

**Exhibit B – Planning Commission Review Draft #2**

October 23, 2020

Chapter 11 – Shorelines

**Chapter Eleven  
Shorelines**

**Introduction**

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

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

The Whatcom County Shoreline Management Program jurisdiction includes:

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

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

**Chapter Organization**

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

**Purpose**

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

**Comment [CES1]:** Much of text was moved from either C/P Ch. 10 or Title 23, and is not shown as being new. Proposed amendments to the existing text are shown as ~~strikeout~~/underline.

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

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

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

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

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

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

28 **GMA Goals and Countywide Planning Policies**

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

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

39 **GMA-SMA Requirements**

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

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

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

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

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

**Comment [CES2]:** These principles have been moved from 23.10.030.

**Comment [MD3]:** Deleting "significant," as there is no such threshold under SMA.

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1 Shoreline Management Program Restoration Plan developed by Whatcom  
2 County.

3 | D. Regulation of private property to implement ~~SMP~~program goals such as  
4 public access and protection of ecological functions and processes must be  
5 consistent with all relevant constitutional and other legal limitations. These  
6 include, but are not limited to, civil rights guaranteed by the U.S. and state  
7 | Constitutions, ~~recent-pertinent~~ federal and state case law, and state statutes,  
8 such as RCW 34.05.328 and 43.21C.060 and Chapter 82.02 RCW.

9 | E. Regulatory or administrative actions ~~contained herein~~ must be implemented  
10 consistent with the public trust doctrine and other applicable legal principles  
11 as appropriate and must not unconstitutionally infringe on private property  
12 rights or result in an unconstitutional taking of private property.

13 | F. The regulatory provisions of ~~the SMP~~this program are limited to ~~jurisdictional~~  
14 ~~shorelines~~shorelines of the state, whereas the planning functions of ~~the~~  
15 ~~SMP~~this program may extend beyond the designated shoreline boundaries.

16 | G. The policies and regulations established by the ~~SMP~~program must be  
17 integrated and coordinated with those policies and rules of the ~~Whatcom~~  
18 ~~County~~ Comprehensive Plan and development regulations adopted under the  
19 ~~Growth Management Act (GMA)~~ and RCW 34.05.328.

20 | H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom  
21 County should balance the various policy goals of ~~the SMP~~this program giving  
22 consideration to other relevant local, state, and federal regulatory and non-  
23 regulatory programs.

24 **Chapter 23.20 Overall SMP Goals and Objectives**

25 ~~23.20.005~~ Generally.

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

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

**Comment [MD4]:** Moved all policy content from Chapter 23.20. This section reviewed and coordinated with Title 23 updates.

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**~~23.20.010~~ Adoption:**

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

Comment [MD5]: Moved up.

**~~23.20.020~~ Economic Development:**

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

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

~~B.~~ Objectives:

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

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

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

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

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

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

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

**~~23.20.030~~ Public Access:**

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

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

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

7 ~~B.~~ Objectives:-

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

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

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

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

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

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

26 ~~23.20.040-Recreation-~~

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

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

34 ~~B.~~ Objectives:-

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

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

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

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- 1 | 11D-4: When appropriate, require ~~adequate~~appropriate compensation  
2 | where transportation systems and essential public facilities  
3 | reduce the benefits people derive from their property.
- 4 | 11D-5: Provide for alternate modes of travel, encourage freedom of  
5 | choice among travel modes, and provide multiple use  
6 | transportation corridors where compatible in association with  
7 | shoreline transportation development.
- 8 | 11D-6: Require transportation system and essential public facility  
9 | development in shoreline areas to protect and enhance physical  
10 | and visual shoreline public access.
- 11 | ~~23.20.060-Shoreline Use:~~
- 12 | The shoreline use element ~~considers~~prioritizes the use and development of  
13 | shorelines and adjacent land areas for housing, business, industry, transportation,  
14 | agriculture, forestry, natural resources, recreation, education, public institutions,  
15 | utilities, and other categories of public and private land use with respect to the  
16 | type, general distribution, location, and extent of such uses and developments.
- 17 | ~~Goal 11E:A:~~ **Goal: To preserve and develop shorelines in a manner**  
18 | **that allows for an orderly balance of uses.**
- 19 | ~~B. Objectives:~~
- 20 | 11E-1: Give preference to water-dependent and single-family  
21 | residential uses that are consistent with preservation of  
22 | shoreline ecological functions and processes. Give secondary  
23 | preference to water-related and water-enjoyment uses. Allow  
24 | non-water-oriented uses only when substantial public benefit is  
25 | provided with respect to the goals of the ~~SMAAct~~ for public  
26 | access and ecological restoration.
- 27 | 11E-2: Designate and maintain appropriate areas for protecting and  
28 | restoring shoreline ecological functions and processes to control  
29 | pollution and prevent damage to the shoreline environment  
30 | and/or public health.
- 31 | 11E-3: Ensure shoreline uses are consistent with the ~~Whatcom County~~  
32 | Comprehensive Plan.
- 33 | 11E-4: Balance the location, design, and management of shoreline uses  
34 | throughout the County to prevent a net loss of shoreline  
35 | ecological functions and processes over time.
- 36 | 11E-5: Encourage mixed use developments that include and support  
37 | water-oriented uses and provide a substantial public benefit  
38 | consistent with the public access and ecological restoration  
39 | goals and policies of the ~~SMAAct~~.
- 40 | 11E-6: Encourage shoreline uses and development that enhance  
41 | shoreline ecological functions and/or processes or employ



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1 innovative features that further the purposes of the SMP~~this~~  
2 ~~program~~.  
3 11E-7: Encourage shoreline uses and development that enhance and/or  
4 increase public access to the shoreline.

5 ~~23.20.070~~ **Conservation-**

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

12 ~~Goal 11F:A-~~ **Goal. To e**Conserve shoreline resources and important  
13 **shoreline features, and protect shoreline ecological**  
14 **functions and the processes that sustain them to the**  
15 **maximum extent practicable.**

16 ~~B.~~ Objectives:-

17 11F-1: ~~Develop~~ Maintain regulations and mitigation standards that  
18 ensure new shoreline developments prevent a net loss of  
19 shoreline ecological functions and processes. Implement such  
20 regulations and standards in a manner consistent with all  
21 relevant constitutional and other legal limitations on the  
22 regulation of private property.

23 11F-2: Protect critical areas in accordance with ~~the policies and~~  
24 ~~regulations in the County's critical areas regulations (WCC~~  
25 ~~Chapter 16.16), as adopted by reference in the SMP.~~

26 11F-3: Manage renewable natural resources on a sustained yield basis.  
27 Extract nonrenewable natural resources in a manner that  
28 maintains the quality of other resources and shoreline ecological  
29 functions and processes.

30 11F-4: Prioritize protection and/or conservation of shoreline areas that  
31 are ecologically intact and minimally developed or degraded.

32 ~~23.20.080~~ **Archaeological, historical and Cultural Resources**

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

41 ~~Goal 11G:A-~~ **Goal. Protect** shoreline features of historic, cultural,  
42 **archeological, or scientific value or significance to**

Comment [CES6]: DAHP definition.

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1 **prevent damage or destruction through coordination and**  
2 **consultation with the appropriate local, state and federal**  
3 **authorities, including affected Indian tribes.**

4 ~~B.~~ Objectives:-

5 11G-1: Protect ~~cultural resources sites~~ in collaboration with appropriate  
6 tribal, state, federal, and local governments.

7 11G-2 ~~Engage in and~~ encourage public agencies and private parties to  
8 cooperate in the identification, protection and management of  
9 cultural resources.

10 11G-3: Consult with the Washington State Department of Archaeology  
11 and Historic Preservation (DAHP) and affected Native American  
12 tribes when developing local policies and regulations for  
13 identifying, protecting, and preserving cultural resources.

14 11G-4: Where appropriate, restore unique resources that have cultural,  
15 archaeological, historic, educational, or scientific value or  
16 significance to further enhance the value of the shorelines.

17 11G-5: Where appropriate ~~provide access to cultural resources in a~~  
18 ~~manner that is culturally sensitive and does not degrade the~~  
19 ~~resource or impact the quality of the environment, make access~~  
20 ~~to such sites available to parties of interest; provided, that~~  
21 ~~access to such sites must be designed and managed in a~~  
22 ~~manner that gives maximum protection to the resource.~~

23 11G-3: Provide opportunities for education related to archaeological,  
24 historical, and cultural features where appropriate and  
25 incorporated into public and private programs and development.

26 ~~23.20.090~~ Views and **A**aesthetics-

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

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

31 ~~B.~~ Objectives:-

32 11H-1: Identify and protect areas with scenic vistas and areas where  
33 the shoreline has high aesthetic value.

34 11H-2: Design development to minimize adverse impacts on views from  
35 public property or views enjoyed by a substantial number of  
36 residences.

37 ~~23.20.100~~ Restoration and **e**Enhancement-

38 This element provides for the timely restoration and enhancement of ecologically  
39 impaired areas in a manner that achieves a net gain in shoreline ecological

**Comment [CES7]:** New proposed policies consistent with our MOU with DAHP and Lummi Nation.

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1 functions and processes above baseline conditions ~~as of the adoption of this~~  
2 ~~program.~~

3 **Goal 11I:A:** ~~Goal. To r~~**Reestablish, rehabilitate and/or otherwise**  
4 **improve impaired shoreline ecological functions and/or**  
5 **processes through voluntary and incentive-based public**  
6 **and private programs and actions that are consistent with**  
7 **the Shoreline Management Program Restoration Plan**  
8 **(County Resolution 2007-011) and other approved**  
9 **restoration plans.**

10 **B.** Objectives:

11 11I-1: Encourage and facilitate cooperative restoration and  
12 enhancement programs between local, state, and federal public  
13 agencies, tribes, nonprofit organizations, and landowners to  
14 address shorelines with impaired ecological functions and/or  
15 processes.

16 11I-2: Restore and enhance shoreline ecological functions, and  
17 processes, ~~and as well as shoreline~~ features through voluntary  
18 and incentive-based public and private programs, such as the  
19 Shore Friendly Program developed by the Washington State  
20 Department of Fish and Wildlife, Washington State Department  
21 of Natural Resources, and the Environmental Protection Agency.

22 11I-3: Target restoration and enhancement towards improving habitat  
23 requirements of priority and/or locally important wildlife species.

24 11I-4: Ensure restoration and enhancement is consistent with and,  
25 where practicable, prioritized based on the biological recovery  
26 goals for early Chinook and bull trout populations and other  
27 species and/or populations for which a recovery plan is  
28 available.

29 11I-5: Integrate restoration and enhancement with other parallel  
30 natural resource management efforts such as the WRIA 1  
31 Salmonid Recovery Plan, Drayton Harbor and Portage Bay  
32 Shellfish Protection District Plans, WRIA 1 Watershed  
33 Management Plan, ~~Whatcom County Comprehensive Plan,~~ and  
34 the Puget Sound Salmon Recovery Draft Plan.

36 **Chapter 23.30 Shoreline Jurisdiction and Area Environment**  
37 **Designations**

38 ~~23.30.022 Shoreline area designations.~~

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

**Comment [AP8]:** Draft revision per Scoping Document, Item #8a, Reference WDFW and DNR's Shore Friendly Program.

**Comment [MD9]:** Moved some content from Chapter 23.30. Section reviewed and coordinated with Title 23 updates.

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

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

14 ~~23.30.030 Urban Shoreline Area~~

15 ~~23.30.031 Urban shoreline area — Purpose~~

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

22 ~~23.30.032 Urban shoreline area — Designation Criteria~~

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

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

35 ~~23.30.033 Urban shoreline area — Policies~~

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

- 38 ~~Policy 11J-1:A-~~ New urban character development should be directed toward  
39 already developed or developing areas where compatible.

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1 | ~~Policy 11J-2:B-~~ First priority should be given to water-dependent uses. Second  
2 | priority should be given to water-related and then water-  
3 | enjoyment uses. Non-water-oriented uses should not be allowed  
4 | except as part of mixed use developments. Non-water-oriented  
5 | uses may also be allowed in limited situations where they do not  
6 | conflict with or limit opportunities for water-oriented uses or on  
7 | sites where there is no direct access to the shoreline, or where  
8 | the needs of existing and future water-dependent uses are met.

9 | ~~23.30.040~~ **Urban Resort Shoreline Area**

10 | ~~23.30.041~~ **Urban resort shoreline area—Purpose**

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

16 | ~~23.30.042~~ **Urban resort shoreline area—Designation Criteria**

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

22 | ~~23.30.043~~ **Urban resort shoreline area—Policies**

23 | Development within urban resort shoreline areas shall be consistent with the  
24 | following policies:

25 | ~~Policy 11K-1:A-~~ Scale and design of resort development should assure  
26 | compatibility with allowed uses of adjacent shoreline areas and  
27 | shoreline ecological functions and processes.

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

31 | ~~23.30.050~~ **Urban Conservancy Shoreline Area**

32 | ~~23.30.051~~ **Urban conservancy shoreline area—Purpose**

33 | The purpose of the urban conservancy shoreline area is to protect shoreline  
34 | ecological functions and processes in urban growth areas and Limited Areas of More  
35 | Intense Rural Development (LAMIRDs) that are not designated for high intensity  
36 | residential use and are not generally suitable for water-dependent uses. The  
37 | primary management goal is to preserve shoreline ecological functions and  
38 | processes by avoiding forms of development that would be incompatible with  
39 | existing functions and processes, as well as identify and focus restoration efforts in

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1 areas where benefits to overall functions and processes can be realized. This policy  
2 should be furthered by maintaining most of the area’s natural character.

**Comment [CES10]:** Copied from Conservancy Shoreline Area, as these two are similar though intended for different areas with different levels of existing development.

3 ~~23.30.052 Urban conservancy shoreline area~~ — **Designation Criteria**

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

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

14 ~~23.30.053 Urban conservancy shoreline area~~ — **Policies**

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

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

32 ~~23.30.060 Shoreline Residential Area~~

33 ~~23.30.061 Shoreline residential area~~ — **Purpose**

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

36 ~~23.30.062 Shoreline residential area~~ — **Designation Criteria**

37 The shoreline residential shoreline area is applied to shorelines if they have been  
38 predominantly developed with single-family or multifamily residential uses or are

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1 planned and platted for residential development. The designation is generally  
2 applied to residential densities of greater than one unit per acre.

3 ~~23.30.063 Shoreline residential area~~ — **Policies**

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

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

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

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

22 ~~23.30.070 Rural Shoreline Area~~

23 ~~23.30.071 Rural shoreline area~~ — **Purpose**

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

30 ~~23.30.072 Rural shoreline area~~ — **Designation Criteria**

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

- 34 A. Where the shoreline currently accommodates residential uses outside urban  
35 growth areas and is characterized by low density development, pasture,  
36 agriculture, woodlots, home occupations, and cottage industries. The  
37 distribution of rural land use is adjacent to agricultural, forestry, and urban  
38 land uses and often provides a transition between urban areas and  
39 commercial agriculture and forestry uses. Natural vegetative cover and  
40 topography have been altered in many rural areas, but substantial ecological

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- 1 functions, and/or the potential for restoration of ecological functions, are
- 2 present.
- 3 B. That are now used or potentially usable for a mix of agriculture, forestry, and
- 4 residential use.
- 5 C. Where residential development is or should be of low density, because of
- 6 | limitations by physical features, infrastructure, the presence of critical areas,
- 7 and/or lack of utilities or access.
- 8 D. That have high recreational value or unique historic or cultural resources.
- 9 E. Where low intensity outdoor recreation use or development would be
- 10 appropriate and compatible with other uses and the physical environment.
- 11 F. Where the shoreline has been developed with low intensity water-dependent
- 12 uses.

**~~23.30.073 Rural shoreline area~~ Policies**

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

15 policies:

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

17 of the shoreline and sustain the shoreline ecological functions

18 and processes by limiting building density and height, and

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

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

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

22 ecological functions and processes. Related uses consistent with

23 the rural character of the area are permitted.

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

25 encouraged if compatible with the rural character of the area

26 and developed in a manner that maintains shoreline ecological

27 functions and processes. Preferred uses include water-oriented

28 recreation facilities that do not deplete shoreline resources over

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

30 and swimming beaches.

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

32 water-oriented commercial and industrial uses in the limited

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

34 rural communities that possess appropriate shoreline conditions

35 and services sufficient to support such developments. Non-

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

37 provide a substantial benefit with respect to the goals and

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

39 and/or restoring degraded shorelines.

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

41 maintenance of shoreline ecological functions and processes

42 should be encouraged.



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**~~23.30.080~~ Resource Shoreline Area**

**~~23.30.081~~ Resource shoreline area – Purpose**

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

**~~23.30.082~~ Resource shoreline area – Designation Criteria**

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

**~~23.30.083~~ Resource shoreline area – Policies**

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

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

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

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

**~~23.30.090~~ Conservancy Shoreline Area**

**~~23.30.091~~ Conservancy shoreline area – Purpose**

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

**Comment [CES11]:** Clarification, as per the SMA, Conservancy is only to be applied outside of urban areas.

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

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

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

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

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

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

29 Policy 11P-1:A- Natural ecological processes should be protected and renewable  
30 resources managed so that ecological functions and the  
31 resource base are maintained. Nonrenewable resources should  
32 only be consumed in a manner compatible with conservation of  
33 other resources and other appropriate uses.

34 Policy 11P-2:B- Permitted uses should be limited to those compatible with each  
35 other and with conservation of shoreline ecological processes  
36 and resources.

37 Policy 11P-3:C- Shorelines should be protected from ~~harmful~~ concentrations of  
38 people, livestock, buildings, or structures that would adversely  
39 impact shoreline ecological functions and processes.

**Comment [AP12]:** Revised for clarity and usability.

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

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

6 | ~~**23.30.100-Natural Shoreline Area**~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 | ~~23.30.110 Aquatic Shoreline Area~~

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

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

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

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

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

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

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

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

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

16 | ~~The policies applicable to the Cherry Point Management Area are found in the~~  
17 | ~~Shoreline Use and Modifications Policies section of this chapter; applicable~~  
18 | ~~regulations and standards, etc., applicable to the Cherry Point management area~~  
19 | ~~are found in WCC 23.40.125100.170, except as otherwise specified therein.~~

20 | **Shorelines of Statewide Significance**

21 | ~~23.40.010~~ **Adoption of policy-**

22 | In accordance with RCW 90.58.020, the following management and administrative  
23 | policies are ~~hereby~~ adopted for all shorelines of statewide significance in  
24 | unincorporated Whatcom County, as defined in RCW 90.58.030(2)(e) and identified  
25 | in WCC 23.2.06040.020. Consistent with the policy contained in RCW 90.58.020,  
26 | preference shall be given to the uses that are consistent with the statewide interest  
27 | in such shorelines. ~~In the following order or preference,~~ these are uses that:

- 28 | A. Recognize and protect the statewide interest over local interest.
- 29 | B. Preserve the natural character of the shoreline.
- 30 | C. Result in long-term over short-term benefit.
- 31 | D. Protect the resources and ecology of the shoreline.
- 32 | E. Increase public access to publicly owned areas of the shoreline.
- 33 | F. Increase recreational opportunities for the public in the shoreline.
- 34 | G. Provide for any other element as defined in RCW 90.58.100 deemed
- 35 | appropriate or necessary.

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

**Comment [MD13]:** Moved some content from Chapter 23.40. Section reviewed and coordinated with Title 23 updates.

**Comment [CES14]:** The language of WAC 173-26-181 recognizes an order of preference

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~~23.40.030 Policies for Shorelines of Statewide Significance~~

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

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

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

~~Policy 11S-3:C.~~ Where commercial timber cutting takes place pursuant to WCC ~~23.40.11023-90-110~~ and RCW 90.58.150, reforestation should take place as soon as possible.

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

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

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

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

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

~~I. Those limited shorelines containing unique, scarce and/or sensitive resources should be protected to the maximum extent feasible.~~

~~Policy 11S-9:J.~~ Erosion and sedimentation from development sites should be controlled to minimize adverse impacts on ecosystem processes. If site conditions preclude effective erosion and sediment

**Comment [AP15]:** Incorporated into Policy 11X-5 above to avoid redundancy.

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- 1 control, excavations, land clearing, or other activities likely to  
2 result in significant erosion should be severely limited.
- 3 | ~~Policy 11S-10:K-~~ Public access development in extremely sensitive areas should  
4 be restricted or prohibited. All forms of recreation or access  
5 development should be designed to protect the resource base  
6 upon which such uses in general depend.
- 7 | ~~Policy 11S-11:L-~~ Public and private developments should be encouraged to  
8 provide trails, viewpoints, water access points and shoreline-  
9 related recreation opportunities whenever possible. Such  
10 development is recognized as a high priority use.
- 11 | ~~Policy 11S-12:M-~~ Development not requiring a ~~waterside or~~ shoreline location  
12 should be located inland so that lawful public enjoyment of  
13 shorelines is ~~enhanced~~preserved.
- 14 ~~Policy 11S-13:N-~~ Lodging and related facilities should be located inland and  
15 provide for appropriate means of access to the shoreline.

16 **~~Chapter 23.90 General Policies and Regulations~~**

17 ~~The following general policies apply to all use and development activities on~~  
18 ~~shorelines.~~

19 **~~23.90.020 Land Use~~**

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

22 ~~A. Policies-~~

23 | ~~Policy 11T-1:-~~ Single-family residences should be given preference for location  
24 on shorelines in those limited instances when an alteration of  
25 the shorelines is authorized (RCW 90.58.020). Single-family  
26 residences occupied prior to January 1, 1992, and their  
27 appurtenant structures should be protected against damage or  
28 loss caused by shoreline erosion; provided, that measures to  
29 protect single-family residences should be designed to minimize  
30 harm to the shoreline environment. However, single-family  
31 residences permitted after January 1, 1992, and their  
32 appurtenant structures should be built in a manner so as to not  
33 need protective structures.

34 | ~~Policy 11T-2:-~~ Shoreline uses that are water-dependent or water-related  
35 should be given preference (RCW 90.58.020). Such uses should  
36 be located, designed, and maintained in a manner that  
37 minimizes adverse impacts to shoreline ecological functions  
38 and/or processes. Non-water-oriented development may be  
39 allowed; provided, that existing water-dependent uses are not  
40 displaced and the future supply of sites for water-dependent or  
41 water-related uses is not compromised.

**Comment [MD16]:** Moved most policy content from Chapter 23.90. Section reviewed and coordinated with Title 23 updates.

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1 | Policy 11T-3:- Adequate space should be reserved on shorelines to meet the  
2 | current and projected demand for water-dependent uses, in  
3 | conjunction with areas provided in cities, towns and areas under  
4 | tribal jurisdiction.

5 | ~~23.90.030~~ **Ecological Protection and Critical Areas**

6 | ~~A. Policies:~~

7 | Policy 11U-1:- Shoreline use and development should be carried out in a  
8 | manner that prevents or mitigates adverse impacts so that the  
9 | resulting ecological condition does not become worse than the  
10 | current condition. This means assuring no net loss of ecological  
11 | functions and processes and protecting critical areas designated  
12 | in WCC Chapter 16.16, in a manner consistent with all relevant  
13 | constitutional and other legal limitations on the regulation of  
14 | private property. Permitted uses shall be designed and  
15 | conducted to minimize, insofar as practical, any resultant  
16 | damage to the ecology and environment (RCW 90.58.020).  
17 | Shoreline ecological functions that should be protected include,  
18 | but are not limited to, fish and wildlife habitat, food chain  
19 | support, and water temperature maintenance. Shoreline  
20 | processes that should be protected include, but are not limited  
21 | to, water flow; littoral drift; erosion and accretion; infiltration;  
22 | ground water recharge and discharge; sediment delivery,  
23 | transport, and storage; large woody debris recruitment; organic  
24 | matter input; nutrient and pathogen removal; and stream  
25 | channel formation/maintenance.

26 | Policy 11U-2:- In assessing the potential for net loss of ecological functions or  
27 | processes, project-specific and cumulative impacts should be  
28 | considered.

29 | Policy 11U-3:- Development standards for density, frontage, setbacks,  
30 | impervious surface, shoreline stabilization, vegetation  
31 | conservation, buffers, critical areas, and water quality should  
32 | protect existing shoreline ecological functions and processes.  
33 | During permit review, the administrator should consider the  
34 | expected impacts associated with proposed shoreline  
35 | development when assessing compliance with this policy.

36 | ~~23.90.040~~ **Water Quality and Quantity**

37 | ~~A. Policies:~~

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

42 | Policy 11V-2:- Shoreline use and development should minimize the need for  
43 | chemical fertilizers, pesticides, or other similar chemical

**Comment [CES17]:** Development shouldn't enhance the quantity of surface water. We're not supposed to *increase* stormwater runoff.



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1 treatments to prevent contamination of surface and ground  
2 water and/or soils, and adverse effects on shoreline ecological  
3 functions and values.

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

7 **~~23.90.050~~ Views and Aesthetics**

8 ~~A. Policies.~~

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

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

16 | Policy 11W-3:- Aesthetic objectives should be implemented through regulations  
17 and criteria for site planning, maximum height, setbacks, siting  
18 of buildings and accessories, screening, vegetation  
19 conservation, architectural standards, sign control regulations,  
20 appropriate development siting, designation of view corridors,  
21 and maintenance of natural vegetative buffers.

22 | Policy 11W-4:- To protect shoreline ecological functions and aesthetics,  
23 vegetation conservation should be preferred over the creation or  
24 maintenance of views from shoreline properties. Clearing,  
25 thinning, and/or limbing for limited view corridors should only  
26 be allowed where it does not adversely impact ecological and/or  
27 aesthetic values, and/or slope stability. ~~Vegetation conservation~~  
28 ~~should be preferred over the creation or maintenance of views~~  
29 ~~from property on the shoreline to protect shoreline ecological~~  
30 ~~functions and aesthetics.~~

31 **~~23.90.060~~ Vegetation Conservation**

32 ~~A. Policies.~~

33 | Policy 11X-1:- Where new developments and/or uses are proposed, native  
34 shoreline vegetation should be conserved to maintain shoreline  
35 ecological functions and/or processes and mitigate the direct,  
36 indirect and/or cumulative impacts of shoreline development,  
37 wherever feasible. ~~Important functions of shoreline vegetation~~  
38 ~~include, but are not limited to:~~

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

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

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

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

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

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

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

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

**Comment [MD18]:** Importance of veg has been established; don't need to repeat in a policy.

**23.90.070 Archaeological, Historic and Cultural Resources**

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

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

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

**A. ~~\_\_\_\_\_~~ Policies:**

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

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

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

**Comment [AP19]:** This is captured in policies #1 and #4 (revised to #3).

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

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

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

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

26 Policy 11X-7:8- The cultural resource provisions of this program are consistent  
27 with Chapters 27.44 and 27.53 RCW and WAC 25-48-060. In  
28 accordance with state law, all applicants are subject to these  
29 requirements.

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

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

36 1. Minimize the risk of disturbing cultural resources within  
37 Whatcom County shorelines.

38 2. Due to the limited and irreplaceable nature of the  
39 resource(s), prevent the destruction of or damage to any site  
40 having cultural, scientific, or educational value as identified  
41 by the appropriate authorities, including affected Tribes and  
42 the DAHP.

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- 3. Consult with professional archaeologists, DAHP, and affected Tribes before permitting or otherwise approving the use or development of shoreline areas containing cultural resources. This consultation shall be accomplished through the regulations and procedures provided in WCC Title 23.
- 4. Consult with DAHP and affected Tribes and coordinate with project archaeologists to establish site- and project-specific procedures for protection and management of cultural resources.
- 5. Make informed specific land use decisions based upon information provided by DAHP and Tribes.
- 6. Ensure the use of the best available information, technology, and techniques in identifying, protecting, preserving, and restoring cultural resources.

**Comment [CES20]:** New policy based on language of our MOU with DAHP and Lummi Nation.

**23.90.080 Public Access**

**A. Policies.**

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

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

**Comment [MD21]:** Addressed in #6 below.

Policy 11Y-3:- Public access should be provided for water-oriented uses and non-water-dependent uses and developments that increase public use of the shorelines and public aquatic lands, or that would impair existing, legal access opportunities.

Policy 11Y-4:- Non-water-related uses or activities located on the shoreline should provide public access as a public benefit.

Policy 11Y-5:- Public access area and/or facility requirements should be commensurate with the scale and character of the development and should be reasonable, effective, and fair to all affected parties including but not limited to the land-owner and the public.

Policy 11Y-6:- Public access design should provide for public safety and minimize potential impacts to private property, individual privacy, and shoreline ecological functions and processes.

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1 | Policy 11Y-7:- Shoreline development by public entities, such as local  
2 governments, port districts, state agencies, and public utility  
3 districts, should provide public access measures as part of each  
4 development project, unless such access is shown to be  
5 incompatible due to reasons of safety, security, or impact to the  
6 shoreline.

7 | ~~23.90.090~~ **Site Planning**

8 | ~~A. Policies:~~

9 | Policy 11Z-1:- Development and use should be designed in a manner that  
10 directs land alteration to the least sensitive portions of the site  
11 to maximize vegetation conservation; minimize impervious  
12 surfaces and runoff; protect riparian, nearshore and wetland  
13 habitats; protect wildlife and habitats; protect archaeological,  
14 historic, and cultural resources; and preserve aesthetic values.  
15 This may be accomplished by minimizing the project footprint,  
16 the use of clustering, and other appropriate design approaches.

17 | Policy 11Z-2:- To maintain shoreline ecological functions and processes, ~~Low~~  
18 impact and sustainable development practices such as rain  
19 gardens, and pervious surfacing methods including, but not  
20 limited to, porous paving blocks, porous concrete, and other  
21 similar materials, should be incorporated in developments where  
22 site conditions allow ~~to maintain shoreline ecological functions~~  
23 and processes. Topographic modification, vegetation clearing,  
24 use of impervious surfaces, and alteration of natural drainage or  
25 other features should be limited to the minimum necessary to  
26 accommodate approved uses and development. An engineering  
27 geologist should be consulted prior to using infiltration practices  
28 on shore bluffs.

29 | Policy 11Z-3:- Accessory development or use that does not require a shoreline  
30 location should be located outside of shoreline jurisdiction unless  
31 such development is required to serve approved water-oriented  
32 uses and/or developments. When sited within shoreline  
33 jurisdiction, uses and/or developments such as parking, service  
34 buildings or areas, access roads, utilities, signs, and storage of  
35 materials should be located inland away from the land/water  
36 interface and landward of water-oriented developments and/or  
37 other approved uses.

38 | Policy 11Z-4:- Development should be located, designed, and managed so that  
39 impacts on shoreline or upland uses are minimized through bulk  
40 and scale restrictions, setbacks, buffers, and control of  
41 proximity impacts such as noise or light and glare.

42 | Policy 11Z-5:- Shoreline uses should not deprive other uses of reasonable  
43 access to navigable waters. Public recreation activities such as  
44 fishing, clam digging, swimming, boating, ~~and~~ wading, and

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1 other water-related recreation should be preserved and  
2 enhanced. The rights of treaty tribes to resources within their  
3 usual and accustomed areas should be accommodated.

4 **Climate Change/Sea Level Rise**

5 Policy 11AA-1: Coordinate with Tribal, Federal, State, and local agencies to  
6 address issues related to climate change and sea level rise as  
7 related to shoreline management.

8 Policy 11AA-2: Whatcom County should plan and prepare for the likely impacts  
9 of climate change on County-owned facilities, infrastructure, and  
10 natural resources and ensure that projects for major  
11 maintenance or replacement of utilities, roads, and other public  
12 infrastructure consider the impacts of sea-level rise in the  
13 location, design, and operation of the projects.

14 Policy 11AA-3: Whatcom County should strive to increase resident and business  
15 resiliency to the anticipated impacts of climate change by  
16 implementing land use regulations based on best available  
17 science, such as sea level rise, changes in rainfall patterns,  
18 changes in flood volumes and frequencies, and changes in  
19 average and extreme temperatures.

20 Policy 11AA-4: Habitat protection and restoration projects in shoreline  
21 jurisdiction should consider implications of sea-level rise and  
22 other climate change impacts to promote resiliency of habitats  
23 and species. Those that promote climate change and sea-level  
24 rise resiliency should be considered priority actions.

25 Policy 11AA-5: Whatcom County should periodically assess the best available  
26 sea level rise projections and incorporate them into future  
27 program updates, as relevant.

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

33 Policy 11AA-7: Whatcom County should evaluate opportunities to protect  
34 shoreline investments and infrastructure from the impacts of  
35 climate change, as necessary and feasible. Specifically, the  
36 County should maintain shoreline protection and erosion control  
37 by:

- 38 • Facilitating the installation and maintenance of native  
39 vegetation along appropriate areas of shoreline;
- 40 • Revisiting development policies with the objective of  
41 providing additional shoreline buffer area between developed  
42 areas and the shoreline; and

**Comment [CES22]:** New policies based on Scoping Document Topic #6a, *Develop and/or strengthen policies regarding climate change/sea level rise, including the incorporation and use of new data (as it becomes available), to review and revise, if warranted, shoreline use regulations.*

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- Only consider structural shoreline stabilization structures when alternative options are unavailable.

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

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

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

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

**~~23.100.030~~ Agriculture**

~~A. Policies:~~

Policy 11BB-1: ~~This program~~The SMP recognizes the importance of agriculture in Whatcom County and supports its continued economic viability. ~~The SMP~~This program It allows for ongoing agricultural activities and should protect agricultural lands from conflicting uses such as intensive or unrelated residential, industrial, or commercial uses, while also maintaining shoreline ecological functions and processes.

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

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

**~~23.100.040~~ Aquaculture**

~~A. Policies:~~

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

Policy 11CC-2: Potential locations for aquaculture activities are relatively restricted because of specific requirements related to water quality, temperature, oxygen content, currents, adjacent land use, wind protection, commercial navigation, and salinity. The

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- 1 technology associated with some forms of aquaculture is still  
2 experimental and in formative states. Therefore, some latitude  
3 should be given when implementing the policies of this  
4 subsection and the regulations in of this section, WCC  
5 ChapterTitle 23.100-WCC; provided, that potential impacts on  
6 existing uses and shoreline ecological functions and processes  
7 should be given due consideration.
- 8 | Policy 11CC-3:- Preference should be given to those forms of aquaculture that  
9 involve lesser environmental and visual impacts and lesser  
10 impacts to native plant and animal species. In general, projects  
11 that require ~~no structures, submerged, structures or intertidal,~~  
12 or no structures are preferred over those that involve  
13 substantial floating structures. Projects that involve little or no  
14 substrate modification are preferred over those that involve  
15 substantial modification. Projects that involve little or no  
16 supplemental food sources, pesticides, herbicides, or antibiotic  
17 application are preferred over those that involve such practices.
- 18 | ~~Policy 11.4. Community restoration projects associated with aquaculture~~  
19 ~~should be reviewed and permitted in a timely manner.~~
- 20 | Policy 11CC-54:- Aquaculture activities should be designed, located and operated  
21 in a manner that supports long-term beneficial use of the  
22 shoreline and protects and maintains shoreline ecological  
23 functions and processes. Aquaculture should not be permitted  
24 where it would result in a net loss of shoreline ecological  
25 functions; adversely affect the quality or extent of habitat for  
26 native species, including eelgrass, kelp, and other macroalgae;  
27 adversely impact other habitat conservation areas; or interfere  
28 with navigation or other water-dependent uses.
- 29 | Policy 11CC-65:- Aquaculture that involves significant risk of cumulative adverse  
30 effects on water quality, sediment quality, benthic and pelagic  
31 organisms, and/or wild fish populations through potential  
32 contribution of antibiotic resistant bacteria, or escapement of  
33 nonnative species, or other adverse effects on ESA-listed  
34 species should not be permitted.
- 35 | Policy 11CC-76:- The County should actively seek substantive comment on any  
36 shoreline permit application for aquaculture from all appropriate  
37 federal, state, and local agencies; the Lummi Nation, Nooksack  
38 Tribe, and other affected tribes; and the general public  
39 regarding potential adverse impacts. Comments of nearby  
40 residents or property owners directly affected by a proposal  
41 should be considered and evaluated, especially in regard to use  
42 compatibility and aesthetics.
- 43 | Policy 11CC-87:- The rights of treaty tribes to aquatic resources within their usual  
44 and accustomed areas should be addressed through the permit

**Comment [AP23]:** Don't need, as *all* projects should be reviewed and permitted in a timely manner. Furthermore, we don't really know what a "community restoration project associated with aquaculture" is.



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- 1 review process. Direct coordination between the  
2 applicant/proponent and the tribe should be encouraged.
- 3 | Policy 11CC-98:- Consideration should be given to both the potential beneficial  
4 impacts and potential adverse impacts that aquaculture  
5 development might have on the physical environment; on other  
6 existing and approved land and water uses, including  
7 navigation; and on the aesthetic qualities of a project area.
- 8 | Policy 11CC-109:- Legally established aquaculture enterprises, including authorized  
9 experimental projects, should be protected from incompatible  
10 uses that may seek to locate nearby. Use or developments that  
11 have a high probability of damaging or destroying an existing  
12 aquaculture operation may be denied.
- 13 | Policy 11CC-110:- Experimental aquaculture projects in water-bodies should be  
14 limited in scale and should be approved for a limited period of  
15 time. Experimental aquaculture means an aquaculture activity  
16 that uses methods or technologies that are unprecedented or  
17 unproven in the state of Washington.

18 ~~23.100.050 Boating Facilities~~ — **Marinas and Launch Ramps**

19 ~~Boating facilities, including mMarinas and launch ramp development, are subject~~  
20 ~~to the following policies. DecksMoorage structures serving four or fewer single-~~  
21 ~~family residencesusers are only subject to the policies in Moorage Structures-~~  
22 ~~Decks, Piers, and Mooring Buoys.~~

23 ~~A. Policies:~~

- 24 | Policy 11DD-1:- Boating facilities, including marinas and launch ramps, are  
25 water-dependent uses and should be given priority for shoreline  
26 location. Boating facilities should also contribute to public access  
27 and enjoyment of waters of the state. Shorelines particularly  
28 | suitable for marinas and launch ramps are limited, and should  
29 be identified and reserved to prevent irreversible commitment  
30 for other uses having less stringent site requirements.
- 31 | Policy 11DD-2:- Regional needs for marina and boat launch facilities should be  
32 carefully considered in reviewing new proposals as well as in  
33 allocating shorelines for such development. Such facilities  
34 should be coordinated with park and recreation plans and,  
35 where feasible, collocated with port or other compatible water-  
36 dependent uses. Review of such facilities should be coordinated  
37 with recreation providers, including cities, adjacent counties,  
38 | port districts, the Whatcom County Pparks and Rrecreation  
39 department, the Washington State Parks and Recreation  
40 Commission, and the Washington State Department of Natural  
41 Resources to avoid unnecessary duplication and to efficiently  
42 provide recreational resources while minimizing adverse impacts  
43 to shoreline ecological functions and processes.

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- 1 | Policy 11DD-3:- Upland boat storage is preferred over new in-water moorage.  
2 | Mooring buoys are preferred over docks and piers. Boating  
3 | facilities that minimize the amount of shoreline modification are  
4 | preferred.
- 5 | Policy 11DD-4:- Boating facilities should provide physical and visual public  
6 | shoreline access and provide for multiple uses, including water-  
7 | related use, to the extent compatible with shoreline ecological  
8 | functions and processes and adjacent shoreline use.
- 9 | Policy 11DD-5:- Accessory uses at marinas or launch ramps should be limited to  
10 | water-oriented uses, or uses that provide physical or visual  
11 | shoreline access for substantial numbers of the general public.
- 12 | Policy 11DD-6:- New or expanding boating facilities including marinas, launch  
13 | ramps, and accessory uses should only be sited where suitable  
14 | environmental conditions are present and should avoid critical  
15 | saltwater habitat including kelp beds, and eelgrass beds, and  
16 | spawning and holding areas for forage fish (such as herring, surf  
17 | smelt and sandlance); subsistence, commercial, and  
18 | recreational shellfish beds; mudflats, intertidal habitats with  
19 | vascular plants; and areas with which priority species have a  
20 | primary association.
- 21 | Policy 11DD-7:- Boating facilities should be located and designed to avoid  
22 | adverse effects upon coastal, riverine, and nearshore processes  
23 | such as erosion, littoral or riparian transport, and accretion, and  
24 | should, where feasible, enhance degraded, scarce, and/or  
25 | valuable shore features including accretion shoreforms.
- 26 | Policy 11DD-8:- Launch ramps are preferred over marinas on accretion shores  
27 | because associated impacts are often reversible and such  
28 | structures will not normally interfere with littoral drift and  
29 | accretion unless offshore defense structures or dredging are also  
30 | required.
- 31 | Policy 11DD-9:- Nonregulatory methods to protect, enhance, and restore  
32 | shoreline ecological functions and processes and other shoreline  
33 | resources should be encouraged during the design,  
34 | development, and operation of boating facilities. Nonregulatory  
35 | methods may include public facility and resource planning,  
36 | education, voluntary protection and enhancement projects, or  
37 | incentive programs.
- 38 | Policy 11DD-10:- Boating facilities should be located, designed, and operated so  
39 | that other appropriate water-dependent uses are not adversely  
40 | affected.
- 41 | Policy 11DD-11:- Location and design of boating facilities should not unduly  
42 | obstruct navigable waters and should avoid adverse effects to  
43 | recreational opportunities such as fishing, shellfish gathering,

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1 pleasure boating, commercial aquaculture, swimming, beach  
2 walking, picnicking, and shoreline viewing.

3 Policy 11DD-12:- Boating facilities should be located, designed, constructed, and  
4 maintained, and operated to avoid adverse proximity impacts  
5 such as noise, light and glare; aesthetic impacts to adjacent  
6 land uses; and impacts to public visual access to the shoreline.

7 Policy 11DD-13: Live-aboards should be regulated so as to prevent adverse  
8 impacts to public health and safety.

**Comment [CES24]:** New policy added to support regulating live-aboards, per #17, "Add standards for live-aboards in marinas."

9 **~~23.100.060~~ Commercial Use**

10 ~~Commercial development in shoreline areas shall be subject to the policies and~~  
11 ~~regulations of this section and Chapter 23.90 WCC.~~

12 ~~A. Policies.~~

13 Policy 11EE-1:- In securing shoreline locations for commercial uses, preference  
14 should be given first to water-dependent commercial uses, then  
15 to water-related and water-enjoyment commercial uses.

16 Policy 11EE-2:- Restoration of impaired shoreline ecological functions and  
17 processes should be encouraged as part of commercial  
18 development.

19 Policy 11EE-3:- Commercial development should ensure visual compatibility with  
20 adjacent noncommercial properties.

21 Policy 11EE-4:- Commercial uses located in the shoreline should provide public  
22 access in accordance with constitutional or other legal  
23 limitations unless such improvements are demonstrated to be  
24 infeasible or present hazards to life and property.

25 **~~23.100.070~~ Dredging**

26 ~~A. Policies.~~

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

31 Policy 11FF-2:- Dredging to provide water-oriented recreation should not be  
32 permitted.

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

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

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1 | ~~Policy 11FF-5~~ Dredging of bottom materials for the primary purpose of  
2 | obtaining material for landfill, construction, or beach  
3 | nourishment should not be permitted.

4 | ~~Policy 11FF-6~~ Spoil disposal on land away from the shoreline is generally  
5 | preferred over open water disposal.

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

11 | ~~23.100.080~~ **Flood Control Works and Instream Structures**

12 | ~~A. Policies.~~

13 | ~~Policy 11GG-1~~ ~~Purpose and Need.~~

14 | ~~a.~~ New or expanding development or uses in the shoreline,  
15 | including subdivision of land, that would likely require structural  
16 | flood control works within a stream, channel migration zone, or  
17 | floodway should not be allowed.

18 | ~~Policy 11GG-2~~ Flood control works and instream structures should be planned  
19 | and designed to be compatible with appropriate multiple uses of  
20 | stream resources over the long term, especially in shorelines of  
21 | statewide significance.

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

25 | ~~Policy 11GG-4~~ Flood control works to protect existing development should be  
26 | permitted only when the primary use being protected is  
27 | consistent with ~~the SMP~~~~this program~~, and the works can be  
28 | developed in a manner that is compatible with multiple use of  
29 | streams and associated resources for the long term, including  
30 | shoreline ecological functions, fish and wildlife management,  
31 | and recreation.

32 | ~~23.100.090~~ **Forest Practices**

33 | ~~A. Policies.~~

34 | ~~Policy 11HH-1~~ Forest lands should be reserved for long-term forest  
35 | management and such other uses as are compatible with the  
36 | ~~dominant~~~~primary~~ use. Other more intensive and incompatible  
37 | uses tending to impair the ~~dominant~~~~primary~~ use should be  
38 | discouraged from locating on forest lands.

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

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- 1 | Policy 11HH-3:- Forest practices should minimize damage to wetlands, fish and
- 2 | wildlife species, and habitats, especially aquatic habitats.
- 3 | ~~4. Extreme caution must be observed whenever chemicals are to~~
- 4 | ~~be used along shorelines; such use should be avoided altogether~~
- 5 | ~~if possible.~~
- 6 | Policy 11HH-4:5- Forest practices should maintain or improve the quality of soils
- 7 | and minimize erosion.
- 8 | Policy 11HH-5:6- Where slopes are extremely steep or soils are subject to sliding,
- 9 | rapid erosion, or high water table, special practices should be
- 10 | employed to minimize damage to shoreland and water features,
- 11 | and adjacent properties.

**Comment [MD25]:** Addressed by existing policy #2 in Water Quality and Quantity.

12 | ~~23.100.100~~ **Industrial and Port Development**

13 | The following policies apply to industrial and port development in shoreline areas

14 | outside of the Cherry Point management area.

15 | ~~A. Policies-~~

16 | Policy 11II-1:- Shoreline sites particularly suitable for development such as

17 | deep-water harbors with access to adequate rail, highway, and

18 | utility systems should be reserved for water-dependent or

19 | water-related industrial and port development.

20 | Policy 11II-2:- In order to provide adequate shoreline for future water-

21 | dependent and water-related uses, industrial or port

22 | development at deep-water sites should be limited to those uses

23 | that produce the greatest long-term economic base. Industrial

24 | and port development that is consistent with ~~this program~~ the

25 | SMP should be protected from encroachment or interference by

26 | incompatible uses with less stringent siting requirements, such

27 | as residential or commercial uses. Mixed use development,

28 | including non-water-dependent uses, should only be allowed

29 | when they include and support water-dependent uses.

30 | Policy 11II-3:- Regional needs for port facilities should be carefully considered

31 | in reviewing new port proposals and in allocating shorelines for

32 | such development. Such reviews or allocations should be

33 | coordinated with port districts, adjacent counties and cities, and

34 | the state. Existing, officially designated State Harbor Areas

35 | should be used for new port development to the maximum

36 | extent whenever possible.

37 | Policy 11II-4:- Multiple use of industrial and port facilities is encouraged to limit

38 | duplicative facilities and reduce adverse impacts. Multiple use

39 | should be implemented in the following manner:

- 40 | a. Cooperative use of piers, cargo handling, storage, parking
- 41 | and other accessory facilities among private or public entities
- 42 | should be required in industrial or port facilities whenever
- 43 | feasible. New facilities for water-dependent uses should be

**Comment [CES26]:** Discuss w/ P/C: Policies 11II1 & 2 read like they were intended to apply in the CPMA, as they talk about deep water sites, which are only found in Cherry Point. Also, it sounds like they were intended to preserve the Cherry Point area for uses requiring deepwater ports. Should they moved to that section, or should we amend the "outside of CPMA" text to apply to all areas, including CPMA? Staff is hesitant to amend anything having to do with Cherry Point given Council's parallel process.

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- 1 allowed only after assessment of the potential for shared use
- 2 of existing facilities.
- 3 b. Industrial and port developments should provide
- 4 opportunities for physical and/or visual public shoreline
- 5 access in accordance with the public access policies,
- 6 including recreational use of undeveloped shorelines not
- 7 needed for port or industry operations; provided, that such
- 8 uses are safely compatible with facility operations.
- 9 | Policy 11III-5:- Industrial and port development in the shoreline should be
- 10 located and designed to avoid significant adverse impacts to
- 11 other shoreline uses, resources, and values, including shoreline
- 12 geomorphic processes, water quality, fish and wildlife habitat,
- 13 commercial aquaculture, and the aquatic food chain.
- 14 | Policy 11III-6:- Restoration of impaired shoreline ecological functions and
- 15 processes should be encouraged as part of industrial and port
- 16 development.

~~23.100.210~~ **Cherry Point Management Area**

~~A. Policies:~~

Policy 11TT-1:-

Purpose and Intent.

- a. The purpose of the Cherry Point management area is to provide a regulatory framework that recognizes and balances the special port, industrial, and natural resource needs associated with the development of this marine resource. This subsection ~~and WCC 23.100.21040.125 (Cherry Point Management Area)~~ identifies policies and regulations, respectively, for water-dependent industrial activities that apply in addition to specific other elements of ~~the SMP~~ ~~this program~~ as referenced herein.
- b. Washington State natural resource agencies and Whatcom County have identified certain portions of the Cherry Point management area as providing herring spawning habitat and other key habitat characteristics that warrant special consideration due to their importance to regional fisheries and other elements of the aquatic environment.
- c. Development of the Cherry Point major port/industrial urban growth area will accommodate uses that require marine access for marine cargo transfer, ~~including oil and other materials. For this reason, w~~
  - i. Water-dependent terminal facilities are encouraged as the preferred use in the Cherry Point management area. ~~Due to the environmental sensitivity of the area, it is the policy of Whatcom County to limit the number of piers to~~

**Comment [CES27]:** These policies amended per Council's pending draft fossil fuel amendments.

**Comment [CES28]:** Discuss w/ P/C: Polices 11TT-1(a) & (b), which speak to the purpose of this environment designation, really ought to be moved to the Shoreline Environment Designations, CPMA section. Each of the other designations have their purposes stated therein. But again, staff is hesitant to amend anything having to do with Cherry Point given Council's parallel process.

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~~one pier, in addition to those in operation or approved as of January 1, 1998.~~

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

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

- Act conservatively in land use matters at Cherry Point to prevent further harm to habitat important to the Cherry Point Herring stock and Southern Resident Orcas;
- Optimally implement the Shoreline Master Program policy regarding shorelines of statewide significance per WCC 23.40;
- Encourage the continued County use of best available science;
- Support and remain consistent with the state Department of Natural Resources' withdrawal of Cherry Point tidelands and bedlands from the general leasing program and the species recovery goals of the Cherry Point Aquatic Reserve designation and Management Plan;
- Recognize federal actions upholding treaty rights;
- Protect traditional commercial and tribal fishing; and
- Prevent conflicts with vessel shipment operations of existing refineries that could lead to catastrophic oil or fuel spills.

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

d. Whatcom County should ensure that shoreline development applicants demonstrate conformance with the State of

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Washington Department of Natural Resources Cherry Point Aquatic Reserve Management Plan.

d.e. All development that is to be located within the Cherry Point Management Area, as ~~defined~~ identified in WCC 23.20.020(E)Chapter 23.110 WCC, shall be subject to the policies in this subsection and the regulations found in WCC 23.40.12523.100.210. Development that is to be located within the Cherry Point Management Areathis section, and shall not be subject to: the General Policies of this chapter; the Shoreline Use and Modification Policies of this chapter, except for those in the Cherry Point Management Area subsection; policies and the regulations found in WCC Chapter 23.930 and WCC Chapter 23.40,23.100.010 through 23.100.160 except WCC 23.40.125, nor Chapter 23.90 WCC, unless otherwise referenced in this subsection. The policies and regulations found in this subsection are applicable only within the geographic boundaries of the Cherry Point management area and do not apply elsewhere in the County. In the event that the provisions of this subsection conflict with other applicable referenced provisions of the SMPthis program, the policies and regulations that are most protective of shoreline resources shall prevail.

Policy 11TT-2:-

Water-Dependent Industrial Development. Only water-dependent facilities that serve industrial facilities should be allowed in the Cherry Point management area. Industry within the major port/industrial urban growth area, as designated in the ~~County~~ Comprehensive Plan, which is not water-dependent should locate away from shoreline jurisdiction.

Policy 11TT-3:-

Multiple Use Facilities. Facilities that allow for multiple use of piers, cargo handling, storage, parking and other accessory facilities are encouraged.

Policy 11TT-4:-

Public Access.

- a. Where appropriate, industrial and port development within the Cherry Point management area should provide public beach and shoreline access in a manner that does not cause interference with facility operations or present hazards to life and property. This may be accomplished 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 recreational opportunities including but not limited to crabbing, small craft launching, surf fishing, picnicking, clamming, and beach walking.

**Comment [CES29]:** Discuss w/ P/C: This policy makes no sense. Other than updating the references, we have not changed it. It basically says that any development in the CPMA only has to comply with the policies in this section of Ch. 11 and the regulations of WCC 23.40.125, and specifically says such development doesn't have to comply with any other policies or regulations. But there are many other policies and regulations that should apply, such as ecological protection, cultural resources, vegetation management, moorage facilities, etc. Staff believes this policy ought to be deleted.



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1 c. Public access within the Cherry Point management area  
2 should be consistent with the Whatcom County Parks and  
3 Recreation Open Space Plan.

4 | Policy 11TT-5:-

5 Shoreline Ecological Functions and Processes. In recognition of  
6 the diverse and vital ecological resources in the Cherry Point  
7 management area, consideration of probable effects of all  
8 development proposals on shoreline ecological functions and  
9 processes should be assessed with the other long-term  
10 statewide interests. New port development that requires dredge  
11 and fill should not be permitted in the Cherry Point management  
12 area due to potential adverse effects on ecological functions,  
including fish and shellfish habitat and geohydraulic processes.

13 | Policy 11TT-6:-

14 Aesthetics. All development should be designed to avoid or  
15 minimize negative visual impacts on the scenic character of the  
16 area and to ensure visual compatibility with adjacent  
nonindustrial zoned properties.

17 | Policy 11TT-7:-

18 Site Development. All development should be constructed and  
19 operated in a manner that, while permitting water-dependent  
20 uses, also protects shoreline resources, their ecological  
functions and processes, and that incorporates the following:

- 21 a. Low impact development approaches to avoid or minimize  
22 adverse impact to topography, vegetation, water quality, fish  
23 and wildlife habitat, and other natural site conditions;
- 24 b. Adequate temporary and permanent management measures  
25 to control erosion and sediment impacts during construction  
26 and operation; and
- 27 c. Adequate stormwater management facilities.

28 | ~~23.100.110 Landfill and Excavation~~

29 | ~~A. Policies-~~

30 | Policy 11JJ-1:-

31 Landfill and excavation should only be permitted to the  
32 minimum extent necessary to accommodate an approved  
33 shoreline use or development and with assurance of no net loss  
34 of shoreline ecological functions and processes. Enhancement  
35 and voluntary restoration of landforms and habitat are  
encouraged.

36 | Policy 11JJ-2:-

37 Landfill in water-bodies, floodways, and/or wetlands should not  
38 be permitted for creation of new uplands, unless it is part of an  
39 approved ecological restoration activity. Landfill should be  
40 permitted in limited instances to restore uplands where recent  
41 erosion has rapidly reduced upland area, to build beaches and  
42 protective berms for shore stabilization or recreation, to restore  
43 or enhance degraded shoreline ecological functions and  
processes, or to moderately elevate low uplands to make such

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- 1 | uplands more suitable for purposes consistent with the SMP~~this~~  
2 | program.
- 3 | Policy 11JJ-3~~:-~~ Fill should not be allowed where shore stabilization works would  
4 | be required to maintain the materials placed.
- 5 | Policy 11JJ-4~~:-~~ Landfills and excavation should be located and developed so  
6 | that water quality, hydrology~~ie~~, and runoff patterns are not  
7 | altered.
- 8 | Policy 11JJ-5~~:-~~ The predicted economic benefits of landfills and excavation  
9 | should be weighed against long-term cumulative impacts on  
10 | ecological processes and functions.
- 11 | ~~23.100.120~~ **Mining**
- 12 | ~~A. \_\_\_\_\_ Policies.~~
- 13 | Policy 11KK-1~~:-~~ Mining should not be located on shorelines where unavoidable  
14 | adverse impacts on other users or resources together equal or  
15 | outweigh the benefits from mining.
- 16 | Policy 11KK-2~~:-~~ Mining should not interfere with public recreation on the  
17 | shoreline.
- 18 | Policy 11KK-3~~:-~~ Mining should be located and operated so as to provide long-  
19 | term protection of water quality, fish and wildlife, and fish and  
20 | wildlife habitat.
- 21 | Policy 11KK-4~~:-~~ Mining, particularly surface or strip mining, should provide for  
22 | timely restoration of disturbed areas to a biologically productive,  
23 | semi-natural, or other useful condition through a reclamation  
24 | process consistent with regulations administered by the  
25 | Department of Natural Resources and other applicable county  
26 | standards.
- 27 | Policy 11KK-5~~:-~~ Mining of marine and lake shores or accretional shoreforms,  
28 | such as point bars, that have a high value for recreation or as  
29 | fish or wildlife habitat should generally not be permitted.
- 30 | Policy 11KK-6~~:-~~ Mining should only be permitted on accretion point and channel  
31 | bars where appropriate studies and detailed operation plans  
32 | demonstrate that:  
33 | a. Fish habitat, upland habitat and water quality will not be  
34 | significantly impacted; and  
35 | b. The operation will not adversely affect geohydraulic  
36 | processes, channel alignment, nor increase bank erosion or  
37 | flood damages.
- 38 | Policy 11KK-7~~:-~~ Mining operations should be located, designed, and managed so  
39 | that other appropriate uses are not subjected to substantial or  
40 | unnecessary adverse impacts from noise, dust, or other effects  
41 | of the operation. The operator may be required to implement

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1 measures such as buffers, limited hours, or other mitigating  
2 measures for the purpose of minimizing adverse proximity  
3 impacts.

4 **~~23.100.130~~ Moorage Structures —Docks, Piers and Mooring Buoys**

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

9 ~~A. Policies.~~

10 Policy 11LL-1:- Moorage associated with a single-family residence is considered  
11 a water-dependent use; provided, that it is designed and used  
12 as a facility to access watercraft, and other moorage facilities  
13 are not available or feasible. Moorage for water-related and  
14 water-enjoyment uses or shared moorage for multifamily use  
15 should be allowed as part of a mixed use development or where  
16 it provides public access.

17 Policy 11LL-2:- New moorage, excluding docks accessory to single-family  
18 residences, should be permitted only when the applicant/  
19 proponent has demonstrated that a specific need exists to  
20 support the intended water-dependent or public access use.

21 Policy 11LL-3:- As an alternative to continued proliferation of individual private  
22 moorage, mooring buoys are preferred over docks or floats.  
23 Shared moorage facilities are preferred over single-user  
24 moorage where feasible, especially where water use conflicts  
25 exist or are predictable. New subdivisions of more than two lots  
26 and new multifamily development of more than two dwelling  
27 units should provide shared moorage.

28 Policy 11LL-4:- Docks, piers and mooring buoys, including those accessory to  
29 single-family residences, should avoid locations where they will  
30 adversely impact shoreline ecological functions or processes,  
31 including currents and littoral drift, and critical saltwater habitat  
32 including kelp beds, eelgrass beds, spawning and holding areas  
33 for forage fish (such as herring, surf smelt and sandlance);  
34 subsistence, commercial and recreational shellfish beds;  
35 mudflats, intertidal habitats with vascular plants; and areas with  
36 which priority species have a primary association.

37 Policy 11LL-5:- Moorage should be spaced and oriented in a manner that  
38 minimizes hazards and obstructions to public navigation rights  
39 and corollary rights thereto such as, but not limited to, fishing,  
40 swimming, and pleasure boating, as well as private riparian  
41 rights of adjacent land-owners.

42 Policy 11LL-6:- Moorage should be restricted to the minimum size necessary to  
43 meet the needs of the proposed use. The length, width and

**Comment [AP30]:** Draft revision per Scoping Document, Item #8c, "Consider ways to improve protections for salmon and forage fish habitat."

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heightsize of piers and docks should be no greater than that required for safety and practicality for the primary use.

**Comment [AP31]:** Simplify to “size” for consistency with updated approach to dock standards, which include an overall square footage requirement, rather than prescriptive dimensional standards.

**Policy 11LL-7:-** Pile supports are preferred over fills because piles do not displace water surface and intertidal or aquatic habitat and are removable and thus more flexible in terms of long-term use patterns. Floats may be less desirable than pile structures where aquatic habitat or littoral drift are significant.

**Policy 11LL-8:-** The use of buoys for small craft moorage is preferred over pile or float structures because of lesser long-term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.

**Policy 11LL-9:-** Shoreline resources and water quality should be protected from overuse by boaters living on vessels (live boards). Boaters living on vessels are restricted to established marinas with facilities to address waste handling and other sanitary services.

**Policy 11LL-10:-** Vessels should be restricted from extended mooring on waters of the state unless authorization is obtained from the DNR and impacts to navigation and public access are mitigated.

**Policy 11LL-11:-** Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

**Policy 11LL-12:-** New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the primary use and shore features.

**~~23.100.140~~ Recreation**

**~~A. Policies.~~**

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

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

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

**Comment [AP32]:** Proposed for removal, as this is captured in policy #8 below.

Policy 11MM-3:4. Recreational developments and plans should provide the regional population a varied and balanced choice of recreation experiences in appropriate locations. Public agencies and private developers should coordinate their plans and activities to provide a wide variety of recreational opportunities without needlessly duplicating facilities.

Policy 11MM-4:5. Trail links between shoreline parks and public access points should be encouraged for walking, horseback or bicycle riding, and other non-motorized vehicle access where appropriate. The Whatcom County Comprehensive Park and Recreation Open Space Plan should be considered in design and approval of public trail systems.

Policy 11MM-5:6. Access to natural character recreational areas, including but not limited to beaches and fishing streams, should be a combination of linear shoreline trails or easements and small parking or access tracts to minimize user concentration on small portions of the shoreline.

Policy 11MM-6:7. Recreation facilities should incorporate public education regarding shoreline ecological functions and processes, the role of human actions on the environment, and the importance of public involvement in shorelines management. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities and nature trails.

Policy 11MM-7:8. Reasonable physical or visual public access to shorelines should be provided and integrated with recreational developments in accordance with WCC ~~23-90-080~~23.30.070 (Public Access).

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

Policy 11MM-9:10. Cooperative efforts among public and private persons toward the acquisition and/or development of suitable recreation sites or facilities should be explored to assure long-term availability of sufficient public sites to meet local recreation needs.

~~23.100-150~~ **Residential**

~~A. Policies.~~

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- 1 | Policy 11NN-1:- Single-family residences are designated in Chapter [90.58](#) RCW  
2 | as a priority use in those limited instances when authorization is  
3 | given for alterations of the natural condition of shorelines of the  
4 | state.
- 5 | Policy 11NN-2:- New residential development is encouraged to cluster dwelling  
6 | units together to reduce physical and visual impacts on  
7 | shorelines and to reduce utility and road costs. Planned unit  
8 | developments that include common open space and recreation  
9 | facilities, or a variety of dwelling sizes and types, are  
10 | encouraged at suitable locations as a preferable alternative to  
11 | extensive single-lot subdivisions on shorelines. Planned unit  
12 | developments (Chapter [20.85](#) WCC) may also include a limited  
13 | number of neighborhood commercial business uses where  
14 | consistent with the applicable zoning regulations.
- 15 | Policy 11NN-3:- Allowable density of new residential development should comply  
16 | with applicable ~~C~~omprehensive ~~P~~lan goals and policies, zoning  
17 | restrictions, and shoreline area designation standards. The  
18 | density ~~per acre~~ of development should be appropriate to local  
19 | natural and cultural features.
- 20 | Policy 11NN-4:- Structures or development for uses accessory to residential use  
21 | should preserve shoreline open space, be visually and physically  
22 | compatible with adjacent cultural and shoreline features, be  
23 | reasonable in size and purpose, and result in no net loss of  
24 | shoreline ecological functions and processes.
- 25 | Policy 11NN-5:- Buildings greater than 35 feet above average grade level that  
26 | will obstruct the views of a substantial number of residences on  
27 | areas adjoining such shorelines are limited by the ~~SMAAct~~  
28 | (RCW [90.58.320](#)) to those cases where ~~the SMP~~~~this program~~  
29 | does not prohibit such development and then only when  
30 | overriding considerations of the public interest will be served.  
31 | ~~The SMP~~~~This program~~ provides opportunities for buildings  
32 | greater than 35 feet in height in limited areas where consistent  
33 | with development objectives and the goals and polices of this  
34 | ~~chapter~~~~program~~.
- 35 | Policy 11NN-6:- New residential development should be planned and built ~~in~~  
36 | ~~accordance with the policies and regulations in~~  
37 | ~~WCC 23.90.030~~~~and~~ to minimize the need for shoreline  
38 | stabilization and flood hazard reduction measures.
- 39 | Policy 11NN-7:- Measures to conserve native vegetation along shorelines should  
40 | be required for all residential development. Vegetation  
41 | conservation may include avoidance or minimization of clearing  
42 | or grading, restoration of areas of native vegetation, and/or  
43 | control of invasive or nonnative vegetation.
- 44 | Policy 11NN-8:- Whenever possible, nonregulatory methods to protect, enhance,  
45 | and restore shoreline ecological functions and other shoreline

**Comment [MD33]:** Deleted for brevity as already required.

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1 resources should be encouraged for residential development.  
2 Such methods may include resource management planning, low  
3 impact development techniques, voluntary protection and  
4 enhancement projects, education, or incentive programs.

5 | Policy 11NN-9:- New multiunit residential development, including subdivision of  
6 land for more than four parcels, should provide substantial  
7 shore ~~space~~ recreational opportunities for ~~development~~  
8 residents and the public, unless public access is infeasible due to  
9 incompatible uses, safety, impacts to shoreline ecology, or legal  
10 limitations. Developments of four or fewer units should provide  
11 private access to the shore for those living in the development  
12 (non-public).

13 | Policy 11NN-10:- Development should provide open space corridors between  
14 structures, and along site boundaries, so as to provide space for  
15 outdoor recreation, preserve views, and minimize use conflicts.

16 | Policy 11NN-11:- Recreation-oriented residential development in the shoreline  
17 should be located only where substantial recreation  
18 opportunities are provided on site, and where nearby property  
19 owners and other appropriate uses will not be adversely  
20 affected.

**Comment [CES34]:** Amended, as all shoreline development is supposed to provide access, though it need not be public for small developments.

21 | ~~23.100.160~~ **Restoration and Enhancement**

22 | ~~A. Policies.~~

23 | Policy 1100-1:- ~~The SMP~~This program recognizes the importance of restoration  
24 of shoreline ecological functions and processes and encourages  
25 cooperative restoration efforts and programs between local,  
26 state, and federal public agencies, tribes, nonprofit  
27 organizations, and landowners to address shorelines with  
28 impaired ecological functions and/or processes.

29 | Policy 1100-2:- Restoration actions should restore shoreline ecological functions  
30 and processes as well as shoreline features and should be  
31 targeted towards meeting the needs of sensitive and/or locally  
32 important plant, fish and wildlife species, ~~as well as~~  
33 the biological recovery goals for early Chinook and bull trout  
34 populations, and other salmonid species and populations.

35 | Policy 1100-3:- Restoration should be integrated with other parallel natural  
36 resource management efforts such as the WRIA 1 Salmonid  
37 Recovery Plan and the WRIA 1 Watershed Management Plan.

38 | Policy 1100-4:- Priority should be given to restoration actions that:  
39 a. Create dynamic and sustainable ecosystems.  
40 b. Restore connectivity between stream/river channels,  
41 floodplains and hyporheic zones.  
42 c. Restore natural channel-forming geomorphologic processes.

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- 1 d. Mitigate peak flows and associated impacts caused by high
- 2 stormwater runoff volume.
- 3 e. Reduce sediment input to streams and rivers and associated
- 4 impacts.
- 5 f. Improve water quality.
- 6 g. Restore native vegetation and natural hydrologic functions of
- 7 degraded and former wetlands.
- 8 h. Replant native vegetation in riparian areas to restore
- 9 functions.
- 10 i. Restore nearshore ecosystem processes, such as sediment
- 11 transport and delivery and tidal currents that create and
- 12 sustain habitat.
- 13 j. Restore pocket estuaries that support salmon life histories,
- 14 including feeding and growth, refuge, osmoregulation, and
- 15 migration.
- 16 k. Address contamination along industrial shoreline regions.

**~~23.100.170~~ Shoreline Stabilization**

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

~~A. Policies.~~

Policy 11PP-1:- Alternatives to structures for shore protection should be used whenever possible. Such alternatives may include no action (allow the shoreline to retreat naturally), increased building setbacks, building relocation, drainage controls, and bioengineering, including vegetative stabilization, and beach nourishment.

Policy 11PP-2:- New or expanded structural shore stabilization for new primary structures should be avoided. Instead, structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development of the created lots will not require structural shore stabilization for reasonable development to occur.

Policy 11PP-3:- New or expanded structural shore stabilization should only be permitted where demonstrated to be necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where mitigation of impacts would not cause a net loss of shoreline ecological functions and processes.

Policy 11PP-4:- New or expanded structural shore stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when nonstructural measures, vegetation



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- 1 planting, or on-site drainage improvements would be insufficient  
2 to achieve enhancement, restoration, or remediation objectives.
- 3 | Policy 11PP-5:- Shore stabilization on streams should be located and designed  
4 to fit the physical character and hydraulic energy potential of a  
5 specific shoreline reach, which may differ substantially from  
6 adjacent reaches.
- 7 | Policy 11PP-6:- Shore stabilization should not be permitted to unnecessarily  
8 interfere with public access to public shorelines, nor with other  
9 appropriate shoreline uses including, but not limited to,  
10 navigation, seafood harvest, or private recreation.
- 11 | Policy 11PP-7:- Provisions for multiple use, restoration, and/or public shore  
12 access should be incorporated into the location, design, and  
13 maintenance of shore stabilization for public or quasi-public  
14 developments whenever safely compatible with the primary  
15 purpose. Shore stabilization on publicly owned shorelines should  
16 not be allowed to decrease long-term public use of the  
17 shoreline.
- 18 | Policy 11PP-8:- Shore stabilization should be developed in a coordinated manner  
19 among affected property owners and public agencies for a whole  
20 drift sector (net shore-drift cell) or reach where feasible,  
21 particularly those that cross jurisdictional boundaries, to address  
22 ecological and geohydraulic processes, sediment conveyance  
23 and beach management issues. Where beach erosion threatens  
24 existing development, a comprehensive program for shoreline  
25 management should be established.
- 26 | Policy 11PP-9:- In addition to conformance with the regulations in ~~this~~  
27 section of the SMP, nonregulatory methods to protect, enhance,  
28 and restore shoreline ecological functions and other shoreline  
29 resources should be encouraged for shore stabilization.  
30 Nonregulatory methods may include public facility and resource  
31 planning, technical assistance, education, voluntary  
32 enhancement and restoration projects, or other incentive  
33 programs.
- 34 | Policy 11PP-10:- Shore stabilization should be located, designed, and maintained  
35 to protect and maintain shoreline ecological functions, ongoing  
36 shore processes, and the integrity of shore features. Ongoing  
37 stream, lake, or marine processes and the probable effects of  
38 proposed shore stabilization on other properties and shore  
39 features should be considered. Shore stabilization should not be  
40 developed for the purpose of filling shorelines.
- 41 | Policy 11PP-11:- Failing, harmful, unnecessary, or ineffective structures should  
42 be removed, and shoreline ecological functions and processes  
43 should be restored using nonstructural methods or less harmful  
44 long-term stabilization measures.

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- 1 | Policy 11PP-12:- Structural shoreline stabilization measures should only be used  
2 | when more natural, flexible, nonstructural methods such as  
3 | vegetative stabilization, beach nourishment, and bioengineering  
4 | have been determined infeasible. Alternatives for shoreline  
5 | stabilization should be based on the following hierarchy of  
6 | preference:  
7 | a. No action (allow the shoreline to retreat naturally), increase  
8 | building setbacks, and relocate structures.  
9 | b. Flexible defense works constructed of natural materials  
10 | including soft shore protection, bioengineering, including  
11 | beach nourishment, protective berms, or vegetative  
12 | stabilization.  
13 | c. Rigid works constructed of artificial materials such as riprap  
14 | or concrete.  
15 | Materials used for construction of shoreline stabilization should  
16 | be selected for long-term durability, ease of maintenance,  
17 | compatibility with local shore features, including aesthetic  
18 | values, and flexibility for future uses.  
19 | Policy 11PP-13:- Larger works such as jetties, breakwaters, weirs, or groin  
20 | systems should be permitted only for water-dependent uses  
21 | when the benefits to the region outweigh resource losses from  
22 | such works, and only where mitigated to provide no net loss of  
23 | shoreline ecological functions and processes.  
24 | Policy 11PP-14:- Alternative structures, including floating, portable or submerged  
25 | breakwater structures, or several smaller discontinuous  
26 | structures, should be considered where physical conditions  
27 | make such alternatives with less impact feasible.

~~23.100.180~~ **Signs**

~~A. Policies~~

- 30 | Policy 11QQ-1:- Whatcom County recognizes the constitutional right for property  
31 | owners to communicate using signs on their property. These  
32 | policies are intended to ensure that signage within shoreline  
33 | areas is consistent with the purpose and intent of the ~~SMA Act~~  
34 | and ~~the SMP this program~~ by addressing impacts to ecological  
35 | functions, public safety, and visual aesthetics.  
36 | Policy 11QQ-2:- Signs should be located, designed, and maintained to be visually  
37 | compatible with local shoreline scenery as seen from both land  
38 | and water, especially on shorelines of statewide significance.  
39 | Policy 11QQ-3:- Sign location and design should not significantly impair shoreline  
40 | views.  
41 | Policy 11QQ-4:- As a preferable alternative to continued proliferation of single-  
42 | purpose signs, communities, districts, and/or multiuse or

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- 1 multitenant commercial developments are encouraged to erect  
2 single, common use gateway signs to identify and give  
3 directions to local premises and public facilities.
- 4 | Policy 11QQ-5:- Signs of a commercial or industrial nature should be limited to  
5 those areas or premises to which the sign messages refer.
- 6 | Policy 11QQ-6:- Billboards and other off-premises signs are not water-  
7 dependent, they reduce public enjoyment of or access to  
8 shorelines, and they often lower values of nearby properties.  
9 ~~Such signs should not be located on shorelines~~ Except for  
10 approved community gateway or directional signs, such signs  
11 should not be located on shorelines.
- 12 | Policy 11QQ-7:- Signs near scenic vistas and viewpoints should be restricted in  
13 number, location, and height so that enjoyment of these limited  
14 and scarce areas is not impaired.
- 15 | Policy 11QQ-8:- Freestanding signs should be located to avoid blocking scenic  
16 views and be located on the landward side of public  
17 transportation routes, which generally parallel the shoreline.
- 18 | Policy 11QQ-9:- To minimize negative visual impacts and obstructions to  
19 shoreline access and use, low profile, on-premises wall signs are  
20 strongly preferred over freestanding signs or off-premises wall  
21 signs.
- 22 | Policy 11QQ-10:- Signs should be designed mainly to identify the premises and  
23 nature of enterprise without unduly distracting uninterested  
24 passersby. Moving or flashing signs should be prohibited on  
25 shorelines.

26 **~~23.100.190~~ Transportation**

27 **~~A. Policies:~~**

- 28 | Policy 11RR-1:- New public or private transportation facilities should be located  
29 inland from the land/water interface, preferably out of the  
30 shoreline, unless:
- 31 a. Perpendicular water crossings are required for access to  
32 authorized uses consistent with ~~the SMP~~this program; or
- 33 b. Facilities are primarily oriented to pedestrian and non-  
34 motorized use and provide an opportunity for a substantial  
35 number of people to enjoy shoreline areas, and are  
36 consistent with the policies and regulations for ecological  
37 protection in the General Policies section of this chapter and  
38 in WCC 23.30.010 (Ecological Protection)~~23.90.030,~~  
39 respectively.
- 40 | Policy 11RR-2:- Transportation facilities should be located and designed to avoid  
41 public recreation and public access areas and significant natural,  
42 historic, archaeological, or cultural sites.

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- 1 | Policy 11RR-3:- Parking is not a preferred use in shorelines and should only be  
2 | allowed to support authorized uses where no feasible  
3 | alternatives exist.
- 4 | Policy 11RR-4:- New or expanded public transportation facility route selection  
5 | and development should be coordinated with related local and  
6 | state government land use and circulation planning.
- 7 | Policy 11RR-5:- Transportation system route planning, acquisition, and design in  
8 | the shoreline should provide space wherever possible for  
9 | compatible multiple uses such as utility lines, pedestrian shore  
10 | access or viewpoints, or recreational trails.
- 11 | Policy 11RR-6:- Transportation system plans and transportation projects within  
12 | shorelines should provide safe trail space for non-motorized  
13 | traffic such as pedestrians, bicyclists, or equestrians. Space for  
14 | such uses should be required along roads on shorelines, where  
15 | appropriate, and should be considered when rights-of-way are  
16 | being vacated or abandoned.
- 17 | Policy 11RR-7:- Public access should be provided to shorelines where safe and  
18 | compatible with the primary and adjacent use, or should be  
19 | replaced where transportation development substantially  
20 | impairs lawful public access. Viewpoints, parking, trails, and  
21 | similar improvements should be considered for transportation  
22 | system projects in shoreline areas, especially where a need has  
23 | been identified.
- 24 | Policy 11RR-8:- Public transportation routes, particularly arterial highways and  
25 | railways, should be located, designed, and maintained to permit  
26 | safe enjoyment of adjacent shore areas and properties by other  
27 | appropriate uses such as recreation or residences. Vegetative  
28 | screening or other buffering should be considered.

29 |  
30 | ~~23.100-200~~ **Utilities**

31 | ~~A.~~ **Policies:**

- 32 | Policy 11SS-1:- New public or private utilities should be located inland from the  
33 | land/water interface, preferably out of the shoreline jurisdiction,  
34 | unless:
- 35 | a. Perpendicular water crossings are unavoidable; or
- 36 | b. Utilities are required for authorized shoreline uses consistent  
37 | with ~~the SMP~~this program.
- 38 | Policy 11SS-2:- Utilities should be located and designed to avoid public  
39 | recreation and public access areas and significant natural,  
40 | historic, archaeological, or cultural resources.
- 41 | Policy 11SS-3:- Utilities should be located, designed, constructed, and operated  
42 | to result in no net loss of shoreline ecological functions and

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- 1 processes with appropriate mitigation as provided in  
2 23.30.010 (Ecological Protection) WCC 23-90-030.
- 3 Policy 11SS-4:- All utility development should be consistent ~~with~~ and  
4 coordinated with all local government and state planning,  
5 including comprehensive plans and single purpose plans to meet  
6 the needs of future populations in areas planned to  
7 accommodate growth. Site planning and rights-of-way for utility  
8 development should provide for compatible multiple uses such  
9 as shore access, trails, and recreation or other appropriate use  
10 whenever possible; utility right-of-way acquisition should also  
11 be coordinated with transportation and recreation planning.
- 12 Policy 11SS-5:- Utilities should be located in existing rights-of-way and corridors  
13 whenever possible.
- 14 Policy 11SS-6:- Utilities serving new development should be located  
15 underground, wherever possible.
- 16 Policy 11SS-7:- Development of pipelines and cables on aquatic lands and  
17 tidelands, particularly those running roughly parallel to the  
18 shoreline, and development of facilities that may require  
19 periodic maintenance ~~which~~ that would disrupt shoreline  
20 ecological functions should be discouraged except where no  
21 other feasible alternative exists. When permitted, provisions  
22 shall assure that the facilities do not result in a net loss of  
23 shoreline ecological functions or significant impacts to other  
24 shoreline resources and values.
- 25 Policy 11SS-8: Given the different scales of regional, local, and accessory  
26 utilities and their potential impacts, the County may establish  
27 different regulations regarding each.

**Comment [CES35]:** New policy to allow for different regulations regarding the different types of utilities in support of Scope issue #7b, "Add definitions for regional, local, and accessory utilities."