

Proposed Whatcom County Code Amendments to Implement the Shoreline Management Program (WCC, Title 23) Update

*Text amendments are identified by single underline and ~~single strikethrough~~. Additional text amendments recommended in response to public comments received following the September 28, 2006 Planning Commission public hearing are identified by double underline and ~~double strikethrough~~ text.

Whatcom County Critical Areas Ordinance (WCC, Chapter 16.16)

1) 16.16.225 Regulated Activities

- A.2. Constructing, reconstructing, demolishing or altering the size of any structure or infrastructure, subject to the provisions for a non-conforming structure pursuant to WCC 20.83. WCC 23.50.~~0799~~ and WCC 16.16.275.
- B.3. Alteration is necessary to accommodate an approved commercial/industrial shoreline dependent water-oriented use and any associated development/activity and/or the development activities listed in SMP 23.90.13.B.7.a when permitted in accordance with the Whatcom County Shoreline Management Program (SMP) ~~where the facility provided that such development~~ is operated, located, designed and constructed to minimize and, where possible, avoid critical area disturbance to the maximum extent feasible; or

2) 16.16.230 Exempt Activities

The following activities as specified are exempt from the provisions of this chapter:

- A. Class I, II, III and IV-Special forest practices conducted in accordance with the applicable standards of the Washington State Forest Practices Act, WAC 222-16, except where either of the following applies:
1. The lands have been or are proposed to be converted ~~under a conversion option harvest plan~~ to a use other than commercial forest product production as ~~provided in chapter RCW 76.09.050 and RCW 76.09.240~~; or
 2. On lands which have been platted after January 1, 1960, as provided in RCW 76.09.050 and RCW 76.09.240.

3) 16.16.320 Geologically Hazardous Areas – General Standards

- C. Agricultural activities may be allowed within geologically hazardous areas without a farm conservation plan; except that, a farm conservation plan shall be required for agricultural activities within landslide hazard areas and associated buffers.

4) 16.16.355 Standards - Erosion Hazard Areas

- G. Stream bank stabilization and shoreline protection may be permitted subject to all of the following standards:

1. Shoreline protection measures located within coastal or riverine erosion areas shall use soft armoring techniques (bioengineering erosion control measures as identified by the State Department of Ecology and the Department of Fish and Wildlife guidance) unless the applicant provides a geotechnical analysis demonstrating that bioengineering approaches will not adequately protect the property, ~~provided that all of the following shall apply:~~
24. The armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply from feeder bluffs.
32. The armoring will not adversely affect critical areas including habitat conservation areas or mitigation will be provided to compensate for adverse effects where avoidance is not feasible.
43. The proposal shall comply with WCC Title 23.
54. Hard bank armoring is discouraged and may occur only when ~~the property contains an existing legally established permanent structure(s) that is in danger from shoreline erosion caused by wave tidal action, waves or riverine processes and not erosion caused by upland conditions, such as the alteration of natural vegetation or drainage, and the armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply.~~ Hard armoring shall not be used to address normal sloughing, erosion of steep bluffs, or shoreline erosion itself, when preservation of existing structures is not a concern.
65. The erosion is not being caused by upland conditions, such as the removal of vegetation or human alteration of existing drainage.
76. Nonstructural measures, such as placing or relocating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

5) 16.16.720 Habitat Conservation Areas – General Standards

- L. Instream structures, such as, but not limited to, high flow bypasses, dams, and weirs, shall be allowed only as part of a watershed restoration project as defined pursuant to WCC 23.110.W.1150.32 or identified in watershed planning documents prepared and adopted under RCW 90.82, the Salmonid Recovery Plan or Salmon Recovery Board Habitat Project List, and the County's Shoreline Restoration Plan and upon acquisition of any required state or federal permits. The structure shall be designed to avoid adverse effects on stream flow, water quality, or other habitat functions and values.

6) Article 8 - Definitions

- H.1. "Qualified professional" or "qualified consultant" means a person with experience and training with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related field, and related work experience and meet the following criteria:

- a. A qualified professional for wetlands must have a degree in biology, ecology, soil science, botany, or a closely related field and a minimum of ~~five (5)~~ three (3) years of professional experience in wetland identification and assessment associated with wetland ecology in the Pacific Northwest or comparable systems.
- b. A qualified professional for habitat conservation areas must have a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of three (3) ~~five (5)~~ years professional experience related to the subject species/habitat type.
- c. A qualified professional for geologically hazardous areas must be a professional engineering geologist or geotechnical engineer, licensed in the state of Washington.
- d. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydrogeologist, geologist, or engineer.

Whatcom County Zoning Ordinance (WCC, Title 20)

7) 20.97.017 Aquaculture.

“Aquaculture” means 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. The term aquaculture also includes activities related to either growing, handling, or harvesting of aquatic produce, such as fish and crab, including, but not limited to, propagation, stocking, holding, nurturing, disease treatment, waste disposal, water use, development of habitat and structures. Private, non-commercial aquaculture activities that do not require development shall not be subject to the use provisions of WCC, Title 20 and are permitted in all zoning districts when permitted in accordance with the provisions of the Whatcom County Shoreline Management Program (WCC Title 23).