas Ranney at extension 6255 with any questions regarding this ordinance.

ORDINANCE NO. _____

ESTABLISHING A SPEED LIMIT FOR A PORTION OF ALDERSON ROAD

WHEREAS, the Whatcom County Council is authorized under RCW 46.61.415 to establish speed limits on certain County Roads; and

WHEREAS, the Whatcom County Council has requested that the Golf Cart Zone be extended on Alderson Road to Gemini Street; and

WHEREAS, RCW 46.05.175 requires that a roadway designated as a Golf Cart Zone have a posted speed limit of 25 MPH or less; and

WHEREAS, a Golf Cart Zone was created under Ordinance 2018-023, and reauthorized under Ordinance 2019-072 to include "all county roads posted 25 mph or less that lead to, and are contiguous with, Birch Bay Drive"; and

WHEREAS, the County Engineer has agreed that it is necessary to formally establish the speed limit; and

NOW, THEREFOR, BE IT ORDAINED by the Whatcom County Council that the speed limit be established as follows:
25 mph on Alderson Road, from the East Loft Lane to Gemini Street, located in Section 31, Township 40 North, Range 1 East, W.M.; and

BE IT FURTHER ORDAINED, by the Whatcom County Council that Whatcom County Code Section 10.04.030 is amended as follows:

10.04.030 Twenty-five miles per hour.

ALDERSON ROAD. Alderson Road from East Loft Lane to Gemini Street, located in Section 31, Township 40 North, Range 1 East, W.M.

BE IT FURTHER ORDAINED, that the County Engineer is hereby directed to install the appropriate signs and the Whatcom County Sheriff and Washington State Patrol be notified by copy of this ordinance.

ADOPTED this _____ day of _____, 2021.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

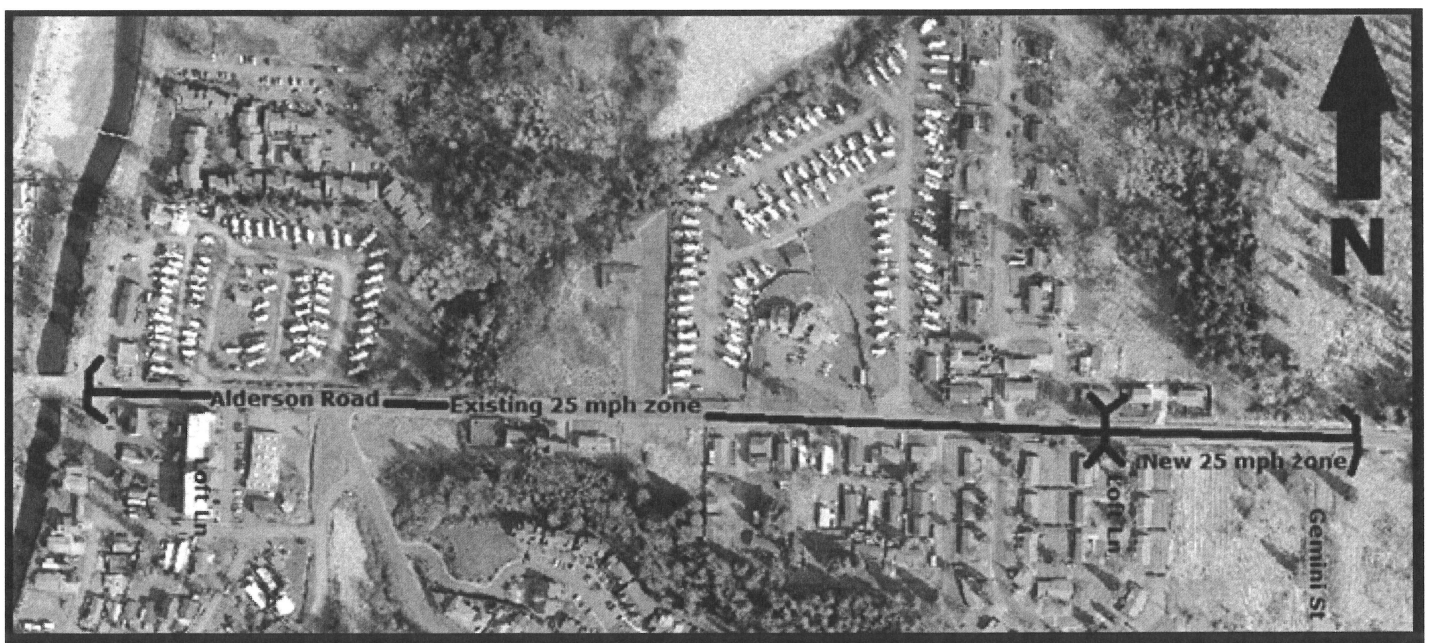
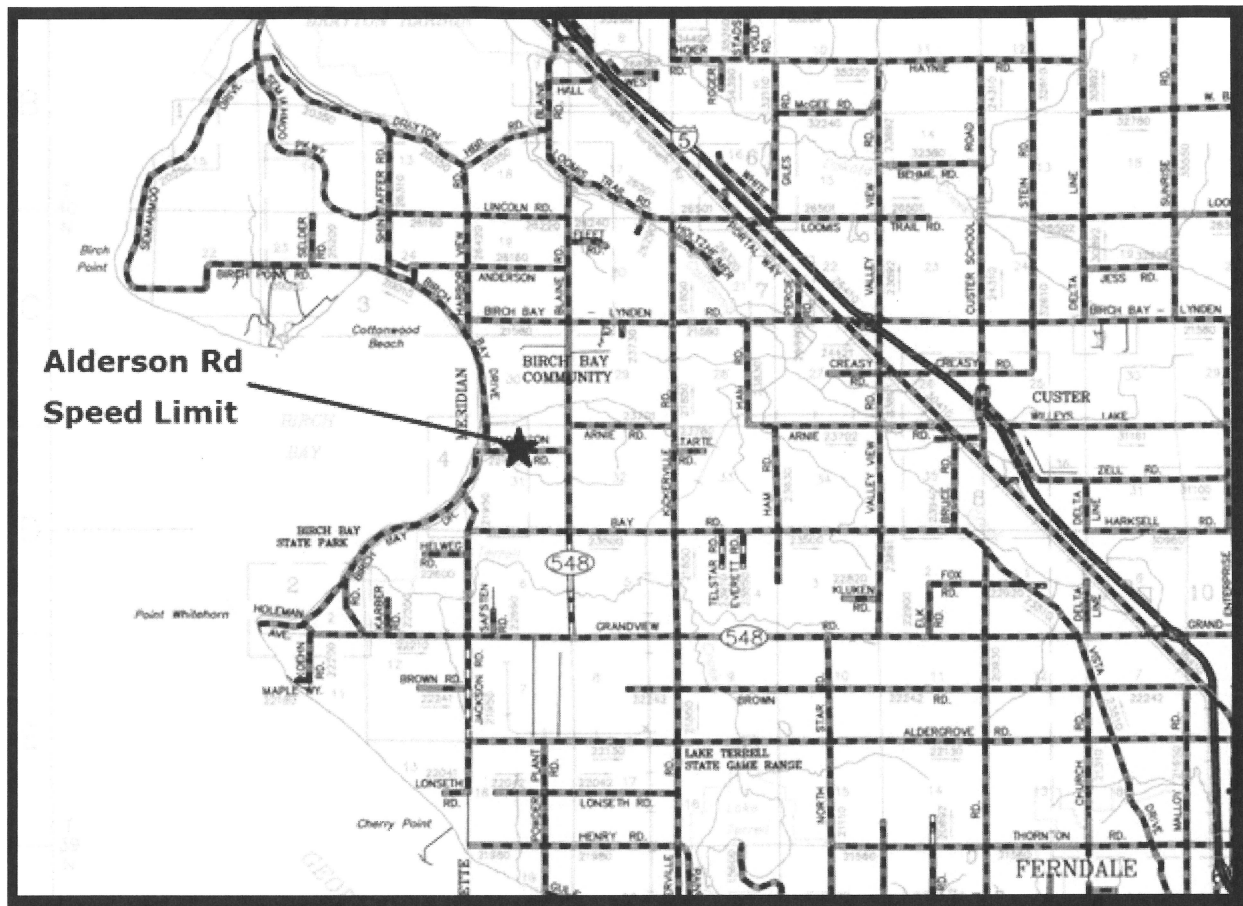
Approved by Christopher Quinn by email/JA
Sr. Deputy Prosecuting Attorney,
Civil Division

Satpal Singh Sidhu, Executive

() Approved () Denied

Date: _____

Vicinity Map – Alderson Road Speed Limit





Traffic Study for Alderson Road from mile post 0.55, Gemini St (private road) to mile post 0.89, Blaine Rd SR-548

September 17th, 2021

The primary purpose of this traffic study is to provide information to the Whatcom County Council in order for them to determine if the speed limit should be lowered to 25 MPH and the roadway segment should be added to the Birch Bay Golf Cart Zone.

Roadway Information

Alderson Rd is an Urban Minor Collector from mile post 0.04 (Birch Bay Drive) to mile post 0.89 (Blaine Rd SR-548) it functions to move traffic into and out of the Birch Bay area in as quick and safe a manner as possible. The roadway consists of two – 11 foot BST (chipseal) lanes and 4 foot ACP (asphalt) shoulders.

Traffic Count Information

Two traffic counts were performed from June 19th to 28th, 2021 and a third from June 7th to 17th, 2019 was reviewed. The traffic counts consist of volume (Average Daily Traffic – ADT), speed and truck volume percentage. The locations of the counts were at mile post 0.49, 0.06 miles west of Gemini St; at mile post 0.29, east of Leaside Dr; and at mile post 0.66, 0.23 miles west of Blaine Rd SR-548. The results are as follows:

Volume:

2021 Alderson Rd – W of Gemini St	2327 ADT
2021 Alderson Rd – W of Blaine Rd (SR-548)	2369 ADT
2019 Alderson Rd – E of Leaside Dr	1999 ADT

Speed:

The 85th percentile speed is the speed at which 85 percent of traffic is travelling at or below and is often used by traffic engineers, along with other factors, to set speed limits.

2021 Alderson Rd – W of Gemini St	85 th percentile 39.6 mph (Speed Limit 35 mph)
2021 Alderson Rd – W of Blaine Rd (SR-548)	85 th percentile 44.4 mph (Speed Limit 35 mph)
2019 Alderson Rd – E of Leaside Dr	85 th percentile 36.5 mph (Speed Limit 25 mph)

Percentage of Truck Traffic:

2021 Alderson Rd – W of Gemini St	6.9%
2021 Alderson Rd – W of Blaine Rd (SR-548)	7.3%
2019 Alderson Rd – E of Leaside Dr	6.1%

Collisions

A review of collisions received from the Washington State Patrol showed there have been 2 collisions on Alderson Rd from mile post 0.04 (Birch Bay Drive) to mile post 0.89 (Blaine Rd SR-548) from 01/01/2016 to 12/31/2020. Neither of the collisions involved a golf cart.

07/28/2016 MP 0.87, two vehicle non-injury collision: from opposite directions, both going straight, sideswipe. Contributing circumstances were listed as inattention and unknown driver distraction. Mini-van crossed the centerline and collided with a dump truck, neither driver was cited.

03/04/2018 MP 0.36, single vehicle minor injury collision: vehicle overturned. Contributing circumstances were listed as none. Motorcycle rider thought another driver was going to pull out in front of him from Boundary Ln and lost control of his motorcycle while trying to swerve to avoid a collision. Driver had scrapes on his hands and knee from putting the motorcycle down and sliding. Driver was not cited.

Signs

The following speed limit signs are posted:

25 MPH for eastbound traffic just west of Leaside Dr at MP 0.163

25 MPH for westbound traffic just east of Parkland Dr at MP 0.455

35 MPH for eastbound traffic just east of Parkland Dr at MP 0.487

35 MPH Unless Posted Otherwise for westbound traffic just west of Blaine Rd SR-548 at MP 0.854

The following Golf Cart Zone signs are posted:

Leaving Golf Cart Zone for eastbound traffic at MP 0.487

Entering Golf Cart Zone for westbound traffic at MP 0.488

Conclusion

Alderson Rd is functioning in a manner that we would expect for an urban minor collector with moderate traffic volumes. Speeds however are higher than what would be expected in both the 25 mph and 35 mph zones. This indicates that the change in speed limit needed to establish a golf cart zone may not have the desired effect of lowering vehicle speeds and could result in an increase in speed differential collisions. Gemini St, which is a private road, is the access to Bay Horizon Park, which may be a draw for visitors on golf carts; however there are only 6 properties located easterly of there and they are unlikely to be a source of, or attraction to, visitors. Additionally, the golf cart zone currently ends at a public road, Parkland Dr, and no portion of the current golf cart zone extends over private roads.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2021-715

File ID:	AB2021-715	Version:	1	Status:	Agenda Ready
File Created:	11/19/2021	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	12/07/2021			Enactment #:	

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance granting Zayo Group, LLC, a franchise for the provision of telecommunications services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

RCW 36.55.040, Whatcom County Charter Section 9.30, and Whatcom County Code 12.24 allow the granting of franchises to public and private utility companies for use of County rights-of-way. This is a new franchise allowing for the use and presence in County rights-of-way for the provision of telecommunications services.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Proposed ordinance, Fact sheet, Franchise application

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, County Executive,
Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Director

FROM: Andrew Hester, Public Works Real Estate Coordinator

RE: Franchise for Zayo Group, LLC

DATE: November 19, 2021

▪ **Requested Action**

Adopt an ordinance that grants a franchise to Zayo Group, LLC allowing it to use and be present in County Rights of Way for the installation, maintenance, operation, repair, modification, replacement, and/or removal of telecommunication facilities, together with equipment and appurtenances thereto, for the provision of telecommunication services within and through Whatcom County per the terms of the franchise agreement, under RCW 36.55 and § 9.30 of the Home Rule Charter.

▪ **Background and Purpose**

Zayo Group, LLC has applied for a new franchise agreement for the purposes of utilizing County rights of way to provide telecommunications services.

Please contact Chris Quinn at extension 5729 if you have any questions or concerns regarding the terms of this agreement.

Encl.

SPONSORED BY: _____
PROPOSED BY: Executive
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**GRANTING ZAYO GROUP, LLC, A NON-EXCLUSIVE FRANCHISE FOR THE PROVISION OF
TELECOMMUNICATIONS SERVICES**

WHEREAS, Zayo Group, LLC, a Delaware limited liability company, with an address of 1821 30th Street, Unit A, Boulder, CO 80301 ("Grantee") has applied to Whatcom County ("County") for a non-exclusive franchise for the right of entry, use, and occupation of those public Rights-of-Way within the County, expressly to install, construct, erect, operate, maintain, repair, relocate and remove Grantee Facilities in, on, upon, along and/or across those Rights-of-Way for purposes of offering and providing Telecommunications Services utilizing said Grantee Facilities ("Grantee Services"); and

WHEREAS, RCW 36.55.010, Whatcom County Charter Section 9.30, and Whatcom County Code Chapter 12.24 address the requirements pertaining to the granting of franchises by the County; and

WHEREAS, said application has come on regularly to be heard by the County Council on the ____ day of _____, 2021, and notice of this hearing has been duly published on the ____ day of _____, 2021, and the ____ day of _____, 2021, in the Bellingham Herald, a daily newspaper published in Whatcom County having county-wide circulation; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the County Council now deems it appropriate and in the best interest of the County and its inhabitants that a franchise be granted to Grantee.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a non-exclusive franchise set forth in the language herein below, Sections 1 through 24, is hereby granted to Zayo Group, LLC for a period of ten (10) years in order that it may, subject to the terms of this ordinance and other pertinent requirements of law, install, construct, erect, operate, maintain, repair, relocate and remove Grantee Facilities in, on, upon, along and/or across those Rights-of-Way for purposes of offering and providing Telecommunications Services utilizing said Grantee Facilities

Section 1. Grant of Franchise Right to Use Franchise Area.

A. Subject to the terms and conditions stated herein, County hereby grants to Grantee a franchise as set forth in this Ordinance (this "Franchise"), including permission to enter, use and occupy those Rights-of-Way within unincorporated Whatcom County as now or hereafter constituted (the "Franchise Area").

B. Grantee is authorized, subject to other applicable requirements of law, to install, remove, construct, erect, operate, maintain, relocate and repair the facilities necessary or convenient for Grantee Services and all appurtenances thereto (collectively, "Grantee Facilities") in, along, under, and across the Franchise Area.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services as provided herein, and it extends no right or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on private property within County. This Franchise does not authorize the Grantee to provide "cable services" (as such term is defined in federal law), and if Grantee or anyone using Grantee Facilities desires to offer "cable services" in the future, a further agreement with the County will be required prior to providing such service.

D. This Franchise is non-exclusive and does not prohibit County from entering into other agreements, including other franchises, impacting the Franchise Area, unless County determines that entering into such agreements interferes with Grantee's rights set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that County has or may hereafter acquire with respect to the Franchise Area or any other County roads, Rights-of-Way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, Grantee acknowledges its use of the Franchise Area shall have no value.

F. County reserves the right to change, regrade, relocate, abandon, or vacate any Right-of-Way within the Franchise Area. If, at any time during the term of this Franchise, County vacates any portion of the Franchise Area containing Grantee Facilities, County shall reserve an easement for public utilities within that vacated portion within which Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. Grantee agrees that its use of Franchise Area shall at all times be subordinate and subject to County's and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

Section 2. Notices.

A. Written notices to the parties shall be sent by certified mail to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

County: County Executive
Whatcom County Courthouse
311 Grand Ave., Suite 108
Bellingham, WA 98225

Grantee: Zayo Group, LLC
Attn: General Counsel – West Region
1821 30th Street, Suite A
Boulder, CO 80301

With a Copy to: Zayo Group, LLC
Attn: Director, Underlying Rights – West Region
1821 30th St., Unit A
Boulder, CO 80301

Emergencies:
Network Operations Center & Repair
Phone: (888) 404 9296
E-mail: zayoncc@zayo.com

B. Any changes to the Grantee's information shall be sent to County's Public Works Director referencing the title of this agreement.

C. The Grantee's voice number, (888) 404 9296 (Operations Center), shall be staffed at least during normal business hours, at least from 8:00 a.m. to 5:00 p.m., Pacific Time Zone.

In all cases, "normal business hours" must also include some evening hours at least one night per week and/or some weekend hours.

Section 3. Term of Franchise.

A. This Franchise shall run for a period of ten (10) years from the date of execution specified in Section 5.

B. If the parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the obligations and privileges of this Franchise shall nonetheless

continue in full force and effect until renewed or otherwise terminated by either party through written notice to that effect.

Section 4. Definitions.

For the purpose of this Franchise:

“Affiliate” means, with respect to any Person, any other Person controlling, controlled by or under common control with such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Emergency” means a condition of imminent danger to the health, safety and welfare of persons or property located within County including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

“Grantee Facilities” means such poles, antenna, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related wireline and wireless property or equipment as may be necessary or appurtenant to Grantee’s telecommunications system.

“Franchise Area” means those public Rights-of-Way located within the unincorporated area of the County.

“Grantee Services” means Telecommunications Services and services ancillary thereto provided by Grantee to its customers.

“Gross Revenues” means all revenues received by Grantee from the operation of the Grantee Facilities within the Rights-of-Way, including, but not limited to all rents, payments, fees and other amounts actually collected from any third party and received by Grantee and allocable to the period within the Term pursuant to any other agreement for telecommunications services provided with respect to Grantee Facilities, but exclusive of:

1. any payments, reimbursements or pass-throughs from the third party to Grantee:
 - a. for utility charges, taxes and other pass-through expenses, or
 - b. in connection with Maintenance work performed or equipment installed by Grantee;
2. site acquisition, construction management or supervision fees related to the installation of the Grantee Facilities; and
3. contributions of capital by any third party to reimburse Grantee in whole or in part for the installation of the Grantee Facilities.

“Maintenance” or “Maintain” means examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof, including as required and necessary for safe operation.

“Person” means any individual, sole proprietorship, partnership, association, corporation or other form of organization authorized to do business in the State of Washington, and includes any natural person.

“Relocation” means permanent movement of Grantee Facilities required by County, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request.

“Right-of-Way” (pluralized as “Rights-of-Way”) means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-way and similar public properties and in the Franchise Area.

“State” means the State of Washington.

“Telecommunications Service” has the same meaning as “Telecommunications service” as defined under 47 U.S.C. § 153 (2012).

Section 5. Acceptance of Franchise.

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the Whatcom County Council the Statement of Acceptance, attached hereto as Exhibit A (the “Franchise Acceptance”). The date that the Franchise Acceptance is filed with the County Council shall be the effective date of this Franchise.

B. Should Grantee fail to file the Franchise Acceptance with the County Council within 30 days after the effective date of this ordinance, then the County shall have the right to declare, by ordinance, Grantee’s forfeiture of all rights hereunder and to declare this Franchise terminated and of no further force or effect thereafter. The County shall retain this right to terminate the Franchise until such time as Grantee files the Franchise Acceptance pursuant to the terms herein.

Section 6. Construction and Maintenance.

A. Grantee shall apply for, obtain, and comply with the terms of all permits required under Whatcom County Code 12.16, 12.24, 12.27, 12.28, 12.30, 20.13 and any other pertinent provisions of law as may now or hereafter apply, for any work done on, or to install Grantee Facilities. Grantee shall comply with all applicable County, State, and federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner consistent with the standards of the telecommunications industry.

Modifications shall not be subject to additional approval hereunder (except such permitting as is required by applicable law) to the extent that: (i) such modification to Grantee Facilities involves only substitution of internal components, and does not result in any change to the external appearance, dimensions, or weight of Grantee Facilities, as approved by County; or (ii) such modification involves replacement of Grantee Facility with a facility that is the same, or smaller in weight and dimensions as the approved Facility. Grantee will notify County of any such modification within fifteen (15) days after modification is made.

B. Grantee agrees to use commercially reasonable efforts to coordinate its activities with County and all other affected utilities located within the Franchise Area.

C. County expressly reserves the right to prescribe in a reasonable manner how and where Grantee Facilities shall be installed within the Franchise Area and may from time to time, pursuant to the applicable sections of this Franchise, direct in writing the removal, Relocation and/or replacement thereof as required by the public interest and safety at the expense of Grantee. Such public interest shall not extend to the accommodation of private development. Grantee shall have no less than 60 days following receipt of such written direction to complete the removal, Relocation, and/or replacement of Grantee Facilities, provided that Grantee shall have such extended period of 30 days as may be required beyond the initial 60 days if Grantee commences removal, Relocation, and/or replacement of Grantee Facilities within the initial 60 day period and thereafter continuously and diligently pursues such required performance to completion.

D. Upon prior written approval of County and in accordance with County ordinances, Grantee shall have the authority, but not the obligation, to reasonably trim trees upon and overhanging streets, Rights-of-Way and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, County may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not in any instance grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

E. Consistent with Sections 12.16, 12.24, 12.27, 12.28, and 12.30 of the Whatcom County Code, in case of any disturbance of any road, pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the County, replace and restore all paving, sidewalk, driveway, landscaping or surface, promptly and in as good condition as before said work was commenced and in accordance with standards for such work set by the County and the County Code. If Grantee fails, neglects or refuses to make restorations as required under this Section, then the County may do such work or cause it to be done, and the cost thereof to the County shall be paid by Grantee.

F. Grantee shall maintain all above-ground improvements that it places on County Rights-of-Way pursuant to this franchise. In order to avoid interference with the County's

ability to maintain its roads and associated Rights-of-Way, Grantee shall provide a clear zone of five feet on all sides of such improvements. For these purposes, "clear zone" means an area that is mowed or otherwise maintained so that the Grantee Facilities are readily visible to County maintenance operations. The foregoing obligations shall not apply to above-ground, pole-mounted antenna but shall apply to any poles or other structures at ground level erected or managed by Grantee hereunder. If Grantee fails to comply with this provision, and by its failure property is damaged, then Grantee shall be responsible for all damages caused thereby.

G. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from County water facilities and ten (10) feet from above-ground County water facilities; provided, that for development of new areas, County, together with Grantee and other utility purveyors or authorized users of Rights-of-Way, will develop and follow the Public Works Director's determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise.

H. Before any work is performed under this Franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, the Grantee shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during the Grantee's operations under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed or disturbed, and the expense of replacement by approved monuments shall be borne by the Grantee. A complete set of reference notes for monuments and other ties shall be filed with the County Engineer's Office.

Section 7. Repair and Emergency Work.

In the event of an Emergency, Grantee may commence such repair and Emergency response work as required under the circumstances, provided that Grantee shall notify the County Public Works Director in writing as promptly as possible, before such repair or Emergency work commences, or as soon thereafter as possible, if advance notice is not practical. County may act, at any time, without prior written notice in the case of Emergency, but shall notify Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to County and Third-Party Property.

Grantee agrees that should any of its actions under this Franchise materially impair or damage any County property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the reasonable satisfaction of the County Engineer.

Section 9. Location Preference.

Any structure, equipment, appurtenance or tangible property of a utility, other than Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to Grantee Facilities. However, to the extent that Grantee Facilities are completed and installed prior to another utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any County road or Right-of-Way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require Relocation. This Section shall not apply to any County facilities or utilities that may in the future require the Relocation of Grantee Facilities. Such Relocations shall be governed by Section 11.

Section 10. Grantee Information.

A. Grantee agrees to supply, at no cost to County, any information reasonably requested by the Director of Public Works to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under State law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within County. Said information may be requested either in hard copy and/or electronic format, if reasonably possible in a format compatible with County's database system, as now or hereinafter existing, including County's Geographic Information Service (GIS) data base. Grantee shall use commercially reasonable efforts to keep the Public Works Director informed of its long-range plans for coordination with County's long-range plans.

B. The parties understand that Washington law limits the ability of County to shield from public disclosure any information given to County. Accordingly, the County will endeavor in good faith to provide Grantee reasonable notice of any request for public disclosure of information of Grantee to allow Grantee to take such actions as Grantee may determine and at Grantee's sole cost and expense to prevent or limit such disclosure. Grantee shall indemnify and hold harmless County for any loss or liability for costs and for attorneys' fees because of non-disclosures requested by Grantee under Washington's open public records law, provided reasonable notice and opportunity to defend was given to Grantee or Grantee is made aware of a pending request or claim.

Section 11. Relocation of Grantee Facilities.

A. Except as otherwise so required by law, Grantee agrees to Relocate, remove, or reroute Grantee Facilities as reasonably ordered by the County Engineer at no expense or liability to County, the time frame for which shall be reasonably determined by the County Engineer and which shall in no event be less than sixty (60) days following the date of written

notice of such order, provided that Grantee shall have such extended period of 30 days as may be required beyond the initial 60 days if Grantee commences removal, Relocation, and/or replacement of Grantee Facilities within the initial 60 day period and thereafter continuously and diligently pursues such required performance to completion. Any determination to require the Relocation of Grantee Facilities shall be made in a reasonable, competitively neutral, uniform and non-discriminatory manner. Any County funds used to reimburse costs incurred by any Person in connection with any relocation shall be allocated in a reasonable, uniform and non-discriminatory manner. Pursuant to the provisions of Section 14, Grantee agrees to protect and save harmless County from any customer or third-party claims for service interruption or other losses in connection with any such change, Relocation, abandonment, or vacation of public property.

If Grantee fails, neglects or refuses to remove or relocate Grantee Facilities as directed by the County; or in emergencies or where public health and safety or property is endangered, the County may do such work or cause it to be done, and the cost thereof to the County shall be paid by Grantee. If Grantee fails, neglects or refuses to remove or relocate Grantee Facilities as directed by another franchisee or utility with authority to so direct Grantee, that franchisee or utility may do such work or cause it to be done, and if Grantee would have been liable for the cost of performing such work, the cost thereof to the party performing the work or having the work performed shall be paid by Grantee.

B. If a readjustment or Relocation of Grantee Facilities is necessitated by a request to Grantee from a Person other than County, that party shall agree to reimburse Grantee's costs prior to Grantee having any obligation to readjust or relocate Grantee Facilities and agree to pay Grantee the actual costs thereof.

C. Grantee and the County acknowledge and commit to fully comply with their respective obligations, as the same may arise from time to time, under Chapter 19.122 RCW (Underground Utilities Locator Statute) or any other law applicable to determining the location of utility facilities. Thus, before commencing any work within the Franchise Area, Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

D. Design locate marks will be placed in the same three (3) day time frame as construction locate marks.

Section 12. Abandonment and or Removal of Grantee Facilities.

A. Within one hundred and eighty (180) days of Grantee's permanent cessation of use of Grantee Facilities, or any portion thereof, Grantee shall, at County's discretion, either abandon in place or remove the affected facilities.

B. The parties expressly agree that this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding.

A. The parties agree that this Franchise does not limit County's authority under federal law, State law, or local ordinance, to require the undergrounding of utilities.

B. Whenever County requires the undergrounding of aerial utilities in the Franchise Area, Grantee shall underground Grantee Facilities in the manner specified by the County Engineer to the extent practical and recognizing that wireless antenna cannot be undergrounded, with payment therefor consistent with the provisions of RCW 36.88.410 et ff. Where other utilities are present and involved in the undergrounding project, Grantee shall be required to pay only its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trenching and utility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Indemnification and Hold Harmless.

A. Grantee shall defend, indemnify and hold the County and its officers, officials, agents, employees, and volunteers harmless from any and all claims, demands, suits, actions, costs and expenses, including but not limited to attorney's fees, made against it by any third party on account of injury or damage to the person or property of another, but only to the extent such injury or damage is caused by the negligence or breach of Grantee, its agents, servants or employees of this Franchise; provided, however, that in the event any such claim or demand be presented to or filed with the County, the County shall promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand; provided further, that in the event any suit or action is begun against the County based upon any such claim or demand, the County shall likewise promptly notify Grantee thereof, and Grantee shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Notwithstanding the foregoing, if damages to another or others result from concurrent negligence of Grantee and the County, Grantee and the County shall each be responsible for and this indemnification provision shall be operative so that each party bears the proportionate share attributable to its own negligence. In case judgment which is not appealed shall be rendered against the County in such suit or action, County shall fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined. Upon County's failure to satisfy said judgment within ninety (90) days, the Grantee may elect to terminate this Franchise pursuant to the terms of Section 19 herein. The provision for reimbursement of the County shall survive the termination of this Franchise.

B. County shall defend, indemnify and hold Grantee harmless from any liability arising out of or in connection with any damage or loss to Grantee Facilities caused by the

willful misconduct or gross negligence of County, except to the extent any such damage or loss is directly caused by the negligence of Grantee, or its agents.

C. Grantee acknowledges that neither County nor any other public agency with responsibility for firefighting, Emergency rescue, public safety or similar duties within County has the capability to provide trench, close trench or confined space rescue. Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. Grantee shall hold County harmless from any liability arising out of or in connection with any damage or loss to Grantee for County's failure or inability to provide such services, and, pursuant to the terms of Section 14(A), Grantee shall indemnify County against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities based on County's failure or inability to provide such services.

D. Acceptance by County of any work performed by Grantee shall not be grounds for avoidance of this section.

E. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN AND EXCEPT FOR CLAIMS ARISING FROM A PARTY'S INTENTIONAL MISCONDUCT (INCLUDING EMPLOYEE CONDUCT), IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA, INCURRED OR SUFFERED BY EITHER PARTY.

Section 15. Insurance.

A. Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$2,000,000 per accident.

2. Commercial General Liability insurance with limits no less than \$2,000,000 each occurrence, \$3,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit. Coverage shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. County shall be named as an additional insured under Grantee's Commercial General Liability insurance policy with respect to the work performed under this Franchise.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. Grantee's insurance coverage shall be primary and non-contributory insurance as respects County. Any insurance, self-insurance, or insurance pool coverage maintained by County shall be in excess of Grantee's insurance and shall not contribute to or with it to satisfying any claim or judgment covered hereunder. Grantee's insurance shall also waive any rights of subrogation against the County and its agents as it pertains to the scope of this agreement.

C. Grantee shall furnish County with certificates of the foregoing insurance coverage with a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement.

D. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self-insurance is subject to approval by County, and in the event such approval is not obtained, Grantee shall carry such coverage as is herein provided.

E. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit County's recourse to any remedy to which County is otherwise entitled at law or in equity.

Section 16. Performance Security.

Grantee shall provide County with a surety bond in the amount of Fifty Thousand Dollars (\$50,000) running or renewable for the term of this Franchise, in a form and substance reasonably acceptable to County. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise following notice and a reasonable opportunity to cure, then there shall be recovered jointly and severally from the principal and any surety of such surety bond any damages suffered by County as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to County in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit Grantee's liability to the guarantee amount, or otherwise limit County's recourse to any remedy to which County is otherwise entitled at law or in equity.

Section 17. Successors and Assignees.

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent contractors of Grantee, and all rights and privileges, as well as all obligations and liabilities of Grantee shall inure to its

successors, assignees and contractors equally as if they were specifically mentioned herein wherever Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated, except to an Affiliate of Grantee, without the express consent of County by ordinance, which approval shall not be unreasonably withheld, conditioned, or delayed. Approval shall not be required for mortgaging purposes or if a transfer of interest is from Grantee to (i) another person or entity controlling, controlled by, or under common control with Grantee or (ii) another person or entity purchasing all or substantially all of the assets or stock of Grantee. Within 30 days of the lease, assignment, or other alienation of this Franchise for which prior County approval is not hereunder required, Grantee shall provide reasonable notice to County, including all information with respect to the assignee or transferee that is reasonably required by County of an applicant for a Franchise.

C. To the extent County's approval is required under Section 17(B), Grantee and any proposed assignee or transferee shall provide and certify the following to County not less than sixty (60) days prior to the proposed date of transfer: (a) complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) all information reasonably required by County of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) an application fee which shall be reasonably set by County, plus any other costs actually and reasonably incurred by County in processing and investigating the proposed assignment or transfer.

D. Prior to County's consideration of a request by Grantee to consent to a Franchise assignment or transfer pursuant to subpart C hereto, the proposed assignee or transferee shall file with County a written promise to unconditionally accept all terms of this Franchise, effective upon such transfer or assignment of this Franchise. County is under no obligation to undertake any investigation of the transferor's state of compliance and failure of County to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

E. Notwithstanding the forgoing or anything to the contrary in this Ordinance, Grantee may provide capacity across Grantee Facilities to a third party without the consent required under this Section, so long as Grantee retains control over and remains solely responsible for, such communications facilities. The use of Grantee Facilities by third parties (including, but not limited to, leases of dark fiber) that involves no additional attachment and no expanded occupation of the right-of-way is not considered a sublicense to a third party subject to the provisions of this Section.

Section 18. Dispute Resolution.

A. In the event of a dispute between County and Grantee arising by reason of this Franchise, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Franchise.

The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Franchise, the parties specifically understand and agree that venue shall be exclusively in Whatcom County, Washington.

Section 19. Enforcement and Remedies.

A. If Grantee shall materially violate or fail to comply with any of the provisions of this Franchise, or should it fail to heed or comply with any notice given to Grantee under the provisions of this Franchise, County shall provide Grantee with written notice specifying with reasonable particularity of the nature of any such material breach and Grantee shall undertake all commercially reasonable efforts to cure such material breach within thirty (30) days of receipt of notification. If County reasonably determines the material breach cannot be cured within (30) thirty days, County shall specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the material breach is not cured within the specified time, or Grantee does not comply with the specified conditions, County may, at its discretion, either (1) revoke this Franchise with no further notification, or (2) claim damages of One Thousand Dollars (\$1,000.00), or actual damages if demonstrably greater, against the financial guarantee set forth in Section 16.

B. Should County reasonably determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, then, following the expiration of the cure period specified in subpart A of this Section, County reserves the right to cancel this Franchise and require Grantee to apply for, obtain, and comply with all applicable County permits, franchises, or other County permissions for such actions, and if Grantee's actions are not allowed under applicable federal and state or County laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations.

A. This Franchise is subject to, and Grantee shall comply with all applicable Federal and State or County laws, regulations and policies, including all applicable elements of County's comprehensive plan, in conformance with federal laws and regulations, affecting performance under this Franchise. Furthermore, notwithstanding any other terms hereof to the contrary, Grantee shall be subject to the police power of County to adopt and enforce general ordinances

necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

Section 21. Amendments.

A. The parties shall amend this Franchise as reasonably required to accommodate, ensure compliance with, and/or conform to any existing or hereafter enacted, amended, or adopted federal, state, or local statute, ordinance, or regulation, or County ordinance enacted pursuant thereto, or any binding judicial or governmental agency interpretations thereof (including, but not limited to, actions by the Federal Communications Commission or its successor agency) that govern any aspect of the rights or obligations of the parties under this Franchise. In the event that a party seeks such amendment, that party may provide the other party with written notice identifying and setting forth the full text of the desired amendment, and the reason(s) for it. A representative of Grantee and a representative of County, each who have authority to bind their respective parties, shall meet, in person or telephonically if travel is impractical for either party, no later than thirty (30) days following such written notice. During such meeting, the parties shall in good faith negotiate and execute an amendment to the Franchise to provide for the necessary change, and shall do so within 90 calendar days following such written notice. If the parties do not reach agreement as to the terms of the amendment within 90 days of commencing negotiations, the parties promptly shall mutually agree upon a third-party, neutral arbiter, who shall determine the terms of any such amendment after each party presents to the arbiter their proposed amendment language.

B. Any other amendments to this Franchise must be in writing and executed by authorized representatives of the County and the Grantee.

Section 22. Consideration.

A. As consideration for this Franchise, Grantee commits to pay a County franchise fee of five percent (5%) on Gross Revenues.

B. Grantee's franchise fee payments to the County shall be computed quarterly for the preceding calendar quarter, with quarters ending March 31, June 30, September 30 and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after said dates. Payments shall be made to the Whatcom County Treasurer, Whatcom County Courthouse, Suite 104, 311 Grand Avenue, Bellingham, WA 98225, unless otherwise specified by the County in writing.

C. No acceptance of any payment shall be construed as an accord by the County that the amount paid is in fact the correct amount, nor shall any acceptance of payments be construed as a release of any claim the County may have for further or additional sums payable or for the performance of any other obligation of Grantee.

D. Each payment shall be accompanied by a written report to the County verified by an authorized representative of Grantee, containing an accurate statement in summarized

form, as well as in reasonable detail, of Grantee's Gross Revenues and the computation of the payment amount. Grantee shall, no later than sixty (60) days after the end of each calendar year, furnish to the County a statement of gross revenues and all payments, deductions and computations for the year just ended. Such statement shall be reviewed and approved by an authorized representative of Grantee prior to submission to the County.

E. During the term of this Agreement, and for a period of one (1) year thereafter, the County may retain (on a non-contingent fee basis) an independent auditor to conduct a reasonable review and audit of Grantee's relevant records to confirm the performance of payment obligations under this Agreement upon thirty (30) days prior written notice. Each party shall provide a list of two (2) auditors, one (of the four) of whom thereafter must be mutually agreed to by the parties. Such audit shall: (a) be subject to Grantee's reasonable security and confidentiality requirements; (b) occur no more than once per year and not during the first or last three (3) weeks of a calendar quarter; and (c) transpire during Grantee's normal business hours. If the audit shows an underpayment to the County for any period of time, then Grantee shall, within thirty (30) days after completion of such audit, pay such underpaid amounts to the County. If the audit shows an overpayment to the County for any period of time, then the County shall, within thirty (30) days after completion of such audit or by deduction from the next scheduled quarterly payment owed by Grantee, pay such overpaid amounts to Grantee. Any underpayment will also include interest at the maximum allowed rate provided under State law, calculated from the date of the underpayment or overpayment. All expenses associated with such audit shall be paid by the County unless the audit reveals an underpayment of more than ten percent (10%) in payments required hereunder in which case Grantee shall reimburse the County for the reasonable costs of such audit, not to exceed Five Thousand Dollars (\$5,000).

F. Any claim arising as a result of such an audit against Grantee must be made in writing within sixty (60) days of the County's completion of the audit. All information reviewed by the County or its auditor pursuant to any audit shall be deemed to be "Confidential Information" subject to the terms of Section 10 herein and shall be treated as such by the County in accordance with applicable law.

G. No more than once per year, Grantee agrees to meet with a representative of the County upon written request to review Grantee's methodology of record-keeping, financial reporting, the computing of franchise fee obligations and other procedures, the understanding of which the County reasonably deems necessary for reviewing reports and records that are relevant to the enforcement of this Agreement.

H. In the event any payment is not received within forty-five (45) days from the end of the calendar quarter, Grantee shall pay, in addition to the payment or sum due, interest on the amount due at the maximum allowed rate as provided under State law from the date the payment was due until the date the County receives the payment.

I. If this Agreement terminates for any reason, the Grantee shall file with the County, within sixty (60) calendar days of the date of the termination, a financial statement showing the gross revenues received by the Grantee since the end of the previous fiscal year. Within thirty (30) days of the filing of the certified statement with the County, Grantee shall pay any unpaid amounts as indicated. If the Grantee fails to satisfy its remaining financial obligations as required in this Agreement, the County may do so by utilizing the funds available in any security provided by the Grantee.

Section 23. Consequential Damages Limitation.

Notwithstanding any other provision of this Franchise, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 24. Severability.

If any portion of this Franchise is deemed invalid, the remainder portions shall remain in effect.

Section 25. Titles.

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

ADOPTED this _____ day of _____ 2021.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown Davis, Clerk of the Council

Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Christopher Quinn
Civil Deputy Prosecutor
(approved electronically 11/19/2021)

Satpal Singh Sidhu, County Executive

() Approved () Denied

Date Signed: _____

FRANCHISE FACT SHEET

Applicant:	Zayo Group, LLC
Type of Franchise:	Telecommunications
Brief description:	Franchise is for the purpose of constructing/operating/maintaining telecommunication facilities.
Location/ Abbreviated legal description:	All rights-of-way within Whatcom County
Duration:	10 years
Existing or New Franchise?	New franchise
Related Council Agenda Bills:	AB2021-714 AB2021-715
Related Ordinance Numbers:	N/A
Additional Information:	N/A

Date of Fact Sheet: November 19, 2021

APPLICATION FOR FRANCHISE

TO THE WHATCOM COUNTY COUNCIL:

COMES NOW, Zayo Group, LLC, a Delaware limited liability company, with an
address of 1821 30th Street, Suite A, Boulder, CO 80301
who respectfully petitions the Whatcom County Council for a twenty-five (25) year
franchise to lay, construct, maintain, and repair
a fiber optics cable network

and all necessary appurtenances along, over, and across the following roads situated
in Whatcom County, Washington:

all public right-of-way

The petitioner further requests that the Whatcom County Council fix a time and place
for a public hearing on the granting of this continuation of franchise, and that public
notice be given, at the expense of the petitioner, as provided by law; and that, at
said hearing, petitioner be granted the franchise continuation herein requested.

DATED: March 12, 2021

Zayo Group, LLC
Company Name

1821 30th Street, Suite A
Mailing Address

Boulder, CO 80301
City State Zip

407.741.3750 or (866) 364-6033
Phone Number

Roger M. Simpson III
Signature of authorized agent/owner

Roger Simpson, Director
Print or type name