

**Chapter Eleven
Shorelines**

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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) is the set of policies and regulations that implement 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 SMP 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.

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

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 **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 SMP works with other chapters of the Whatcom County Code to

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

4 **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 Shoreline Management Plan (SMP):

8 A. Any inconsistencies between the SMP and the Shoreline Management Act
9 (SMA) must be resolved in accordance with the SMA.

10 B. The policies of the SMP may be achieved by diverse means, one of which is
11 regulation. Other means authorized by the SMA include, but are not limited to:
12 acquisition of lands and/or easements by purchase or gift, incentive
13 programs, and implementation of capital facility and/or nonstructural
14 programs.

15 C. Protecting the shoreline environment is an essential statewide policy goal,
16 consistent with other policy goals. Permitted and/or exempt development,
17 actions taken prior to the SMA’s adoption, and/or unregulated activities can
18 impair shoreline ecological processes and functions. The SMP protects
19 shoreline ecology from such impairments in the following ways:

20 1. By using a process that identifies, inventories, and ensures meaningful
21 understanding of current and potential ecological functions provided by
22 shorelines.

23 3. By including policies and regulations to address cumulative impacts,
24 including ensuring that the cumulative effect of exempt development will
25 not cause a net loss of shoreline ecological functions, and by fairly
26 allocating the burden of addressing such impacts among development
27 opportunities.

28 4. By including regulations and regulatory incentives designed to protect
29 shoreline ecological functions, and restore impaired ecological functions
30 where such opportunities have been identified, consistent with the
31 Shoreline Management Program Restoration Plan developed by Whatcom
32 County.

33 D. Regulation of private property to implement SMP goals such as public access
34 and protection of ecological functions and processes must be consistent with
35 all relevant constitutional and other legal limitations. These include, but are
36 not limited to, civil rights guaranteed by the U.S. and state Constitutions,
37 pertinent federal and state case law, and state statutes, such as RCW
38 34.05.328 and 43.21C.060 and Chapter 82.02 RCW.

39 E. Regulatory or administrative actions must be implemented consistent with
40 the public trust doctrine and other applicable legal principles as appropriate
41 and must not unconstitutionally infringe on private property rights or result
42 in an unconstitutional taking of private property.

- 1 F. The regulatory provisions of the SMP are limited to jurisdictional shorelines,
2 whereas the planning functions of the SMP may extend beyond the
3 designated shoreline boundaries.
- 4 G. The policies and regulations established by the SMP must be integrated and
5 coordinated with those policies and rules of the Comprehensive Plan and
6 development regulations adopted under the GMA and RCW 34.05.328.
- 7 H. Consistent with the policy and use preferences of RCW 90.58.020, Whatcom
8 County should balance the various policy goals of the SMP giving
9 consideration to other relevant local, state, and federal regulatory and non-
10 regulatory programs.

11 **Overall Shoreline Management Program Goals and Objectives**

12 This section contains overall SMP goals and objectives. They provide the foundation
13 and framework upon which the shoreline area designations, policies, regulations,
14 and administrative procedures are based.

15 The general policies and regulations (in a later section of this chapter and in Title
16 23 WCC, respectively) and the specific use policies and regulations (in a later
17 section of this chapter and in WCC Title 23, respectively) are the means by which
18 these goals and objectives are implemented.

19 **Economic Development**

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

24 **Goal 11A: Create and maintain an economic environment that can**
25 **coexist harmoniously with the natural and human**
26 **environment.**

27 11A-1: Encourage economic development that has minimal adverse
28 effects and mitigates unavoidable impacts upon shoreline
29 ecological functions and processes and the built environment.

30 11A-2: Encourage shoreline development that has a positive effect upon
31 economic and social activities of value to the region.

32 11A-3: Encourage new water-dependent, water-related, and water-
33 enjoyment economic development in priority order.

34 11A-4: Encourage economic development that is consistent with the
35 adopted Comprehensive Economic Development Strategy
36 (CEDSD) for Whatcom County.

37 11A-5: Implement economic development policies contained in other
38 chapters of the Comprehensive Plan in shoreline areas
39 consistent with this chapter, WCC Title 23 and the SMA.

40 11A-6: Encourage new economic development to locate in areas that
41 are already developed with similar uses.

1 11A-7: Discourage expansion of existing development that is
2 incompatible with the Comprehensive Plan, WCC Title 23, or the
3 character of the local area.

4 **Public Access**

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

7 **Goal 11B: Increase the general public’s ability to reach, touch, and**
8 **enjoy the water’s edge, to travel on the waters of the**
9 **state, and/or to view the water and the shoreline from**
10 **adjacent locations; provided, that private rights, public**
11 **safety, and shoreline ecological functions and processes**
12 **are protected consistent with the U.S. and state**
13 **Constitutions, state case law, and state statutes.**

14 Objectives:

15 11B-1: Locate, design, manage, and maintain public access in a manner
16 that protects shoreline ecological functions and processes and
17 the public health and safety.

18 11B-2: Design and manage public access in a manner that ensures
19 compatibility with water-dependent uses.

20 11B-3: Where appropriate, acquire access to publicly owned tidelands
21 and shorelands. Encourage cooperation among the County,
22 landowners, developers, and other agencies and organizations
23 to enhance and increase public access to shorelines as specific
24 opportunities arise.

25 11B-4: Provide and protect visual access to shorelines and tidelands.

26 11B-5: Require physical or visual access to shorelines as a condition of
27 approval for shoreline development activities commensurate
28 with the impacts of such development and the corresponding
29 benefit to the public, consistent with constitutional limitations.

30 11B-6: Develop and manage public access to prevent adverse impacts
31 to adjacent private shoreline properties and developments.

32 **Recreation**

33 The recreation element provides for the preservation and expansion of water-
34 oriented recreational opportunities that facilitate the public’s ability to enjoy the
35 physical and aesthetic qualities of the shoreline through parks, public access to
36 tidelands and beaches, bicycle and pedestrian paths, viewpoints, and other
37 recreational amenities.

38 **Goal 11C: Provide opportunities and space for diverse forms of**
39 **water-oriented recreation.**

- 1 11C-1: Locate, develop, manage, and maintain recreation areas in a
- 2 manner that protects shoreline ecological functions and
- 3 processes.
- 4 11C-2: Provide a balanced choice of water-oriented public recreational
- 5 opportunities regionally. Ensure that shoreline recreation
- 6 facilities serve projected County growth in accordance with the
- 7 level of service standards established in the Comprehensive Plan
- 8 and related goals and policies, the Comprehensive Park and
- 9 Recreation Open Space Plan, the Whatcom County Bicycle Plan,
- 10 and the Natural Heritage Plan.
- 11 11C-3: Acquire additional recreation and public access areas with a high
- 12 recreation value prior to demand to assure that sufficient
- 13 shoreline recreation opportunities are available to serve future
- 14 recreational needs.
- 15 11C-4: Encourage cooperation among public agencies, nonprofit
- 16 groups, private landowners, and developers to increase and
- 17 diversify recreational opportunities through a variety of means
- 18 including incorporating water-oriented recreational opportunities
- 19 into mixed use developments and other innovative techniques.
- 20 11C-5: Recognize and protect the interest of all people of the state by
- 21 providing increased recreational opportunities within shorelines
- 22 of statewide significance and associated shorelands.
- 23 11C-6: Encourage private and public investment in recreation facilities.
- 24 11C-7: Locate, design, and operate recreational development in a
- 25 manner that minimizes adverse effects on adjacent properties
- 26 as well as other social, recreational, or economic activities.

27 **Transportation and Essential Public Facilities**

28 The transportation and essential public facilities element provides for the general
29 location and extent of existing and proposed public thoroughfares, transportation
30 routes, terminals, and other public utilities and facilities.

31 **Goal 11D: Provide transportation systems and essential public**
32 **facilities in shoreline areas without adverse effects on**
33 **existing shoreline use and development or shoreline**
34 **ecological functions and/or processes.**

35 Objectives:

- 36 11D-1: Locate, develop, manage, and maintain transportation systems
- 37 and essential public facilities in a manner that protects shoreline
- 38 ecological functions and processes. Minimize and mitigate
- 39 unavoidable impacts.
- 40 11D-2: Locate and design transportation systems and essential public
- 41 facilities to be harmonious with the existing and future economic
- 42 and social needs of the community.

- 1 11D-3: Discourage the development of non-water-dependent
2 transportation systems and essential public facilities unless no
3 feasible alternatives exist. Devote roads within the shoreline
4 jurisdiction to low volume local access routes and shoreline
5 public access where feasible.
- 6 11D-4: When appropriate, require appropriate compensation where
7 transportation systems and essential public facilities reduce the
8 benefits people derive from their property.
- 9 11D-5: Provide for alternate modes of travel, encourage freedom of
10 choice among travel modes, and provide multiple use
11 transportation corridors where compatible in association with
12 shoreline transportation development.
- 13 11D-6: Require transportation system and essential public facility
14 development in shoreline areas to protect and enhance physical
15 and visual shoreline public access.

16 **Shoreline Use**

17 The shoreline use element prioritizes the use and development of shorelines and
18 adjacent land areas for housing, business, industry, transportation, agriculture,
19 forestry, natural resources, recreation, education, public institutions, utilities, and
20 other categories of public and private land use with respect to the type, general
21 distribution, location, and extent of such uses and developments.

22 **Goal 11E: Preserve and develop shorelines in a manner that allows**
23 **for an orderly balance of uses.**

- 24 11E-1: Give preference to water-dependent and single-family
25 residential uses that are consistent with preservation of
26 shoreline ecological functions and processes. Give secondary
27 preference to water-related and water-enjoyment uses. Allow
28 non-water-oriented uses only when substantial public benefit is
29 provided with respect to the goals of the SMA for public access
30 and ecological restoration.
- 31 11E-2: Designate and maintain appropriate areas for protecting and
32 restoring shoreline ecological functions and processes to control
33 pollution and prevent damage to the shoreline environment
34 and/or public health.
- 35 11E-3: Ensure shoreline uses are consistent with the Comprehensive
36 Plan.
- 37 11E-4: Balance the location, design, and management of shoreline uses
38 throughout the County to prevent a net loss of shoreline
39 ecological functions and processes over time.
- 40 11E-5: Encourage mixed use developments that include and support
41 water-oriented uses and provide a substantial public benefit
42 consistent with the public access and ecological restoration
43 goals and policies of the SMA.

- 1 11E-6: Encourage shoreline uses and development that enhance
- 2 shoreline ecological functions and/or processes or employ
- 3 innovative features that further the purposes of the SMP.
- 4 11E-7: Encourage shoreline uses and development that enhance and/or
- 5 increase public access to the shoreline.

6 **Conservation**

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

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

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

23 11F-2: Protect critical areas in accordance with the County’s critical
24 areas regulations (WCC Chapter 16.16), as adopted by
25 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 **Cultural Resources**

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

41 **Goal 11G: Protect shoreline features of historic, cultural,**
42 **archeological, or scientific value or significance to**
43

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

22 **Views and Aesthetics**

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

25 **Goal 11H: Assure that the public’s ability and opportunity to enjoy**
26 **shoreline views and aesthetics is protected.**

27 11H-1: Identify and protect areas with scenic vistas and areas where
28 the shoreline has high aesthetic value.

29 11H-2: Design development to minimize adverse impacts on views from
30 public property or views enjoyed by a substantial number of
31 residences.

32 **Restoration and Enhancement**

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

37 **Goal 11I: Reestablish, rehabilitate and/or otherwise improve**
38 **impaired shoreline ecological functions and/or processes**
39 **through voluntary and incentive-based public and private**
40 **programs and actions that are consistent with the**

1 **Shoreline Management Program Restoration Plan and**
2 **other approved restoration plans.**

3 11I-1: Encourage and facilitate cooperative restoration and
4 enhancement programs between local, state, and federal public
5 agencies, tribes, nonprofit organizations, and landowners to
6 address shorelines with impaired ecological functions and/or
7 processes.

8 11I-2: Restore and enhance shoreline ecological functions, processes,
9 and features through voluntary and incentive-based public and
10 private programs, such as the Shore Friendly Program
11 developed by the Washington State Department of Fish and
12 Wildlife, Washington State Department of Natural Resources,
13 and the Environmental Protection Agency.

14 11I-3: Target restoration and enhancement towards improving habitat
15 requirements of priority and/or locally important wildlife species.

16 11I-4: Ensure restoration and enhancement is consistent with and,
17 where practicable, prioritized based on the biological recovery
18 goals for early Chinook and bull trout populations and other
19 species and/or populations for which a recovery plan is
20 available.

21

22 **Shoreline Environment Designations**

23 A set of 10 shoreline area designations has been developed as a part of the SMP.
24 The purpose of the shoreline area designations is to provide a systematic, rational,
25 and equitable basis upon which to guide and regulate development within specific
26 shoreline reaches.

27 Shoreline area designations have been determined after consideration of:

- 28 1. The ecological functions and processes that characterize the shoreline,
29 together with the degree of human alteration;
- 30 2. Existing development patterns together with WCC Title 20 Zoning
31 designations, the Comprehensive Plan designations, and other officially
32 adopted plans;
- 33 3. Federal and tribal ownership status;
- 34 4. The goals of Whatcom County citizens for their shorelines;
- 35 5. Pursuant to RCW 90.58.100(4), in designating state-owned shorelines,
36 consideration has been given to public demand for wilderness beaches,
37 ecological study areas, and other recreational activities; and,
- 38 6. Other state policies in the SMA and the SMP Guidelines (RCW 90.58.020 and
39 Chapter 173-26 WAC, respectively).

1 **Urban Shoreline Area**

2 **Purpose**

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

9 **Designation Criteria**

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

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

22 **Policies**

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

- 25 Policy 11J-1: New urban character development should be directed toward
26 already developed or developing areas where compatible.
- 27 Policy 11J-2: First priority should be given to water-dependent uses. Second
28 priority should be given to water-related and then water-
29 enjoyment uses. Non-water-oriented uses should not be allowed
30 except as part of mixed use developments. Non-water-oriented
31 uses may also be allowed in limited situations where they do not
32 conflict with or limit opportunities for water-oriented uses or on
33 sites where there is no direct access to the shoreline, or where
34 the needs of existing and future water-dependent uses are met.

35 **Urban Resort Shoreline Area**

36 **Purpose**

37 The purpose of the urban resort shoreline area is to provide for intensive residential
38 and commercial uses geared to the needs of tourists and day visitors while
39 protecting existing shoreline ecological functions and processes. Emphasis is on

1 hotels, motels, shops, restaurants, commercial rental campgrounds, rental cabins,
2 and shoreline-related recreation facilities.

3 **Designation Criteria**

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

9 **Policies**

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

12 Policy 11K-1: Scale and design of resort development should assure
13 compatibility with allowed uses of adjacent shoreline areas and
14 shoreline ecological functions and processes.

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

18 **Urban Conservancy Shoreline Area**

19 **Purpose**

20 The purpose of the urban conservancy shoreline area is to protect shoreline
21 ecological functions and processes in urban growth areas and Limited Areas of More
22 Intense Rural Development (LAMIRDs) that are not designated for high intensity
23 residential use and are not generally suitable for water-dependent uses. The
24 primary management goal is to preserve shoreline ecological functions and
25 processes by avoiding forms of development that would be incompatible with
26 existing functions and processes, as well as identify and focus restoration efforts in
27 areas where benefits to overall functions and processes can be realized. This policy
28 should be furthered by maintaining most of the area’s natural character.

29 **Designation Criteria**

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

32 A. They support or retain important shoreline ecological functions and/or
33 processes, even though partially developed.

34 B. They have the potential for development at an intensity and character that is
35 compatible with preserving and restoring ecological functions. They are
36 generally not designated for high intensity residential use, commercial use,
37 or industrial use.

38 C. They are characterized by critical areas or the presence of other valuable or
39 sensitive ecological resources.

1 **Policies**

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

4 Policy 11L-1: Primary permitted uses should consist of low intensity
5 residential uses or other low intensity uses that preserve the
6 natural character of the area or promote preservation of open
7 space and critical areas.

8 Policy 11L-2: Moderate to high intensity residential use may be permitted if
9 the proposed uses and design result in substantial open space,
10 public access and/or restoration of shoreline ecological functions
11 and/or processes, and if compatible with surrounding uses.

12 Policy 11L-3: Public access and public recreation facilities are a preferred use
13 if they will not cause substantial ecological impacts and when
14 restoration of ecological functions is incorporated.

15 Policy 11L-4: Low intensity commercial uses may be permitted if the specific
16 uses and design result in substantial open space, public access,
17 and/or restoration of ecological functions, and if compatible with
18 surrounding uses.

19 **Shoreline Residential Area**

20 **Purpose**

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

23 **Designation Criteria**

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

28 **Policies**

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

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

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

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

7 **Rural Shoreline Area**

8 **Purpose**

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

15 **Designation Criteria**

16 The rural shoreline area is applied to shoreline areas outside urban growth areas,
17 particularly areas designated as Rural in the Comprehensive Plan, and includes
18 areas:

- 19 A. Where the shoreline currently accommodates residential uses outside urban
20 growth areas and is characterized by low density development, pasture,
21 agriculture, woodlots, home occupations, and cottage industries. The
22 distribution of rural land use is adjacent to agricultural, forestry, and urban
23 land uses and often provides a transition between urban areas and
24 commercial agriculture and forestry uses. Natural vegetative cover and
25 topography have been altered in many rural areas, but substantial ecological
26 functions, and/or the potential for restoration of ecological functions, are
27 present.
- 28 B. That are now used or potentially usable for a mix of agriculture, forestry, and
29 residential use.
- 30 C. Where residential development is or should be of low density, because of
31 limitations by physical features, infrastructure, the presence of critical areas,
32 and/or lack of utilities or access.
- 33 D. That have high recreational value or unique historic or cultural resources.
- 34 E. Where low intensity outdoor recreation use or development would be
35 appropriate and compatible with other uses and the physical environment.
- 36 F. Where the shoreline has been developed with low intensity water-dependent
37 uses.

38 **Policies**

39 Development within rural shoreline areas shall be consistent with the following
40 policies:

- 1 Policy 11N-1: Uses in rural areas should protect or enhance the rural character
2 of the shoreline and sustain the shoreline ecological functions
3 and processes by limiting building density and height, and
4 providing effective setbacks, buffers, and open space.
- 5 Policy 11N-2: Residential development consistent with the rural character of
6 the area is permitted, provided it includes measures to protect
7 ecological functions and processes. Related uses consistent with
8 the rural character of the area are permitted.
- 9 Policy 11N-3: Public or private outdoor recreation facilities should be
10 encouraged if compatible with the rural character of the area
11 and developed in a manner that maintains shoreline ecological
12 functions and processes. Preferred uses include water-oriented
13 recreation facilities that do not deplete shoreline resources over
14 time, such as boating facilities, angling, wildlife viewing trails,
15 and swimming beaches.
- 16 Policy 11N-4: Industrial or commercial development should be limited to
17 water-oriented commercial and industrial uses in the limited
18 locations where such uses have been established or at sites in
19 rural communities that possess appropriate shoreline conditions
20 and services sufficient to support such developments. Non-
21 water-dependent uses should only be allowed when they
22 provide a substantial benefit with respect to the goals and
23 policies of the SMP, such as providing public access and/or
24 restoring degraded shorelines.
- 25 Policy 11N-5: Agriculture and forestry consistent with rural character and the
26 maintenance of shoreline ecological functions and processes
27 should be encouraged.

28 **Resource Shoreline Area**

29 **Purpose**

30 The purpose of the resource shoreline area is to protect shoreline ecological
31 functions and processes in areas designated in the Comprehensive Plan as
32 agriculture, forestry, and mineral resource lands and to protect the economic base
33 of those lands and limit incompatible uses.

34 **Designation Criteria**

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

1 **Policies**

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

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

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

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

21 **Conservancy Shoreline Area**

22 **Purpose**

23 The purpose of the conservancy shoreline area is to retain shoreline ecological
24 functions in areas outside of urban growth areas and LAMIRDs where important
25 ecological processes have not been substantially degraded by human activities. The
26 primary management goal is to preserve shoreline ecological functions and
27 processes by avoiding forms of development that would be incompatible with
28 existing functions and processes, as well as identify and focus restoration efforts in
29 areas where benefits to overall functions and processes can be realized. This policy
30 should be furthered by keeping overall intensity of development or use low, and by
31 maintaining most of the area’s natural character.

32 **Designation Criteria**

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

- 35 A. Where development activities and uses are buffered from and do not
36 substantially degrade ecological processes and functions.
- 37 B. Where ecological functions are more intact than in areas designated rural or
38 resource.
- 39 C. Of outstanding scenic quality or other aesthetic qualities of high value to the
40 region, which would likely be diminished unless development is strictly
41 controlled.

- 1 D. Containing critical areas or other sensitive natural or cultural features that
- 2 require more than normal restrictions on development and use.
- 3 E. Having the potential to influence ecological processes in a manner that will
- 4 produce ecosystem-wide benefits upon restoration.
- 5 F. That contain valuable or sensitive natural or cultural features that preclude
- 6 more than a low overall density of residents, recreation use, structures, or
- 7 livestock, as well as extensive alterations to topography or other features.
- 8 G. Have recreational value to the region that would likely be diminished unless
- 9 development is strictly controlled.

10 **Policies**

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

- 13 Policy 11P-1: Natural ecological processes should be protected and renewable
- 14 resources managed so that ecological functions and the
- 15 resource base are maintained. Nonrenewable resources should
- 16 only be consumed in a manner compatible with conservation of
- 17 other resources and other appropriate uses.
- 18 Policy 11P-2: Permitted uses should be limited to those compatible with each
- 19 other and with conservation of shoreline ecological processes
- 20 and resources.
- 21 Policy 11P-3: Shorelines should be protected from concentrations of people,
- 22 livestock, buildings, or structures that would adversely impact
- 23 shoreline ecological functions and processes.
- 24 Policy 11P-4: Opportunities for ecological restoration should be pursued,
- 25 prioritizing those areas with the greatest potential to restore
- 26 ecosystem-wide processes and functions.
- 27 Policy 11P-5: Outstanding recreational or scenic values should be protected
- 28 from incompatible development.

29 **Natural Shoreline Area**

30 **Purpose**

31 The purpose of the natural shoreline area is to ensure long-term preservation of
32 ecologically intact shorelines inside or outside urban growth areas.

33 **Designation Criteria**

34 The natural shoreline area is applied to shoreline areas where any of the following
35 characteristics apply:

- 36 A. The majority of natural ecological shoreline functions and/or processes are
- 37 retained, often evidenced by the shoreline configuration and the presence of
- 38 native vegetation. Generally, but not necessarily, they include ecologically

- 1 intact shorelines that are free of structural shoreline modifications,
- 2 structures, and intensive human uses.
- 3 B. Forested areas that generally include native vegetation with diverse plant
- 4 communities, multiple canopy layers, and the presence of large woody debris
- 5 available for recruitment to adjacent water bodies.
- 6 C. Valuable functions are provided for the larger aquatic and terrestrial
- 7 environments, which could be lost or significantly reduced by human
- 8 development.
- 9 D. Ecosystems or geologic types that are of particular scientific and educational
- 10 interest are represented.
- 11 E. Largely undisturbed areas of wetlands, estuaries, unstable bluffs, coastal
- 12 dunes, and spits are present.
- 13 F. New development, extractive uses, or physical modifications cannot be
- 14 supported without significant adverse impacts to ecological functions and/or
- 15 processes or risk to human safety.

16 **Policies**

17 Development within natural shoreline areas shall be consistent with the following
18 policies:

19 Policy 11Q-1: Preservation of the area’s ecological functions, natural features
20 and overall character must receive priority over any other
21 potential use. Uses should not degrade shoreline ecological
22 functions or processes or the natural character of the shoreline
23 area. New development or significant vegetation removal that
24 would reduce the capability of the shoreline to perform a full
25 range of ecological functions or processes should not be
26 permitted.

27 Policy 11Q-2: Private and/or public enjoyment of natural shoreline areas
28 should be encouraged and facilitated through low intensity
29 recreational, scientific, historical, cultural, and educational
30 research uses; provided, that no significant ecological impact on
31 the area will result.

32 Policy 11Q-3: Agricultural and forestry uses of a very low intensity nature may
33 be consistent with the natural shoreline area when such use is
34 subject to appropriate limitations or conditions to assure that
35 the use does not expand or alter practices in a manner
36 inconsistent with the purpose of the designation.

37 Policy 11Q-4: The following uses should not be permitted in the natural
38 shoreline area:
39 1. Commercial uses.
40 2. Industrial uses.
41 3. Non-water-oriented recreation.
42 4. Roads, utility corridors, and parking areas that can be
43 located outside of natural shoreline areas.

1 **Aquatic Shoreline Area**

2 **Purpose**

3 The purpose of the aquatic shoreline area is to protect, restore, and manage the
4 characteristics and resources of the areas waterward of the ordinary high water
5 mark.

6 **Designation Criteria**

7 The aquatic shoreline area is defined as the area waterward of the ordinary high
8 water mark of all streams, rivers, lakes, and marine waterbodies , constituting
9 shorelines of the state together with their underlying lands and their water column.

10 **Policies**

11 Development within aquatic shoreline areas shall be consistent with the following
12 policies:

13 Policy 11R-1: New over-water structures should only be permitted for water-
14 dependent uses, public access, or ecological restoration. The
15 size of new over-water structures should be limited to the
16 minimum necessary to support the structure’s intended use. In
17 order to reduce the impacts of shoreline development and
18 increase effective use of water resources, multiple use of over-
19 water facilities should be encouraged.

20 Policy 11R-2: All developments and uses on navigable waters or their beds
21 should be located and designed to minimize interference with
22 surface navigation, to consider impacts to public views, and to
23 allow for the safe, unobstructed passage of fish and wildlife,
24 particularly those species dependent on migration.

25 Policy 11R-3: Uses that adversely impact the ecological functions of critical
26 saltwater and freshwater habitats should not be permitted
27 except where necessary to achieve the objectives of RCW
28 90.58.020, and then only when all potential impacts are
29 mitigated as necessary to assure maintenance of shoreline
30 ecological functions and processes.

31 Policy 11R-4: Shoreline uses and modifications should be designed and
32 managed to prevent degradation of water quality and alteration
33 of natural conditions.

34 **Cherry Point Management Area**

35 **Purpose**

36 Washington State natural resource agencies and Whatcom County have identified
37 certain portions of the Cherry Point management area as providing herring
38 spawning habitat and other key habitat characteristics that warrant special
39 consideration due to their importance to regional fisheries and other elements of
40 the aquatic environment. The purpose of the Cherry Point management area is to

1 provide a regulatory framework that recognizes and balances the special port,
2 industrial, and natural resource needs associated with the development of this
3 marine resource.

4 **Designation Criteria**

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

12 **Policies**

13 Policies applicable to the Cherry Point Management Area are found in the Shoreline
14 Use and Modifications Policies section of this chapter; applicable regulations are
15 found in WCC Title 23.

16 **Shorelines of Statewide Significance**

17 In accordance with RCW 90.58.020, the following management and administrative
18 policies are adopted for all shorelines of statewide significance in unincorporated
19 Whatcom County, as defined in RCW 90.58.030(2)(e) and identified in WCC
20 23.2.060. Consistent with the policy contained in RCW 90.58.020, preference shall
21 be given to the uses that are consistent with the statewide interest in such
22 shorelines. In the following order or preference, these are uses that:

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

31 Uses that are not consistent with these policies should not be permitted on
32 shorelines of statewide significance.

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

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

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 Policy 11S-2: The Washington Departments of Fish and Wildlife and Ecology,
2 the Lummi Nation, the Nooksack Tribe, and other resources
3 agencies should be consulted for development proposals that
4 could affect anadromous fisheries.
- 5 Policy 11S-3: Where commercial timber cutting takes place pursuant to WCC
6 23.40.110 and RCW 90.58.150, reforestation should take place
7 as soon as possible.
- 8 Policy 11S-4: Activities that use shoreline resources on a sustained yield or
9 non-consuming basis and that are compatible with other
10 appropriate uses should be given priority over uses not meeting
11 these criteria.
- 12 Policy 11S-5: The range of options for shoreline use should be preserved to
13 the maximum possible extent for succeeding generations.
14 Development that consumes valuable, scarce, sensitive, or
15 irreplaceable natural resources should be protected to the
16 maximum extent feasible and should not be permitted if
17 alternative sites are available.
- 18 Policy 11S-6: Potential short-term economic gains or convenience should be
19 measured against potential long-term and/or costly impairment
20 of natural features.
- 21 Policy 11S-7: Protection or enhancement of aesthetic values should be
22 actively promoted in design review of new or expanding
23 development.
- 24 Policy 11S-8: Resources and ecological systems of shorelines of statewide
25 significance should be protected. Shorelands and submerged
26 lands should be protected to accommodate current and
27 projected demand for economic resources of statewide
28 importance, such as commercial shellfish beds.
- 29 Policy 11S-9: Erosion and sedimentation from development sites should be
30 controlled to minimize adverse impacts on ecosystem processes.
31 If site conditions preclude effective erosion and sediment
32 control, excavations, land clearing, or other activities likely to
33 result in significant erosion should be severely limited.
- 34 Policy 11S-10: Public access development in extremely sensitive areas should
35 be restricted or prohibited. All forms of recreation or access
36 development should be designed to protect the resource base
37 upon which such uses in general depend.
- 38 Policy 11S-11: Public and private developments should be encouraged to
39 provide trails, viewpoints, water access points and shoreline-
40 related recreation opportunities whenever possible. Such
41 development is recognized as a high priority use.

- 1 Policy 11S-12: Development not requiring a shoreline location should be
- 2 located inland so that lawful public enjoyment of shorelines is
- 3 preserved.
- 4 Policy 11S-13: Lodging and related facilities should be located inland and
- 5 provide for appropriate means of access to the shoreline.

6 **General Policies**

7 The following general policies apply to all use and development activities on
8 shorelines.

9 **Land Use**

10 Policy 11T-1: Single-family residences should be given preference for location
11 on shorelines in those limited instances when an alteration of
12 the shorelines is authorized (RCW 90.58.020).

13 Policy 11T-2: Shoreline uses that are water-dependent or water-related
14 should be given preference (RCW 90.58.020). Such uses should
15 be located, designed, and maintained in a manner that
16 minimizes adverse impacts to shoreline ecological functions
17 and/or processes. Non-water-oriented development may be
18 allowed; provided, that existing water-dependent uses are not
19 displaced and the future supply of sites for water-dependent or
20 water-related uses is not compromised.

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

25 **Ecological Protection and Critical Areas**

26 Policy 11U-1: Shoreline use and development should be carried out in a
27 manner that prevents or mitigates adverse impacts so that the
28 resulting ecological condition does not become worse than the
29 current condition. This means assuring no net loss of ecological
30 functions and processes and protecting critical areas designated
31 in WCC Chapter 16.16, in a manner consistent with all relevant
32 constitutional and other legal limitations on the regulation of
33 private property. Permitted uses shall be designed and
34 conducted to minimize, insofar as practical, any resultant
35 damage to the ecology and environment (RCW 90.58.020).
36 Shoreline ecological functions that should be protected include,
37 but are not limited to, fish and wildlife habitat, food chain
38 support, and water temperature maintenance. Shoreline
39 processes that should be protected include, but are not limited
40 to, water flow; littoral drift; erosion and accretion; infiltration;
41 ground water recharge and discharge; sediment delivery,
42 transport, and storage; large woody debris recruitment; organic

- 1 matter input; nutrient and pathogen removal; and stream
- 2 channel formation/maintenance.
- 3 Policy 11U-2: In assessing the potential for net loss of ecological functions or
- 4 processes, project-specific and cumulative impacts should be
- 5 considered.
- 6 Policy 11U-3: Development standards for density, frontage, setbacks,
- 7 impervious surface, shoreline stabilization, vegetation
- 8 conservation, buffers, critical areas, and water quality should
- 9 protect existing shoreline ecological functions and processes.
- 10 During permit review, the administrator should consider the
- 11 expected impacts associated with proposed shoreline
- 12 development when assessing compliance with this policy.

13 **Water Quality and Quantity**

- 14 Policy 11V-1: The location, construction, operation, and maintenance of all
- 15 shoreline uses and developments should maintain the quantity
- 16 and maintain or enhance the quality of surface and groundwater
- 17 over the long term.
- 18 Policy 11V-2: Shoreline use and development should minimize the need for
- 19 chemical fertilizers, pesticides, or other similar chemical
- 20 treatments to prevent contamination of surface and ground
- 21 water and/or soils, and adverse effects on shoreline ecological
- 22 functions and values.
- 23 Policy 11V-3: Appropriate buffers along all wetlands, streams, lakes, and
- 24 marine water bodies should be provided and maintained in a
- 25 manner that avoids the need for chemical treatment.

26 **Views and Aesthetics**

- 27 Policy 11W-1: Shoreline use and development activities should be designed
- 28 and operated to minimize obstructions of the public’s visual
- 29 access to the water and shoreline.
- 30 Policy 11W-2: Shoreline use and development should not significantly detract
- 31 from shoreline scenic and aesthetic qualities that are derived
- 32 from natural or cultural features, such as shoreforms, vegetative
- 33 cover and historic sites/structures.
- 34 Policy 11W-3: Aesthetic objectives should be implemented through regulations
- 35 and criteria for site planning, maximum height, setbacks, siting
- 36 of buildings and accessories, screening, vegetation
- 37 conservation, architectural standards, sign control regulations,
- 38 appropriate development siting, designation of view corridors,
- 39 and maintenance of natural vegetative buffers.
- 40 Policy 11W-4: To protect shoreline ecological functions and aesthetics,
- 41 vegetation conservation should be preferred over the creation or
- 42 maintenance of views from shoreline properties. Clearing,

1 thinning, and/or limbing for limited view corridors should only
2 be allowed where it does not adversely impact ecological and/or
3 aesthetic values, and/or slope stability.

4 **Vegetation Conservation**

5 **Cultural Resources**

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

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

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

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

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

30 Policy 11X-3: Owners of property containing cultural resources are
31 encouraged to make development plans known well in advance
32 of application, so that appropriate agencies such as the Lummi
33 Nation, Nooksack Tribe, Washington State Department of
34 Archaeology and Historic Preservation, and others may have
35 adequate time to assess the site and make arrangements to
36 preserve cultural values as applicable.

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

41 Policy 11X-5: Development on sites containing cultural resources should be
42 planned and carried out so as to prevent impacts to the

1 resource. Impacts to neighboring properties and other shore
2 uses should be limited to temporary or reasonable levels.

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

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

11 Policy 11X-8: The County shall consult with DAHP and affected Native
12 American tribes as appropriate in implementing the cultural
13 resource goals, objectives, policies, and regulations of this
14 program.

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

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

38 **Public Access**

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

- 1 Policy 11Y-2: Physical or visual access to shorelines should be incorporated in
- 2 all new development when the development would either
- 3 generate a demand for one or more forms of such access,
- 4 and/or would impair existing legal access opportunities or rights.
- 5 As required by the governing principles, all such conditions
- 6 should be consistent with all relevant constitutional and other
- 7 legal limitations on regulation of private property.

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

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

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

- 19 Policy 11Y-7: Shoreline development by public entities, such as local
- 20 governments, port districts, state agencies, and public utility
- 21 districts, should provide public access measures as part of each
- 22 development project, unless such access is shown to be
- 23 incompatible due to reasons of safety, security, or impact to the
- 24 shoreline.

25 **Site Planning**

- 26 Policy 11Z-1: Development and use should be designed in a manner that
- 27 directs land alteration to the least sensitive portions of the site
- 28 to maximize vegetation conservation; minimize impervious
- 29 surfaces and runoff; protect riparian, nearshore and wetland
- 30 habitats; protect wildlife and habitats; protect archaeological,
- 31 historic, and cultural resources; and preserve aesthetic values.
- 32 This may be accomplished by minimizing the project footprint,
- 33 the use of clustering, and other appropriate design approaches.

- 34 Policy 11Z-2: To maintain shoreline ecological functions and processes, low
- 35 impact and sustainable development practices such as rain
- 36 gardens and pervious surfacing methods including, but not
- 37 limited to, porous paving blocks, porous concrete, and other
- 38 similar materials, should be incorporated in developments where
- 39 site conditions allow. Topographic modification, vegetation
- 40 clearing, use of impervious surfaces, and alteration of natural
- 41 drainage or other features should be limited to the minimum
- 42 necessary to accommodate approved uses and development. An
- 43 engineering geologist should be consulted prior to using
- 44 infiltration practices on shore bluffs.

- 1 Policy 11Z-3: Accessory development or use that does not require a shoreline
2 location should be located outside of shoreline jurisdiction unless
3 such development is required to serve approved water-oriented
4 uses and/or developments. When sited within shoreline
5 jurisdiction, uses and/or developments such as parking, service
6 buildings or areas, access roads, utilities, signs, and storage of
7 materials should be located inland away from the land/water
8 interface and landward of water-oriented developments and/or
9 other approved uses.
- 10 Policy 11Z-4: Development should be located, designed, and managed so that
11 impacts on shoreline or upland uses are minimized through bulk
12 and scale restrictions, setbacks, buffers, and control of
13 proximity impacts such as noise or light and glare.
- 14 Policy 11Z-5: Shoreline uses should not deprive other uses of reasonable
15 access to navigable waters. Public recreation activities such as
16 fishing, clam digging, swimming, boating, wading, and other
17 water-related recreation should be preserved and enhanced.
18 The rights of treaty tribes to resources within their usual and
19 accustomed areas should be accommodated.

20 **Climate Change/Sea Level Rise**

- 21 Policy 11AA-1: Coordinate with Tribal, Federal, State, and local agencies to
22 address issues related to climate change and sea level rise as
23 related to shoreline management.
- 24 Policy 11AA-2: Whatcom County should plan and prepare for the likely impacts
25 of climate change on County-owned facilities, infrastructure, and
26 natural resources and ensure that projects for major
27 maintenance or replacement of utilities, roads, and other public
28 infrastructure consider the impacts of sea-level rise in the
29 location, design, and operation of the projects.
- 30 Policy 11AA-3: Whatcom County should strive to increase resident and business
31 resiliency to the anticipated impacts of climate change by
32 implementing land use regulations based on best available
33 science, such as sea level rise, changes in rainfall patterns,
34 changes in flood volumes and frequencies, and changes in
35 average and extreme temperatures.
- 36 Policy 11AA-4: Habitat protection and restoration projects in shoreline
37 jurisdiction should consider implications of sea-level rise and
38 other climate change impacts to promote resiliency of habitats
39 and species. Those that promote climate change and sea-level
40 rise resiliency should be considered priority actions.
- 41 Policy 11AA-5: Whatcom County should monitor the impacts of climate change
42 on Whatcom County’s shorelands, the shoreline master
43 program’s ability to adapt to sea level rise and other aspects of
44 climate change at least every periodic update, and revise the

1 shoreline master program as needed. Whatcom County should
2 periodically assess the best available sea level rise projections
3 and other science related to climate change within shoreline
4 jurisdiction and incorporate them into future program updates,
5 as relevant.

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

11 Policy 11AA-7: Whatcom County should evaluate opportunities to protect
12 shoreline investments and infrastructure from the impacts of
13 climate change, as necessary and feasible. Specifically, the
14 County should maintain shoreline protection and erosion control
15 by:

- 16 • Facilitating the installation and maintenance of native
- 17 vegetation along appropriate areas of shoreline;
- 18 • Revisiting development policies with the objective of
- 19 providing additional shoreline buffer area between developed
- 20 areas and the shoreline; and
- 21 • Only consider structural shoreline stabilization structures
- 22 when alternative options are unavailable.

23 **Shoreline Use and Modification Policies**

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

26 **Shoreline Bulk Provisions – Buffers, Setbacks, Height, Open Space and**
27 **Impervious Surface Coverage**

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

33 **Agriculture**

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

40 Policy 11BB-2: Agricultural uses and development in support of agricultural
41 uses should be conducted in such a manner as to assure no net
42 loss of shoreline ecological functions and processes and avoid

1 substantial adverse impacts on other shoreline resources and
2 values.

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

5 **Aquaculture**

6 Policy 11CC-1: Aquaculture is a water-dependent use and, when consistent with
7 control of pollution, avoidance of adverse impacts to the
8 environment, and preservation of habitat for resident native
9 species, is a preferred use of the shoreline (WAC 173-26-
10 241(3)(b)).

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

21 Policy 11CC-3: Preference should be given to those forms of aquaculture that
22 involve lesser environmental and visual impacts and lesser
23 impacts to native plant and animal species. In general, projects
24 that require submerged, intertidal, or no structures are
25 preferred over those that involve substantial floating structures.
26 Projects that involve little or no substrate modification are
27 preferred over those that involve substantial modification.
28 Projects that involve little or no supplemental food sources,
29 pesticides, herbicides, or antibiotic application are preferred
30 over those that involve such practices.

31 Policy 11CC-4: Aquaculture activities should be designed, located and operated
32 in a manner that supports long-term beneficial use of the
33 shoreline and protects and maintains shoreline ecological
34 functions and processes. Aquaculture should not be permitted
35 where it would result in a net loss of shoreline ecological
36 functions; adversely affect the quality or extent of habitat for
37 native species, including eelgrass, kelp, and other macroalgae;
38 adversely impact other habitat conservation areas; or interfere
39 with navigation or other water-dependent uses.

40 Policy 11CC-5: Aquaculture that involves significant risk of cumulative adverse
41 effects on water quality, sediment quality, benthic and pelagic
42 organisms, and/or wild fish populations through potential
43 contribution of antibiotic resistant bacteria, or escapement of

- 1 nonnative species, or other adverse effects on ESA-listed
 2 species should not be permitted.
- 3 Policy 11CC-6: The County should actively seek substantive comment on any
 4 shoreline permit application for aquaculture from all appropriate
 5 federal, state, and local agencies; the Lummi Nation, Nooksack
 6 Tribe, and other affected tribes; and the general public
 7 regarding potential adverse impacts. Comments of nearby
 8 residents or property owners directly affected by a proposal
 9 should be considered and evaluated, especially in regard to use
 10 compatibility and aesthetics.
- 11 Policy 11CC-7: The rights of treaty tribes to aquatic resources within their usual
 12 and accustomed areas should be addressed through the permit
 13 review process. Direct coordination between the
 14 applicant/proponent and the tribe should be encouraged.
- 15 Policy 11CC-8: Consideration should be given to both the potential beneficial
 16 impacts and potential adverse impacts that aquaculture
 17 development might have on the physical environment; on other
 18 existing and approved land and water uses, including
 19 navigation; and on the aesthetic qualities of a project area.
- 20 Policy 11CC-9: Legally established aquaculture enterprises, including authorized
 21 experimental projects, should be protected from incompatible
 22 uses that may seek to locate nearby. Use or developments that
 23 have a high probability of damaging or destroying an existing
 24 aquaculture operation may be denied.
- 25 Policy 11CC-10: Experimental aquaculture projects in waterbodies should be
 26 limited in scale and should be approved for a limited period of
 27 time. Experimental aquaculture means an aquaculture activity
 28 that uses methods or technologies that are unprecedented or
 29 unproven in the state of Washington.

30 **Marinas and Launch Ramps**

31 Marina and launch ramp development is subject to the following policies. Moorage
 32 structures serving four or fewer users are only subject to the policies in Moorage
 33 Structures.

- 34 Policy 11DD-1: Boating facilities, including marinas and launch ramps, are
 35 water-dependent uses and should be given priority for shoreline
 36 location. Boating facilities should also contribute to public access
 37 and enjoyment of waters of the state. Shorelines particularly
 38 suitable for marinas and launch ramps are limited, and should
 39 be identified and reserved to prevent irreversible commitment
 40 for other uses having less stringent site requirements.
- 41 Policy 11DD-2: Regional needs for marina and boat launch facilities should be
 42 carefully considered in reviewing new proposals as well as in
 43 allocating shorelines for such development. Such facilities

1 should be coordinated with park and recreation plans and,
 2 where feasible, collocated with port or other compatible water-
 3 dependent uses. Review of such facilities should be coordinated
 4 with recreation providers, including cities, adjacent counties,
 5 port districts, the Whatcom County Parks and Recreation
 6 department, the Washington State Parks and Recreation
 7 Commission, and the Washington State Department of Natural
 8 Resources to avoid unnecessary duplication and to efficiently
 9 provide recreational resources while minimizing adverse impacts
 10 to shoreline ecological functions and processes.

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

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

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

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

31 Policy 11DD-7: Boating facilities should be located and designed to avoid
 32 adverse effects upon coastal, riverine, and nearshore processes
 33 such as erosion, littoral or riparian transport, and accretion, and
 34 should, where feasible, enhance degraded, scarce, and/or
 35 valuable shore features including accretion shoreforms.

36 Policy 11DD-8: Launch ramps are preferred over marinas on accretion shores
 37 because associated impacts are often reversible and such
 38 structures will not normally interfere with littoral drift and
 39 accretion unless offshore defense structures or dredging are also
 40 required.

41 Policy 11DD-9: Nonregulatory methods to protect, enhance, and restore
 42 shoreline ecological functions and processes and other shoreline
 43 resources should be encouraged during the design,
 44 development, and operation of boating facilities. Nonregulatory
 45 methods may include public facility and resource planning,

- 1 education, voluntary protection and enhancement projects, or
- 2 incentive programs.
- 3 Policy 11DD-10: Boating facilities should be located, designed, and operated so
- 4 that other appropriate water-dependent uses are not adversely
- 5 affected.
- 6 Policy 11DD-11: Location and design of boating facilities should not unduly
- 7 obstruct navigable waters and should avoid adverse effects to
- 8 recreational opportunities such as fishing, shellfish gathering,
- 9 pleasure boating, commercial aquaculture, swimming, beach
- 10 walking, picnicking, and shoreline viewing.
- 11 Policy 11DD-12: Boating facilities should be located, designed, constructed,
- 12 maintained, and operated to avoid adverse proximity impacts
- 13 such as noise, light and glare; aesthetic impacts to adjacent
- 14 land uses; and impacts to public visual access to the shoreline.
- 15 Policy 11DD-13: Live-aboards should be regulated so as to prevent adverse
- 16 impacts to public health and safety.

17 **Commercial Use**

- 18 Policy 11EE-1: In securing shoreline locations for commercial uses, preference
- 19 should be given first to water-dependent commercial uses, then
- 20 to water-related and water-enjoyment commercial uses.
- 21 Policy 11EE-2: Restoration of impaired shoreline ecological functions and
- 22 processes should be encouraged as part of commercial
- 23 development.
- 24 Policy 11EE-3: Commercial development should ensure visual compatibility with
- 25 adjacent noncommercial properties.
- 26 Policy 11EE-4: Commercial uses located in the shoreline should provide public
- 27 access in accordance with constitutional or other legal
- 28 limitations unless such improvements are demonstrated to be
- 29 infeasible or present hazards to life and property.

30 **Dredging**

- 31 Policy 11FF-1: Dredging should be permitted for water-dependent uses of
- 32 economic importance to the region and/or essential public
- 33 facilities only when necessary and when alternatives are
- 34 infeasible or less consistent with the SMP.
- 35 Policy 11FF-2: Dredging to provide water-oriented recreation should not be
- 36 permitted.
- 37 Policy 11FF-3: Minor dredging as part of ecological restoration or enhancement,
- 38 beach enhancement, public access, or public recreation should
- 39 be permitted if consistent with the SMP.

- 1 Policy 11FF-4: New development should be sited and designed to avoid or,
2 where avoidance is not possible, to minimize the need for new
3 maintenance dredging.
- 4 Policy 11FF-5: Dredging of bottom materials for the primary purpose of
5 obtaining material for landfill, construction, or beach
6 enhancement should not be permitted.
- 7 Policy 11FF-6: Spoil disposal on land away from the shoreline is generally
8 preferred over open water disposal.
- 9 Policy 11FF-7: Long-term cooperative management programs that rely
10 primarily on natural processes and involve landowners and
11 applicable local, state, and federal agencies and tribes should be
12 pursued to prevent or minimize conditions which make dredging
13 necessary.

14 **Flood Hazard Reduction and Instream Structures**

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

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

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

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

34 **Forest Practices**

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

40 Policy 11HH-2: Forest practices should maintain high levels of water quality, as
41 well as surface and groundwater movement patterns.

- 1 Policy 11HH-3: Forest practices should minimize damage to wetlands, fish and
- 2 wildlife species, and habitats, especially aquatic habitats.
- 3 Policy 11HH-4: Forest practices should maintain or improve the quality of soils
- 4 and minimize erosion.
- 5 Policy 11HH-5: Where slopes are extremely steep or soils are subject to sliding,
- 6 rapid erosion, or high water table, special practices should be
- 7 employed to minimize damage to shoreland and water features
- 8 and adjacent properties.

9 **Industrial and Port Development**

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

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

12 deepwater harbors with access to adequate rail, highway, and

13 utility systems should be reserved for water-dependent or

14 water-related industrial and port development.

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

16 dependent and water-related uses, industrial or port

17 development at deepwater sites should be limited to those uses

18 that produce the greatest long-term economic base. Industrial

19 and port development that is consistent with the SMP should be

20 protected from encroachment or interference by incompatible

21 uses with less stringent siting requirements, such as residential

22 or commercial uses. Mixed use development, including non-

23 water-dependent uses, should only be allowed when they

24 include and support water-dependent uses.

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

26 in reviewing new port proposals and in allocating shorelines for

27 such development. Such reviews or allocations should be

28 coordinated with port districts, adjacent counties and cities, and

29 the state. Existing, officially designated State Harbor Areas

30 should be used for new port development to the maximum

31 extent whenever possible.

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

33 duplicative facilities and reduce adverse impacts. Multiple use

34 should be implemented in the following manner:

35 a. Cooperative use of piers, cargo handling, storage, parking

36 and other accessory facilities among private or public entities

37 should be required in industrial or port facilities whenever

38 feasible. New facilities for water-dependent uses should be

39 allowed only after assessment of the potential for shared use

40 of existing facilities.

41 b. Industrial and port developments should provide

42 opportunities for physical and/or visual public shoreline

43 access in accordance with the public access policies,

1 including recreational use of undeveloped shorelines not
2 needed for port or industry operations; provided, that such
3 uses are safely compatible with facility operations.

4 Policy 11II-5: Industrial and port development in the shoreline should be
5 located and designed to avoid significant adverse impacts to
6 other shoreline uses, resources, and values, including shoreline
7 geomorphic processes, water quality, fish and wildlife habitat,
8 commercial aquaculture, and the aquatic food chain.

9 Policy 11II-6: Restoration of impaired shoreline ecological functions and
10 processes should be encouraged as part of industrial and port
11 development.

12 **Cherry Point Management Area**

13 Policy 11JJ-1: Development of the Cherry Point major port/industrial urban
14 growth area will accommodate uses that require marine access
15 for marine cargo transfer.

16 a. Water-dependent terminal facilities are encouraged as the
17 preferred use in the Cherry Point management area.

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

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

27 • Act conservatively in land use matters at Cherry Point
28 to prevent further harm to habitat important to the
29 Cherry Point herring stock and Southern Resident
30 Orcas;

31 • Optimally implement the Shoreline Master Program
32 policy regarding shorelines of statewide significance
33 per WCC 23.40;

34 • Encourage the continued County use of best available
35 science;

36 • Support and remain consistent with the state
37 Department of Natural Resources’ withdrawal of
38 Cherry Point tidelands and bedlands from the general
39 leasing program and the species recovery goals of the
40 Cherry Point Aquatic Reserve designation and
41 Management Plan;

42 • Recognize federal actions upholding treaty rights;

- 1 Policy 11JJ-6: Aesthetics. All development should be designed to avoid or
2 minimize negative visual impacts on the scenic character of the
3 area and to ensure visual compatibility with adjacent
4 nonindustrial zoned properties.
- 5 Policy 11JJ-7: Site Development. All development should be constructed and
6 operated in a manner that, while permitting water-dependent
7 uses, also protects shoreline resources, their ecological
8 functions and processes, and that incorporates the following:
- 9 a. Low impact development approaches to avoid or minimize
10 adverse impact to topography, vegetation, water quality, fish
11 and wildlife habitat, and other natural site conditions;
- 12 b. Adequate temporary and permanent management measures
13 to control erosion and sediment impacts during construction
14 and operation; and
- 15 c. Adequate stormwater management facilities.

16 **Fill and Excavation**

- 17 Policy 11KK-1: Landfill and excavation should only be permitted to the
18 minimum extent necessary to accommodate an approved
19 shoreline use or development and with assurance of no net loss
20 of shoreline ecological functions and processes. Enhancement
21 and voluntary restoration of landforms and habitat are
22 encouraged.
- 23 Policy 11KK-2: Landfill in waterbodies, floodways, and/or wetlands should not
24 be permitted for creation of new uplands, unless it is part of an
25 approved ecological restoration activity. Landfill should be
26 permitted in limited instances to restore uplands where recent
27 erosion has rapidly reduced upland area, to build beaches and
28 protective berms for shore stabilization or recreation, to restore
29 or enhance degraded shoreline ecological functions and
30 processes, or to moderately elevate low uplands to make such
31 uplands more suitable for purposes consistent with the SMP.
- 32 Policy 11KK-3: Fill should not be allowed where shore stabilization works would
33 be required to maintain the materials placed.
- 34 Policy 11KK-4: Landfills and excavation should be located and developed so
35 that water quality, hydrology, and runoff patterns are not
36 altered.
- 37 Policy 11KK-5: The predicted economic benefits of landfills and excavation
38 should be weighed against long-term cumulative impacts on
39 ecological processes and functions.

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

33 **Moorage Structures**

34 Moorage in shoreline areas are subject to the following policies. Moorage structures
35 serving more than four users and boat launching facilities are also subject to the
36 policies in Marinas and Launch Ramps.

- 37 Policy 11MM-1: Moorage associated with a single-family residence is considered
38 a water-dependent use; provided, that it is designed and used
39 as a facility to access watercraft, and other moorage facilities
40 are not available or feasible. Moorage for water-related and
41 water-enjoyment uses or shared moorage for multifamily use
42 should be allowed as part of a mixed use development or where
43 it provides public access.

Exhibit B – Planning Commission Approved Draft

May 13, 2021

Chapter 11 – Shorelines

- 1 Policy 11MM-2: New moorage, excluding docks accessory to single-family
2 residences, should be permitted only when the applicant/
3 proponent has demonstrated that a specific need exists to
4 support the intended water-dependent or public access use.
- 5 Policy 11MM-3: As an alternative to continued proliferation of individual private
6 moorage, mooring buoys are preferred over docks or floats.
7 Shared moorage facilities are preferred over single-user
8 moorage where feasible, especially where water use conflicts
9 exist or are predictable. New subdivisions of more than two lots
10 and new multifamily development of more than two dwelling
11 units should provide shared moorage.
- 12 Policy 11MM-5: Moorage should be spaced and oriented in a manner that
13 minimizes hazards and obstructions to public navigation rights
14 and corollary rights thereto such as, but not limited to, fishing,
15 swimming, and pleasure boating, as well as private riparian
16 rights of adjacent landowners.
- 17 Policy 11MM-6: Moorage should be restricted to the minimum size necessary to
18 meet the needs of the proposed use. The size of piers and docks
19 should be no greater than that required for safety and
20 practicality for the primary use.
- 21 Policy 11MM-7: Pile supports are preferred over fills because piles do not
22 displace water surface and intertidal or aquatic habitat and are
23 removable and thus more flexible in terms of long-term use
24 patterns. Floats may be less desirable than pile structures where
25 aquatic habitat or littoral drift are significant.
- 26 Policy 11MM-8: The use of buoys for small craft moorage is preferred over pile
27 or float structures because of lesser long-term impact on shore
28 features and users; moorage buoys should be placed as close to
29 shore as possible to minimize obstruction to navigation.
- 30 Policy 11MM-9: Shoreline resources and water quality should be protected from
31 overuse by boaters living on vessels (live boards). Boaters living
32 on vessels are restricted to established marinas with facilities to
33 address waste handling and other sanitary services.
- 34 Policy 11MM-10: Vessels should be restricted from extended mooring on waters
35 of the state unless authorization is obtained from the DNR and
36 impacts to navigation and public access are mitigated.
- 37 Policy 11MM-11: Piers and docks should be constructed of materials that will not
38 adversely affect water quality or aquatic plants and animals in
39 the long term.
- 40 Policy 11MM-12: New pier and dock development should be designed so as not to
41 interfere with lawful public access to or use of shorelines.
42 Developers of new piers and shared moorage should be
43 encouraged to provide physical or visual public access to

1 shorelines whenever safe and compatible with the primary use
2 and shore features.

3 **Recreation**

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

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

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

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

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

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

41 Policy 11NN-7: Reasonable physical or visual public access to shorelines should
42 be provided and integrated with recreational developments in
43 accordance with WCC 23.30.070 (Public Access).

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

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

9 **Residential**

10 Policy 1100-1: Single-family residences are designated in [Chapter 90.58 RCW](#)
11 as a priority use in those limited instances when authorization is
12 given for alterations of the natural condition of shorelines of the
13 state.

14 Policy 1100-2: New residential development is encouraged to cluster dwelling
15 units together to reduce physical and visual impacts on
16 shorelines and to reduce utility and road costs. Planned unit
17 developments that include common open space and recreation
18 facilities, or a variety of dwelling sizes and types, are
19 encouraged at suitable locations as a preferable alternative to
20 extensive single-lot subdivisions on shorelines. Planned unit
21 developments ([Chapter 20.85 WCC](#)) may also include a limited
22 number of neighborhood commercial business uses where
23 consistent with the applicable zoning regulations.

24 Policy 1100-3: Allowable density of new residential development should comply
25 with applicable Comprehensive Plan goals and policies, zoning
26 restrictions, and shoreline area designation standards. The
27 density of development should be appropriate to local natural
28 and cultural features.

29 Policy 1100-4: Structures or development for uses accessory to residential use
30 should preserve shoreline open space, be visually and physically
31 compatible with adjacent cultural and shoreline features, be
32 reasonable in size and purpose, and result in no net loss of
33 shoreline ecological functions and processes.

34 Policy 1100-5: Buildings greater than 35 feet above average grade level that
35 will obstruct the views of a substantial number of residences on
36 areas adjoining such shorelines are limited by the SMA
37 ([RCW 90.58.320](#)) to those cases where the SMP does not
38 prohibit such development and then only when overriding
39 considerations of the public interest will be served. The SMP
40 provides opportunities for buildings greater than 35 feet in
41 height in limited areas where consistent with development
42 objectives and the goals and polices of this chapter.

- 1 Policy 1100-6: New residential development should be planned and built to
2 minimize the need for shoreline stabilization and flood hazard
3 reduction measures.
- 4 Policy 1100-7: Measures to conserve native vegetation along shorelines should
5 be required for all residential development. Vegetation
6 conservation may include avoidance or minimization of clearing
7 or grading, restoration of areas of native vegetation, and/or
8 control of invasive or nonnative vegetation.
- 9 Policy 1100-8: Whenever possible, nonregulatory methods to protect, enhance,
10 and restore shoreline ecological functions and other shoreline
11 resources should be encouraged for residential development.
12 Such methods may include resource management planning, low
13 impact development techniques, voluntary protection and
14 enhancement projects, education, or incentive programs.
- 15 Policy 1100-9: New multiunit residential development, including subdivision of
16 land for more than four parcels, should provide substantial
17 shore recreational opportunities for residents and the public,
18 unless public access is infeasible due to incompatible uses,
19 safety, impacts to shoreline ecology, or legal limitations.
20 Developments of four or fewer units should provide private
21 access to the shore for those living in the development (non-
22 public).
- 23 Policy 1100-10: Development should provide open space corridors between
24 structures, and along site boundaries, so as to provide space for
25 outdoor recreation, preserve views, and minimize use conflicts.
- 26 Policy 1100-11: Recreation-oriented residential development in the shoreline
27 should be located only where substantial recreation
28 opportunities are provided on site, and where nearby property
29 owners and other appropriate uses will not be adversely
30 affected.

31 **Restoration and Enhancement**

- 32 Policy 11PP-1: The SMP recognizes the importance of restoration of shoreline
33 ecological functions and processes and encourages cooperative
34 restoration efforts and programs between local, state, and
35 federal public agencies, tribes, nonprofit organizations, and
36 landowners to address shorelines with impaired ecological
37 functions and/or processes.
- 38 Policy 11PP-2: Restoration actions should restore shoreline ecological functions
39 and processes as well as shoreline features and should be
40 targeted towards meeting the needs of sensitive and/or locally
41 important plant, fish and wildlife species, the biological recovery
42 goals for early Chinook and bull trout populations, and other
43 salmonid species and populations.

- 1 Policy 11PP-3: Restoration should be integrated with other parallel natural
- 2 resource management efforts such as the WRIA 1 Salmonid
- 3 Recovery Plan and the WRIA 1 Watershed Management Plan.
- 4 Policy 11PP-4: Priority should be given to restoration actions that:
- 5 a. Create dynamic and sustainable ecosystems.
- 6 b. Restore connectivity between stream/river channels,
- 7 floodplains and hyporheic zones.
- 8 c. Restore natural channel-forming geomorphologic processes.
- 9 d. Mitigate peak flows and associated impacts caused by high
- 10 stormwater runoff volume.
- 11 e. Reduce sediment input to streams and rivers and associated
- 12 impacts.
- 13 f. Improve water quality.
- 14 g. Restore native vegetation and natural hydrologic functions of
- 15 degraded and former wetlands.
- 16 h. Replant native vegetation in riparian areas to restore
- 17 functions.
- 18 i. Restore nearshore ecosystem processes, such as sediment
- 19 transport and delivery and tidal currents that create and
- 20 sustain habitat.
- 21 j. Restore pocket estuaries that support salmon life histories,
- 22 including feeding and growth, refuge, osmoregulation, and
- 23 migration.
- 24 k. Address contamination along industrial shoreline regions.

25 **Shoreline Stabilization**

- 26 Policy 11QQ-1: Alternatives to structures for shore protection should be used
- 27 whenever possible. Such alternatives may include no action
- 28 (allow the shoreline to retreat naturally), increased building
- 29 setbacks, building relocation, drainage controls, and
- 30 bioengineering, including vegetative stabilization, and beach
- 31 enhancement.
- 32 Policy 11QQ-2: Single-family residences occupied prior to January 1, 1992, and
- 33 their appurtenant structures should be protected against
- 34 damage or loss caused by shoreline erosion; provided, that
- 35 measures to protect single-family residences should be designed
- 36 to minimize harm to the shoreline environment. After that date,
- 37 all new single-family residences and their appurtenant
- 38 structures should be built in a manner so as to not need
- 39 protective measures.

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- 1 Policy 11QQ-3: New or expanded structural shore stabilization for new primary
2 structures should be avoided. Instead, structures should be
3 located and designed to avoid the need for future shoreline
4 stabilization where feasible. Land subdivisions should be
5 designed to assure that future development of the created lots
6 will not require structural shore stabilization for reasonable
7 development to occur.
- 8 Policy 11QQ-3: New or expanded structural shore stabilization should only be
9 permitted where demonstrated to be necessary to protect an
10 existing primary structure that is in danger of loss or substantial
11 damage, and where mitigation of impacts would not cause a net
12 loss of shoreline ecological functions and processes.
- 13 Policy 11QQ-4: New or expanded structural shore stabilization for enhancement,
14 restoration, or hazardous substance remediation projects should
15 only be allowed when nonstructural measures, vegetation
16 planting, or on-site drainage improvements would be insufficient
17 to achieve enhancement, restoration, or remediation objectives.
- 18 Policy 11QQ-5: Shore stabilization on streams should be located and designed
19 to fit the physical character and hydraulic energy potential of a
20 specific shoreline reach, which may differ substantially from
21 adjacent reaches.
- 22 Policy 11QQ-6: Shore stabilization should not be permitted to unnecessarily
23 interfere with public access to public shorelines, nor with other
24 appropriate shoreline uses including, but not limited to,
25 navigation, seafood harvest, or recreation.
- 26 Policy 11QQ-7: Provisions for multiple use, restoration, and/or public shore
27 access should be incorporated into the location, design, and
28 maintenance of shore stabilization for public or quasi-public
29 developments whenever safely compatible with the primary
30 purpose. Shore stabilization on publicly owned shorelines should
31 not be allowed to decrease long-term public use of the
32 shoreline.
- 33 Policy 11QQ-8: Shore stabilization should be developed in a coordinated manner
34 among affected property owners and public agencies for a whole
35 drift sector (net shore-drift cell) or reach where feasible,
36 particularly those that cross jurisdictional boundaries, to address
37 ecological and geohydraulic processes, sediment conveyance
38 and beach management issues. Where beach erosion threatens
39 existing development, a comprehensive program for shoreline
40 management should be established.
- 41 Policy 11QQ-9: In addition to conformance with the regulations in the SMP,
42 nonregulatory methods to protect, enhance, and restore
43 shoreline ecological functions and other shoreline resources
44 should be encouraged for shore stabilization. Nonregulatory
45 methods may include public facility and resource planning,

1 technical assistance, education, voluntary enhancement and
2 restoration projects, or other incentive programs.

3 Policy 11QQ-10: Shore stabilization should be located, designed, and maintained
4 to protect and maintain shoreline ecological functions, ongoing
5 shore processes, and the integrity of shore features. Ongoing
6 stream, lake, or marine processes and the probable effects of
7 proposed shore stabilization on other properties and shore
8 features should be considered. Shore stabilization should not be
9 developed for the purpose of filling shorelines.

10 Policy 11QQ-11: Failing, harmful, unnecessary, or ineffective structures should
11 be removed, and shoreline ecological functions and processes
12 should be restored using nonstructural methods or less harmful
13 long-term stabilization measures.

14 Policy 11QQ-12: Structural shoreline stabilization measures should only be used
15 when more natural, flexible, sustainable, nonstructural methods
16 such as vegetative stabilization, beach enhancement, and
17 bioengineering have been determined infeasible. Alternatives for
18 shoreline stabilization should be based on the following
19 hierarchy of preference:

20 a. No action (allow the shoreline to retreat naturally), increase
21 building setbacks, and relocate structures.

22 b. Flexible defense works constructed of natural materials
23 including soft shore protection, bioengineering, including
24 beach enhancement, protective berms, or vegetative
25 stabilization.

26 c. Rigid works constructed of artificial materials such as riprap
27 or concrete.

28 Materials used for construction of shoreline stabilization should
29 be selected for long-term durability, ease of maintenance,
30 compatibility with local shore features, including aesthetic
31 values, and flexibility for future uses.

32 Policy 11QQ-13: Larger works such as jetties, breakwaters, weirs, or groin
33 systems should be permitted only for water-dependent uses
34 when the benefits to the region outweigh resource losses from
35 such works, and only where mitigated to provide no net loss of
36 shoreline ecological functions and processes.

37 Policy 11QQ-14: Alternative structures, including floating, portable or submerged
38 breakwater structures, or several smaller discontinuous
39 structures, should be considered where physical conditions
40 make such alternatives with less impact feasible.

41 **Signs**

42 Policy 11RR-1: Whatcom County recognizes the constitutional right for property
43 owners to communicate using signs on their property. These
44

- 1 policies are intended to ensure that signage within shoreline
2 areas is consistent with the purpose and intent of the SMA and
3 the SMP by addressing impacts to ecological functions, public
4 safety, and visual aesthetics.
- 5 Policy 11RR-2: Signs should be located, designed, and maintained to be visually
6 compatible with local shoreline scenery as seen from both land
7 and water, especially on shorelines of statewide significance.
- 8 Policy 11 RR-3: Sign location and design should not significantly impair shoreline
9 views.
- 10 Policy 11 RR-4: As a preferable alternative to continued proliferation of single-
11 purpose signs, communities, districts, and/or multiuse or
12 multitenant commercial developments are encouraged to erect
13 single, common use gateway signs to identify and give
14 directions to local premises and public facilities.
- 15 Policy 11 RR-5: Signs of a commercial or industrial nature should be limited to
16 those areas or premises to which the sign messages refer.
- 17 Policy 11 RR-6: Billboards and other off-premises signs are not water-
18 dependent, they reduce public enjoyment of or access to
19 shorelines, and they often lower values of nearby properties.
20 Except for approved community gateway or directional signs,
21 such signs should not be located on shorelines.
- 22 Policy 11 RR-7: Signs near scenic vistas and viewpoints should be restricted in
23 number, location, and height so that enjoyment of these limited
24 and scarce areas is not impaired.
- 25 Policy 11 RR-8: Freestanding signs should be located to avoid blocking scenic
26 views and be located on the landward side of public
27 transportation routes, which generally parallel the shoreline.
- 28 Policy 11 RR-9: To minimize negative visual impacts and obstructions to
29 shoreline access and use, low profile, on-premises wall signs are
30 strongly preferred over freestanding signs or off-premises wall
31 signs.
- 32 Policy 11 RR-10: Signs should be designed mainly to identify the premises and
33 nature of enterprise without unduly distracting uninterested
34 passersby. Moving or flashing signs should be prohibited on
35 shorelines.

36 **Transportation**

- 37 Policy 11SS-1: New public or private transportation facilities should be located
38 inland from the land/water interface, preferably out of the
39 shoreline, unless:
- 40 a. Perpendicular water crossings are required for access to
41 authorized uses consistent with the SMP; or

1 b. Facilities are primarily oriented to pedestrian and non-
2 motorized use and provide an opportunity for a substantial
3 number of people to enjoy shoreline areas, and are
4 consistent with the policies and regulations for ecological
5 protection in the General Policies section of this chapter and
6 in WCC 23.30.010 (Ecological Protection), respectively.

7 Policy 11SS-2: Transportation facilities should be located and designed to avoid
8 public recreation and public access areas and significant natural,
9 historic, archaeological, or cultural sites.

10 Policy 11SS-3: Parking is not a preferred use in shorelines and should only be
11 allowed to support authorized uses where no feasible
12 alternatives exist.

13 Policy 11SS-4: New or expanded public transportation facility route selection
14 and development should be coordinated with related local and
15 state government land use and circulation planning.

16 Policy 11SS-5: Transportation system route planning, acquisition, and design in
17 the shoreline should provide space wherever possible for
18 compatible multiple uses such as utility lines, pedestrian shore
19 access or viewpoints, or recreational trails.

20 Policy 11SS-6: Transportation system plans and transportation projects within
21 shorelines should provide safe trail space for non-motorized
22 traffic such as pedestrians, bicyclists, or equestrians. Space for
23 such uses should be required along roads on shorelines, where
24 appropriate, and should be considered when rights-of-way are
25 being vacated or abandoned.

26 Policy 11SS-7: Public access should be provided to shorelines where safe and
27 compatible with the primary and adjacent use, or should be
28 replaced where transportation development substantially
29 impairs lawful public access. Viewpoints, parking, trails, and
30 similar improvements should be considered for transportation
31 system projects in shoreline areas, especially where a need has
32 been identified.

33 Policy 11SS-8: Public transportation routes, particularly arterial highways and
34 railways, should be located, designed, and maintained to permit
35 safe enjoyment of adjacent shore areas and properties by other
36 appropriate uses such as recreation or residences. Vegetative
37 screening or other buffering should be considered.

38 **Utilities**

39 Policy 11TT-1: New public or private utilities should be located inland from the
40 land/water interface, preferably out of the shoreline jurisdiction,
41 unless:

42 a. Perpendicular water crossings are unavoidable; or

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