

# **TITLE 23**

## **SHORELINE MANAGEMENT PROGRAM**

Whatcom County, Washington

Adopted by Whatcom County May 27, 1976. Revised July 1, 1997 to comply with Washington Administrative Code (WAC) 173-27.

Approved by the Department of Ecology May 12, 1998

Whatcom County Planning and Development Services Department  
Planning Division  
5280 Northwest Road  
Bellingham, WA 98226

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## AMENDMENTS

The Whatcom County Shoreline Management Program was originally adopted on May 27, 1976, with subsequent Department of Ecology approval on August 27, 1976. The Program was first amended on June 26, 1978. Subsequent amendments and their approximate effective dates are as follows:

1. January 21, 1982, File No. SPA 1-81, text amendments in response to proposed Chicago Bridge and Iron development at Cherry Point, Sections 6.5.4.B(2)(a), 6.9.3.B(2), 6.9.5.B(5)(b), and 8.6.2.D.
2. February 5, 1982, File No. SPA 2-81, text amendments relating to agriculture development, Sections 6.2.3.B.1(d), 6.2.3.B.1(e), 6.2.3.C(1), 6.2.3.C(2), and 6.2.3.C(3).
3. April 3, 1982, File No. SPA 3-81, text amendments relating to aquaculture developments, Sections 6.3.1.B, 6.3.1.D, 6.3.3.E, and 6.3.4.A(6)(a).
4. January 22, 1983, File No. SPA 1-82, text amendments relating to stream control works and hydropower development, Sections 6.6 (the entire section), 6.13.2.J, 6.13.5.C(1) and Appendix C definitions of Industrial Development and Stream Control Works.
5. March 2, 1985, File No. SPA 1-84, map amendment for 660 feet of shoreline in Lummi Bay from "Conservancy" to "Rural."
6. June 9, 1987, File No. SPA 1-86, "Cherry Point Management Unit," map and text amendments, Section 23.100.210.
7. November 16, 1989, File No. 89-100:SMP Text Amendment to the Whatcom County Shoreline Management Program to Allow the Land Application of Waste Waters Used in Processing Fruits and Vegetables as a Conditional Use.
8. January 28, 1993, File No. 01-89:SMP: Program update
9. July 1, 1997, text amendments in response to comply with the recently adopted WAC, Chapters 173-26 and 173-27 and related changes in terminology

## HOW TO USE THIS DOCUMENT

The following summary provides an overview of the Shoreline Program's contents with a brief explanation of its general format and procedures. Refer to the Introduction for a more detailed discussion of the history and rationale behind "shoreline management."

### I. PROGRAM FORMAT

The purpose, goals, and objectives are found in Sections 23.10 and 23.20. Together they are a broad statement of intent underlying more specific policies and regulations in Sections 23.90 and 23.100.

Section 23.30 describes the six shoreline area categories used on the Shoreline Map (Appendix D) as to interpretation, purpose, criteria for designation and development policy. These areas are similar to zoning districts in that they allow varying density and bulk of buildings on the shorelines. However, they are much more general in that a wide range of water-oriented uses are allowed.

The County shorelines designated "of State-wide Significance" by the Act are listed in Section 23.40, along with supplemental policies for their use.

Section 23.50 explains what kind of development the Program has jurisdiction over, which activities it recognizes as exempt or non-conforming, and its relationship to other ordinances and laws.

Section 23.60 contains procedures and review criteria for substantial development permits, conditional use permits and shoreline variances. Sections 23.70 and 23.80 address the administration of the Program's regulations and other legal provisions. Section 23.90 contains general policies and regulations.

The focus of the Program is contained in Section 23.100 (.10 through .210); it contains comprehensive policies and regulations for nineteen types of development, which are listed alphabetically in the Table of Contents. This Section also states which uses are to be allowed in the six shoreline designations. Complex developments may be subject to more than one of the nineteen subsections.

## II. INITIAL PROCEDURES

If you intend to develop or use the shoreline, consult first with the Division of Buildings and Code Administration. They will use Sections 23.50 and .60 to determine if you need a shoreline permit; they will also tell you about any other necessary government approvals.

To find out if your proposal is permitted by the Program on your site, determine which Shoreline Area category (Urban, Urban Resort, Rural, Conservancy, Natural or Aquatic) applies to the site (consult the Shoreline Map, Appendix D). Then check to see if the Shoreline Area Regulations in Section 23.100 for that kind of development allow it. Your proposal may be permitted, allowed only as a conditional use, or prohibited. It may also require a variance.

Although your proposal may be permitted by Program regulations, it is also subject to Shoreline Area policies and development policies of Sections 23.30, 23.90, and 23.100. If it is on a Shoreline of State-wide Significance, it is also subject to Section 3.40 policies.

In order for a development to be allowed under this Program, the County must find that the proposal is generally consistent with the applicable policies and regulations, unless a variance is to be granted. When it has been determined that your proposal requires an approval or statement of exemption, submit the proper application to Buildings and Code. Processing of your application will vary depending on its size, value, and features. Contact Buildings and Code for additional information.

**Title 23**

**SHORELINE MANAGEMENT PROGRAM**

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## INTRODUCTION

Whatcom County has shoreline resources of great value including beaches, clean waters, fish, wildlife, riparian habitat, aquatic plants, shellfish, deepwater port sites, archaeological sites, soils, gravel and other minerals, flood plains, estuaries, and marshes. These limited resources along with the outstanding visual and aesthetic quality of our shorelines are very attractive to many different users. Housing, industry, agriculture, forestry, recreation, commerce, and other users all desire the ability to access, develop or use our shorelines. The wide variety of shoreline types that exist in Whatcom County mean that some types of shorelines are unsuitable for some uses but suitable for others. In order to protect these resources and the overall quality of our shoreline areas, there is a need for comprehensive planning and reasonable regulation of shoreline development.

The original 1976 Shoreline Management Program was the result of two years work by the County Shoreline Citizen's Committee, Shorelines Technical Panel, and the County Planning Office. The effort began in May 1973, with the appointment of 22 people by the Board of County Commissioners to a citizen advisory committee and publication of the Whatcom County Shoreline Inventory. Since its adoption, the Program has been amended several times, including a comprehensive update completed in 1993. A Shoreline Background Document (Appendix C) was issued at that time which serves as an important reference for the shorelines of the county and as a useful aid in the discussion and resolution of specific shoreline management issues.

Whatcom County undertook this planning program in order to fulfill the requirements of the Shoreline Management Act. The Act became law in June of 1971 at the State legislature's initiative in response to Initiative 43. Initiative 43 came about in response to state-wide citizen awareness that resources unique to shorelines are sharply limited in quantity, yet were often subject to harmful development. Both Initiatives 43 and 43B were aimed at protection of shoreline resources and shoreline users from unwise development or destructive use.

In November 1972, people of the State and Whatcom County voted in favor of a Shoreline Management law, and selected the legislature's alternative (43B), which had been enacted the year before. The Act gives primary authority over shoreline development to local governments, although the state is to review local action for consistency with the Act's policy. Each county or city was to prepare a "master program" for its shorelines in accordance with guidelines issued in 1972 by the State Department of Ecology. If a county or city was unwilling to prepare a shoreline master program, then the Department would do it.

Title 23 constitutes the master program for Whatcom County, and was approved as such by the State Department of Ecology on August 27, 1976 and January 28, 1993. Whatcom County initiated a "regulatory reform code scrub" in July, 1997 to bring the master program into compliance with recent state rule revisions. These changes were approved in May, 1998.

The overall goal of this Program is to achieve rational, balanced, and responsible use of our irreplaceable shorelines.

## Chapter 23.10

### PURPOSES

Sections	10.10	Authority
	10.20	Findings
	10.30	Enactment
	10.40	Purposes
	10.50	Title
	10.60	Short Title

#### **23.10.10      AUTHORITY**

Authority for enactment and administration of this Program is the Shoreline Management Act of 1971, Chapter 90.58, Revised Code of Washington, also referred to herein as "the Act."

#### **23.10.20      FINDINGS**

.21 The Whatcom County Council concurs with the State legislature in finding that the shorelines of the State are among the most valuable and fragile of our natural resources and there is great concern throughout the State relating to their utilization, protection, restoration, and preservation. In addition, ever increasing pressures for additional uses are being placed on the shorelines necessitating increased coordination in their management and development. Furthermore, much of the shorelines and uplands adjacent thereto are in private ownership and unrestricted construction on the privately owned or publicly owned shorelines is not in the best public interest. Coordinated planning is necessary in order to protect the public interest associated with the shorelines while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational and concerted effort, jointly performed by local, State, and Federal governments, to prevent the harm inherent in uncoordinated and piecemeal development of shorelines.

.22 By ratifying Initiative 43B in the 1972 General Election, the people of the State approved the Shoreline Management Act of 1971 (RCW 90.58). This law vests counties and cities with the primary responsibility for conserving certain shorelines through comprehensive planning and reasonable regulation of development and use.

.23 This Council deems the goals, objectives, shoreline area designations, policies, regulations, and procedures set forth in this Shoreline Management Program to be essential to protection of the public health, safety and general welfare of the people of Whatcom County.

#### **23.10.30      ENACTMENT**

The County Council of Whatcom County does hereby ordain and enact into law this Shoreline Management Program and all sections and paragraphs of Title 23, Whatcom County Code.

#### **23.10.40      PURPOSES**

The purposes of this Program are:

.41 To promote the public health, safety, and general welfare by providing long range,

comprehensive policies and effective, reasonable regulations for development and use of Whatcom County shorelines; and

.42 To implement this Program in a positive, effective, and equitable manner; and

.43 To further assume and carry out the responsibilities established by the Act for Whatcom County, and to foster by adoption the following policy contained in RCW 90.58.020 for shorelines of the State:

"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, 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 the shorelines of the State, and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the State.

Permitted uses in the shorelines of the State shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water."

**23.10.50**      **TITLE**

This document shall be known and may be cited as "The Whatcom County Shoreline Management Program."

**23.10.60**      **SHORT TITLE**

This document may be referred to internally as "this Program," the "Shoreline Program," the "master program," or the "Shoreline Management Program."

**Chapter 23.20**

**GOALS AND OBJECTIVES**

Sections	20.10	Adoption
	20.20	Economic Development
	20.30	Public Access
	20.40	Recreation
	20.50	Circulation
	20.60	Shoreline Use
	20.70	Conservation
	20.80	Historical-Cultural
	20.90	Restoration

**23.20.10      ADOPTION**

In addition to the policy adopted in Section 23.10.40, the following goals and objectives relating to the several 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. These goals and objectives reflect the level of achievement believed to be desirable for all shoreline uses including conservation for the foreseeable future.

**23.20.20      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 on their location on or use of the shorelines of the state.

**.21      Goal Statement**

To create and maintain an economic environment which can coexist harmoniously with the natural and human environment.

**.22      Objectives**

- (a) Economic development should be encouraged which has minimal adverse effects upon the physical environment.
- (b) Economic development should be encouraged which has minimal adverse effects upon existing economic and social activities of value to the region.
- (c) New economic development should be encouraged which is either shore dependent or shore related.
- (d) New economic development should be encouraged to locate in areas already developed with similar uses.
- (e) Expansion should not be encouraged for existing development if clearly incompatible with this Program and the local area; more appropriate uses should be encouraged.

(f) Economic development proposed by the current Overall Economic Development Plan (OEDP) for Whatcom County should be encouraged.

(g) Economic policies contained in the Whatcom County Comprehensive Plan should be implemented through Title 20 in shoreline areas consistent with this Program.

### **23.20.30      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.

#### **.31      Goal Statement**

Access of the public to all types of shorelines will be substantially increased, provided that private rights, the public safety, and natural shorelines will be preserved.

#### **.32      Objectives**

(a) Access development and management should recognize the enjoyment of private shoreline property.

(b) Access development should be located, designed, and maintained so as to protect the natural environment and natural processes.

(c) Design of access should provide for the public health and safety.

(d) Access to publicly owned tidelands and shorelands should be acquired. The county, landowners, developers, other agencies and organizations should cooperate to enhance and increase public access to shorelines as specific opportunities arise.

(e) Visual access to shorelines and tidelands should be developed and protected.

(f) Physical or visual access to shorelines should be required as a condition of approval of open space tax designations pursuant to RCW 84.34.020, or of significant shoreline development activities, where appropriate, and where costs to the landowner or developer are not excessive.

### **23.20.40      RECREATION**

The recreation element provides for the preservation and expansion of recreational opportunities, including but not limited to parks, tidelands, beaches, bicycle and pedestrian paths, viewpoints and other recreational amenities.

#### **.41      Goal Statement**

Additional opportunities and space for diverse forms of recreation will be provided by public and private organizations.

**.42 Objectives**

- (a) Development and management of recreational areas should include provisions for adequate conservation of all affected natural resources.
- (b) Additional areas or access with high value for recreation should be obtained before other development makes such action impossible.
- (c) A balanced choice of recreational opportunities should be provided regionally.
- (d) Innovative and cooperative techniques among public agencies and private persons which increase and diversify recreational opportunities should be encouraged.
- (e) Unsatisfied recreation needs of regional residents should be addressed before those of non-residents.
- (f) Private and public investment in recreation facilities should be encouraged.
- (g) Recreational development should be located, designed, and operated to minimize adverse effects on other social, recreational, or economic activities.

**23.20.50 CIRCULATION**

The circulation element consists of the general location and extent of existing and proposed thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the Shoreline Use Element.

**.51 Goal Statement**

Circulation systems in shoreline areas will be shoreline dependent; and the physical and social environment will be protected from adverse effects of such circulation activities.

**.52 Objectives**

- (a) Shoreline circulation development should provide for alternate modes of travel with some freedom of choice, and encourage multiple use corridors where compatible.
- (b) Circulation systems should be located and designed in harmony with other economic and social activities, both present and future.
- (c) Circulation activities should neither unnecessarily nor unreasonably pollute the physical environment, nor reduce the benefits people derive from their property without compensation.
- (d) Circulation systems should be located and designed so that natural shorelines remain substantially unmodified.
- (e) Circulation systems which are not shoreline dependent should be located well away from the land-water interface unless no alternatives exist.
- (f) Physical and visual public access should be protected or enhanced as a result of public transportation development in shoreline areas.

**23.20.60      SHORELINE USE**

The shoreline use element considers the proposed general distribution and general location and extent of the use of shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, utilities and other categories of public and private uses of the land.

**.61      Goal Statement**

The Shorelines will be preserved or developed for an orderly balance of shoreline dependent uses.

**.62      Objectives**

- (a) Shoreline land and water areas particularly suited for specific and appropriate uses should be reserved for such uses.
- (b) Like or compatible uses should be located in rational patterns.
- (c) All uses shall be located, sited, and managed so that they do not cause unnecessary or substantial adverse effects to other appropriate shoreline uses and the physical environment.
- (d) Multiple use of shorelines should be encouraged and protected where appropriate, especially upon water surfaces.
- (e) Proposed changes in use should be suitable for the specific site in terms of, but not limited to, physical geography, geology, available utilities and access, and the appropriate subarea Comprehensive Plan.
- (f) Shoreline uses which enhance their specific areas or employ innovative features for purposes consistent with this Program should be encouraged.

**23.20.70      CONSERVATION**

The conservation element provides for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, upland and aquatic vegetation, fish and wildlife, geological resources and processes, and vital wetland areas.

**.71      Goal Statement**

All natural and social resources in the shorelines will be conserved to the maximum reasonable extent.

**.72      Objectives**

- (a) Renewable natural resources should be managed on a sustained yield concept.
- (b) Non-renewable natural resources should be extracted so as not to diminish the quality of other resources, and suitable reclamation shall be required.

- (c) The integrity of significant natural resources and processes should be protected from unnecessary degradation or interference.
- (d) Resources which are recognized to be scarce regionally or ecologically fragile should be preserved in a natural condition.
- (e) Aesthetic, scenic and recreational qualities of natural and developed shorelines are valuable social resources, and should be given adequate protection.
- (f) The design and operation of all types of shoreline use should incorporate appropriate conservation measures for resources significantly affected.

**23.20.80**      **HISTORICAL-CULTURAL**

The historical-cultural element provides for protection and restoration of buildings, sites, and areas having historical, cultural, scientific, or educational values.

**.81**      **Goal Statement**

Shoreline features of significant historic, cultural, archeological, scientific, or educational value will be protected and made accessible by public or private organizations.

**.82**      **Objectives**

- (a) Cooperation among public and private parties is to be encouraged.
- (b) Access to such sites must be designed and managed so as to give maximum protection to the resource.
- (c) The need to provide clear interpretation of historical and cultural features, and natural areas, should be recognized.

**23.20.90**      **RESTORATION**

The restoration element provides for the timely restoration of shorelines blighted by pollution, derelict, improper, or abandoned development, hazardous features, or illegal acts.

**.91**      **Goal Statement**

Restoration of severely blighted shorelines will be encouraged.

**.92**      **Objectives**

- (a) A cooperative restoration program between public agencies and landowners should be encouraged to correct blighted shorelines.
- (b) Care must be taken in restoration of shorelines to a natural condition that the key natural processes are re-established as well as more static natural features.
- (c) Restoration to a natural character should be the highest priority for blighted wetlands and other critical natural areas.

- (d) Development of severely blighted areas for beneficial use should be considered as an alternative if consistent with this Program.
- (e) Restoration efforts following catastrophic events should be commensurate with the actual or potential harm to life, appropriate development and natural resources.

**Chapter 23.30**

**SHORELINE AREA DESIGNATIONS**

Sections	30.10	Shoreline Area Designations
	30.20	Shore Map
	30.30	Interpretation
	30.40	Designation Criteria and Policies

**23.30.10      SHORELINE AREA DESIGNATIONS**

.11      There is hereby made a part of this Program a set of six designations for shorelines called Shoreline Areas; the definitions, purposes, criteria for designation, and policies follow. 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. These designations recognize some degree of geographic unity which differs from adjacent shoreline reaches and other areas in terms of natural features and existing or potential development patterns.

**.12      Shoreline Area Designations have been determined after consideration of:**

- (a)      Existing development patterns together with the County Comprehensive Plan and other officially adopted plans; and
- (b)      The physical and biological capabilities and limitations of such shorelines; and
- (c)      The goals of Whatcom County citizens for their shorelines; and
- (d)      State Policy for Shorelines (RCW 90.58.020).

.13      Pursuant to RCW 90.58.100(4), consideration has been given in designation of State owned shorelines that are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public.

.14      The policies, regulations and standards applicable to the Cherry Point Management Unit are found in Section 23.100.210.

**23.30.20      SHORELINE MAP**

.21      There is hereby made a part of this Program a map (Appendix D) which shall be known as the Official Shoreline Map. There shall be only one official copy of this map which shall reside in the custody of the State Code Reviser. Additional copies have been provided to the Whatcom County Auditor, the Washington Department of Ecology and the Whatcom County Planning Department where they are available for public review.

.22      The Shoreline Map shall indicate which county shorelines together with their associated wetlands are subject to this Program's jurisdiction. This map shall also indicate the Shoreline Area designations assigned to such shorelines by this Program pursuant to Department of Ecology regulations (WAC 173-16-040(4)).

.23 Those shoreline land and water areas in Federal reserves which are subject to this Program because of non-Federal ownership, lease, or other considerations as specified in Section 23.50.60 and are not included on the Shoreline Map are hereby designated Conservancy or Aquatic Shoreline Areas, as appropriate, for the purposes of this Program.

**23.30.30 INTERPRETATION**

.31 If disagreement develops as to the exact location of a shoreline management jurisdiction boundary line, the official jurisdiction maps received by the Administrator from the Department of Ecology, hereinafter called the Shoreline Atlas, shall prevail.

.32 If disagreement develops as to the exact location of a Shoreline Area Designation boundary line, the following rules shall apply:

(a) Boundaries indicated as approximately following lot, tract, or section lines shall be so construed.

(b) Boundaries indicated as approximately following roads or railways shall be respectively construed to follow their centerlines.

(c) Boundaries indicated as approximately parallel to or extensions of features indicated in (a) or (b) above shall be so construed.

(d) Boundaries indicated as approximately occurring at definite changes in topography, shoreforms, geology, soils, or vegetative cover shall be so construed.

.33 Whenever existing physical features are inconsistent with boundaries on the Shoreline Map or Shoreline Atlas, the Administrator shall interpret the boundaries. Appeals may be made from such interpretations pursuant to Section 23.100.210.

**23.30.40 DESIGNATION CRITERIA AND POLICIES**

**.41 Urban Shoreline Area**

(a) The Urban Shoreline Area is defined as an area of intensive development including but not limited to urban density residential, commercial and industrial uses.

(b) The purpose of the Urban designation is to ensure optimum regional benefits through intensive development which is appropriate and which enhances the area.

(c) The following are secondary criteria for Urban designations:

1. Areas with potential for a type of urban development which would be consistent with this Program and other public plans; or

2. Areas which do not contain natural limitations to urban use, and which have adequate utilities and access; or

3. Areas where present urban development is scattered and where infilling with new development would be consistent with this Program as well as preferable to further scattering of development.

(d) The following policies are adopted for Urban areas:

1. New urban character development should be directed toward already developed or developing areas where compatible.
2. Physical and visual access to shorelines for the public should be strongly encouraged and planned for.
3. Multiple use of shorelines should be sought and encouraged.
4. Additional density should be permitted and encouraged in exchange for additional open space and public access to shorelines.

**.42 Urban Resort Shoreline Area**

(a) The Urban Resort Shoreline Area is defined as an area developed with residential and commercial uses, with emphasis in the latter on hotels, motels, shops, restaurants, commercial rental campgrounds, rental cabins, and shoreline related indoor recreation facilities, all geared to the needs of the tourist and day visitor.

(b) The purpose of the Urban Resort designation is to assure optimum regional benefits through intensive resort development which meets present and future tourist and day visitor demands in a manner compatible with the character of the area in which it is located.

(c) A basic criterion for designation of an Urban Resort Area is the presence of substantial natural attraction(s) which might reasonably attract resort development compatible with other development in the area. Additional factors which would support Urban Resort Area designation are:

1. Concentration of existing resort or resort-oriented uses;
2. Existence of a limited amount of resort development where infilling with new development would be consistent with this Program as well as preferable to further scattering of resorts;
3. Absence of natural limitation to resort use;
4. Existence of adequate utilities and access.

(d) The following policies are adopted for Urban Resort Areas:

1. Scale and design of resort development should assure compatibility with existing and potential nearby development, with uses of adjacent shoreline areas, and with natural shoreline resources.
2. Physical and visual access to shorelines for the public should be strongly encouraged and planned for.
3. Additional building height over three stories should be permitted if additional open space, view areas, public access and/or other amenities are provided.

**.43 Rural Shoreline Area**

(a) The Rural Shoreline Area is defined as an area developed at a low overall density or used at a low to moderate intensity; including, but not limited to: residences, agriculture and outdoor recreation developments.

(b) The purpose of the Rural designation is to ensure that uses are compatible with area physical capabilities and limitations, natural resources and other appropriate low density development.

(c) The following are secondary criteria for Rural designation:

1. Areas of low density development where natural vegetative cover and topography have been altered; or

2. Areas now used or potentially usable for agriculture including lowland tree farms; or

3. Areas where residential development is or should be of low density in order to be compatible with other uses, or, because of limitations by physical features, utility capabilities or access; or

4. Areas where a low intensity of outdoor recreation use or development would be appropriate and compatible with other uses and the physical environment; or

5. Areas which would be of high benefit to the region as a low density buffer between other designations for the purpose of minimizing conflicts among uses.

(d) The following policies are adopted for Rural Areas:

1. Soils valuable for agriculture and commercial farms should be protected from irreversible and incompatible uses.

2. Intensive, urban character development should be sharply limited and permitted only if substantial open space and/or public access to shorelines is provided.

3. Extensive, urban character or high density development should be directed to Urban Areas.

4. New development in Rural Areas should protect or enhance the area character by limiting building density and height, providing ample shore setbacks and open space, and promoting visual harmony.

5. Public or private outdoor recreation facilities should be encouraged if compatible with agriculture or other appropriate uses.

6. New large scale industrial or commercial development should be discouraged except in areas so designated on the County Comprehensive Plan.

**.44 Conservancy Shoreline Area**

(a) The Conservancy Shoreline Area is defined as:

1. A shoreline area containing natural resources which can be used/managed on a multiple use basis without extensive alteration of topography or banks; including but not limited to forest, agricultural and mineral lands, outdoor recreation sites, fish and wildlife habitat, watersheds for public supplies, and areas of outstanding scenic quality; and/or

2. A shoreline area containing hazardous natural conditions or sensitive natural or cultural features which require more than normal restrictions on development and use of such areas; including, but not limited to: eroding shores, geologically unstable areas, steep slopes, floodways and natural accretion shoreforms, and valuable natural wetlands or historic sites.

(b) The purpose of the Conservancy designation is to obtain long term wise use of its natural resources, including multiple use whenever practical, and to prevent forms of development which would be unsafe or incompatible with more appropriate uses. This policy should be furthered by keeping overall intensity of development or use low, and by maintaining most of the area's natural character.

(c) The following are secondary criteria for Conservancy designation:

1. The area contains renewable natural resources or processes which should be managed so that the resource base is maintained, such as on a sustained yield basis; or

2. The area is more valuable to the region under multi-purpose, sustained yield management of its natural resources than through any form of more intensive or single purpose development; or

3. The area contains valuable or sensitive natural or cultural features whose optimum use precludes more than a low overall density of residents, recreationists, structures, or livestock, as well as extensive alterations to topography or banks; or

4. The area is inherently hazardous for moderate to high density development or use in terms of public health, safety and property damage potential; or

5. The area has recreational or esthetic qualities of high value to the region which would likely be diminished by moderate to intense development.

(d) The following policies are adopted for Conservancy Areas:

1. Renewable resources should be managed on a sustained yield basis, and vital natural processes should be protected, so that the overall resource base is maintained. Non-renewable resources should only be consumed in a manner compatible with conservation of other resources and other appropriate uses.

2. Multiple uses of the shoreline should be strongly encouraged and maintained if such uses are compatible with each other and conservation of shoreline resources. Dominant, intensive single uses over large areas should be discouraged.

3. Area resources and natural shorelines should be protected whenever necessary from harmful concentrations of people, livestock, building or artificial character structures. Uses which require substantial alterations to the area's natural character, especially its topography and land-water edge, should be directed to Urban or Rural Areas.

4. Development of hazardous areas should be designed and/or located so as to reduce potential danger to people and property. Development of moderate to high density or which requires defense works should be directed to less hazardous areas.

5. Outstanding recreational or scenic values should be preserved and protected from incompatible development.

#### **.45 Natural Shoreline Area**

(a) The Natural Shoreline Area is defined as an area having high value in a natural condition which has either little or no development; including, but not limited to: estuaries, marshes, swamps, accretion shoreforms, gorges and other areas publicly managed in their natural condition.

(b) The purpose of the Natural designation is to ensure long term preservation of those resources which yield optimum benefits to the community or region in their natural condition.

(c) The following are secondary criteria for Natural designation:

1. The resource is unique or scarce in the region.
2. Preservation of the resource is more consistent with the purposes of this Program than any other type of management.
3. The resource is most productive in biologic terms if left natural and undeveloped or else restored.
4. The resource as a natural system is intolerant of extractive or unrestricted uses, or physical modifications.

(d) The following policies are adopted for Natural Areas:

1. Preservation of the area's natural features and overall character must receive priority over any other potential uses.
2. Private and/or public enjoyment of Natural Areas should be encouraged and facilitated whenever possible without damaging the area.
3. Development should be limited to low key recreational facilities which are visually and physically compatible with the area's unique character; such development should be severely restricted in density and design so as to be clearly subordinate to the area's natural character.
4. Development which would adversely impact the area's natural features or overall character should be directed to other Areas.

#### **.46 Aquatic Shoreline Area**

(a) The Aquatic Shoreline Area is defined as the area waterward of the OHWM of all streams and rivers, all marine water bodies, and all lakes, together with their underlying lands and their water column; including, but not limited to: bays, straits, harbor areas, waterways, coves, estuaries, streamways, tidelands, bedlands, wetlands and shorelands.

(b) The purpose of the Aquatic designation is to:

1. Encourage and protect appropriate multiple uses, or dominant uses in limited areas, in navigable or open waters.
2. Preserve the limited water surfaces, tidelands and shorelands from encroachment; and
3. Preserve and ensure wise use of the area's natural features and resources which are substantially different in character from those of adjoining uplands and backshores.

(c) The following are secondary criteria for Aquatic designation:

1. Marine water areas seaward of the ordinary high water mark including estuarine channels and wetlands;
2. Lakes subject to this Program below the ordinary high water mark;
3. Streamways of rivers and streams within jurisdiction of this Program, and
4. Wetlands abutting the above three categories of water bodies, provided a more protective designation has not been specifically adopted.

(d) The following policies are adopted for Aquatic Areas:

1. Development should be sharply limited to those uses which are compatible with conservation of Area resources including water, fish and wildlife, and recreation areas, as well as with other appropriate uses and the area's unique natural character. Development in conflict with these objectives should be directed to an on shore location.
2. Almost all marine, lake, and river surfaces, water column and bedlands are public property and as such their openness and extent must be protected from unnecessary obstruction or encroachment. Offshore development should be limited to those uses which are truly water surface dependent, or which provide broad and substantial compensating benefits to the community or region.
3. Multiple use of water surfaces and structures in Aquatic Areas must be protected and encouraged whenever compatible with resource conservation and other appropriate uses. The need for a specific shoreline development to be multiple-purpose increases as its impact on the shoreline increases.
4. As with Conservancy, multiple use and sustained yield are the two overriding policies for management of Aquatic Areas. Development in substantial conflict with these policies should not be permitted due to the public property nature of this area and its natural features.

#### **.47 Cherry Point Management Unit**

The policies, regulations and standards, etc. applicable to the Cherry Point Management Unit are found in Section 23.100.210.

## Chapter 23.40

### SHORELINES OF STATE-WIDE SIGNIFICANCE

Sections	40.10	Adoption of Policy
	40.20	Designation of Shorelines of State-wide Significance
	40.30	Policies for Shorelines of State-wide Significance

#### **23.40.10**      **ADOPTION OF POLICY**

In accordance with RCW 90.58.020, the following management and administrative policies are hereby adopted for all Shorelines of State-wide Significance in Whatcom County, as defined in RCW 90.58.030(2)(e) and identified in this Section. The Act requires that the County Shoreline Management Program give preference to uses which generally are consistent with the state-wide public interest in such shorelines. Also uses shall be given preference which are consistent with the policies contained in RCW 90.58.020 as follows:

The legislature declares that the interest of all of the people shall be paramount in the management of Shorelines of State-wide Significance. The Department of Ecology in adopting guidelines for Shorelines of State-wide Significance, and local government, in developing master programs for Shorelines of State-wide Significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the state-wide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shoreline;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Conversely, uses which are not generally consistent with these policies should not be permitted on such shorelines.

#### **23.40.20**      **DESIGNATION OF SHORELINES OF STATE-WIDE SIGNIFICANCE**

In accordance with the criteria of RCW 90.58.030(2)(e), the legislature designated the following shorelines of Whatcom County, including the uplands and wetlands as therein defined, as having state-wide significance:

**.21 Lakes:** Lake Whatcom, Ross Lake and Baker Lake

**.22 Streams:**

(a) Nooksack River: its main stem downstream to Bellingham Bay, its north fork to the mouth of Glacier Creek and its south fork to the mouth of Hutchinson Creek.

(b) Skagit River: upstream of the Whatcom-Skagit County line to the point where the mean annual flow is measured at one thousand feet per second or more, approximately, at the

confluence of Newhalem Creek.

**.23 Marine:**

- (a) Birch Bay from Birch Point to Point Whitehorn.
- (b) All other marine waters, water columns, and bedlands seaward of extreme low tide.

**23.40.30 POLICIES FOR SHORELINES OF STATE-WIDE SIGNIFICANCE**

**.31 The state-wide interest should be recognized and protected over the local interest in Shorelines of State-wide Significance.**

- (a) The programs and policies of state agencies which are consistent with the act should be recognized and supported in formulating and administering local policies and regulations. Due consideration should be given to the recommendations of such agencies on the developing program and on specific applications.
- (b) Comments and advice from groups and individuals representing state-wide or regional interests should be solicited on this program and on specific applications.
- (c) Comments and advice should be solicited from individuals or groups with expertise in scientific, social science, and design disciplines applicable to shoreline management; including, but not limited to biology, geology, engineering, geography, economics, law, oceanography, and forestry.

**.32 The natural character of Shorelines of State-wide Significance should be preserved.**

- (a) State-wide Significant Shorelines should be designated into shoreline area categories, and policies and regulations should be implemented which will prevent unnecessary artificial character intrusions.
- (b) Where intensive development already exists, policies and regulations should be carried out which will allow continued or increased use consistent with this Program. Reduction of adverse impacts on shorelines should be encouraged through redevelopment to standards of this Program. More intensive development for appropriate uses in such areas should be considered a preferable alternative to expansion into low density use areas.
- (c) Where commercial timber cutting takes place pursuant to Section 23.100.50 and RCW 90.58.150, reforestation as soon as it is feasible should be ensured.

**.33 Uses of Shorelines of State-wide Significance should result in long term benefits to the people of the state.**

- (a) Activities which use shore resources on a sustained yield or non-consuming basis and which are compatible with other appropriate uses should be given priority over uses not meeting these criteria.
- (b) The range of options for shoreline use should be preserved to the maximum possible extent for succeeding generations. Development which consumes valuable, scarce or

irreplaceable natural resources should not be permitted if alternative sites are available.

(c) Potential short term economic gains or convenience should be measured against potential long term and/or costly impairment of natural features.

(d) In design review of new or expanding development, protection or enhancement of aesthetic values should be actively promoted.

**.34 Resources and ecological systems of Shorelines of State-wide Significance should be protected.**

(a) Shoreline Area designations, policies and regulations should conserve valuable shoreline resources and processes including aesthetic values to the maximum extent possible.

(b) Those limited shorelines containing unique, scarce or sensitive resources should be left in their natural state.

(c) Erosion and sedimentation from development sites should be controlled at levels which will minimize adverse impact on hydraulic and hydrologic processes. If site conditions prevent effective, feasible erosion and sediment control, excavations, land clearing, or other activities likely to result in significant erosion should be severely limited.

(d) Public access development in extremely sensitive areas should be restricted or prohibited. All forms of recreation or access development should be designed to protect the resource base upon which such uses in general depend.

**.35 Public access to publicly owned areas in Shorelines of State-wide Significance should be increased.**

(a) Public and private developments should be encouraged to provide trails, viewpoints and water access points along shorelines whenever possible. Such development is recognized as a high priority use.

(b) Development not requiring a waterside or surface location should be located inland so that lawful public enjoyment of shorelines is enhanced.

**.36 Recreational opportunities for the public should be increased on Shorelines of Statewide Significance.**

(a) Shorelines should be designated into shorelines areas and policies adopted that will encourage public and private development to provide facilities for shore related outdoor recreation.

(b) Lodging and related facilities should be located inland with appropriate means of access provided.

## Chapter 23.50

### APPLICABILITY, EXEMPTIONS and NONCONFORMING USES

Sections	50.10	Geographic Jurisdiction
	50.20	Application to Persons and Development
	50.30	Exemptions
	50.40	Relationship to Other Local Regulations
	50.50	Relationship to Other State and Federal Laws
	50.60	Applications Within Federal Reserves
	50.70	Liberal Construction
	50.80	Program Effects on Property Values
	50.90	Nonconforming Development
	50.100	Property Rights and Public Access

#### **23.50.10**      **GEOGRAPHIC JURISDICTION**

The provisions of this Program shall apply to all shorelines, all Shorelines of State-wide Significance and shorelands as defined in Chapter 23.110 in unincorporated Whatcom County. The location and extent of such shorelines are shown on the Official Shoreline Map appended to this document (Appendix D) as an integral part of this Program.

#### **23.50.20**      **APPLICATION TO PERSONS AND DEVELOPMENT**

.21 This Program shall apply to any person as defined in Chapter 23.110.

.22 This Program shall apply to any development or use as defined in Chapter 23.110. All development and use of shorelines of the state shall be carried out so as to be consistent with this Program and the policy of the Act as required by RCW 90.58.140(1), whether or not a shoreline permit is required for such development.

.23 No substantial development as defined in Chapter 23.110 shall be undertaken 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 activities listed in Section 23.50.32.

#### **23.50.30**      **EXEMPTIONS**

##### **.31 Application and Interpretation of Exemptions**

(a) 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.

(b) An exemption from the substantial development permit process is not an exemption from compliance with the State Shoreline Management Act or this master program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this master program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to this master program or is an unlisted use, must obtain a conditional use permit even though the development or use does not

require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.

- (c) The burden of proof that a development or use is exempt is on the applicant.
- (d) If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
- (e) 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 the local master program.

### .32 Exemptions Listed

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 Section 23.50.33 of this Program shall be required only for those activities listed in Section 23.50.34 (b) and (c).

- (a) Any development of which the total cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars (\$2,500), if such development does not materially interfere with the normal public use of the water or shorelines of the state. For the purpose 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 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

bioengineering 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 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 which 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 which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, WAC 173-27 or this program, obtained. All emergency construction shall be consistent with the policies of 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, on shorelands, 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, a feedlot of any size, all processing plants, other activities of a commercial nature, 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 which 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 Section 23.110.A;

(h) Construction of a dock, including a community dock, designed for pleasure craft only, for the private non-commercial use of the owner, lessee, or contract purchaser of a single family and multi-family residences. 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:

(1) In salt water, the fair market value of the dock does not exceed \$2,500;

(2) In fresh waters the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$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 chapter.

For the purpose of this section salt water 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;

(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 which were created, developed or utilized, primarily as a part of an agricultural drainage or diking system; and

(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 an application for development authorization under this program, if:

(1) The activity does not interfere with the normal public use of surface waters;

(2) 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;

(3) 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;

(4) 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,

(5) 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 are 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 herein. The Administrator shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving a complete application form from the applicant. No fee may be charged for accepting and processing applications for watershed restoration projects as used in this section.

(1) "Watershed restoration project" means a public or private project authorized by the

sponsor of a watershed restoration plan that implements the plan or part of the plan and consists of one or more of the following activities:

(A) A project that involves less than ten miles of stream reach, in which less than twenty-five 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 two hundred square feet in floor area and is located above the ordinary high water mark.

(2) "Watershed restoration plan" means a plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, recreation, or enhancement of the natural resources character, and ecology of a stream, stream segment, drainage area or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

(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:

(1) 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;

(2) The project received hydraulic project approval by the Department of Fish and Wildlife pursuant to chapter 75.20 RCW, and

(3) 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.

### **.33 Hazardous Substance Remedial Actions**

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.

**.34 Statement of Exemption**

In accordance with WAC 173-27-040(1), and section 23.50.31 of this program, all exemptions shall be construed narrowly. Whenever the exempt activity also requires a U.S. 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 statement of exemption shall be sent to the applicant and Ecology pursuant to WAC 173-27-050.

(a) The Administrator is hereby authorized to grant or deny requests for statements of exemption from the shoreline substantial development permit requirement for activities within shorelines which are specifically listed in Section 23.50.31. Such statements shall be applied for on forms provided by the Administrator. The statement shall be in writing and shall indicate the specific exemption from Section 23.50.30 of this program that is being applied to the development and provide a summary of the Administrator's analysis of the consistency of the project with this master program and the Shoreline Management 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 Section 23.60.200.

(b) In the case of certain types of shoreline development normally exempt from the shoreline permit requirement pursuant to Section 23.50.31, no dredging, stream control works, historic site alteration, landfill or excavation, dock, shore defense works, free standing signs, or any development within an Aquatic or Natural shoreline designation may commence until a statement of exemption has been obtained from the Administrator; PROVIDED that, no statement of exemption is required for emergency development pursuant to WAC 173-14-040(1)(d).

(c) No statement of exemption may be required for other uses or developments nominally exempt pursuant to Section 23.50.31 unless the Administrator has cause to believe a substantial question exists as to qualifications of the specific use or development for the exemption.

**.35 Exemptions shall expire as set forth in section 23.60.160.**

**23.50.40 RELATIONSHIP TO OTHER LOCAL REGULATIONS**

.41 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 which apply to the shoreline permit.

.42 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. 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).

.43 In the case of zoning conditional use permits and/or variances required by Title 20 zoning regulations for development which is also within the jurisdiction of this Program, the County Hearing Examiner with the advice of the Administrator shall attach conditions to such

permits and variances as are required to make such development consistent with this Program.

.44 In the case of subdivision of land, including short subdivisions, within the jurisdiction of this Program which requires county approval, the Hearing Examiner, Administrator or County Council, as appropriate, shall attach conditions to such approval as are required to make the design of such subdivision(s) consistent with this Program.

.45 Other local ordinances which may be applicable to shoreline development or use include, but are not limited to:

- (a) County Building, Plumbing, Mechanical, and Fire Codes
- (b) County Water Safety Ordinance
- (c) County Health Department Sewage Disposal Regulations
- (d) County Health Department Solid Waste Regulations
- (e) County Zoning and Subdivision Regulations
- (f) County Development Standards
- (g) Critical Area Ordinance

.46 Pursuant to RCW 90.58.340, the county shall review administrative and management policies, regulations, plans and ordinances relative to lands under county jurisdiction adjacent to shorelines so as to achieve a use policy on such lands that is consistent with the Act and this Program.

.47 The Act and this Program adopted pursuant thereto comprise the basic state and county law regulating use of shorelines in the county. In the event provisions of this Program conflict with other applicable county policies or regulations, the more restrictive shall prevail.

#### **23.50.50 RELATIONSHIP TO OTHER STATE AND FEDERAL LAWS**

.51 Obtaining a shoreline permit or statement of exemption for a development or use does not excuse the applicant from complying with any other State, regional, or Federal statutes or regulations applicable to such development or use.

.52 At the time of application or initial inquiry the Administrator shall inform the applicant of such other statutes and regulations relating to shoreline issues that may be applicable to the applicant's project to the extent that the Administrator is aware of any such statutes. However, the final responsibility for determining applicable statutes and regulations and complying with the same rests with the applicant or responsible person carrying out the use or development in question.

.53 Washington State statutes together with implementing regulations adopted pursuant thereto which may be applicable to shoreline development or use include, but are not limited to:

- (a) Flood Control Zone Act, RCW 86.16
- (b) Forest Practices Act, RCW 76.09
- (c) Food Fish and Shellfish Act, RCW 75
- (d) Water Pollution Control Act, RCW 90.48
- (e) Land Subdivision Act, RCW 58.17
- (f) Surface Mining Act, RCW 78.44
- (g) Washington Clean Air Act, RCW 70.94
- (h) State Environmental Policy Act (SEPA), RCW 43.21C
- (i) Camping Club Act, RCW 19.105

- (j) Environmental Coordination Procedures Act, RCW 90.62
- (k) Log Patrol Act, RCW 76.40
- (l) Water Resources Act of 1971, RCW 90.54, and
- (m) Growth Management Act, RCW 36.70

Regional authority regulations authorized by state law which may be applicable to shoreline development or use include, but are not limited to:

- (a) Northwest Air Pollution Authority regulations
- (b) Puget Sound Water Quality Plan

.55 Federal statutes together with implementing regulations adopted pursuant thereto which may be applicable to shoreline development or use include, but are not limited to:

- (a) Rivers and Harbors Act of 1899
- (b) Fish and Wildlife Coordination Act of 1958
- (c) National Environmental Policy Act of 1969, (NEPA)
- (d) Coastal Zone Management Act of 1972, as amended
- (e) Federal Water Pollution Control Act, as amended
- (f) Flood Insurance Act of 1968, as amended,
- (g) Clean Air Act, as amended

#### **23.50.60 APPLICATION WITHIN FEDERAL RESERVES**

.61 The shoreline permit procedure, 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.

.62 As recognized by RCW 90.58.350, the provisions of this master Program shall not apply to lands held in trust by the United States for Indian Nations, tribes or individuals.

#### **23.50.70 LIBERAL CONSTRUCTION**

.71 As provided for in RCW 90.58.900, the Act is exempted from the rule of strict construction; the Act and this Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and this Program were enacted and adopted, respectively.

#### **23.50.80 PROGRAM EFFECTS ON PROPERTY VALUES**

.81 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.

.82 Designation of private property as a Natural or Conservancy Shoreline Area pursuant to Section 23.30.40 fulfills the "open space land" definitional requirements of the Open Space Taxation Act of 1970, as amended, RCW 84.34.020(1).

**23.50.90**      **NON-CONFORMING DEVELOPMENT**

.91 Non-conforming developments, uses and structures may continue to be used for the same purpose(s) as existed at time of approval of the Shoreline Program (August 27, 1976), or the approval of a specific amendment which made the use or development non-conforming. Non-conforming structures that are used for a conforming use may be maintained, repaired, renovated, remodeled, enlarged or expanded, PROVIDED, that the change to the structure does not increase the extent of non-conformity, including encroaching into areas where construction or use would not be allowed for new structures or developments, AND FURTHER PROVIDED THAT 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 section 23.110.A.9 of this program into areas where new structures or developments would not now be allowed under the program may be approved by conditional use permit without a variance with the following restrictions:

- (a) The residential structure must be located landward of the ordinary high water mark, and
- (b) The enlargement, expansion or addition shall not extend either further waterward than the existing structure or further into the minimum side yard setback, than the existing structure. Encroachments that extend waterward beyond the existing single family residence or further into the minimum side yard requires a variance.

.92 This Program shall not restrict the maintenance, repair, renovation or remodeling of any non-conforming use existing on the effective date of adoption or amendment of this Program as described in .91 above. Such repair shall be allowed only to the extent that non-conformance with the standards and regulations to this Program is not increased.

.93 This Program shall not restrict the reconstruction of any pre-existing single family residence, normal appurtenances thereto, which for the purpose of this section shall include bulkheads and docks or agricultural structure existing on the effective date of this Program, which are damaged or destroyed by fire, accident or the elements; PROVIDED that, any non-conformance with the standards and regulations of this Program shall not be increased by such reconstruction.

.94 Reconstruction of any development other than those identified in .93 or .100 shall be done in accordance with the requirements of this Program;

.95 An existing use listed as a conditional use in this program which either existed prior to the adoption of this master program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit shall be considered a non-conforming use.

.96 A structure for which a variance has been issued shall be considered a legal non-conforming structure and the requirements 23.50.91 through .100 shall apply as they apply to pre-existing non-conformities.

.97 If use of a non-conforming development ceases for more than one year, but not more than two years, resumption of such use may be allowed as a conditional use; PROVIDED that, no such restriction shall apply to single family residences or agricultural structures which meet the exemption qualifications of 23.50.30.

.98 Expansion of a non-conforming use may be authorized as a conditional use, provided all of the following criteria are met:

- (a) the goals and policies of this Program are met including promotion of public access;
- (b) the use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose; and
- (c) uses which are specifically prohibited or which would thwart the intent of the Act or this Program shall not be authorized.

If approved, appropriate conditions shall be attached to the permit to ensure conformance with the Program policies and regulations as much as is reasonably practical.

.99 A nonconforming development which is moved any distance must be brought into conformance with this Program and the Act.

.100 If a nonconforming development other than those identified in 23.50.93 is damaged to an extent not exceeding seventy-five percent replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that the application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.

.101 A structure which is being or has been used for a non-conforming use may be used for a different non-conforming use only upon the approval of a conditional use permit. In addition to the conditional use criteria of section 23.60.190, before approving a conditional use for a change in non-conforming use, the Hearing Examiner shall also find that:

- (a) No reasonable alternative conforming use is practical because of the configuration of the structure, and
- (b) The proposed use will be at least as consistent with the policies and provisions of the act and this master program and as compatible with the uses in the area as the preexisting use.

In addition, the Hearing Examiner may attach such conditions to the permit as are deemed necessary to assure compliance with the above findings, the requirements of this master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

### **23.50.100      PROPERTY RIGHTS AND PUBLIC ACCESS**

.101 This Program does not alter existing law on access to or trespass on private property.

.102 This Program does not give the general public any right to enter private property without the owner's permission.

## Chapter 23.60

### SHORELINE PERMITS

Sections	60. 10 Caveat
	60. 20 Authority
	60. 30 Application and Public Hearing Requirement
	60. 40 Shoreline Fees
	60. 50 SEPA Compliance
	60. 60 Notice of Receipt of Application
	60. 70 Notice of Open Record Hearing
	60. 80 Public Hearing Rules
	60. 90 Review and Burden of Proof
	60.100 Decisions
	60.110 Permit Conditions
	60.120 Appeal and Reconsideration
	60.130 Notification of Final Action
	60.140 Permit Revisions
	60.150 Recission and Modification
	60.160 Expiration
	60.170 Substantial Development Permit Criteria
	60.180 Variance Permit Criteria
	60.190 Conditional Use Permit Criteria
	60.200 Administrative Decision Appeals
	60.210 Other Local Regulations

#### **23.60.10**      **CAVEAT**

.11 Whenever an application for a permit under the zoning ordinance or for approval under the subdivision ordinance accompanies a shoreline permit application, time requirements and notice provisions for processing those applications shall be preempted by the shoreline Program procedural rules.

.12 Whenever a shoreline permit application is accompanied by any other permit request that requires only a recommendation to the County Council by the Hearing Examiner, the shoreline permit decision shall also be in the form of a recommendation and the Council shall have final decision authority.

#### **23.60.20**      **AUTHORITY**

.21 The Hearing Examiner is hereby authorized to grant or deny shoreline permit applications requiring public hearings provided the applications are not accompanied by a planned unit development or major development permit application. The Hearing Examiner shall make a recommendation to the County Council on shoreline permits that accompany planned unit developments and major development permits.

.22 Final decisions on shoreline permits when accompanied by a planned unit development or zoning major development permit shall be made by the County Council.

.23 Whenever a shoreline permit application is subject to the rules and regulations of the

State Environmental Police Act (SEPA, RCW 43.21C), the time requirements of SEPA shall apply, where applicable, to such application.

**23.60.30 APPLICATION AND PUBLIC HEARING REQUIREMENT**

.31 Shoreline permits shall be applied for on forms provided by the Administrator.

**.32 Public Hearings**

Upon receipt of a complete shoreline permit application, the Administrator shall determine within 10 days if the application requires a public hearing. Such determination shall be positive if the application meets any of the following criteria:

- (a) The proposal has a cost or market value in excess of \$100,000; or
- (b) The proposal would result in development of an area larger than five acres; or
- (c) The proposal is a new or expanded marina, pier, aquaculture structure, any building over 35 feet high, mine, dam, stream diversion structure, landfill in navigable waters; or
- (d) The Administrator has probable cause to believe the proposal would be controversial (e.g. public response to Notice of Receipt of Application); or
- (e) The proposal is determined to have a significant impact on the environment and an Environmental Impact Statement is required; or
- (f) The proposal requires a variance and/or conditional use approval pursuant to this Program.

.33 Shoreline substantial development permit applications which are determined by the Administrator NOT to need a public hearing shall be approved or denied by the Administrator.

.34 If a shoreline permit is required in conjunction with an application for permits under the zoning ordinance or subdivision ordinance, those requiring public hearings shall be simultaneously processed and all legal notices shall identify the nature of the variance request or conditional use proposed if any.

**.35 Inactive Application, Expiration**

Any application for a shoreline permit 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 Administrator may grant a single 90 day extension for good cause. Delays such as those caused by public notice requirements, environmental (SEPA) review or litigation directly related to the proposal or changes in government regulations shall not be considered as part of the inactive period.

**.36 Vested Rights**

All shoreline permit applications, exemptions or other approvals shall be subject to the provisions of this Program which are in effect at the time of application.

**23.60.40**      **SHORELINE FEES**

.41 Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals and other required approvals shall be paid to the County at the time of application in accordance with the adopted permit fee schedule in effect at that time.

.42 When any given project requires more than one of the following permits or applications, the total amount of shoreline fees shall be reduced by twenty-five percent (25%):

- Preliminary Plat Application
- Rezone Application
- Major Development Permit
- Planned Unit Development
- Binding Site Plan

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.

.43 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.

.44 If an application is withdrawn within thirty (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 fifty (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 fifty (50) percent of the fees paid.

.45 No fees shall be collected from an agency of Whatcom County government.

**23.60.50**      **SEPA COMPLIANCE**

.51 Shoreline permit applications which are not categorically exempt shall be subject to environmental review by the responsible official of Whatcom County pursuant to WAC 197-11.

.52 As part of the SEPA checklist review, the responsible official may require additional information regarding the proposed development in order to make an equitable and reasonable determination of the development's potential impact on the environment.

.53 Failure of the applicant to submit sufficient information for a threshold determination to be made shall be grounds for refusal of the application by the responsible official.

.54 Variances not resulting in change in land use or density are categorically exempt per WAC 197-11-800(6)(b).

**23.60.60**      **NOTICE OF RECEIPT OF APPLICATION**

.61 Upon receipt of a completed shoreline permit application the county shall issue a Notice

of Application for a Proposed Land Use Action in the manner set forth in section 2.33.060 of the county's Permit Review Procedures, Chapter 2.33 WCC and to notify the applicant of his notice responsibility under that section.

.62 An Affidavit of Publication of the receipt of application shall be attached to and accompany the application through the review of decision process of the Department of Ecology.

**23.60.70 NOTICE OF OPEN RECORD HEARING**

.71 For shoreline permits requiring an open record hearing the Hearing Examiner shall provide Notice of an Open Public Record Hearing in the manner set forth in Section 2.33.070 of the County's Permit Review Procedures, Chapter 2.33 WCC and shall notify the applicant of his notice responsibility under that section.

.72 An affidavit of publication of the notice of open record hearing as required by WCC 2.33.070 shall be attached to and accompany the application through the decision review process of the Department of Ecology.

**23.60.80 PUBLIC HEARING RULES**

.81 Public hearings on shoreline permit applications shall be held within 45 working days of the receipt of the application by the Hearing Examiner unless a continuance is granted pursuant to the rules and procedures of the Hearing Examiner. However, the time requirements set herein shall be suspended pending compliance with State Environmental Policy Act requirements.

.82 The hearing shall be open to the public. The Hearing Examiner shall conduct the hearing and prepare a record thereof by providing an opportunity for all interested persons to speak and submit exhibits relevant to the application.

.83 The Hearing Examiner may, at his discretion, order a continuance of the public hearing. Where the Hearing Examiner has chosen to do so, he will publicly announce the time, date, and place of the continued hearing and no further notice is required.

**23.60.90 REVIEW AND BURDEN OF PROOF**

.91 Hearing Examiner deliberations of every proposal shall include review and consideration of the following:

- (a) The application and attached information; EIS or Environmental Checklist with Determination of Non-Significance; and
- (b) Written comments from interested persons; and
- (c) Information and recommendations from the Administrator and any other public agency; and
- (d) Information or comment presented at a public hearing on the application; and
- (e) The criteria enumerated in Sections 23.60.170, .180 and .190, as applicable.

.92 As required by RCW 90.58.140(7) the burden of providing that the proposed development is generally consistent with the criteria set forth in Sections 23.60.170, .180 and .190, as applicable, shall be on the applicant.

### **23.60.100 DECISIONS**

.101 Whenever a shoreline permit application is accompanied by any other permit request that requires a recommendation to the Council rather than a final decision by the Hearing Examiner, the shoreline permit decision shall also be in the form of recommendation and the Council shall have final decision authority. In all other instances, the Hearing Examiner's decision on shoreline permit applications shall be final.

.102 Decisions and recommended decisions of the Hearing Examiner shall be rendered within 10 working days of the date the public hearing record is closed unless an extension of time is agreed to by the applicant.

.103 The Council shall meet to consider the Hearing Examiner's recommendation within 21 days of receipt thereof, at which time it may:

(a) Approve or disapprove the recommendation, or remand the matter to the Hearing Examiner with instructions; or

(b) In the event the Council wishes to consider enacting a significant change that does not arise from the record, hold its own public hearing, after giving notice thereof, and approve or deny the shoreline permit based upon its own findings and conclusions, with such modifications as the Council deems appropriate.

.104 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.

### **23.60.110 PERMIT CONDITIONS**

.111 In granting, revising, or extending a shoreline permit, the Administrator, Hearing Examiner or Council, as appropriate, 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 will be consistent with criteria set forth in Sections 23.60.170, .180 and .190, and with the policy of RCW 43.21C as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to allow for future review or reevaluation to assure conformance with the Act and this Program.

.112 Development pursuant to a shoreline variance or conditional use permit shall not begin and shall not be authorized until 30 days after the "date of filing" or until all review proceedings initiated within 30 days from the date of such filing have terminated.

(a) The "date of filing" for a variance or conditional use permit shall mean the date a decision of the Department of Ecology rendered on the permit is transmitted by the department to the county and the applicant.

(b) "Date of filing" of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.

**23.60.120**      **APPEAL AND RECONSIDERATION**

.121 The applicant or any opponent of record may request reconsideration of any final action on a form supplied by the office of the Hearing Examiner within the time specified in the Hearing Examiner rules and procedures. Grounds for reconsideration must be based upon the content of the written final order, and, although the Hearing Examiner is not required to modify his original decision, he may initiate such action as he deems appropriate.

The procedure of reconsideration shall not pre-empt or extend the appeal period mentioned as follows.

.122 Where decisions of the Hearing Examiner are final:

Any person aggrieved by the granting, denying, or rescinding of a shoreline permit by the Hearing Examiner may seek review from the Council by filing a written request on forms supplied by the office of the Hearing Examiner within 10 days of the date of final action. Alternatively, appeals may be filed with the State Shoreline Hearings Board pursuant to RCW 90.58.180 within twenty-one (21) days of the date of filing as defined in RCW 90.58.140(6).

.123 Where decisions of the Hearing Examiner are recommended to the Council:

Appeals of Council decisions may be made to the State Shorelines Hearing Board pursuant to RCW 90.58.180 within twenty-one (21) days of the date of filing as defined in RCW 90.58.140(6); the decision of the Shorelines Hearing Board may be appealed pursuant to RCW 34.05.

**23.60.130**      **NOTIFICATION OF FINAL ACTION**

Pursuant to WAC 173.14.090, within eight days of final action, the Hearing Examiner shall notify the applicant, the Department of Ecology, and any person having requested such notice in writing prior to such final action.

**23.60.140**      **PERMIT REVISIONS**

.141 A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. 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 Shoreline Management Act. Changes which are not substantive in effect do not require approval of a revision.

.142 An application for a revision to a shoreline permit shall be submitted to the Administrator. If the application shall include detailed plans and text describing the proposed changes. The county agency 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 permit, and are consistent with this program and the Shoreline Management Act.

.143 "Within the scope and intent of the original permit" means all of the following:

(a) No additional over water construction is involved except that pier, dock or floating construction may be increased by five hundred square feet or ten percent over that approved

under the original permit.

- (b) Ground area coverage and height may be increased a maximum of ten percent over that approved under the original permit.
- (c) The revised permit does not authorize development to exceed the height, lot coverage, setback or any other requirements of this program except as authorized under a variance granted for the original development.
- (d) Additional or revised landscaping is consistent with any conditions attached to the original permit and with this program;
- (e) The use authorized pursuant to the original permit is not changes; and
- (f) No adverse environmental impact will be caused by the project revision.

.144 Revisions to shoreline permits may be authorized after the original permit authorization has expired. Revisions made after the expiration of the original permit shall be limited to the authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under this program or the Shoreline Management Act. If the proposed change is a substantial development as defined by this program then a new permit is required. The provisions of this paragraph shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original permit.

.145 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 permit as set forth in 23.60.143.

.146 Upon approval of a permit revision, the Hearing Examiner, or Administrator as appropriate, shall file with the Department of Ecology, a copy of the revised site plan and a detailed description of the authorized changes to the original permit together with a final ruling and findings supporting the decision based on the requirements of this section. In addition, the Hearing Examiner shall notify parties of record of the action.

.147 If the proposed revision is to a development for which a shoreline conditional use or variance was issued, the Hearing Examiner shall submit the revision to the Department of Ecology for the department's approval, approval with conditions or denial, and shall indicate that the revision is being submitted under the requirements of this paragraph. Under the requirements of WAC 173-27-110(6) the department shall render and transmit to the Hearing Examiner and the applicant its final decision within fifteen days of the date of the department's receipt of the submittal from the Hearing Examiner. The Hearing Examiner shall notify parties of record of the department's final decision. Appeals from a decision of the department shall be filed in accordance with the provisions of WAC 173-27-110(8).

#### **23.60.150 RECISSION AND MODIFICATION**

.151 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.

.152 The Administrator shall initiate rescission or modification proceedings by serving written notice of noncompliance on the permittee or his/her successors.

.153 A public hearing shall be held by the Hearing Examiner no sooner than 15 days following such service of notice. 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.

**23.60.160 EXPIRATION**

.161 The following time requirements shall apply to all substantial development permits and to any development authorized pursuant to a variance, conditional use permit or exemption.

(a) 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.

(b) 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.

(c) The effective date of a shoreline permit or exemption shall be the date of 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 shall be responsible for informing the county of the 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. 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.

.162 Notwithstanding the time limits established in 23.60.161(a) and (b), 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 Shoreline Management 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 23.60.161 (a) and (b) but shall be appropriate to the shoreline development or use under review. "Good cause based on

the requirements and circumstances of the 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.

.163 When permit approval is based on 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.

.164 Revisions to permits and exemptions under 23.60.140 may be authorized after the original permit or exemptions authorization has expired, PROVIDED that permit or exemption revisions authorized after expiration of the original permit or exemption shall not be used to extend the time requirements of the original permit or exemption or to authorize substantial development after the time limits of the original permit or exemption.

.165 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 section 23.60.160 through .164, 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.

#### **23.60.170      SUBSTANTIAL DEVELOPMENT PERMIT CRITERIA**

.171 A substantial development permit shall be obtained for all proposed use and development of shorelines unless the proposal is specifically exempt pursuant to Section 23.50.31.

.172 In order to be approved, the Administrator or Hearing Examiner, as appropriate, must find that the proposal is consistent with the following criteria:

(a) All regulations of this Program appropriate to the shoreline designation and the type of use or development activity proposed shall be complied with, except those bulk and dimensional standards which have been modified by approval of a shoreline variance under Section 23.60.180.

(b) All policies of this Program appropriate to the shoreline designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated. A reasonable proposal that cannot fully conform to these policies may be permitted, provided it is demonstrated that the proposal is clearly consistent with the overall goals, objectives and intent of the Program.

(c) For projects located on Shorelines of State-wide Significance, the policies of Section 23.40 shall be also be adhered to.

#### **23.60.180      VARIANCE PERMIT CRITERIA**

.181 The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program 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 or thwart the policies set forth in RCW 90.58.020. Use restrictions

may not be varied.

.182 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.

.183 Variances for development that will be located landward of the OHWM and wetlands may be authorized, provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk or dimensional criteria set forth in this Program precludes or significantly interferes with a reasonable permitted use of the property;

(b) That the hardship described in 23.60.181 above is specifically related to the property, and is the result of unique 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 own actions.

(c) That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.

(d) 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.

(e) That the public interest will suffer no substantial detrimental effect.

.184 Variances for development that will be located waterward of the OHWM or within wetlands may be authorized provided the applicant can demonstrate all of the following:

(a) That the strict application of the bulk or dimensional criteria in this Program precludes a reasonable permitted use of the property; and

(b) That the proposed variance will satisfy the criteria listed in Section 23.60.183 (b) through (e) above; and

(c) That the public rights of navigation and use of the shorelines will not be materially interfered with by the granting of the variance.

.185 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 policies of RCW 90.58.020 and should not produce significant adverse effects to the shoreline environment or other users.

.186 Other factors which may be considered in the review of variance requests include the conservation of valuable natural features and the protection of views from nearby roads, surrounding properties and public areas; PROVIDED, the criteria of Chapter 23.60.180 are first met. In addition, variance requests based on the applicant'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 shore processes in the vicinity, and where reasonable alternatives of equal or greater consistency with this Program are not available. In platted residential areas, variances shall not be granted which allow a greater height or lesser shore

setback than what is typical for the immediate block or area.

### **23.60.190      CONDITIONAL USE PERMIT CRITERIA**

.191 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 policies of RCW 90.50.020. 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.

.192 Uses specifically classified or set forth in this Program as conditional uses may be authorized provided the applicant can demonstrate all of the following:

- (a) That the proposed use will be consistent with the policies of RCW 90.58.020 and this Program.
- (b) That the proposed use will not interfere with normal public use of public shorelines.
- (c) That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
- (d) That the proposed use will cause no unreasonable adverse effects to the shoreline environment in which it is to be located.
- (e) That the public interest suffers no substantial detrimental effect.

.193 Other uses not specifically classified or set forth in this Program, including the expansion or resumption of a non-conforming use pursuant to Section 23.50.90, may be authorized as conditional uses provided the applicant can demonstrate that the proposal will satisfy the criteria set forth in 23.60.192 above, 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.

.194 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 policies of RCW 90.58.020 and should not produce a significant adverse effect to the shoreline environment.

### **23.60.200      ADMINISTRATIVE DECISION APPEALS**

#### **.201 Authority**

Any order, requirement or administrative permit decision, or determination by the Administrator based on a provision of this Program may be the subject of an appeal to the office of the Hearing Examiner.

#### **.202 Appeal Application and Time Limit**

The application for appeal from the Shoreline Administrator's decision may be obtained at the Planning and Development Services Department. Such an appeal shall be filed within ten (10) calendar days of the issuance of a Substantial Development Permit and within twenty (20)

calendar days of any other action of the Administrator being appealed.

**.203 Time Limit for Hearing**

A public hearing on the appeal shall be held within 45 working days following receipt of the application.

**.204 Legal Notice**

Official legal notice of the public hearing shall be made in the following manner: The notice of time, date, and location of the hearing shall be mailed to the appellant, Washington Department of Ecology, and the Administrator at least 12 days prior to the hearing.

**.205 Time Limit for Issuance of Decision**

A decision by the Hearing Examiner shall be issued within 10 working days of the public hearing (unless otherwise mutually agreed to by parties).

**.206 Appeal and Reconsideration**

Appeal procedures from the Hearing Examiner's decision and Request for Reconsideration procedures are the same as those found in Section 23.60.120.

**23.60.210 OTHER LOCAL REGULATIONS**

Conditional use permits or variances applied for or approved under county zoning or subdivision code requirements shall not be construed as shoreline permits or variances under this Program.

**Chapter 23.70**

**ADMINISTRATION**

Sections	70.10	Administrator
	70.20	Planning and Development Services Department
	70.30	Hearing Examiner
	70.40	County Council
	70.50	Planning Commission

**23.70.10      ADMINISTRATOR**

.11      The Administrator, as defined in Section 23.110.A, is hereby vested with:

- (a)      Overall administrative responsibility for this Program, except he/she is not the responsible official for SEPA; and
- (b)      Authority to determine if a public hearing should be held on a shoreline permit application by the Hearing Examiner pursuant to Section 23.60.32; and
- (c)      Authority to grant or deny statements of exemption; and
- (d)      Authority to grant or deny substantial development permits not requiring a public hearing; and
- (e)      Authority to serve a cease and desist order pursuant to WAC 173-17-040 upon a person undertaking an activity on shorelines of the state in violation of Chapter 90.58 RCW or this Program; and,
- (f)      Authority to decide whether or not a major development permit is required for a proposed action pursuant to Chapter 20.88 W.C.C.

**.12      The Administrator shall:**

- (a)      Establish procedures deemed essential for administration of this Program; and
- (b)      Advise interested persons and prospective applicants as to the administrative procedures and related components of this Program; and
- (c)      Make interpretations of principles and terms in this Program as required for administration; and
- (d)      Insofar as possible, assure that applications are in proper form and complete prior to acceptance; and
- (e)      Collect fees as provided for in Section 23.60.40 of this Program; and
- (f)      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; and

(g) Propose amendments to the Commission deemed necessary to more effectively or equitably achieve the purposes and goals of this Program; and

(h) Make annual summary reports to the Commission on scope and quantity of administrative actions taken pursuant to this Program.

**23.70.20 DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES**

.21 The Whatcom County Planning and Development Services Department is hereby vested with:

(a) Authority to make field inspections as required, and to prepare reports on all proper and complete shoreline permit applications; and

(b) Authority to make written recommendations to the Planning Commission, 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; and

(c) Authority to keep written summaries of all Planning Commission public hearings; assure that proper notice is given to interested persons and the public through news media, posting or mailing of notice of such hearings; and transmit findings and recommendations of the Commission on shoreline permit applications to the County Council for consideration and final action.

(d) Authority to make recommendations to the Planning Commission for public access and open space tax designations pursuant to RCW 84.34.

**23.70.30 SEPA OFFICIAL**

The Whatcom County SEPA Responsible Official or designate is hereby authorized to conduct environmental review of all use and development activities subject to this Program, pursuant to WAC 197-11 and RCW 43.21C.

**23.70.40 HEARING EXAMINER**

.41 The Whatcom County Hearing Examiner is hereby vested with authority to:

(a) Grant or deny shoreline permits not accompanied by a planned unit development or major development permit.

(b) Grant or deny variances from this Program.

(c) Grant or deny conditional uses under this Program.

(d) Decide on appeals from administrative decisions and shoreline permits issued by the Administrator of this Program.

(e) Pursuant to Chapters 20.85 and 20.88 W.C.C., hold public hearings and make recommendations to the County Council on shoreline permits accompanied by an application for a planned unit development or major development permit.

**23.70.50      COUNTY COUNCIL**

.51 The Whatcom County Council, hereinafter called the Council, is hereby vested with authority to:

(a) Pursuant to Chapter 20.85 and 20.88 W.C.C., make final decisions with regard to shoreline permit, shoreline variance or shoreline conditional use applications which require a planned unit development or major development permit.

(b) Decide appeals from the Hearing Examiner's action on:

1. Substantial development permits not accompanied by major development permit.
2. Variances from this Program's regulations.
3. Conditional use permits under this Program.
4. Decisions on an appeal of the Administrator's action by the Hearing Examiner.

**.52 The Council shall:**

(a) Base all decisions on shoreline permits on the criteria established in Chapter 23.60.

(b) Upon receipt of a recommendation for action on any proposed amendment to this Program from the Commission, the Council shall review and act on the matter, provided that substantive amendments shall become effective immediately upon adoption by the Department of Ecology.

(c) Review and decide appeals to Hearing Examiner decisions pursuant to the procedures of Section 20.92.600 W.C.C.

**23.70.60      PLANNING COMMISSION**

.61 The Whatcom County Planning Commission, hereinafter called the Commission, is hereby vested with responsibility for reviewing this Program from time to time as a major element of the County's planning and regulatory program, and may make recommendations for amendments thereof to the Council at any time.

.62 The Commission shall also have responsibility for reviewing and making recommendations to the Council on all proposed amendments to this Program; in addition it may propose its own such amendments.

.63 Pursuant to Section 20.88.200 W.C.C. the Commission shall also have authority to conduct public hearings on all requests for shoreline permits which require major development and/or preliminary plat approval, if the Council refers such a project to the Commission. The Commission shall file with the Council a written recommendation for approval or denial.

**Chapter 23.80**

**LEGAL PROVISIONS**

Sections	80.10	Amendments
	80.20	Violations and Penalties
	80.30	Remedies
	80.40	Abatement
	80.50	Severability
	80.60	Effective Date
	80.70	Revised Program
	80.80	References to Plans, Regulations or Information Sources

**23.80.10      AMENDMENTS**

.11 The County Council or the Planning Commission may initiate an amendment to this Program according to the procedures prescribed in Chapter 173-19 WAC. The Commission shall conduct a public hearing on any amendment proposed by the Council.

.12 Any Person may petition the Commission to amend this Program. Petitions shall specify the changes requested and any and all reasons therefore. The 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.

.13 After approval or disapproval of a shoreline master program amendment by the Department of Ecology as provided in RCW 90.58.090, the county shall publish a notice that the shoreline master 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 shoreline master program is the date the County publishes notice that the shoreline master program amendment has been approved or disapproved by the Department of Ecology.

.14 The Administrator shall submit an annual report to the Commission 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 Commission may schedule a public hearing to consider such matter in accordance with the procedure described in Section 23.80.11 above.

.15 Upon adoption by the Council of a detailed community or subarea plan as part of the 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 Commission shall schedule a public hearing upon receipt of such proposals, and shall give due consideration to the community objectives so expressed.

**23.80.20      VIOLATIONS AND PENALTIES**

.21 In addition to incurring civil liability under Section 23.80.30 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 a fine of not less than 25 or more than \$1,000 or by imprisonment in the County jail for not more than 90 days, or by 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 nor more than \$10,000.

.22 Any person who willfully violates any court order, 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.

### **23.80.30**      **REMEDIES**

.31 The Whatcom County Prosecuting Attorney, or Administrator, where authorized, shall bring such injunctive, declaratory, or other actions as are necessary to insure 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.

.32 Any person subject to the regulatory provisions of this Program or the act who violates any provision thereof, or permit or permit condition issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its conditions prior to violation. The Whatcom County Prosecuting Attorney shall bring suit for damages under this section on their own behalf and on the behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

.33 The Administrator shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of Chapter 90.58 RCW or this Program, or of any permit issued pursuant thereto. The Administrator shall follow the procedure set forth in WAC 173-27-270 in issuing a cease and desist order.

.34 A person who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under 90.58.140, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order may be subject to a civil penalty. The penalty shall be imposed pursuant to the procedure set forth in WAC 173-27-280 and become due and recovered as set forth in WAC 173-27-290(3) and (4). Persons incurring a penalty may appeal the same to the County Council pursuant to WAC 173-27-290(1) and (2).

### **23.80.40**      **ABATEMENT**

Structures or development on shorelines considered by the Administrator to present a hazard or other public nuisance to persons, properties or natural features may be abated by the County under the provisions of the Uniform Code for the Abatement of Dangerous Buildings or by other appropriate means.

**23.80.50**      **SEVERABILITY**

If any section, subsection, or provision of this Program, or its application to any person or circumstances is held invalid, the remainder of this Program, or the application of the provision to other persons or circumstances shall not be affected.

**23.80.60**      **EFFECTIVE DATE**

This Program and all amendments thereto shall become effective immediately upon final approval and adoption by the Department of Ecology.

**23.80.70**      **REVISED PROGRAM**

The revision and renumbering of this Program into Title 23 shall not release any person from full compliance with the terms and conditions of any permit or approval previously granted by Whatcom County. Where pre-existing permit conditions specify compliance with certain provisions of the Program, the equivalent provisions of the revised Program shall apply. The Administrator shall determine which sections apply where interpretation is necessary.

**23.80.80**      **REFERENCES TO PLANS, REGULATIONS OR INFORMATION SOURCES**

Where this Program makes reference to any RCW, WAC, or other state, local, or federal law or regulation, or to any source of information, the most recent amendment or current edition shall apply.

## CHAPTER 23.90

### GENERAL POLICIES AND REGULATIONS

Sections	23.90	General Policies and Regulations
	23.90.10	General Policies
	23.90.40	General Regulations
	23.90.60	Setbacks, Height, and Open Space Standards

#### **23.90 GENERAL POLICIES AND REGULATIONS**

All use and development activities on shorelines shall be subject to the following general policies and regulations in addition to those applicable under the appropriate use sections of 23.100.

#### **23.90.10 GENERAL POLICIES**

##### **.11 Water Dependent/Water Related Uses**

Preference should first be given to appropriate use and development activities which are water dependent, water related or water enjoyment activities as defined in this Program, and secondly to those activities which do not adversely affect the shoreline environment or other uses and further the goals and objectives of this Program. Activities that are not consistent with this Program should be discouraged or prohibited.

##### **.12 Exempt Activities**

Certain activities exempt from the substantial development permit process are potentially harmful to the shoreline environment or other users. To assure consistency with the provisions of this Program, a statement of exemption should be required for such uses as provided in Section 23.50.32.

##### **.13 Use Conflicts**

Developments should be located, designed, constructed and managed to minimize adverse effects on other appropriate shoreline uses, whether existing or planned, and to provide safe, healthy conditions. Unavoidable impacts or use conflicts should be held to publicly acceptable minimums by utilizing a variety of mitigation measures such as buffer areas, site design, landscaping and setbacks. Intensive shoreline uses should locate near existing uses of a similar character, or in new locations which are consistent with this Program.

##### **.14 Accessory Uses**

Accessory development or use which does not require a shoreline location should be sited inland away from the land/water interface and landward of the principal use, unless no alternatives exist. Such uses include, among others, parking, service buildings or areas, access roads, utilities, signs and storage of materials. Use and development activities which are accessory or related to the primary use should be consistent with all applicable policies and regulations of Chapter 23.100 relevant to such activities.

**.15 Hazardous, Sensitive or Unsuitable Areas**

Natural features or conditions associated with shorelines are often environmentally sensitive or potentially hazardous to development. Such areas and features include natural wetlands, accretion shoreforms, floodways, alluvial fans, steep slopes, unstable soils, ground and surface water, fish and wildlife habitat and shore processes. Many such areas are often unique or scarce, highly productive biologically, visually attractive, valuable for public access, open space or recreation, and in many instances hazardous or otherwise unsuitable for intensive use or development. Such areas should be maintained in a natural condition. In limited instances where alternatives are infeasible, some minimal development activity may be allowed, provided optimum mitigation is achieved. Such development, if properly conducted, should not impair natural features, recreation or aesthetic values or result in hazardous conditions, and should adequately protect resources over the long term.

**.16 Site Preparation**

Land clearing, grading, filling, and alteration of natural drainage or other features should be limited to the minimum amount necessary to accommodate approved development. Surfaces cleared of vegetation should be immediately revegetated with native or compatible plants. Landscaping projects requiring substantial earth modification and grading should be carefully and professionally designed to prevent maintenance problems or damage to shore features and processes.

**.17 Geo-Hydraulics**

Development should be located, designed, constructed and maintained so that natural erosion, sediment transport, and water circulation and accretion processes are not significantly disrupted. The physical integrity of the shore process corridor should be maintained in its natural state to the greatest extent feasible. Necessary development should have minimal or no adverse impact upon valuable physical shore features and processes.

**.18 Water Quality**

Location, construction, operation, and maintenance of all shoreline use and development activities should maintain or enhance the quality of surface and ground water over the long term, and restore water quality if degraded. As a minimum, state water quality and all other applicable standards should be adhered to.

**.19 Hazardous/Toxic Materials**

When chemical fertilizers, pesticides or other toxic materials are used in shoreline areas, extreme caution should be observed to prevent contamination of water and soils and adverse effects on valuable plant, fish and animal life. There should be no spraying over water bodies or application on land where direct runoff of chemical-laden water to water bodies or aquifer recharge areas will occur. A chemical free buffer strip should be maintained along the OHWM of all wetlands, streams and water bodies.

**.20 Fish and wildlife**

All shoreline use and development activities should be located and operated so as to provide long term protection of fish and wildlife resources, and their various habitats. Maintenance and

enhancement of fisheries should be given priority consideration in reviewing shoreline use proposals which might adversely impact fisheries habitat, migratory routes and harvest of significant fish or shellfish species. Alternative locations or designs should be seriously considered for such proposals if such potential adverse impacts are significant. Shorelines having banks, beaches and beds critical to preservation or enhancement of the fisheries resource base should be maintained or restored to a productive natural condition whenever possible.

#### **.21 Views and Aesthetics**

Development should not detract from shoreline scenic and aesthetic qualities which are derived from natural or cultural features, such as shoreforms, natural vegetative cover, scenic vistas, diverse landscapes, historic structures, and rural and wilderness-like shores. These and other scarce or valuable features should be conserved or enhanced by development and utilized for open space, fish and wildlife habitat, public access or recreation purposes. Over water construction should be minimized, site restoration should be required, visual compatibility in design of development with its surroundings should be encouraged and scenic views should not be obstructed. Also, protection of the view of the shoreline from the water surface should be considered.

#### **.22 Public Access**

(a) Physical or visual access to shorelines should be required as a condition of significant development activities, when the proposal would either generate a demand for specific forms of such access, and/or would impair existing, legal access facilities and/or rights.

(b) Area and/or facility requirements should be commensurate with the scale and character of the development and should be a reasonable, fair and effective means of mitigating any such impacts identified during public review of the proposal.

(c) Access requirements should be balanced against the nature and extent of impacts on shore resources, including but not limited to effects on the following:

1. Views;
2. Human enjoyment of the shoreline;
3. The commitment of shoreline areas or resources to private use;
4. The identified need for access opportunities in the vicinity.

(d) Landowners and developers should be informed by staff of the following:

1. Potential tax benefits of providing public access opportunities, such as open space tax status or lower assessed values due to access easements or dedications;

2. Incentives such as increases and/or flexibility in density, bulk or dimensions which may be available in Titles 20 or 21;

3. Landowner protection against liability pursuant to RCW 4.24.200 and .210.

(e) Public access should be provided as close as possible to the waters' edge without adversely affecting a sensitive environment and should be designed where reasonably feasible with provisions for handicapped and physically impaired persons.

(f) Publicly owned shorelines should be limited to water-dependent or public recreational uses, otherwise such shorelines should remain protected open space.

(g) Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

(h) There should be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.

### **.23 Maintenance**

All structures and development should be kept in good repair and hazard free condition or should be removed from shorelines. Repair, removal or replacement of damaged, derelict or abandoned structures or those which are a hazard to navigation or other users should be accomplished as soon as possible and should be consistent with these policies and regulations.

### **.24 Utilities**

Intensive developments should only be located in areas where adequate utilities are already developed, or planned officially, or may be provided without significant damage to shore features. Appropriate materials and techniques should be utilized to protect natural features and other users. Exterior finish of structures and materials should be of a non-reflective character compatible with the surrounding area.

### **.25 Parking and Circulation**

Parking areas of sufficient size should be placed away from the shore, buffered or landscaped, and constructed so as to minimize erosion and water pollution by controlling storm runoff. Structural measures such as catch basins, oil separators, filtration trenches or swales, unpaved or permeable all weather surfaces should be considered for this purpose.

### **.26 Subdivision**

Substandard shoreline lots unsuitable for development of a primary permitted use should not be subdivided. Provisions for public access areas should be required for all subdivisions intended for use and development activities subject to the access requirement under Section 23.90.50.

### **.27 Shoreline View Areas**

To protect existing or potential shoreline views from shoreline properties, roads or public areas located close to the shoreline, unnecessary view obstructing development should not be allowed. Fences, walls, hedges and other accessory structures on lots which are not developed with a primary permitted use should be discouraged or be of a low profile design. Such development should be prohibited on public properties.

**.28 Paths and Stairs**

Construction of paths and stairs for private or public access to shorelines should not be allowed to create hazards or cause adverse effects to shore features, aesthetic quality or other users, especially in hazardous or sensitive areas.

**.29 Conformance to Other Plans, Policies and Regulations**

All use and development activities should conform to all applicable plans, policies, standards, guidelines and regulations of other agencies with jurisdiction in shoreline areas.

**23.90.40 GENERAL REGULATIONS**

**.41 Use Conflicts**

Required setback and buffer areas shall be planted with native or locally compatible species or maintained in a natural condition except where foot or bicycle traffic may require surfacing. Such areas may not be used for vehicle parking nor open storage. Width and physical nature of such buffers shall be determined by the County commensurate with the proposed intensity of use and character of the local area and adjacent uses.

**.42 Accessory Uses and Related Development**

Related or accessory development shall comply with all applicable policies and regulations of Chapter 23.100.

**.43 Hazardous, Sensitive or Unsuitable Areas**

(a) Development shall be located, designed, constructed and maintained to prevent hazardous conditions and to substantially conserve wetlands, fish and wildlife habitat, shore processes and other sensitive natural features which are valuable in the region.

(b) Structures located within the jurisdiction of the flood ordinance shall comply with the provisions of that ordinance. The finished ground floor of residences, commercial and industrial structures and all occupied buildings that are located outside of the jurisdiction of the flood ordinance shall be elevated at least five feet above the ordinary high water mark in fresh water areas and five feet above mean higher high water in marine waters.

(c) Professional design of development may be required by the Administrator in order to protect shore features and other users and to ensure such development is not subject to nor creates hazardous conditions unsuitable to development.

**.44 Site Preparation**

(a) Land clearing, grading, filling, removal of vegetation and alteration of natural features shall be kept to the minimum that is reasonably necessary to accommodate approved development. Disturbed areas shall be revegetated as soon as possible.

(b) On Conservancy Shorelines and in all hazardous or sensitive areas described in Section 23.90.15, where a conversion of forested land is proposed, selective clearing of trees shall be limited to not more than thirty (30) percent over a ten year period, except where additional

clearing is necessary for public safety or an approved development.

**.45 Geo-hydraulics**

Shoreline use and development activities shall not unnecessarily disrupt natural shore processes. Disturbances from construction, heavy equipment use or removal of driftwood, flood debris, or other materials from the shoreline area shall be kept to a minimum consistent with this Program.

**.46 Water Quality**

State water quality and all other applicable standards shall be adhered to. Water quality of ground and surface waters shall not be significantly degraded.

**.47 Hazardous/Toxic Materials**

(a) Release of hazardous, toxic or acid-forming materials which are likely to degrade surface or ground water quality or damage other resources is prohibited. No airborne release of chemicals shall be permitted over shorelines.

(b) Facilities and procedures utilizing advanced available systems and technology for handling, disposal or prompt spill clean up of oil, fuel and/or hazardous materials shall be required wherever such materials are to be handled in any significant quantity. All private, public and commercial boat fueling facilities shall be designed and operated to prevent spillage or contamination of ground and surface waters and soils in shoreline areas.

(c) Regulations and guidelines on chemical use adopted by other agencies shall be adhered to in all shoreline areas including, but not limited to, the State Department of Agriculture and Ecology.

(d) Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic substances shall not be used below the OHWM of streams, lakes or wetlands.

**.48 Fish and Wildlife**

Design, location, construction and operation of all shoreline use and development activities shall not unnecessarily impact fish and wildlife resources and their respective habitats over the short or long term. Development in critical wildlife habitat areas identified by the Department of Wildlife or Fisheries shall not be permitted unless adequate mitigation of impacts can be provided. Development is also subject to the provisions of the Critical Areas Ordinance.

**.49 Views and Aesthetics**

Development shall be designed, located, constructed and maintained to avoid obstruction of views or other adverse impacts on shore scenery and aesthetic quality. Where such impacts are unavoidable, development may be approved where significant public access areas or facilities are provided or other means of enhancing the public's enjoyment of visual and aesthetic resources in the area are provided.

**.50 Public Access**

(a) In the review of all shoreline substantial development or conditional use permits, consideration of public access shall be required. Provisions for adequate public access shall be incorporated into a shoreline development proposal for each shoreline substantial development or conditional use permit (including land division) unless the applicant demonstrates one or more of the following provisions apply:

1. Unavoidable health or safety hazards to the public exist which 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. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;

4. Unacceptable environmental harm will result from the public access which cannot be mitigated;

5. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

(b) Public access shall generally not be required for the following except as determined on a case-by-case basis in conjunction with the provisions of Chapter 23.90.22 and 23.90.50:

1. Dredging
2. Forest Practices
3. Landfill and Excavation
4. Mining
5. Private Docks
6. Stream Control Works

(c) Prior to deciding public access is not required pursuant to (a)(1) through (5) above, 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 glazings, hedges, landscaping, etc.); and
3. Provisions for access at a site geographically separated from the proposal such as a street end, vista, tideland or trail system.

(d) Public access areas and/or facilities shall be of the kind, quality and scope so as to reasonably offset any specific adverse impacts to existing public access of the proposed shoreline use or development activity.

1. Alternate off-site improvements in public access to shorelines may be used upon agreement, as a means of offsetting identifiable on-site impacts.

2. Incentives for public access improvements such as density or bulk and dimensional bonuses, shall also be considered through applicable provisions of this program and other zoning and subdivision regulations.

(e) Development uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's physical access to the water and shorelines.

(f) Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (RCW 35.797.035 and RCW 36.87.130).

(g) Where reasonably feasible, public access sites shall (1) be connected directly to the nearest public street; and (2) include provisions for handicapped and physically impaired persons.

(h) Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.

(i) Public access easements and permit conditions shall be recorded on the deed of title and on the face of a plat or short plat as a condition running contemporaneous with the authorized land use, as a minimum. Said recording with the County Auditor's Office shall occur at the time of building permit approval (RCW 58.17.110) or plat recordation, whichever comes first.

(j) Minimum width of public access easements shall be ten feet, unless the administrator determines that undue hardship would result. In such cases, easement width may be reduced only to the minimum extent necessary to relieve the hardship.

(k) The standard State approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed and installed by the applicant, and maintained by the County in conspicuous locations at public access sites. In accordance with regulation (c)(1), signs may control or restrict public access as a condition of permit approval.

(l) Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.

#### **.51 Maintenance**

The Administrator and/or Building Official may require the repair or removal of structures or development that is found to be hazardous, damaging to shore resources or other properties, abandoned or otherwise creating a public nuisance.

#### **.52 Utilities**

(a) Sewage and garbage disposal facilities shall be provided as required by the local Health Department and zoning regulations.

(b) Storm drainage facilities for upland development shall be provided as required by the County Engineer consistent with applicable drainage and development standards.

(c) All display and floodlighting shall be designed and operated so as not to emit

unreasonable or unnecessary glare, to illuminate nearby properties or to create hazards to traffic.

(d) Within 100 feet of the OHWM and natural wetlands, new distribution and on-site electrical and communication wiring shall be placed underground; PROVIDED that, one stub utility pole may be used if existing distribution lines are overhead. For purposes of crossing water bodies, overhead transmission or distribution lines and on site electrical communication wiring may be permitted within 100 feet of the OHWM and natural wetlands and over bodies of water as a conditional use.

#### **.53 Subdivision**

(a) Substandard shoreline lots unsuitable for development of a primary permitted use under the Official Zoning Ordinance (Title 20) and this Program shall not be subdivided.

(b) Public or community access areas and easements required under Sections 23.100.130.13(a) and 23.90.50 of this Program shall be indicated on final subdivision maps and binding site plans.

#### **.54 Shoreline View Areas**

(a) Fences, walls, hedges and other accessory structures shall be limited to four feet in height within shoreline setback areas and shoreline view areas as defined in Section 23.110, provided a height of up to six feet may be approved by the Administrator where the structure is parallel to the right-of-way and does not extend above a line of sight between the OHWM and a point three and a half feet above the centerline of the road, excluding accessories associated with agricultural uses.

(b) Fences, walls, hedges or private accessory structures shall not be permitted on public property in shoreline view areas.

#### **.55 Paths and Stairs**

(a) Stairs and walkways not attached to a permanent structure or serving essentially as an independent facility from the primary structure and located within the shoreline setback area shall not exceed four feet in width nor shall any portion of the structure project more than eight feet out from the existing slope.

(b) Design, construction and maintenance of paths and stairs on shorelines shall not create hazards or cause adverse effects to natural features or other users. In hazardous or sensitive areas, the Administrator may deny such construction or require professionally engineered design to ensure compliance with the above.

#### **.56 Conformance to Other Plans, Policies and Regulations**

Use and development activities shall conform to all zoning, subdivision, health and other applicable requirements of Whatcom County and other agencies with jurisdiction in shoreline areas. In the case of conflicting requirements, the more restrictive shall apply.

**23.90.60 SETBACKS, HEIGHT, AND OPEN SPACE STANDARDS FOR SHORELINE DEVELOPMENT**

**.61 Shore Setbacks**

Table 23.90.60 establishes the minimum required shore setbacks for development, including all structures and substantial alteration of natural topography. Shore setbacks shall be measured from OHWM; PROVIDED that, on natural wetlands, such setback shall be measured from the edge of the wetland, and on erosional or otherwise geologically unstable banks more than ten feet high and sloping at more than 30 (thirty) percent, such setbacks shall be measured from the bank rim or crest of such slope; PROVIDED FURTHER that, no shore setback shall exceed the geographic limit of the Act's jurisdiction.

**.62 Sideyard Setback**

Table 23.90.60 establishes the minimum required sideyard setbacks for development, including all structures and substantial alteration of natural topography. Sideyard setbacks shall be measured from all property lines which intersect the shore side of a lot or tract; PROVIDED that, for development not requiring a wider buffer, five feet of the total required sideyard setbacks may be provided on one side and the balance on the other side; PROVIDED FURTHER that, for a single family residence or duplex on a narrow legal lot of record the Administrator may waive a portion of the sideyard setbacks to allow a fifty (50) foot wide building area, provided the standard zoning setbacks are met and the reduction is otherwise consistent with this Program.

**.63 Height Limit**

Table 23.90.60 establishes the maximum required building height for all primary and accessory structures. Height is measured according to the definition in Section 23.110(H.5).

**.64 Open Space**

Table 23.90.60 establishes the minimum percentage of the site which shall be left in open space as defined in Section 23.110 (Definitions); PROVIDED that, this requirement shall not apply to a single family or duplex dwelling on a legal lot of record.

**.65 Miscellaneous Provisions**

(a) Setbacks, height or open space requirements established in Title 20 or as a condition of permit approval shall apply when more restrictive.

(b) The following development activities are not subject to setbacks:

1. Those portions of approved shoreline dependent development which requires an over-water or water's edge location, provided such development is adequately flood-proofed;
2. Underground utilities, other than septic systems;
3. Accretion bar scalping;
4. Modifications to existing development which are necessary in order to comply with environmental requirements of any agency, when otherwise consistent with this Program;

5. Roads and railways which must cross shorelines and are necessary in order to access shore dependant development are not subject to the standard shoreline setbacks;

6. Stairs and walkways not greater than four feet in width nor thirty inches in height above grade.

(c) On Urban Resort shorelines only, commercial development more than 100 feet from the OHWM and multi-unit residential development may exceed the standard height limit, when approved with a shoreline conditional use permit, up to a maximum height of 75 feet.

(d) Shore and sideyard setbacks for signs apply to free-standing and projecting signs only. Wall 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.

(e) Power poles and transmission towers are not subject to height limits but shall not be higher than necessary.

23.90.60 Table of Setbacks, Height and Open Space

The following table provides the minimum requirements for shore and sideyard setbacks, height limits and open space. All figures for setbacks and height denote feet. Letters in parentheses are footnoted below.

SHORELINE AREA						
	URBAN	URBAN RESORT	RURAL	CONSERVANCY	NATURAL	AQUATIC
USE						
Agriculture						
Shore Setback	50	N/A	75	100	N/A	N/A
Side Setback	20	N/A	20	20	N/A	N/A
Height Limit (c/d)	35	N/A	35/75	35/75	N/A	N/A
Aquaculture/Fisheries						
Shore Setback	25	25	50	50	N/A	N/A
Side Setback	10	10	10	15	N/A	N/A
*Height Limit (c/d)	25/35	25/35	20/30	15/25	N/A	10
Open Space %	30	40	50	60	N/A	N/A
Commercial						
Shore Setback (a/b)	30/75	30/75	50/100	75/150	N/A	N/A
Side Setback	5+	5+	10+	15+	N/A	N/A
*Height Limit (c/d)	25/35	25/35	20/35	15/25	N/A	15
Open Space % (e/f)	30/15	40/20	50/25	60/30	N/A	N/A
Marina/Launch Ramp						
Shore Setback (a/b)	30/75	40/75	50/100	75/125	N/A	N/A
Side Setback	10	10	10	15	N/A	N/A
*Height Limit (c/d)	25/35	25/35	20/25	15/25	N/A	N/A
Open Space %	15	30	30	50	N/A	N/A
Mining						
Shore Setback	N/A	N/A	100	100	N/A	N/A
Side Setback/Buffer	N/A	N/A	50	100	N/A	N/A
Open Space %	N/A	N/A	40	50	N/A	N/A
Ports/Industry						
Shore Setback	50	30	100	150	N/A	N/A
Side Setback	20	10	40	60	N/A	N/A
Height Limit (c/d)	35/35	15/25	25/35	25/35	N/A	20
Open Space %	30	40	50	60	N/A	N/A
Recreation						
Shore Setback (a/b)	30/75	30/75	50/100	50/150	50/150	N/A
Side Setback	10	10	15	20	20	N/A
*Height Limit (c/d)	25/35	25/35	20/35	15/25	10/15	15
Open Space % (e/f)	30/25	40/40	50/60	60/75	95	N/A
Residential						
Single Family & Duplex						
Shore Setback	30	30	45	75	N/A	N/A
Side Setback	5	5	10	15	N/A	N/A
*Height Limit (c/d)	30/30	30/30	30/35	30/35	N/A	N/A

SHORELINE AREA						
	URBAN	URBAN RESORT	RURAL	CONSERVANCY	NATURAL	AQUATIC
Residential Multi-Family (3/6 units)	50	50/75	70	100	N/A	N/A
Shore Setback (g/h)	5+	5+	15+	20	N/A	N/A
Side Setback	30/40	30/40	30/35	30/35	N/A	N/A
*Height Limit (c/d)	30	40	50	60	N/A	N/A
Open Space						
Residential Multi-Family (7+ units)	75	75/125	100	150	N/A	N/A
Shore Setback (g/h)	5+	5+	15+	20	N/A	N/A
Side Setback	30/40	30/40	30/35	30/35	N/A	N/A
*Height Limit (c/d)	30	40	50	60	N/A	N/A
Open Space						
Residential Boathouse or Deck						
Shore Setback	20	20	25	25	N/A	N/A
Side Setback	5	5	10	15	N/A	N/A
*Height Limit	15	15	15	15	N/A	N/A
Roads/Railways						
Shore Setback:						
Local or Minor Access	25	25	50	100	N/A	N/A
Arterial or Collector	100	100	150	200	N/A	N/A
Signs						
** Shore Setback						
Side Setback	5	5	10	15	N/A	N/A
Height Limit (c/d)	10/15	10/15	6/10	6/10	N/A	10
Utilities						
Shore Setback (a/b)	50/100	50/100	75/125	100/150	N/A	N/A
Side Setback	5	5	10	15	N/A	N/A
*Height Limit (c/d)	20/35	20/35	20/20	20/20	N/A	N/A
Open Space %	30	40	50	60	N/A	N/A
All Other Development						
Shore Setback (a/b)	50/100	50/100	75/125	100/150	N/A	N/A
Side Setback	10	10	15	20	N/A	N/A
Side Setback	15/25	15/25	25/30	25/30	N/A	N/A
*Height Limit (c/d)	30	40	50	60	N/A	N/A
Open Space %						

a = Applies to shore dependent structures and development  
 b = Applies to development not requiring a shoreline location  
 c = Applies to structures within 100 feet of OHWM or wetland edge  
 d = Applies to structures more than 100 feet from OHWM or wetland edge  
 e = Applies to development that includes overnight lodging  
 f = Applies to development that does not include overnight lodging  
 g = Applies to structures not more than 35 feet high  
 h = Applies to structures more than 35 feet high  
 + = Add five feet of setback for each five feet of height over fifteen feet  
 \* = Maximum height for accessory buildings is 15 feet \*\* = for Signs Shore Setback see 23.100.160.32(g) N/A = Not Applicable

**Chapter 23.100**

**SHORELINE USE POLICIES AND REGULATIONS**

Sections	100.01	Shoreline Use and Development
	100.02	Cherry Point Management Unit
	100.10	Agriculture
	100.20	Aquaculture and Fisheries
	100.30	Commercial Development
	100.40	Dredging
	100.50	Forest Practices
	100.60	Historic Sites
	100.70	Landfill and Excavation
	100.80	Marinas and Boat Launch Ramps
	100.90	Mining
	100.100	Piers and Docks
	100.110	Ports and Industry
	100.120	Recreation
	100.130	Residential
	100.140	Roads and Railways
	100.150	Shore Defense Works
	100.160	Signs
	100.170	Stream Control Works
	100.180	Utilities and Solid Waste
	100.210	Cherry Point Management Unit

**23.100.01      SHORELINE USE AND DEVELOPMENT**

Shoreline use and development shall be classified by the Administrator and regulated under one or more of the following applicable sections of Chapter 23.100. In addition to those specific policies and regulations applicable to the activity, the subject use or development shall also comply with all General Policies and Regulations of Section 23.90. The purpose of these policies and regulations is to implement the goals, objectives, and shoreline area policies of this Program, together with the policies of the Act.

(Note: Appendix C, the Whatcom County Shoreline Background Document contains valuable information on the county's shorelines and discusses a variety of management issues. The document is available as a reference and should be consulted to assist in understanding the basis for these policies and regulations.)

**23.100.02      CHERRY POINT MANAGEMENT UNIT**

All development that is to be located within the Cherry Point Management Unit, as defined in Section 23.110, shall be subject to the policies and regulations found in Section 23.100.210 of this chapter, and shall not be subject to the policies and regulations found in Section 23.100.10 through 23.100.200, nor Section 23.90, unless otherwise referenced in Section 23.100.210. The policies and regulations found in Section 23.100.210 are applicable only within the geographic boundaries of the Cherry Point Management Unit and do not apply elsewhere in the county.

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**23.100.10 AGRICULTURE**

Agriculture in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

**23.100.10.10 AGRICULTURE -- POLICIES**

**.11 Optimum Use**

Land in shoreline areas identified as suitable for agriculture in the Subarea Comprehensive Land Use Plan should generally be reserved for agriculture as the dominant use. Other intensive, unrelated uses including residential, industrial or commercial should be discouraged from locating on agricultural lands.

**.12 Recreational Use**

Cooperative arrangements should be encouraged between farmers and public recreation agencies to allow increased public use of lowland shorelines while protecting the farmer and shoreline features.

**.13 Water Quantity**

Agricultural practices should aim at minimizing adverse fluctuations in water levels and storm runoff and at maintaining as much as possible the local hydrologic cycle. All water withdrawals must comply with State law on water rights (RCW 90.54).

**.14 Soil Conservation**

Agricultural practices should aim at maintaining the productivity of the land base through maintaining or improving soil quality, and minimizing losses through erosion. Soil Conservation Service conservation practice guidelines should be followed when consistent with this Program.

**.15 Drainage and Erosion Control**

(a) Agricultural development should aim toward protection or restoration of valuable shoreline resources including water, soil, plant life, fish, and wildlife.

(b) Holding ponds for surplus wet season runoff should be seriously considered in land drainage projects as a means of storing excess water for irrigation or stock watering, thus minimizing depletion of local ground water levels in the dry season, as well as moderating high storm runoff peaks.

(c) Such development should follow engineering standards and other guidelines of the U.S. Soil Conservation Service when consistent with this Program.

(d) Proper maintenance of such development should be recognized as extremely important to both agriculture and shoreline resource conservation. Lack of or improper maintenance will probably result in additional erosion, water quality degradation, adverse impact on related resources and costly repairs or redevelopment.

**.16 Shoreline Protection**

Stream banks and water bodies should be protected from damage by over-concentration of livestock by providing:

- (a) suitable bridges, culverts, or ramps for stock crossing;
- (b) ample supplies of clean water in tanks on dry land for stock watering; and
- (c) fencing or other controls on stock so that banks are not overgrazed nor compacted when saturated.

**.17 Buffer Strip**

(a) A buffer of perennial vegetation should be maintained between water bodies, including natural wetlands and agricultural lands used for crops or intensive grazing. The purpose of the buffer is to reduce harmful bank erosion and resulting sedimentation, to enhance water quality by slowing and filtering runoff, to maintain habitat for fish and wildlife, and to maintain scenic values of rural shoreline landscapes.

(b) The plant composition and width of the buffer should be based upon the type of farming, local soils, slopes and drainage patterns and the relative value of affected shore features.

(c) Buffer strips should be fenced or grazing should be limited if livestock concentrations are high enough to result in damage to buffer vegetation or bank erosion.

**.18 Chemicals**

When chemical fertilizers or pesticides are used on shorelines, extreme caution should be observed to prevent contamination of water and adverse effects on valuable plant, fish and animal life. There should be no spraying over water bodies or application on land where direct runoff of chemical-laden water into water bodies or aquifer recharge areas will occur.

**.19 Waste Handling and Disposal**

(a) Concentrations of livestock waste have high potential for water pollution and adverse effects upon other shoreline resources. Barnyards, feed lots, and manure storage should be located away from shorelines and constructed in a manner to prevent surface water transport or leaching of harmful bacteria or other wastes into water bodies. Manure spreading along shorelines should be kept back a sufficient distance to prevent pollution of water.

(b) Disposal of solid waste including junk vehicles and equipment, debris, and brush (other than organic wastes for fertilization or soil improvement) on shorelines has high potential for adverse effects upon natural resources, public health, property values and must not be practiced.

**23.100.10.30 AGRICULTURE -- REGULATIONS**

**.31 Shoreline Area Regulations**

(a) Urban: Agriculture development is permitted, except feed lots larger than five animal

units and manure storage facilities, subject to policies and regulations.

- (b) Urban Resort: Agriculture development is not permitted.
- (c) Rural: Agricultural development is permitted subject to policies and regulations.
- (d) Conservancy: Agricultural development is permitted, except feed lots larger than 250 animal units, subject to policies and regulations.
- (e) Natural: Only stock grazing or sustained yield harvest of native products are permitted subject to policies and regulations.
- (f) Aquatic: Agricultural development is not permitted. Aquaculture policies and regulations apply to fish farming or management of other aquatic products.

### **.32 General Regulations**

#### **(a) Waste Handling and Disposal**

1. Random or negligent disposal of putrescible solid waste is prohibited.
2. Manure spreading shall be carried out so that animal wastes do not enter natural water bodies or natural wetlands acting as ground water recharge areas adjacent to such water bodies.
3. Open storage of solid or compost manure shall be curbed, diked, or otherwise contained so as to prevent direct runoff or leaching of manure into a water body.
4. Tanks, pits or lagoons for liquid manure storage shall be designed, constructed, and operated so as to prevent accidental overflows or contamination of ground or surface water. Causing overflows intentionally is prohibited.

#### **(b) Chemicals and Fertilizers**

Chemicals and fertilizers shall not be applied within 25 feet of or allowed to enter streams, water bodies or natural wetlands unless approved for such use by the appropriate state agency and consistent with all applicable regulations and guidelines.

#### **(c) Flood Plain Areas**

1. Feedlots larger than fifty animal units and manure storage facilities shall be prohibited in floodways where potential for damage from such development to public health, water quality and property is high, provided that in all cases, such development shall be setback at least 100 feet from the OHWM of any stream or water body.
2. All facilities for liquid manure storage shall be adequately covered or diked.
3. Dwellings for bona fide commercial farm operators are permitted; PROVIDED that, finished ground floor elevation and basement openings, if any, are above the official regulatory flood protection elevation, or the dwelling is satisfactorily flood-proofed.

(d) Shoreline Protection

1. Shoreline soils, banks, water quality and fish and wildlife habitat shall be stabilized and/or protected by any of the following practices selected by the farm operator, who may also select other practices if the purposes of this section are thus accomplished:

(i) Leave sufficient vegetative cover including grasses, brush, or trees within 25 feet of OHWM of natural water bodies; or

(ii) Provide a fence or other barrier along natural water bodies so that livestock do not overgraze or destroy bank vegetation; or

(iii) Allow only limited grazing on banks of natural water bodies so that substantial vegetation is sustained and livestock do not compact soils or cause erosion and sedimentation; or

(iv) Cut or mow bank vegetation which is likely to threaten the farm operation or cause bank erosion.

2. High, prolonged or repeated concentrations of livestock shall be prevented from entering natural water bodies.

**.33 Tabular Regulations: Setbacks, Height and Open Space for Agricultural Development**

Minimum required setbacks from shorelines and side property lines, maximum height limits and open space requirements are contained in Section 23.90.60 - Setback, Height and Open Space Standards for Shoreline Development.

### **23.100.20 AQUACULTURE**

Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals, and includes the mechanical harvesting of shellfish and hatchery culture. Potential locations for aquacultural enterprises are relatively restricted because of specific requirements such as water quality, temperature, oxygen content, flow, and, in marine waters, salinity. The technology associated with some forms of aquaculture is still experimental and in its formative states. Therefore the policies and regulations for aquaculture reflect both the necessity for some latitude in the development of this emerging economic water use as well as its potential impact on existing uses and natural systems.

When consistent with control of pollution and prevention of damage to the environment aquaculture activities are a preferred use of the shoreline (WAC 173-16-060(2)). Such activities are considered a priority use along with single family residences, ports, shoreline recreational uses, water-dependent industrial and commercial developments, and other uses that provide an opportunity for substantial numbers of people to enjoy the shorelines of the State.

#### **23.100.20.10 AQUACULTURE - POLICIES**

.11 Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts. In general, projects that require no structures, submerged structures or intertidal structures should be given preference over those that involve substantial floating structures. Projects that involve little or no substrate modification should be given preference over those that involve substantial modification.

.12 Applicants are encouraged to participate in pre-application conferences with governmental agencies. Alternative sites and methods should be reviewed where possible. (Pre-application conferences are for information exchange only and are not binding on any of the participants.)

.13 The County should actively seek substantive comment from all appropriate Federal, State and local agencies, the Lummi Nation, Nooksack Tribe, and other affected tribes, and the general public on any shoreline permits for aquaculture. Attention should be given to the comments of nearby residents or property owner directly affected by the proposal.

.14 Consideration should be given to both the possible positive impacts and the possible detrimental impacts aquacultural development might have on the physical environment, on other existing and approved land and water uses, including navigation, and on the aesthetic qualities of the project area.

.15 Aquaculture should not be allowed in the following areas:

- (a) Areas that have little natural potential for the type(s) of aquaculture under consideration.
- (b) Areas that have water quality problems that make the areas unsuitable for the type(s) of aquaculture under consideration.
- (c) Areas devoted to established uses of the aquatic environment with which the proposed aquacultural method(s) would substantially and materially conflict. Such uses would include but are not limited to navigation, moorage, sport or commercial fishing, log rafting, underwater utilities, and active scientific research.

(d) Areas where the design or placement of the facilities would substantially degrade the aesthetic qualities of the shoreline.

(e) Areas where navigation by recreational boaters and commercial traffic will be significantly restricted.

(f) Areas where an aquacultural proposal will result in any significant adverse environmental impacts that cannot be eliminated or adequately mitigated through enforceable conditions of approval.

(g) Areas near National Wildlife Refuges or critical habitats (as defined by the State of Washington or Whatcom County) where the proposed activity will adversely affect the refuge/habitat use or value.

.16 In instances where a choice of aquacultural methods is available, or where two or more incompatible aquacultural projects are proposed in the same are, the relative environmental impacts of each method or proposal should be considered. In general, preference should be give to methods listed in subsection (a), below, over those listed in subsection (b):

(a) methods involving no submerged, intertidal, or floating structures or facilities and minimal substrate modification; methods involving submerged subtidal structures or facilities; methods involving intertidal structures or facilities; on shore facilities;

(b) methods involving floating structures or facilities; methods involving floating structures with artificial feeding and/or substantial substrate modification.

.17 The county-wide density of net pen and raft culture operations should be limited as necessary to minimize cumulative environmental impacts.

.18 Experimental aquaculture projects in natural bodies of water should be limited in scale and should be approved for a limited period of time. Experimental aquaculture means an aquaculture project that uses methods or technologies which are unprecedented or unproven in the State of Washington.

.19 Baseline and periodic operational monitoring of specific, relevant environmental conditions should be required, as necessary, at the applicant's expense, as a condition of approval. Permits should include provisions for adjustment or termination of the project at any time if the monitoring indicates significant adverse, environmental impacts that cannot be eliminated or adequately mitigated.

.20 New shoreline proposals in the vicinity of an aquacultural project should be restricted or denied if they might compromise the monitoring and data collection required under the project permit. All permitted aquacultural projects should be protected from new development that would be likely to damage or destroy them.

### **23.100.20.30 AQUACULTURE -- REGULATIONS**

.31 Aquacultural activities proposed within areas designated as "Shorelines of State-wide Significance" shall be subject to, first, the policies contained in Section (23.40), Shorelines of Statewide Significance and, second, the policies and regulations contained in this section.

.32 No structures or facilities which would have a significant adverse impact on the natural, dynamic processes of shoreline formation and change shall be approved or constructed.

.33 No aquatic organism shall be introduced into Whatcom County salt or fresh waters without prior written approval of the Director of the Washington State Department of Fisheries. In salt waters the County shall not issue permits for projects that include the introduction of such organisms until it has also received written comment from the Manager of the Maritime Heritage Center, provided that such comment is received in a timely manner. The required State approval and/or local comment shall be submitted to the County prior to the introduction.

Unless otherwise provided in the shoreline permit issued by the County, the repeated introduction of an approved organism in the same location shall require approval by the County only at the time the permit is issued. Introduction, for purposes of this section, shall mean the placing of any aquatic organism in any area within the waters of Whatcom County regardless of whether it is a native or resident organism within the County and regardless of whether it is being transferred from within or without the waters of Whatcom County.

.34 Aquacultural activities shall comply with all applicable governmental noise, air pollution, and water quality standards. All projects shall be operated and maintained to minimize odor and noise.

.35 Aquacultural activities shall be restricted to reasonable hours and/or days of operation when necessary to minimize significant, adverse impacts from noise, light, and glare on nearby residents.

.36 Aquacultural 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.

.37 The County shall reserve the right to require aquacultural permittees 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.

.38 Where aquacultural projects are authorized to use public facilities, such as boat launches or docks, the County shall reserve the right to require the applicant to pay a portion of the cost of maintenance and any required improvements commensurate with the applicant's use.

.39 All floating and submerged aquacultural structures and facilities in navigable waters shall be marked in accordance with U.S. Coast Guard requirements.

.40 Aquacultural structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner. Where any structure might constitute a potential hazard to the public in the future, the County shall require the posting of a bond commensurate with the cost of removal or removal or repair. The County may abate an abandoned or unsafe structure, following notice to the owner, if the owner fails to respond in 30 days and may impose a lien on the related shoreline property or other assets in an amount equal to the cost of the abatement. Bonding requirements shall not duplicate requirements of other agencies.

.41 Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals, including but not limited to the following:

- (a) Species to be reared;
- (b) Aquaculture method(s);
- (c) Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances, and their predicted impacts;
- (d) Manpower/employment necessary for the project;
- (e) Harvest and processing location, method and timing;
- (f) Location and plans for any shore-side activities, including loading and unloading of the product, processing, and any use of freshwater supplies;
- (g) Methods of waste disposal and predator control;
- (h) Environmental assessment, including best available background information on water quality, tidal variations, prevailing storm wind conditions, current flows, flushing rates, aquatic and benthic organisms, and probable impacts on water quality, biota, currents, littoral drift, and any existing shoreline or water uses. Further baseline studies may be required depending upon the adequacy of available information, existing conditions, the nature of the proposal, and probable adverse environmental impacts, including but not limited to cumulative effects.
- (i) Other pertinent information deemed necessary by the Hearing Examiner.

.42 Legally established aquacultural enterprises, including authorized experimental projects, shall be protected from incompatible uses which may seek to locate nearby. Demonstration of a high probability that such an adjacent use would result in damage to, or destruction of such an aquacultural enterprise shall be grounds for the denial of that use.

.43 Baseline and periodic operational monitoring, when required, shall be at the applicant's expense by County approved consultants (unless otherwise provided for) and shall continue until adequate information is available to determine the success of the project and/or the magnitude of any probable significant adverse environmental impacts.

.44 No processing of any aquacultural product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms, shall occur in or over the water after harvest, unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be governed by the policies and regulations of Section 23.100.110, Ports and Industry, in addition to the policies and regulations in this section.

.45 Aquacultural 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 (RCW 90.48). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.

.46 Aquacultural uses and facilities shall be located at least 600 feet from any National

Wildlife Refuge lands and/or habitats of special significance for birds or mammals (as identified in recognized reference documents such as the Washington State Department of Ecology publication, "Washington Coastal Areas of Major Biological Significance," and/or as determined by the Washington State Department of Wildlife); provided that, fish net pens and projects involving substantial substrate modification shall be located 1,500 feet or more from such areas; and provided further that lesser distances may be authorized by permit if it is demonstrated by the applicant that the wildlife resource will be protected and if the change is supported by the reviewing resource agencies. Greater distances also may be required if supported by the reviewing resource agencies.

.47 Predator control shall not involve the killing or abusive 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 non-lethal, 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.

.48 Permit applications shall identify all pesticides, herbicides, antibiotics, vaccines, growth stimulants, antifouling agents, or other chemicals that the applicant anticipates using. 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, the Washington State Departments of Ecology, Fisheries and Agriculture, as required, and proof thereof is submitted to the County. An annual report of antibiotic use shall be submitted to the Whatcom County Environmental Health Division. The report shall indicate the type and amount of antibiotics used during the previous calendar year. In addition, actual usage data shall be maintained for County inspectors at all times.

.49 For aquacultural projects using over-water structures, storage of necessary tools and apparatus seaward of the line of ordinary high tide 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. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the ordinary high water mark.

.50 Proposals for mechanical clam harvesting or other activities that involve substantial substrate modification through dredging, trenching, digging, or adverse sedimentation shall not be allowed in existing kelp beds or in beds of native eel grass (Zostera marina) containing more than two (2) turions per one-quarter square meter in winter or three (3) turions per one-quarter square meter in summer.

.51 Fish net-pens shall meet, as a minimum, State-approved administrative guidelines for the management of net-pen cultures; where any conflict in requirements arises the more stringent requirement shall prevail.

.52 Fish net-pens shall not occupy more than two surface acres of water area, excluding booming and anchoring requirements.

.53 Aquacultural proposals that include net pens or rafts shall not be located closer than one nautical mile to any other aquacultural facility that includes net pens or rafts, provided that a lesser distance may be authorized by the County if the applicant can demonstrate to the county's satisfaction that the environmental and aesthetic concerns expressed in this

Management Program will be protected. If a lesser distance is requested the burden of proof shall be on the applicant to demonstrate that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of this Management Program.

.54 Except as provided in regulation number .52, aquacultural developments approved on an experimental basis shall not exceed five acres in area (except land based projects and anchorage for floating systems) and three years in duration; provided that, the County may issue a new permit to continue an experimental project as many times as is deemed necessary and appropriate.

.55 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.

.56 For floating culture facilities the County shall reserve the right to require a visual impact analysis consisting of information comparable to that found in the Department of Ecology's "Aquacultural Siting Study" 1986. Such analysis may be prepared by the applicant, without professional assistance, provided that it is competently prepared.

.57 Commercial salmon net-pen facilities shall not be located closer than twelve statute miles by transit on the surface of the water from the mouth of any river containing significant anadromous fish runs.

.58 In the event of a significant fish kill at the site of a net-pen facility, fin-fish aquaculture operators shall submit a timely report to the Whatcom County Department of Environmental Health stating the cause of death.

#### **23.100.20.60 AQUACULTURE -- REGULATIONS BY ENVIRONMENT**

##### **.61 Shoreline Area Regulations**

(a) Urban: Aquacultural activities shall be permitted in the Urban environment subject to the policies and regulations contained in this Management Program.

(b) Urban Resort: Aquacultural activities shall be permitted in the Urban Resort environment subject to the policies and regulations contained in this Management Program, provided that the proposed structures and facilities will not have a significant adverse impact on the aesthetic qualities of the surrounding area. Proposals containing net-pen facilities shall be located no closer than 1500 feet from the OHWM of this environment, unless a lesser distance is determined to be appropriate based upon a visual impact analysis. Other types of floating culture facilities may be located within 1500 feet of the OHWM but in such cases a visual analysis shall be mandatory.

(c) Rural: Aquacultural activities shall be permitted in the Rural environment subject to the policies and regulations contained in this Management Program, provided that the proposed structures and facilities will not have a significant adverse impact on the aesthetic qualities of the surrounding area. Proposals containing net-pen facilities shall be located no closer than 1500 feet from the OHWM of this environment, unless a lesser distance is determined to be appropriate based upon a visual impact analysis.

(d) Conservancy: Aquacultural activities shall be permitted in the Conservancy environment subject to the policies and regulations contained in this Management Program, provided that the natural resources and systems of the environment will not be significantly altered and provided further that the required structures and facilities, both terrestrial and aquatic, will not have a significant adverse impact on the aesthetic qualities of the surrounding area.

(e) Natural: Aquaculture activities which do not require structures or facilities or mechanized harvest practices and which will not result in the alteration of natural systems or features shall be permitted in the Natural environment subject to the policies and regulations contained in this Management Program.

(f) Aquatic: Aquacultural activities shall be permitted in the Aquatic environment subject to the policies and regulations contained in this Management Program and to the Regulations by Environment applicable to the most restrictive abutting shoreline environment, to be determined on a case-by-case basis but to be considered generally as the shoreline environment visible within 1500 feet of a project site, provided that the provisions of a less restrictive abutting environment may be substituted if the County determines that the public interest would not be compromised by doing so.

### **23.100.30 COMMERCIAL**

Commercial development in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.30.10 COMMERCIAL -- POLICIES**

##### **.11 Optimum Use**

Only those businesses which either require a shore location, or which allow substantial numbers of people and/or the general public to enjoy shorelines should generally be permitted to locate there.

##### **.12 Public Access**

New shoreline business should be required to provide shoreline access for their customers and the public whenever feasible and appropriate.

##### **.13 Preferred Use**

Commercial uses which meet one of the following two conditions should be given preference over other commercial uses in securing shoreline locations:

- (a) Uses for which shoreline location is a necessity, including but not limited to boat rentals, marine service stations, fishing piers.
- (b) Uses which promote physical or visual use of shorelines by the public, including but not limited to resorts, rental campgrounds, and restaurants.

##### **.14 Recreation Facilities**

Recreation-oriented uses should provide water access for their customers and should not rely on existing public access areas to accommodate them. If water access is impossible to obtain, then sufficient on-site recreation facilities should be provided in order to prevent overloading of public access and recreation areas.

##### **.15 Utilities and Roads**

Developers should be required to install or establish access roads or utilities of a quality and type as needed to best protect shore features and other users which may be affected by pollution, nuisances, flooding, erosion, or other adverse effects.

##### **.16 Natural and Cultural Amenities**

Commercial development should conserve natural and cultural features on the development site having significant value for recreation, fish and wildlife habitat or esthetic enjoyment.

##### **.17 High Rise Buildings**

- (a) As mandated by the Shoreline Management 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) High-rise lodging developments should be allowed in resort communities designated Urban Resort. 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 public review of the detailed plans.

1. Open space areas and setbacks should be required along shorelines and between buildings. These areas should be large enough so that local views are not extensively blocked, and building clientele have privacy and ample space for outdoor recreation and circulation. The amount of open space should increase as density and/or height increase.

2. 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. Soil tests should be required to determine local load-bearing capacity.

3. Circulation, parking areas, and outdoor storage or loading areas should be adequate in size and designed so that the public safety and local esthetic values are not diminished. Such areas should be screened from open space areas by landscaping, structures, or grade separation.

4. Recreational needs of building clientele must be provided for through several on-site recreation facilities and access to shorelines. The variety and number of on-site recreation facilities should increase as density increases.

### **23.100.30.20 COMMERCIAL -- REGULATIONS**

#### **.21 Shoreline Area Regulations**

(a) Urban: Water dependent, water related and water enjoyment commercial development is permitted subject to policies and regulations.

(b) Urban Resort: Water dependent, water related, and water enjoyment resort oriented commercial development is permitted subject to policies and regulations; examples of permitted uses are high rise resorts or hotels, motels, restaurants and small scale delicatessens, barber and beauty shops, sporting goods stores, bicycle rental, camera shops, book shops, and shore-related uses.

(c) Rural: Water dependent, water related and water enjoyment commercial development is permitted subject to policies and regulations.

(d) Conservancy: Commercial resort, restaurant, bed and breakfast facilities, and campgrounds development only may be authorized as a conditional use, subject to policies and regulations.

(e) Natural: Commercial development is prohibited.

(f) Aquatic: Commercial development is prohibited except the following may be permitted

as conditional uses:

limited water surface dependent uses accessory to upland uses consistent with this Program.

## **.22 General Regulations**

### **(a) Landscaping and Buffer**

All new or expanded developments shall be landscaped and buffered so that they do not significantly detract from shoreline scenic qualities. Such landscaping shall take into account the view of the shoreline from land (beyond the boundary of shoreline management jurisdiction) and the view of the shore from the water surface. The width and physical nature of the buffer shall be established by the County commensurate with local conditions.

### **(b) Recreational Facilities**

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 resort or campground will neither be dependent on nor place undue burdens upon public recreational facilities.

### **(c) Landfill**

Filling or drainage of water bodies, flood ways, backshores, or natural wetlands for expansion of upland areas for commercial development is prohibited.

### **(d) Over-water Structures**

Only those portions of water dependent commercial uses which require over-water facilities such as boat fuel stations shall be permitted to locate waterward of the OHWM or wetland edge, provided they are located on piling or other open-work structures. Space-consuming accessory uses including parking and loading and all other commercial uses are prohibited from such location.

### **(e) Flood Hazard Areas**

1. Commercial development in the flood way fringe is permitted provided a Flood Control Permit is obtained and county zoning standards are met.

2. Developers of buildings in coastal flood hazard areas shall be required to flood proof such buildings, including utility equipment.

## **.23 Tabular Regulations: Setbacks, Height and Open Space for Commercial Development**

Minimum required setbacks from shorelines and side property lines, maximum height limits and open space requirements are contained in Section 23.90.60-Setback, Height and Open Space Standards for Shoreline Development.

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**23.100.40 DREDGING**

Dredging in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

**23.100.40.10 DREDGING -- POLICIES**

**.11 Necessity and Purpose**

(a) Dredging should be permitted for water-dependent uses of economic importance to the region only when necessary and alternatives are infeasible or less consistent with this Program.

(b) Dredging projects to provide inland canals or small basins for boat moorage or launching, water ski landings or swimming holes should not be permitted. Minor dredging as part of a beach enhancement or community recreation plan should be permitted if consistent with this Program.

(c) Dredging of bottom materials for the primary purpose of obtaining material for landfill, construction, or beach feeding should not be permitted.

**.12 Water Quality and Quantity**

Dredging should aim toward maintaining state water quality and all other applicable standards of affected waters and preventing additional flooding or erosion.

**.13 Geo-Hydraulics**

Potential adverse impacts of dredging should be carefully assessed. Design and operating conditions should be established which will prevent interruption of the shore process corridor or significant harm from erosion or flooding to valuable physical features and properties.

**.14 Fish and Wildlife**

In reviewing dredging proposals, the County should ensure that maximum feasible conservation of shore-related life forms and their respective habitats is provided. Enhancement of such habitats through dredging or use of dredge spoil should be encouraged whenever consistent with State Wildlife and Fisheries Department policies.

**.15 Stream Dredging**

(a) Projects should be designed to provide maximum feasible conservation of valuable shore features including land. Guidelines for farm operators on management of streamways aimed at extending benefits from approved dredging projects over the longest possible time should also be provided.

(b) Consideration should be given to a long-term Cooperative Streamway Management Program involving land owners and concerned public agencies to further effect program goals of shoreline multiple use and public access. It would be aimed at preventing or minimizing these problems which, if neglected, make dredging necessary, such as bank erosion, debris in channels, sedimentation, and lack of adequate vegetative cover. Several agencies together could assist owners with money, advice, or labor through a long term agreement for

conservation of resources for private and public benefit. Easements for public access could be included in such agreements. Such a program could obtain needed wise use of public resources and public access while benefiting the owner.

#### **.16 Spoil Disposal**

(a) Because of the high probability of water quality and biologic resource problems from disposal, dredge spoils should not be deposited in shallow offshore areas or natural wetlands. Suitable land or open water sites should be selected in cooperation with other public agencies including the County Health Board, Port of Bellingham, adjacent local governments, Lummi Nation, Nooksack Tribe, State Departments of Natural Resources, Fisheries, Ecology, and Wildlife and the Federal Environmental Protection Agency and the Army Corps of Engineers.

(b) Spoil disposal on land away from the shoreline is generally preferred over open water disposal, but should be permitted only under the following conditions:

1. Quality of affected ground and surface water will be given long-term protection.
2. Spoil will not increase damages from floodwaters or runoff to adjoining resources and properties.
3. Sites will be adequately screened from view of local residents or passersby on public rights-of-way.

(c) Spoil disposal in open navigable waters may be less consistent with this Program than land disposal, and should be permitted only under one or more of the following conditions:

1. Land disposal is infeasible, less consistent with this Program, or prohibited by law.
2. Offshore biologic habitat will be protected, restored, or enhanced.
3. Adverse effects on water quality or biologic resources from contaminated bottom materials will be mitigated.
4. Shifting and dispersal of spoil will be minimal.
5. Water quality will not be adversely affected.

(d) The County should require dredging project sponsors to provide sufficient detailed information on disposal plans so that a rational decision can be made as to the site and means of disposal which will be consistent in the long term with this Program and other public policies and regulations.

(e) Professional chemical, biological, and physical analysis of spoil material should be considered in review of extensive projects or those in sensitive areas.

#### **.17 Sensitive Areas**

Dredging should not be permitted where valuable natural wetlands, estuaries, eelgrass beds, accretion shoreforms, or other scarce and valuable natural areas would suffer significant harm. In estuarine branch channels, dredging below low tide level does not increase channel capacity but acts as a sediment trap requiring periodic, long term maintenance dredging and should not

be permitted.

### **.18 General Dredging Considerations**

- (a) Dredging should utilize techniques that cause minimum dispersal and broadcast of bottom material; sidecast disposal in water bodies should not be permitted; hydraulic dredging is generally preferred over agitation dredging.
- (b) Hydraulic modeling studies should be considered in review of large scale, extensive dredging projects, particularly in estuaries in order to identify existing geo-hydraulic patterns and probable effects of dredging.
- (c) It must be considered in design review that in the long term, the relatively fixed horizon and profile of the wave-cut terrace underlying loose beach material on ending marine cliff shores cannot feasibly be re-established once cut away.

### **.19 Timing**

All operations should be carefully scheduled and conducted to prevent or minimize adverse impacts upon shoreline features.

### **.20 Beach Feeding**

The use or recycling of dredge spoil for beach feeding, habitat enhancement, berm building, or soil building on agricultural lands is preferable to landfill or open water disposal and should be encouraged if the soil is clearly suitable for such uses.

## **23.100.40.30 DREDGING -- REGULATIONS**

### **.31 Shoreline Area Regulations**

- (a) Urban: Dredging is permitted as a conditional use subject to policies and regulations.
- (b) Urban Resort: Dredging is permitted as a conditional use subject to policies and regulations.
- (c) Rural: Dredging is permitted as a conditional use subject to policies and regulations.
- (d) Conservancy: Dredging is permitted as a conditional use subject to policies and regulations.
- (e) Natural: Dredging is prohibited except as one element of an approved shore restoration or enhancement plan, subject to policies and regulations.
- (f) Aquatic: Dredging is permitted as a conditional use, except that dredging pursuant to Chapter 23.50.31(b),(d) is permitted subject to policies and regulations; 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.

## **.32 General Regulations**

### **(a) Necessity and Purpose**

Dredging shall be permitted for the following purposes only:

1. Development of approved wet moorages and harbors, ports and shore dependent industries;
2. Restoration or enhancement of hydraulic capacity of streamways, and construction or maintenance of irrigation reservoirs, and drains, canals or ditches for agricultural purposes; Provided, sidelaying of dredged materials to create or enlarge berms or dikes is prohibited unless specifically planned and authorized by a shoreline permit in accordance with Chapter 23.100.170 Stream Control Works;
3. Mitigation of conditions adverse to public safety;
4. Enhancement of water quality or biologic habitats;
5. Enhancement of shore dependent or related recreational opportunities for substantial numbers of people;
6. Minor trenching to allow the installation of necessary underground pipes or cables.

### **(b) Public Safety and Environmental Protection**

1. The County may impose reasonable limitations on dredge or disposal operating periods and hours, and may require provision of buffer strips at land disposal or transfer sites in order to protect the public safety and other shore users' lawful interests from unnecessary adverse impact.
2. All phases of dredging shall be conducted so that state quality standards for affected waters are not lowered on a long-term basis. The County may require reasonable precautions, particularly in disposal operations such as dikes (temporary), settling basins, or buffer strips to achieve this objective. Release onto shorelines of hazardous materials is prohibited.
3. Stream, lake or marine banks shall not be lowered if material damage to shoreline resources or other properties will likely result therefrom.

### **(c) Spoil Disposal**

Disposal is prohibited on marine shorelines landward from the line of extreme low tide, on lake shorelines or beds, and in stream-ways; PROVIDED that, dredge spoil may be utilized in approved beach feeding or other shoreline resource enhancement development, or in landfills if permitted under applicable regulations.

### **(d) Landfill**

Dredging bottom material from natural water bodies or their adjacent natural wetlands for the purpose of obtaining landfill material is prohibited, except that limited bar scalping of gravel in stream-ways is permitted under Mining policies and regulations (Section 23.100.90).

(e) Sensitive Areas

Dredging is prohibited in estuaries, wetlands adjacent to natural water bodies, alluvial fan hazard areas, in marine accretion shoreforms, or at the base of feeder bluffs except in the following instances, with the approval of the Washington Department of Fisheries and/or Wildlife:

1. Dredging is permitted as a conditional use in wetlands for the purpose of fish and/or wildlife enhancement.
2. Dredging is permitted as a conditional use in alluvial fan hazard areas, such as creek deltas, for the purposes of enhancing fish passage to existing fish hatcheries.
3. Dredging is permitted as a conditional use in alluvial fan hazard areas, such as creek deltas, to allow protection of existing structures, roads and facilities where no feasible alternative exists.

### **23.100.50 FOREST PRACTICES**

Forest practices in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.50.10 FOREST PRACTICES POLICIES**

##### **.11 Multiple and Optimum Use**

Forest lands should be reserved for forest management and such other uses as are compatible with the dominant use. Other more intensive and incompatible uses tending to impair the dominant use should be discouraged from locating on forest lands.

##### **.12 Water Quality and Quantity**

Forest practices should aim to maintain high levels of water quality, as well as surface and groundwater movement patterns.

##### **.13 Fish and Wildlife**

Forest practices should aim to conserve fish and wildlife populations and to minimize alterations of habitat, especially aquatic habitats.

##### **.14 Use Conflicts**

Forest practices should aim at preventing or minimizing potential conflicts with scenic values and nearby uses such as residences and recreation.

##### **.15 Soil Damage and Losses**

Forest practices should aim at maintaining or improving the quality of soils and minimizing losses through erosion.

##### **.16 Hazardous Areas**

Where slopes are extremely steep or soils are subject to sliding, rapid erosion or high water table, special practices should be considered which will minimize damage to shoreland and water features, and adjacent properties.

##### **.17 Sensitive Areas**

Critical wildlife or aquatic habitats, scarce or unique features, or springs or natural wetlands, should be given protection, and forest practices used in such areas should be carefully selected and conducted so as to provide for their long term protection.

##### **.18 Timber Harvest**

Harvest planning and methods should maintain productivity and stability of forest lands, and protect water quality as well as fish and wildlife resources.

- (a) Trees should be felled away from water bodies whenever possible.

(b) Any logging debris including slash falling into water bodies should be removed concurrent with yarding operations to a point on land above OHWM.

### **.19 Road Development**

Forestry roads should be located, designed, and constructed, and either maintained or abandoned, so as to provide maximum feasible protection of affected shoreline resources.

#### **(a) Location**

1. Roads and landings should be located to minimize the risk of land material entering water bodies.

2. Steep or unstable areas, narrow canyons, slide areas, slumps, natural wetlands, or drainage ways should be avoided whenever possible.

3. The number of stream crossings should be held to a minimum, and such crossings should be at right angle to the channel whenever possible.

4. Side-hill locations requiring cuts and fills with high potential for erosion and water quality deterioration should be avoided.

5. Areas of vegetation should be left between road and water bodies whenever possible.

#### **(b) Design**

1. Road development should be no wider than necessary and built to minimum standards adapted to local conditions.

2. Fills for road development and exposed or unstable soils should be protected from erosion through vegetative stabilization, rip rap, or other suitable means.

3. Road development should be carefully designed for minimal impact on storm runoff peaks, fish passage, and natural surface drainage. Techniques such as bridges, bottomless and relief culverts, roadside ditches, in-sloping of roads with cross drains or out-sloping should be used to meet this objective.

#### **(c) Construction**

1. Debris, overburden and excess materials should be cleaned up from drainage ways or stream banks upon completion, and placed above potential high water levels or where such materials will not enter water bodies.

2. Aggregate for road development should be mined from upland sites away from shorelines; mining of stream beds should be minimized.

### **.20 Buffers**

Buffer vegetation should be left or provided for which is consistent with this Program and the State Forest Practices Act. Said vegetation should be protected from fire if nearby slash is burned.

**.21 Reforestation**

Cut over forest lands should be adequately restocked as soon as possible.

**.22 Use of Chemicals**

Extreme caution must be observed whenever chemicals are to be used along shorelines; such use should be avoided altogether if possible.

**23.100.50.30 FOREST PRACTICES REGULATIONS**

**.31 Shoreline Area Regulations**

(a) Urban: Forest practices are prohibited except for land clearing which is incidental to preparation of land for other uses.

(b) Urban Resort: Forest practices are prohibited except for land clearing which is incidental to preparation of land for other uses.

(c) Rural: Forest practices are permitted subject to policies and regulations.

(d) Conservancy: Forest practices are permitted as a conditional use subject to policies and regulations, except land clearing incidental to preparation of land for other uses in conjunction with a prior shoreline-approved development is permitted.

(e) Natural: Forest practices are prohibited, except

1. to maintain or restore a desired stage of natural plant succession; or
2. to suppress an epidemic of insects or diseases or fire which threatens material damage to adjacent timber stands.

(f) Aquatic: Forest practices may be authorized as a conditional use on Aquatic shorelines of statewide significance. The removal of natural downed trees is allowed. Forest practices are permitted on other Aquatic shorelines; however, no wheel or crawler machinery may enter water bodies unless a Hydraulics Permit for such practice has been obtained from the Departments of Fisheries or Wildlife.

**.32 General Regulations**

(a) Forest Practices Act

All forest practices undertaken on shorelines shall comply with the policy and provisions of the 1974 Forest Practices Act, RCW 76.09 as amended, and any regulations adopted pursuant thereto (WAC 222), as administered by the Department of Natural Resources.

(b) Shorelines of State-wide Significance

With respect to timber situated within 200 feet abutting landward of OHWM of such shoreline only selective commercial timber cutting may be permitted as a conditional use, so that no more

than thirty percent of the merchantable timber may be harvested in any ten year period; PROVIDED that, other timber harvesting methods may be permitted in those limited instances where topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental; PROVIDED FURTHER, that clear cutting of timber which is solely incidental to preparation of land for other uses authorized by the Act may be permitted in conjunction with an approved development.

(c) Steep Marine and Lake Shores

Roads are prohibited on marine or lake shores where slopes exceed 35% except when necessary to obtain access to road networks on land outside the act's jurisdiction.

(d) Protection of Erodible Marine Shores

Cutting of more than 30 percent of the merchantable trees over a ten year period within 50 feet of the rim on erodible bluff or cliff marine shores is prohibited. Only selective thinning methods which minimize erosion potential shall be employed.

(e) Log Storage

Log storage in shoreline areas, onshore and offshore, is also subject to the policies and regulations of Section 23.100.110.

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### **23.100.60 HISTORIC-CULTURAL SITES**

Historic and cultural site and archaeological activity in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.60.10 HISTORIC SITES -- POLICIES**

##### **.11 Optimum Use**

All significant local historic, cultural and archaeological sites should be identified by the County, and such sites should be preserved and/or restored for study, interpretation and public enjoyment to the maximum possible extent.

##### **.12 Multiple Use**

Provision for historic, cultural and archaeological site preservation, restoration and interpretation should be incorporated along with open space or recreation areas into site development plans for other uses whenever compatible and possible.

##### **.13 Cooperation**

Cooperation among involved private and public parties must be encouraged to achieve this Program's Historical and Cultural Element Goals and Objectives, and procedures should be established to evaluate sites and to guide excavation.

##### **.14 Public Access**

Private and public owners of historic sites should be encouraged to provide public access and effective interpretation at levels consistent with long term protection of both historic values and shore features. Access may have to be restricted at times, but interpretive means should be provided whenever possible.

##### **.15 Use Conflicts**

Historic site development should be planned and carried out so as to prevent impacts on neighboring properties and other shore uses or hold them to temporary or reasonable levels.

##### **.16 Timing**

Owners of property containing identified historic, cultural or archaeological sites are encouraged to make substantial development plans known well in advance of application, so that appropriate agencies, the Lummi Nation, Nooksack Tribe, and others may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values.

##### **.17 Adjacent Development**

If development of urban or industrial character, or of a higher density, is proposed adjacent to a publicly identified historic, cultural or archaeological site which is under protective management, then the proposed development should be designed and operated so as to be compatible with continued conservation of the historic, cultural or archaeological site.

### **23.100.60.20 HISTORIC - CULTURAL SITES -- REGULATIONS**

#### **.21 Shoreline Area Regulations**

(a) Urban: Interpretive centers and signs and restoration of historical structures are permitted subject to policies and regulations.

Archaeological excavations are permitted as a conditional use.

(b) Urban Resort: Interpretive centers and signs and restoration of historical structures are permitted subject to policies and regulations.

Archaeological excavations are permitted as a conditional use.

(c) Rural: Interpretive centers and signs and restoration of historical structures are permitted subject to policies and regulations.

Archaeological excavations are permitted as a conditional use.

(d) Conservancy:

1. Interpretive centers not requiring extensive structures and signs are permitted subject to general policies and regulations.

2. Restoration of historical structures and interpretive centers requiring extensive structures, and archaeological excavations are permitted as a conditional use.

(e) Natural: Interpretive centers compatible with the area's physical and visual character, and archaeological excavations are permitted as a conditional use.

(f) Aquatic: Archaeological excavations are permitted as a conditional use.

#### **.22 General Regulations**

(a) Known Historic, Cultural or Archaeological Sites

1. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties known to contain a historic, cultural or archaeological site(s), the County shall notify and request a recommendation from appropriate agencies such as the Whatcom Museum, Western Washington University Anthropology Department, Washington Archaeological Research Center, the Office of Archaeology and Historic Preservation, State Parks and Recreation Commission, and the Lummi Nation and Nooksack Tribe. Recommendations of such agencies and other interested persons shall be duly considered and adhered to whenever possible and reasonable.

2. In granting shoreline permits or statements of exemption for such development, the County may attach reasonable conditions to provide sufficient time and/or conditions for professional evaluation, consultation with the Lummi Nation and Nooksack Tribe, and/or excavation to assure that valuable information and materials are properly salvaged, or for appropriate agencies to contact property owners regarding purchase or other long term arrangements. Provision for the protection and preservation of archaeological sites shall be

incorporated to the maximum extent possible.

(b) Notification

1. Whenever historic, cultural or archaeological sites or artifacts of potential significance are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the Administrator.

2. The Administrator shall then notify appropriate agencies and request an immediate site evaluation to determine the significance of the discovery. If a positive determination is not received within 14 days of receipt of such request, or if a negative determination is received, such stopped work may resume.

3. On receipt of a positive determination of the site's significance, the Administrator may invoke the provisions of Section 23.100.60 .22 (a)(2) above if such action is reasonable and necessary to implement related program objectives.

(c) Impact Mitigation

In order to protect shoreline features, public safety, properties and other uses during or after excavations or other development of historic sites, the County may impose reasonable conditions on such development including but not limited to surface runoff control, spoil or waste disposal, operating hours, noise or dust control, or visual screening.

### **23.100.70 LANDFILL AND EXCAVATION**

Landfill and excavation in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90 and, when appropriate, Chapter 23.100.60 Historic-Cultural Sites.

#### **23.100.70.10 LANDFILL AND EXCAVATION -- POLICIES**

##### **.11 Necessity and Purpose**

Landfill in water bodies, floodways, and natural wetlands should not be permitted for creation of new uplands for uses which are not shoreline dependent, nor where adequate upland area already exists for appropriate uses. 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 defense or recreation, to develop or enhance biologic habitat, or to moderately elevate low uplands in order to make such uplands more useful for purposes consistent with this Program. Excavation of uplands may result in significant disturbances affecting surface and subsurface water movement, slope stability, erosion, fish and wildlife habitat and aesthetic quality and should only be permitted to the extent reasonably necessary to accommodate permitted development consistent with this Program. Scenic and ecological values of natural shorelines should be protected from adverse impacts that might result from landfill or excavation activities.

##### **.12 Water Quality and Quantity**

Landfills and excavation should be located and developed so that water quality and normal hydrologic and runoff patterns are not damaged nor altered to the detriment of shore features and properties.

##### **.13 Geo-hydraulics**

Fills and excavation should be located, designed and developed so that valuable natural shoreforms and processes are maintained in a manner beneficial to the region.

##### **.14 Fish and Wildlife**

Landfill and excavation plans should be carefully assessed for adverse impact upon shoreline biologic resources. The Washington Department of Fisheries criteria in WAC 220-110 should be followed to protect sensitive aquatic biological resources. The predicted economic benefits of a landfill should be weighed against long-term cumulative resource impacts. Disturbed areas should be immediately revegetated.

##### **.15 Hazardous and Sensitive Areas**

Landfill and excavation should not generally be permitted in hazardous or sensitive areas, such as flood plains, estuaries, natural wetlands, wildlife habitat, accretion shoreforms, erosional bluffs and geologically unstable shorelines, unless alternatives are infeasible and regional benefits clearly exceed costs, including social and environmental losses.

##### **.16 Preferred Location**

(a) Landfills or excavation should be located where massive, artificial character shore

defense works will not be necessary in the shore process corridor.

(b) On marine shores, a limited number of foreshore fills may be located at drift sector ends in low energy driftways, or on erosional pocket beaches where the effect of the landfill's interruption of the littoral process can be mitigated. However, such irreversible development of a particular shoreform and/or biologic habitat must be generally consistent with this Program in terms of purpose and need for such locations.

#### **.17 Preferred Design**

(a) As an alternative to irreversible fills in the shore process corridor, open pile or pier supports are preferred whenever the shore area to be filled is of significant value to the region in a natural state.

(b) If fills or excavation are necessary in sensitive areas such as estuaries, natural wetlands, or flood plains, the filled or excavated area should be sharply limited in scale so that the larger remaining biologic or shore process areas are not adversely affected, and so that flood-stage hydraulic gradient profiles are not altered by the fill or excavation's water-displacement effect.

(c) In reviewing proposed fills on marine shores, consideration should be given to potential need for re-establishment or shifting of the foreshore profile seaward of and alongside the fill; this may be necessary to permit shore process continuity. Quantity and particle size of material should be carefully selected.

(d) Retaining walls or revetments near the shoreline which do not qualify as shore defense or stream control works should be kept to a minimum and constructed of flexible natural materials. Rigid structures should be subject to standard shoreline setbacks.

#### **.18 Shore Protection**

(a) Shore-side perimeters of fills or excavation should be sloped and protected to minimize beach and upland erosion; defense works for fills in the shore process corridor should have streamlined or angled sides if needed to minimize interference with littoral drift, flood waters, or excessive driftwood pileup; vegetative stabilization, protective berms, or other flexible, natural character means are preferred over rigid, artificial-character works. Any defense works for fills should conform to policies and regulations established under Shore Defense or Stream Control Works.

(b) Material for proposed fills including beach feedings should be selected and placed so as to prevent water quality problems and degradation of other shore resources including scenic values.

(c) Excavated materials should be deposited away from the shoreline in a manner that is consistent with the policies and regulations for landfill.

#### **.19 Topography**

Landfills, beach feeding and excavation should be designed to blend physically and visually with existing topography whenever possible, so as not to interfere with long term appropriate use including lawful access and enjoyment of scenery.

**23.100.70.30 LANDFILL AND EXCAVATION -- REGULATIONS**

**.31 Shoreline Area Regulations**

- (a) Urban: Landfill and excavation are permitted subject to policies and regulations.
- (b) Urban Resort: Landfill and excavation are permitted subject to policies and regulations.
- (c) Rural: Landfill and excavation are permitted subject to policies and regulations.
- (d) Conservancy: Landfill and excavation with vegetative stabilization or other natural character erosion control is permitted as a conditional use, except that minor grading associated with the development of a single family residence is permitted; PROVIDED that, landfill to create new uplands is not permitted.
- (e) Natural: Landfill and excavation are prohibited except as one element of an approved shore restoration or enhancement plan subject to policies and regulations.
- (f) Aquatic: Landfill is prohibited except water dependent uses consistent with those purposes enumerated in section 23.100.70.32(b) are permitted as a conditional use, subject to policies and regulations.

**.32 General Regulations**

(a) Water Quality and Environmental Protection

1. Landfill and excavation shall not be permitted to lower quality of affected waters below state standards. Erosion control measures at fill or cut perimeters consistent with this Program may be required by the County.

2. Landfill or excavation shall not be permitted which will significantly alter existing surface runoff patterns, including predictable storm peak flows and floods, to the detriment of valuable shore features or other properties. The County may require adequate runoff control measures to prevent such damages.

3. Landfill shall not be permitted for development of sewage disposal drain fields in floodways or within 100 feet of OHWM, whichever is farther landward.

(b) Necessity and Purpose

Landfill and excavation shall be permitted in limited instances for these purposes only, with due consideration given to specific site conditions, and only along with approved shoreline use and development activities that are consistent with this Program:

1. Port development for water dependent uses where other upland alternatives or structural solutions, including pile or pier supports are infeasible.

2. Road development in flood plains or wetlands where pile or pier supports are infeasible.

3. Shore feature restoration or enhancement such as beach feeding, bank restoration or insignificant raising or lowering of upland grades including landscaping and the placement or

removal of top soils not to exceed 24-inches in depth for yard enhancement purposes. Where no alternatives exist, in the Urban, Urban Resort and Rural designations such raising or lowering of upland grades for building foundation purposes may exceed 24 inches but shall be kept to the minimum necessary and may be conditioned to ensure consistence with this Program.

4. Biologic habitat development when consistent with State Wildlife and/or Fisheries Department policies.

(c) Sensitive and Hazardous Areas

Landfill and/or excavation are prohibited in or on estuaries, wetlands, marine or lake accretion shoreforms, streamways including floodways, or erosional bluff, driftway, or geologically unstable shorelines. Excavation waterward of the OHWM or within wetlands shall be considered dredging or gravel bar scalping for purposes of this Program.

(d) Design Standards

1. Material for landfill shall have a specific gravity greater than 1.0.

2. Perimeter banks shall be sloped no steeper than one-foot vertical for every one and one-half feet horizontal.

3. Landfill intended to support structures shall meet requirements of the Uniform Building Code as interpreted by the County Building Inspector.

(e) Flood Plain

A Flood Permit shall be obtained for fills in the Nooksack River 100 year flood plain or other riparian or coastal flood areas where required, unless exempted by the Department of Ecology pursuant to RCW 86.16.

(f) Retaining Walls

Necessary retaining walls or revetments which are at least ten feet landward of OHWM and not more than two feet in height are permitted by exemption or permit as appropriate, if otherwise consistent with this Program. Higher walls or revetments are subject to permit requirements and to the shoreline setbacks applicable to the use or development they are associated with under Section 23.90.60. Walls or revetments closer than ten feet to OHWM shall be considered bulkheads subject to 23.100.150.

### **23.100.80 MARINAS AND LAUNCH RAMPS**

Marinas and launch ramp development in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.80.10 MARINAS AND LAUNCH RAMPS -- POLICIES**

##### **.11 Fish, Wildlife and Plants**

Marinas and launch ramps should be located, designed, and operated to provide maximum feasible protection and enhancement for all forms of aquatic, littoral, or land life forms including animals, fish, shellfish, birds, and plants, their habitats, and their migratory routes.

##### **.12 Geo-hydraulics**

Marinas and launch ramps should be located and designed to have no or minimal adverse effects upon, and to enhance if possible, beneficial shoreline geo-hydraulic processes such as erosion, littoral or riparian transport, and accretion; as well as scarce and valuable shore features including accretion shoreforms and natural wetlands.

##### **.13 Site Reservation**

Recognizing that because ideal sites for marinas and public launch ramps are sharply limited, such sites should be identified and reserved to prevent irreversible development for other uses having less critical site requirements.

##### **.14 Carrying Capacity**

Marinas and launch ramps should be located and designed so that they, together with permitted accessory uses and also other uses which may be attracted, do not exceed the site carrying capacity in terms of its natural capabilities and limitations, as well as local utility and overland access capabilities.

##### **.15 Accessory Uses**

Accessory uses at marinas or launch ramps should be limited to those which are truly shoreline dependent, or which provide physical or visual shoreline access to substantial numbers of the general public. Accessory uses should not be permitted at a specific site unless consistent with the county Comprehensive Plan and permitted by county zoning. A greater variety of accessory uses should be permitted in an Urban or Urban Resort Shoreline Area than in either Rural or Conservancy Shoreline Areas.

##### **.16 Local Compatibility**

Marinas and launch ramps should be located, designed and operated so that other appropriate shoreline dependent uses are not adversely affected, whether such other uses are existing or officially planned. Such uses include but are not limited to navigation, fishing, hunting, pleasure boating, swimming, beach walking, picnicking and shoreline viewing.

**.17 Winds, Tides, and Floods**

Marinas and launch ramps should be located and designed so their facilities, users, and watercraft are adequately protected from floods, abnormally high tides, and/or destructive storms with minimal defense structures.

**.18 Boat Storage**

Due to lesser biological impacts and minimal consumption of public water surface area, marinas comprised of upland boat storage with a launch mechanism should be preferred over all other types.

**.19 General Site Considerations**

(a) Vehicle Access

Marinas and launch ramps should have direct, safe, all weather and ample width motor vehicle access to a county arterial road or state highway.

(b) Utilities

Marinas and launch ramps should be located only where adequate utility services are available, or where they have been engineered or officially planned.

(c) Regional Demand and Benefits

These factors should be considered in proposals for marinas and public launch ramps at new locations:

1. the site is appropriate according to this section;
2. other shoreline dependent uses will have adequate space;
3. there is regional need for additional facilities;
4. total environmental and social costs are not higher than at alternative sites for benefits of like magnitude.

(d) Water Depth

Marinas and launch ramps should be located where water depths are adequate, thus eliminating or minimizing potential losses and degradation of shoreline resources from offshore or foreshore channel dredging.

(e) Use Conflicts

Public launch ramps and/or marina entrances should not be located near beaches commonly used for swimming, valuable commercial fishing and shellfish areas, nor sea lanes used in commercial navigation.

(f) Waste Outfalls

New wet moorage marinas should not be permitted to locate within 0.5 mile of a domestic sewage or industrial waste outfall of primary or less treatment capability.

**.20 Marine Shores**

(a) Preferred Locations

In order to minimize interference with littoral drift and accretion, marinas and launch ramps should be located at:

1. an end of a drift sector; or
2. an erosional pocket beach.

(b) Possible Locations

1. Foreshore marinas or launch ramps may be located at low erosion rate feeder bluffs or on low energy input erosional driftways if the proposal is otherwise consistent with this Program.

2. Backshore marinas and launch ramps may be located on closed accretional points, closed accretional bluff and bay barrier beaches, or low energy input driftways; if the proposal is otherwise consistent with this Program.

(c) Poor Locations

1. Marinas or launch ramps should not be permitted on these erosional marine shores where interference with littoral drift will likely cause degradation or losses of shoreline resources.

- i) Erosional feeder bluffs
- ii) High energy input driftways

2. Marinas or launch ramps should not be permitted on these wetland shores because of their scarcity, biological productivity and sensitivity:

- i) Marshes, estuaries and other natural wetlands;
- ii) Tidal pools on rock shores;
- iii) Spawning areas.

3. Marinas or launch ramps should not be permitted to occupy these natural accretion shoreforms unless absolutely necessary, and only when the proposal is otherwise consistent with this Program. Hoists are preferred over dredged marinas or launch ramps at such locations:

- i) Open points;
- ii) Spits and hooks;
- iii) Tombolos;
- iv) Open bay barrier beaches;
- v) Accretional pocket beaches.

**.21 Lake Shores**

(a) Preferred Locations

Marinas and launch ramps should be located on stable or low erosion rate shores where no or only minimal dredging is necessary.

(b) Poor Locations

Foreshore marinas or launch ramps should not be permitted on accretional beach shores because these natural features are uncommon on lakes and highly valuable for general recreation.

(c) Possible Locations

Backshore marinas or launch ramps may be permitted on low bank beaches if most of the beach and backshore is preserved in its natural condition for public or quasi-public recreation.

**.22 Streams**

(a) Preferred Locations

A limited number of foreshore marinas may be located in the low gradient, broad meander channel reaches, but only on outer, concave bends or straight, moderately eroding or stable banks, so that dredging will not be necessary.

(b) Poor Locations

1. Marina basins or structures should not be permitted on point bars or other accretional beaches.

2. Backshore marinas should not be permitted on streamways if channel dredging will be required, if a floods hazard will be thus created, or if valuable natural resources will be diminished or endangered.

(c) Launch Ramps

1. A limited number of launch ramps may be permitted on accretion shoreforms, provided any necessary grading is not harmful to affected resources and any accessory facilities are located out of the floodway.

2. Launch ramps should 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.

(d) Parking

No overnight parking should be permitted in the floodway during the wet season between November 1 and May 1.

### **.23 Preferred Designs**

(a) Backshore marinas or launch ramps are generally preferred over foreshore types on marine and lake shores because of substantially less impact on shoreline natural features and uses, as well as less irreversible appropriation of navigable waters. Upland dry storage marinas are preferred over all other types.

(b) Foreshore marinas may be preferred, however, where the public benefit from preserving fisheries resources, water quality or a valuable backshore for general shore recreation is great, and the proposal is otherwise consistent with this Program.

(c) Where foreshore marinas are permitted:

1. Open pile or floating breakwater designs are preferred over rip rap or other solid construction because of less adverse effects on natural shore features and because only the former mode is reversible; and

2. Solid structures should not be permitted to extend without openings from the shore to zero tide level (Mean Lower Low Water, or MLLW) but should stop short to allow sufficient shallow fringe water for fish passage.

### **.24 Multiple Use**

Marinas and launch ramps should be designed to provide public access for as many shoreline dependent recreational uses as are possible, commensurate with the particular proposal. Features for such access could include artificial pocket beaches created by foreshore defense structures, pedestrian bridges to offshore structures, fishing or viewing platforms, and underwater diving and viewing platforms.

### **.25 Sensitive Areas**

Marinas and launch ramps should be designed so that adjacent fragile or unique natural and cultural features are preserved or enhanced so that they continue to provide public benefits through biological productivity and esthetic appreciation.

### **.26 Public Access**

Marinas and launch ramps should be designed so that lawfully existing or potential public access along beaches is not unnecessarily blocked nor made dangerous. Public access areas and/or facilities should be required for new or expanded marina development commensurate with the scale of development and the need for access opportunities.

### **.27 Water Quality**

Foreshore and backshore marinas should provide thorough flushing of all enclosed water areas. Solid waste and sewage disposal, site drainage and 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.

**.28 Launch Ramps**

- (a) Ramp structures should be built from flexible contour bolt and hinge segmented pads which can adapt to changes in beach profiles.
- (b) Ramps should be placed and kept flush with the foreshore slope.
- (c) A ramp is preferred over a marina on natural accretion shores because it is reversible and will not interfere with littoral drift and accretion unless offshore defense structures or dredging are also required.
- (d) Where ramps are permitted, parking and shuttle areas should not be located on scarce accretion shoreforms which have high value for general shore recreation.

**.29 Beach Feeding**

Marinas where dredged entrances adversely affect littoral drift to the detriment of other shores and their users should be required to periodically replenish such shores with the appropriate quantity and quality of aggregate, as determined by professional coastal engineering studies.

**.30 Dry Storage**

Recognizing limitations on shoreline space and impacts on shoreline resources, dry land storage is the preferred alternative to sheltered year-round wet moorage of water craft.

**.31 Streams**

Where streamway marinas are permitted:

- (a) Floating piers are preferred over fixed piers or dredged backshore basins because of the former's substantially less impact on geo-hydraulic processes and less potential as a flood hazard;
- (b) Parking areas in the stream corridor or flood prone areas should be kept to a minimum relative to flood hazards and the site carrying capacity.

**.32 Covered Moorage**

Marina developers should be required to provide a detailed plan for covered moorage development before permits are granted. Such a plan shall indicate:

- (a) Covered moorage location, size, and general design; percent of slip area to be covered;
- (b) That shoreline views in the marina and from adjacent private and public properties will not be adversely affected to a significant degree; and
- (c) That the structures will be built to withstand stresses from storms and weather or damage by fire.

### **.33 Parking and Storage**

Parking, dry moorage, and other storage areas should be located well away from the shoreline, and planted or landscaped to provide a visual and noise buffer for adjoining dissimilar uses or scenic areas.

### **23.100.80.40 MARINAS AND LAUNCH RAMPS -- REGULATIONS**

#### **.41 Shoreline Area Regulations**

- (a) Urban: Marinas and launch ramps are permitted subject to policies and regulations.
- (b) Urban Resort: Marinas and launch ramps are permitted subject to policies and regulations.
- (c) Rural: Marinas and launch ramps are permitted subject to policies and regulations.
- (d) Conservancy: Marinas are permitted as a conditional use. Launch ramps are permitted subject to policies and regulations.
- (e) Natural: Marinas or launch ramps are prohibited; PROVIDED that, primitive ramps only may be permitted on the shore to facilitate hand launching of small craft and to protect natural shores if materials and design are compatible with the site.

#### (f) Aquatic

1. Marinas and launch ramps are permitted only where the shoreline area designation of the adjacent land portion of the site permits such use, subject to policies and regulations.

2. Except for covered moorage approved pursuant to Section 23.100.80.42(h) below, only structures for water surface dependent uses may be located over-water.

#### **.42 General Regulations**

##### (a) Public Access

The developer is required to provide space and facilities for pedestrian and/or visual access to water bodies as well as for feasible types of general shore recreation for the public. Access areas and facilities shall be provided commensurate with the scale of development and the need for access opportunities in the vicinity.

##### (b) Waste Disposal

1. Pump-out, holding, and/or treatment facilities shall be provided by marinas 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 have adequate restroom and sewage disposal facilities in compliance with applicable health regulations.

3. Garbage or litter receptacles shall be provided and maintained at several locations

convenient to users.

4. Disposal or discarding of fish or shellfish cleaning wastes, scrap fish, viscera, or unused bait, in or near a marina or launch ramp is prohibited.

5. Operators are required to post all regulations pertaining to handling and disposal of waste, sewage, or toxic materials where all users may easily read them.

(c) 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 recovery of spilled products, shall be required of new marinas in order to hold water pollution to an acceptable minimum. This standard shall also apply to expansion or substantial alteration of existing marinas, unless federal or state law requires prior compliance.

(d) Landfill

Landfill in water bodies or natural wetlands to create space for accessory uses is prohibited.

(e) Dredging and Defense Structures

Dredged basins, bulkheads, jetties, and breakwaters required for marinas shall conform to standards as established in this Program and to applicable criteria adopted by the State Fisheries Department and the U.S. Army Corps of Engineers whenever they are more protective of the aquatic and shoreline environment than this Program.

(f) Parking and Vehicle Access

1. Parking facilities shall meet County zoning standards; PROVIDED that, as a minimum one vehicle space shall be maintained for every two 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. At each public or quasi-public launch ramp, at least 10 car and trailer spaces at least 10 feet by 40 feet shall be provided for each ramp lane.

3. Collector roads between marinas and arterial routes shall have all weather surfacing, and be satisfactory to the County Engineer in terms of width, safety, alignment, sight distance, grade and intersection controls.

(g) Accessory Uses

Any water dependent, water related or water enjoyment use reasonably related to the marina operation may be located landward of the OHWM if otherwise consistent with this Program. Accessory uses proposed waterward of the OHWM may be permitted as a conditional use.

(h) Covered Moorages

1. All covered moorages at a specific marina shall be of similar and/or compatible design, color, length, and height; and shall be constructed in contiguous groups or modules.

2. All covered moorage structures shall conform to the County Building Code, and exterior wall and roof coverings shall be of non-reflecting and noncombustible or fire-retardant treated material and so certified or labeled.

3. Covered moorage shall not exceed 25 percent of the total usable slip area.

**.43 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 Section 23.90.60 - Setback, Height and Open Space Standards for Shoreline Development.

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**23.100.90 MINING**

Mining in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

**23.100.90.10 MINING -- POLICIES**

**.11 Geo-hydraulics**

Mining should not cause interference with natural processes if irreparable or unnecessary damage occurs to valuable shore resources and properties, such as accretion shoreforms and public recreation areas.

**.12 Use Conflicts, Safety**

Operations should be planned and conducted so that short and long term impacts or hazardous conditions are either prevented or held to minimal levels which are not harmful to the interests of other uses and the general public. Mining is often an irreversible alteration of natural features and should not be located on shorelines in general, especially where unavoidable adverse impacts on other users or resources taken together equal or outweigh the benefits from mining. Where mining is permitted, the operator may be required to provide measures such as buffers or all weather access roads, to work limited hours, or to take other measures all for the purpose of holding adverse impacts on resources or other users down to reasonable levels or preventing such impacts.

**.13 Water Quality and Biota**

Mining should be located and operated so as to provide long term protection of water quality, fish and wildlife, other life forms, and their various habitat.

**.14 Reclamation**

Mining and particularly surface or strip mining should provide for timely restoration of disturbed areas to a biologically productive, attractive semi-natural, or other useful condition through a reclamation process consistent with regulations administered by the Department of Natural Resources.

**.15 Site Suitability**

The size and method of mining operations should be compatible with physical features of the site and within the carrying capacity of the local area so that reclamation is possible, affected natural resources and processes are not damaged, and conflicts with other users remain under control.

**.16 Overburden Disposal**

Spoil and overburden from surface mining including topsoil should be recognized as possible usable resources as well as an operational cost and potential source of problems. Thus, all such materials should be handled and placed in a manner which will not destroy their potential value, will provide for future beneficial use of disposal sites, and will prevent erosion, sedimentation or leaching of hazardous substances into surface or ground water.

**.17 Sensitive Areas**

Mining should not be permitted in specific areas of high environmental sensitivity such as natural wetlands or cultural values such as historic sites.

**.18 Marine and Lake Shores**

Mining of marine and lake shores should not usually be permitted.

**.19 Streams**

Mining should only be permitted on accretion point and channel bars where:

- (a) Fish resources and water quality will not be significantly harmed;
- (b) Accessory uses such as stockpiling, crushing, or machinery storage are not performed in the streamway;
- (c) The operation will not affect, detrimentally, geo-hydraulic processes, channel alignment, nor increase bank erosion or flood damages; and
- (d) Mining should not be permitted on publicly owned accretional shore-forms such as point bars having high value for recreation or as fish habitat.

**.20 Shore Setback**

Mining operations other than accretional bar scalping should be set back from water bodies or natural wetlands a distance sufficient to permit natural vegetation and surface topography to prevent erosion, protect water quality, and to protect other resources and esthetic values.

**.21 Streamways and Flood Plains**

- (a) Where surface mining is permitted in a streamway:

- 1. The scale and mode of operation should be compatible with preservation of fish resources, water quality, and recreation resources, as well as with the stream's natural capacity to erode, shift channels, accrete, and flood;

- 2. All equipment, works and structures should be able to withstand flooding without becoming a hazard in themselves nor causing adverse effects on shore features, all without the necessity for massive or structural defense works; and

- 3. All stockpiles and other structures or equipment which are not flood-proof should be located above the 100 year flood plain during the flood season (November 1 through March 1) except during daily operations.

- (b) If limited instances of open-pit mining are to be permitted in a flood plain:

- 1. All pits and other operations should be amply set back from the stream's established or predicted meander progression;

- 2. 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; and

3. The entire operation should be sized and designed so that neither additional bank erosion, catastrophic changes in channel location, nor harm to fish resources or water quality will likely result in the long term.

### **23.100.90.30 MINING -- REGULATIONS**

#### **.31 Shoreline Area Regulations**

- (a) Urban: Mining is prohibited.
- (b) Urban Resort: Mining is prohibited.
- (c) Rural: Mining is permitted as a conditional use, subject to policies and regulations.
- (d) Conservancy: Mining is permitted as a conditional use.
- (e) Natural: Mining is prohibited.
- (f) Aquatic: Mining is prohibited, except that accretional bar scalping in streamways may be permitted as a conditional use subject to policies and regulations; 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.

#### **.32 General Regulations**

##### (a) Reclamation Plan

1. A reclamation plan which complies with the format and detailed minimum standards of RCW 78.44 shall be included with any shoreline permit application for mining.

2. In reviewing reclamation plans together with permit applications, the Administrator shall determine whether or not the plan is also consistent with this Program and other County regulations. An inconsistent reclamation plan shall constitute sufficient grounds for denial of a shoreline permit; PROVIDED, the applicant shall be given reasonable opportunity to revise the plan.

##### (b) Overburden

1. Overburden or other mining spoil or non-putrescible solid wastes shall be disposed in a manner which provides short and long term protection of any affected natural features, other uses, and esthetic values.

2. Excess topsoil not necessary for reclamation purposes and having value for agriculture or other beneficial uses shall not be disposed in a manner which precludes its future utilization.

3. Overburden or mining spoil on shorelines shall comply with landfill policies and regulations of Section 23.100.70.

(c) Marine and Lake Shores

1. Mining of, including but not limited to, sand, gravel, cobbles, or boulders from any marine or lake shore for purposes of sale or use in manufacturing or construction projects, or for any other commercial or industrial purpose is prohibited.

2. Mining of quarry rock is a conditional use; PROVIDED that, shore processes and resources are not adversely affected.

(d) Streamways and Flood Plains

Scalping of accretional point bars may be permitted as a conditional use pursuant to Chapter 23.100.90.31(f) under the following conditions:

1. A hydraulics permit shall be obtained from the Department of Fisheries and Wildlife and all applicable provisions attached thereto shall be adhered to.

2. Aggregate washing and ponding of waste water are prohibited in floodways and streamways.

3. Stockpiling or spoiling of aggregate is prohibited in the floodway during the flood season; PROVIDED that, such use during working hours is permitted if all such materials are removed from the floodway at the end of each day's operation.

4. A Flood Permit shall be obtained from Whatcom County and all applicable provisions attached thereto shall be adhered to.

(e) Surface Oil 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 seaward from OHWM and on all lands within one thousand feet landward therefrom.

**.33 Tabular Regulations: Setbacks, Height and Open Space for Mining Development**

Minimum required setbacks from shorelines and side property lines, maximum height limits and open space requirements are contained in Section 23.90.60 - Setback, Height and Open Space Standards for Shoreline Development.

### **23.100.100 PIERS AND DOCKS**

Piers and docks in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.100.10 PIERS AND DOCKS -- POLICIES**

##### **.11 Priority Use**

Appropriate pier or dock development should be given priority over less shore dependent uses.

##### **.12 Use Conflicts, Multiple Use**

Piers and docks should be located, designed and maintained in a manner which prevents or minimizes adverse impact on other shore uses, and which keeps navigable and other waters and shorelines as free as possible from unnecessarily obstructing or hazardous development. The idea of cooperative, compatible use of private piers and docks must be given serious consideration, especially where water use conflicts exist or are predictable.

##### **.13 Site Suitability**

Piers and docks should be located where their development and use, together with permitted accessory uses, does not exceed through their size or nature the capacity of the site and environs to absorb impacts from such use, such as water pollution, water and overland traffic or noise. Adequate utility services and access to land transport should also be available or possible.

##### **.14 Compatible Locations and Navigation Rights**

Piers and docks should be spaced from each other and oriented to shore in a manner which minimizes hazard 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. No person has the right to unreasonably or unnecessarily obstruct water surfaces to which any other person has lawful access.

##### **.15 Sensitive Areas**

Piers and docks should be severely limited in sensitive areas such as accretion shoreforms, natural wetlands, prime shellfish or water fowl habitat or fish spawning areas. Sponsors of such proposals should be required to demonstrate that alternatives are not feasible and that maximum protection of shore features and existing uses will be provided. Landfills for piers or dock development should not be permitted in such areas.

##### **.16 Compatible Design**

The length, width and height of piers and docks should be no greater than that required for their primary purpose in a safe, practical manner. Offshore structures which are extremely bulky or unnecessarily lengthy should be discouraged because they are likely to have negative impacts on shore features and users.

### **.17 Preferred Design-Pile Structures**

- (a) Pile supports are preferred over rip-rapped or bulkheaded fills, especially where soil conditions are unstable or are of low bearing capacity, and are suitable for driving piles. Use of piles displaces mostly air space rather than water surface and intertidal or aquatic habitat, with much less long term impact on shore features and uses. Piles are removable and thus more flexible in terms of long term use patterns.
- (b) Pile spacing and shore orientation should generally be designed so that a "wall" effect is not created which would block or baffle wave patterns, currents, littoral drift, or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.
- (c) Offshore and foreshore pile structures should allow for continuity of the hydraulic energy patterns, unless specifically designed to reduce wave impact on shores.
- (d) The access connection between the pile structure and upland or backshore should span the entire upper foreshore without interfering with littoral drift or wave refraction.

### **.18 Buoys**

The use of buoys for small craft moorage is preferred over pile or float structures because of considerably less long term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.

### **.19 Floats**

The use of floating platforms is generally preferred over pile or fill structures because of greater long term flexibility and less impact on shore features; however, floats may be less desirable than pile structures where fishing or littoral drift are significant.

### **.20 Materials**

Piers and docks should be constructed of materials which will not adversely affect water quality or aquatic plants and animals in the long term.

### **.21 Community Docks**

As an alternative to continued proliferation of individual private docks or floats for each lot, sponsors of extensive residential or commercial/recreational developments should be required to provide community docks for common use. Also, neighboring lot owners not in such developments should be strongly encouraged to cooperate in building joint-use docks on their property lines.

### **.22 Public Access**

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 community docks should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary uses and shore features.

**23.100.100.30 PIERS AND DOCKS -- REGULATIONS**

**.31 Shoreline Area Regulations**

(a) Urban: Dock development is permitted subject to policies and regulations. Covered moorage and new pier development including expansion of existing piers is a conditional use.

(b) Urban Resort:

1. Dock development for public, private or community use is permitted as a conditional use.

2. Pier development is prohibited except piers serving small passenger vessels may be authorized as a conditional use.

(c) Rural: Dock development is permitted subject to policies and regulations; covered moorages are prohibited. New pier development including expansion of existing piers may be permitted as a conditional use.

(d) Conservancy: Private and community docks on marine shorelines, other than constructed marinas or canals, are permitted as a conditional use. Covered moorages are prohibited on all Conservancy shorelines. All other dock development on other shorelines is permitted subject to policies and regulations. Pier development, including the expansion of existing piers is a conditional use.

(e) Natural: Dock and pier development are not permitted except public access, interpretive or nature observation facilities which are compatible with the area's physical and visual character, subject to policies and regulations.

(f) Aquatic: Dock and pier development are permitted subject to policies and regulations if such development is permitted in the Shoreline Area which the adjacent land is designated; PROVIDED, if otherwise allowed, and if a boathouse or other alternative is not feasible, that docks and covered moorage used for float planes may be permitted as a conditional use; and, PROVIDED FURTHER, if otherwise allowed, that new pier development including expansion of existing piers may be permitted as a conditional use.

**.32 General Regulations**

(a) Public Health and Safety

1. Water supply, sewage disposal and disposal of non-hazardous materials shall conform to applicable health standards.

2. All pier and dock development shall be marked with reflectors, or otherwise identified so as to prevent unnecessarily hazardous conditions for water surface users during day or night. Exterior finish shall be generally non-reflective.

3. Pier and dock development shall be constructed and maintained so that no part of such development creates hazardous conditions nor damages other shore property or natural features during predictable flood conditions. Floats shall be securely anchored.

4. No pier, dock, or watercraft or houseboat moored thereto, may be used for a residence.

5. Piers and docks shall be constructed of materials which will not adversely affect water quality or aquatic plants and animals over the long term. Wood or pilings treated with creosote, pentachlorophenol or other similarly toxic materials shall not be used below the OHWM of streams, lakes or natural wetlands.

(b) Dock Fuel Storage

Storage of fuel, oils, and other toxic materials is prohibited on docks.

(c) Private Docks

1. If allowed under the provisions of this chapter and the master program, only one private dock with one accessory float and one covered moorage shall be permitted on a shoreline lot owned for residential or private recreational use. Such dock shall be located within this Program's sideyard setbacks for residential development (both onshore and offshore); PROVIDED that, a community dock may be located adjacent to or upon a side property line.

2. A covered moorage shall have no walls other than an open structural framework to support a roof and shall not cover more than 200 square feet in freshwater or 300 square feet in saltwater nor exceed fifteen feet in height above OHWM.

3. Boathouses are regulated under Residential as an accessory structure (23.100.130).

(d) Dock Construction Standards

1. Private docks with or without a float shall not exceed 40 feet in length nor exceed three feet in height both measured from the OHWM. Community docks may extend to 80 feet in length if necessary to provide adequate moorage. In the case of pile docks at marine or river locations the height shall be limited to that which may be reasonably necessary to accommodate landing and moorage of watercraft. Pile dock platforms shall not exceed eight feet in width; floats shall not exceed 12 feet in width.

2. Private docks up to 60 feet in length or community docks up to 100 feet in length, including floats, may be permitted by the Administrator in shallow areas where existing docks on adjacent properties presently extend out as far as that which is proposed, and where such added length is necessary in order to allow a reasonable use of the dock, as determined based upon adjacent uses; PROVIDED, the required dock length is the minimum necessary to achieve such purposes. Docks which cannot reasonably meet this standard may request a review under the variance provisions of this Program. A mooring buoy served by a shorter dock or water access point may be allowed in deeper water as needed.

3. If a dock is provided with railing, such railing shall not exceed 36 inches in height and shall be an open framework which does not unreasonably interfere with shoreline views of adjoining properties nor lawful use of water surfaces.

4. No private, joint-use, or community dock may be constructed to within 200 feet of OHWM on the opposite shore of any lake or semi-enclosed body of water such as a bay, cove, or natural channel. This restriction shall not apply within marinas, dredged canal systems or approved marina-home developments.

5. Concrete wall dock supports are not permitted waterward of OHWM.

(e) Community Docks, Number of Berths

Where a multi-family residential development, camping club or subdivision development provides community docks for residents or property owners, the ratio of private berths to lots, lease sites or potential dwelling units within shoreline jurisdiction shall not exceed 1.25:1. At a minimum, the community dock shall provide berths for the number of waterfront lots or dwelling units.

(f) Fences, walls and hedges on shoreline lots are subject to the standards under Section 23.90.

(g) Pier Development

Commercial pier development shall be subject to all applicable policies and regulations of this section, Section 23.90, and the General Regulations for port and industrial development under Section 23.100.110. Appropriate public access areas or facilities shall be required.

### **23.100.110 PORT AND INDUSTRIAL DEVELOPMENT**

Ports and industrial development in shoreline areas outside the Cherry Point Management Unit shall be subject to the policies and regulations of this section and Section 23.90.

Cherry Point Management Unit: All port and industrial development that is to be located in the Cherry Point Management Unit as defined in Section 23.110 shall be subject to the policies and regulations found in Section 23.100.210 instead of the policies and regulations of this section.

#### **23.100.110.10 PORT AND INDUSTRIAL DEVELOPMENT--POLICIES**

##### **.11 Site Reservation**

The few shoreline sites particularly suitable for development such as deep water harbors or firm, dry and level land with access to adequate rail, highway and utility systems should be reserved for port and shore dependent or related industrial development compatible with other appropriate uses and official environmental standards.

##### **.12 Optimum Use of Shoreline Resources**

Port or industrial development at local deep water sites should be permitted only for those uses which in nature or magnitude are compatible with long term, sustained-yield multiple use of Puget Sound waters and shorelines.

##### **.13 Multiple Use**

This Program's multiple use objectives should be implemented in the following manner:

(a) Recreational use of undeveloped shorelines not needed for port or industry operations should be encouraged for employees and/or the public, whenever possible, as long as such uses are safely compatible with operations.

(b) Cooperative use of piers, cargo handling, storage, parking and other accessory facilities among private or public entities should be strongly encouraged or required in port facilities whenever feasible.

(c) Navigable waters should be kept free of unnecessarily hazardous or obstructing development; the historic open character of these waters is extremely important for all appropriate uses, as well as the region, state, and nation. No one use should be allowed to effectively exclude other appropriate uses from significant portions of or routes in navigable waters.

##### **.14 Regional Coordination**

Regional and larger area needs for port facilities should be carefully considered in reviewing new port proposals as well as in allocating shorelines for such development. Such reviews or allocations should be coordinated with port districts, adjacent counties and cities, and the state in order to minimize new port development which would unnecessarily duplicate under-utilized facilities elsewhere in the Puget Sound basin, or result in unnecessary adverse impact on other jurisdictions. Presently developed, officially designated State Harbor Areas should be utilized for new port development to their maximum extent whenever possible.

**.15 Use Conflicts**

Port and industrial development should be located, designed, and managed so that other appropriate uses are neither subjected to substantial or unnecessary adverse environmental impacts, nor deprived of reasonable, lawful use of navigable waters, other publicly owned shorelines, or private property. Industrial and port development which is consistent with this Program should also be protected from encroachment or interference by incompatible uses with less critical site requirements, such as residential or commercial.

**.16 Water Quality**

Development should be located, designed, and managed in a manner which maintains high regional water quality levels.

**.17 Water Quantity**

Industrial development should aim at minimizing or preventing severe storm runoff peaks, seasonal shortages, or fluctuations in natural water levels which would harm other shore users and valuable resources.

**.18 Fish and Wildlife**

Development should provide maximum practical levels of protection for affected biologic populations and habitats, and the aquatic food chain in general.

**.19 Esthetic Values**

Ports and industry should be encouraged to minimize negative impact on shoreline areas and scenery, to enhance and maintain positive visual aspects of their development, and to provide opportunities for public viewing of such positive aspects whenever practical and safe.

**.20 Preferred Location**

(a) Ports and industries should be located where adequate land access and utility services are available or can be provided, and where required site development can be carried out and maintained without significant adverse impact on water quality, valuable shore features or real properties. Areas already committed to such uses should be developed more intensely before committing new areas.

(b) Industry which is not shore dependent nor related should locate away from the shoreline in areas encouraged for such use in the County Comprehensive Plan.

(c) New facilities for shallow draft shipping should be located in developed harbor areas and should not be allowed to preempt scarce deep draft port sites.

(d) Port development outside official harbor areas should be located where offshore depths are sufficient without extensive or deep dredging, either during construction or for maintenance, thus minimizing adverse impact upon significant shore features such as littoral drift and aquatic life.

### **.21 Log Storage**

(a) Storage of logs on uplands is strongly preferred to storage in water bodies, particularly over tidelands, in order to minimize interference with other water users and potential degradation of water quality and biologic habitat.

(b) Offshore log storage should only be allowed on a temporary basis and should be located where natural tidal or current flushing and circulatory action is adequate to disperse polluting wastes. Logs should only be dumped, stored, or rafted where depths are sufficient to prevent grounding.

(c) Water surface or shoreline log storage operations should be required to provide, whenever applicable:

1. Easy let-down devices for placing logs in water.

2. Positive bark and wood debris controls and disposal means at log dumps, raft building areas, and mill-side handling zones.

(d) Impervious pavement for log yards where the wet season water table is less than four feet below surface level in order to reduce waste buildup.

(e) Means to control, collect and discharge surface runoff in a manner which ensures protection for the quality of affected waters.

### **.22 Hydropower Development**

Hydropower facilities should be located, designed and operated to: provide maximum protection and enhancement of fish and wildlife resources including spawning, nesting and rearing habitat and migratory routes; protect valuable or sensitive natural features such as natural wetlands, sensitive geohydraulic processes, waterfalls, erosion and accretion shoreforms, agricultural land, scenic vistas, and recreation sites; accommodate public access to and multiple uses of the shoreline; and protect sites having significant historical, cultural, scientific or educational value.

### **.23 Sensitive and Hazardous Areas**

Port or industrial development should not be located on sensitive and valuable shorelines such as natural accretion shoreforms, natural wetlands or estuaries, nor on shores inherently hazardous for such development, such as flood and erosion prone areas and steep or unstable slopes. Such areas should be left substantially unimpaired as open space or buffers. Development should be set back so as to prevent hazardous conditions or property damage, as well as to protect valuable shore features.

### **.24 Accessory Development**

Accessory development which does not require a shoreline location in order to carry out its support functions should be sited away from the land/water interface and landward of the principal use; this category includes parking, warehousing, open air storage, waste storage and treatment or storm runoff control facilities, utility and land transport development.

**.25 Site Preparation**

Land clearing, grading, filling and alteration of natural drainage features and landforms should be limited to the minimum necessary. Surfaces cleared of vegetation and not to be developed should be replanted as soon as possible. Surface drainage systems or substantial earth modifications should be professionally designed to prevent maintenance problems or adverse impact on shore features.

**.26 Buffers**

Buffers, preferably of native plants, earthworks and terrain, should be provided on the shore side and between industrial areas, public rights of way and adjacent land areas used for less intense purposes such as residential or recreation. They should be of such width and composition so as to mitigate potential adverse visual or noise impact. Use of such buffers for employee rest areas, public access or recreation, or limited auto parking is encouraged.

**.27 Public Access**

New development, particularly public ports, should be required to provide physical or visual access to shorelines and visual access to facilities when such access does not cause interference with operations or hazards to life and property.

**23.100.110.30 PORT AND INDUSTRIAL-- REGULATIONS**

**.31 Shoreline Area Regulations**

(a) Urban: Water dependent or water related industrial and port development is permitted subject to policies and regulations; Industrial or port development that is not water dependant nor water related is prohibited.

(b) Urban Resort: Port or industrial development is prohibited, except for passenger terminals subject to policies and regulations.

(c) Rural: Water dependent or water related industrial and port development may be permitted as a conditional use subject to policies and regulations; Industrial or port development that is not water dependant nor water related is prohibited.

(d) Conservancy: Industrial and port development is prohibited, except hydropower and accessory development which may be authorized as a conditional use.

(e) Natural: Port or industrial development is prohibited.

(f) Aquatic: Water dependent port or industrial development and log storage are permitted as a conditional use.

**.32 General Regulations**

(a) Water Quality:

Port or industrial development shall be constructed and managed so that state quality standards of affected waters are not lowered on a long term basis. Release of oil or hazardous materials

onto shorelines is prohibited.

(b) Waste Disposal:

Disposal or storage of solid or other industrial wastes is not permitted on shorelines; PROVIDED that, liquid waste treatment development requiring either a shoreline location or a site for which an alternative is not available may be permitted; and PROVIDED FURTHER, that land application of waters used in the processing of fruits and vegetables is permitted as a conditional use.

(c) Runoff Control:

The County may require reasonable control of surface runoff on the site so that water quality and nearby shore features and properties are not adversely affected. Such measures may include but are not limited to dikes, catch basins or settling ponds, interceptor drains, or planted buffers.

(d) Buffer:

1. All new or expanded industrial development on land shall be set back and buffered from the shoreline and from adjacent shoreline properties which are used for non-industrial purposes. Buffers shall be of adequate width, plant and soil composition as reasonably determined by the County to effectively protect shorelines and such other properties from visual or noise intrusion which would otherwise occur.

2. Such buffers shall not be used for storage of industrial equipment or materials, nor for waste disposal, but may be used for outdoor recreation. Portions of such buffers may be used for light motor vehicle parking if design of such facilities is found by the County to be consistent with this Program.

(e) Hazardous Areas:

1. Port or industrial development is prohibited in the floodway of the Nooksack River and in other floodways on streams or lakes where risk of damage to life and property is predictably high.

2. Industrial development is permitted in the floodway fringe; PROVIDED, a Flood Permit is obtained from Whatcom County.

3. Onshore port or industrial development on marine shores less than 20 feet above mean sea level shall be flood-proofed so that flood damage potential from storm tides and surges is substantially reduced.

Port or industrial development is prohibited on rapidly eroding, slide prone, or geologically unstable shorelines.

(f) Oil and Hazardous Materials:

Facilities and procedures utilizing advanced available technological pollution control systems for handling, disposal, and prompt spill clean-up of such materials shall be required of new or expanded shorelines development using such materials.

(g) Lighting:

Display and other exterior lighting shall be designed and operated so as to prevent glare, to avoid illuminating nearby properties used for other purposes, and to prevent hazards for public traffic.

**.33 Tabular Regulations: Setbacks, Height and Open Space for Ports and Industry**

Minimum required setbacks from shorelines and side property lines, maximum height limits and open space requirements are contained in Section 23.90.60-Setback, Height and Open Space Standards for Shoreline Development.

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## **23.100.120 RECREATION**

Recreation development in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

### **23.100.120.10 RECREATION -- POLICIES**

#### **.11 Natural Features**

Recreational developments should be located, designed, constructed and managed to preserve natural features which are scarce or valuable to the region. They should also facilitate appropriate human use of such features while conserving them. These features include, but are not limited to: accretion shoreforms, natural wetlands, landforms, soils, ground water, surface water, native plant and animal life, and shore processes.

#### **.12 Preferred Use**

Public and private recreational developments which provide shoreline-related recreation opportunities, increase public access for local residents to the shorelines and are consistent with this Program should be encouraged.

#### **.13 Variety and Coordination**

Recreational developments and plans should provide the regional population a 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.

#### **.14 Trail Links**

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. Whatcom County Comprehensive Park and Recreation Open Space and/or Trail Plans or policies should be considered in design approval of developments.

#### **.15 Dispersed Use**

Access to natural character recreational areas such as fishing streams and hunting areas 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.

#### **.16 Minimal Impact**

The location, design construction and management of recreational developments and their activities should minimize interference with established community uses and activities.

#### **.17 Multiple Use**

Provision for a reasonable form of physical or visual public access or recreational use should be encouraged in other new developments such as ports and industry, commercial, and residential.

**.18 Access and Utilities**

Recreation development should be located only where utility and road capability is now adequate, or may be provided without significant damage to shore features commensurate with the number and concentration of anticipated users.

**.19 Optimum Use**

Certain areas such as accretion shores are especially suited for recreation and should not be developed for other uses which can be located elsewhere.

**.20 Hazardous and Sensitive Areas**

Recreational development requiring extensive structures, utilities and roads and/or substantial modifications of natural topography and shorelines should not be located nor expanded in hazardous or sensitive areas where damage to persons, property, and shoreline resources and processes is inevitable.

**.21 Public Acquisition**

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.

**.22 Site Capabilities**

The type and concentration of recreational development of an area should be dictated by the physical limitations and opportunities of that area. Such conditions as soil characteristics, slopes, geological features, surface and subsurface drainage, water tables, flood plains, shoreforms and native plant and animal life should be taken into consideration when planning recreational development of an area.

**.23 On-site Facilities**

Private recreation developments should provide adequate and diverse on-site recreation opportunities for their users, and should not depend upon or overtax nearby private property or public recreation facilities.

**.24 Public Access**

Reasonable public access should be provided and integrated with extensive private developments, especially:

- (a) Where they would be adjacent to publicly owned shorelines or water bodies; or
- (b) Where they are proposed for a type of shoreline that is scarce in the region, and has high potential for meeting local recreation needs.

**.25 Open Space**

Where recreational developments are composed primarily of a single purpose use, such as

camping, adequate open space should be provided to preserve the natural features of the area, and to provide a sufficient amount and variety of recreation opportunities for the users of the development.

#### **.26 Use Priorities**

Since shorelines with a high value for recreation are limited and the long term demand is unlimited:

(a) 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 should be located inland.

(b) Accessory use facilities which are not shoreline dependent, such as parking lots, access roads, over-night lodging, restrooms and service buildings should be located inland away from the shore.

#### **.27 Runoff Control**

Golf courses, playing fields or other large grass areas should incorporate means to prevent erosion or harmful concentrations of chemicals and sediment from entering water bodies.

#### **.28 Interpretation**

Better education of the public regarding natural features and man's involvement in shorelines is essential to shoreline management. Many opportunities exist in recreation development for attractive interpretation of shoreline features through educational signs and natural trails. Such interpretative measures should be encouraged.

### **23.100.120.30 RECREATION-- REGULATIONS**

#### **.31 Shoreline Area Regulations**

(a) Urban: Recreational development is permitted subject to policies and regulations.

(b) Urban Resort: Recreational development is permitted subject to policies and regulations.

(c) Rural: Recreational development is permitted subject to policies and regulations.

(d) Conservancy:

1. Recreational development not requiring extensive structures nor substantial alterations to topography is permitted, subject to policies and regulations.

2. Any necessary landscaping shall use native or similar self-maintaining vegetation.

(e) Natural:

1. Recreational development requiring extensive structures or substantial alterations to

topography or natural vegetation is prohibited.

2. Essential minor structures such as trails, stairs, small picnic areas, primitive roads, viewpoints, restrooms, or interpretive facilities, or development which preserves or restores natural features is permitted, subject to policies and regulations.

3. Any necessary landscaping shall use native or similar self-maintaining vegetation.

(f) Aquatic:

Water-dependent recreational development is permitted, subject to policies and regulations; PROVIDED that, underwater parks are permitted as a conditional use.

### **.32 General Regulations**

(a) Motor Vehicles:

Use of motor vehicles including unlicensed off-road vehicles is permitted only on roads or trails specifically designated for such use. Such use is prohibited on tidelands, shorelands, community or public backshore beaches, streamways, or natural wetlands; except as necessary for public health and safety or maintenance.

(b) Flood Plain:

1. Recreation development requiring extensive alterations in natural topography, extensive permanent structures, septic sewage disposal systems, or stream control works shall not be permitted in the floodway of the Nooksack River. Such development may be authorized in flood fringe areas subject to approval of a flood permit.

2. Other recreational development is permitted in the floodway fringe; PROVIDED that, a Flood Permit or exemption therefrom is obtained from Whatcom County.

(c) Buffer:

In order to minimize adverse effects upon neighboring properties and local shore features, a buffer on the shore and other perimeters of the recreational development may be required. The width and physical nature of such buffers shall be established commensurate with the proposed intensity of use and character of the local area.

(d) Fences, walls and hedges are subject to the standards under Section 23.90.

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**23.100.130 RESIDENTIAL**

Residential development in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

**23.100.130.10 RESIDENTIAL -- POLICIES**

**.11 Optimum Use**

Extensive new residential development should be encouraged to provide substantial shore space for suitable recreation activities by development residents and the public, if such public use is compatible with the size and nature of the development area.

**.12 Planned Unit Development**

Developments which include common open space and recreation facilities, or a variety of dwelling sizes and types, are to be encouraged at suitable locations as a preferable alternative to extensive single lot subdivisions on shorelines. Planned Unit Development (Chapter 20.85 W.C.C.) may also include a limited number of neighborhood business uses if consistent with County zoning.

**.13 Accessory Uses**

(a) Structures or development for uses accessory to residential use should preserve shore open space, be visually and physically compatible with adjacent cultural and natural features and be reasonable in size and purpose. Accessory development common to residences includes, but is not limited to, recreational docks and floats, garages and shops, parking areas, water craft storage, shore defense works, fences, cabanas, tennis courts, swim pools, saunas antennas, decks, walkways and landscaping. Shoreline permits may be required for many types of accessory development which do not meet the intent and definition of an appurtenance under Chapter 23.110.

(b) Such development should be discouraged from locating in required shore setback spaces, and should be prohibited over the water unless clearly shoreline dependent such as docks and floats for recreational or personal use.

(c) Joint or community use of private docks or floats is to be strongly preferred to continued proliferation of docks and floats for individual lots, which has led to unnecessary obstruction of water areas and loss of esthetic values.

**.14 Scattered Development**

Recognizing that premature scattered development needlessly consumes shore open space, conflicts with other appropriate uses, and causes extra public costs for public services, new development should be encouraged to locate in already developed areas or in areas officially planned for moderate to high density residential uses.

**.15 Recreation-oriented Residential**

Recreation-oriented residential development should be located only where substantial recreation opportunities are provided on site, where nearby property owners and other

appropriate uses will not be adversely affected, and where such use is considered optimal and appropriate for the local area.

**.16 Density**

The gross density in terms of dwelling units per acre of the entire development including open spaces, and also actual density in terms of units per acre of the developed areas, and lot coverage and height should be appropriate to local natural and cultural features.

**.17 Open Space**

Recognizing the sprawling and single purpose character of much existing residential development, future development should provide ample open space between structures and water bodies or wetlands, and along site boundaries, so as to provide space for outdoor recreation, protect natural features, preserve views, or to minimize use conflicts.

**.18 Public Access**

Extensive new development should be required to provide public access to publicly owned shorelines or public water bodies. This access should be of a mode and size appropriate to the site, general nature and size of the development, and the need for access opportunities in the vicinity. Easements for public access to community areas, facilities or to adjacent tidelands or shorelands should be granted by the developer or landowner, where appropriate.

**.19 High Rise and Other Multi-Unit Buildings**

(a) As mandated by the Shoreline Management 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.

(b) High rise and other multi-unit residential developments should be allowed in resort communities designated Urban Resort.

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 public review of the detailed plans. Furthermore, prior to approving such a proposal, the County must find the proposal to be consistent with this Program and the Act, particularly as related to RCW 90.58.320 cited above, and these factors:

1. Open space areas and setbacks should be required along shorelines and between buildings. 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 should increase as density and/or height increase.

2. 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. Soil tests should be required to determine local load-bearing capacity.

3. Circulation, parking areas, and outdoor storage or loading areas should be adequate in size and designed so that the public safety and local esthetic values are not diminished. Such

areas should be screened from open space areas by landscaping, structures, or grade separation.

4. Recreational needs of building residents should be provided through on-site recreation facilities and access to shorelines. The variety and number of on-site recreation facilities should increase as density increases. Where appropriate, public access should be provided and integrated with the development.

#### **.20 Cluster Development**

New residential development should be encouraged to cluster dwelling units together in order to reduce physical impact upon shorelines and to reduce utility and road costs. Such development should be required to provide substantial open space areas.

### **23.100.130.30 RESIDENTIAL --REGULATIONS**

#### **.31 Shoreline Area Regulations**

- (a) Urban: Residential development is permitted, subject to policies and regulations.
- (b) Urban Resort: Residential development is permitted, subject to policies and regulations, except multi-unit development more than 35 feet high is permitted as a conditional use.
- (c) Rural: Residential development is permitted, subject to policies and regulations.
- (d) Conservancy: Single family and duplex development is permitted, subject to policies and regulations.

Multi-unit development is permitted as a conditional use.

- (e) Natural: Residential development is prohibited.
- (f) Aquatic:
  - 1. Residential development is prohibited, except water-surface dependent accessory development, including docks.
  - 2. Subdividing of tidelands or shorelands for sale or lease in connection with individual dwelling units and/or new lots is prohibited.

#### **.32 General Regulations**

- (a) Community Facilities

New or amended subdivisions and short subdivisions, except those for lot line adjustment and lot consolidation purposes, and all multi-unit residential developments shall provide a community recreation and/or open space area along all adjacent shorelines of a minimum width of 30 feet measured landward from OHWM, or equivalent areas or facilities, for the benefit of all residents or property owners in the development.

- (b) Docks and Floats

1. For projects involving five or more lots or dwelling units, only community docks and/or floats are permitted. Individual private docks are prohibited. Community docks are strongly recommended for projects involving less than five lots or dwelling units.

2. Private recreational docks and floats for individual lots are permitted in existing subdivisions which were approved on or before January 28, 1993, only where community docks have not already been developed.

(c) Boathouses

One on-shore boathouse up to 200 square feet in area for storage of non-commercial water craft and related items is permitted on a legal lot of record, except where a covered moorage already exists.

(d) Over-Water Building

Dwellings, house boats, and boat houses built over the water or floating upon the water are prohibited.

(e) Private Boat Ramps

Boat ramps on grade and not wider than eight feet are permitted for individual residences where upland slope within 25 feet of ordinary high water mark does not exceed 25 percent, and where substantial cutting, grading, filling or defense works are not necessary and where the ramp will not interfere with on-going shore processes.

(f) Float Planes

Private moorage for float planes may be permitted as a conditional use, consistent with Program Standards on docks (Section 23.100.100.30).

(g) Landfill

Filling of water bodies, floodways, or wetlands for expansion of upland area is prohibited for residential development.

(h) Utilities

Utilities shall be provided consistent with Sections 23.100.180 and 23.90.32.

(i) Flood Hazard Areas

1. Residential development is prohibited in the floodway of the Nooksack River.
2. Residential development in the floodway fringe is permitted provided a Flood Permit is obtained from Whatcom County.
3. Developers of new dwelling units in coastal flood hazard areas shall be required to flood-proof such units including utility equipment.

(j) Floor Elevation

Residences located within the jurisdiction of the County flood ordinance shall comply with the provisions of that ordinance. The finished ground floor of residences outside of the jurisdiction of the flood ordinance shall be elevated at least five feet above the ordinary high water mark in fresh water areas and five feet above mean higher high water in marine waters.

(k) Fences Walls and Hedges

Fences, walls and hedges on shoreline lots are subject to the standards under Section 23.90.

**.33 Tabular Regulations: Setbacks, Height and Open Space for Residential Development**

Minimum required setbacks from shorelines and side property lines, maximum height limits and open space requirements are contained in Section 23.90.60-Setback, Height and Open Space Standards for Shoreline Development.

### **23.100.140 ROADS AND RAILWAYS**

Road and railway development in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.140.10 ROADS AND RAILWAYS DEVELOPMENT -- POLICIES**

##### **.11 Coordination**

New or expanded road or railway route selection and development should be coordinated with related local and state government land use and circulation planning.

##### **.12 Multiple Use**

(a) Route planning, acquisition, and design should provide space wherever possible and safe for compatible multiple uses such as utility lines, other forms of land transport, pedestrian shore access or view points, or recreational trails.

(b) Such development should be encouraged to 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 disposed of or abandoned.

##### **.13 Use Conflicts**

Transport 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.

##### **.14 Geo-hydraulics**

Road and railroad development should be located whenever possible away from the land/water interface so that damage to shore processes and valuable shore features does not occur, and so that defense works, substantial cuts and fills, or cantilevering are not necessary. Water body crossings where necessary should also be designed consistent with these objectives; bridges and their approaches should be oriented perpendicular to the shoreline whenever possible.

##### **.15 Shore Use Priorities**

New roads and railways should generally be located inland from the land-water interface, unless (1) required for access to shoreline related uses consistent with this Program, or, (2) peoples' enjoyment of shoreline areas would be increased in a manner consistent with effective resource conservation. Accessory transport development not shoreline related should also be sited inland off the shoreline.

##### **.16 Hazardous and Sensitive Areas**

Road or railway transport development should not generally be located on, over, or waterward of erosional or feeder bluffs, driftways, accretion shoreforms, flood plains, coastal flood hazard areas, estuaries, or natural wetlands. Neither should unrelated transport development be

located in public recreation areas or on significant natural, historic or archaeological sites. If development in such locations is necessary, design and construction should aim to prevent or minimize harmful interference with normal movement of ground water or floodwater, as well as prevent additional erosion.

#### **.17 Preferred Design-General**

Special measures and extra precautions should be taken to conserve shore features, as follows:

(a) On unstable, low-bearing capacity soils, natural wetlands or flood plains, across wide streamways or natural beaches, pile supports are strongly preferred over riprapped and bulkheaded fills.

(b) Pile spacing is critical; they should be spaced so they do not act as walls baffling or blocking flood waters or littoral drift.

(c) In wide streamways, bridges should have maximum length clear spans with streamlined, minimum deflecting support piers, and inclined bridge approaches should be on open piling. Spans on rivers should be located on a more stable, straight channel reach rather than as a rigid object in the dynamic, shifting channel of a bend. Bridges or bottomless culverts are preferred over culvert and causeway fills on all shorelines because of much less negative impact on shore features including fish and wildlife and movement of surface and floodwater.

(d) Roads on marine and lake shores requiring protection from significant erosion should be protected by natural character, flexible means such as artificial beach or vegetative stabilization or beach feeding instead of rigid defense works of concrete or rip rap. The alternative of moving the route to a safer location less costly to maintain should be given consideration.

(e) Routes should follow the outside of large amplitude river bend patterns and/or dikes instead of cutting off meander bends or point bars. Wherever such roads or railway embankments cross depressions remaining from ancient channels and oxbow bends, culverting or bridges of ample cross-section should be provided.

(f) Local access roads in flood plains should be built at valley floor grade level so that flood waters are not abnormally obstructed nor diverted.

(g) Raised arterial roads or railways should be built outside the floodway proper except for necessary crossings. If built in the floodway fringe, such routes should be aligned tangent to outside stream bends so they will also act as setback dikes.

Any parking areas required along such roads should be sited at the base of the embankment and at the downstream corner of large accretion beaches, thus requiring no or minimal flood control or defense works.

(h) If alternatives do not exist for locating roadbed embankments in streamways in steep, narrow canyons, erosion-prone roadbed bases on outside bends should be protected with groins and spaced deflector stubs, which will cause accretion-building eddies to further stabilize the base without significant interference with stream hydraulics or meander progression cycles.

**.18 Accretion Marine Shores**

If a road is necessary along an accretion shoreform, the seaward road shoulder should be set back far enough from the primary berm so that the berm may absorb the high energy of storm tide breakers, as well as prevent road bed erosion and allow optimum recreational use of these scarce shore features.

**.19 Surface Runoff**

Concentrated runoff associated with road and parking drainage along shorelines can be a significant cause of damage to shore features and property values. Adequate measures should be incorporated in road design and maintenance to prevent or mitigate resulting erosion, slides, loss or property, sedimentation and pollution. Routes parallel to drainage direction, natural character catch basins, absorption fields, interceptor tile drains, and other effective means should be required.

**.20 Public Access**

Public access should be provided to shorelines where safe and compatible with the primary and adjacent use, or should be replaced where transport development substantially impairs lawful public access. Viewpoints, parking, trails and similar improvements should be considered for all road construction projects in shoreline areas, especially where a need has been identified.

**.21 Parking Areas**

- (a) Such areas should be surfaced whenever possible with permeable materials and provided with suitable drainage controls to minimize ponding and excessive concentrated runoff with its resultant erosion, pollution and sedimentation; and
- (b) be buffered from shorelines and less intense adjacent uses by vegetation, undeveloped space, or structures developed for the primary use.

**.22 Site Compatibility**

- (a) Transport development on shorelines should be designed to generally follow natural topography in order to hold cuts and/or fills to a minimum.
- (b) Earth cut slopes and other exposed soils should be placed, compacted, and planted or otherwise stabilized and protected from surface runoff; native plants are preferred.
- (c) In development close to shorelines, a buffer of native plants and undisturbed soil or rock should be preserved or restored, with sufficient width to protect shore features and other users.

**23.100.140.30 ROADS AND RAILWAYS -- REGULATIONS**

**.31 Shoreline Area Regulations**

- (a) Urban: Road and railway development is permitted subject to policies and regulations.
- (b) Urban Resort: Road and railway development is permitted subject to policies and regulations.

- (c) Rural: Road and railway development is permitted subject to policies and regulations.
- (d) Conservancy: Road and Railway development is permitted subject to policies and regulations only for:
  - (i) access to water dependent or related uses or other approved development, or
  - (ii) crossing a water body or wetland.
- (e) Natural: Land transport development is not permitted except to access approved recreational development.
- (f) Aquatic: Bridge crossings and access to water dependent uses, such as ferry terminals, are permitted subject to policies and regulations, when substantial alteration of natural features is not required. Bridge crossings and access to water dependant uses may be authorized as a conditional use when substantial alteration of natural features is required. All other road and railway development is prohibited.

### **.32 General Regulations**

#### **(a) Water Quality**

Land transport development shall be carried out in a manner which does not lower State quality standards for affected waters. To achieve this objective, the County may require effective, reasonable measures be taken to preserve water quality including but not limited to:

1. A buffer of undisturbed or restored soil and vegetation between development and shorelines.
2. Drainage structures or other means to control surface runoff and ground water movement which may be accelerated, concentrated, or diverted by such development.

#### **(b) Hazardous Areas**

Road and railway development is prohibited:

1. On slopes exceeding 40% average grade,
2. Where physical conditions indicate substantial sliding or erosion are likely to result, or
3. On or waterward of erosional or feeder bluffs.

#### **(c) Landfill and Side Cast**

Except for shoreline crossings in locations consistent with this Program, landfill or side-cast in water bodies or on natural wetlands, estuaries, accretion shoreforms, tidelands, shorelands, or on other scarce or sensitive shorelines for road or railway development including accessory uses is prohibited.

#### **(d) Flood Plains**

1. Development shall be designed so that no significant loss of floodway capacity nor measurable increase in predictable flood levels will result there from;

2. If such development is intended to secondarily provide flood control, the County may require additional information on channel profiles and project effect on flood level hydraulics including potential enlargement of inundated area at 100-year flood level;

3. Bridge approaches in floodways of any stream shall be constructed on open piling or spaced support piers.

(e) Defense Works

1. Protection of road and railway development from erosion on accretion shoreforms, natural wetlands, estuaries, feeder bluffs, or high-energy driftways shall be by flexible, natural appearing means, such as protective berm development, beach feeding, or vegetative stabilization, which are compatible with local geo-hydraulic conditions. Rigid, unnatural appearing works are prohibited at such locations.

2. All shore defense and stream control works shall conform to policies and regulations in Sections 23.100.150 and 23.100.170.

(f) Development Scheduling

Non-emergency construction and repair work shall be scheduled for that time of year when seasonal conditions (weather, streamflow) permit optimum feasible protection of shore features.

(g) Maintenance

Such activity including vegetation control and erosion control shall be carried out so as to be clearly consistent with this Program. Necessary minor resurfacing of existing roadways and replacement of culverts shall be considered exempt from substantial development permit requirements under Section 23.50.31(b).

(h) Shoreline Road Ends

1. RCW 36.87.130 prohibits the County from vacating any county road which abuts a body of salt or fresh water except for port, recreational, educational or industrial purposes.

2. Development, abandonment, or alteration of undeveloped county road ends within this Program's jurisdiction is prohibited unless approval of a site plan for such development or alteration has been received in writing from the County Council. The Council shall consult with the County Engineer, Park Director, and Administrator prior to granting such approval.

**.33 Tabular Regulations: Setbacks for Road and Railway Development**

Minimum required setbacks from shorelines are contained in Section 23.90.60-Setback, Height and Open Space Standards for Shoreline Development.

### **23.100.150 SHORE DEFENSE WORKS**

Shore defense works in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.150.10 SHORE DEFENSE WORKS -- POLICIES**

##### **.11 Use Conflicts**

Shore defense works should not be permitted to unnecessarily interfere with public access to public shorelines, nor with other appropriate shoreline uses including navigation, seafood harvest, or private recreation. Defense works should not be developed mainly for the purpose of filling shorelines.

##### **.12 Coordination**

Defense works should normally be developed in a coordinated manner among affected property owners and public agencies for a whole drift sector or homogeneous reach.

##### **.13 Professional Design**

Defense works should be sited and designed consistent with appropriate engineering principles.

##### **.14 Necessity and Purpose**

(a) The larger works such as jetties, breakwaters, or groin systems should be permitted only for shoreline dependent uses whose benefits to the region outweigh resource losses and physical and social costs from such works. Gabions should not be used as a defense work where alternatives are feasible. Jetties and breakwaters should be permitted only as an integral component of a professionally designed harbor, marina, or port. Groins have questionable effectiveness and should not be permitted except as one component of a professionally designed community or public beach management program encompassing an entire drift sector or homogeneous reach for which alternatives are infeasible. Beach nourishment is preferred to the location of permanent structures in the shore process corridor.

(b) Non-structural alternatives for necessary shore protection should be utilized whenever possible. These include no action (allow the shoreline to retreat naturally), increased building setbacks, building relocation, vegetative stabilization, beach nourishment, drainage controls and the use of natural more flexible materials and techniques. Rigid, artificial defense works should only be developed for individual lots where wave erosion threatens valuable buildings or use of the upland property, and where such works will not cause additional damage to neighboring properties or valuable shore features.

##### **.15 Water Quality, Fish and Wildlife**

Shore defense works should be located, designed, and maintained in a manner which preserves or enhances the quality of affected waters, and conserves or enhances fish and wildlife resources and their respective habitats.

**.16 Shore Process Integrity**

Shore defense works should be located, designed, and maintained so as to protect and maintain the integrity of natural shore features. Owners of shore property should consider ongoing shore processes and the probable effects of their shore defense works on other properties and shore features.

**.17 Restoration**

Failing, harmful, unnecessary or ineffective defense works should be removed and beaches restored with more rational, less harmful long term measures.

**.18 Bulkheads and Revetments**

The County should review all proposals for bulkheads in order to determine whether or not the proposal is necessary and suitably designed considering the location, and effect on shore resources, processes and other users. Riprap revetments are generally preferred over concrete bulkheads due to wave energy dissipation, reduced scouring and flexibility over the long term.

**.19 Sensitive and Critical Areas**

Defense works should not be located on shores where valuable geo-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation, such as feeder bluffs, marshes, estuaries, geologically unstable shorelines or accretion shoreforms. The Washington Department of Fisheries criteria (WAC 220-110) should be followed to protect sensitive aquatic biological resources.

**.20 Location of Primary Use**

Primary shoreline uses should be located in a manner so that additional defense works are not likely to become necessary, unless alternatives are infeasible. Existing uses not considered appropriate to a particular shoreline location should be encouraged to relocate rather than develop massive and/or extensive defense works. Increased setbacks for buildings endangered by erosion should be considered as an alternative to costly defense works requiring long term maintenance and which may adversely affect shore resources and other users.

**.21 Site Capability**

Defense works should be permitted only where local physical conditions such as foundation bearing material, surface and sub-surface drainage, are suitable for such alterations.

**.22 Multiple Use**

Provision for multiple use and/or public shore access should be made in defense works for public or quasi-public developments whenever safely compatible with the primary purpose. Defense works on publicly owned shorelines should not be allowed to decrease long term public use potential, nor to needlessly damage shore features if alternatives are feasible.

**.23 Preferred Alternatives**

More flexible defense works of natural materials such as protective berms, rip rap, beach

nourishment, drainage controls, or vegetative stabilization are to be strongly preferred wherever possible over rigid works of artificial materials such as concrete because the former have less adverse impact on shore features and are not so irreversible. Proposals for rigid works should demonstrate that more flexible, natural works are infeasible. Materials for defense works should be selected for long term durability, ease of maintenance, compatibility with local shore features including esthetic values, and for flexibility in future uses.

#### **.24 Beach Nourishment**

The beneficiaries and/or owners of large scale defense works which substantially reduce or block littoral drift and cause erosion of downdrift shores should be required to establish and maintain an adequate long term professionally engineered beach nourishment program.

#### **.25 Breakwaters**

Serious consideration should be given to floating, portable or submerged breakwater structures, or several relatively short structures wherever physical conditions make such alternatives with less impact feasible.

### **23.100.150.30 SHORE DEFENSE WORKS -- REGULATIONS**

#### **.31 Shoreline Area Regulations**

##### **(a) Urban**

1. Groins, breakwaters, seawalls, jetties and gabions are permitted as a conditional use.
2. Bulkheads, revetments, protective berms, and beach nourishment are permitted subject to policies and regulations.

##### **(b) Urban Resort**

1. Groins, breakwaters, jetties, bulkheads, seawalls, revetments, and gabions are permitted as a conditional use.
2. Protective berms and beach nourishment are permitted subject to policies and regulations.

##### **(c) Rural**

1. Groins, breakwaters, seawalls, jetties and gabions are permitted as a conditional use.
2. Bulkheads, revetments, protective berms and beach nourishment are permitted subject to policies and regulations.

##### **(d) Conservancy**

1. Breakwaters, seawalls and jetties are permitted as a conditional use if accessory to a water-dependent use and long shore sediment transport is not significantly disrupted.
2. Groins and gabions are prohibited.

3. Beach nourishment and protective berms are permitted. Bulkheads and revetments are permitted subject to policies and regulations if the applicant can demonstrate that other alternatives including less rigid and artificial means such as protective berms or vegetative bank stabilization are not feasible.

(e) Natural

Shore defense works are prohibited except protective berms, beach feeding, or vegetative bank stabilization are permitted when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere.

(f) Aquatic

1. Groins, gabions, breakwaters, and jetties are permitted as a conditional use offshore of Urban, Rural and Conservancy Shoreline Areas; PROVIDED that, groins and gabions are prohibited offshore of a Conservancy or Natural Shoreline Area.

2. Bulkheads, seawalls or revetments are prohibited except for an approved landfill development subject to policies and regulations.

3. Protective berms and beach feeding are permitted on tidelands and shorelands when necessary to restore an eroding accretion shoreform or to retard erosion elsewhere subject to policies and regulations.

### **.32 General Regulations**

(a) Lakes and Streams

Breakwaters, jetties, and groins are prohibited; except, they are permitted as a conditional use on lakes and streams where in the public interest and where downstream adverse impacts are negligible.

(b) Necessity and Purpose

Shore defense works which are un-necessary, harmful to shore processes or inconsistent with the policies and regulations of this Program are prohibited. Where a substantial question exists as to the need for or potential harmful effects of a proposed defense works, the Administrator may require a professional recommendation and/or engineered design by a qualified engineer.

(c) Professional Design

Proposed designs for new or expanded breakwaters, jetties, groins, gabions, seawalls, and those bulkheads, revetments, berms or beach nourishment projects for which a shoreline permit is necessary shall be designed and certified by a registered civil engineer.

(d) Landfill

Shore defense works shall not be located upon tidelands or shorelands for the purpose of extending upland areas with fill; unless such landfill is permitted under policies and regulations elsewhere in this Program.

(e) Bulkheads

In order for a proposed bulkhead to qualify for a shoreline permit or the exemption under Section 23.50.31 (c) and to assure that such bulkheads will be consistent with this Program, the Administrator shall review the proposed design as it relates to local physical conditions, and must find that:

1. Erosion from waves is clearly threatening valuable buildings or use of the upland property; and

2. Flexible defense works of natural materials such as protective berms, beach nourishment, vegetative stabilization, riprap, drainage controls or increased setbacks are determined to be less consistent with this Program and infeasible for protecting the site than a conventional bulkhead.

3. Bulkheads are not permitted on marine accretion shoreforms, except where exposure to storm waves and driftwood battering seriously threaten other approved development. Such bulkheads shall be set back a minimum of 20 feet landward from OHWM.

4. Bulkheads shall be located within one foot of the bank toe; and shall generally parallel the natural shoreline.

5. Bulkheads are prohibited on marine feeder bluff and estuarine shores, and on marsh, swamp, and rock shores.

6. Bulkhead crests shall be elevated a minimum of one foot over OHWM or the predicted annual maximum water level.

7. The waterward vertical face of concrete bulkheads shall slope upward from toe to crest at a maximum ratio of four units of vertical distance in one unit of horizontal distance.

8. Concrete bulkheads shall develop an ultimate compressive strength of 3000 pounds per square inch; and shall be reinforced with steel to the satisfaction of the County Building Inspector.

9. Bulkheads shall be designed and constructed with gravel backfill and weep holes so that natural downward movement of surface or ground water may continue without ponding or saturation.

10. Graded stone or rock rubble should be considered for the toe of bulkheads exposed to significant wave action to help dissipate wave energy, overtopping and scouring.

(f) Junk Revetments

No junk motor vehicles, appliances nor parts thereof, nor structure demolition debris, nor any other solid waste shall be used for shore defense works.

(g) Viewpoints and Public Access

Where appropriate, larger public or private shore defense 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.

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**23.100.160 SIGNS**

Signs in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

**23.100.160.10 SIGNS -- POLICIES**

**.11 Esthetic Values**

(a) 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 State-wide Significance.

(b) Sign location and design should not significantly impair shoreline views or public access.

**.12 Abandoned or Derelict Signs**

Abandoned or derelict signs should either be properly restored or completely removed within a reasonable period of time by the sign owner or property owner as necessary.

**.13 Community Gateway Signs**

As a preferable alternative to continued proliferation of single purpose signs, communities or districts should be encouraged to erect single, common use gateway signs to identify and give directions to local premises and public facilities.

**.14 Appropriate Areas**

Signs of a commercial or industrial nature should generally be limited to those areas or premises to which the sign messages refer.

**.15 Free-standing Signs**

Free-standing signs should be located on the inland side of public transportation routes which generally parallel the shoreline.

**.16 Off-premise Signs**

Billboards and other off-premise signs are not shoreline dependent, reduce people's enjoyment of or access to shorelines, and often lower values of nearby properties. Such signs should not generally be located on shorelines except for approved community gateway or directional signs.

**.17 Vistas and Viewpoints**

Signs near valuable scenic vistas and view points should be tightly restricted in message, number, location, and height so that lawful enjoyment of these limited and scarce areas is not impaired.

**.18 Preferred Design**

In order to minimize negative visual impacts and obstructions to shoreline access and use, low

profile, on-premise wall signs are strongly preferred over free-standing signs or off-premises wall signs. It should be recognized that this Program will encourage foot traffic while discouraging vehicle traffic in intensely used or built up shoreline districts, thus signs should be oriented to such non-motorized traffic in terms of height and appearance; signs should be no higher than exterior wall height of the premises advertised, and illumination should be steady, non-glare and indirect.

#### **.19 Harmony Among Signs**

Signs in built up or commercial districts should be designed or selected in terms of material, color, height, size, illumination, and other characteristics to achieve visual harmony.

#### **.20 Distracting Devices**

Signs should be designed mainly to identify the premises and nature of enterprise without unduly distracting uninterested passers-by. Moving or flashing signs should be prohibited on shorelines.

### **23.100.160.30 SIGNS -- REGULATIONS**

#### **.31 Shoreline Area Regulations**

- (a) Urban: Sign development is permitted subject to policies and regulations.
- (b) Urban Resort: Sign development is permitted subject to policies and regulations.
- (c) Rural: Sign development is permitted subject to policies and regulations.
- (d) Conservancy: Sign development is permitted subject to policies and regulations.
- (e) Natural: Sign development is prohibited, except for trail marking, hazard warnings, or interpretive scientific or educational purposes. Such permitted signs shall be limited in size and number to those required to effect their purpose.
- (f) Aquatic: Only wall signs and low profile free-standing signs under 30 inches in height for water-dependent uses are permitted, subject to policies and regulations. No one premise may maintain more than two signs in an Aquatic Area.

#### **.32 General Regulations**

##### **(a) Distracting Devices**

Any signs or other devices which flash, blink, flutter, rotate, oscillate, or otherwise purposely fluctuate in lighting or position, or which portray caricatures of any human form or ethnic group 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 utilized for up to 90 days in one year.

##### **(b) On-premise Signs**

Unless otherwise prohibited by zoning regulations or this Program, shoreline developments are

permitted to maintain a total of three on-premise signs; PROVIDED that, only one may be a free-standing, roof, or projecting sign; PROVIDED FURTHER, that if this sign is double-faced, then only one other wall sign is permitted.

(c) Off-premise Signs

Off-premise signs are prohibited on shorelines; PROVIDED that, a limited number of community identification and public facility direction signs are allowed if consistent with this Program and applicable zoning standards, Section 20.80.570 W.C.C.

(d) Projecting Signs

No projecting sign may extend more than four feet from the building wall.

(e) Private Signs

A maximum of three signs may be posted on private property by the owner for reasonable purposes such as For Sale, Rent, or home occupation signs; PROVIDED, no sign exceeds two square feet in area. Such signs shall not be lighted except for one permanent sign identifying the owner and/or address.

(f) Roadside View Protection

1. Free-standing signs other than those described in subsection (2.) below are prohibited between a public right-of-way and the shoreline where the right-of-way generally parallels the shore and where the water body is visible from the right-of-way.

2. Directional or interpretive signs up to two square feet in area relating to public access areas, and required traffic safety signs may be permitted between such rights-of-way and water bodies.

(g) Open Space and View Protection

Free-standing signs 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, if a road or path used by the public separates said building from OHWM, then free-standing signs are permitted between the road or path and said building.

(h) Public Safety

Free-standing signs shall be entirely self supporting and structurally sound without permanent use of guy wires or cables.

**.33 Tabular Regulations: Setbacks, Height Limits and Area Limits for Signs**

(a) Minimum required setbacks from shorelines and side property lines and maximum height limits are contained in Section 23.90.60-Setback, Height and Open Space Standards for Shoreline Development.

(b) Sign Area Limit

The maximum square footage of individual sign faces shall be consistent with applicable zoning standards, PROVIDED that, the combined area of sign faces per premise shall not exceed 60 square feet in all shoreline designations where signs are permitted, except on Aquatic and Conservancy Shorelines and Shorelines of State-wide Significance where the total sign area shall not exceed 24 square feet per premise.

### **23.100.170 STREAM CONTROL WORKS**

Stream Control Works in shoreline areas shall be subject to the policies and regulations of this Section and Section 23.90.

#### **23.100.170.10 STREAM CONTROL WORKS--POLICIES**

##### **.11 Optimum Use**

Streamways and flood plains should be reserved for uses which are compatible with long term sustained yield use of streamway waters and shorelines. More intensive development endangered by or not requiring such locations, or which would require stream control works to prevent flood damage, should be directed to more suitable locations.

##### **.12 Coordination**

Flood control programs should be long term and coordinated among persons and agencies. In cooperation with other concerned agencies and persons, the County should develop a long term, comprehensive plan, such as the Whatcom County Comprehensive Flood Control Management Plan, for management of local streamways, and especially for the Nooksack River. Such a plan should aim toward preventing needless flood damages, maintaining the natural hydraulic capacity of floodways, and conserving valuable, limited resources such as fish, water, soil and recreation and scenic areas.

##### **.13 Use Conflicts, Multiple Use**

Stream control works should be made compatible with appropriate uses of streamway resources over the long run. The need for continued multiple use of streamways, including recreation, fish and wildlife management, must be given consideration, especially Shorelines of State- wide Significance.

##### **.14 Geo-hydraulics**

Stream control works should be located, designed, constructed and maintained so their resultant effects on shore processes will not cause significant damage to other properties or valuable resources, and so that the physical integrity of the shore process corridor is maintained.

##### **.15 Necessity and Purpose**

(a) Stream control works for the purpose of flood control should be permitted only when the primary use being protected is consistent with this Program, and the works can be developed in a manner compatible with multiple use of streamway and associated resources for the long term.

(b) Stream control works for primary purposes other than flood control should be permitted only when the primary development will be consistent with the policies and regulations of this Program and the stream control works can be developed in a manner compatible with the multiple use of the streamway and associated resources, such as wildlife habitat, water quality, esthetics and recreational resources.

### **.16 Water Quantity**

Stream Control works should be located, designed, constructed, and maintained so that net impacts related to water quantity are beneficial. Storm runoff peaks, seasonal shortages or fluctuations in natural water levels which are adverse to other appropriate shore uses and valuable resources should be lessened or prevented rather than increased. Hydraulic storage capacity of floodways and natural wetlands should be maintained.

### **.17 Fish and Wildlife**

Proposals should be carefully assessed for their probable impact on fish and wildlife resources and the aquatic food chain. Conservation of such resources should be a priority consideration in approving such works.

### **.18 Geo-hydraulic Considerations**

The life span of bank revetments or bank dikes is largely a function of channel gradient, current velocity, and composition of native bank material. Erosion or stream control works must be located and designed to fit the physical character and hydraulic energy potential of a specific streamway reach, which may differ substantially from adjacent reaches upstream or down. Different results from similar stream control works can characteristically be expected in each of the four geo-hydraulic streamway zones: Cobble-Boulder, Gravel, Pastoral, and Estuarine. (See Definitions in Section 23.110 and refer to the Shoreline Background Document (Appendix C) for further discussion of control techniques).

(a) Revetments, levees or dikes should not be developed on the low, inner-most channel banks in the streamway of the Gravel Zone except to protect public works, railways and existing commercial farmsteads.

(b) Because the highest and best use of estuaries is multiple use for aquaculture, fish and wildlife habitat, nature observation and open space, and because such shorelines are unsuitable for or less productive for other uses, stream control works should not be permitted on estuarine shores.

### **.19 Dike and Levee Design**

(a) In order to prevent higher than necessary flood damages, and to better utilize the unique complex of natural resources associated with streams, alternatives to traditional bank levees, dikes and/or floodwater storage behind dams must be sought and given consideration. An acceptable public flood control program must prevent and reduce flood damages, while returning costs to the public through long term, multi- purpose benefits. "Tangent" (setback) or "chord" diking where appropriate will result in lower flood peaks and velocities, and lower dike costs because of less height and length, and far more effective conservation of streamway resources than with high bank levees.

(b) Where works are necessary in the low gradient Pastoral Zone, "chord" diking is strongly preferred to continuous bank levees. Works should be setback at convex (inside) bends to allow streams to maintain point bars and associated aquatic habitat through normal accretion. Where bank dikes have already cut off point bars from the streamway, consideration should be given to their relocation in order to lower flood stages and current velocities.

(c) Where dikes are necessary in the intermediate gradient gravel zone to protect floodway fringe areas, tangent diking is preferred over bank levees. Works should be located near the tangent to outside meander bends so that the stream can maintain normal meander progression and utilize most of its natural flood water storage capacity.

## **.20 Channelization**

Channelization projects which would result in significant damage to fish and wildlife resources, recreation and esthetic resources, or high flood stages and velocities should not be permitted when alternatives are available, particularly on Gravel Zone streamways.

## **.21 Preferred Design**

(a) Types of control works which are more natural in appearance, more compatible with on-going shore processes, and more flexible for long term streamway management are preferred, such as protective berms, or vegetative stabilization including brush matting and buffer strips; existing trees, bushes and grasses should be left on stream banks whenever possible.

(b) Natural streamway features such as snags, uprooted trees, or stumps should be left in place unless actually causing bank erosion or higher flood stages.

(c) Stream control works should allow for normal ground water movement and surface runoff into the streamway.

(d) All stream control works should be sited and designed to provide:

1. Protection of water quality and natural ground water movement;
2. Protection of valuable fish and other life forms and their habitat vital to the aquatic food chain;
3. Preservation of valuable recreation resources and esthetic values such as point and channel bars, islands, and braided streamway banks;
4. Location of bank revetments only on outer, concave bends; and
5. Selection of materials in conformance with applicable engineering standards. Aggregate should not be mined from stream beds for such purposes unless specifically authorized under applicable regulations.

## **.22 Professional Design**

(a) Recognizing the large number of physical variables to be considered in properly locating and designing stream control works, especially dams and weirs, and the high probability that poorly located and inadequately designed works will fail and/or cause adverse impact on other properties and shore features, then such works should be sited and designed consistent with appropriate engineering principles, including guidelines of the U.S. Soil Conservation Service and the U.S. Army Corps of Engineers.

(b) In addition, consideration of environmental principles should be incorporated into the siting and design of all stream control works.

**.23 Multiple Use, Public Access**

- (a) Provision for continued long term multiple use of streamway resources and space by all appropriate user groups should be made in the design of stream control works.
- (b) Design of public works should provide access to public shorelines whenever possible, and should not result in a decrease of access or public use potential of such shorelines. In design of publicly financed or subsidized control works, consideration should be given to providing public pedestrian access to shorelines for low intensity outdoor recreation whenever possible.

**.24 Sensitive Areas**

Stream control works of rigid artificial character should not be developed on certain streamway shores where valuable natural geo-hydraulic or biologic processes are critical to optimum multiple use or conservation of shore resources, including, but not limited to, point bars, islands in braided channels, eddies, or natural wetlands.

**23.100.170.30 STREAM CONTROL WORKS -- REGULATIONS**

**.31 Shoreline Area Regulations**

- (a) Urban: Stream control works are permitted subject to policies and regulations.
- (b) Urban Resort: Stream control works are permitted subject to policies and regulations.
- (c) Rural: Stream control works are permitted subject to policies and regulations; PROVIDED that, channelization, hydropower diversion and tailrace structures or dams may be permitted as a conditional use.
- (d) Conservancy: Stream control works are permitted subject to policies and regulations; PROVIDED that, channelization or dams for flood control are prohibited, dams and diversion and tailrace structures for hydroelectric power generation are permitted as a conditional use; PROVIDED FURTHER, that natural character erosion control means or current deflectors are to be utilized instead of bank revetments whenever possible.
- (e) Natural: Stream control works are prohibited except for normal maintenance and repair.
- (f) Aquatic: Stream control works are permitted subject to policies and regulations if such activity is permitted in the adjacent upland shoreline area; PROVIDED that, dams are prohibited adjacent to a Conservancy or Natural Shoreline Area.

**.32 General Regulations**

- (a) Water Quality: All forms of stream control works shall be constructed and maintained in a manner which 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.
- (b) Professional Design: The County may require professionally engineered design of any proposed stream control work if it is determined that sufficient uncertainties exist. Grounds for

such determination shall be inadequate information on local physical conditions lack of consideration of alternatives, both structural and non-structural, or on potential negative effects of the proposal upon the public safety, nearby properties and valuable shore features.

The design of all dams under Shorelines Program jurisdiction 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) Necessity and Purpose

Stream control works shall be permitted for the following purposes only; PROVIDED that, such works will not adversely affect other real property or valuable natural resources:

1. Protection of public works, including roads and bridges, railways, and utility systems.
2. Protection of established commercial agricultural development.
3. Protection of other valuable properties or natural features.
4. Utilization of water resources for power generation, flood control or water supply.
5. Enhancement of instream values and aquatic resources, including fisheries management.
6. Maintenance and repair of existing dikes and levees. Wildlife habitat and multi-use opportunities shall be optimized as much as is practical.
7. Upgrading existing dikes and levees to the degree allowed by the Army Corps of Engineers to qualify said levees for Federal participation in rehabilitation. Wildlife habitat and multi-use opportunities shall be optimized as much as is practical.

(d) Streamway Integrity

1. Bank revetments where permitted shall be placed at the extreme edge or bank of the streamway.
2. Dikes shall not be placed in the streamway, except for weirs and current deflectors necessary for protection of bridges and roads.
3. Levees may be limited in size to that height required to protect adjacent lands from the predictable annual flood.
4. Dikes designed to protect adjacent lands from floods greater than the annual flood shall be setback to the outer limit of the 100-year floodway on the Nooksack River, its forks, and on all other streams, except that such dikes may be allowed within the 100-year floodway through a conditional use permit when substantial need to the community is demonstrated and other structural and non-structural alternatives have been evaluated and determined to be less feasible.

(e) Sensitive Areas

Stream control works are prohibited on estuarine shores, wetlands, point and channel bars, and salmon and trout spawning areas, except for the purpose of fish or wildlife habitat enhancement.

(f) Bank Vegetation Maintenance

1. Existing stream bank vegetation shall be preserved to the maximum feasible extent during flood control development.

2. Cut-and-fill slopes and back-filled areas shall be revegetated with grasses, shrubs, or trees visually compatible with natural stream bank vegetation.

(g) Junk Revetments

No junk motor vehicles, appliances, or parts thereof; nor structure demolition debris; nor any other solid waste shall be used for stream control works; PROVIDED that, on Urban, Urban Resort, and Rural shorelines, with approval by the County Engineer, clean, broken up concrete may be used if metal reinforcing material does not protrude therefrom after placement.

(h) Flood and Hydraulic Permit Approvals

1. No stream control works may commence in a streamway without the developer having obtained a Hydraulics Permit from the State Departments of Fisheries and/or Wildlife.

2. No stream control works may commence in the 100-year flood plain of the Nooksack River without the developer having obtained a Flood Permit or exemption thereof from Whatcom County.

3. No stream control works for the purpose of impounding and/or diverting water may commence without the developer having obtained a Water Right Permit and/or a Reservoir Permit from the State Department of Ecology pursuant to RCW 90.03.

(i) Dam Safety

This section shall only apply to dams and impoundments that are not regulated by either the Federal Energy Regulatory Commission under the licensing procedure, or the State Department of Ecology under the Reservoir permit requirement.

1. For all dams, a construction bond for 150% of the cost of the structure shall be filed with the Director of the Public Works Department prior to construction.

2. Prior to construction of all dams, a maintenance agreement shall be submitted to and approved by the Director of the Public Works Department. This 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.

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### **23.100.180 UTILITIES**

Utility development in shoreline areas shall be subject to the policies and regulations of this section and Section 23.90.

#### **23.100.180.10 UTILITIES--POLICIES**

##### **.11 Planning and Coordination**

New utility development should be consistent and coordinated with all local government and state planning, including comprehensive plans and single purpose plans. 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.

##### **.12 Water Systems**

(a) Only those components of public water systems which are shoreline dependent should be located on shorelines, unless alternatives are infeasible.

(b) Private and public intake facilities and wells on shorelines should be located where there will be no adverse effects upon natural features and other users.

##### **.13 Sewage Systems**

(a) Sewage trunk lines, interceptors, pump stations, and treatment plants are not shoreline dependent and should be located away from shorelines unless alternatives are infeasible.

(b) Outfall pipelines and diffusers are shoreline dependent, but should be located only where there will be no adverse effects upon natural features and other shore users.

(c) Septic disposal systems should not be located close to water bodies and natural wetlands, and should not be permitted in areas where system failure is predictable.

##### **.14 Solid Waste**

(a) Facilities for processing and storage and disposal of solid waste are not normally shoreline dependent, and should not be permitted on shorelines.

(b) Facilities should not, under any circumstances, be permitted in flood plains or other hazardous or sensitive areas, nor where substantial use conflicts are likely.

(c) Indiscriminate, random disposal of solid waste on shorelines or in water bodies has potential for severe adverse effects upon property values, public health, natural resources, and local esthetic values, and should not be permitted.

##### **.15 Electrical Energy and Communication Systems**

Energy and communication systems including substations, towers, transmission and distribution lines have critical location requirements, but are not normally shoreline dependent. Such systems should not be located on shorelines unless alternatives are infeasible. Underground

placement of lines should be required on shorelines for new or replacement lines. Creosote or penta treated poles should not be used along shorelines or associated wetlands.

**.16 Fuel Pipelines**

Oil and gas pipelines have critical location requirements and have potential for adverse and dangerous effects from spills or leaks. Such facilities should not be located along shorelines, particularly in hazardous or sensitive areas, and crossings of water bodies should be held to the minimal number possible at locations consistent with this Program.

**.17 Fire Protection**

Storage and handling facilities for water borne fire fighting or rescue equipment may be permitted on shorelines at locations which are suitable considering the purpose of the proposal and the policies of this Program.

**.18 Storm Drainage**

Storm drainage systems and outfalls required for other approved development should be designed and constructed in a manner that will avoid adverse impacts to water quality, and other shore resources and users in compliance with the Ecology Stormwater Management Manual for the Puget Sound Basin, Public Rule 91-75, and other applicable regulations. Stormwater collection facilities should include grass swales, oil separators or other devices where necessary to prevent the discharge of pollutants into water bodies, streams and wetlands.

**.19 Access and Parking**

Where appropriate, utility development should provide safe all weather access to public roads and parking areas commensurate with their number of employees, anticipated visitors and applicable county standards.

**.20 Hazardous Materials**

If utility operations involve materials whose compositions or interactions with other materials are likely to damage public health, environmental quality, or property values, all handling and storage of such materials should be organized and equipped so as to prevent such likely damages.

**.21 Buffer**

Recognizing the likelihood of use conflicts from and the intensive industrial character of some utility development, adequate buffers or setbacks should be required commensurate with local shoreline use and physical character.

**23.100.180.30 UTILITIES -- REGULATIONS**

**.31 Shoreline Area Regulations**

- (a) Urban: Utility development is permitted subject to policies and regulations.
- (b) Urban Resort: Utility development is permitted subject to policies and regulations.

- (c) Rural: Utility development is permitted subject to policies and regulations.
- (d) Conservancy: Utility development is permitted subject to policies and regulations; PROVIDED that, sewage outfalls and treatment plants, overhead communication or power lines and fuel pipelines are a conditional use. Communication towers are prohibited.
- (e) Natural:
  - 1. Utility development is prohibited.
  - 2. Maintenance of existing utilities in this Shoreline Area is permitted and shall take extraordinary measures in protecting the natural features therein.
- (f) Aquatic: Submarine water and sewer lines, fuel pipelines, and sewer outfalls are permitted as conditional uses; submarine electrical or communications cables, overhead public utility lines if adequately flood proofed, and water intakes are permitted subject to policies and regulations; for purposes of crossing water bodies, overhead transmission or distribution lines and on site electrical communication wiring may be permitted within 100 feet of the OHWM and natural wetlands and over bodies of water as a conditional use; all other utility development is prohibited.

### **.32 General Regulations**

- (a) Hazardous Areas:

Utility development other than subsurface pipelines or cables is prohibited in flood plains, coastal flood hazard areas, or geologically unstable or unsafe areas; PROVIDED that, conditional use permits may be granted for limited development in flood plains or coastal flood hazard areas if adequately flood-proofed, flood levels are not significantly raised, and alternatives are not feasible; PROVIDED FURTHER, that overhead public utility lines and support structures, if adequately flood proofed, may be located in the flood plain without a conditional use permit, subject to all other applicable regulations.

- (b) Solid Waste:

- 1. Solid waste disposal sites are prohibited on shorelines.

Random or negligent dumping of solid waste is prohibited on shorelines.

- 2. Temporary storage of solid waste in suitable receptacles is permitted as accessory to a lawful primary use or for litter control.

- (c) Fossil Fuels:

Oil and gas pipelines, except local service lines, may be authorized as a conditional use. Developers of pipelines and related appurtenances for gas and oil shall be required to demonstrate adequate provisions for preventing spills or leaks, as well as established procedures for mitigating damages from spills or other malfunctions.

(d) Overhead Communication and Power Lines:

Where road right-of-ways or easements are within 100 feet and also are parallel to the shoreline for more than 500 feet, no new overhead wiring shall be installed between the road and OHWM.

(e) Sewage Disposal:

1. Sewage disposal facilities and treatment plants shall not be located any closer to the shoreline than necessary. Design, construction and maintenance of all public or private sewage disposal systems shall be in accordance with all applicable health and water quality standards of the State and Whatcom County.

2. Septic tanks and drainfields are prohibited where public sewer is reasonably available. Septic drainfield systems including landfill material for drainfields shall not be permitted in the 100-year floodway of the Nooksack River or within 100 feet of OHWM of any stream or water body, whichever is farther landward, unless otherwise permitted under local health district regulations.

(f) Storm Drainage:

Storm drainage systems and outfalls required for other approved development shall be designed and constructed in a manner that will avoid adverse impacts to water quality, and other shore resources and users in compliance with the Ecology Stormwater Management Manual for the Puget Sound Basin, Public Rule 91-75 and other applicable regulations. Stormwater collection facilities shall include grass swales, oil separators or other devices where necessary to prevent the discharge of pollutants into water bodies, streams and wetlands.

**.33 Tabular Regulations: Setbacks, Height Limits and Site Coverage for Utility Development**

(a) Minimum required setbacks from shorelines and side property lines and maximum height limits are contained in Section 23.90.60-Setback, Height and Open Space Standards for Shoreline Development.

(b) Site Coverage:

Maximum site coverage for utility development including parking and storage areas shall not exceed 50 percent on Urban and Urban Resort shorelines, 35 percent on Rural shorelines and 20 percent on Conservancy shorelines.

### **23.100.210 CHERRY POINT MANAGEMENT UNIT**

#### **.10 Cherry Point Management Unit --Definition**

The Cherry Point Management Unit is a geographic area defined as all the shoreline areas within the jurisdiction of the Whatcom County Shoreline Management Program 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 exists on June 18, 1987, and the southern boundary of Section 32, Township 39 North, Range 1 East, extending waterward a distance of 5000 feet and extending landward for 200 feet as measured on a horizontal plane from the OHWM. The Cherry Point Management Unit is represented in the map found in Appendix E of this Program.

#### **.11 Cherry Point Management Unit -- Purpose, Intent and Format**

(a) The purpose of the Cherry Point Management Unit, Section 23.100. 210, is to provide a regulatory environment which recognizes and balances the special port, industrial and natural resource needs associated with the development of this marine resource along a Shoreline of Statewide Significance, identifies preferred development components of port and shore-dependent industrial activities consistent with the policies of the Shoreline Management Act, and clearly sets forth the standards for such development.

(b) The intent of Section 23.100.210 is to organize policies and regulations applicable to the Cherry Point Management Unit's geographic area in order to present clear and concise policy direction for development, minimize regulatory confusion, and eliminate conflicting or duplicative shoreline regulations. The policies and regulations found in this section are supplemental to those found in Title 20 of the Official Whatcom County Zoning Ordinance, and are directed specifically toward the shoreline environment. The policies and regulations contained in Sections 23.100.10 through 23.100. 200 of this Program shall not apply in the Cherry Point Management Unit unless specifically cited herein. The Cherry Point Management Unit, Chapter 23.100.210, has not been accepted by the Federal government as part of the State's Coastal Zone Management Program and, therefore, may not be used to determine Federal agency consistency.

(c) The format of Section 23.100.210 differs from that of other sections in Chapter 23.100 of the Program in that it is organized by geographic area and the Cherry Point Management Unit designation rather than by type of development.

#### **23.100.210.20 CHERRY POINT MANAGEMENT UNIT -- GENERAL POLICIES**

The general policies apply to all development within the jurisdiction of the Cherry Point Management Unit:

#### **.21 Port Development**

(a) The development of pier on piling and floating public and private marine cargo transfer terminal facilities is encouraged as the preferred use in the Cherry Point Management Unit. Port development that requires dredge and fill not associated with the construction and operation of the preferred uses has not been permitted in the Cherry Point Management Unit due to its potentially adverse effects on the natural environment, including fish and shellfish habitat and geo-hydraulic processes. Further, Washington State natural resource agencies have identified certain portions of the Cherry Point Management Unit as a herring spawning bed and have

prohibited dredge and fill activities therein.

(b) Consequently, it is the policy of Whatcom County that port facilities which require dredge and fill not associated with the construction and operation of the preferred uses should be prohibited until such time that it can be demonstrated that the impact of such development will avoid adverse effects to the shoreline environment.

## **.22 Shore-Dependent and Shore-Related Industrial Development**

The development of shore-dependent and shore-related industrial facilities is encouraged in the Cherry Point Management Unit. Those facilities that require access to the shoreline should be given preference over other types of development.

## **.23 Approval of Non-User Permit Applications**

(a) Property owners within the Cherry Point Management Unit or their agents are encouraged to develop port or shore-dependent or shore-related development projects, even though an actual user of the development project may not be identified. Development of projects should be of sufficient detail to allow review under the standards set forth in this section and the regulations of other agencies with jurisdiction in the Cherry Point Management Unit. Owners or their agents are further encouraged to make application for the permits and approvals necessary for implementing the development projects as a means of identifying and resolving specific development issues, such as natural resource mitigation and overall development cost estimates including mitigation, municipal service provisions, and operational requirements.

(b) Approval of non-user permits will decrease regulatory and development cost uncertainties for actual user-operated development projects.

(c) In the event an approved non-user permit does not have an actual user prior to the date the permit would normally expire, the non-user permit should remain valid to the maximum extent allowed by law.

## **.24 Multiple Use Facilities**

Facilities that allow for the multiple use of piers, cargo handling, storage, parking and other accessory facilities are encouraged.

## **.25 Shore-Defense Works**

Shore-defense works should be allowed for protection of existing and new developments when protection from wave action is required for operational safety and economic feasibility.

## **.26 Public Access**

(a) Port and Industrial Development within the Cherry Point Management Unit is encouraged to provide public beach and shoreline access in a manner that does not cause interference with operations or hazards to life and property. Developers may accomplish such access through individual action or by joint, coordinated action with other developers and landowners, for example, by setting aside a common public access area.

(b) Special emphasis should be given to providing public beach and shoreline access for opportunities such as crabbing, small craft launching, surf fishing, picnicking, clamming, beach walking, and overnight camping in the vicinity of Gulf Road, and secondarily in the vicinity of Aldergrove/Point Whitehorn roads and any other sites that may become available.

(c) The Parks and Recreation Board of Whatcom County should prepare a Cherry Point Shoreline Access Plan to be approved by the Whatcom County Council. This plan should be based on the 1976 "Marine Shorelines Study of Public Access and Recreation Sites in Whatcom County."

## **.27 Natural Resource Protection**

Diverse and vital natural resources such as fish and wildlife habitats; marine and upland interactions in the shore process corridor, including littoral drift, natural wetlands, feeder bluffs and accretion shoreforms; and aesthetic vistas of land, water and the San Juan Archipelago are important ingredients of development in the Cherry Point Management Unit. All development in the Cherry Point Management Unit should be designed, constructed and operated in a manner to avoid or minimize adverse effects to the shoreline environment.

Several State and Federal resource agencies have regulatory jurisdiction over activities within the Cherry Point Management Unit. Proposals must be consistent with the regulations and policies of these agencies. Project proponents are encouraged to contact these agencies at the earliest stage of project development to determine applicable regulations and policies.

### **(a) Fish and Wildlife**

1. Development should avoid or minimize impacts on fish and wildlife resources and habitats.

2. Research to determine methods to protect and enhance fish and wildlife habitats is encouraged.

### **(b) Geo-hydraulic Process**

Development should avoid or minimize interference with, and when possible, maintain basic geo-hydraulic processes.

### **(c) Aesthetics**

All development should be designed to avoid or minimize the negative visual impact on the scenic character of the area.

### **(d) Water Quality**

All development should be constructed and operated in a manner which will avoid or minimize adverse impact to existing water quality standards for both fresh and marine waters. Sediment quality will also have to be maintained so there are no adverse effects.

### **(e) Surface Drainage**

All development should be designed to prevent large volume storm runoff from having a

negative impact on adjacent shore uses or resources.

(f) Site Suitability

Development should be on sites of sufficient size and located such that the site and surroundings are capable of accommodating the impacts of development.

(g) Accretion Shoreform

Development should be prohibited on the accretion shoreform as identified on the map in Appendix E, other than recreation development for public and quasi-public shoreline access, subject to the regulations in this section and consistent with the Conservancy and Aquatic Shoreline Designation policies and regulations of Section 23.100.120.

**23.100.210.30 CHERRY POINT MANAGEMENT UNIT--REGULATIONS**

**.31 Permitted Development**

The following listed uses and activities are permitted within the Cherry Point Management Unit subject to the development standards contained in Section 23.100.213

(a) Port development and shore-dependent or shore-related industrial development together with any or all of the following components:

1. Pile supported or floating piers or expansion of existing piers.
2. Landfill or excavation necessary to the access and construction of pile supported or floating piers.
3. Dredging for maintenance or expansion of operations at existing piers.
4. Dredging necessary for the construction of new pile supported or floating piers.
5. Roads and railways.
6. Utilities.
7. Shore defense works: revetments, bulkheads, floating breakwaters and seawalls only.
8. Over-water structures and buildings that are intrinsic to the operation of the primary development, provided that they are elevated on pilings or on floating structures.

(b) Recreational development for public or quasi-public shoreline access.

(c) Archaeological excavation.

(d) Fish and wildlife habitat research and/or enhancement.

**.32 Conditionally Permitted Development**

Port development and shore-dependent or shore-related industrial development which includes

the following components may be considered under the Shoreline Conditional Use Permit process defined in WAC 173-14; EXCEPT where prohibited along the accretion shoreform and natural wetland areas described in Section 23.100.210.27 (g) and Appendix E.

- (a) Landfill or excavation associated with pier or floating structures which does not meet the development standards for such activities.
- (b) Dredging for purposes associated with pier or floating structures which does not meet the development standards for such activities.
- (c) Shore defense works, floating breakwaters and seawalls which do not meet the development standards for these structures.

### **.33 All Other Development**

(a) Landfill or excavation and dredging not associated with the construction and operation of the preferred uses may also be considered as a conditional use; PROVIDED, the following conditions, in addition to the standards contained in WAC 173-14, are met:

1. The applicant shall conduct a study designed to provide information that will be used to evaluate whether the impact of the proposed development on the shoreline environment can be avoided or minimized.

2. Regulatory agencies, through Whatcom County and the Department of Ecology, must approve each phase of the study listed below prior to the initiation of the next phase:

- i. The study scope and design
- ii. That the study was properly conducted
- iii. The validity of the findings
- iv. The appropriateness of the study's conclusions

3. Based upon the results of the study, the Washington Department of Ecology shall determine that (1) a formal application for a Shoreline Conditional Use Permit for the proposed development can be filed through the process defined in WAC 173-14 and this Program; or that (2) an amendment of the Whatcom County Shoreline Management Program is necessary to incorporate the study's information before a formal application for a Shoreline Conditional Use Permit for the proposed development can be filed; or that (3) the proposed development is inappropriate for the Cherry Point Management Unit.

(b) Any development not specifically identified as permitted or conditionally permitted development may be incorporated into this section by amendment in accordance with the procedures set forth in Section 23. 80.10 of this Program.

## **23.100.210.40 CHERRY POINT MANAGEMENT UNIT -- DEVELOPMENT STANDARDS**

### **.41 Design**

- (a) Piers

1. Piers shall be designed to minimize interference in the intertidal zone and impacts to fish and wildlife habitats.

2. Piers shall be designed to minimize impact on steep bluffs of the shoreline.

3. Piers shall be designed to accommodate only the necessary and intrinsic activities associated with the movement of material and cargo from land to water and water to land, and the length of piers shall not extend beyond that which is necessary to accommodate the draft of the vessels intending to use the facility.

4. All treated wood pilings shall be allowed to dry prior to placement.

5. All pier on piling structures shall have a minimum vertical clearance of one foot above extreme high water.

6. Bulk storage of gasoline, oil and other petroleum products for any use or purpose is not allowed on piers, except for temporary storage under emergency situations, including oil spill cleanup. Bulk storage means non-portable storage in fixed tanks.

7. All piers shall be marked with navigational aids in compliance with U.S. Coast Guard regulations.

(b) Dredging

1. Dredging to accommodate water access to or construction of permitted development shall be the minimum necessary and minimize interference in the intertidal zone and impacts to fish and wildlife habitats; PROVIDED that, dredging shall not occur in the Department of Fisheries Pacific Herring Spawning area, Sandy Point to Birch Bay as identified in WAC 220-110-260(7)(f), or as hereafter amended.

2. Dredge spoil disposal shall be located and conducted in a manner which shall minimize damage to existing water quality and natural resources of the disposal site or supports other landfill activities allowed by this section.

3. Dredging is prohibited in the accretion shoreform and natural wetlands of the backshore area as described in Section 23.100.210.27(g) and Appendix E.

4. Dredging of bottom materials for the primary purpose of obtaining fill material is prohibited.

(c) Landfill

1. Landfill to tie the pier to the uplands undertaken in conjunction with permitted development shall be the minimum necessary to provide access to the pier and shall minimize interference in the intertidal zone, net shore drift, and impacts to fish and wildlife habitats; PROVIDED that, pile cells consisting of fill enclosed by circular sheet pile or steel structures shall not be allowed in the Department of Fisheries Pacific Herring Spawning area, Sandy Point to Birch Bay as identified in WAC 220-110-260(7)(f) or as hereafter amended; and all fill shall be landward of +7.5 feet MLLW.

2. Landfill associated with piers shall be allowed for port or shore-dependent or shore-related industrial development only where no alternatives are feasible.

3. The perimeter banks of all landfill shall be sloped no greater than one foot vertical, one and one-half feet horizontal; PROVIDED that, pile cells consisting of fill enclosed by circular sheet pile structures shall be allowed.

4. Landfill shall consist of clean materials with a minimum potential for degrading existing water quality.

5. Landfill is prohibited on the accretion shoreform and natural wetlands of the backshore area as described in Section 23.100.210.17(g) and Appendix E.

(d) Excavation/Stabilization

1. Excavation/stabilization of bluffs shall be the minimum necessary for the purpose of accessing piers or other structures which provide access to the water.

2. Excavation/stabilization is prohibited on accretion shoreforms and natural wetlands in the backshore area.

3. Limited excavation/stabilization of active feeder bluffs shall be allowed for the purpose of serving piers, provided that sufficient areas are left to contribute material to maintaining the existing littoral drift process.

4. An Erosion/Sedimentation Control Plan shall be submitted to and approved by the County prior to commencement of excavation, and necessary controls shall be in place during construction.

(e) Shore Defense Works

1. Shore-defense works that are more natural in appearance, more compatible with on-going shore processes and more flexible structurally such as protective beams, vegetative stabilization, floating and/or removable structures, or rip-rap shall be utilized rather than fixed, concrete structures.

2. Floating breakwaters shall be designed and constructed in a manner which will minimize detrimental impacts to water circulation, sand movement and aquatic life; and which minimize impediments to navigation and to visual access from the shoreline.

3. The use of solid waste, junk, abandoned automobiles, asphalt, or any construction or demolition debris is prohibited.

4. Bulkheads, seawalls and revetments shall be permitted only for the protection of existing or new facilities and shall be located landward of +7.5 feet MLLW, unless the protection of existing facilities requires location seaward of the +7.5 feet MLLW.

(f) Coastal Flooding

All development shall be designed in a manner consistent with accepted flood-proofing techniques.

**.42 Location**

(a) Environmentally Sensitive Areas

1. Port or industrial development shall not be allowed on the accretion shoreform as identified in Section 23.100. 210.17(g) and Appendix E.

2. Port or industrial development shall not be allowed on natural wetlands in the backshore area. The flow of water into natural wetlands may be altered, provided that any alteration does not decrease the viability of the wetland environment nor degrade the existing water quality within the wetland.

(b) Use Conflicts

All development shall be located, designed and operated such that it does not unreasonably interfere with other existing permitted development, conditionally permitted development or traditional commercial uses of the area.

(c) Setbacks and Buffers

1. Shore setback and buffer

The minimum required setback from the OHWM for all port and industrial facilities, including development components, which do not require a water's edge or water surface location shall be 150 feet; PROVIDED, (1) bluffs and banks greater than 10 feet in height or sloping greater than 30% and on natural wetland shorelines shall have such setbacks measured from the crest of the bank or the edge of the natural wetland rather than the OHWM; PROVIDED FURTHER, (2) the required shore setback shall not exceed the 200-foot limit of the Shoreline Management Act's jurisdiction.

2. Side yard setback and buffer

The minimum setback from side property lines which intersect the OHWM for port and industrial development shall be 60 feet; PROVIDED, (1) the side yard setback shall not apply to utility or security structures such as poles, meters, fences, guard houses, power vaults or transformers, and (2) the side yard setbacks for parcels adjoining the NW and SE boundaries of the Cherry Point Management Unit shall be administered in accordance with the Official Whatcom County Zoning Ordinance, Section 20.68.550 (Buffer Area).

**.43 General Standards**

(a) Waste Water Disposal/Treatment

Storage or disposal of industrial waste water is prohibited in the Cherry Point Management Unit. However, waste water treatment systems shall be allowed in the Management Unit if alternate inland sites have been demonstrated to be economically or physically infeasible. Waste water disposal/treatment systems for ships at berth in the Management Unit shall be allowed as permitted development.

(b) Surface Drainage

Consistent with County Development Standards, the county shall require reasonable control of surface runoff so that water quality and nearby shore features and properties are not adversely affected by development.

(c) Oil and Hazardous Materials

1. Release of oil or hazardous materials on shorelines is prohibited.

2. The application of the best available facilities, practices and procedures shall be employed at new permitted or conditionally permitted development for the safe handling of fuels and toxic or hazardous materials to prevent them from entering surface or ground water. Adequate means shall be employed for the prompt and effective clean up of spills that do occur.

(d) Lighting

Exterior lighting shall be designed and operated to minimize glare, avoid illuminating nearby properties, prevent hazards for public traffic and navigation, and minimize interference with fish populations and commercial fishing operations in the Cherry Point Management Unit.

(e) Roads and Railroads

Shore setback requirements shall apply to road and railway development except for those facilities necessary for accessing waterfront development that is directly related to or subordinate to port and/or shore-dependent or shore-related industrial development.

(f) Utilities

1. Shore setback requirements shall apply to utility development except for those facilities necessary for accessing waterfront development that is directly related to or subordinate to port and/or shore-dependent or shore-related Industrial Development.

2. Setback requirements shall not apply to utilities placed underground and covered with natural material.

(g) Public Access

Public access shall be provided in accordance with a Shoreline Access Development Plan prepared by the Whatcom County Park and Recreation Board and adopted by the Whatcom County Council. Until such a plan is developed and adopted by the county, new developments shall provide public access to the beach and marine waters in a manner that does not hamper port operations nor present a hazard to life and property.

(h) Other Permits

Issuance of a shoreline permit or statement of exemption does not release the applicant from any other State, regional, or Federal statutes or regulations applicable to the proposed development, including securing a lease for use of state-owned submerged lands.

**.44 Recreational Development**

All recreational development shall comply with the policies and regulations of Section 23.100.120 of this Program and be consistent with the Conservancy and Aquatic Shoreline Designation regulations of that section.

**.45 Fish and Wildlife Habitat**

All development associated with research and/or enhancement of fish and wildlife habitat shall comply with the policies and regulations of Section 23.100.20 of this Program and be consistent with the Conservancy and Aquatic Shoreline Designation requirements of that section.

**.46 Archaeological**

All development associated with archaeological or historic site activities shall comply with the policies and regulations of Section 23.100.60 of this Program and be consistent with the Conservancy and Aquatic Shoreline Designation requirements of that section.

**23.100.210.50 APPROVAL OF NON-USER PERMIT APPLICATIONS**

.51 Applications for permitted or conditionally permitted developments, by property owners or their agents, whether or not a user has been identified, shall be made to Whatcom County for a Substantial Development Permit as required in the Shoreline Management Act of 1971 Chapter 90.58 RCW, under regulations established by the Department of Ecology (WAC 173-14-110 and 140) and Whatcom County in this Program.

.52 Revisions to nonuser permits necessitated by the identification of a user for the permitted or conditionally permitted development project shall be undertaken as required by WAC 173-14-064.

.53 Applications for permitted or conditionally permitted developments, by property owners or their agents, whether or not a user has been identified, shall be of sufficient detail to allow for project review under the regulations of the State Environmental Policy Act and this Program.

.54 Notwithstanding any other provision of this Program and pursuant to WAC 173-14-060, permits issued to non-user applicants shall be valid for five years if construction or substantial progress toward construction of the approved development has begun within two years of issuance of the permit.

## Chapter 23.110

### DEFINITIONS

The terms listed in this Chapter and 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.

Note: An asterisk (\*) indicates the term is illustrated in the Background Document.

#### A

.1 Accessory Development means any development incidental to and subordinate to a primary use of a shoreline site and located adjacent thereto.

.2 \* Accretion Shoreform means a shoreline with a relatively stable berm and backshore which has been built up by long-term deposition of sand and gravel by littoral drift or stream current processes via a driftway from a feeder bluff or other material source. Such shoreforms are scarce locally in a natural condition and include barrier beaches, points, spits, tombolas, pocket beaches, and point and channel bars on streams.

.3 Act means the Shoreline Management Act of 1971 (RCW 90.58) as amended.

.4 Administrator means the Director of the Department of Buildings and Code who is to carry out the administrative duties enumerated in this Program, or his designated representative.

.5 Agricultural Land means all land mapped by Soil Conservation Service as Class I, II, III, or IV which is capable of being used for production of food and fiber, and which has not been developed for urban density housing, industry, business or other uses generally incompatible with agriculture.

.6 Agricultural Practices means any activity directly pertaining to production of food or fiber on agricultural land including but not limited to cultivation, harvest, grazing, animal waste storage and disposal, fertilization, suppression or prevention of diseases and insects. Excluded from this definition are transportation of products, related commercial or industrial uses such as wholesale and retail sales or final processing.

.7 Agriculture is the farming or raising of livestock, crops, berries, fruit, nursery stock on land, and may require development such as buildings, feed lots, fences, ditches, bridges, ponds, wells, grading, as well as use of native pasture and woodlots.

.8 Animal Unit - In terms of wastes produced, 10 animal units are equal to 10 head of beef cattle, 7 dairy cattle, 2,900 broiler chickens, 15 horses, 1,800 laying hens, 550 turkeys or 120 sheep. These numbers shall be calculated using the method provided in Chapter 20.97 W.C.C.

.9 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 the perimeter of a wetland. Appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred fifty cubic yards (except to construct a conventional

drainfield).

.10 Aquaculture is the farming or culture of food fish, shell fish, or other aquatic plants or animals in fresh or salt water 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.

.11 Aquaculture Practices means any activity directly pertaining to growing, handling, or harvesting of aquaculture produce including but not limited to propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related commercial or industrial uses such as wholesale and retail sales, or final processing and freezing.

.12 Aquatic Shoreline Area is the area waterward of the OHWM of all streams, all rivers of State-wide Significance, all marine water bodies, and all lakes, together with their underlying lands and their water column; including but not limited to bays, straits, harbor areas, waterways, coves, estuaries, streamways, tidelands, bedlands, wetlands and shorelands.

.13 Average Grade Level shall mean the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed structure and shall be determined by averaging the elevations at the center of all exterior walls of the proposed structure.

## B

.1 \* Backshore means a low elevation land area together with associated marshes or meadows on marine shores landward of a berm(s), which has been gradually built up by accretion, and may be flooded by waves during storms.

.2 \* Barrier Beach means a linear accretion shoreform of sand and/or gravel berm(s) accreted seaward 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 Base Flood

(a) A flood of a frequency expected to recur on the average of once every 100 years, or

(b) A flood magnitude which has a one percent chance of occurring in any given year.

.4 Beach Nourishment - An artificial process in which selected beach material is deposited at one or several locations in the updrift portion of the 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.

.5 Bedlands means those submerged lands below the line of extreme low tide in marine waters and below the line of navigability of navigable lakes and rivers.

.6 \* 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.

.7 Boathouse means any roofed structure built onshore or offshore for storage of water craft or float planes.

.8 Bog means a wetland depression or other undrained or poorly drained area containing or covered with usually more than one layer of peat and as defined in Chapter 173-22 WAC. Characteristic vegetation of bogs are sedges, reeds, rushes, or mosses. In early stages of development, vegetation is herbaceous and the peat is very wet. In middle stage, dominant vegetation is shrubs. In mature stage, trees are dominant and peat near the surface may be comparatively dry. Bogs represent the final stage of the natural process (eutrophication) by which lakes are very slowly transformed into land; bogs are sometimes mined for peat on a commercial basis; bogs are often an intake for ground water (aquifer recharge area).

.9 Breakwaters are offshore structures generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose would be to protect shorelines from wave-caused erosion. Most breakwaters in the Pacific Coast are rip-rap mound construction. Several include ancillary sand bypassing operations.

.10 Buffer is an undeveloped area of natural or landscaped vegetation located on site between a developed area and a road, property line, shoreline or other use or feature which serves to reduce use conflicts and other impacts.

.11 Building means any structure designed for or used for the support, shelter, or enclosure of persons, animals, chattels, or personal property, and which is used for a fixed location on land or water.

.12 Bulkheads are wall-like structures placed parallel to shore primarily for retaining uplands and fills prone to sliding or sheet erosion, and secondarily to protect uplands and fills from erosion by wave action. Bulkheads are normally less massive than seawalls because they are designed to retain earth but are not located where wave action is severe.

## C

.1 Channelization means the straightening, relocation, deepening or lining of natural stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression. Excluded from this definition are: dredging of sediment or debris to maintain channels, spot revetments or levees to control erosion of property, and bona fide emergency construction to protect property from damage by stream currents or floods.

.2 Chemicals shall mean any synthetic substance or mixture of such substances used for a fertilizer, herbicide, pesticide, insecticide, or rodenticide.

.3 The Cherry Point Management Unit is a geographic area defined as all the shoreline areas within the jurisdiction of the Whatcom County Shoreline Management Program 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 exists on June 18, 1987, and the southern boundary of Section 32, Township 39 North, Range 1 East, extending waterward a distance of 5000' and extending landward for 200' as measured on a horizontal plane from the OHWM. The Cherry Point Management Unit is represented in the map found in Appendix E of this Program.

.4 Coastal Flood Hazard Area means the low lying portions of marine shores subject to flooding from storm tides and/or surges of a magnitude which have a one percent chance of occurring in any given year (see base flood). Such areas are not yet precisely mapped in Whatcom County, but typically are the wetland and accretion (spit, barrier beach, point, etc.) shoreforms of less than 20 feet elevation Mean Sea Level.

.5 \* Cobble-Boulder Zone means the steepest gradient sector of a streamway having a mean bed slope ranging upward from 25 to more than 700 feet per mile. This zone is characterized by a relatively fixed channel, often high and steeply sloping banks, rocks ranging in size from cobbles to very large boulders as the bed material, rapid and deep pools, eddies, and falls. This zone normally occurs in mountainous bedrock landscapes and inter-valley "gaps;" flooding is infrequent due to high banks. Cobbles are the dominant material in the lower 25 to 60 foot/mile gradient range; boulders are dominant in the higher slope 60 foot/mile range.

.6 Commercial Development means those whose primary use is for retail or wholesale trade or other business activities. Included in this definition are hotels, motels, bed and breakfast facilities, shops, restaurants, recreational vehicle parks, commercial rental campgrounds and cabins, whether public or private, and indoor or intensive outdoor commercial recreation facilities. Not included are private camping clubs, marinas, signs, utilities and other development which is treated under a separate section of this Program.

.7 Community dock means a dock development providing 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 community dock provides commercial services or is of a large scale (more than ten slips), it shall be considered a marina and shall also meet the covered moorage provisions of Chapter 23.100.100.30. 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.

.8 Conditional Use for the purposes of this Program means a particular type of use or substantial development listed in the regulations as being permitted only as a conditional use, including specific uses conditionally permitted in Chapter 23.100, the expansion or resumption of a non-conforming use under Section 23.50, and other shore-dependent uses which are unnamed in the Program or which require a specific site location on the shoreline not provided for under the Program. Conditional uses are subject to review and approval pursuant to the criteria in Section 23.60.190, regardless of whether or not the proposal requires a substantial development permit.

.9 Conservancy Shoreline Area means

(a) an area containing natural resources which can be used/managed on a multiple use basis without extensive alteration of topography or banks; including but not limited to forest, agricultural and mineral lands, outdoor recreation sites, fish and wildlife habitat, watersheds for public supplies, and areas of outstanding scenic quality; and/or

(b) A shoreline area containing hazardous natural conditions or sensitive natural or cultural features which require more than normal restrictions on development and use of such areas; including, but not limited to: eroding shores, geologically unstable areas, steep slopes, floodways (and flood plains), gravel-braided streamways, natural accretion shoreforms, and

valuable natural wetlands or historic sites.

.10 Covered Moorage means a roofed, floating or fixed offshore structure without walls other than minimal structural framework needed to support the roof for moorage of water craft or float planes.

.11 Current Deflector means an angled "stub-dike", groin, or sheet-pile structure which projects into a stream channel to divert flood currents from specific areas, or to control downstream current alignment.

#### D

.1 Dam means a barrier across a streamway to confine or regulate streamflow or raise water level for purposes such as flood or irrigation water storage, erosion control, power generation, or collection of sediment or debris.

.2 Development means 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 which 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 includes both exempt and substantial developments.

.3 Dike means an artificial embankment or revetment normally set back from the bank or channel in the flood plain for the purpose of keeping floodwaters from inundating adjacent land.

.4 Dock shall mean 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, mooring buoys, swim floats, float plane moorages, covered moorages, and water ski jumps. Excluded are launch ramps.

.5 Dredging is the removal, displacement, and disposal of unconsolidated earth material such as silt, sand, gravel, or other submerged material from the bottom of water bodies, ditches or wetland; maintenance dredging and other support activities are included in this definition. Dredging is commonly done in shallow accretional environments to deepen wet moorage marinas, harbors and their entrances, and navigational lanes and to obtain bottom materials for landfill or construction.

.6 Dredge Spoil is the material removed by dredging.

.7 Drift Sector means a particular reach of marine shore in which littoral drift may occur without significant interruption, and which contains any and all natural sources of such drift, and also any accretion shoreform(s) accreted by such drift. Each normal drift sector contains these shore process elements: feeder bluff or estuary, driftway, littoral drift, and accretion shoreform.

.8 \* Driftway means that portion of the marine shore process corridor, primarily the upper foreshore, through which sand and gravel are transported by littoral drift. The driftway is the essential component between the feeder bluff(s) and accretion shoreform(s) of an integral drift sector. Driftways are also characterized by intermittent, narrow berm beaches.

E

.1 \* Estuarine Zone, Estuary 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 this zone twice daily, determining its upstream limit. It is characterized by low bank channels (distributaries) branching off the main streamway 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. Estuarine shores are rich in aquatic and other bird and animal life, and in natural condition are the most productive of all shoreline habitats in terms of the marine food chain.

.2 Excavation is the removal, displacement and disposal of unconsolidated earth material such as silt, sand, gravel, soil, rock or other material from all areas landward of OHWM including berms, backshore, natural wetlands, flood plains and uplands. Included are site preparation for other approved development, construction of drainage ways, excavation of detention, retention or wildlife ponds and similar work. This definition does not include archaeological excavation or minor trenching for underground utilities where the native material is immediately replaced.

.3 Exempt Development means a use or development activity which is not a substantial development and that is specifically listed as exempt from the substantial development permit requirement in WAC 173-14-040 and Section 23.50.31 of this Program.

.4 Extreme Low Tide means the lowest line on the land reached by a receding tide.

F

.1 Fair Market Value of a development is 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 \* Feeder Bluff, 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.

.3 Feedlot shall mean an enclosure or facility used or capable of being used for assembled confinement feeding of 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.

.4 Fisheries means all species of fish and shellfish commonly or regularly originating or harvested commercially or for sport in Puget Sound and its tributary fresh-water bodies, together with the aquatic plants and animals and habitat needed for continued propagation and growth of such species.

.5 Fisheries Enhancement means development or other nonstructural alteration of a

shoreline to rehabilitate, maintain or create fisheries habitat, including but not limited to hatcheries, spawning channels, lake rehabilitation, planting of fisheries stocks. Fisheries Enhancement differs from Aquaculture in that the increase in fisheries stocks eventually becomes available for public harvest.

.6 Flood Control Works - See definition "Stream Control Works." All references to Flood Control Works herein are to be read as Stream Control Works.

.7 Floodgate means a closeable passageway placed in a streamway or artificial channel to control flood waters or tidal flows.

.8 \* Flood Plain means all lands along a river or stream which may be inundated by the base flood of such river or stream. The flood plain includes the floodway, except the streamway, and all of the floodway fringe.

.9 Flood Plain Management means a long-term Program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.

.10 Flood-proofing shall mean structural provisions, changes, adjustments or a combination thereof, to buildings, structures, and works in areas subject to flooding in order to reduce or eliminate damages from flooding to such development and its contents, as well as related water supplies and utility facilities.

.11\* Floodway means those portions of the area 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 conditions, by changes in surface soil conditions or changes in types or quality of vegetation ground cover condition. 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 the County.

More precisely, the floodway includes all active and inactive channels and lands along a stream which are required to contain the more rapidly moving currents and most of the water volume of a flood. The floodway is a corridor which includes the streamway and adjacent flood plain lands on one or both banks.

.12\* Floodway Fringe means that fringe of land in the flood plain outside the floodway which is subject to inundation by the base flood. Flooding in the fringe is limited to flood-surge storage of water currents moving at a negligible velocity of less than 0.5 miles per hour.

.13 Food Chain means the hierarchy of consumption in any community of plants and animals; plants are the most abundant life forms at the base, which are consumed by a fewer number of animals, which are in turn consumed by yet fewer predator animals including man. The chain is completed by the decomposers - fungi and bacteria - who consume all organic wastes and recycle them back into the community.

.14 Forest Practices mean any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing of timber; including, but not limited to: (1) road and

trail construction; (2) fertilization; (3) prevention and suppression of diseases and insects; or other activities which qualify as a use or development subject to the Act.

Excluded from this definition is preparatory work such as tree marking, surveying and removal of incidental vegetation such as berries, greenery, or other natural products whose removal cannot normally be expected to result in damage to shoreline natural features. Log storage away from forest land is considered under Industry.

.15 Forest Land includes all land which is capable of supporting a merchantable stand of timber and is not being actively utilized or developed for a use which is incompatible with timber production.

.16 Free-standing Sign - A self-supporting sign placed off and away from the building to which it is related.

## G

.1 Gabions are works composed of masses of rock, rubble, or masonry tightly enclosed usually by wire mesh so as to form massive blocks. They are used en masse to form walls on beaches to retard wave erosion or as foundations for breakwaters or jetties. Gabions are easily subject to destruction by vandalism.

.2 Geologically Unstable refers to the relative instability of a shoreform or land form for development purposes over the long term or the intended life of any proposed structure. Soil, slope, ground or surface water, other geologic conditions, vegetation and effects of development are common factors which contribute to instability. For purposes of setbacks, high banks or bluffs composed of unconsolidated alluvial or glacial deposits (till and drift material), severely fractured bedrock, active and substantial erosion, substantially deformed trees and shrubs, or active or inactive earth slide areas are likely to be considered geologically unstable. A determination by the County of geologically unstable shoreline areas shall be made using the best available information at the time.

.3\* Gravel Zone means a stream's intermediate gradient sector, its bed slope averaging more than 5 but less than 25 feet per mile, and is normally downstream from the Cobble-boulder Zone and upstream from the Pastoral Zone. It is characterized by bed material predominantly of coarse to small-size gravel, shifting, braiding, multiple channels, ephemeral islands, beaches and bars of gravel. The streamway is wider than the Boulder or Pastoral Zones, and subject to much more erosion due to higher velocity currents, particularly at flood stages.

.4 Groins are wall-like structures extending on an angle seaward from the shore into the intertidal zone. Their purpose is to build or preserve an accretion shoreform or berm on their updrift side by trapping littoral drift. Groins are relatively narrow in width but vary greatly in length. Groins are sometimes built in series as a system, and may be permeable or impermeable, high or low, and fixed or adjustable.

## H

.1 Harbor Area - The navigable waters between inner and outer harbor lines as established by the State Harbor Lines Commission seaward of and within one mile of an incorporated city. Harbor Areas have been established offshore of Bellingham and Blaine.

.2 Hazardous Area means any shoreline area which is hazardous for intensive human use or structural development due to inherent and/or predictable physical conditions; such as but not limited to steep slopes, unstable soils or bedrock, feeder bluffs, other erosion prone uplands, floodways, or coastal flood hazard areas.

.3 Hazardous Materials means any substance containing such elements or compounds which when discharged in any quantity in shorelines present an imminent and substantial danger to public health or welfare; including, but not limited to: fish, shellfish, wildlife, water quality, and other shoreline features and property.

.4 Hearings Board means the State Shorelines Hearings Board referenced in RCW 90.58.170.

.5\* Height (Building) - The vertical dimension measured from average grade to the highest point of a structure; provided that, antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of adjacent residences.

.6 Historic Site includes both archaeological and historic sites, structures, or development which provide knowledge about our cultural heritage; including, but not limited to: Indian and pioneer settlements, old buildings, forts, trails, landings, bridges, or the sites thereof together with interpretive facilities.

I

.1 Industrial Development means facilities for processing, manufacturing, and storage of finished or semi-finished goods, including but not limited to oil, metal or mineral product refining, power generating facilities, including hydropower, ship building and major repair, storage and repair of large trucks and other large vehicles or heavy equipment, related storage of fuels, commercial storage and repair of fishing gear, warehousing 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.

J

.1 Jetties are structures 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 rip rap mound construction.

.2 Joint-use Private Dock means a dock and/or float but not a covered moorage or boat house for pleasure craft moorage or water sports for exclusive use by two to four adjacent lot owners.

L

.1 Lake: A body of standing water in a depression of land or expanded part of a stream, of twenty 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 streamway. Wetland areas occurring within the standing water of a lake are to be included in the acreage calculation of a lake.

.2 Landfill is the creation of additional upland area or the elevation of existing upland by deposition of soil, dredge spoil or other solid material onto land, wetlands, or into water bodies. Deposition of topsoil for normal landscaping purposes or of stream maintenance dredge spoil for agricultural purposes is not considered landfill. Other commonly related practices including Dredging, and Shore Defense Works are dealt with under those titles.

.3 Launch Ramp is an inclined slab, set of pads, planks, or graded slope used for launching boats with trailers or occasionally by hand. As with marinas, extensive parking and turnaround areas are usually required.

.4 Levee means a natural or artificial embankment on the bank of a stream for the purpose of keeping floodwaters from inundating adjacent land. Some levees have revetments on their sides.

.5 Line of Navigability - A horizontal line on the bed of a water body at a depth sufficient for navigation by watercraft commonly used on such water bodies; until such lines are finally established by the State Department of Natural Resources or court of law.

.6 Littoral Drift (or transport) means the natural movement of sediment, particularly sand and gravel, along shorelines by wave action in response to prevailing winds or by stream currents (see also driftway, drift sector, shore process corridor).

#### M

.1 Marina means a wet moorage and/or dry storage facility for pleasure craft and/or commercial craft where goods or services related to boating may be sold commercially. 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 industry.

.2 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 aquatic or semi-aquatic plants as defined in chapter 173-22 WAC. Shallow water usually stands on a marsh, at least during a considerable part of the year. The surface is commonly soft mud or muck, and no peat or trees are present.

.3 MHHW or Mean Higher High Water is the mean elevation of all higher tides, generally occurring twice each day in Whatcom County at any given location on the marine shoreline.

.4 Mining is the removal of naturally occurring metallic and non-metallic minerals or other materials from the earth for economic use.

.5 MLLW or Mean Lower Low Water is the mean elevation of all lower tides, generally occurring twice each day in Whatcom County at any given location on the marine shoreline.

.6 Multi-family Dwelling means a building designed or used for a residence by three or more household units, including but not limited to rowhouses, apartments, condominium

complexes, and townhouses.

N

.1 Natural Shoreline Area means an area having high value in a natural condition which has either little or no development, including but not limited to estuaries, marshes, bogs, swamps, accretion shoreforms, and gorges.

.2 Navigable Waters of the United States means a water body which in its ordinary condition, or by being united with other water bodies, forms a continued highway over which commerce is or may be carried on with other states or foreign countries in the customary modes in which such commerce is conducted by water.

.3 Non-conforming use, development or structure means a shoreline use development or structure which was lawfully constructed or established prior to the effective date of this program (August 27, 1976) or amendments hereto, but which does not conform to present regulations or standards of the program.

.4 Non-water Oriented Use means uses which have little or no relationship to the shoreline and are not considered priority uses under the Shoreline Management Act. Any use which does not meet the definition of water-dependent, water-related or water-enjoyment is classified as Non-water Oriented.

O

.1 Off-premise Sign means a sign situated on premises other than those premises to which the sign's message is related.

.2 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.

.3 On-Premise Sign means a sign situated on the premises to which the sign's message is related.

.4 Open Space is the portion of the lot area not covered by enclosed buildings, and useful for active or passive recreation or visual enjoyment. Development such as swim or reflection pools, pedestrian or bicycle ways, tennis courts and outdoor eating space may be considered open space, together with landscaped buffer strips.

For regulatory purposes, not more than a total of 50% of the required open space for a proposal may be provided in required perimeter setback areas, unbuildable land areas, water surfaces, or impervious surfaces such as patios, paths or tennis courts. Parking areas, driveways, and outdoor storage and loading areas shall not be considered open space; nor shall tidelands or shorelands unless specifically authorized.

.5 \* Ordinary High Water Mark (OHWM) on all lakes, streams, and tidal water is that mark that will be found by examining the bed 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 as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may

change thereafter in accordance with approved development; PROVIDED that, in any area where the OHWM cannot be found, the OHWM adjoining salt water shall be the line of mean higher high tide and the OHWM adjoining fresh water shall be the line of mean high water. For braided streams, the OHWM is found on the banks forming the outer limits of the depression within which the braiding occurs.

P

.1 \* Pastoral Zone means the lower gradient sector of a stream sloping less than five but more than zero feet per mile, and is downstream from the Gravel-braided zone. It is characterized by a single-channel streamway with meander bends looping across a flood plain; bed material of fine gravel, mostly; sand grading down to silt banks and broad point bars with limited beaches. The Pastoral is normally upstream from the Estuarine Zone.

.2 Person means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, State agency or local governmental unit, however, designated, or Indian Nation or tribe.

.3 Pier shall mean any platform structure, fill, or anchored device in or floating upon water bodies to provide moorage for watercraft engaged in commerce; including, but not limited to: wharves, mono-buoys, sea islands, quays, ferry terminals, and fish weighing stations.

.4 \* Pocket beach means an isolated berm 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.

.5 \* Point means a low profile shore promontory which may be either the wave-cut shelf remaining from an ancient bluff or the final accretional phase of a hooked spit which closed the leeward side gap. Points are accretion shoreforms characterized by converging berms accreted by storm waves, which enclose a lagoon, marsh, or meadow, depending on the point's development stage.

.6 \* Point bar means an accretion shoreform created by deposition of sand and gravel on the inside, convex side of a streamway 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.

.7 Port Development means public or private facilities for transfer of cargo or passengers from water-born 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 dealt with 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 are considered as industrial or accessory to other uses.

.8 Private Dock means a dock and/or float for pleasure craft moorage or water recreation for exclusive use by one waterfront lot owner.

.9 Private Sign means a sign used on a private residence to indicate only the owner's name

or address, that the premises are for rent or sale, or for other reasonable purposes related to residential use including permitted home occupations.

.10 Projecting Sign means a sign which is attached to and projects at an angle from a building's exterior wall.

.11 Protective Berm means an artificially placed berm for erosion defense. Berms are often the most effective and economical defense work if size and material composition are appropriate.

.12 Public Access encompasses the public's right to get to and use the State's public waters, both salt and fresh, the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and visual access facilitated by scenic roads and overlooks, viewing towers and other public sites or facilities.

## R

.1 Recreation means any form of experience or activity in which an individual engages from choice because of the personal enjoyment and satisfaction which it brings directly to him. Most recreation which depends on or utilizes the shoreline is outdoor recreation such as: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.

.2 Recreational Development is the modification of the natural or existing environment to accommodate recreation. This includes clearing land, earth modifications, structures and other facilities such as parks, camps, camping clubs, launch ramps, golf courses, viewpoints, paths, public access facilities, public parks and playfields, hunting blinds, wildlife enhancement (wildlife ponds are considered excavation), and other low intensity use outdoor recreation areas. Recreational homes and related subdivisions of land are considered residential; resorts, motels, hotels, recreational vehicle parks, intensive commercial outdoor or indoor recreation and other commercial enterprises are considered commercial; however, the policies and regulations of Section 23.100.120 will apply to substantial development or areas devoted to private, community or public recreation use associated with such non-recreational development.

.3 Region means the four counties of northwest Washington State - Whatcom, San Juan, Skagit and Island - as well as incorporated cities and towns therein and water bodies within the county boundaries.

.4 Renovation is to restore to an earlier condition as by repairing or remodeling. Renovation shall include any interior changes to the building and those exterior changes that do not substantially change the character of the existing structure.

.5 Residential Development means buildings, earth modifications, subdivision and use of land primarily for human residence; including, but not limited to: single-family and multi-family dwellings, mobile homes and mobile home parks, together with accessory uses common to normal residential use. Camping sites or clubs, recreational vehicle parks, motels, hotels and other transient housing are not included in this definition.

.6 Revetment means a sloped wall constructed of rip rap or other suitable material placed on stream banks or other shorelines to retard bank erosion from high velocity currents or waves respectively.

.7 Rip Rap means dense, hard, angular rock free from cracks or other defects conducive to weathering used for revetments or other stream control works.

.8 Road and Railway Development includes related bridges and culverts, fills, embankments, causeways, parking areas, truck terminals and rail switchyards, sidings, spurs, and air fields; not included are recreational trails, highway rest areas, ship terminals, seaplane moorages, nor logging roads; they are included respectively under Recreation, Piers and Docks, Residential, and Forest Practices.

.9 Rock Shore means those shorelines whose bluffs and banks are typically composed of natural rock formations.

.10 Roof Sign is 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.

.11 Rural Shoreline Area means an area developed at a low overall density or used at a low to moderate intensity; including, but not limited to: residences, agriculture, and outdoor recreation developments. The natural character and integrity of the immediate shoreline area is generally protected by compatible development, although some alterations do occur.

## S

.1 Seawalls are like bulkheads except their primary purpose is to artificially armor the shore from erosion by water waves, but they may incidentally retain uplands for fills. Seawalls are usually more massive than bulkheads or revetments because they are designed to resist the full force of waves. They are generally unnecessary for Whatcom County shorelines.

.2 Sensitive Area means any area which is naturally unsuitable or undesirable for intensive human use or structural development due to its higher development costs or its relatively higher value to region or community in its natural or present condition; such as, but not limited to: estuaries, marshes, swamps, bogs, accretion shoreforms, pocket beaches, historic sites, and unique or scarce fish and wildlife habitats.

.3 Shore Defense Works are structural or non-structural 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.

.4 Shore Dependent Use, synonymous with Water-Dependent Use, is any reasonable use that requires a water's edge or water surface location because of its intrinsic nature; including, but not limited to: navigation, ports, marinas, docks, piers, floats, boat fueling stations, shipyards, seafood harvest, aquaculture, recreation, public access, boating and swimming, and research and observation of natural shoreline phenomena. Uses in this category are considered the most appropriate in terms of this Program.

.5 \* Shore Process Corridor means the linear shore zone of varying width within which all

physical and biologic resources and processes unique to the dynamic land-water interface occur, including such resources as floodways, point bars, deltas, points, spits, backshore beaches, feeder bluff faces, driftways, tidelands, estuaries and other associated wetlands, as well as geo-hydraulic processes such as currents, floods, tides, erosion accretion, together with the web of littoral/aquatic plant and animal life.

.6 Shore Related Uses, synonymous with Water-Dependent Use, is any use not intrinsically shoreline dependent but which:

(a) cannot operate/occur successfully away from the shoreline or water surface under current physical or economic conditions; or

(b) is essential support to a shore dependent primary use.

.7 Shorelands mean (1) those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; (2) floodways and contiguous flood plain areas landward 200 feet from such floodways; and (3) all wetlands and river deltas associated with the streams, lakes and tidal waters, which are subject to the provisions of the act. (see also shorelines and shorelines of state-wide significance).

.8 Shoreline Jurisdiction means Shorelands.

.9 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 RCW 90.58.

.10 Shoreline View Area is any area within the jurisdiction of this Program between the OHWM and a public road, park, pathway, or other public area which is undeveloped or developed with accessory uses only; and which 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.

.11 Shorelines means all of the water areas of the State, including reservoirs and their associated wetlands, together with lands underlying them; except:

(a) Shorelines of State-wide 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

© Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

.12 Shorelines of the State are the total of all shorelines and shorelines of State-wide Significance within the State.

.13 Shorelines of State-Wide Significance means the following shorelines in Whatcom County:

(a) Those areas of Puget Sound and adjacent salt waters 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 salt waters north to the Canadian line and lying seaward 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 (a), (c), and (d) above.

.14 Sign is 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.

.15 Solid Waste is all putrescible and non-putrescible solid and semi-solid waste including garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles and parts, thereof, and any other discarded commodities.

.16\* Spit means an accretion shoreform which is narrow in relation to length and extends parallel to or curves outward from shore; spits are also characterized by a substantial wave-built sand and gravel berm on the windward side, and a more gently sloping silt or marsh shore on the lagoon or leeward side; curved spits are called hooks.

.17 Statement of Exemption means a written statement by the Administrator that a particular development proposal is exempt from the substantial development permit requirement and is generally consistent with this Program including the policy of the act (RCW 90.58.020) pursuant to Section 23.50.32.

.18 Stream Control Works means all development on rivers and streams designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.

.19 Streamway means a river or stream's central runoff corridor including all wet and dry channels, together with adjacent point-bars, channel-bars, and islands which are wetted or surrounded by stream flow at bank full stage; all the floodway fringe and those portions of the floodway in the flood plain are excluded. The streamway operates as a natural system of meander progression characteristic to its particular geo-hydraulic zone (see Cobble-Boulder, Gravel, Pastoral and Estuarine Zones). Also, the streamway is a unique linear, physical, and

biologic resource corridor in which various aquatic and land plants and animals are dependent on and affected by physical features characteristic to the particular zone, including water level fluctuations.

.20 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 matter whether installed on, above, or below the surface of the ground or water, except for vessels (after Uniform Building Code).

.21 Substantial Development shall mean any development of which the total cost or fair market value exceeds two thousand-five hundred dollars, or any development which materially interferes with the normal public use of the water or shorelines of the State; except that the classes of development, listed (a) through (l) under Section 23.50.31 shall be exempt from the substantial development permit requirement pursuant to RCW 90.58.030 (3)(e).

.22 Surface Mining means all or any part of the processes involved in mining by removing the soil or rock overburden and mining directly from deposits thereby exposed, including also open-pit mining, gravel bar scalping and mining of deposits naturally exposed at earth's surface, and including production of surface mining refuse.

.23 Swamp means a wetland similar to a marsh and as defined in chapter 173-22 WAC, except that reeds and water tolerant shrubs and trees comprise its characteristic vegetation. Marshes and swamps merge into each other, and both tend to merge into or become bogs.

#### T

.1 Tideland means the land on the shore of marine water bodies between OHWM and the line of extreme low tide which is submerged daily by tides.

.2 Timber shall mean forest trees standing or down of a commercial species including Christmas trees.

.3 \* Tombolo means an accretion shoreform which began as a spit and accreted into a causeway-like connection to an island or offshore rock; tombolas normally develop from offshore bars (submarine berms) which build up in a low energy "wave-shadow" zone between the offshore, waver barrier element and an active driftway. Tombolas at maturity constitute and accretion terminal for each part of the divided drift sector; each side may be a berm beach, or the leeward may be a marsh or lagoon.

#### U

.1 Unbuildable Land means land which is not suitable for use as building sites or for impervious road, parking or storage areas, because of inherent hazards to structures or human activity thereon. Such lands include, but are not limited to: areas with average slopes exceeding thirty percent (30%); unstable geologic formations, as indicated by soil survey and/or past experience of movement or settling of the land; soils of low or variable shear strength or load-bearing capacity; major groundwater recharge areas; wetlands not approved for development, or areas designated formally by a State or County agency as floodways or coastal flood hazard areas.

.2 \* Upland shall mean those shoreline areas landward of OHWM except berms,

backshores, natural wetlands, and flood plains.

.3 Urban Resort Area - The Urban Resort Shoreline Area is defined as an area developed with residential and commercial uses, with emphasis in the latter on hotels, motels, shops, restaurants, commercial rental campgrounds, rental cabins, and shoreline-related indoor recreation facilities, all geared to the needs of the tourist and day visitor.

.4 Urban Shoreline Area means an area of intensive development including but not limited to urban density residential, commercial, and industrial uses.

.5 Utility Development includes but is not limited to facilities for distributing, processing, or storage of water, sewage, solid waste, storm drainage, electrical energy including electronic communications, and their administrative structures, as well as pipelines for oil and gas, and fire fighting facilities. Power plants are considered industrial.

V

.1 Variance means an adjustment in the application of this Program's regulations to a particular site pursuant to Section 23.60.180.

.2 Vegetative Stabilization includes planting of (1) hydrophytic (water-loving) land vegetation upon shoreline banks, slopes or berms to retain soil and retard erosion from surface runoff; (2) aquatic vegetation offshore to reduce wave action and retain bottom materials as well as; (3) utilization of temporary structures or netting to enable plants to establish themselves in unstable areas.

W

.1 Wall Sign means a sign placed upon and parallel to the exterior of a building.

.2 Water Body means a body of still or flowing water, fresh or marine, bounded by the OHWM, including natural wetlands.

.3 Water-Dependent Use means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations.

.4 Water-Enjoyment Use means a recreational use, or other use facilitating public access to the shoreline as the primary character of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of the use and which through the location, design and operation assure the public's ability to enjoy the physical and aesthetic qualities of the shoreline.

.5 Water-Oriented Use means any one or a combination of water-dependent, water-related or water-enjoyment uses and serves as an all encompassing definition for priority uses under the Shoreline Act.

.6 Water-Related Use means a use or portion of a use which is not intrinsically dependent on a waterfront location but depends upon a waterfront location for economic viability. These uses have a functional relationship to the water, or the use provides a necessary support service for a water-dependent use and physical separation is not feasible.

.7 Weir means a structure in a streamway for measuring or regulating stream flow.

.8 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 nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass lines swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

**APPENDIX A**

Appreciation is extended to the many individuals and organizations listed below who have contributed their time reviewing the draft document and offering valuable suggestions for improvements to the Program. The effectiveness and practical application of the provisions of the Program have been positively enhanced as a result.

(Contributors to the original 1976 Shoreline Management Program)

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**APPENDIX B**

Major References Utilized for this Program:

1. Bauer, Wolf, Drift Sectors of Whatcom County Marine Shores, 1976, Whatcom County Planning Commission, Bellingham, Washington.
2. Bauer, Wolf, Streamway Classification, 1972, Inter-Agency Committee for Outdoor Recreation, Olympia, Washington.
3. Bellingham, City of, Shoreline Master Program, 1974, Bellingham, Wash.
4. Blaine, City of, Shoreline Master Program, 1975, Blaine, Wash.
5. Community Development Services (Seattle), Point Roberts Comprehensive Plan (not adopted), 1973, Whatcom County Planning Office, Bellingham, Wash.
6. Easterbrook, Don J., Environmental Geology of Western Whatcom County, 1973, Whatcom County Council of Governments, Bellingham, Wash.
7. Everson, City of, Shoreline Master Program, 1975, Everson, Wash.
8. Ferndale, Town of, Shoreline Master Program, 1975, Ferndale, Wash.
9. Isaac, Walter M. and Associates, (Seattle, Wash.), Whatcom County Regional Recreation and Open Space Plan, 1968, Whatcom County Park Board, Bellingham, Wash.
10. Jones and Jones, (Seattle, Wash.), Nooksack River Plan, 1973, Whatcom County Park Board, Bellingham, Wash.
11. Kramer, Chin and Mayo (Seattle, Wash.), Hydrologic and Drainage Study, 1973, Whatcom County Council of Governments, Bellingham, Wash.
12. Lynden, City of, Shoreline Master Program, 1975, Lynden, Wash.
13. Natural Resources Planning Council, Key Natural Areas, 1970, Whatcom County Park Board, Bellingham, Wash.
14. Nooksack, City of, Shoreline Master Program, 1975, Nooksack, Wash.
15. Pacific Northwest Laboratories - Battelle Memorial Institute, Shoreline Management Guidelines for Grays Harbor Regional Planning Commission, 1971, Richland, Wash.
16. Phillabaum, Stephen D., A Geomorphic Inventory of Whatcom County Marine Shoreline, 1973, (Master's Degree Thesis) Geography Department, Western Washington State College, Bellingham, Wash.
17. Lewis, Jones, Haag, et al, Blaine City Waterfront Study, 1972, Blaine, WA.
18. Skagit County, Shoreline Master Program (draft), 1975, Skagit County Planning

- Department, Courthouse, Mt. Vernon, Wash.
19. Sumas, City of, Shoreline Master Program, 1975, Sumas, Wash.
  20. U. S. Soil Conservation Service, Whatcom County Soil Survey, 1953, Government Printing Office, Washington, D.C.
  21. U. S. Corps of Engineers
    - (a) Flood Plain Information Study - Nooksack River, 1964, Seattle District Corps of Engineers, Seattle, Wash.
    - (b) Flood Insurance Study - Unincorporated Whatcom County (draft), 1973, Seattle District, Corps of Engineers, Seattle, Wash.
    - (c) Shore Protection Guidelines, 1971, Corps of Engineers, Wash., D.C.
    - (d) West Coast Deepwater Port Facilities Study, 1973, Corps of Engineers, North Pacific Division, Portland, Oregon.
  22. Washington, State of,
    - (a) Shoreline Management Act of 1971 as amended. (RCW 90.58).
    - (b) State Environmental Policy Act of 1971 as amended (SEPA) (RCW 43.21C)
    - (c) Shoreline Management Regulations as amended (WAC 173).
    - (d) Harbor Area Study, 1972, Harbor Line Commission, Olympia, Wash.
  23. Washington State Department of Ecology Final Guidelines - Shoreline Management Act of 1971, 1972, Olympia, Wash.
  24. Washington, State Department of Natural Resources (DNR)
    - (a) Land Use Allocation Plan for State-Owned Aquatic Lands, 1972, DNR, Olympia, Wash.
    - (b) Washington Marine Atlas, Volume I - North Inland Waters, 1972, DNR, Olympia, Wash.
    - (c) Olsen, Arden and Jamison, David, Planning for the Multiple Use of Aquatic Lands, 1971, DNR, Olympia, Wash.
  25. Whatcom County
    - (a) Comprehensive Plan, Whatcom County Planning Commission, as amended, 1970, Bellingham, Wash.
    - (b) Shoreline Management Program, Background Document, 1992, Whatcom County Planning Department, Bellingham, Wash. (contains extensive bibliography).
    - (c) Permanent Zoning Ordinance Draft, 1975, Land Use Code Committee and

- Whatcom County Planning Commission, Bellingham, Wash.
- (d) Subdivision Ordinance, 1972, Whatcom County Planning Commission, Bellingham, Wash.
  - (e) Critical Areas Draft Background Documents, 1992, Whatcom County Planning Department, Bellingham, Wash.
  - (f) Whatcom County Critical Areas Temporary Ordinance, 1992, Whatcom County Planning Department, Bellingham, Wash.
  - (g) An Inventory and Evaluation on Marine Shorelines of Whatcom County, 1988, Prepared for Whatcom County Planning Department by Colin Vasquez, Bellingham, Wash.
  - (h) Esthetic Values of Whatcom County Shorelines and Visual Access in Shoreline Areas, 1987, Prepared for Whatcom County Planning Department by Joyce Humble, Bellingham, Wash.
  - (i) Review of Whatcom County Shore Defense Policy and Related Issues, 1988, Prepared for Whatcom County Planning Department by Mary Raines, Bellingham, Wash.
26. Coastal Zone Atlas of Washington, Vol. One, Whatcom County, July, 1977, Department of Ecology, Olympia, WA.

**Appendix C**

**SHORELINE BACKGROUND DOCUMENT**

(companion document)

**Appendix D**

**OFFICIAL SHORELINE MAP**

(insert in back of document)

**Appendix E**

**CHERRY POINT MANAGEMENT UNIT MAP**

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