

Ordinance No. 01 - 2016

AN ORDINANCE REPEALING SECTIONS 18.50.010 - 18.50.390 OF CHAPTER 18.50 SJCC AND AMENDING OFFICIAL COMPREHENSIVE PLAN LAND USE AND SHORELINE MAPS; ADOPTING NEW SHORELINE MASTER PROGRAM REGULATIONS AND A SHORELINE RESTORATION PLAN; AND AMENDING SECTION B, ELEMENT 3 OF THE COMPREHENSIVE PLAN AND CHAPTERS 18.20 AND 18.80 SJCC

BACKGROUND

- A.** San Juan County first adopted a Shoreline Master Program (SMP) in 1976. The County's last comprehensive SMP update was adopted in Ordinance 02-1998.
- B.** Revised Code of Washington (RCW) Chapter 90.58 is the Shoreline Management Act (SMA) and RCW 90.58.080 establishes a timetable for local governments to complete a comprehensive update of their SMPs consistent with the state guidelines.
- C.** RCW 90.58.080 set the deadline for the completion of the County's SMP update as December 1, 2012.
- D.** Washington Administrative Code (WAC) Chapter 173-26 is the State's guidelines for the development of local jurisdictions SMPs.
- E.** After interviewing four different applicants, the Watershed Company was identified as the County's SMP consultant.
- F.** A series of 20 interviews with 69 people representing 43 different groups, organizations, businesses and other interests were held to discuss the SMP update and to identify areas of concern. The interviews were conducted over a three (3) day period: January 18, 2011 on Lopez Island; January 19, 2011 on Orcas Island; and January 20, 2011 on San Juan Island. Interviewees were provided with a topic guide prior to the interviews. A report summarizing the results of the interviews was published in March 2011.
- G.** Following the interviews and first round of public meetings, the County established an email list that grew to include almost 700 email addresses.
- H.** A public participation plan for the SMP update was developed and presented to the Council at public meetings where public comments were taken.
- The first public meeting was on January 25, 2011. Following direction from the Council, staff redrafted the public participation plan to include a table of SMP development steps, tentative completion dates, a Gantt chart and a description of the roles and responsibilities of the identified interested parties.
- The redrafted public participation plan was presented to the Council on March 1, 2011 and subsequently adopted by Resolution 10-2011.
- I.** The County identified the interested parties to the update and began notifying them of upcoming meetings and requesting their review following the publication of significant documents.

- 1 **J.** The first of three County wide public meetings to present and answer questions on the SMP
2 update process were advertised on February 9, 15, 16, 22, 23, 2011, and were held on
3 March 1, 2 and 3, 2011 on Lopez, Orcas and San Juan Islands. An additional meeting was
4 held during the afternoon of March 2, 2011 on Orcas Island for residents of non-ferry
5 served Islands. Approximately 115 people attended the summits in total, 49 from Lopez
6 Island, 28 on Orcas Island (plus another 4 at the daytime meeting for non-ferry served
7 islands) and 34 on San Juan Island.
- 8 **K.** The County published a request for statements of interest and qualifications for a Technical
9 Advisory Committee (TAC) which would be responsible for reviewing the Shoreline
10 Inventory and Characterization Report (I&C) developed by the Consultants in April, 2011.
11 Members of the County Council interviewed TAC applicants and appointed TAC members
12 in late May and early July, 2011. The TAC was sent copies of the draft I&C immediately.
13 Following the TAC's review, the first draft of the I&C was published online for public
14 review on September 7, 2011. Copies of the I&C were sent to the public libraries on San
15 Juan Island, Orcas Island, Shaw Island and Lopez Island as well as to the Waldron
16 Community Meeting on September 9, 2011. The County published requests for comments
17 in the Journal of the San Juans, The Islands Sounder, The Islands Weekly, on September
18 27, 28, October 4 and 5, 2011 as well as in the online news sources, the San Juan Islander
19 and the Island Guardian over the same period.
- 20 **L.** The County staffed an SMP information booth at San Juan Island, Orcas Island and Lopez
21 Island farmers markets. The booth provided residents and visitors an opportunity to
22 question staff and provide feedback. Advertisements announcing the dates the SMP
23 information would be on a given island were published in local newspapers and online on
24 June 1, 2011. The SMP information booth was at the Lopez Island farmers market on June
25 18, July 23, and August 13, 2011; at the Orcas Island farmers market on June 25, July 30,
26 and August 27, 2011; at the San Juan Island farmers market on June 11, and July 16,
27 2011. In addition, an SMP update information booth was staffed for the entirety of the
28 County Fair, August 19 and 20, 2011. Staff also attended a meeting to discuss the SMP
29 hosted by the Common Sense Alliance, a citizen property rights group, on September 16,
30 2011.
- 31 **M.** The County held a second round of meetings to present the I&C and gather feedback on
32 future visions of the shoreline on San Juan Island, Orcas Island and Lopez Island on
33 September 20, 21 and 22, 2011. To publicize the meetings, the County placed posters on
34 the Washington State Ferries serving the County in August 2011. Advertisements for the
35 second round of meetings in the Island Guardian.com and SanJuanIslander.com and in the
36 Journal of the San Juans, The Islands Sounder and The Islands Weekly began August 10
37 and were advertised prior to the meetings on August 31, September 6, September 7,
38 September 14, and September 21, 2011. On September 9, 2011, the County mailed
39 postcards announcing the dates of the meetings to every address in the County. About 199
40 people attended the meetings. Following the discussion of the I&C, the audience was
41 presented with a visual survey of different types of shoreline development. The survey
42 allowed members of the audience to 'vote' electronically on their preferred types of
43 shoreline development.

- 1 **N.** Over 300 comments from the TAC and the public regarding the I&C were provided to the
2 consultants and revisions were made to the document. Explicit responses to the public's
3 original comments and questions were included in the 2nd draft of the I&C.
- 4 **O.** On March 9, 2012, all of the County's taxpayers were sent a letter outlining the ongoing
5 SMP update and adoption process that included links to the revised I&C and additional
6 documents on the County's SMP update webpage as well as contact information for the
7 lead planner.
- 8 **P.** A second draft of the I&C was published on February 1, 2012. Explicit responses to the
9 public's original comments and questions were included in the second draft of the I&C.
10 Federal, state agencies and Native American nations were informed by email that the report
11 was available. Notices were posted to the email list and advertisements appeared in the
12 Journal of the San Juans, The Islands Sounder and Islands Weekly as well as online at the
13 Sanjuanislander.com and Islandguardian.com; on February 8, 14 and 28, 2012 announcing
14 the availability of the revised I&C report. An initial comment deadline was established as
15 March 15, 2012. This deadline was extended to April 30, 2012. Advertisements in the
16 Journal of the San Juans, Islands Sounder and Islands Weekly announcing the extended
17 deadline were published on March 7, April 3, and April 4, 2012.
- 18 **Q.** The County received over 100 property descriptions from county property owners that
19 were then mapped and scanned. The property descriptions were added to the I&C as an
20 appendix.
- 21 **R.** Citizens began questioning the methodologies used to analyze the data presented in the
22 I&C. Of particular concern was accounting for the interaction of shore form and ecological
23 functions. The County organized a public meeting so that data providers, such as
24 Washington Department of Fish and Wildlife, Washington Department of Natural
25 Resources (WDNR), Washington Department of Ecology (WDOE), Department of Parks
26 and Recreation, Native American nations, the Friends of the San Juans and the Technical
27 Advisory Committee could meet with the consultants to discuss the data used and its
28 presentation in the I&C. Meeting invitations were sent to all those who had expressed
29 concerns on April 4, 2012 and a notice announcing an April 27, 2012, workshop was sent
30 to the email listserv on April 12, 2012.
- 31 **S.** The third draft of the I&C was published on the County's SMP webpage on April 29, 2013.
32 It incorporated property owners' descriptions of their properties and addressed issues raised
33 by the TAC and other interested parties.
- 34 **T.** On July 9, 2012, a field trip for the public and County Council took place to show how the
35 proposed regulations would apply to two shoreline properties.
- 36 **U.** The Planning Commission held workshops to identify and discuss broad policy options and
37 provide direction for possible SMP amendments. These workshops were advertised on July
38 12, 2012. They were held on July 20, 2012, and continued to August 17, 2012, September
39 7, 2012, and September 21, 2012, and were video live streamed on the County's website.

- 1 **V.** The Department of Community Development held series of public ‘Open House’ meetings
2 to discuss the preliminary draft of the updated SMP on March 18, 19 and 20, 2013. A
3 meeting notice, detailing locations, times and subjects to be covered was mailed to all
4 property owners in the County (11,000+/- distinct addresses) on March 8, 2013. Advertise-
5 ments were published on March 13, 2013 in the Journal of the San Juans, The Islands
6 Sounder, the Islands Weekly, the San Juan Islander and the Island Guardian. A notice was
7 sent out to the SMP listserv announcing the open houses and availability of the draft SMP
8 on March 8, 2013. A total of 146 people attended the ‘Open Houses.’
- 9 **W.** On April 24, 2013, as required by WAC 173-26-100(5) notice was sent to DOE of the
10 County’s intent to update the existing SMP.
- 11 **X.** A combined public notice and State Environmental Protection Act (SEPA) Determination
12 of Non-significance was published on April 24, 2013. Notice was provided to federal, state
13 and local agencies in accordance with San Juan County Code 18.80.050. A notice was sent
14 to the email listserv on April 24, 2013 announcing the public hearing and providing
15 recipients with direct links to the documents to be considered.
- 16 **Y.** A 60 day notice of intent to amend the County’s Comprehensive Plan was submitted to the
17 Department of Commerce on April 24, 2013.
- 18 **Z.** On May 3, 2013, notice of the May 9, 2013, public hearing with the Planning Commission
19 and the publication of the third draft of the I&C also was sent to the local, state and federal
20 organizations which share shoreline jurisdiction and Native American nations.
- 21 **AA.** On May 9, 2013, the Planning Commission held a duly advertised public hearing on the
22 draft SMP goals and policies, regulations and maps. Eight people provided public
23 comment. The Planning Commission continued the public hearing to May 30, 2013, to
24 allow an additional opportunity for public comment.
- 25 **BB.** On May 30, 2013, the Planning Commission conducted a public hearing on the SMP goals
26 and policies, draft regulations and maps. The Planning Commission continued the public
27 hearing to May 31, 2013, for deliberations only.
- 28 **CC.** On May 31, 2013, the Planning Commission deliberated on the draft SMP and continued
29 the public hearing until June 21, 2013. The June 21, 2013, public hearing was cancelled
30 due to a lack of a Planning Commission quorum.
- 31 **DD.** Another combined hearing notice and SEPA Determination of Nonsignificance was
32 published on June 26, 2013, in the Journal of the San Juans, The Islands Sounder, The
33 Islands Weekly, the San Juan Islander and the Island Guardian. This notice announced the
34 availability of the proposed Shoreline Restoration Plan for public comment and Planning
35 Commission consideration.
- 36 **EE.** On July 19, 2013, the Planning Commission conducted another duly advertised public
37 hearing to hear testimony on the proposed SMP Restoration Plan and to finish
38 deliberations.

1 **FF.** At the July 19, 2013, public hearing the Planning Commission concluded its SMP
2 deliberations and adopted findings and recommendations regarding the proposed
3 Restoration Plan and amendments to the Comprehensive Plan, Unified Development Code
4 and Official Maps.

5 **GG.** On February 27, 2012; June 4, 2012; June 5, 2012; June 17, 2013; September 9, 2013;
6 September 30, 2013; October 14, 2013; November 4, 2013, November 18, 2013;
7 December 2, 2013; December 9, 2013; December 16, 2013; April 7, 2014; February 23,
8 2015; March 2, 2015; March 9, 2015; April 20, 2015; May 11, 2015; May 18, 2015; June 1,
9 2015; June 8, 2015; June 15, 2015; June 29, 2015; August 17, 2015; August 18,
10 2015; August 19, 2015; August 24, 2015; and August 25, 2015 September 14, 2015,
11 October 12, 2015, October 21, 2015, October 28, 2015, and October 29, 2015, and
12 November 9, 2015, the San Juan County Council was briefed as part of their regularly
13 scheduled public meetings.

14
15 **HH.** The San Juan County Council held a duly advertised public hearing on November 30,
16 2015, which was continued to December 2, 3, and 15, 2015, and into 2016.

17
18 **II.** The County Council also advertised and held special meetings on San Juan, Lopez and
19 Orcas Islands on January 12, 13, and 14, 2016. At these meetings, staff provided an
20 overview of and answered questions about the draft SMP.

21
22 **JJ.** The November 30, 2015, hearing was continued through 2016 at meetings on January 11,
23 12, 13, 14, 25 and 26, and February 1, 2, 5, 8, and 22, and March 8 and 15, 2016, in which
24 the County Council considered public comments and deliberated on SMP documents.

25
26 **KK.** On March 29, 2016, County Council held another duly advertised public hearing on the
27 draft SMP that incorporated Council's response to public comments received on the
28 November 2015 public hearing drafts of the proposed Restoration Plan and draft
29 amendments to the Comprehensive Plan, Unified Development Code and Official Maps.

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31 **LL.** On April 5, 2016, County Council met on Orcas Island and adopted the SMP updates after
32 considering the public comments and additional staff recommendations.

33
34 **MM.** The San Juan County Council makes the following findings:

35
36 I. Shoreline Inventory and Characterization.

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38 1. The I&C identifies the existing ecological functions and conditions, the degree of
39 environmental sensitivity of reaches, and existing and potential development of the
40 County's shorelines.

41
42 2. The I&C was used to:
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- (a) Develop a classification system and designation criteria for evaluating and amending shoreline environment designations for each shoreline reach;
- (b) Draft management policies for the shoreline designation that reflect the ecological conditions, sensitivities and existing land uses;
- (c) Draft shoreline use and development regulations designed to result in no net loss countywide and protect existing ecological functions; and
- (d) Identify shoreline areas where existing ecological conditions and functions may benefit from restoration activities.

II. Comprehensive Plan Goals and Policies.

1. The GMA's fourteenth goal addresses the policies and goals of the SMA (RCW 36.70A.480(1)). This means the goals and policies adopted in the SMP become part of the County's GMA Comprehensive Plan and must be consistent with the Comprehensive Plan.
2. Section B, Element 3 of the County's Comprehensive Plan, Shoreline Master Program Goals and Policies (GPPs) is updated consistent with policy goals set forth in RCW 90.58.020 and the requirements of WAC 173-26-176. The update addresses the elements in RCW 90.58.100(2) including designation and management of the shoreline environments and standards for shoreline uses and modifications.
3. Per WAC 173-26-231 and 173-26-241, policies for specific shoreline uses and modifications implement the SMA goals that prefer water-dependent and water-related uses, provide public access and recreation opportunities, protect ecological functions, and preserve property rights.
4. The GPPs provide the shoreline environment designation criteria and basis for the shoreline regulations that protect the ecological conditions and regulate which uses are prohibited, allowed outright, or require a shoreline permit. Some uses are restricted by scale, scope, location, design, and impact mitigation to be compatible within a particular designation.
5. As a whole, the updated GPPs support appropriate types of preferred development; protect and enhance public access as well as recreational opportunities; promote the protection of shoreline ecological functions; promote the voluntary restoration of shoreline ecological functions where it is consistent with private property rights; identify essential public facilities; limit the potential for flood damage; and provide a basis for coordination with other local, state, and federal programs and organizations.

- 1 6. The GPPs are reorganized to improve accessibility. Sections 3.2 and 3.4
2 pertaining to overall goals and policies were reorganized and amended. Other
3 sections of the GPPs were similarly moved and amended to improve clarity,
4 comprehension and reduce redundancy.
5
- 6 7. GPP sections regarding archaeological and historic resources, clearing and
7 grading, shorelines of statewide significance, and signs are amended and moved
8 to Section 3.2 regarding overall goals and policies because they apply to the
9 entire jurisdiction rather than a specific activity or designation. Other
10 subsections in the general policies section pertaining to environmentally
11 sensitive areas and environmental impacts were either deleted as obsolete or
12 moved to the applicable critical area sections.
13
- 14 8. Economic development policy 5 in Section B, Element 3, Section 3.2.B is
15 updated to prohibit the development of both underwater oil and natural gas
16 pipelines and oil and natural gas refineries within the shoreline jurisdiction. This
17 policy is intended to provide protection of the marine environment and help the
18 County meet the goal of no net loss of shoreline ecological functions.
19
- 20 9. A new Section 3.2.C regarding critical areas replaces Sections 3.4.C and 3.4.D
21 (environmental impacts and environmentally sensitive areas). It includes both
22 general critical area goals and policies for the shoreline jurisdiction and specific
23 goals and policies for each type of critical area. It directs the County to
24 implement regulations to achieve no net loss of shoreline ecological functions.
25
- 26 10. A new section 3.4.E establishes goals and policies for shoreline essential public
27 facilities (EPFs). The County's lack of a direct connection to the mainland
28 requires policies that address the development of water-dependent EPFs. This
29 section identifies the characteristics of shoreline EPFs, provides a list of existing
30 shoreline EPFs and sets forth goals and policies to implement protocols that
31 allow the development of shoreline EPFs.
32
- 33 11. A new Section 3.2.J addresses flood hazard reduction. It distinguishes policies
34 for routine construction practices such as raising the foundation of a structure
35 above the base flood elevation and the creation of dikes or seawalls. It also
36 articulates a preference for nonstructural methods of flood hazard reduction.
37
- 38 12. Section 3.3.H pertaining to subarea environment designations is deleted because
39 the updated shoreline designations do not include different shoreline
40 designations within Eastsound and Shaw Island subarea plans. The updated
41 SMP relies on the 'parent' designations that the subarea shoreline designations
42 were based upon. Where there are distinctions in the subarea plans, any
43 differences are noted in the table of shoreline development, uses, structures and
44 activities by designation in Section 66 of the ordinance.
45

13. Section 3.4.B, Policy 10 prohibits the introduction of genetically modified organisms. This policy is needed for consistency with Chapter 8.26 SJCC adopted in response to the people's Initiative in Measure 2012-4. The people of the County voted to protect the natural environment, private property rights of our citizens, and the health, safety and welfare by restricting cultivation of genetically modified crops, livestock and other organisms.
14. Section 3.6.B, Bulkheads is deleted. A new Section 3.5.D addresses both soft and hard forms of stabilization measures. The new section is updated to ensure that hard structural stabilization measures are used to protect shoreline structures only after all other options have been evaluated.

III. Comprehensive Plan Official Maps.

The County's Comprehensive Plan Official Maps depict the County's shoreline use designations and are components of the updated SMP. The mapping designation system was developed to meet the SMA requirements.

1. The underlying purpose of shoreline designations is to implement the no net loss standard for shoreline ecological functions. This standard is met at the countywide level. It will be accomplished by increasing overall protection measures in all designations through updated regulations and implementation of the critical areas regulations and the no net loss standard.
2. WAC 173-26-211(4)(c) allows the County to develop a shoreline designation system that is different from that recommended in WAC 173-26-211(5) provided the system is consistent with the guidelines. The County's system differs slightly from the recommended one and alternatively provides equal or better implementation of the SMA because it better reflects local conditions specific to the San Juan Islands.
3. The updated SMP classifies each shoreline reach into one of the following types of designations: Urban, Rural, Rural Residential, Rural Farm Forest, Ports, Marina and Transportation (PMT), Conservancy, Natural, and Aquatic. Consistent with WAC 173-26-211(4)(c), each of San Juan County's shoreline designations has a goal statement, designation criteria, policies and associated regulations.
4. Amendments to existing shoreline designations and areas with new designations are based upon the I&C data and an analysis of the ecological function scores, existing and predicted development patterns, and community goals.
5. The PMT designation is a new designation needed to acknowledge and protect the County's essential marine transportation infrastructure in a manner consistent with the conditions identified in the I&C and community vision

expressed in Comprehensive Plan. PMT recognizes the importance of waterborne transportation to the islands. San Juan County is the only county in the state that is accessible only by boat or plane. This designation is applied, as appropriate, to existing marine transportation facilities such as public and private boating facilities, barge landing sites, and ramps.

6. PMT reach designations are based upon an analysis of ecological function scores, community goals and existing and predicted development patterns. For existing development patterns, existing marinas, mooring buoys, boating facilities, docks, boat ramps, ferry and barge landing sites were identified. First, public boating facilities, public marine transportation facilities and public docks were identified, evaluated based upon I&C data and updated for PMT designation where appropriate. Second, private boating facilities, particularly those serving as access points to non-ferry served islands were also identified, analyzed and updated for PMT. Lastly, road ends and locations of previously existing public transportation structures were evaluated and designated.

7. The County simplified certain designations in the shoreline jurisdiction because they are complex to understand and administer. Currently, there is an upland designation for the area that stretches 200 feet landward from the OHWM. In a few places the strip of tideland between the OHWM and the Extreme Low Tide (ELT) line is designated Natural or Conservancy and beyond the line of ELT, the designation is Aquatic. Where there is no tideland designation, the area waterward of the OHWM is designated Aquatic.

Triple shoreline designations are eliminated in the update in most cases because the introduction of the critical area regulations, the no net loss standard and other increased protections provide a higher level of environmental protection. In False Bay, the triple designations are retained because the tidelands meet the Natural designation criteria.

8. To simplify the administration of the goals, policies, and regulations, the subarea specific shoreline designations for Eastsound and Shaw Island are eliminated. The update replaces the subarea specific designations with their parent designations. Where consistent with existing development, ecological scores and community goals, Shaw Rural is designated Rural, Shaw Rural Farm Forest is designated considered Rural Farm Forest, Shaw Conservancy is designated Conservancy, Shaw Natural is designated Natural. Eastsound Urban is designated Urban, Eastsound Marina District is designated PMT, Eastsound Conservancy District is designated Conservancy, Eastsound Natural District is designated Natural, and Eastsound Residential is designated Rural Residential.

9. In Section 66, differences between the Eastsound and Shaw subarea specific designations and the general shoreline designations are addressed as notes to the table of shoreline development, uses, structures and activities by designation.

- 1 10. In accordance with WAC 173-26-110, Exhibit D of this ordinance contains the
2 San Juan County Table of Map Designation Changes That Do Not Follow
3 Parcel Lines. This table provides the map designation boundaries in latitude
4 and longitude for designations that do not follow parcel lines.
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6 IV. Shoreline Permit Procedures.
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- 8 1. In Section 4, shoreline permit procedures, SJCC 18.80.110 are clarified and
9 amended to include requirements for pre-application meetings for shoreline
10 substantial development, conditional use and variance applications unless the
11 meeting is waived by the director. These meetings are necessary because of the
12 complex nature of permitting. Pre-application meetings are intended to help
13 people become familiar with the applicable development regulations, critical
14 area reports and site plan requirements prior to application submittal.
15 Processing of complete permit applications is less time consuming and
16 frustrating for customers.
17
- 18 2. In Section 4, new vesting provisions are included in SJCC 18.80.110(N)
19 because State law only includes vesting provisions for building permits and
20 subdivisions. The vesting provisions are intended to provide greater certainty to
21 property owners who have plans to develop or redevelop an existing property or
22 have plans for new uses.
23

24 V. Development Regulations.
25

- 26 1. Amended Chapter 18.50 SJCC includes the shoreline regulations designed to
27 comply with the SMA.
28
- 29 2. In Section 14, the nonconforming use and development standards are updated to
30 apply to all types of nonconforming use and development. Existing code
31 provides local regulations for some residential nonconformities but defers to the
32 WAC 173-27-080 for other types.
33
- 34 3. Updated critical area regulations made many existing structures nonconforming.
35 Because the SMP update requires developments and uses to incur no net loss,
36 the updated nonconforming standards allow some development flexibility while
37 still ensuring no net loss of shoreline ecological functions. The updated
38 standards also allow an existing structure to be relocated or replaced in a
39 location that is more conforming than the previously existing location. This
40 amendment may result in better protection of shoreline ecological functions.
41
- 42 4. Section 17 addresses WAC 173-26-186(8)(b) which states that, "Local master
43 programs shall include policies and regulations designed to achieve no net loss
44 of those ecological functions." Because shoreline ecological functions are the
45 same as critical area functions and values, the no net loss standard for shoreline

ecological functions is comparable to the no net loss standard under the Growth Management Act (GMA) for critical area functions and values.

5. The SMA and its guidelines also require that local master programs contain provisions for the protection of critical areas pursuant to RCW 90.58.090(4) and WAC 173-26-221(2). In the GMA, RCW 36.70A.480(3)(b) transfers regulatory authority with respect to critical areas protection to the SMA for critical areas within shoreline jurisdiction. The County's critical area regulations in Chapter 18.35 SJCC meet the critical area protection requirements and the no net loss standard of the GMA and SMA.
6. The County's critical area regulations are based upon the Best Available Science Synthesis for San Juan County, May 2011, adopted in Resolution 22-2011.
7. The County's critical area regulations were challenged before the Growth Management Hearings Board (GMHB), Western Washington Region (Case No 13-2-0012c) and in the Court of Appeals of the State of Washington. On August 10, 2015, the Washington State Court of Appeals upheld a superior court decision rejecting the final challenges to the County's critical areas ordinance in Case No. 72235-2-1 (Common Sense Alliance, P.J. Taggares Company, and Friends of the San Juans v. GMHB, Western Washington region and San Juan County).
8. The BAS Synthesis (Final) dated May 24, 2011, and identified as Bates # 5500-6032 in the GMHB record for the critical area regulations update is incorporated into and included as a part of the SMP record.
9. Vegetation plays a critical role in sustaining needed habitats and species within an ecosystem. It supports the maintenance of critical area functions and values which are the same as shoreline ecological functions and values. San Juan County Code and the updated SMP provide for vegetation protection and management in a comprehensive manner as highlighted by the following summaries:
 - a. Section 16 of the updated SMP regulations addresses clearing, grading, and vegetation management. It requires compliance with SJCC 18.60.060 and 18.60.070 and Section 18.
 - b. SJCC 18.60.060 requires that grading and clearing be conducted to minimize potential adverse effects on forested lands, surface water quality and quantity, groundwater recharge, wildlife habitat, and scenic resources. Grading plans must include provisions for the maintenance of adequate buffers of undisturbed native vegetation to minimize off-site impacts of surface water runoff, erosion, and sedimentation. Graded surfaces must be designed and

constructed to be revegetated to slope gradients. This allows the graded surfaces to hold topsoil and minimize surface runoff, erosion, and sedimentation that can damage water quality and habitats. The upper six to twelve inches of topsoil must be salvaged, stockpiled, and spread over disturbed areas prior to revegetation. Any cleared or graded area that is not covered with gravel or an impervious surface must be seeded immediately upon project completion. If erosion is probable, areas with exposed soil must be protected by temporary means during construction. All disturbances should be revegetated with grasses and forbs and include shrubs and trees as appropriate. The use of plant species native to the County is encouraged. Natural vegetation must be retained to the maximum extent possible in the construction and operation of any use. In addition, clearing and grading activities proposed in, or that would adversely affect critical areas are subject to SJCC Chapter 18.35.

c. Under SJCC 18.60,070, drainage controls are required for projects. These controls may include landscaping or reestablishment of native vegetation. For effective long term weed control, the regulations recommend coordination with the County weed control board to eradicate nuisance species. Use of best management practices (BMPs) from the County's Stormwater Management Manual is required.

d. Section 16(C) limits land clearing to areas necessary for driveways, buildings, and view and solar access corridors. It also regulates tree removal and requires consistency with the Tree Protection Zone requirements in SJCC Chapter 18.35. Under Section 16(F) clearing or grading that would adversely impact ecological functions is subject to a mitigation plan.

e. Section 17 restricts vegetation removal to activities that result in no net loss of shoreline ecological functions.

f. Section 18 requires land use and development to meet the critical areas protections in SJCC Chapter 18.35 for no net loss or to comply with the mitigation requirements in Sections 19, 20 and 21.

g. SJCC Chapter 18.35.130 requires consistency with water quality buffers and Tree Protection Zone requirements. In addition, SJCC 18.35.130(2), Table 18.35.130-3 (Structures, Uses and Activities Allowed in and over Aquatic FWHCAs and Their Water Quality Buffers) contains vegetation management regulations. Item (a) allows uses and activities that do not modify the land or vegetation and that will not adversely affect functions and values. Item (c) provides for the removal of invasive plants and planting of native plants and vegetation management activities. Item (j) restricts the establishment and expansion of orchards and gardens that are cultivated and managed with appropriate BMPs and without synthetic chemicals.

10. The County designated streams, lakes, marine waters and primary association areas for critical species as critical areas and specifically as fish and wildlife habitat conservation areas (FWHCAs) (Chapter 18.35 SJCC). Shorelines of the State are a subset of the County's streams, lakes and marine waters. FWHCAs regulations are supported by the County's best available science (BAS) as required by RCW 36.70A.172.
11. Section 17 Item (F) prohibits the cultivation of genetically modified crops, livestock and other organisms within the shoreline jurisdiction consistent with GPP policy 3.4.B(10) and Chapter 8.26 SJCC.
12. Section 18 provides clarity about which critical area sections do not apply because more specific requirements are included in the SMP.
13. The update is part of multifaceted approach to environmental preservation that accounts for no net loss of critical area functions and values. Shoreline and critical area regulations are designed to prevent loss of ecological functions at the project level. Other components of the County's regulatory system contribute to environmental protection including storm drainage, clearing and grading, SEPA, and enforcement requirements in SJCC Chapters 18.60, 18.80 and 18.100. Non-regulatory programs such as restoration, enhancement, acquisition, open space, education and stewardship opportunities and other programs are used to offset unavoidable cumulative impacts resulting from development that regulations may not fully address at the project level.
14. Sections 19, 20, and 21 update the shoreline mitigation regulations by including thresholds, preferences, protocols and procedures for mitigating potential adverse impacts to shoreline ecological functions to achieve no net loss of shoreline ecological functions on a countywide level.
15. Section 19 does not require mitigation planning if development meets the County's critical area protections because projects that meet critical area requirements are achieving the no net loss standard. A mitigation analysis is required if a development proposal fails to meet the County's critical area protections. Applicants must demonstrate that actions higher in the sequence are infeasible before addressing subsequent options.
16. Section 19 establishes a mitigation sequence analysis with a clear preference for avoiding impacts by refraining from an action or parts of an action. On site mitigation is preferred. If off-site mitigation is necessary, must be performed on the same island.
17. Section 20 is consistent with the County's critical area regulations and establishes mitigation plan characteristics. Mitigation plans must be authored by a qualified professional, address any anticipated adverse impacts, and establish

mitigation and monitoring procedures to determine the effectiveness of the plan. Where appropriate, adaptive management plans must address failures of the original program.

18. Section 21 establishes mitigation plans approval criteria and provides an option for the extension of monitoring periods.
19. Section 28 updates aquaculture regulations and distinguishes between small scale and other aquaculture operations. If they qualify, small scale regulations are intended to have a simpler permitting process for a shoreline exemption.
20. Section 28 also prohibits finfish net pen aquaculture consistent with the updated GPPs because existing guidance and information is not adequate and the County does not believe it could be used to create sound regulations that will protect the shoreline environment. WDOE guidance document 11-06-010, Chapter 16 of the Shoreline Master Program Handbook lists three references for net pens which are dated 1986 and 1990. This guidance pre-dates the Endangered Species Act listing of the southern resident killer whale, Puget Sound Chinook and Puget Sound steelhead as endangered species. San Juan County contains critical habitat for the southern resident killer whales, and Puget Sound Chinook. The National Marine Fisheries Service has not proposed to designate the County's waters as critical habitat for the Puget Sound steelhead; however, they are known to use the County's marine shoreline areas.
21. Chapter 16 of WDOE's Shoreline Master Program Handbook further indicates that the 1986 recommended Interim Guidelines for the Management of Salmon Net Pen Culture in Puget Sound may be used for siting net pens; however, it notes that "Local governments should use caution in relying on other recommendations of the 1986 interim net pen guidelines and related environmental impact statement."
22. The County Council received public testimony about more recent studies from 1986 and 1990 summarizing potential adverse impacts to wild salmon survival, chemical contamination, marine mammals and sea birds that may result from finfish net pens.
23. There are currently no finfish net pen facilities or pending applications for them in the County. Due to the number of critical saltwater and marine mammal habitats in the County, there are few areas that finfish net pens could be sited consistent with WDOE's guidelines.
24. Sections 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39 address over-water structures such as marinas, mooring buoys, recreation and mooring floats, joint use or community docks, ramps, and private single family docks. These

sections streamline and clarify the multiple subsections of existing SJCC 18.50.190.

25. Section 29 explicitly establishes clear preferences in over-water structures, emphasizing mooring buoys and public marinas. The general design standards are updated and reference WACs 220-660-140 and 220-660-380, as amended, for consistency with WDFW design standards.
26. Section 30 establishes general regulations for boating facilities that serve five (5) or more residences. These regulations include new standards for facilities that intrude into or over critical areas that are slightly different than the standards that apply to joint use or single family docks to meet WAC 173-26-221(2)(c)(ii) and 173-26-241(3)(c).
27. Section 31 updates standards for the dimension, location, orientation and size of private residential, community joint use docks, and recreational floats. A table includes the construction standards for private or joint use docks and also references applicable sections of WAC 220-660-140 and 220-660-380. This table depicts the allowed dimensions of structural components, required grating standards, and the total square footage allowed for over-water structures.
28. Section 35 updates mooring buoy regulations. It provides requirements for their location, references to the WDNR permitting authority and prohibits impeding access to private property.
29. Section 37 updates the SMP regulations by addressing replacement, repair and expansion of over-water structures. This section clarifies the permit procedures and is amended to addresses the provisions of WAC 173-27-100.
30. Section 38 requires the submission of a demand analysis for proposed private docks, joint use docks, boating facilities, ramps, and floats which is intended to improve the permit review process. The analysis must identify the need for the proposed facility by quantifying the existing moorage and requires that applicants demonstrate that the expansion of existing facilities is not a feasible alternative.
31. Sections 41, 42, 43, 44, 45, 46, 47, 48 are replace SJCC 18.50.210 Bulkheads. The updated regulations address soft shore armoring as well as hard armoring.
32. Section 41 includes a new requirement that new or enlarged structural stabilization measures may only be allowed if a geotechnical report shows that there is an imminent threat to an existing primary structure caused by the action of wind and waves. Consistent with WAC 173-26-231(3)(a)(iii)(B)(I) this more restrictive provision, allows stabilization measures only to protect primary

1 structures, accessory dwelling units, underground utilities and roads or access
2 routes that cannot be relocated.

3
4 33. Section 42 clearly establishes the County's order of preference for shoreline
5 stabilization measures. Applicants must show that prior alternatives are
6 infeasible before subsequent actions may be approved. These updated
7 regulations emphasize a preference for avoiding the construction of new
8 shoreline stabilization measures.

9
10 34. Section 43 establishes general design standards for both soft and hard shoreline
11 stabilization measures. Existing code only addresses hard stabilization
12 measures.

13
14 35. Section 44 establishes updated design standards for hard structural stabilization
15 measures which must achieve the no net loss standard and be consistent with
16 WAC 172-26-231(3)(a)(iii). These updated provisions require avoidance and
17 minimization of long term adverse impacts on shoreline ecological functions
18 through mitigation.

19
20 36. Section 44 also includes a prohibition on the construction of new hard structural
21 stabilization measures adjacent to documented forage fish spawning areas. This
22 does not include replacements.

23
24 37. Section 45 establishes new design standards for soft shore stabilization projects
25 and allows for a hard stabilization transitional element to tie into structures on
26 neighboring properties. These updates are consistent with the SMA guidelines
27 and County's preference for soft stabilization measures.

28
29 38. Section 46 establishes new regulations for the enlargement of hard and soft
30 shoreline stabilization measures. For consistency with WAC 173-26-
31 231(3)(a)(iii)(B)(I), any expansion of an existing shoreline stabilization measure
32 is required to be permitted as an entirely new structure.

33
34 39. Section 47 regulates replacement and repairs of structural shoreline
35 stabilizations measures. WAC 173-26-231(3)(a)(iii)(C) requires that
36 replacement stabilization measures are considered new stabilization structures
37 and must be reviewed and permitted consistent with the protocols for new
38 stabilization structures. Because the repair or restoration of existing
39 stabilization structures generally entails the replacement of damaged portions of
40 the structure rather than reconstruction, repairs to a structural stabilization
41 measure are considered a replacement only when the repairs or restoration
42 exceed ninety-nine point nine-nine percent (99.99%) of the structure's existing
43 volume.

- 1 40. Section 48 updates the permit application submittal requirements for shoreline
2 stabilization measures. Consistent with the WAC guidelines, a geotechnical
3 report from a qualified professional is required which stipulates that damage to
4 a primary structure is imminent and addressing upland drainage issues would
5 not alleviate the need for the stabilization.
6
- 7 41. Section 52 updates the industrial development regulations that prohibit only
8 underwater oil pipelines and refineries. The update prohibits the development of
9 both underwater oil and natural gas pipelines and refineries within the shoreline
10 jurisdiction. This update is intended to reduce the risks of contamination from
11 spills and other catastrophes. This is consistent with Section B, Element 3,
12 Section 3.2.B Economic Development, Policy 5 of the County's Comprehensive
13 Plan and the goal of no net loss of shoreline ecological functions.
14
- 15 42. Section 58 updates recreational development regulations consistent with RCW
16 90.58.020 which identifies recreation as a preferred use of Washington's
17 shorelines. The development of parks without overnight camping facilities is
18 consistent with the Rural Farm Forest and Rural Residential shoreline
19 designations because it is consistent with existing development patterns for day
20 use parks and because recreation is a preferred use of the shorelines. The
21 update allows accessory developments to primary recreational uses, such as
22 parking lots only if there is no feasible alternative.
23
- 24 43. Section 59 regulates all types of shoreline land divisions. The current
25 regulations only address residential shoreline land divisions. In addition, the
26 requirement that applicants demonstrate that a proposed land division will not
27 create undevelopable lots is clarified.
28
- 29 44. Section 59 also provides that land divisions that will create five (5) or more
30 parcels must establish community access to the shoreline through an access
31 easement or common area. Land divisions creating fewer than five (5) parcels
32 are not required to create community access. This is a change from existing
33 SJCC 18.50.330(B)(6) which requires common areas in all shoreline land
34 divisions.
35
- 36 45. In accordance with WAC 173-26-231(3)(a)(iii)(A), Section 59 also requires that
37 applicants demonstrate that building setbacks are sufficient to ensure that there
38 will be no need for shoreline stabilization within seventy-five (75) years. The
39 seventy-five year standard was determined by analyzing and averaging the
40 expected lifespan of structural home components such as foundations and roofs.
41 Seventy-five years is intended to be a measurement of the life of the structure.
42
- 43 46. Section 60 regulates residential development and updates SJCC 18.50.330 by
44 moving specific regulations such as nonconforming use and land divisions
45 provisions to separate sections.

- 1
2 47. Section 60 clarifies the method used to determine a proposal's compliance with
3 a fifty percent (50%) lot width standard.
4
5 48. In Section 60, the allowed height of all shoreline structures is increased to
6 thirty-five feet (35) above average grade regardless of roof pitch consistent with
7 the height allowed by RCW 90.58.320. Under existing code, the height of
8 residential structures is limited to twenty-eight (28) feet unless a roof pitch of
9 six in twelve (6:12) is present. Allowing increased height will aid development
10 on small lots and may reduce impervious surfaces in some designs which can be
11 helpful in managing stormwater runoff.
12
13 49. To be consistent with Chapter 18.35 SJCC, Section 60 includes a requirement in
14 Chapter 18.50 SJCC that coastal geologic buffers be identified on all non-
15 bedrock shorelines. A qualified professional must identify them and
16 demonstrate that proposed structures will be set back sufficiently to ensure that
17 shoreline stabilization measures will not be needed for a minimum of seventy-
18 five (75) years.
19
20 50. Section 60 regulates live aboard vessels in marinas and Section 72 provides a
21 new definition of live aboard. Houseboat regulations are eliminated. The
22 updated regulations are consistent with WAC 332-30-171(1) which does not
23 regulate live aboard vessels on privately owned tidelands. Where marinas are
24 located above state owned tidelands, up to twenty-five percent (25%) of the
25 moorage slips may be used for live aboard vessels if the marina operators
26 follow best management practices, provides for upland disposal of sewage and
27 waste water, and the use will not result in a net loss of shoreline ecological
28 functions. Marinas over privately owned tidelands may use ten percent (10%) of
29 their slips for live aboard vessels.
30
31 51. Section 62 includes a new provision to allow a desalination system as the
32 primary water supply for a new subdivision. The current SMP only allows
33 desalination systems as the primary water source for new development on
34 existing shoreline lots.
35
36 52. The update generally prohibits the construction of desalination systems with
37 intakes of greater than 100,000 gallons per day. The intake limit was identified
38 as the intake to discharge ratio that would produce approximately 30,000
39 gallons of brine which requires a National Pollutant Discharge Elimination
40 System permit.
41
42 53. Public concerns about the proliferation of desalination systems in areas of poor
43 flushing have been expressed; however, there is no scientific evidence in the
44 record proving that any area in the County suffers from poor flushing.
45

54. The most recent study of desalination systems in San Juan County, The Current Status of Desalination Systems in San Juan County, Washington, Executive Summary and Technical Supplement, June 2009, states that "We have access to three separate field measurements that would suggest that the increase of seawater salinity where the effluent water leaves the discharge pipe is less than 2 parts per thousand and is undetectable at 10 feet."

55. Potable ground water in San Juan County is a limited resource. The ocean is not as limited. Saltwater intrusion into the County's groundwater is almost impossible to correct. The updated regulations are more protective of the County's limited groundwater.

VI. Restoration Plan.

Consistent with WAC 173-26-201(2)(f), the updated SMP includes a Restoration Plan that:

1. Includes goals, policies and actions for the restoration of impaired shoreline ecological functions. The County's shoreline restoration strategy is coordinated with local non-profit and state efforts relating to salmon recovery and conservation.
2. Identifies practical options at both a programmatic and project level to address and correct sources of degradation. It identifies three dormant restoration projects and three ongoing restoration projects. The plan also discusses programmatic actions that can be pursued such as conservation easements or donating land to the land bank to protect and restore shoreline ecological functions.

NN. The County Council makes the following conclusions:

- I. The County provided opportunities for early and continuous public participation including communication with state agencies and affected Native American nations as required by WAC 173-26-090 and RCW 36.70A.130. This is documented in the background statements that are incorporated as findings of fact. In addition, early and continuous opportunities for public participation were included in the development of the critical area regulations as documented in San Juan County Ordinance Nos. 26-2012, 27-2012, 28-2012, 29-2012, 2-2014, 16-2014 and 01-2015.
- II. The County complied with SEPA for nonproject actions and provided notice to the Washington Department of Commerce regarding the County's intent to adopt an updated SMP including amendments to the Comprehensive Plan and Official Maps, and development regulations.

- 1 III. The updated SMP contains the required contents identified in WAC 173-26-
2 191(2)(a). The County prepared an I&C and Restoration Plan, amended its shoreline
3 goals, policies, maps, and updated its development regulations to comply with
4 Chapter 90.58 RCW and Chapter 173-26 WAC.
5
6 IV. The updated SMP is based upon an inventory and analysis including a
7 characterization of shoreline ecosystems, associated ecological functions, and a use
8 analysis.
9
10 V. The regulations address specific shoreline environments, and include general and use
11 or modification specific standards, consistent with legal limitations on the regulation
12 of private property, and administrative provisions directing the review process and
13 standards for approving uses and modification.
14
15 VI. The updated regulatory and administrative provisions do not unconstitutionally
16 infringe upon private property rights.
17
18 VII. Enforcement of shoreline regulations is implemented through Chapter 18.100 SJCC.
19
20 VIII. The updated SMP is consistent with the policies in RCW 90.58.020 and WAC 173-
21 26-176. The updated SMP contains goals, policies and regulations which implement
22 the goals of the SMA.
23
24 IX. The updated SMP is consistent with the San Juan County Comprehensive Plan.
25
26 X. The updated SMP is consistent with the SMA, and WAC guidelines including the no
27 net loss standard for shoreline ecological functions.
28
29 XI. The *Best Available Science Synthesis for San Juan County, May 2011*, adopted in
30 Resolution 22-2011 meets the requirements in RCW 36.70A.172(1), 90.58.100(1) and
31 WAC 173-26-201(2)(a).
32
33 XII. Critical area functions and values protected by Chapter 18.35 SJCC are the same
34 ecological functions identified for shorelines in WAC 173-26-201(3)(d)(i)(C).
35
36 XIII. The updated SMP provides critical area protection equivalent to the County's critical
37 area regulations in compliance with RCW 36.70A.480(4) including buffers required
38 by RCW 36.70A.480(6).
39
40 XIV. The County's critical area regulations in Chapter 18.35 SJCC and the updated SMP
41 fulfill the requirements for critical area protection and no net loss within the County's
42 shoreline jurisdiction.
43
44 XV. The County's critical area regulations and buffers meet the GMA and SMA
45 requirements.

- 1
2 XVI. Critical area buffers are compliant with the GMA and SMA and assure no net loss of
3 ecological functions.
4
- 5 XVII. The County's critical area regulations are designed to meet the GMA and SMA and to
6 provide no net loss of ecological functions. They contain vegetation management
7 requirements upheld by the Growth Board, Superior Court, and Washington State
8 Court of Appeals who recognized that the critical area regulations rely on the
9 County's BAS. Together, SJCC 18.60.060 and 18.60.070, SJCC Chapter 18.35 and
10 the updated SMP provide required vegetation management protections
11
- 12 XVIII. The updated shoreline environment designations are assigned consistent with the
13 provisions in WAC 173-26-211 and the County's I&C. Although the designations are
14 slightly different than those recommended in the WAC, they are better suited and
15 more specific to the County's shorelines and uses.
16
- 17 XIX. Updated shoreline designations with boundaries that do not correspond to parcel lines
18 are described in Exhibit D of this ordinance consistent with WAC 173-26-110(3).
19
- 20 XX. Sections 19, 20, and 21 pertaining to mitigation comply with WAC 173-26-
21 186(8)(b)(i) which states: "Local master programs shall include regulations and
22 mitigation standards ensuring that each permitted development will not cause a net
23 loss of ecological functions in the shoreline."
24
- 25 XXI. The SMP is one component of the County's approach to environmental protection.
26 This approach includes other regulatory components such as storm drainage, clearing
27 and grading, SEPA, and enforcement requirements in SJCC Chapters 18.60, 18.80
28 and 18.100. It also includes nonregulatory components such as restoration,
29 enhancement, acquisition, open space, spill prevention, education and stewardship
30 programs work together protect the environment from cumulative impacts.
31
- 32 XXII. Finfish net pens should be prohibited until such time that the studies and guidance
33 have been updated and demonstrate that finfish net pens will not result in adverse
34 impacts to shoreline ecological functions and wildlife, especially endangered or
35 threatened species. The County should re-evaluate this net pen prohibition as part of
36 the next required SMP update when updated data is available.
37
- 38 XXIII. The County Council bases its findings and conclusions on the entire record of the
39 Planning Commission and County Council including all testimony and exhibits. Any
40 finding which should be deemed a conclusion and any conclusion which should be
41 deemed a finding is hereby adopted as such.
42
43
44
45

NOW, THEREFORE, BE IT ORDAINED by the County Council of San Juan County, State of Washington, as follows:

SECTION 1. Amendments to the Comprehensive Plan:

The San Juan County Comprehensive Plan, Section B, Element 3, Shoreline Master Program, and Ordinance Nos. 13-2001 and 2-1998 are each amended as shown on attached Exhibit A.

SECTION 2. Amendments to the Comprehensive Plan Land Use and Shoreline Master Program Maps:

The San Juan County Comprehensive Plan Land Use and Shoreline Master Program maps dated September 9, 2014, are amended to remove all shoreline designations and adopt new shoreline designations as shown on attached Exhibit B.

SECTION 3. Adoption of Shoreline Restoration Plan:

A San Juan County Shoreline Restoration Plan is adopted as shown on attached Exhibit C.

SECTION 4. SJCC 18.80.110 and Ord. 15-2002 § 11; are each amended to read as follows:

18.80.110 Shoreline pre-application meetings, permit and exemption procedures, and vesting.

Pre-application meetings. Pre-application meetings are required for all shoreline substantial development permits, conditional use permits, and shoreline variances. Pre-application meetings are encouraged for all other project or development permits. Pre-application materials must be submitted to the department a minimum of ten (10) days prior to the scheduled pre-application meeting. Failure to submit the documents will result in postponement of the pre-application meeting. The director may waive this requirement for demonstrated cause.

A. Purpose and applicability.

1. This section includes the procedures necessary to ensure that the provisions of the Shoreline Master Program (SMP) (Element 3 of the Comprehensive Plan and Chapter 18.50 SJCC) (~~SMP~~) are implemented and enforced, and ~~to ensure~~ that all persons affected by the ~~master program~~ SMP are treated in a fair and equitable manner.

2. This section applies to all lands and waters within the jurisdiction of the ~~master program~~ SMP and to all persons and agencies as described in Chapter 18.50 SJCC.

3. The following are referred to as “shoreline permits” and are subject to SMP ~~this review~~ procedures:

- a. Shoreline substantial development permits;
- b. Shoreline conditional use permits; and ~~which include:~~

~~i. Uses which are permitted under the provisions of the master program only as conditional uses;~~

~~ii. The expansion of nonconforming uses; and~~

~~iii. Uses which are unnamed or not contemplated in the master program.~~

c. Shoreline variances.

4. Certificates of exemption from shoreline substantial development permits are also regulated by this Chapter.

B. Notice of application for shoreline permits.

1. ~~A N~~ notice of application ~~and public hearing~~ is required for shoreline permit applications as provided in SJCC 18.80.030 ~~and 18.80.040~~.

2. ~~The administrator shall submit notice of shoreline permit applications to the appropriate subcommittee (by commissioner district) of the planning commission.~~

23. Applications for shoreline permits shall may be circulated for comment to the director of the University of Washington Friday Harbor Laboratories for comment as a reviewing agency. on the same schedule as other reviewing agencies.

C. Administrative responsibilities. The administrator's responsibilities are set forth in ~~SJCC 18.50.010(E)~~ Section 8(E) of this ordinance.

D. Consolidated permit processing.

~~1. For a p~~ Proposals that involves two (2) or more types of project shoreline permits and/or other project permits, such applications ~~shall~~ may be consolidated under the "highest" procedure (i.e., the right-most applicable column in Table 8.1, SJCC 18.80.020) required for such permits, or the applications may be processed individually under each of the procedures identified by this code. The applicant may request the consolidation of hearings with other local, state, regional, federal or other agencies in accordance with ~~RCW 36.70B.090 and 36.70B.110.~~ (See also SJCC 18.80.020(B)(2), Consolidated Permit Processing, and SJCC 18.80.140(~~HG~~), Consolidated Appeal Hearings.)

~~2. The decision maker shall provide copies of the findings of facts for all shoreline permits handled in accordance with this section to the board of County commissioners and the planning commission.~~

E. Decision making authority. The Washington Department of Ecology (WDOE) may approve, approve with conditions, or deny a shoreline variance or conditional use permit application approved by the hearing examiner. The hearing examiner has authority to take the following actions:

1. Based upon the criteria in subsection (H) and (J) of this section, hear and ~~issue~~ approve, approve with conditions, or deny shoreline substantial development permits and shoreline conditional use permits following receipt of the recommendations of the director administrator, and to impose conditions of approval on such permits; and

2. Based on the criteria in subsection (I) of this section hear, and approve, approve with conditions, or deny ~~Grant or deny~~ variances from the provisions of the SMP following receipt of the recommendations of the director. master program according to the criteria and procedures provided in subsection (I) of this section.

F. Exemptions from Need for Shoreline substantial development permit exemptions.

1. The director will make an administrative determination as to whether a proposal is exempt from a shoreline substantial development permit. The applicant bears the burden of proving that a proposal is exempt.

~~12. Developments which that are exempt from the need to obtain a shoreline substantial development permit are set forth established in WAC 173-27-040 and SJCC 18.50.020 (F) and (G) Sections 10 and 11 of this Ordinance. In making this determination, the director administrator shall will consider the ultimate scope of a proposal development and the extent to which the development is its consistency with the policies and regulations of the SMP SMA and master program. The administrator director may request additional information from the applicant and may make site inspections, if necessary. A use classified as a conditional use or a use not named or contemplated in this Chapter is allowed only as a conditional use and is ineligible for shoreline permit exemption.~~

~~2.— If a proposal is exempt from the need to obtain a shoreline substantial development permit the administrator shall so note in the development or project permit, if any, approved in conjunction with the proposal. If a development or project permit is not required for the proposal, the administrator may issue an administrative determination so stating.~~

~~3. The administrator may request additional information from the applicant and may make site inspections before determining if a proposal is exempt from the need to obtain a shoreline substantial development permit.~~

If a proposal is exempt from a shoreline substantial development permit, the director will prepare and issue a certificate of exemption when required by WAC 173-27-040, WAC 173-27-050 and Section 11(B) of this ordinance.

~~4.— The burden of proving that a proposal is exempt from the need to obtain a shoreline substantial development permit shall be on the person seeking the exemption.~~

~~5.— Any person proposing development within the shorelines of the County may request an administrative determination from the administrator as to whether or not the proposal is exempt from the need for a shoreline substantial development permit.~~

~~64. A copy of any approved certificates of exemption such administrative determination shall be mailed to the applicant and to the Washington Department of Ecology (WDOE).~~

5. 7. A certificate of exemption ~~An administrative determination shall will be prepared in the format described in WAC 173-27-050 for any proposal which is exempt from shoreline substantial development permit requirements under Chapter 18.50 SJCC whenever:~~

1 a. A U.S. Army Corps of Engineers (ACOE) Section 10 permit under the Rivers
2 and Harbors Act of 1899 is required (see WAC 173-27-050(1)(a));

3 b. A Section 404 permit is required under the Federal Water Pollution Control
4 Act of 1972 (see WAC 173-27-050(1)(b)).

5 **G. Shoreline permits—administrative actions.**

6 1. The ~~director~~ administrator shall review ~~shoreline permit applications, and~~
7 ~~development and project building permit applications that also require a shoreline permit,~~
8 for consistency with the ~~policies and regulations of the SMA and SMP, master program,~~
9 make a consistency determination, and report the results of this review and determination
10 to the hearing examiner. ~~In making this determination, the administrator shall consider the~~
11 ~~ultimate scope of a development and the extent to which the development is consistent with~~
12 ~~the policies and regulations of the SMA and master program.~~ The ~~director~~ administrator
13 may request additional information from the applicant and may make site inspections, ~~if~~
14 necessary.

15 2. The ~~director~~ administrator shall not issue a building development or project permit ~~for~~
16 ~~development~~ that is subject to shoreline permit requirements until a shoreline permit has
17 been granted. ~~Any building Development or project permits issued for such development~~
18 shall be ~~are~~ subject to the conditions ~~attached to~~ of approval ~~for on~~ the shoreline permit.

19 3. ~~In granting~~ When approving a shoreline permit, the hearing examiner may attach ~~such~~
20 ~~conditions as deemed necessary to ensure that the development will be consistency t with~~
21 ~~the SMA, SMP master program and other~~ applicable provisions of this code. The examiner
22 shall also prepare findings of fact and conclusions of law.

23 4. ~~In approving shoreline conditional use permits, the hearing examiner is authorized, on~~
24 ~~a case by case basis, to impose any special conditions or standards which are reasonable~~
25 ~~and necessary to enable a proposed conditional use to satisfy the criteria established in~~
26 ~~subsection (J) of this section.~~

27 5. ~~Filing with the Washington Department of Ecology (WDOE).~~ Within eight (8) days
28 of the hearing examiner's final decision, the ~~director~~ administrator will send file with
29 WDOE copies of the permit application and other pertinent materials used ~~in to make the~~
30 ~~final decision pursuant to either (see Chapters 43.21C or 90.58 RCW), the permit, and any~~
31 ~~other written evidence of related to the hearing examiner's final decision order of the~~
32 ~~hearing examiner relative to the application. Filing shall not be complete until the materials~~
33 ~~have actually been received by the WDOE.~~ The date of filing a shoreline substantial
34 development permit decision is the date WDOE receives the County's decision. WDOE
35 shall issue and transmit their decisions on conditional use and variance permits to the
36 department and applicant within thirty (30) days of department's submittal to them. The
37 date of filing ~~For shoreline conditional use permits or shoreline variances, is the date of~~
38 filing that WDOE transmits their permit decision to the department and applicant.
39 County's decision shall begin the period for WDOE review and final permit decision as
40 described in subsection (L) of this section.

~~6. If no final action is taken on a shoreline permit application one year from the date of filing of the application due to inaction by the applicant, the application shall expire and be considered void. A new application and fees shall be required for continuation of the permit process.~~

5 7. Construction or substantial progress toward construction of a project for which a shoreline permit is granted must be undertaken within two (2) years after ~~the WDOE's date of filing permit approval~~. Substantial progress toward construction ~~shall~~ includes ~~the~~ letting ~~of~~ bids, making ~~of~~ contracts, purchase of materials ~~involved~~, utility installation and site preparation, but ~~shall~~ does not include use or development inconsistent with the ~~master program SMP~~ or the terms of permit approval. However, the two (2) year period ~~shall~~ does not include time ~~when during which~~ development could not proceed due to ~~reasonable~~ related administrative appeals or litigation, nor include time necessary to obtain other required permits for the project from state and federal agencies. ~~The hearing examiner may, with discretion, extend the two-year time period for a reasonable time.~~

67. Unless specified otherwise in permit conditions, all development authorized by a shoreline permit shall be completed within five (5) years of the WDOE date of filing permit approval or the permit shall become null and void. A permittee may request a time extension before the permit expires by making a written request to the director administrator, stating the reasons. The hearing examiner will review the permit, and upon a finding of good cause:

- a. Extend the permit for a period not to exceed (1) one year; or
- b. Terminate the permit.

However, nothing in this section ~~shall precludes~~ the hearing examiner from issuing shoreline permits with a fixed termination date ~~of less other than (5) five years based upon a finding of good cause.~~

H. Criteria for approval of shoreline substantial development permits.

1. A shoreline substantial development permit ~~shall~~ will be granted by the County ~~only when if~~ the applicant ~~meets his burden of proving that~~ demonstrates the proposal is:

~~a1.~~ Consistent with the policies of the Shoreline Management Act SMA, Chapter 90.58 RCW and its implementing regulations, Chapter 90.58 RCW Chapter 173-26 WAC and Chapter 173-27 WAC, as amended;

~~b2.~~ Consistent with the policies and regulations of this ~~e~~ SMP Shoreline Master Program in Chapter 18.50 SJCC;

~~3.—Consistent with this chapter;~~

~~c4.~~ Consistent with the other applicable sections of this code ~~(e.g., Chapter 18.60 SJCC); and~~

~~d5.~~ Consistent with the goals and policies of the Comprehensive Plan;

26. ~~All~~ The conditions specified by the hearing examiner to make the proposal consistent with the ~~master program~~ SMP and to mitigate or avoid adverse impacts to shoreline ecological functions ~~are~~ will be attached to the permit.

I. Shoreline variances.

1. ~~General. The purpose of a~~ Variances ~~is~~ are strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this ~~e master program~~ SMP. Variances may be approved where there are extraordinary or unique circumstances related to the property such that and the strict implementation of the master program SMP will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

2. ~~Other Local Regulations.~~ Variances or exemptions granted from the provisions of other local regulations ~~shall~~ will not be construed to constitute variances from the provisions of this SMP Shoreline Master Program.

3. ~~Criteria for Approval of Shoreline Variances.~~ The location of the proposed project will determine which of the following two (2) sets of variance criteria are to be considered. Variances from the provisions of this SMP shoreline master program, may be granted when the applicant has proven ~~and~~ that one (1) of the following sets of criteria has been met:

a. Variances for development ~~that will be~~ located landward of the ordinary high water mark (OHWM), ~~as defined in RCW 90.58.030(2)(b),~~ except within those areas designated as wetlands pursuant to Chapter 173-22 WAC; may be authorized; ~~provided, if~~ the applicant can demonstrate all of the following:

i. That the strict application of the bulk, dimensional, or performance standards set forth in this ~~e applicable master program~~ SMP precludes or significantly interferes with a reasonable use of the property that is not otherwise prohibited by the SMP master program. ~~The fact that a greater profit might result from using the property in a manner contrary to the intent of the Shoreline Master Program is not sufficient reason for granting a variance;~~

ii. That the hardship ~~described in this section~~ is specifically related to the property, ~~and~~ is the result of unique conditions such as irregular lot shape, size, or natural features, ~~and the application of the Shoreline Master program is not,~~ for example, from deed restrictions or the applicant's own actions and results from the application of the specific provisions of the SMP shoreline master program;

iii. That the design of the project is compatible with other allowed permitted activities in ~~the area~~ the current land use designation and will not cause adverse effects to adjacent properties or ~~the shoreline ecological functions~~ environment;

iv. That the requested variance does not constitute a grant of special privilege that cannot be enjoyed by the other propertyies owners in the area, and it is the minimum necessary to afford relief; and

v. That the public interest will suffer no substantial detrimental effect.

OR†

b. Variances for development that will be located either waterward of the ~~ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(b),~~ or within wetlands as designated under Chapter 173–22 WAC, may be authorized provided the applicant can demonstrate all of the following:

i. Strict application of the bulk, dimensional, or performance standards set forth in the ~~master program~~ SMP precludes all reasonable use of the property not otherwise prohibited by it ~~the master program~~;

ii. The P proposal is consistent with ~~the criteria established under subsection SJCC 18.80.110(I)(3)(a)(ii) through (v) of this section;~~ and

iii. Public rights of navigation, access and use of the shorelines will not be adversely affected.

4. In the granting of shoreline variances, consideration shall be given to ~~The cumulative impact of additional requests for like actions will be reviewed in the area. For example, if variances were granted to other developments or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the~~ result in no net loss of shoreline ecological functions environment.

5. Requests for to varying the use to which of a shoreline area is to be put are not requests for variances, but rather requests for shoreline conditional uses. Such requests shall be evaluated using the criteria set forth in subsection (J) of this section. Variances from the use regulations are prohibited.

6. Filing of variances with and review by the WDOE ~~Washington Department of Ecology~~ are described in subsection ~~(F)~~ G)(5) of this section.

7. Shoreline variance applications must include adequate information to demonstrate compliance with the variance criteria. Applications must include at least the following information as applicable:

a. The items listed in SJCC 18.80.020(C) along with photos of the site and a detailed site plan showing:

i. The location of frequently flooded areas and FIRM panel numbers within the proposed development area;

ii. Geologically hazardous areas in or within two hundred (200) feet of the proposed development area;

iii. The field located OHWM on the site, and wetlands areas in or within three hundred (300) feet of the proposed development area and fish and wildlife habitat conservation areas in or within two hundred (200) feet of the proposed development area;

iv. The location of any golden eagle nests in or within one thousand (1,000) feet of the proposed development area; and

v. The location of any peregrine falcon or great blue heron nests in or within one quarter (1/4) mile of the proposed development area;

b. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the State Environmental Policy Act (SEPA);

c. Required critical area reports, delineations, and the Best Available Science (BAS) documents supporting the proposal;

d. A copy of proposed or approved storm water and erosion control plans as required by SJCC 18.60.060 and 18.60.070;

e. A narrative describing anticipated adverse impacts to the shoreline ecological functions and critical areas, based on best available science, and that explains how the proposal meets the shoreline variance approval criteria;

f. If necessary, mitigation, monitoring and adaptive management plans meeting the requirements of Sections 19, 20 and 21 of this ordinance for mitigating any adverse impacts or harm, and demonstrating how the proposal results in no net loss of shoreline ecological functions.

g. A cost estimate prepared by a qualified professional, for implementing mitigation and monitoring plans; and

h. A financial guarantee equal to the cost of implementing the mitigation and monitoring plus an additional fifteen percent (15%). This guarantee and the associated agreement must meet the requirements of SJCC 18.80.200.

J. Shoreline conditional use permits.

1. ~~General. The purpose of a Shoreline conditional use permits is to allow greater flexibility in application of the use regulations of the SMP Shoreline Master Program in a manner consistent with the policies of RCW 90.58.020. Shoreline conditional use permits should~~ may also be granted in circumstances where denial of the permit would thwart ~~the policy enumerated in~~ RCW 90.58.020. By providing for the control of undesirable impacts through the application of special conditions, the scope of uses within each of the shoreline designations environments of the master program can be expanded to include ~~many~~ additional uses. Activities classified as shoreline conditional uses ~~shall~~ will therefore be ~~permitted~~ allowed only when the applicant ~~also~~ demonstrates that the proposed use will be compatible with ~~permitted~~ allowed uses within the same area.

~~Shoreline conditional uses include the following:~~

a. ~~Uses which are permitted under the provisions of the shoreline master program only as conditional uses;~~

b. ~~The expansion of nonconforming uses; and~~

- 1 e. ~~Uses which are unnamed or not contemplated in the SJC SMP shoreline master~~
2 ~~program.~~
- 3 2. Uses ~~which that~~ are specifically prohibited by the ~~SMP Shoreline Master Program~~
4 ~~shall~~ may not be authorized through a conditional use permit or variance.
- 5 3. ~~Other Local Regulations.~~ Conditional use permits granted under other sections of this
6 code ~~shall~~ are not be construed to constitute approval of a shoreline conditional use.
- 7 4. ~~Criteria for Approval of Shoreline Conditional Uses.~~ Uses ~~which that~~ are classified ~~or~~
8 ~~set forth~~ in the ~~shoreline master program~~ SMP as conditional uses may be authorized by the
9 County ~~provided if~~ the applicant can demonstrate all of the following:
- 10 a. The proposed use is consistent with the policies of RCW 90.58.020 and the
11 ~~policies of this SMP Shoreline Master Program;~~
- 12 b. The proposed use will not interfere with the normal public use of public
13 shorelines;
- 14 c. The proposed use of the site and ~~design of the project~~ design ~~is~~ are compatible
15 with other allowed ~~permitted~~ uses within the area;
- 16 d. The proposed use will ~~cause no unreasonably adverse effects to the shoreline~~
17 ~~environment~~ result in no net loss of shoreline ecological functions in the shoreline
18 designation in which it is to be located;
- 19 e. The cumulative impacts of additional requests for like actions in the area, or for
20 other locations where similar circumstances exist, ~~shall not will result in no net loss~~
21 of produce substantial adverse effects to the shoreline ecological functions
22 environment, (e.g., the total of the conditional uses shall remain consistent with the
23 ~~policies of RCW 90.58.020 and the SMP shoreline master program;~~ and
- 24 f. The public interest will suffer no substantial detrimental effect.
- 25 5. ~~Other Uses that which~~ are not classified as a conditional use ~~or set forth in this e-SJC~~
26 ~~SMP shoreline master program~~ may be authorized by conditional use permit, ~~as conditional~~
27 ~~uses provided that~~ the applicant ~~can~~ demonstrates consistency with the criteria ~~set forth~~ in
28 WAC 173-27-160(1), and the SMP ~~this subsection.~~
- 29 6. ~~Filing of shoreline conditional use permits with and review by the Washington~~
30 ~~Department of Ecology are described in subsection of this section.~~

31 **K. ~~Nonconforming Uses.~~** Any nonconforming structure or use under the jurisdiction of the
32 Shoreline Master Program (Chapter 18.50 SJCC) shall be subject to the nonconforming use
33 provisions in WAC 173-27-080, and the applicable procedures of Chapter 18.50 SJCC and this
34 section. (See also SJCC 18.40.310 and 18.80.120.)

35 **L. ~~Washington Department of Ecology review.~~** As required by state law (RCW 90.58.140(10)),
36 shoreline variances and shoreline conditional use permits are subject to review by the
37 Washington Department of Ecology for its approval, or disapproval. Upon approval or denial of
38 shoreline variances or conditional use permits by the hearing examiner or board of County

~~commissioners, a copy of the final order and application shall be mailed to the Washington Department of Ecology within five days of such action. Construction pursuant to the permit shall not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130 or until all review proceedings initiated days from the date of such filing have been terminated; except as provided in RCW 90.58.140.~~

KM. Procedures for revisions to shoreline permits.

1. When an applicant seeks to revise a shoreline permit, an application in a form prescribed by the ~~director~~ administrator together with detailed plans and text describing the proposed changes shall must be filed with the ~~director~~ administrator. Following receipt of this information, the administrator shall schedule a public hearing on the request. The director will determine whether the proposed changes are within the scope and intent of the original permit and are consistent with the SMP and the SMA.

Proposed revisions are within the scope and intent of the original permit if all the following conditions are met:

- a. No additional over-water construction is involved, except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%) more than the provisions of the original permit, whichever is less;
- b. The building footprint and height are not increased by more than a maximum of ten percent (10%) from the provisions of the original permit;
- c. The permit revision does not exceed height, lot coverage, setback, or any other requirements of the SMP (unless a variance to specific development standards was approved as part of the original permit);
- d. Additional or revised landscaping complies with any conditions attached to the original permit and with the applicable regulations;
- e. The use authorized in the original permit is not changed; and
- f. No increase in adverse impacts to shoreline ecological functions will be caused by the project revision.

~~1.2. The administrator shall ensure that notice of the hearing is published in a newspaper of general circulation within the County prior to the hearing. The administrator shall submit to the hearing examiner all of the written documents referred to above. At the beginning of the hearing, the recommendation of the administrator shall be read into the record. If the revisions meet the above criteria for administrative approval, a notice of application will be published per SJCC 18.80.030.~~

3. If the proposed revision cannot meet any one (1) of the criteria in subsection (1) above, a public hearing with the hearing examiner will be scheduled and advertised according to the public notice provisions of SJCC 18.80.030.

a 2. If the hearing examiner determines that the proposed changes are within the scope and intent of the original permit, as defined by WAC 173-27-100(2), the revision ~~shall~~ will be granted.

~~3. If the hearing examiner determines that the proposed changes are not within the scope and intent of the original permit, then the applicant must apply for a new shoreline permit.~~

b 4. Any permit revision approved by the hearing examiner ~~shall~~ will become effective immediately unless the original permit involves a conditional use or a variance. Within eight days of the Following the hearing examiner's action, the locally approved revision ~~shall~~ will be submitted to the WDOE Washington Department of Ecology. In addition, the director shall submit a copy of the examiner's decision to all parties of record to the original permit action.

If the revision to the original permit involves a conditional use or a variance, the WDOE may approve, approve with conditions or deny the revision. In addition, the director administrator shall submit a copy of the examiner's decision to all parties of record to the original permit action. (See Section (4)(G)(4) of this ordinance.)

c 5. Appeals shall be submitted and processed in accordance with WAC 173-27-220 and SJCC 18.80.140.

LN. Rescission of shoreline permits. Any shoreline permit may be rescinded by the ~~hearing examiner~~ issuing authority pursuant to RCW 90.58.140(8) upon the finding that the permittee has failed to comply with the permit terms and conditions thereof. In the event that the permittee is denied a required sewage disposal, building, or other permit necessary for the project in question, the shoreline permit may be rescinded by the hearing examiner. ~~If in the event a shoreline permit is rescinded by the hearing examiner, the permittee shall be notified by certified mail. Copies of the examiner's final action shall will be filed with the Washington Department of Ecology WDOE.~~

MO. Appeals.

1. ~~The BOCC has authority to hear and decide appeals from decisions of the hearing examiner on shoreline permit applications as provided in SJCC 18.80.140. Aggrieved parties have twenty-one (21) days from the date of filing to file appeals to the shoreline hearings board.~~

2. ~~Any person aggrieved by a BOCC action granting, denying, or rescinding a permit for a use or development on the shorelines of the state pursuant to RCW 90.58.140 may seek review as provided by law.~~

N. Vesting.

1. Complete applications for a development or project permit, to be processed under Titles 15, 16 and 18 SJCC and subject to Chapter 18.50 SJCC that were filed prior to the effective date of this ordinance vest to the laws and regulations in effect when the complete

1 application was filed with the department and all required permit fees were paid except as
2 provided in subsections (4), (5) and (6) of this section.

3
4 2. An application for a development or project permit, to be processed under Titles 15,
5 16 and 18 SJCC and subject to Chapter 18.50 SJCC that is filed after the effective date of
6 this ordinance vests to the laws and regulations in effect when the complete application was
7 filed with the department and all required permit fees were paid except as provided in
8 subsections (4), (5) and (6) of this section.

9
10 3. A vested permit application that contemplates one (1) or more future uses or permits
11 on the property that are subject to that permit approval, then:

12
13 a. If that permit approval contains a detailed description of the uses and
14 improvements and a detailed site plan consistent with all laws and regulations in effect
15 at the time the original application vested, then subsequent permit applications filed
16 for those future use(s) are vested to the laws and regulations in effect at the time
17 original permit application vested.

18
19 b. A detailed description means a detailed site plan drawn to scale, specifying the
20 location of all buildings and improvements to be constructed in conjunction with the
21 use(s). The detailed description must address density, building setbacks, critical area
22 buffers, lot coverage, lot width requirements, and bulk (length, height and width),
23 driveways, stormwater features, water and sewer infrastructure and other
24 improvements necessary for the development.

25
26 c. If the development approval does not contain the information in (3)(a) and (b)
27 above, applications for future use(s) are subject to all later enacted laws and
28 regulations in effect at the time the complete application for the future use(s) vests.

29
30 4. The County may impose conditions based on development permits pursuant to the
31 State Environmental Policy Act, Chapter 43.21C RCW, Chapter 197-11 WAC and SJCC
32 18.80.050 to mitigate potentially adverse environmental impacts.

33
34 5. The County may impose new regulations such as requirements of the building, health,
35 and fire codes on vested development permits when necessary to protect the public health
36 and safety.

37
38 6. Applications for comprehensive plan amendments processed under Chapter 18.90
39 SJCC are not subject to the vesting rules in this section.

40
41 ~~**P.—Effects on Property Values.** As provided for in RCW 90.58.290, the restrictions imposed~~
42 ~~upon the use of real property through the implementation of the policies and regulations of the~~
43 ~~SMA and the master program shall be duly considered by the County assessor and the County~~
44 ~~board of equalization in establishing the fair market value of such properties.~~

SECTION 5. SJCC 18.80.120 and Ord. 15-2002 § 12 are each amended to read as follows:

18.80.120 Procedures for nonconforming uses and structures.

A. Legally established land uses and structures that ~~have~~ subsequently become nonconforming because of changes to County land use regulations continue to be legal. SJCC 18.40.310 provides standards governing such for legally nonconforming structures and uses. are located in SJCC 18.40.310. Nonconforming uses, structures and activities under the jurisdiction of the SMP are subject to the provisions of Section 14 of this ordinance.

B. No project ~~permit~~ or development permit ~~shall~~ will be approved for any nonconforming use or structure that has been abandoned as per SJCC 18.40.310(J). Nonconforming uses or structures may be relocated on the same site parcel.

C. When evaluating proposals for the alteration, relocation, modification, or expansion of nonconforming uses or structures, the decision-maker shall consider the total impact of the nonconforming use or structure, as well as the added impact of the incremental changes being proposed, and the consistency of the changes with the applicable land use designation.

~~**D.** Shoreline Nonconforming Uses and Structures. Any nonconforming structure, or use, under the jurisdiction of the Shoreline Master Program (Element 3 of the Comprehensive Plan and Chapter 18.50 SJCC) shall be subject to the nonconforming use provisions in WAC 173-27-080, and the applicable procedures of Chapter 18.50 SJCC and SJCC 18.80.110.E.~~

~~**ED.** Procedures for Nonconforming Use or Structure not subject to the Shoreline Master Program SMP.~~

1. The procedures for provisional uses in ~~(SJCC 18.80.0780)~~ shall apply to the actions and activities described in SJCC 18.40.310(B) through (D), as limited by SJCC 18.40.310 ~~(G)(H)~~ through (J).

2. The procedures for conditional uses in ~~(SJCC 18.80.100)~~ shall apply to the actions and activities described in SJCC 18.40.310(F), as limited by SJCC 18.40.310 ~~(G)(H)~~ through (J).

~~**FE.** Illegal Use.~~ Any use, structure, or other site improvement not established in compliance with this code and other applicable codes and regulations in effect at the time of establishment is not nonconforming; rather, it is illegal and subject to enforcement provisions of Chapter 18.100 SJCC.

REAPLER. SECTION 6. The following sections of Chapter 18.50 SJCC and the following ordinances and resolutions or sections of each are repealed:

- (1) SJCC 18.50.010 (General) and Res. 77-2003 § 1, Ord. 13-2002 § 1, Ord. 2-1998 Exh. B § 5.1 are each repealed;
- (2) SJCC 18.50.020 (General applicability) and Ord. 21-2002 § 6, Res. 145-1998, Ord. 2-1998 Exh. B § 5.2;
- (3) SJCC 18.50.030 (Definitions) and Ord. 2-1998 Exh. B § 5;

- (4) SJCC 18.50.040 (Administration) Res. 77-2003 § 2; Ord. 13-2002 § 2; Ord. 2-1998 Exh. B § 5.4.1;
- (5) SJCC 18.50.050 (Archaeological and historic resources) and Ord. 2-1998 Exh. B § 5.4.2;
- (6) SJCC 18.50.060 (Clearing and grading) and Ord. 2-1998 Exh. B § 5.4.3;
- (7) SJCC 18.50.070 (Environmental impacts) and Ord. 2-1998 Exh. B § 5.4.4;
- (8) SJCC 18.50.080 (Environmentally sensitive areas) and Ord. 2-1998 Exh. B § 5.4.5;
- (9) SJCC 18.50.090 (Parking) and Ord. 2-1998 Exh. B § 5.4.6;
- (10) SJCC 18.50.100 (Public access) and Res. 145-1998, Ord. 2-1998 Exh. B § 5.4.7;
- (11) SJCC 18.50.110 (Shorelines of statewide significance) and Ord. 2-1998 Exh. B § 5.4.8;
- (12) SJCC 18.50.120 (Signs) and Ord. 2-1998 Exh. B § 5.4.9;
- (13) SJCC 18.50.130 (Vegetation management) and Ord. 2-1998 Exh. B § 5.4.10;
- (14) SJCC 18.50.140 (View protection) and Ord. 2-1998 Exh. B § 5.4.11;
- (15) SJCC 18.50.150 (Water quality) and Ord. 2-1998 Exh. B § 5.4.12;
- (16) SJCC 18.50.160 (General) and Ord. 2-1998 Exh. B § 5.5.1;
- (17) SJCC 18.50.170 (Agriculture) and Ord. 2-1998 Exh. B § 5.5.2;
- (18) SJCC 18.50.180 (Aquaculture) and Ord. 7-2005 §§ 11, 12, and Ord. 2-1998 Exh. B § 5.5.3;
- (19) SJCC 18.50.190 (Boating facilities (including docks, piers, and recreational floats)) and Ord. 7-2005 § 13, Ord. 12-2000 § 2; Res. 145-1998, Ord. 2-1998 Exh. B § 5.5.4;
- (20) SJCC 18.50.200 (Breakwaters, jetties, and groins) and Ord. 2-1998 Exh. B § 5.5.5;
- (21) SJCC 18.50.210 (Bulkheads) and Ord. 2-1998 Exh. B § 5.5.6;
- (22) SJCC 18.50.220 (Commercial development) and Ord. 21-2002 § 6, Ord. 2-1998 Exh. B § 5.5.7;
- (23) SJCC 18.50.230 (Dredging) and Ord. 2-1998 Exh. B § 5.5.8;
- (24) SJCC 18.50.240 (Forest management) and Ord. 7-2005 § 14, Ord. 2-1998 Exh. B § 5.5.9;
- (25) SJCC 18.50.250 (Industrial development) and Ord. 2-1998 Exh. B § 5.5.10;
- (26) SJCC 18.50.260 (Institutional development) and Ord. 2-1998 Exh. B § 5.5.11;
- (27) SJCC 18.50.270 (Landfills and solid waste disposal) and Ord. 2-1998 Exh. B § 5.5.12;
- (28) SJCC 18.50.280 (Log transfer sites and facilities and log storage) and Ord. 2-1998 Exh. B § 5.5.13;
- (29) SJCC 18.50.290 (Mineral extraction) and Ord. 2-1998 Exh. B § 5.5.14;
- (30) SJCC 18.50.300 (Pedestrian beach access structures) and Ord. 2-1998 Exh. B § 5.5.15;
- (31) SJCC 18.50.310 (Ports and water-related port facilities) and Ord. 2-1998 Exh. B § 5.5.16;
- (32) SJCC 18.50.320 (Recreation) and Ord. 2-1998 Exh. B § 5.5.17;

- (33) SJCC 18.50.330 (Residential development) and Ord. 7-2005 §§ 15, 16, Ord. 21-2002 § 6, Res. 5-2002 §§ 2, 3, Ord. 12-2000 § 2, Res. 145-1998, Ord. 2-1998 Exh. B § 5.5.18;
- (34) SJCC 18.50.340 (Transportation facilities) and Res. 64-2001, Ord. 10-2000, Ord. 2-1998 Exh. B § 5.5.19;
- (35) SJCC 18.50.350 (Utilities) and Ord. 2-1998 Exh. B § 5.5.20;
- (36) SJCC 18.50.360 (General shoreline modification activities) and Ord. 2-1998 Exh. B § 5.6.1;
- (37) SJCC 18.50.370 (Shoreline restoration and beach enhancement) and Ord. 2-1998 Exh. B § 5.6.2;
- (38) SJCC 18.50.380 (Severability) and Ord. 2-1998 Exh. B § 5.7; and
- (39) SJCC 18.50.390 (Effective date) and Ord. 2-1998 Exh. B § 5.8.

NEW SECTION 7. A new section is added to Chapter 18.50 SJCC to read as follows:

Purpose of the Shoreline Master Program (SMP).

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

1. The promotion of shoreline uses that are both water-oriented and appropriate for the broader environmental context. Developments such as recreational areas, water-dependent businesses such as marinas, and single family residences are considered priority uses provided they are constructed in a manner consistent with shoreline ecology.
2. The SMA requires local governments to take an active role in protecting the shoreline ecology: the water, the land, the vegetation and the wildlife. The state guidelines are explicit; “Local master programs shall include regulations and mitigation standards ensuring that each permitted development will not cause a net loss of ecological functions of the shoreline.” (WAC 173-26-186(8)(b)(i)).
3. The SMA also promotes public access to the shoreline by requiring protection of existing public access features and requiring certain types of new development to include public access.

B. The SMP regulations apply to individual projects and impacts of shoreline development are evaluated on a project by project basis. However, the SMP goals and policies, shoreline designations, regulations and the Restoration Plan are comprehensively structured to achieve no net loss of shoreline ecological functions as a whole in San Juan County.

NEW SECTION 8. A new section is added to Chapter 18.50 SJCC to read as follows:

General.

A. Title. This Chapter of the San Juan County Unified Development Code (UDC), together with Element 3 of the Comprehensive Plan, and SJCC 16.55.040, 16.55.210(E)(2)(d), figures 130-7, 130-6 Eastsound Waterfront Access Plan, and SJCC 18.80.110 is the Shoreline Master Program (SMP) for San Juan County, Washington.

B. Short Title. The short title of this Chapter and Element 3 of the Comprehensive Plan is the "SMP."

C. Authority.

1. The provisions of this Chapter are adopted pursuant to RCW 90.58.140(1-3) and 90.58.200, the SMA, Chapters 173-26 and 173-27 WAC, and Element 3 of the Comprehensive Plan. Except when specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the SMA, and this SMP.

2. As provided in RCW 90.58.900, the SMA is exempt from the rule of strict construction. The SMA and the SMP is liberally construed to give full effect to the purposes, goals, objectives, and policies for which the SMA and this SMP were enacted and adopted.

3. The SMA and the SMP comprise the basic state and local law regulating the use of shorelines in the County. Unless specifically provided otherwise, if the provisions of the SMP conflict with other applicable state or local policies, subarea plans, or other regulations, the most restrictive regulation controls.

D. Official map.

1. A map, known officially as the "San Juan County Comprehensive Plan Land Use and Shoreline Master Program Map," (a.k.a., the "map" or "official map") is part of the SMP. The map shows all areas of the County under the jurisdiction of the SMP and the official shoreline designations established by Element 3 of the Comprehensive Plan for all affected lands and waters.

2. There are four (4) official copies of the map. Two (2) are maintained by the department, one (1) is archived by the San Juan County Auditor, and one (1) is submitted to the Washington Department of Ecology (WDOE). Amendments to the map are promptly recorded on the official copies.

3. No part of the map may be altered or amended without the approval of the WDOE, except those changes provided for in subsection (D)(4) of this section.

4. Where questions arise regarding the precise boundaries of any shoreline designation,

1 the director will make the final determination, subject to the provisions of SJCC 18.80.140.
2 Unofficial copies of the map may be prepared for administrative purposes as needed.

3 5. All areas that are not mapped in shoreline jurisdiction, but meet the jurisdictional
4 criteria in RCW 90.58.030(f) per WAC 173-26-211(2)(e), are assigned a conservancy
5 designation until the shoreline can be re-designated through an SMP amendment.

6 **E. Responsibilities of department director and planning commission.**

7 1. Director.

8 a. The director makes written recommendations to the decision-maker regarding
9 shoreline permit applications, provides technical and administrative assistance to the
10 hearing examiner as required, and provides such technical assistance to the planning
11 commission and County Council as may be needed; and

12 b. The director has the overall administrative responsibility for the SMP including:

13 i. Establishing the procedures and preparing the forms deemed essential for
14 the administration of the SMP;

15 ii. Advising applicants for permits and other interested persons of the
16 policies, regulations, and procedures established by the SMP and the
17 SMA;

18 iii. Making administrative interpretations of the SMP, as necessary;

19 iv. Collecting required fees;

20 v. Determining that applications are proper and complete prior to review;

21 vi. Making field inspections; and

22 vii. Seeking compliance with the provisions of the SMP and the SMA and
23 with conditions attached to a shoreline permit issued by the County.

24 2. The department and planning commission have authority to review and recommend
25 revisions to the SMP.

26 **NEW SECTION 9. A new section is added to Chapter 18.50 SJCC to read as follows:**

27 **General applicability.**

28 **A. Relationship to comprehensive plan.**

29
30
31 This SMP provides land use regulations to implement the goals and policies of the
32 Comprehensive Plan Element 3, SMP. These regulations apply to all of the land and waters of
33 the County that fall under the jurisdiction of the SMA. These regulations do not apply to
34 development and uses beyond the jurisdictional limits of the SMA unless a proposed
35 development involves both jurisdictional and non-jurisdictional land and the upslope land
36 development is likely to adversely affect shoreline ecological functions.

B. Applicability to persons.

This SMP applies to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other nonfederal entity that develops, owns, leases, or manages lands, wetlands, or waters that fall under the jurisdiction of the SMA, except for the right of any person established by treaty to which the United States is a party.

C. Applicability to federal agencies.

1. Federal agencies are subject to this SMP and the SMA, as provided by the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*; WAC 173-27-060(1)).

2. The shoreline permit system applies to nonfederal activities constituting developments or conditional uses undertaken on lands subject to nonfederal ownership, lease, or easement even though such lands may fall within the external boundaries of federally owned lands.

3. The shoreline permit system applies to development and uses undertaken on lands not federally owned but under lease, easement, license, or other similar property right of the federal government.

D. Applicability to developments, uses, structures, and activities.

This SMP applies to all developments, uses, and structures, as well as activities regulated by Chapter 18.35 SJCC. Unless otherwise authorized, shoreline development without a project permit, shoreline substantial development permit, shoreline conditional use permit, shoreline variance, or certificate of exemption is prohibited.

NEW SECTION 10. A new section is added to Chapter 18.50 SJCC to read as follows:

Exemptions from shoreline substantial development permit requirements.

General requirements.

A. Exemption from the shoreline substantial development permit requirements under this section does not constitute an exemption from the policies of the SMA, the regulations of this SMP, or other applicable County, state, or federal permit requirements.

B. Exemption procedures are provided in SJCC 18.80.110(F). Exemptions are construed narrowly in accordance with WAC 173-27-040(1)(a). If any part of a project is not eligible for an exemption, a shoreline substantial development permit is required for the entire project.

C. Certificates of exemption are required for certain developments under subsection (B) of Section 11 of this ordinance. A use classified as a conditional use, or a use not named or contemplated in this Chapter is allowed subject to a conditional use permit and is ineligible for a shoreline substantial development permit exemption.

D. The following developments, as defined in WAC 173-27-040, are not shoreline substantial developments and may require a certificate of exemption:

- 1 1. With the exception of docks, any development, use, structure or activity whose total
2 cost or fair market value, whichever is higher, does not exceed the maximum exempt
3 amount allowed by state law (\$6,416 as of October 2012) in accordance with WAC 173–
4 27–040(2)(a), if such development does not materially interfere with the normal public use
5 of the water or shorelines of the state. The total cost or fair market value of the
6 development includes the fair market value of any donated, contributed or found labor,
7 equipment, or materials.
- 8 2. Normal maintenance or repair of existing structures or developments including those
9 damaged by fire, accident, or the elements in accordance with WAC 173–27–040(2)(b).
- 10 3. Construction of a protective structural shoreline stabilization measure associated with
11 existing single-family residences in accordance with WAC 173–27–040(2)(c).
- 12 4. Emergency construction necessary to protect property from damage by the elements,
13 in accordance with WAC 173–27–040(2)(d). Flooding or other seasonal events that can be
14 anticipated and may occur but are not immediately imminent are not an emergency.
- 15 5. Construction and practices necessary for farming, irrigation, and ranching activities,
16 including agricultural service roads and utilities on shorelands, construction and
17 maintenance of a barn or similar agricultural structure and the construction and
18 maintenance of irrigation structures such as head gates, pumping facilities, and irrigation
19 channels in accordance with WAC 173-27-040(2)(e) provided that a feedlot of any size, all
20 processing plants, other activities of a commercial nature, and alteration of the contour of
21 the shorelands by leveling or filling (other than that which results from normal
22 cultivation), are not considered normal or necessary farming or ranching activities.
- 23 6. Construction or modification of navigational aids such as channel markers and anchor
24 buoys in accordance with WAC 173-27-040(2)(f).
- 25 7. Construction of a single-family residence, including normal residential
26 appurtenances, for the use of the beneficial owner and their family is exempt from
27 shoreline substantial development permit requirements. For the purposes of this SMP, the
28 beneficial owner is an individual who may be a land owner, lessee, contract purchaser, or a
29 member of a family corporation, trust, or partnership, and who is related by blood,
30 adoption, marriage or domestic partnership to all other members of the corporation, trust or
31 partnership. For the construction of more than one single-family residence, a shoreline
32 substantial development permit is required in accordance with WAC 173-27-040(2)(g).
33 Exempt normal residential appurtenances are defined in SJCC 18.20.140 regulated by
34 Section 11 of this ordinance.
- 35 8. Construction of a dock, including a community dock, designed for pleasure craft
36 only, for the private, noncommercial use of the owners, lessee, or contract purchaser of
37 single- and multiple-family residences in accordance with WAC 173–27–040(2)(h). This
38 exception applies if either:
 - 39 a. In salt waters, the fair market value of the dock does not exceed twenty-five
40 hundred dollars (\$2,500); or

- b. In fresh waters, the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding twenty-five hundred dollars (\$2,500) occurs within five (5) years of completion of the prior construction, the subsequent construction is considered a substantial development.
9. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as part of an irrigation system for the primary purpose of making use of the system waters, including return flow and artificially stored ground water from the irrigation of lands in accordance with WAC 173-27-040(2)(i).
10. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water in accordance with WAC 173-27-040(2)(j).
11. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, that were created, developed, or utilized primarily as part of an agricultural drainage or diking system in accordance with WAC 173-27-040(2)(k).
12. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this SMP in accordance with WAC 173-27-040(2)(m) if:
- a. The activity does not interfere with the normal public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment such as fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
 - c. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
 - d. A private entity seeking development authorization under this section first posts a financial guarantee or provides other evidence of financial responsibility to the County to ensure that the site is restored to pre-existing condition; and
 - e. The activity is not subject to the permit requirements of RCW 90.58.550.
13. The process of removing or controlling an aquatic noxious weed, as defined in state law, through the use of herbicides or other treatment methods that are recommended in a final environmental impact statement published by the U.S. Department of Agriculture or the WDOE jointly with other state agencies under Chapter 43.21C RCW in accordance with WAC 173-27-040(2)(n). In order to qualify as exempt, noxious weed control must meet the following County requirements:
- a. Aquatic weed control must only occur when native plant communities and associated habitats are threatened or where a water-dependent use is restricted by the presence of weeds. Aquatic weed control must occur in compliance with all other applicable laws and standards.

b. Aquatic weeds will be controlled by hand pulling or mechanical harvesting that does not disturb the sea bed, or entail placement of aqua-screens. If the action is being proposed for the retention of existing water depth for navigation, it is considered normal maintenance and repair.

c. The control of aquatic weeds by derooting, rotovating, or other methods that disturb the sea bed or benthos in order to maintain the pre-existing water depth for navigation in an area covered by a previous permit is considered normal maintenance and repair. The control of aquatic weeds by similar methods in any other circumstance requires a shoreline substantial development permit.

d. Use of herbicides to control aquatic weeds is prohibited except where no feasible alternative exists and weed control complies with all state rules and regulations.

14. Watershed restoration projects in accordance with WAC 173-27-040(2)(o).

15. A public or private project that is designed to improve fish or wildlife habitat or fish passage in accordance with WAC 173-27-040(2)(p), when all of the following apply:

a. The project has been approved by the Washington Department of Fish and Wildlife (WDFW);

b. The project has received hydraulic project approval by the WDFW pursuant to Chapter 77.55 RCW; and

c. The County has determined that the project is substantially consistent with this SMP.

NEW SECTION 11. A new section is added to Chapter 18.50 SJCC to read as follows:

Exemptions from substantial development permit requirements – Normal residential appurtenances.

A. Normal residential appurtenances are structures or development that are necessarily connected to the use and enjoyment of a single-family residence and that are expressly defined in Chapter 18.20.140 SJCC. Hard structural shoreline stabilization measures and other shoreline modifications or over-water structures are not considered normal appurtenant structures. Normal residential appurtenance exemptions also include:

1. Construction or renovation of structures with fair market value of less than the maximum value allowed by WAC 173-27-040(2)(a) (\$6,416 in October 2012).

2. Private pedestrian pathways, stairways and ramps, provided that a written certificate of exemption is obtained, and all of the following criteria are met:

a. The total cost or fair market value of the improvements does not exceed the maximum allowed by WAC 173-27-040(2)(a);

b. Roofs or roof covering materials such as awnings are not allowed for purposes

of this exemption;

c. All materials must be finished in subdued natural earth colors;

d. No construction or placement seaward or below the OHWM is allowed unless the stairways or ramp are connected to an exempt or permitted dock;

e. No other shoreline access exists or is feasible;

f. The maximum vertical height of the stairway is fifteen (15) feet and the maximum width of the structure is five (5) feet. One intermediate landing or platform with a maximum size of five (5) feet by five (5) feet is allowed. Stairways proposed for exposed areas of the shoreline are not allowed on rock faces or bluffs that exceed a sixty (60) degree angle; and

g. The project complies with the bank stability and geologically hazardous area requirements of Section 18 of this ordinance and Chapter 18.35 SJCC.

B. Certificates of exemption.

1. The director may approve or deny applications for an exemption from a shoreline substantial development permit for uses and developments listed in Section 10 and Section 11(A) of this ordinance. Approved certificates must describe the specific exemption that is being applied to the development and indicate that a proposal is consistent with the SMP and the SMA. The certificate of exemption may contain conditions or mitigation measures required for consistency with the SMP and SMA. The denial of an exemption must include written findings. The director's approval or denial of a certificate of exemption may be appealed under SJCC 18.80.140.

2. A certificate of exemption is required for:

a. Dredging;

b. Flood hazard control structures;

c. Archaeological or historic site alteration;

d. Clearing, grading, fill, excavation and vegetation removal (when not part of an approved project permit);

f. Dock construction, repair, replacement, or enlargement;

g. Structural shoreline stabilization, repair, replacement, or enlargement;

h. Any residential, commercial or industrial development project within the natural and aquatic designations (when not part of an approved project permit);

i. Small scale shellfish aquaculture consistent with the provisions of Section 28(B) of this ordinance;

j. Temporary barge landing sites; and

k. Private pedestrian pathways, stairways and ramps.

3. Whenever an exempt activity also requires an ACOE Section 10 permit under the Rivers and Harbors Act of 1899, or a Section 404 permit under the Federal Water Pollution Control Act of 1972, a copy of the certificate of exemption is sent to the applicant and the WDOE in accordance with WAC 173-27-050.

4. A certificate of exemption is not required for residential development, including normal residential appurtenant structures, when a building permit application is required. In addition to the conditional use permit required by Section 60(D)(2) of this ordinance, normal residential appurtenances that are not considered as part of original development permit are required to obtain a certificate of exemption.

5. A certificate of exemption is not required prior to emergency actions taken pursuant to WAC 173-27-040(2)(d). Post emergency applications must be submitted in accordance with SJCC 18.35.030(A).

NEW SECTION 12. A new section is added to Chapter 18.50 SJCC to read as follows:

Definitions.

The definitions for all terms used in this document have the meanings specified in Chapter 18.20 SJCC. If there is a conflict in interpretation, the terms used in Chapter 90.58 RCW, WAC 173-26-020 and WAC 173-27-030 control.

NEW SECTION 13. A new section is added to Chapter 18.50 SJCC to read as follows:

Administration.

A. All existing shoreline uses and activities, including those that do not require a shoreline substantial development permit, must conform to the SMA and the general and use-specific regulations of this SMP.

B. All shoreline modification activities, developments and vegetation removal are prohibited unless they support an allowable shoreline use that conforms to the provisions of this SMP.

C. Prohibited shoreline uses and modification activities are not eligible for shoreline variances or conditional use permits.

NEW SECTION 14. A new section is added to Chapter 18.50 SJCC to read as follows:

Nonconforming structures, uses, and activities.

A. Except for structural shoreline stabilization measures (addressed in Section 47 of this ordinance) and boating facilities, docks, piers, mooring and recreational floats (addressed in Section 37 of this ordinance), any use or structure legally located within shoreline jurisdiction that was established before the effective date of this ordinance may be moved, replaced, redeveloped, expanded, or otherwise modified on the same parcel provided this work is consistent with the provisions of this section.

B. Movement, replacement, redevelopment, expansion or modification of structures may be allowed if the applicant demonstrates that the proposed action will not:

1. Result in a net loss of shoreline ecological functions;
2. Increase adverse impacts on shoreline critical areas;
3. Create a new nonconformance or increase the degree of inconsistency with the provisions of this SMP; or
4. Result in a hazard to people or property.

See Figure X below.

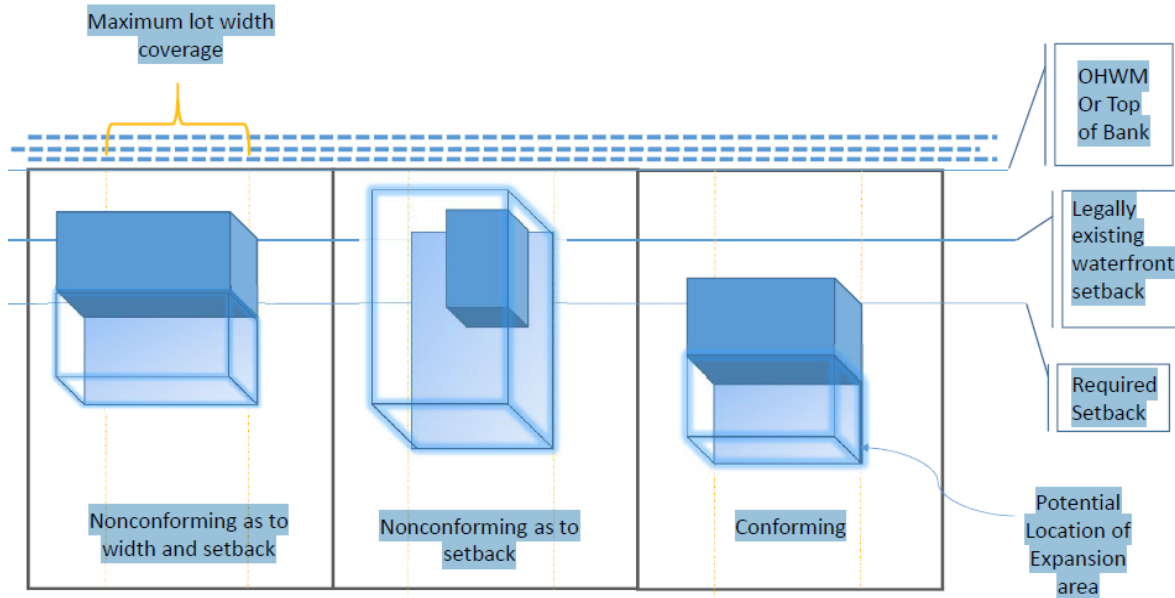
C. The applicant must demonstrate no net loss of shoreline ecological functions based upon an analysis that addresses any:

1. Increase in the quantity of pollutants from the site;
2. Increase in the quantity of surface runoff from the site;
3. Decrease in trees and other vegetation within buffers and tree protection zones;
4. Decrease in the stability of the site and other properties; and
5. Changes to the transport of sediment to and within nearshore areas.

D. Upon submittal of a written request for administrative determination, the director may approve minor changes to the prior footprint in order to further protect natural or verified cultural and historic resources after making written findings.

E. Complete application(s) for project or development permits for replacement structures must be submitted within forty-eight (48) months of removal or destruction of the original structure. The director may extend this time period for good cause after the property owner submits a letter declaring their intent to rebuild the structure in the future. To retain the right to rebuild, a letter of intent must be submitted to the department every forty eight (48) months.

Figure X. Examples of nonconformity



NEW SECTION 15. A new section is added to Chapter 18.50 SJCC to read as follows:

Archaeological and historic resources.

A. When an application for a development permit is received for an area known to be archaeologically significant, the applicant must submit a cultural resources report with the permit application. The department will forward this report to the Native American nations and Washington State Department of Archaeology and Historic Preservation (DAHP) with a request for comments within ten (10) working days. The County will not take final action on the application until the comment period has ended. If the application is approved by the County, conditions may be attached reflecting the recommendations of the archaeologist regarding preservation or protection of the site.

B. All development permits will contain a provision advising the permit holder that if during excavation or development of the site an area of potential archaeological significance is uncovered, all activity in the immediate vicinity of the find must be halted immediately, and the director, the DAHP and affected Native American nations must be notified at once.

C. Additional regulations to protect archaeological and historic resources are established in SJCC 18.60.210.

D. Structural shoreline stabilization measures may be allowed with a shoreline substantial development permit where wind, rain, storms, or waves expose verified archaeological and historic resources. Prior to issuing the permit, the authenticity of the cultural and historic resources must be verified by the DAHP in coordination with the affected Native American

1 nations.

2
3 **NEW SECTION 16. A new section is added to Chapter 18.50 SJCC to read as follows:**

4
5 **Clearing, grading, fill, excavation and vegetation management.**

6
7 **A.** All clearing, grading, fill and excavation must comply with SJCC 18.60.060, 18.60.070 and
8 Section 18 of this ordinance.

9
10 **B.** All shorelines must be protected from degradation caused by the modification of the land
11 surface within the shoreline area or the adjacent lands. Land clearing, grading, fill and alteration
12 of natural drainage features and land forms must be designed to prevent adverse impacts to
13 adjacent properties or shoreline ecological functions. Unless specifically allowed by this
14 Chapter, vegetation clearing and land surface grading and filling is prohibited.

15
16 **C.** The following requirements apply to land clearing, grading, filling, or alteration of
17 wetlands, natural drainage, and topography for residential construction:

18
19 1. Land clearing, grading, filling, or alteration of wetlands, natural drainage, and
20 topography shall be limited to the area necessary for driveways, buildings, and view and
21 solar access corridors. Cleared surfaces not to be covered with gravel or impervious
22 surfaces shall be replanted promptly with native or compatible plants (i.e., groundcovers or
23 other plant materials adapted to site conditions which will protect against soil erosion).
24 This applies to individual construction and shoreline subdivisions. Existing vegetation
25 shall be used to visually buffer structures as viewed from the shoreline, public roads, and
26 adjoining properties. All applications for new construction and subdivisions shall identify
27 trees that are proposed to be removed. If trees are to be removed beyond those required to
28 construct a single-family residence, then a tree removal plan shall also be submitted. The
29 plan shall:

30
31 a. Identify the proposed building areas, driveways, and view and solar access
32 corridors; and

33
34 b. Demonstrate how existing natural screening will be retained while providing
35 for construction, views, and sunlight.

36
37 2. Removal of trees smaller than three (3) inches in diameter, as measured four (4) feet
38 above grade, shall not be restricted unless there is evidence that the shoreline is unstable.
39 The removal of smaller trees, brush, and groundcover may be restricted in unstable
40 shorelines.

41
42 **D.** All building permit applications for new nonresidential construction, uses, structures or
43 activities must show all trees on the site plan and identify any trees proposed to be removed. If
44 trees are to be removed at other times, a tree removal plan must be submitted to the department
45 for review and approval. Site and tree removal plans must:

1. Identify the proposed and existing building areas, driveways, and view and solar access corridors;
2. Demonstrate how natural screening will be retained while providing for construction, views, and sunlight;
3. Demonstrate how the tree protection requirements in critical area buffers and tree protection zones in Chapter 18.35 SJCC will be met; and
4. Include a report by a certified arborist for hazard tree removal.

E. Fill in flood hazard areas identified on the Flood Insurance Rate Maps (FIRMs) is not allowed unless the director finds that no feasible alternative exists. Land clearing, grading, filling, and altering of wetlands, natural drainage features and topography is limited to the minimum area necessary for driveways, buildings, and views, and must conform with critical area requirements and SMP setbacks. It is the property owner's responsibility to obtain required state and federal authorizations for work in wetlands, streams or shoreline waters. Fill and excavation within wetlands or waterward of the OHWM will only be allowed for the following purposes:

1. Interagency environmental restoration or clean-up projects to dispose of contaminated sediment;
2. Disposal of dredged material evaluated and conducted in accordance with, the Dredged Material Management Program of the WDNR or the Dredged Material Management Office of the ACOE (see Section 50 of this ordinance);
3. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline where alternatives to fill are infeasible;
4. Ecological restoration or enhancement projects, such as beach nourishment, habitat creation, culvert upgrades to improve fish and flow passage, or bank restoration when consistent with a Restoration Plan approved as part of this SMP; and
5. Protection of archaeological, cultural or historic resources when fill is the most feasible method to avoid continued degradation, disturbance or erosion of a site. Such fill must be coordinated with any affected Native American nations and comply with applicable provisions of SJCC 18.60.210.

F. When clearing, grading, filling or excavating will cause adverse impacts to ecological functions, a mitigation plan must be prepared and implemented in accordance with Sections 19, 20, and 21 of this ordinance.

G. Fill landward of the OHWM is allowed provided it:

1. Is conducted outside required buffers and setbacks as part of an approved shoreline use;
2. Is the minimum needed to implement the approved shoreline use;

3. Does not significantly change the topography of the landscape in a manner that affects the runoff characteristics; and

4. Does not increase the risk of slope failure.

H. All fill and excavation waterward of the OHWM not associated with ecological restoration requires a shoreline conditional use permit.

I. All debris and other waste material resulting from construction are to be managed or disposed of in a fashion that prevents entry into any water body or wetland.

J. Clearing, grading, filling or excavating are not allowed where shoreline stabilization will be necessary to protect materials placed or removed, except when they are part of an approved plan to protect cultural resources including archaeological artifacts.

K. Fill, beach nourishment and excavation are to be designed to blend physically and visually with the topography existing on the date of application whenever possible, so as not to interfere with water-dependent uses, lawful access and enjoyment of scenery.

L. Fill is not allowed for the sole purpose of expanding the developable area of a lot.

M. Applications for substantial development permits proposing fill must include the following information:

1. Source of fill material;
2. Physical characteristics of fill material;
3. Proposed methods of placement and compaction;
4. Proposed surfacing material;
5. Proposed quantity of fill;
6. Proposed method(s) of erosion control; and
7. Proposed use of filled area.

N On natural (as opposed to manmade, privately owned) lakes; retaining walls are not to be used as erosion control devices on allowed fill.

O. Regulations by designation.

1. Conservancy. Fill is prohibited within this designation.
2. Aquatic. Fill may be allowed in this designation subject to a conditional use permit.
3. Fill is prohibited within the Eastsound subarea.

NEW SECTION 17. A new section is added to Chapter 18.50 SJCC to read as follows:

General environmental protection.

A. Land uses and developments that include vegetation removal, fill, excavation or grading on County shorelines must be designed, located, sized, constructed and maintained to result in no net loss of shoreline ecological functions.

B. Land use and development project proposals that do not meet the critical area requirements for no net loss in Section 18 of this ordinance must include a mitigation sequence analysis that considers avoiding actions, minimizing the scale and scope of the project and possible mitigation actions. Where a project may cause or increase the intensity of unavoidable adverse impacts on shoreline ecological functions, mitigation to offset the impacts is required and must be consistent with the mitigation sequence and mitigation planning process in Sections 19, 20, and 21 of this ordinance.

Where land use or development projects meet or exceed the protections required by the critical area regulations in Section 18 of this ordinance, mitigation is not required. All new uses, developments and ancillary activities that do not comply with Section 18 of this ordinance requires mitigation of adverse impacts consistent with the provisions of Sections 19, 20, and 21 of this ordinance.

C. All shoreline uses, structures, and activities are to be located, designed, constructed, and managed in a manner that is aesthetically compatible with the affected area.

D. All new shoreline structures must be located and designed to prevent the need for shoreline stabilization and flood protection measures for the life of the structure (minimum seventy-five years (75) as determined by a qualified professional.

E. Herbicides and pesticides shall not to be applied to, or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.

F. The cultivation of genetically modified crops, livestock and other organisms are prohibited in the shoreline jurisdiction under Chapter 8.26 SJCC.

NEW SECTION 18. A new section is added to Chapter 18.50 SJCC to read as follows:

Critical areas.

A. The San Juan County critical area regulations codified in Chapter 18.35 SJCC are incorporated into this SMP except as noted in subsection (B) below. These regulations were adopted by the County in Ordinance 52-2008 on November 18, 2008; Ordinances 26-, 27-, 28-, and 29- 2012, on December 3, 2012; Ordinance 2-2014 on March 5, 2014, Ordinance 16-2014 on November 4, 2014, and Ordinance 1-2015 on January 27, 2015.

B. Provisions of the critical area regulations that are not consistent with Chapter 90.58 RCW (the Shoreline Management Act) and its supporting WACs do not apply in the shoreline

jurisdiction including the:

1. Critical area applicability provisions do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.025 does not apply.
2. Critical area reasonable use exceptions do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.035 does not apply.
3. Critical area mitigation requirements do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.040 does not apply.
4. Critical area existing legally established structures, uses and activities do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.045 does not apply.
5. Critical area nonconforming structures, uses and activities do not apply in the shoreline jurisdiction. Specifically, SJCC 18.35.050 does not apply.
6. Critical area reduced provisions for reduced water quality buffers and tree protection zones when views of the water are blocked by existing houses on adjoining waterfront parcels, do not apply in shoreline jurisdiction. Specifically SJCC 18.35.130(F) does not apply.
7. Critical area standards and requirements for shoreline modifications do not apply in the shoreline jurisdiction. Specifically SJCC 18.35.130(G) does not apply.
8. Critical area standards and requirements for aquaculture activities and uses allowed in and over aquatic fish and wildlife habitat conservation areas do not apply in shoreline jurisdiction. Specifically, items (f) and (g) in SJCC Table 18.35.130-3 do not apply.

NEW SECTION 19. A new section is added to Chapter 18.50 SJCC to read as follows:

Mitigation of adverse impacts to shoreline ecological functions.

A. Shoreline development, land uses, structures and activities must meet the no net loss requirement of WAC 173-26-186(8)(b). If project proposals do not comply with the critical area protections in Chapter 18.35 SJCC, applicants must submit a mitigation sequence analysis to the department.

B. Mitigation measures must be applied in the following sequence. The applicant must demonstrate that each mitigation action is not feasible or applicable before proceeding to the next option or action:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

4. Reducing or eliminating the impact over time by preservation and maintenance operations; and

5. Compensating for the impact by replacing or providing substitute resources or environments; and monitoring the impact and compensation projects, and taking appropriate corrective measures

6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

C. When feasible, adverse impacts are to be mitigated on site. If off site mitigation is proposed, the mitigation site must be located on the same island, as close as feasible to the development site.

NEW SECTION 20. A new section is added to Chapter 18.50 SJCC to read as follows:

Mitigation plans.

A. If a mitigation sequence analysis demonstrates that adverse impacts on shoreline ecological functions are unavoidable, mitigation, monitoring and adaptive management plans to offset the adverse impacts must be developed by a qualified professional.

B. Where the proposal will have an adverse impact on wetland ecological functions, mitigation plans, including associated wetland replacement ratios, must be consistent with the guidance provided in *Wetland Mitigation in Washington State - Part 1: Agency Policies and Guidance, Ecology publication 06-06-011a (as amended)*; and *Wetland Mitigation in Washington State - Part 2, publication 06-06-011b (as amended)*. As an alternative, mitigation actions may follow the procedures described in Ecology Publication No. 10-06-011, *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (as amended)* or another mitigation approach or publication approved by WDOE.

C. Mitigation options may include the use of certified mitigation banks and approved in lieu fee mitigation sites when they are identified and approved by the County Council.

D. Removal of shoreline modifications constructed in violation of this code cannot be used to mitigate new adverse impacts to shoreline ecological functions and critical area functions if those modifications were made by the owner of the property, or if they are located on the property that is the subject of the application.

E. Mitigation, monitoring, and adaptive management plans are reviewed and approved by the decision-maker for the underlying permit or approval (director or hearing examiner, depending on type of permit or approval).

F. Mitigation plans must address the scale and scope of the project, and document compliance with the mitigation approval criteria. Mitigation plans must include at least the following information, as applicable:

1. For both the area proposed for development or vegetation removal, and the proposed mitigation site, the applicable items listed in SJCC 18.80.020(C);
2. Photographs of both the development and mitigation sites;
3. The field located OHWM;
4. A mitigation sequencing analysis;
5. Any related project documents such as applications to other agencies or environmental documents prepared pursuant to the SEPA;
6. For both the area proposed for development or vegetation removal, and the proposed mitigation site, applicable critical area reports, tree removal plans, and BAS documents supporting the proposal;
7. For both the area proposed for development or vegetation removal, and the proposed mitigation site, copies of any proposed or approved stormwater and erosion control plan required by Chapter 18.60 SJCC;
8. A narrative describing anticipated unavoidable adverse impacts to critical area functions, the mitigation proposal (including the goals of the proposal; performance standards that will be used to gauge the effectiveness of the proposal, construction methods, and the sequence and timing of actions), and explaining how the proposal meets the plan approval criteria. Assessment of adverse impacts to critical area functions and of the effectiveness of proposed mitigation must be based on the BAS;
9. For off site mitigation actions, an explanation of why on site mitigation was not feasible, along with the site selection criteria employed, including a watershed approach for the selection of mitigation sites;
10. If grading, fill or excavation is proposed, pre- and post-construction contour plans are required at a scale suitable for the site;
11. A planting plan (if planting is proposed) identifying plant species, quantities, sizes, locations, spacing, and density, along with proposed measures to protect and maintain the plants until they are established;
12. Any other drawings necessary to illustrate the proposal;
13. A description of the report author's education and experience relevant to designing and implementing the proposed actions;
14. A monitoring and adaptive management plan appropriate for the scale and scope of the project. The monitoring and adaptive management plan must include:

- a. A description of measureable indicator data to be collected. The description will demonstrate the validity of the collected data to assess the effectiveness of the project;
- b. A monitoring schedule. Data collection must occur at least once each calendar year. The minimum monitoring schedule is three (3) years unless the director makes a written determination that the mitigation plan is successful, functioning as designed and the established performance standards have been met. If the plan is unsuccessful, the director may extend the monitoring requirements; and
- c. A report submitted to the department by November 1st of each calendar year explaining corrective actions that will be taken to address unforeseen adverse impacts.

15. A cost estimate prepared by a qualified professional for implementing the mitigation plan and monitoring the site for a period of three (3) years, or until the qualified professional anticipates the plan to be fully completed and functional. The plan must be approved by the decision-maker (director or hearing examiner, depending on type of underlying permit);

16. Unless exempt under RCW 36.32.590, a financial guarantee and associated agreement equal to a minimum of one hundred and fifteen percent (115%) of the projected cost of implementing the mitigation and monitoring plans (i.e. cost plus fifteen percent (15%)). The maximum cost to the property owner is the original cost for implementing and monitoring the project, plus fifteen percent (15%) of that cost;

17. The financial guarantee and the associated agreement must meet the requirements of SJCC 18.80.200. For mitigation of adverse impacts to wetlands and fish and wildlife habitat conservation areas, it must initially be established to cover a time period of three (3) years or until the project is anticipated to be completed and functional as determined by the qualified professional and approved by the decision-maker; and

18. A statement, signed by the property owner, agreeing to the periodic inspections established in the monitoring plan. The purpose of inspections is to determine compliance with approved plans. Inspections can be performed by either a qualified professional hired by the property owner, or a County representative. If a County representative conducts the inspection(s), they will be by appointment or following advance written notice.

G. If the County's review of a mitigation plan requires a referral to independent qualified professionals, the review will be conducted at the applicant's expense. If review by a third party is necessary because of the complexity of the plans or apparent errors, the department may require advance payment of fees for this review based on the estimated review time. As an alternative to third party review, the applicant and the director may jointly select the qualified professional who will complete the plans.

NEW SECTION 21. A new section is added to Chapter 18.50 SJCC to read as follows:

Mitigation plan approval criteria.

A. Approval of mitigation plans will be based on conformance with the following criteria:

1. The applications and projects are consistent with the mitigation sequence in Section 19(B) of this ordinance; and
2. The mitigation has been developed consistent with the published mitigation standards for the applicable critical area, including a description of monitoring methods and frequency and measurable performance standards.

B. The County will record a copy of the approved mitigation plan and mitigation monitoring agreement.

C. If the goals, objectives and performance standards of the mitigation plan are not met, the decision-maker may require additional actions and may extend the monitoring period, financial guarantee and associated agreement.

NEW SECTION 22. A new section is added to Chapter 18.50 SJCC to read as follows:

Flood hazard reduction.

A. Applicability.

This section regulates the construction of structural flood hazard reduction measures such as:

1. Dikes;
2. Levees;
3. Revetments;
4. Floodwalls: and
5. Channel realignments.

Small scale structural flood hazard reduction measures such as raising a building above the base flood elevation, or the creation of underfloor spaces meeting the requirements of FEMA/FIA Technical Bulletin (TB) 11-1 (as amended) are not subject to the regulations in this section.

B. General regulations.

1. Where feasible, nonstructural flood hazard reduction measures such as setbacks, wetlands restoration, stormwater management programs and structural relocation, are preferred over structural solutions.

2. New structural flood control works are only allowed in the shoreline jurisdiction if it is demonstrated by an engineering analysis that:

- a. They are necessary to protect existing development or to mitigate or resolve existing stormwater problems;
- b. Impacts to critical areas can be successfully mitigated to result in no net loss of shoreline ecological functions;
- c. Appropriate vegetation conservation actions will be undertaken; and
- d. Nonstructural flood hazard reduction measures are infeasible.

3. All development or uses in areas of special flood hazard area designated by the County's FIRMs and Flood Hazard Boundary Maps (FHBMs) are subject to the provisions of Chapter 15.12 SJCC and SJCC 18.35.075.

4. New structural flood hazard reduction measures must be placed landward of associated wetlands and wetland habitat buffers, except for measures that increase shoreline ecological functions, such as wetland restoration.

5. The removal of substrate for flood management purposes is prohibited.

6. The applicant must provide the following information:

- a. Flood hazard area characteristics adjacent to the project area;
- b. Physical, geological and soil characteristics of the area;
- c. An analysis of alternative flood protection measures, both structural and nonstructural;
- d. Shoreline stabilization measures and flood protection works within the area existing at the time of application;
- e. Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and
- f. Biological resources and predicted impact to fish, vegetation and animal habitat associated with shoreline ecological systems.

NEW SECTION 23. A new section is added to Chapter 18.50 SJCC to read as follows:

Public access.

A. Except as provided in subsections (B) and (C) of this section, a development, use, structure or activity that requires a shoreline substantial development or conditional use permit shall provide public access or community access consistent with RCW 90.58.020 as mitigation, if one of the following applies:

1. Where it will create increased demand for public access to the shoreline;
2. Where it will interfere with a public access way existing on the date of application;

3. Where developments, uses, structures or activities that are not a priority shoreline use under the SMA will locate on the shoreline of the state;

4. Where it will interfere with a public use of lands or waters subject to the Public Trust Doctrine;

5. If land is proposed to be divided to create five (5) or more lots; or

6. If it is a project proposed by a public entity. The project application shall describe the impacts of the proposal on public access, the required public access conditions, and how the conditions address the impact.

B. An applicant need not provide public access if one or more of the following applies:

1. Land is divided creating no more than four (4) lots;

2. Unavoidable health or safety hazards to the public exist that cannot be prevented by practical means; and

3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

4. The cost of providing the access, easement or alternative amenity is unreasonably disproportionate to the long term cost of the proposed development;

5. Environmental harm will result from the public access that cannot be mitigated;

6. Significant undue and unavoidable conflict between any access provision or adjacent uses would occur and cannot be mitigated;

7. The County conducted a Countywide public access planning process that provides more effective public access than the single project access requirements; or

8. Other legal limitations apply.

C. In order to meet any one of the conditions in subsection (B)(2) through (8) above, the applicant must demonstrate, and the County must determine in written findings that all feasible alternatives have been exhausted such as:

1. Regulating access by maintaining a gate, limiting hours of use, or other means;

2. Separating uses and activities (e.g., with fencing, terracing, one-way glazing, landscaping, etc.); and

3. Developing provisions for access at a site geographically separated from the proposal such as a road end, vista or trail system.

D. Development, structures, uses and activities shall be designed, constructed, operated and maintained to avoid blocking, reducing or interfering with the public's physical accesses to the water and shorelines.

E. Public access provided by shoreline road ends, public utilities, and rights-of-way may not be diminished. Existing road ends and other shoreline access points are allowed in all shoreline

designations.

F. Where feasible, public access sites shall be connected directly to the nearest public road and shall include provisions for handicapped and physically impaired persons.

G. Required public access sites shall be fully developed and available for public use at the time of the occupancy of the permitted development, use, structure or activity. Where applicable, public access sites shall be fully developed prior to final approval of a land division.

H. Public access easements, common areas and related conditions shall be recorded on the deed of title or on the face of a land division plat.

I. The standard state-approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. Signs may control or restrict public access as a condition of permit approval.

J. Future actions by the property owner may not diminish the usefulness or value of the required public access.

K. Compliance with the public access plan for Eastsound, consistent with the Eastsound Subarea Plan adopted as part of the SMP for the Village Commercial waterfront is required.

NEW SECTION 24. A new section is added to Chapter 18.50 SJCC to read as follows:

Signs.

In addition to the standards in Chapter 18.40 SJCC, the following requirements apply:

A. Regulations.

1. Plans and designs for nonexempt signs must be submitted for review at the time of shoreline permit application.
2. All signs must be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline. Signs shall not face or be directed toward the water except for cable crossing signs, ferry signs, and signs located outside of hamlets, villages, UGAs and activity centers. Within hamlets, villages, UGAs and activity centers, directional and identification signs of water-dependent and water-related businesses may face the water.
3. Except for over-water signs or signs on floats or pilings directly related to the operations of a water-dependent use, over-water signs are prohibited. The highest point of allowed over-water signs may not exceed twelve (12) feet above the OHWM.
4. Light sources for externally lit signs shall be shielded or recessed. Light sources must be consistent with the standards in Section 25 of this ordinance.

5. Signs related to specific on site uses or activities must not exceed the maximum size limits specified in Chapter 18.40 SJCC. Where allowed, the following standards apply to on site free standing signs as measured from the highest point to average grade:

- a. On site freestanding signs on public property shall not exceed nine (9) feet in height; or
 - b. On site freestanding signs on private property shall not exceed six (6) feet in height; or
 - c. Within Eastsound, on site free standing signs on private property shall not exceed five (5) feet in height.
6. Where feasible, signs must be mounted flush against a structure except as allowed by subsection B(2) below. Signs mounted flush to a structure must not extend above the highest point of the structure on which they are attached. Signs mounted at right angles to the side of a structure are measured from the top of the sign and may be two and a half (2.5) square feet per face.

7. The following types of signs are allowed in all shoreline designations:

- a. Water navigational, cable crossing, water way and roadway safety, and directional signs;
- b. On site public information signs directly relating to an allowed shoreline use or activity;
- c. Off-premise, freestanding signs for community identification, information, or directional purposes, if consistent with this section and Chapter 18.40 SJCC;
- d. National, state and institutional flags or temporary decorations customary for holidays and similar events of a public nature;
- e. Temporary directional signs to public or quasi-public events if removed within seventy-two (72) hours following the event; and
- f. No-trespassing signs and no-hunting signs that do not exceed two (2) square feet.

8. The following types of signs are prohibited in all shoreline designations:

- a. Signs that significantly impair visual access to the shoreline;
- b. Off-premises outdoor 'A-frame' signs;
- c. Spinners, streamers, pennants, flashing lights, internally lit signs, and other animated signs except as required by local, state or federal law for navigation and safety; and
- d. Signs placed on trees or other natural features.

B. Additional regulations by designation.

1. Rural, Rural Residential, and Ports, Marinas and Marine Transportation. Freestanding signs in these designations shall not be more than six (6) feet in height, measured from the top of the sign to average grade.
2. Conservancy. Signs are allowed only if they are mounted flush to the wall of a structure or are free standing signs used for federal, state, or County purposes.
3. Natural and Aquatic. Signs are prohibited in these designations except for traffic signs, official warning signs, signs identifying public facilities, and other signs required by law; provided, other signs are allowed in the aquatic designation if they are mounted flush to the side of a structure and only if they could not as effectively be located on land.

NEW SECTION 25. A new section is added to Chapter 18.50 SJCC to read as follows:

Lighting.

A. Except as necessary to meet federal, state, and local safety or navigation standards, all external lighting fixtures must be shielded, recessed and dark sky rated. Light must be directed downward and away from:

1. Wetlands;
2. Wetland buffers;
3. Fish and wildlife habitat conservation areas and associated buffers;
4. Adjoining properties; and
5. Public roads or rights-of-way.

B. All glare and reflections from external light sources must be contained within lot boundaries.

C. Flashing or blinking lights are prohibited.

NEW SECTION 26. A new section is added to Chapter 18.50 SJCC to read as follows:

General regulations.

The SMP regulations directly support the adopted goals and policies for each shoreline designation and development, use, activity or structure. They reflect and are intended to preserve the special character of each designation. Each designation contains general regulations for allowed uses. Additional regulations including shoreline permitting requirements for developments, uses, structures and activities by designation are addressed in Table X in Section 66 of this ordinance.

1 **A.** Shoreline uses not specifically identified in this SMP and for which regulations have not
2 been developed will be evaluated on a case-by-case basis. They may be allowed subject to a
3 conditional use permit. Such proposals must be consistent with the policies of the SMA, and the
4 goals and general policies of this SMP including the character and management policies of the
5 shoreline designation in which they are to be located.

6 **B.** In addition to the general regulations of Article II, this Article identifies:

- 7 1. Specific uses;
- 8 2. General development standards for named uses; and
- 9 3. Development standards that apply to the different shoreline designations where
10 appropriate.

11 **C.** Shoreline development, uses, structures and activities shall not result in a net loss of
12 shoreline ecological functions or adversely impact other shoreline uses, resources and activities
13 such as navigation, recreation and public access. Where critical area regulations are not met,
14 adverse impacts to shoreline ecological functions must be mitigated consistent with Sections 19,
15 20, and 21 of this ordinance.

16 **NEW SECTION 27. A new section is added to Chapter 18.50 SJCC to read as follows:**

17
18 **Agriculture.**

19
20 **A. General regulations.**

- 21
22 1. In accordance with Chapter 18.35 SJCC, buffers of permanent vegetation or other
23 suitable soil erosion controls shall be established and maintained between tilled or grazed
24 areas and associated water bodies and wetlands. The type and extent of such vegetation
25 and other controls shall be of a width or character sufficient to capture sediments and other
26 compounds.
- 27 2. Confined animal feeding operations, retention or storage ponds for feedlot wastes,
28 and stockpiles of manure solids shall be located to prevent water contamination consistent
29 with guidelines prepared by the U.S. Environmental Protection Agency and the
30 requirements of state and local agencies.
- 31 3. Commercial feedlots are prohibited.
- 32 4. New agricultural activities in the shoreline jurisdiction shall be located, designed,
33 constructed and managed in a manner that will result in no net loss of shoreline ecological
34 functions.

35 **B. Regulations by designation.**

36 Natural. Agricultural activities may be allowed in this designation subject to a conditional
37 use permit provided that the resource to be protected by the natural designation will not be
38 degraded.

NEW SECTION 28. A new section is added to Chapter 18.50 SJCC to read as follows:

Aquaculture.

A. General regulations.

Except as restricted in subsection B below, the following regulations apply to all aquaculture.

1. Shorelines within the County that are located seaward of the line of extreme low tide have been designated “shorelines of statewide significance.”
2. Structures or facilities that would have a significant adverse impact on shoreline ecological functions are prohibited.
3. Private, noncommercial aquaculture activities that do not include development are not subject to this section.
4. No aquatic organism shall be introduced into County waters without prior written approval of the WDFW, WDNR, the County’s Noxious Weed Control Board, or the appropriate regulatory agency for the specific organism proposed for introduction. Such approvals shall be submitted in writing to the department prior to the introduction of the organism or the granting of the permit decision, whichever comes first. Introduction, for purposes of this section, means the placement of any aquatic organism in any area within the waters of the County regardless of whether it is a native or resident organism within the County and regardless of whether it is being transferred from within or beyond County waters.
5. Unless required by the shoreline permit issued by the department, after a permit is issued for a specific organism, the repeated introduction of an approved organism in the same location does not require subsequent approval by the department.
6. Aquaculture shall comply with all applicable noise, light, glare, air pollution, and water quality standards including those in Chapter 18.60 SJCC. Aquaculture operations shall minimize adverse impacts to nearby residents. Some impacts from odor, noise and light may be unavoidable and will not be considered sufficient cause to deny a project application.
7. Aquaculture structures and equipment, except navigation aids, shall be designed, operated, and maintained to blend into their surroundings through the use of appropriate colors and materials. They shall not adversely impact the aesthetic qualities of the surrounding area.
8. The department may require commercial aquaculture applicants to provide a financial guarantee in an amount commensurate with the risk of injury or damage to any person, property, or shoreline ecological functions as a result of the project. Financial guarantees shall not duplicate the requirements of other agencies.

1 9. All aquaculture structures and facilities shall be marked in accordance with U.S. Coast
2 Guard requirements.

3 10. Aquaculture structures and equipment shall be properly constructed and maintained.
4 Abandoned or unsafe structures and equipment shall be removed or repaired promptly by
5 the owner. The department requires a financial guarantee in an amount commensurate with
6 the cost of their removal or repair if any structure might constitute a potential hazard to the
7 public in the future. The department may abate an abandoned or unsafe structure in
8 accordance with Chapter 7.48 RCW and may take action necessary to enforce the financial
9 guarantee of the applicant. Evidence of the County's financial guarantee shall be
10 considered independently of the requirements of other agencies.

11 11. Applications shall include adequate information to demonstrate that the proposed
12 operation complies with this SMP. Applications shall include at least the following
13 information, when applicable:

- 14 a. Species to be reared;
- 15 b. Aquaculture method(s) including the identification of all pesticides, herbicides,
16 antibiotics, vaccines, growth stimulants, anti-fouling agents, feed or other chemicals
17 the applicant anticipates using;
- 18 c. Number of employees;
- 19 d. Harvest and processing location, method, and timing;
- 20 e. Location and plans for any shore-side activities, including loading and
21 unloading of the product, processing, and any use of freshwater supplies;
- 22 f. Methods of waste disposal and predator control;
- 23 g. An environmental assessment that includes the best available information on
24 water quality, tidal variations, prevailing storm wind conditions, current flows,
25 flushing rates, aquatic and benthic organisms, and probable impacts on water quality,
26 macroalgae, biota, currents, littoral drift, and any shoreline or water uses existing on
27 the date of application. Further baseline studies may be required depending upon the
28 adequacy of available information, conditions existing on the date of the application,
29 the nature of the proposal, and probable adverse environmental impacts. Applicants
30 may submit documents previously submitted to other agencies. Baseline monitoring
31 shall be at the applicant's expense unless otherwise provided for;
- 32 h. For floating aquaculture facilities, the department may require a visual impact
33 analysis consisting of information comparable to that found in the WDOE's
34 "Aquacultural Siting Study" of 1986; and
- 35 i. Other pertinent information deemed necessary by the director.

36 12. No pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling
37 agents, feed, chemicals or other such materials shall be used until approval is obtained from
38 all appropriate state and federal agencies, including the U.S. Food and Drug

Administration, the Washington Department of Agriculture, Washington Department of Health (WDOH), WDOE, and WDFW, and proof of such approvals has been submitted to the department.

13. Legally established aquaculture enterprises including authorized experimental projects shall be protected from incompatible uses that are proposed to locate nearby. Demonstration of a probability that such use would result in damage to or destruction of an aquaculture enterprise are grounds for the denial of that use.

14. Operational monitoring of commercial aquaculture facilities may be required to the extent necessary to determine, ensure, or confirm compliance with predicted or required performance. Monitoring shall be consistent with local, state and federal requirements. Monitoring requirements shall be established as a condition of the permit and shall be conducted at the applicant's or operator's expense.

15. No processing of any commercial aquaculture product, except for the sorting or culling of the cultured organism and the washing or removal of surface materials or organisms, shall occur in or over the water after harvest, unless specifically approved by permit. All other processing facilities shall be located on land and are also governed by the commercial development regulations.

16. Aquaculture waste must be disposed of in a manner that complies with all applicable waste disposal standards. No garbage, waste, or debris are allowed to accumulate at an aquaculture operation.

17. Projects involving substantial substrate modification shall be located fifteen hundred (1,500) feet or more from areas identified in National Wildlife Refuge lands, marine protected areas and state or County parks. Lesser distances may be authorized by permit if the applicant demonstrates that the wildlife resource will be protected and the exception is supported by the reviewing resource agencies. Greater distances also may be required if recommended by the reviewing resource agencies.

18. Aquaculture uses and facilities may intrude into or over critical saltwater habitats where the public's need for such an action is clearly demonstrated and the proposal is consistent with the protection of the public trust; the project is consistent with the state's interest in resource protection and species recovery; an alternative alignment or location is not feasible; and potential adverse impacts are identified and mitigated to result in no net loss of shoreline ecological functions consistent with the requirements of Section 19 of this ordinance.

19. Predator control shall not involve the intentional killing or abusive harassment of birds or mammals. Approved controls include but are not limited to double netting for seals, overhead netting for birds, and three (3) foot-high fencing or netting for otters. The use of other nonlethal and nonabusive predator control measures requires the submittal of written approval from the National Marine Fisheries Service or U.S. Fish and Wildlife Service.

20. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing.

21. For commercial aquaculture projects using over-water structures, the storage of necessary tools and apparatus seaward of the OHWM is limited to containers not more than three (3) feet in height as measured from the surface of the floating aquaculture facility or dock. However, in locations where the visual impact of the proposed commercial aquaculture structures will be minimal, storage containers of greater height may be authorized by the decision-maker. In such cases, the burden of proof is on the applicant.

22. Materials that are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the OHWM.

23. Mechanical clam harvesting or other actions that involve substrate modification through dredging, trenching or digging are prohibited in all eelgrass beds.

24. Commercial finfish net pens are prohibited.

25. Commercial aquaculture proposals that include floating aquaculture facilities shall not be located closer than one (1) nautical mile to any other commercial floating aquaculture facility. A lesser distance may be authorized by the decision-maker if the applicant can demonstrate that the ecological and aesthetic protection requirements of this SMP will be met. If a lesser distance is requested, the applicant must demonstrate that the cumulative impacts of the existing and proposed operations will not be contrary to the regulations of this SMP.

26. Experimental and noncommercial aquaculture developments shall not exceed five (5) acres in area (except anchorage for floating aquaculture systems and restoration projects) and five (5) years in duration. The decision-maker may, however, issue a new permit to continue an experimental project as many times as is necessary and appropriate.

27. When it is necessary to preserve the integrity of collectible research data, commercial aquaculture project applications will be reviewed for potential adverse impacts on experimental and noncommercial aquaculture developments existing at the time of application. If there is evidence that an additional project would likely jeopardize a noncommercial or experimental aquaculture project, the commercial project will not be allowed within the same bay, harbor, or cove, or within one (1) mile of such a development if the water body is larger than one (1) square mile in area, until after the experimental project is granted non-experimental status or terminated.

28. If it is determined that proposed new commercial aquaculture projects are likely to affect water quality and pose potential adverse impacts to an allowed and currently established aquaculture operation, a separate administrative review will be completed prior to issuing any project permit(s). The director may request research or an analysis to be prepared by appropriate experts to assist the department in determining marine water quality impacts. No project permit will be granted for a new project if it is likely to damage or destroy the established aquaculture operation.

29. A conditional use permit is required for commercial geoduck aquaculture. Subsequent cycles of planting and harvesting do not require a new conditional use permit. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under the control of the same applicant.

B. Small scale shellfish aquaculture.

1. Shellfish aquaculture and supplemental wildstock seeding that does not adversely impact shoreline ecological functions or aesthetic qualities is allowed in the nearshore waters with a certificate of exemption provided that it does not:

a. Intrude into critical saltwater habitats on shorelines of statewide significance unless there is no feasible alternative, and

b. Exceed the shoreline substantial development permit exemption criteria in Section 10 of this ordinance.

2. Applications for shellfish aquaculture and supplemental wild stock seeding operations shall demonstrate compliance with all state and federal requirements including:

a. Hydraulic Project Approval or Joint Aquatic Resources Permit Application from the WDNR;

b. Certification and license from the WDOH; and

c. Shellfish Import or Shellfish Transfer permits from WDFW.

3. A conditional use permit is required if projects conflict with public access, navigation, or adversely impact critical saltwater or freshwater habitats.

4. Applications for certificates of exemption for shellfish aquaculture shall include the information required under subsection (A)(11) above, as applicable.

C. Regulations by designation.

1. Rural Residential. Floating aquaculture facilities may be allowed within fifteen hundred (1,500) feet of the OHWM if a visual impact analysis is submitted with the application and approved.

2. Conservancy. Aquaculture activities are allowed in this designation provided that natural resources and ecological functions will not be significantly altered; and proposed structures and facilities, both terrestrial and aquatic, will not have a significant adverse impact on the aesthetic qualities of the surrounding area.

3. Natural. Aquaculture activities that do not require structures, facilities or mechanized harvest practices and will result in no net loss of shoreline ecological functions are allowed.

4. Aquatic. Aquaculture activities are allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation. This is determined on a case-by-case basis but is generally the shoreline designation visible within fifteen hundred feet (1,500) feet directly landward of the center of the project site. The regulations of a less restrictive abutting designation may be substituted if the director determines that the public

interest would not be compromised.

NEW SECTION 29. A new section is added to Chapter 18.50 SJCC to read as follows:

Over-water structures including boating facilities, docks, piers, mooring buoys, and mooring and recreational floats.

A. General regulations.

1. All over-water structures including boating facilities, docks, piers, mooring buoys, and mooring and recreational floats must be designed to avoid or minimize adverse impacts on marine and aquatic life, and the shore process corridor and its operating systems. Over-water structures are restricted to the minimum size necessary to meet the requirements of the proposed water-dependent use.

2. All over-water structures must be sited and designed to avoid or minimize the need for new and maintenance dredging.

3. The construction of all over-water structures including new, modifications or replacements of existing facilities must meet the applicable design criteria established by the WDFW in WAC 220-660-140 and 220-660-380 relative to materials, siting, disruption of currents, restrictions of tidal prisms, flushing characteristics, and fish passage to the extent that those criteria are consistent with protection of the shore process corridor and its operating systems.

4. At least one (1) safety ladder must be placed on the long side of all new or enlarged main floats at sixty (60) lineal feet intervals.

5. In general, only one (1) form of moorage or other structure for boat access to the water is allowed on a single lot. A mooring buoy may be allowed to serve single lots, and areas with community use docks, boat ramps and railways. In addition, multiple forms of moorage or structures for boat access to the water may be allowed on a single lot if:

a. Each form of boat access to water serves a public or commercial recreational use, provides public access, is a part of a marina facility, or serves an historic camp or resort; or

b. The location proposed for multiple boat access structures is common area owned by or dedicated by easement to the joint use of the owners of at least ten (10) shoreline lots.

6. Provided the structure will result in no net loss of shoreline ecological functions, storage structures are allowed on private docks, floats, and piers. Except as provided in Section 33 of this ordinance, structures on private docks, floats and piers may be up to three (3) feet in height and twenty-four (24) square feet in size. The height of buildings providing waiting areas on public docks used for marine transportation may be up to ten (10) feet in height. Storage buildings on publically owned over-water structures and marinas are allowed where no feasible alternative exists, provided that they are no larger

1 than one hundred (100) square feet and six (6) feet tall. In all cases, height is measured
2 from the deck surface to the highest point of the structure.

3 7. Public access and ecological restoration shall be incorporated into publicly financed
4 projects when feasible.

5 8. Multiple use and expansion of existing over-water structures are preferred over
6 construction of new over-water structures.

7 9. The order of preference for over-water structures is:

- 8 a. Mooring buoys;
- 9 b. Existing marinas;
- 10 c. Moorage and recreational floats unattached to a pier or floating dock;
- 11 d. Boating facilities, docks and ramps serving five (5) or more residences;
- 12 e. Joint use or community docks; and
- 13 f. Single use docks.

14 10. Applicants for a shoreline substantial development permit for boating facilities, joint
15 use community docks, private docks, piers, moorage floats and buoys shall demonstrate
16 how the proposed development will be designed, constructed and maintained to minimize
17 adverse impacts. Impacts must be mitigated in accordance with Sections 19, 20, and 21 of
18 this ordinance. At a minimum, potential impacts to the following shall be evaluated:

- 19 a. Littoral drift;
- 20 b. Sand movement;
- 21 c. Water circulation and quality;
- 22 d. Fish and wildlife;
- 23 e. Navigation;
- 24 f. Scenic views; and
- 25 g. Public access to the shoreline.

26 11. Boating facilities that are expected to interfere with the normal erosion-accretion
27 process associated with feeder bluffs are prohibited.

28 12. Abandoned or unsafe over-water structures shall be removed or repaired promptly by
29 the owner. The department may abate an abandoned or unsafe structure in accordance with
30 Chapter 7.48 RCW.

31 13. Boats moored at residential boating facilities shall not be used for commercial
32 overnight accommodations.

B. Regulations – general design and construction standards.

1. Non-toxic materials should be used in construction. Use of treated wood containing toxic compounds should be minimized and may only be used where non-toxic materials are deemed infeasible and as allowed by this subsection as follows:

- a. Piers, docks and floats shall be constructed of materials that comply with requirements of federal and state regulations.
 - b. Wood products treated with creosote or pentachlorophenol are prohibited on all new structures or repair projects that come in contact with or could leach into water.
 - c. No treated wood may be used for the decking on the over-water structures.
 - d. Treated wood can be used for all structural elements of the over-water structure.
 - e. Treated wood materials may be utilized on pilings in repair projects for timber structures.
 - f. All treated wood used in the aquatic environment shall be restricted to those that have met or exceed the industry BMP Manual standards found in *Best Management Practices for the Use of Treated Wood in Aquatic Environments*: USA Version as revised (Western Wood Preservers Institute, Vancouver, WA).
 - g. Instead of wood, technologies such as EZ Dock or fiber optic lighting may be allowed consistent with the recommendations of state and federal agencies and with the approval of the director.
2. Pilings employed in piers or any other structure shall have a minimum vertical clearance of one (1) foot above the extreme high water of marine shorelines or OHWM of lakes.
3. All floats shall have stops that serve to keep the bottom of the float off tidelands at low tide or off the substrate in lakes.
4. Non-biodegradable materials used in float, pier, or dock construction shall be shielded and enclosed to prevent disintegration.
5. Overhead wiring and plumbing are prohibited on boating facilities, joint use and private docks, and piers.
6. New or relocated boathouses and covered moorages are prohibited on boating facilities except as allowed for railway systems in Section 34 E of this ordinance.
7. Dock lighting shall shine downward, be of a low wattage, and not exceed a height of three (3) feet above the dock surface. All lighting must be consistent with Section 25 of this ordinance.
8. All construction-related debris shall be disposed of properly and legally. Any debris that enters the water shall be removed promptly. Where feasible, floats shall be secured with anchored cables in place of pilings. The cabling must have a mid-line float or similar

mechanism to keep the cable from dragging and disturbing the bottom substrates, vegetation and aquatic life.

9. Over-water structures must be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. In general, the exterior finish of all structures shall be non-reflective and a color that will visually blend with the background.

NEW SECTION 30. A new section is added to Chapter 18.50 SJCC to read as follows:

Regulations – boating facilities - general.

A. Boating facilities must not intrude into or over shoreline critical areas unless all of the following criteria are met:

1. The public need for an intrusion is demonstrated and the proposal protects the public trust, as embodied in RCW 90.58.020. To demonstrate how the project protects the public trust, the applicant shall submit a narrative demonstrating that the proposal:

- a. Is consistent with the goals and policies and regulations of this SMP;
- b. Benefits the public by providing physical or visual access to the shoreline; and
- c. Will not have an adverse impact on the navigability of adjacent waters.

2. No feasible alternative exists.

3. The project and any required mitigation will result in no net loss of shoreline ecological functions associated with critical fresh and saltwater habitat.

4. The project is consistent with the State's interest in resource protection and species recovery.

B. The location, construction, management, and if necessary, mitigation of adverse impacts of new and expanded boating facilities and associated accessory uses must conform with Sections 19, 20, and 21 of this ordinance and result in no net loss of shoreline ecological functions.

C. Boating facilities must be the minimum size needed to accommodate the intended use as demonstrated by the demand analysis required in Section 38 of this ordinance.

D. Private boating facilities designs may not accommodate more than one (1) boat per residential unit except that one (1) additional space for every ten (10) residential units served is allowed to accommodate guests.

E. Boating facilities shall be set back at least ten (10) feet from side property lines. However, a boating facility may be located adjacent to or upon a side property line when mutually agreed to by contract or by covenant with the owners of the adjacent property. A copy of such contract or covenant must be recorded with the County auditor in a format approved by the department to run with each parcel's titles.

NEW SECTION 31. A new section is added to Chapter 18.50 SJCC to read as follows:

Regulations - single family and community joint use docks, and moorage and recreational floats.

A. Joint use community docks are required when docks are proposed as part of new land divisions.

B. Single family and community joint use docks, moorage and recreational floats serving four (4) or fewer residential units may not intrude into or over shoreline critical areas unless the following criteria are met:

1. Avoidance of impacts to critical salt and fresh water habitats by an alternative alignment or location is not feasible; and

2. The project including required mitigation will result in no net loss of shoreline ecological functions associated with critical fresh and saltwater habitat.

C. Applications for single family and joint use docks, moorage and recreational floats four (4) or fewer residential units may not be approved unless the applicant demonstrates that:

1. The facilities existing at the time of application are not adequate or feasible for use; and

2. Alternative moorage such as mooring buoys, mooring floats, boating facilities and joint use facilities, is not adequate or feasible.

D. The size and dimensions of single family and joint use docks, moorage and recreational floats are provided in Table X.

1. These regulations apply to single family and community joint use docks, and moorage and recreational floats serving four (4) or fewer residential units.

2. Deviations from the dimensional standards are subject to a shoreline variance.

1 Table X Single family and community joint use docks, and moorage and recreational floats serving
2 four (4) or fewer residential units

Moorage Element	Marine and Lake
Number	No more than one (1) dock, moorage float, or mooring buoy is generally is allowed per residential shoreline lot.
Type	Docks must be fixed pile or combination of fixed-pile and floating.
Width	Single family and joint use community docks. <ul style="list-style-type: none"> • Pier: six (6) feet • Float: eight (8) feet • Ramp: cannot exceed five (5) feet
Length	<ul style="list-style-type: none"> • Pier and ramp: length as needed to extend float to position where moorage can occur with rise and fall of tides without resulting in either float or vessel grounding or adversely affecting the substrate. • A pier shall not extend offshore farther than fifty (50) feet beyond the extreme low tide contour in marine waters. • Single family and joint use community docks float length: thirty (30) feet for single-use, sixty (60) feet for joint use or deviations may be allowed, applicants must demonstrate the alternative is the minimum necessary to achieve purpose and will minimize expected adverse impacts.
Area	<ul style="list-style-type: none"> • Moorage floats unconnected to the land: Two hundred and fifty (250) square feet. • Recreational floats unconnected to the land: One hundred and fifty (150) square feet. • Single family dock: Seven hundred (700) square feet including ramp, pier and float. • Joint use dock (two (2) users): Fourteen hundred (1,400) square feet including ramp, pier and float. • Joint use dock (three (3) to four (4) users): Two thousand (2,000) square feet including ramp, pier and float.
Height	The bottom of any piers or the landward edge of any ramp must be the maximum height feasible, but not less than one and one half (1.5) feet above the OHWM. The freeboard height on all floats must be at least ten (10) inches.
Decking	<ul style="list-style-type: none"> • Pier: effective grating is not required if width is four (4) feet or less, otherwise decking and effective grating must cover a minimum of thirty percent (30%) of the deck surface. • Single-family float: Decking and effective grating must cover thirty percent (30%) of the deck surface if the float is six (6) feet wide or less. Floats greater than six (6) feet wide require decking and effective grating that covers fifty percent (50%) of the deck surface. • Joint use floats must have decking and effective grating that covers fifty percent (50%) of the float surface. • Ramps must be fully grated.
Orientation	As close to North/South as feasible to minimize shadows. Also see the WDFW guidelines in WAC 220-660-380 and 220-660-140 as amended.
Safety Ladders	Every sixty (60) lineal feet each long side of main floats.
Boat and watercraft lifts	Prohibited
Covered moorage watercraft lift canopies	Prohibited

NEW SECTION 32. A new section is added to Chapter 18.50 SJCC to read as follows:

Regulations – commercial/industrial docks and piers.

A. Substantial development permits for new docks or piers serving a commercial or industrial enterprise will not be approved unless the permit application contains information from nearby commercial and industrial enterprises regarding their water access needs and plans. Where more than one (1) enterprise needs and could use a single moorage facility, permits for individual facilities will not be granted.

B. Bulk fuel storage (retail or wholesale) for gasoline, oil, and other petroleum products for any use or purpose is prohibited on piers and docks.

C. Spill containment and clean-up equipment shall be available for prompt response and application at all piers and docks involved in the transfer of gas, petroleum, oil and hazardous products.

NEW SECTION 33. A new section is added to Chapter 18.50 SJCC to read as follows:

Regulations – marinas.

A. Over-water structures in marinas shall not be wider than eight (8) feet, except that the director may approve larger widths based upon the submittal of documentation consistent with Section 38 of this ordinance.

B. Over-water structures in marinas must be no longer than needed to achieve the intended use, as demonstrated by the demand analysis requirement in Section 38 of this ordinance.

C. Dredging or filling of wetlands for the sole purpose of constructing a marina is prohibited.

D. No new marina will be approved for construction within one-half (1/2) mile of any outfall of a domestic or industrial sewage treatment facility except as a conditional use.

E. All service facilities within or associated with a marina must maintain a spill prevention plan and equipment to prevent pollutants from entering the water.

F. Commercial covered moorages may be allowed only where vessel construction or repair work is the primary activity and covered work areas are necessary over-water.

G. Marina-related structures or uses that are not water-dependent shall not be located over-water.

H. Marinas shall be sited to prevent restrictions in the use of commercial and recreational shellfish beds and comply with the WDOH “Environmental Health Guidelines for Marina Development and Operation.”

1 **I.** Public access facilities are required in marinas subject to Section 23 of this ordinance.

2
3 **J.** Marinas shall be designed to minimize adverse effects on the scenic qualities of the
4 shoreline.

5
6 **K.** Surface runoff from marina areas shall be controlled to prevent pollutants from entering
7 water bodies.

8 **L.** Marinas are not allowed on Class I beaches or where their presence would interrupt
9 driftways feeding Class I beaches.

10 **M.** Where fill is allowed, it shall be only used for the necessary water-dependent portions of
11 the facility and be consistent with Section 16 of this ordinance. Fill is prohibited for the creation
12 of parking lots and land for future development.

13 **N.** Parking lots associated with marinas shall comply with Section 61 of this ordinance.

14 **O.** live aboard vessels are regulated by Section 60(E) of this ordinance.

15 **P.** Marina applicants that propose live aboard moorage must demonstrate that the location of
16 the live aboard slips will result in no net loss of shoreline ecological functions.

17 **NEW SECTION 34. A new section is added to Chapter 18.50 SJCC to read as follows:**

18
19 **Regulations – ramps (including marine railways).**

20
21 **A.** Ramps and marine railways shall be designed to not obstruct littoral drift.

22 **B.** Ramps may be allowed for residences where the upland slope within twenty-five (25) feet
23 of the OHWM does not exceed twenty-five percent (25%) and where cutting, grading, or filling
24 exceeding two hundred and fifty (250) cubic yards, or retaining walls and structural shoreline
25 stabilization measures are not necessary.

26 **C.** Ramps, appurtenant buildings, and haul out facilities shall be designed in character and
27 scale with the surrounding shoreline.

28 **D.** Ramps and marine railways are prohibited on Class I beaches, pocket beaches or where
29 their presence would interrupt driftways from feeding Class I beaches.

30 **E.** Marine railways shall be located on unaltered grade where feasible. They shall not obstruct
31 public access to and along the shoreline or across publicly-owned tidelands. A boathouse is
32 allowed at the landward end of a marine railway above the OHWM if it meets the required
33 buffers or setbacks.

NEW SECTION 35. A new section is added to Chapter 18.50 SJCC to read as follows:

Regulations – mooring buoys.

- A.** Mooring buoys shall not interfere with navigation or access to the shoreline. They shall be visible in daylight one hundred (100) yards away.
- B.** Mooring buoys shall be placed as specified by state and federal agencies.
- C.** Unless there is no feasible alternative, mooring buoys shall be located to avoid eelgrass beds and other critical saltwater habitats.
- D.** Mooring buoys individually or cumulatively shall not:
 - 1. Impede the ability of other landowners to access their private property;
 - 2. Pose a hazard to or obstruct navigation or fishing;
 - 3. Contribute to the degradation of water quality or habitat; or
 - 4. Pose a threat to a commercial shellfish growing area classification or reduce the potential for an existing area to be upgraded to a new commercial shellfish growing area classification.
- E.** Residential mooring buoys shall not be used for live aboard vessels or commercial purposes.
- F.** Mooring buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state-approved designs to minimize adverse effects on aquatic ecosystems and fish.
- G.** Mooring buoys shall be clearly marked and labeled with the owner's name and contact information and WDNR permit number(s).
- H.** Unless otherwise permitted by WDNR, the capacity of each mooring buoy shall not exceed one (1) boat and its shore access craft.

NEW SECTION 36. A new section is added to Chapter 18.50 SJCC to read as follows:

Regulations – Private recreational floats.

- A.** Private recreational floats shall be placed offshore no farther than two hundred (200) feet beyond extreme low tide or the line of navigability, whichever is closest to shore.
- B.** Private recreational floats shall not provide boat moorage.
- C.** Private recreational floats shall not exceed one hundred fifty (150) square feet.
- D.** Private recreational floats shall be located at least ten (10) feet from side property lines, unless they are designated as joint use structures serving two (2) or more adjoining shoreline properties.
- E.** Only one (1) private recreational float may be approved per shoreline parcel.

NEW SECTION 37. A new section is added to Chapter 18.50 SJCC to read as follows:

Replacement, repair, and expansion of boating facilities, docks, piers, floats and ramps.

A. The director may approve a design different than the one for a boating facility, dock, pier, float, or ramp that is being replaced without a shoreline variance if the following criteria are met:

1. Any adverse impacts on shoreline ecological functions are mitigated; and
2. The new structure does not exceed the thresholds for substantive change set forth in WAC 173-27-100.

B. Proposals involving the replacement, repair and expansion of boating facilities, private and joint use docks, piers, floats and ramps that exceed the thresholds for substantive change in WAC 173-27-100 will be reviewed and permitted as new structures. They must comply with the following criteria:

1. The enlargement is necessary due to safety concerns, inadequate depth of water, increased or changed use or demand;
2. Applicable design and mitigation standards; and
3. The proposal results in no net loss of shoreline ecological functions.

C. Replacement of more than thirty-three percent (33%) or two hundred fifty (250) square feet of decking or the replacement of decking substructure requires installation of functional grating in the replaced section only.

D. The boating facility, docks, pier, float or ramp must have been usable at the site within the past twelve (12) months prior to the time of application to be considered a replacement structure. Usable means no major deterioration or section loss in critical structural components is present.

NEW SECTION 38. A new section is added to Chapter 18.50 SJCC to read as follows:

Boating facilities, docks, piers, floats, and ramps - submittal requirements.

A. For all new or expanded boating facilities, docks, piers, floats, and ramps, applicants must provide a demand analysis demonstrating the need for the proposal that addresses at least the following criteria:

1. The total amount of moorage proposed (except for ramps);
2. The total number of commercial moorage spaces on the island of the proposed facility, including vacancies or waiting lists at facilities existing on the date of the application;
3. The expected service population and boat ownership characteristics of the population, if necessary for specific design elements related to facility length or necessary water depth;
4. Approved facilities, or pending applications, within the service range of the proposed new facility.

5. Proposals for new boating facilities docks, piers, floats, and ramps shall provide documentation demonstrating that expansion of facilities existing at the time of application is not feasible or would not be adequate to meet current demand; and

6. For new or expanded ramps:

a. Identification of the nearest public or commercial ramp existing at the time of application;

b. Demonstration that planned expansion of existing facilities will not meet current or future demand; and

c. Any other relevant factors related to the need for safe or efficient access to public waters if that information supports justification for specific design elements.

B. At the discretion of the director, the following documents for new or expanded boating facilities, docks, piers, floats and ramps may be requested:

1. A mitigation plan in accordance with Sections 19, 20, and 21 of this ordinance if the project will result in unavoidable adverse impacts to shoreline ecological functions or processes;

2. A biological assessment compliant with the ACOE and FEMA Region 10 floodplain habitat assessment and mitigation guidance, and the demand analysis prepared in accordance with Section 38(A) of this ordinance;

3. A slope bathymetry map;

4. An assessment of current water-dependent uses in the vicinity and documentation of potential impacts to those uses and mitigating measures;

5. An assessment of pedestrian shoreline access or the infeasibility of providing public access areas for public ramps;

6. Location of wetlands within three hundred (300) feet and FWHCAs within two hundred (200) feet of the project area; and

7. Field location of the OHWM.

NEW SECTION 39. A new section is added to Chapter 18.50 SJCC to read as follows:

Regulations by designation.

Rural Residential and Rural Farm Forest. New marinas are prohibited. The expansion or alteration of a marina legally established prior to the effective date of this ordinance may be allowed subject to the regulations of this SMP.

NEW SECTION 40. A new section is added to Chapter 18.50 SJCC to read as follows:

Breakwaters, jetties, and groins.

A. Regulations.

1. Breakwaters, jetties and groins waterward of the OHWM are only allowed for water-dependent uses, public access, restoration, and shoreline stabilization.
2. Breakwaters shall conform to all design requirements established by the WDFW and the ACOE.
3. Breakwaters shall be designed and constructed to avoid adverse impacts on the circulation of water, the movement of sand, sediment and other ecological functions. The design shall minimize impediments to navigation. Visibility from the shoreline shall be minimized.
4. Public breakwaters shall permit pedestrian use of their surfaces where safe and feasible.
5. Jetties and groins require a conditional use permit except in conjunction with a project to restore ecological functions.

B. Regulations by designation.

1. Conservancy. Floating breakwaters may be allowed in this designation if they can be made visually compatible with their surroundings. Rigid breakwaters may be allowed only as a shoreline conditional use. Jetties and groins are prohibited.
2. Natural. Breakwaters, jetties, and groins are prohibited in the natural designation.
3. Aquatic. Breakwaters are allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation. Where the proposed breakwater site abuts more than one shoreline designation, the regulations of the most restrictive abutting designation govern.
4. Breakwaters, jetties and groins are prohibited in the Eastsound subarea.
5. Jetties and groins required in a shoreline restoration project may be allowed in all designations with a shoreline substantial development permit.

NEW SECTION 41. A new section is added to Chapter 18.50 SJCC to read as follows:

Hard and soft structural shoreline stabilization measures - general regulations.

Hard and soft structural shoreline stabilization measures must meet the following requirements:

- A.** Hard and soft structural shoreline stabilization measures are only allowed to protect the following types of structures and infrastructure:

1. An existing primary structure;
2. An accessory dwelling unit;
3. Underground utilities and components of on site sewage disposal systems and wells that cannot feasibly be relocated; and
4. A road or driveway that cannot be relocated and where there is no feasible alternative means of access.

B. New, replaced, or enlarged hard structural shoreline stabilization measures may be allowed when damage to them is expected within three (3) years.

C. New, replaced, or enlarged soft structural shoreline stabilization measures may be allowed when there is a significant possibility that development will be damaged as a result of erosion caused by waves and currents.

D. A certificate of exemption is required prior to undertaking the repair of shoreline stabilization measures.

E. All structural shoreline stabilization measures must result in no net loss of ecological functions.

F. If it can be demonstrated that nonstructural measures such as planting vegetation or the installation of on site drainage improvements are not feasible or sufficient to address erosion causes and impacts, new structural stabilization measures may be allowed to:

1. Restore shoreline ecological functions;
2. Remediate hazardous substances pursuant to Chapter 70.105D RCW; or
3. Protect sites with exposed and verified archaeological resources.

NEW SECTION 42. A new section is added to Chapter 18.50 SJCC to read as follows:

Hard and soft structural shoreline stabilization measures order of preference.

Applicants for new, enlarged, or replacement hard or soft structural shoreline stabilization measures shall employ the first feasible alternative in the shoreline stabilization order of preference provided below. Applicants shall document the infeasibility of using item (A) in order to use item (B) and so on. The order of preference is:

A. Leaving the shoreline undisturbed and allowing natural processes to occur. No structural stabilization measure is constructed. Nonstructural shoreline stabilization options shall be considered including installing drainage controls, planting native vegetation, increasing building setbacks, or relocating structures;

B. Using soft structural shoreline stabilization measures such as flexible defense works constructed of natural materials such as bioengineering alternatives (those incorporating trees, shrubs and other living components), beach nourishment, protective berms, and vegetative stabilization; and

1 **C.** Using hard structural shoreline stabilization measures that form rigid structures constructed
2 of materials such as sandbags, wood retaining walls, rock or concrete.

3
4 **NEW SECTION 43. A new section is added to Chapter 18.50 SJCC to read as follows:**

5
6 **General design standards for hard and soft shoreline stabilization measures.**

7
8 **A.** Excavation and fill for new, enlarged or replacement hard and soft structural shoreline
9 stabilization measures must be located landward of the OHWM to the maximum extent feasible.

10
11 **B.** Hard and soft shoreline stabilization measures must minimize adverse impacts to shoreline
12 ecological functions resulting from short term construction activities consistent with Sections 18,
13 20 and 21 of this ordinance. Minimization techniques may include compliance with appropriate
14 timing restrictions, use of best management practices to prevent water quality impacts related to
15 land or in-water work, management of upland drainage, and stabilization of exposed soils
16 following construction.

17
18 **C.** Hard and soft shoreline stabilization measures must be designed to not interfere with
19 normal surface or subsurface drainage into the adjacent waterbody.

20
21 **D.** Hard and soft shoreline stabilization measures must be designed to not constitute a hazard
22 to navigation.

23
24 **E.** Private pedestrian pathways, stairways and ramps, or other pedestrian access features may
25 be incorporated into the structural shoreline stabilization measure (e.g., steps integrated into the
26 bulkhead in a coved area with shallow entry, etc.), but they must not extend waterward of the
27 face of the structural shoreline stabilization measure.

28 **F.** In accordance with Section 23 of this ordinance, publicly financed or subsidized shoreline
29 stabilization measures must provide public access to the shoreline except where such access is
30 infeasible due to the presence of incompatible uses, safety issues, security threats, or predictable
31 harm to shoreline ecological functions. When a hard or soft structural shoreline stabilization
32 measure is required at a public access site, provisions for safe access to the water and long term
33 multiple uses must be incorporated into the design (e.g., steps integrated into the bulkhead,
34 creation of a coved area with shallow entry, etc.).

35 **G.** Shoreline stabilization measures must not extend waterward more than the minimum
36 amount necessary to achieve effective stabilization, except for those elements that enhance
37 shoreline ecological functions and minimize impacts.

NEW SECTION 44. A new section is added to Chapter 18.50 SJCC to read as follows:

Hard structural shoreline stabilization measures design standards.

In addition to the general design requirements in Section 43 of this ordinance, the following design standards must be incorporated into the design of hard structural stabilization measures:

A. All new, enlarged, or replacement hard structural shoreline stabilization measures must avoid and minimize long term adverse impacts to shoreline ecological functions by incorporating the following measures into the design:

1. Limiting the size of hard structural shoreline stabilization measures to the minimum necessary, including length, height, depth, and mass;

2. Shifting the hard structural shoreline stabilization measure landward or sloping the hard structural shoreline stabilization measure landward to provide some dissipation of wave energy and increase the quality or quantity of nearshore shallow water habitat; and

B. Avoiding impacts to critical area functions and values where feasible, including significant areas of natural erosion and accretion.

C. All applications for new and enlarged (See Sections 47 and 48 of this ordinance) shoreline stabilization measures must include plans to minimize adverse impacts to shoreline ecological functions by incorporating the following measures into the project as appropriate:

1. Mitigation of substrate conditions including the substrate and gradient waterward of the OHWM. Near drainage or stream outlets, the material should be sized and placed to remain stable during a two (2) year flood event, under typical currents, boat wakes, and wind-driven waves including those occurring during storm events, and

2. Planting native, non-toxic, riparian vegetation along at least seventy-five percent (75%) of the shoreline linear frontage affected by the new or enlarged structural stabilization measure. The vegetated portion of the shoreline must average ten (10) feet in depth landward from the OHWM. It may be a minimum of five (5) feet wide to allow for variation in landscape bed shape and plant placement. Mitigation of native vegetation must consist of a mixture of trees, shrubs, and vegetation and be designed to improve habitat functions. Where appropriate, at least three (3) trees, three (3) feet or taller, per one hundred (100) linear feet of proposed development must be included in the planting. Plant materials must be native to the ecosystem of the project area.

D. In lieu of meeting the requirements in subsection C above, alternative measures that are demonstrated to be functionally equivalent may be allowed.

E. When a hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline measures do not exist on adjacent properties, the proposed stabilization measure must tie in flush with the contours of the adjoining properties, as feasible, so that the proposed stabilization measure will not cause erosion of the adjoining properties.

F. When a hard structural shoreline stabilization measure is proposed on a site where legally established hard structural shoreline stabilization measures exist on adjacent properties, the proposed stabilization must tie in flush with those stabilization measures. The new stabilization measure shall not extend waterward of the OHWM, except when necessary to connect to the adjoining stabilization measure. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible and shall not extend onto adjacent property.

G. Any fill in excess of one (1) cubic yard per linear foot of stabilization structure is subject to Section 16 of this ordinance and requires a shoreline substantial development permit or shoreline conditional use permit.

H. New hard structural shoreline stabilization measures are prohibited adjacent to documented forage fish spawning areas except replacements as defined in Section 47(A) of this ordinance.

I. The sizing and placement of all hard structural shoreline stabilization materials must be selected to:

1. Protect upland structures from erosion over the long term;
2. Provide stability during a two (2)-year flood event under typical currents, boat wakes and wind-driven waves including those occurring during storm events if the proposal is near a stream or drainage outlet;
3. Allow safe passage and migration of fish and wildlife;
4. Minimize the creation of juvenile salmon predator habitat; and
5. Use gravel suitable as forage fish spawning substrate if a project is proposed on a shoreline reach with documented spawning habitat for forage fish and sand lance.

NEW SECTION 45. A new section is added to Chapter 18.50 SJCC to read as follows:

Soft structural shoreline stabilization design standards.

In addition to the general design requirements of Section 43 of this ordinance, the following design standards must be incorporated into the design of soft structural shoreline stabilization measures:

A. The project must be designed to prevent increased erosion of adjacent properties. Soft shoreline stabilization projects may include hard structural shoreline stabilization elements if needed to tie in with hard structural shoreline stabilization measures on adjacent properties. The need to use hard structural shoreline elements must be documented as required in Section 41 of this ordinance. The length of the hard structural shoreline stabilization transition area to adjacent properties shall be the shortest distance possible and not more than ten (10) linear feet. The hard structural shoreline stabilization transition area must not extend waterward of the OHWM, except as needed to connect to the adjoining stabilization structure. It must not extend onto adjacent property.

1 **B.** The soft shoreline stabilization design must include an arrangement of various sizes of
2 gravels, cobbles, logs, and boulders to provide stability and dissipate wave and current energy
3 without presenting extended linear faces to oncoming waves or currents.

4 **C.** The sizing and placement of all materials must be selected to:

- 5 1. Protect upland structures from erosion over the long term;
- 6 2. Size and place materials so they will remain stable during a two (2)-year flood event
7 and under typical currents, boat wakes and wind-driven waves including those occurring
8 during storm events if the proposal is near a stream or drainage outlet;
- 9 3. Allow safe passage and migration of fish and wildlife;
- 10 4. Minimize the creation of juvenile salmon predator habitat; and
- 11 5. Use sand and gravel that is suitable as spawning substrate when a proposal is on a
12 shoreline reach with forage fish spawning habitat.

13 **D.** Soft shoreline stabilization measures may include fill placed waterward of the OHWM
14 to provide enhancement of shoreline ecological functions to improve the substrate condition or
15 gradient. Fill in flood hazard areas identified on the FIRMs is not allowed unless the director
16 finds that there is no feasible alternative.

17
18 **NEW SECTION 46. A new section is added to Chapter 18.50 SJCC to read as follows:**

19
20 **Regulations – enlargement of hard or soft structural shoreline stabilization measures.**

21
22 Enlargement of a hard or soft structural shoreline stabilization measure includes additions or
23 increases in size to existing shoreline stabilization measures. Enlarging structural shoreline
24 stabilization measures is allowed only if it will result in no net loss of shoreline ecological
25 functions. Proposals to enlarge a soft or hard structural shoreline stabilization measure are
26 regulated the same as entirely new structures and are subject to all shoreline permit requirements.

27
28 **NEW SECTION 47. A new section is added to Chapter 18.50 SJCC to read as follows:**

29
30 **Regulations – replacement, and repair and maintenance of hard or soft stabilization**
31 **measures.**

32
33 **A.** For purposes of this section, "replacement" means the construction of a new hard or soft
34 shoreline stabilization measure that will perform the function of one that no longer adequately
35 serves its purpose. The terms "maintenance" and "repair" include modifications or
36 improvements designed to ensure the continued function of a stabilization structure.

37
38 **B.** The reconstruction, renovation or repair of up to ninety-nine point nine-nine percent
39 (99.99%) of the volume (length, depth and height) of an existing, permitted structural shoreline
40 stabilization measure is considered repair and maintenance of the stabilization measure and
41 requires a certificate of exemption.

1
2 **C.** When the reconstruction or renovation of an existing hard or soft structural stabilization
3 measure is one hundred percent (100%) of its currently permitted volume (length, depth,
4 height), it is considered a replacement structure and is subject to the requirements for a new
5 hard or soft structural stabilization measure.

6
7 **D.** Nonfunctioning structures shall be removed where they have adverse impacts on
8 shoreline ecological functions associated with critical saltwater habitats.

9
10 **E.** A geotechnical analysis is not required for the replacement of soft structural shoreline
11 stabilization measures with other soft measures.

12
13 **NEW SECTION 48. A new section is added to Chapter 18.50 SJCC to read as follows:**

14
15 **Hard or soft shoreline stabilization measures - additional submittal requirements.**

16
17 **A.** Except as provided in Section 47(E) of this ordinance, a geotechnical report prepared by a
18 qualified professional must be submitted with applications to construct new, enlarged and
19 replacement structural shoreline stabilization measures. The report must demonstrate the need for
20 the proposed hard or soft stabilization measure and must include:

- 21
22 1. A determination that shoreline erosion is being caused by waves and currents and not
23 upland drainage issues. Normal sloughing, erosion of steep bluffs, or shoreline erosion
24 itself, without a scientific or geotechnical analysis, is not demonstration of need. The
25 geotechnical analysis should evaluate on site drainage issues. If erosion is being caused by
26 drainage from upland areas, the report should present options for controlling the erosion;
- 27 2. An assessment of the erosion rate and site specific conditions contributing to the
28 erosion such as water depth, orientation of the shoreline, and wave fetch and flow
29 velocities;
- 30 3. A geotechnical analysis for hard structural shoreline stabilization measures
31 documenting that without the proposal there is a significant possibility that development
32 will be damaged within three (3) years as a result of erosion caused by waves and currents,
33 or that postponing the work until the need is imminent (within three (3) years) will result in
34 the loss of opportunities to avoid greater impacts on shoreline ecological functions. New
35 and enlarged hard structural shoreline stabilization measures are allowed only when needed
36 to protect the types of upland structures and infrastructure identified in Section 41(A) of
37 this ordinance.
- 38 4. A geotechnical analysis for soft structural shoreline stabilization measures
39 documenting that without the proposal there is a significant possibility that development
40 will be damaged as a result of erosion caused by waves and currents. New and enlarged
41 soft structural shoreline stabilization measures are allowed only when needed to protect the
42 types of upland structures and infrastructure identified in Section 41(A) of this ordinance.

5. An assessment of alternatives to hard or soft structural shoreline stabilization measures, such as:

a. Relocation of the structural measure farther inland. If the structural measure does not meet current buffer or setback standards, the new location is not required to meet these standards provided the magnitude of the nonconformity is not increased, new nonconformities are not created, and there is no net loss of shoreline ecological functions;

b. Correction of any groundwater or drainage issues that may be causing shoreline erosion;

c. An assessment of the feasibility of using soft structural shoreline stabilization measures in lieu of hard structural shoreline stabilization measures;

d. An assessment of the anticipated effects of the proposed stabilization measure on ecosystem processes and functions such as effects on feeder bluffs, drift cells and areas adjacent to and down drift of the site;

e. Design recommendations for minimizing adverse impacts of the soft or hard structural shoreline stabilization measure; and

f. Design recommendations for minimizing the size, bulk or volume of structural shoreline stabilization materials, including gravel and cobble beach substrates necessary to dissipate wave energy, eliminate scour, and provide long term shoreline stability.

B. Detailed construction plans shall be submitted for hard and soft structural shoreline stabilization measure proposals that demonstrate compliance with the standards. Plans shall include:

1. Existing and proposed cross section views showing topography and OHWM;

2. Construction sequence; and

3. Specifications for all materials, including gravels, cobbles, boulders, logs, and vegetation.

C. The director may waive a demonstration of need when a hard structural shoreline stabilization measure is proposed to be replaced with soft structural shoreline stabilization measures and the replacement would result in restoration of shoreline ecological functions or processes.

NEW SECTION 49. A new section is added to Chapter 18.50 SJCC to read as follows:

Commercial developments and uses.

A. General regulations.

1. Applications for commercial developments and uses shall include a detailed narrative

1 explaining the nature and intensity of the water-dependency or orientation of the proposed
2 activity, including at least the following information:

- 3 a. The nature of the commercial development or use;
- 4 b. The need for shoreline frontage;
- 5 c. Proposed measures to mitigate adverse impacts to shoreline ecological
6 functions; and
- 7 d. Proposed provisions to provide the public with visual or physical access to the
8 shoreline.

9 2. Commercial resorts and campgrounds shall provide access to water areas for their
10 patrons and on site recreation facilities. Commercial resorts and campgrounds cannot be
11 dependent on, or place undue burdens on, public recreational facilities.

12 3. Only water-dependent commercial development and uses such as boat fueling stations
13 are allowed to be located over the water.

14 4. Commercial developments and uses, such as ports and marinas that have the potential
15 to release toxic substances into the aquatic designation shall be equipped with spill
16 containment and cleanup kits.

17 5. Public access is required where a commercial development or use is proposed to be
18 located on land in public ownership.

19 6. A commercial developments or uses that result in a net loss of shoreline ecological
20 functions or adversely impacts other shoreline uses, resources and activities such as
21 navigation, recreation and public access, must be mitigated in compliance with Sections 19,
22 20, and 21 of this ordinance. Impacts to shoreline resources by commercial development
23 or uses must be mitigated by providing public access and ecological restoration unless such
24 improvements are demonstrated to be infeasible or inappropriate.

25 7. Nonwater-oriented commercial developments and uses are prohibited unless they
26 meet the following criteria:

- 27 a. The use provides a public benefit on sites with sever navigability limitations and
28 with respect to the objectives of the SMA such as providing public access and
29 ecological restoration; or
- 30 b. It is part of a mixed use project with water-dependent uses that provides a
31 significant public benefit and prevents significant adverse impacts to other shoreline
32 uses, resources and the objectives of the SMA such as navigation, recreation and
33 public access.

34 8. Structures used for the sale of aquacultural products are commercial development.

35 9. Accessory developments and uses such as warehousing, outdoor storage, waste
36 storage and treatment, storm water runoff control facilities, and utilities that do not require
37 a shoreline location must be located landward of OHWM.

10. In areas designated for commercial developments and uses, nonwater-oriented commercial developments and uses may be allowed if the site is physically separated from the shoreline by another property or public right-of-way.

11. All accessory parking and transportation facilities must comply with the provisions of Section 61 (B) and (C) of this ordinance.

B. Regulations by designation.

1. Urban.

a. Commercial developments and uses shall be set back at least 50 (fifty) feet from the OHWM unless an alternate setback is approved in a variance.

b. Commercial developments and uses are allowed in the urban designation. Commercial structures, facilities and uses in Eastsound UGA shall adhere to the setbacks and building envelopes identified in the adopted Eastsound Waterfront Access Plan (Figure 130–6 of the Eastsound Subarea Plan).

2. Rural.

Commercial developments and uses that will not significantly alter the character of the area may be allowed in the rural designation by conditional permit. In the absence of critical areas, and their protective buffers all commercial structures, facilities and uses shall be setback at least one hundred (100) feet from the OHWM.

3. Rural Residential and Rural Farm Forest. Commercial developments and uses are prohibited in these designations, except for the alteration, modification, or expansion of small resorts, camps or commercial facilities associated with a lawfully existing commercial marina.

4. Conservancy.

a. Low intensity recreational commercial developments and uses that will not significantly alter the character of the area are allowed in the conservancy designation. Low intensity developments that will not significantly alter the character of the area such as birdwatching and hiking are those:

- i. That do not require new services,
- ii. Include minimal land disturbance,
- iii. That provide sustained resource use; and
- iv. That are located where shoreline conditions support the use.

Other low intensity commercial uses require conditional use permits.

b. With the exception of water-dependent structures, commercial structures and facilities shall be set back at least one hundred (100) feet from the OHWM.

5. Ports, Marinas and Marine Transportation. New commercial developments and uses must be water-dependent, water-related or water-enjoyment uses. Nonwater-dependent

commercial structures and uses shall be set back at least 50 (fifty) feet from the OHWM unless an alternate setback is approved in a shoreline variance. Commercial developments and uses must provide public access to the shoreline in accordance with Section 23 of this ordinance.

6. Aquatic. Water-dependent commercial developments and uses are allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation. Where a proposed commercial development site abuts more than one shoreline designation the regulations of the most restrictive abutting designation governs.

NEW SECTION 50. A new section is added to Chapter 18.50 SJCC to read as follows:

Dredging and dredge material disposal.

A. Regulations.

1. Dredging and dredge material disposal must be done in a manner that avoids or minimizes adverse ecological impacts. Unavoidable impacts must be mitigated in conformance with Sections 19, 20, and 21 of this ordinance.

2. New development must be sited and designed to avoid or to minimize the need for new and maintenance dredging.

3. Dredging is allowed for the following purposes and where other alternatives are not feasible:

a. To improve water quality or aquatic habitat;

b. To establish, expand, relocate, reconfigure or maintain navigation channels to assure safe and efficient accommodation of lawfully existing navigational uses. Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged or existing locations and shall not exceed previously authorized depths and widths;

c. To mitigate conditions that could endanger public safety; or

d. To create or improve public recreational opportunities.

4. Dredging for the primary purpose of obtaining fill material is prohibited, except when the material is necessary for the restoration of ecological functions. Placement of fill shall be waterward of the OHWM. The project must be either associated with a Model Toxics Control Act or Comprehensive Environmental Response, Compensation and Liability Act habitat restoration project, or any other significant habitat project that is approved through a shoreline conditional use permit.

5. All dredge spoils shall be deposited at spoils deposit sites.

6. In addition to any other required application materials, applications for a shoreline substantial development permit or exemption for dredging shall include at least the following information:

- a. A site plan outlining the perimeter of the area proposed to be dredged, the spoil disposal site, and the bathymetry existing on the date of application with data points at a minimum of two (2) foot depth increments;
- b. The purpose of the proposed dredging and an analysis of compliance with the SMP regulations.
- c. The physical characteristics, shoreline geomorphology, and biological resources in the area proposed to be dredged, including:
 - i. Location and size of the proposed dredging site;
 - ii. A habitat survey conducted according to the most recent WDFW eelgrass/macroalgae survey guidelines, if applicable;
 - iii. Analysis of the stability of bedlands adjacent to the proposed dredging site; and
 - iv. Tidal fluctuation, current speed and direction.
- d. A detailed description of the physical, chemical and biological characteristics of the dredge materials to be removed, including:
 - i. Physical analysis of material to be dredged (material composition and amount, grain size, organic materials present, source of material, etc.);
 - ii. Chemical analysis of material to be dredged (volatile solids, chemical oxygen demand, grease and oil content, mercury, lead and zinc content, etc.); and
 - iii. Biological analysis of material to be dredged.
- e. A description of the anticipated dredging operations including the:
 - i. Total spoils volume;
 - ii. Location, size, capacity and physical characteristics of the proposed spoils disposal area;
 - iii. Frequency and volume of anticipated maintenance dredging;
 - iv. Method of dredging, including facilities for settlement and movement of materials;
 - v. Project timeline; and
 - vi. A plan for disposal of maintenance spoils for the life of the project or a period of twenty-five (25) years, whichever is shorter.

B. Regulations by designation.

1. Rural, Rural Residential, and Rural Farm Forest. Dredging is allowed in these designations. Spoil disposal sites are allowed only if it can be shown that the disposal site will ultimately be used for an activity allowed in the affected designation.

2. Conservancy. Dredging in this designation is limited to maintenance of existing navigation channels and facilities. Spoil disposal sites are limited to existing sites designated by the WDNR.

3. Aquatic. Dredging is allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation. Where the proposed site abuts more than one shoreline designation, the policies and regulations of the most restrictive abutting designation govern. Spoil disposal sites are prohibited in the aquatic designation.

NEW SECTION 51. A new section is added to Chapter 18.50 SJCC to read as follows:

Forest practices.

A. General regulations.

1. In any ten (10) year period, no more than thirty percent (30%) of marketable trees may be harvested on a parcel located within the shoreline jurisdiction in accordance with WAC 222-30-110. Other timber harvesting may be allowed in limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental.

2. The cutting of timber solely incidental to the preparation of land for other uses authorized by this Chapter is allowed.

3. If there is a likelihood of conversion to nonforest uses, forest practice conversions and other Class IV General forest practices shall:

- a. Result in no net loss of shoreline ecological functions;
- b. Maintain the ecological quality of the watershed's hydrologic system; and
- c. Prevent significant adverse impacts to other shoreline uses, resources, and values and provide a benefit with respect to the objectives of the SMA as navigation, recreation and public access.

B. Activities covered under the Washington State Forest Practices Act, Chapter 76.09 RCW except for conversion to other uses, are exempt from the vegetation management standards in this section.

C. Regulations by designation.

Natural. Forest management practices are allowed in this designation only if no other means of control will work to control a fire, halt the spread of disease or damaging insects, or to clean up and restore an area devastated by a natural disaster such as fire, storm, disease, or insect attack. No roads may be constructed except those necessary to cope with the emergency situation.

NEW SECTION 52. A new section is added to Chapter 18.50 SJCC to read as follows:

Industrial developments and uses.

A. General regulations.

1. Only water-dependent and water-related industrial developments and uses are allowed. They must be consistent with or compatible with existing uses on adjacent shoreline parcels.
2. Accessory developments and uses such as warehousing, outdoor storage, waste storage and treatment, storm water runoff control facilities, and utilities that do not require a shoreline location must be located landward of the OHWM.
3. Existing industrial development and uses on shorelines that are neither water-dependent nor water-related may be allowed to expand inland from existing structures, subject to a shoreline conditional use permit. Waterward or lateral expansion of nonwater-oriented industrial development is prohibited.
4. Water-dependent industrial development and uses must be located and designed, where feasible, to eliminate the need for initial or continual dredging, filling, dredge material disposal, and other harbor and channel maintenance activities.
5. Storage or disposal of industrial waste is prohibited.
6. At new or expanded industrial developments and uses, source control and treatment standards and best management practices required by SJCC 18.60.070 must be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water.
7. The processing of oil and natural gas and their products is prohibited. The installation of underwater oil and natural gas pipelines are prohibited.
8. The installation of over-water facilities for the refining of oil and natural gas is prohibited.
9. Industrial developments and uses in shoreline jurisdictions must be located, designed, constructed, and managed in a manner that will result in no net loss of shoreline ecological functions.
10. Any industrial development and use having the potential for the release of toxic substances into marine waters must have adequate response equipment on site.
11. Public access to the waterfront must be provided where an industrial development or use is proposed on public lands.
12. Solid waste disposal and liquid waste treatment facilities are prohibited. Solid and liquid wastes, biosolids, and untreated effluents discharges are prohibited.
13. New solid waste disposal and liquid waste treatment facilities with treatment

capacities exceeding five thousand (5,000) gallons per day are prohibited unless there is no feasible alternative.

14. All accessory parking and transportation facilities must comply with the provisions of Section 61 (B) and (C) of this ordinance.

B. Regulations by designation.

1. Rural Farm Forest. Industrial developments and uses that are nonwater-oriented uses directly related to the commercial fishing industry are prohibited in this designation.

2. Aquatic. Industrial developments and uses are prohibited in this designation except for water-dependent uses subject to the regulations of the most restrictive abutting shoreline designation. Where the proposed development would abut more than one shoreline designation, the regulations of the most restrictive abutting designation govern.

3. Ports, Marinas and Marine Transportation Designation. Marine service, repair, fueling and sewage pump out facilities are allowed in this designation. All other industrial developments and uses are prohibited.

NEW SECTION 53. A new section is added to Chapter 18.50 SJCC to read as follows:

Institutional developments and uses.

A. General regulations.

1. Only water-dependent and water-related institutional development and uses are allowed within shoreline jurisdiction.

2. Accessory developments and uses such as storage, waste storage and treatment, stormwater runoff control facilities and utilities that does not require a shoreline location must be located landward of the water-dependent and water-related development.

3. Institutional developments and uses on shorelines that are neither water-dependent nor water-related may be allowed as a shoreline conditional use to expand inland from structures existing at the time of application. Waterward or lateral expansion of existing nonwater-dependent institutions is prohibited.

4. Applications for institutional developments and uses must include a detailed narrative explaining the nature and intensity of the water dependency or orientation of the proposed activity. The narrative shall include at least the following information:

- a. The nature of the institutional activity;
- b. The need for shoreline frontage;
- c. Proposed measures to mitigate potential adverse impacts in a manner that will result in no net loss of shoreline ecological functions; and
- d. Proposed provisions for public visual or physical access to the shoreline.

5. All accessory parking and transportation facilities must comply with the provisions of Section 61 (B) and (C) of this ordinance.

B. Regulations by designation.

Aquatic. Institutional developments and uses are prohibited in this designation unless the use is water-dependent.

NEW SECTION 54. A new section is added to Chapter 18.50 SJCC to read as follows:

Log transfer sites, facilities and storage.

A. Regulations.

1. Land log storage is preferred over-water log storage unless the applicant demonstrates that water log storage will be less detrimental to the shoreline ecological functions or the public interest.

2. Unpaved areas that have seasonal high water tables (less than three (3) feet below ground surface) or poor surface drainage shall not be used for log storage during the wet season unless specifically authorized by the director.

3. Log storage is prohibited in public waters where such storage would constitute a significant hindrance to other water uses such as small craft navigation.

4. Easy-let-down devices are preferred over the free-fall dumping of logs into the water in conformance with WDNR established policy ("Special Provisions for Booming and Rafting Leases," 17-2-72). The free-fall dumping of logs in a manner that would do avoidable damage to the shoreline ecological functions is prohibited.

5. Bark and wood debris controls, collection and disposal methods must be employed at log storage and raft construction areas for both floating and sinking particles.

6. Drainage and surface runoff from log storage areas shall be controlled so that pollutants such as bark and other wood debris are not carried into water bodies.

7. Logs must be secured in bundles before being placed in the water where water depths permit the floating of bundled logs. Bundles shall not be broken again except on land or at mill sites.

8. Log transfer facilities will not be approved until the applicant demonstrates:

a. There is no feasible alternative; and

b. There is a demand for a multiple-user facility.

9. The development of a log transfer facility, or the use of an unimproved shoreline area for a log transfer site, may be allowed as a shoreline conditional use permit.

10. On non-ferry served islands, proposals for timber harvest must identify all sites on that island that are proposed for the transfer of logs. A shoreline conditional use permit is

required for each log transfer site.

B. Regulations by designation.

1. Rural and Rural Residential. Log transfer sites, facilities and storage are allowed if the site will serve multiple users.

2. Conservancy. Log transfer sites, facilities and storage may be allowed in this designation with a conditional use permit on nonferry-served islands if the site will serve multiple users. The applicant must demonstrate that these activities will result in no net loss of shoreline ecological functions.

3. Aquatic. Wet storage and log transfer sites and facilities are allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation.

NEW SECTION 55. A new section is added to Chapter 18.50 SJCC to read as follows:

Mineral extraction.

A. General regulations.

1. Mineral extraction projects are subject to the provisions in Section 16, 17, and 18 of this ordinance. If a project cannot meet the critical area regulations, the applicant must complete the mitigation sequencing analysis established in Section 19, 20, and 21 of this ordinance.

2. Applications for substantial development permits for mineral extraction must be accompanied by a report prepared by a qualified professional and must include at least the following information:

a. Types of materials present on the site;

b. Quantity and quality of each material;

c. Lateral extent of mineral deposit(s);

d. Depth of mineral deposit(s); and

e. Depth of overburden.

3. All mineral extraction and reclamation must be performed in full compliance with the Washington State Surface Mining Act (Chapter 78.44 RCW).

4. The extraction of minerals from any marine beach or feeder bluff, or any lake beach for any commercial or industrial purpose is prohibited.

5. The extraction of minerals from any marine or lake beach for noncommercial, nonindustrial purposes is prohibited to protect natural shoreline ecological functions, resources or systems.

6. Topsoil or other overburden having value for agriculture or other beneficial uses must not be removed or disposed of in a manner that will reduce its value or prevent its future

1 use.

2 7. All mineral extraction operations must employ buffer zones, erosion and
3 sedimentation control measures, and other suitable precautionary measures to protect the
4 shoreline from adverse impacts resulting from the operations.

5 8. Each application for a substantial development permit for mineral extraction must be
6 accompanied by a detailed reclamation plan. The plan must indicate the approximate dates
7 that the reclamation effort is to be initiated and completed. It must identify the allowed use
8 that will be established after reclamation. The plan must indicate the mitigation efforts to
9 be undertaken so that the project results in no net loss of shoreline ecological functions.
10 The reclamation program must be initiated within sixty (60) days following the completion
11 of the extraction operations.

12 9. The extraction of minerals in or under County waters shall be undertaken only where
13 there will be no adverse impact on sediment transport and only with the approval of the
14 appropriate state and federal regulatory agencies and, where applicable, only in compliance
15 with this SMP.

16 **B. Regulations by designation.**

17 Rural. Mineral extraction is allowed in this designation. A one hundred and ten (110) foot
18 buffer of undisturbed soil and vegetation must be maintained between the extraction site
19 (including all accessory developments) and adjacent properties, water bodies, and wetlands.

20 **NEW SECTION 56. A new section is added to Chapter 18.50 SJCC to read as follows:**

21
22 **Private pedestrian pathways, stairways and ramps - general regulations.**
23

24 **A.** Private pedestrian pathways, stairways and ramps used to provide pedestrian access to the
25 OHWM from a single family residence are normal residential appurtenances.
26

27 **B.** Private pedestrian pathways, stairways and ramps must not include roofs or roof covering
28 materials such as awnings. They are exempt under Section 11 of this ordinance if the following
29 standards are met:

30 1. All materials must be finished in subdued natural earth colors;

31 2. No construction or placement seaward or below the OHWM is allowed unless the
32 private pedestrian pathway, stairway or ramp is physically connected to an exempt or
33 permitted dock;

34 3. The maximum vertical height of the structure is fifteen (15) feet and the maximum
35 width of the structure is five (5) feet. One intermediate landing or platform with a
36 maximum size of five (5) feet by five (5) feet is allowed. Stairways may not be located on
37 rock faces or bluffs that exceed a sixty (60) degree angle; and

38 4. The project complies with bank stability requirements of SJCC 18.35.055 through
39 18.35.070.

C. Every application, whether exempt or nonexempt, for private pedestrian pathways, stairways and ramps, will be evaluated on the basis of:

1. Bank stability;
2. Bank geology;
3. Vegetation removal in Tree Protection Zone 1 and other requirements of Chapter 18.35 SJCC;
4. Potential for revegetation;
5. Structural stability;
6. Adverse impacts on shoreline ecological functions; and
7. Aesthetic impacts.

D. Private pedestrian pathways, stairways and ramps that are likely to interfere with the erosion-accretion process associated with feeder bluffs are prohibited.

E. Where adverse impacts to shoreline ecological functions are expected, private pedestrian pathways, stairways and ramps are subject to the mitigation provisions of Sections 19, 20, and 21 of this ordinance.

F. Public pedestrian trails identified in County planning documents are allowed in the shoreline and are regulated by Section 61 of this ordinance.

NEW SECTION 57. A new section is added to Chapter 18.50 SJCC to read as follows:

Ports.

A. General regulations.

1. All proposed port development activities must take place within the jurisdiction of a port district and be consistent with an adopted comprehensive district improvement plan.
2. Industrial enterprises that are not water-dependent are not allowed to locate within any marine port area. Expansion of nonwater-related industrial enterprises within marine port areas is prohibited.
3. Opportunities for public visual or physical access to port areas must be included as part of each development project to the maximum extent feasible unless it is shown to be incompatible due to reasons of safety, security, or impact to the shoreline ecological functions.

B. Regulations by designation.

1. Rural. Ports and water-dependent or water-related port facilities directly related to the commercial fishing industry are allowed in this designation. Other water-dependent or water-related port facilities may be permitted as a conditional use.

2. Rural Farm Forest. Ports and water-dependent or water-related port facilities directly related to the commercial fishing industry are allowed in this designation. Other port uses are prohibited.

3. Aquatic. Ports and water-dependent or water-related port facilities are allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation. Where the proposed port or water-dependent or water-related facility would abut more than one (1) shoreline designation, the regulations of the most restrictive abutting designation govern.

NEW SECTION 58. A new section is added to Chapter 18.50 SJCC to read as follows:

Recreation.

A. General regulations.

1. Recreational areas must be designed to take advantage of the natural character of the shoreline area.

2. Recreational uses and facilities must include features that relate to access, enjoyment and use of the water and shorelines of the state. Accessory uses, such as restrooms and commercial services must be located according to the following preferences:

a. Outside of shoreline jurisdiction, where feasible; or

b. Landward of water-oriented uses unless it can be shown that such facilities are shoreline dependent.

3. Motorized vehicles are prohibited on beaches, dunes, or fragile shoreline areas except for necessary maintenance activities, public health or safety protection, or boat launching at allowed marine railways and boat launches.

4. Intensive recreational development such as overnight camping areas and recreational vehicle or trailer parks, are allowed only where water supply, sewage, and solid waste disposal can be provided consistent with public health regulations without adversely affecting the natural resources and features of the area.

5. Recreational facilities that require the use of large quantities of chemical fertilizers and herbicides such as golf courses and playing fields shall not be located on shoreline areas unless adequate provisions can be made for the protection of water areas from drainage and surface runoff consistent with SJCC 18.60.070.

6. Recreational structures shall be set back behind the tops of feeder bluffs to avoid the need for future stabilization for the life of the structure (seventy-five (75) years) as determined by a qualified professional.

7. All recreational development in shoreline jurisdiction must be located, designed, constructed, and managed in a manner that will result in no net loss of shoreline ecological functions.

8. All accessory parking and transportation facilities must comply with the provisions of New Section 61(B) and (C) of this ordinance.

B. Regulations by designation.

1. Rural Residential and Rural Farm Forest. Recreational uses are allowed in these designations if the use is designed to serve a residential land division or multifamily development.

2. Natural. Noncommercial recreational uses of a nature and intensity consistent with the objectives of the natural designation are allowed. Such uses might include viewpoints and public pedestrian trails. New roads, camping areas, parking lots, restrooms, and similar facilities may be located within the SMP jurisdiction only when all other locations are not feasible. Golf courses, playing fields, and similar high intensity uses are prohibited. The use of chemical fertilizers, pesticides, and herbicides are prohibited. Landscaping shall consist of native vegetation.

3. Aquatic. Recreational uses are allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation. Where the proposed recreational use would abut more than one shoreline designation, the regulations of the most restrictive abutting designation governs.

NEW SECTION 59. A new section is added to Chapter 18.50 SJCC to read as follows:

Shoreline land divisions.

In addition to the requirements of Chapter 18.70 SJCC all land divisions in the shoreline shall be consistent with the following requirements:

A. All applications shall include a site plan demonstrating that new lots are developable, (with the exception of common areas). The site plan will not be binding on future development.

B. The site plan shall show the following, where applicable:

1. Lot boundaries;
2. Topography;
3. Existing land cover;
4. Existing trees;
5. Trees proposed to be removed as part of the development;
6. At least one (1) potential location for primary and appurtenant structures;
7. Potential location of parking and other impervious areas;
8. Potential graded areas;
9. Potential lawns, gardens, etc.;
10. Potential location of joint use dock;
11. Critical areas;
12. Setbacks;
13. Tree protection zones;

14. Habitat buffers;
15. Water quality buffers;
16. Easements or common areas;
17. Potential on site sewage system and their buffers;
18. Potential stormwater treatment and infiltration areas;
19. Potential well sites and their buffers;
20. Potential location of utility lines including water, sewer, power and phone;
21. All streams, ditches, drainage ways, seeps, ponds, and wetlands;
22. Areas with slumps, landslides or ongoing soil erosion;
23. Areas of unfractured bedrock; and
24. Rocky balds, meadows, fields with wildflowers, native grasses or Garry Oaks.

C. In all new land divisions creating five (5) or more lots, one of the following public and community access standards shall be met:

1. An easement shall be established to provide all lots usable physical access to the OHWM; or
2. A common area of seventy-five (75) feet deep measured landward from the OHWM shall be established along the entire waterfront of the property that is being divided. A minimum of one and one-quarter (1¼) acres within shoreline jurisdiction shall be provided for each residential unit proposed to be located within the shoreline jurisdiction. This is not a minimum lot size and does not preclude the clustering of units within the shoreline jurisdiction; or
3. A common area of at least twenty percent (20%) of the area of the property being divided that is within the shoreline jurisdiction shall be established. A minimum of two (2) acres within the shoreline jurisdiction shall be provided for each residential unit to be located within the shoreline jurisdiction. This is not a minimum lot size and does not preclude the clustering of units within the shoreline jurisdiction.

D. Land division applications including non-bedrock lots must include a geotechnical evaluation, prepared by a qualified professional identifying setbacks or other conditions needed to allow for natural erosive processes to occur over the life of the proposed development (minimum seventy-five (75) years) without requiring structural shoreline stabilization measures.

E. Land divisions creating four (4) or fewer lots are not required to provide public access to the shoreline.

F. In land divisions creating five (5) or more lots, community or public access easements or common areas, consistent with Section 23 of this ordinance are required. These and other plat conditions must be noted on the deed or on the face of the plat.

G. If docks are proposed, shoreline land divisions are required to provide community docks rather than individual private docks.

H. Common area tracts do not contribute to density calculations.

I. Division of parcels in the natural designation is prohibited.

1 **J.** Land division that would exceed maximum density established on the Comprehensive Plan
2 Map may be allowed by a shoreline conditional use permit if the following circumstances are
3 demonstrated by the owners:

- 4 1. The property is not located within the natural designation;
- 5 2. The property is occupied by individually owned single-family dwelling units that
6 exceed the currently allowable maximum residential density standards and all units are
7 documented to have existed on the property before May 28, 1976;
- 8 3. All dwelling units have been maintained on the site consistent with the
9 nonconforming use standards in Section 14 of this ordinance and have not been abandoned
10 since May 28, 1976; and
- 11 4. There is a potable water source and sewage disposal method for each unit approved in
12 writing by the County Department of Health and Community Services.

13 **K.** A shoreline conditional use permit granted under the provisions in subsection (J) of this
14 section will include the following conditions:

- 15 1. Conditional use permit approval does not constitute a legal division of the land. The
16 property owners must legally divide the entire property simultaneously. Such division
17 must be initiated with the submittal to the department of a complete land division
18 application within two (2) years of the effective date of the conditional use permit;
- 19 2. Residential density on the property may not be increased; and
- 20 3. Residential use and development is restricted to single-family dwelling units and
21 normal residential appurtenances. Accessory dwelling units are prohibited.

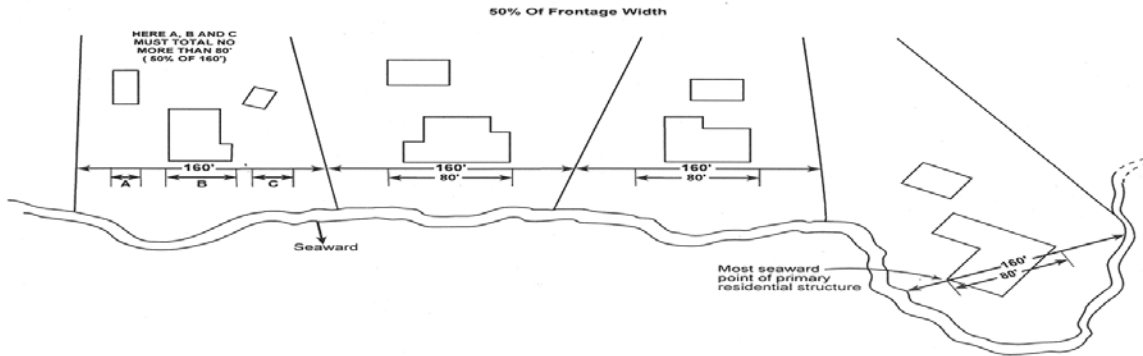
22 **NEW SECTION 60. A new section is added to Chapter 18.50 SJCC to read as follows:**

23
24 **Residential development.**

25
26 **A. Regulations – location and design.**

- 27
28 1. Residential development is only allowed landward of the OHWM, except as
29 specifically allowed for live aboard vessels in subsection (F) below.
- 30 2. Developments on waterfront lots may not cover more than fifty percent (50%) of the
31 width of the lot as measured by the shortest straight line distance from lot line to lot line
32 through the most seaward point of the primary residential structure. Developments with
33 multiple structures shall ensure that the combined width of all the structures does not
34 exceed fifty percent (50%) of the width of the single lot. However, on lots less than eighty
35 (80) feet wide at the most seaward point of the proposed residential structure, the structure
36 may cover an area up to forty (40) feet wide as long as a minimum setback of ten (10) feet
37 from side property boundaries is maintained. With the exception of patios, pedestrian
38 pathways, stairways and ramps, all appurtenant structures must be placed landward of the
39 primary residential structure. See Figure X below.

Figure X.



3.

3. The maximum allowed height for residential structures is thirty-five (35) feet above average grade level. An exception to allow residential structures to exceed the thirty-five (35) feet height limitation may be allowed with a shoreline conditional use permit. In order for the height exception to be approved, the applicant must demonstrate that:

- a. The structure will not result in significant adverse visual impacts;
- b. The structure will not interfere with normal public and visual access to the water; and
- c. There are compensating factors that make a taller structure desirable from the standpoint of the public interest.

4. Developments on circular lots in the Decatur Northwest subdivision must comply with the setback and development standards approved in that land division and are not required to meet the shoreline setbacks.

B. Prohibited uses and activities.

Except as provided in the live aboard provisions in subsection (F) of this section, new residential structures and their normal residential appurtenant structures are prohibited over-water or floating on the water.

C. Regulations – buffers and setback standards.

1. On all non-bedrock shorelines, coastal geologic buffers consistent with SJCC 18.35.130 are required. The required geotechnical report must demonstrate that the proposed buffer will be sufficient to avoid the need for new protective structural shoreline stabilization measures for the life of the structure (seventy-five (75) years).

2. Development may also be subject to critical buffers and restrictions in Chapter 18.35 SJCC.

3. If a lot has screening vegetation within fifty (50) feet of the OHWM the aesthetic setback is fifty (50) feet from the top of the bank. In all other cases, the aesthetic setback is one hundred (100) feet from the top of the bank.

4. Where there is no clear top of the bank, structures shall be set back from the OHWM.

5. Trees stocking levels must be maintained consistent with SJCC 18.35.130(B).

6. If existing houses on waterfront lots adjoining the project site are closer to the top of bank or OHWM than any specified minimum setback or buffer and may potentially block the view of the proposed residential structure, a lesser setback or buffer may be authorized for a residential structure by the director if:

a. Adverse impacts to shoreline critical areas, are identified by a qualified professional;

b. Adverse impacts are mitigated in conformance with Sections 19, 20 and 21 of this ordinance; and

c. The proposed setback or buffer is the greater of:

i. The waterward side of a line between the most waterward points of the houses on the adjoining lots, and

ii. The average of the distances from the OHWM to the most waterward points of the houses on adjoining lots.

D. Regulations – Normal residential appurtenances.

1. With the exception of private pedestrian pathways, stairways, ramps, patios, decks attached to the primary structure, and boathouses served by marine railways, normal residential appurtenances that are not water-dependent are not allowed seaward of the most landward extent of the residence. The director may authorize an alternative location without requiring a shoreline variance by issuing a written administrative determination. To be approved, the director must find that:

a. Application of this regulation would result in greater adverse impacts on shoreline ecological functions; or

b. The restriction conflicts with other applicable regulations of this SMP.

2. Accessory dwelling units must comply with SJCC 18.40.240.

3. Normal residential appurtenances that are not identified in the definition in SJCC 18.20.140 are allowed with a conditional use permit.

E. Live aboard vessels.

1. Live aboard vessels are only allowed within marinas.

2. Marinas located on state tidelands must provide facilities in the upland for disposal of sewage, oil, grey water, and solid waste consistent with federal, state and local laws and follow best management practices. Twenty-five percent (25%) of the total number of slips may be used for live aboard vessels.

3. Marinas located outside of state owned tidelands that do not provide facilities for the upland disposal of sewage, oil, grey water, and solid wastes consistent with local, state and federal laws and do not follow best management practices are allowed to use ten percent (10%) of the total number of slips for live aboard vessels.

4. All applicants proposing live aboard vessel moorage must demonstrate:

a. The specific locations of the live aboard vessel slips will not result in a net loss of shoreline ecological functions, and

b. Residents will have access to an on site restroom and an on site potable water system.

5. Applicants providing no more than ten percent (10%) of the total number of slips in a marina for live aboard vessels must demonstrate that a sewage pump out facility is located within one day of travel on the water.

F. Regulations by designation.

Natural. Residential development is prohibited in this designation, except that the owner of an existing parcel of record may construct one (1) single-family residence and appurtenant structures. Vacation rental of a single-family residence or accessory dwelling unit is prohibited. Alteration of natural topography and vegetation is restricted to the minimum square footage necessary for the construction of the structures and their access. Shoreline modification is prohibited.

NEW SECTION 61. A new section is added to Chapter 18.50 SJCC to read as follows:

Transportation facilities and parking.

A. Regulations - general.

1. Transportation facilities and parking must be planned, located, designed, constructed and managed to have the least possible impact on shoreline ecological functions and result in no net loss of shoreline ecological functions.

2. Transportation facility and parking applications must include documentation to demonstrate that the proposal will not adversely impact existing or planned water-dependent uses.

3. Provisions for pedestrian access to or along the water shall be included in the plans for all new public transportation facilities and parking.

4. Commercial watercraft and seaplane operations at public access points require a

conditional use permit.

B. Regulations - roads (public and private).

1. Construction of major collector roads is prohibited in shoreline areas where an alternative alignment landward of the shoreline jurisdiction is feasible.

2. Major collector roads that must be constructed through the shoreline jurisdiction shall follow the shortest, most direct route possible, consistent with protection of the shoreline ecological functions, and the shore process corridor and its operating systems.

3. Public road alignments shall be designed to fit the topography to minimize alterations to natural site conditions.

4. Access roads must be located according to the following preferences:

a. Outside of shoreline jurisdiction, or

b. Landward of water-oriented uses unless it can be shown that such facilities are shoreline dependent.

5. Roadside vegetation shall be controlled.

6. Roads shall not be constructed on or seaward of a beach berm.

7. Roads shall be set back behind the tops of feeder bluffs to avoid the need for shoreline stabilization for a minimum of seventy five (75) years. The setback shall be determined by a qualified professional.

C. Regulations - parking.

1. A parking lot may be located within shoreline jurisdiction if the applicant can demonstrate that it:

a. Is an essential accessory to an allowed use;

b. Could not feasibly be located outside of the shoreline jurisdiction; and

c. Can be constructed, used and maintained in a manner that will result in no net loss of shoreline ecological functions.

2. Parking and holding lots serving ferry terminals, marinas, community docks, and port facilities may be allowed within the shoreline jurisdiction with a shoreline conditional use permit. Parking lots and their accessory use, such as restrooms, commercial services, and access roads must be located according to the following preferences:

a. Outside of the shoreline jurisdiction, or

b. Landward of water-oriented uses unless it can be shown that such facilities are shoreline dependent.

3. Parking areas for shoreline access use are allowed.

4. Parking over-water is prohibited.

5. Parking lots for shoreline uses must provide access to the shoreline and safe and convenient pedestrian circulation within the parking lot.

6. Where feasible, shared parking is preferred for all types of shoreline development.

D. Regulations - airports, airfields, airstrips and runways.

1. New airports, airfields, airstrips, and runways are prohibited except airstrips on non-ferry served islands may be allowed on private property with a conditional use permit.

2. Existing airports, airfields, airstrips and runways may be repaired, maintained or expanded consistent with the provisions of Section 14 of this ordinance.

E. Regulations - ferry terminals.

Ferry terminals and their related parking lots shall be located, designed, and constructed to result in no net loss of shoreline ecological functions.

F. Regulations - County docks.

1. Overnight moorage is prohibited at County docks.

2. County docks must be designed and located to increase public access and result in no net loss of shoreline ecological functions.

G. Regulations - float plane facilities.

1. Use of docks for scheduled commercial float plane service, meaning five (5) or more round trips per week according to a published schedule, are only allowed in public or private marinas, or established port areas, with a shoreline conditional use permit.

2. Regular use of docks for float plane access or moorage is allowed only at public or private marinas, port areas, or private and community docks with a shoreline conditional use permit.

3. Use of docks and marinas for irregularly scheduled float plane service is allowed.

4. Shoreline conditional use permit applications for float plane use will include the following conditions:

a. Taxiing patterns must minimize noise impacts on area residents and wildlife, and interference with navigation and moorage;

b. Fuel and oil spill clean-up plans and materials, and fire-fighting equipment are required on site. Spill response equipment must be commensurate with the size of the facility and float plane use; and

c. Specific hours of the day in which float plane access is allowed.

5. Float plane access is prohibited at County road ends and parks, and freshwater shorelines where public shoreline access exists.

H. Regulations - barge landing sites and facilities.

1. Temporary barge landing sites require a certificate of exemption but are exempt from a shoreline substantial development permit. These sites shall not exceed twelve (12) landings in any twenty-four (24) month period and must be operated in a manner that will result in no net loss of shoreline ecological functions.
2. New permanent barge landing sites and facilities require a shoreline conditional use permit. The shoreline conditional use permit will not be approved unless the applicant can demonstrate that:
 - a. The use of barge landing sites and facilities existing on the date of application is not feasible;
 - b. An alternative access is not feasible; and
 - c. The proposed barge landing schedule will minimize negative off-site impacts.
3. All barge landing sites and facilities shall be located, designed, constructed, and maintained in a manner that results in no net loss of shoreline ecological functions and maximizes the opportunity to serve multiple users on an island.
4. The use of an unimproved beach as an emergency landing site is allowed. The shoreline exemption required by Section 11 of this ordinance may be processed after the landing activity. Within seven (7) days of the emergency, the agency or person who undertook the landing(s) shall report to the director the extent of the emergency actions and any adverse impacts to shoreline ecological functions caused by the actions. The agency or person who undertook the action is required to mitigate adverse impacts in accordance with the requirements of Sections 16, 17, 18, 19, 20 and 21 of this ordinance.

I. Regulations - public pedestrian trails.

1. Public pedestrian trails shall be aligned to avoid or minimize adverse impacts on shoreline ecological functions.
2. Public pedestrian trails shall be constructed consistent with local, state and federal standards.

J. Regulations by designation.

1. Rural Residential. Roads are allowed where no feasible alternative exists. Permanent barge landing sites and facilities are prohibited unless a need has been established by monitoring the use of temporary barge landing sites and a conditional use permit is obtained.
2. Conservancy and Rural Farm Forest.
 - a. Public pedestrian trails are allowed in these designations.
 - b. Roads and parking lots serving allowed uses may be allowed if no feasible alternative exists with a shoreline substantial development permit.

c. Ferry terminals and scheduled commercial or regular use float planes may be allowed as a conditional use if it can be shown that no feasible alternative exists and that the public interest would be better served by construction of the facility.

d. Barge landing sites and facilities may be allowed in the conservancy designation if the site will serve multiple users on the island affected, and the applicant demonstrates that conservancy shoreline resources will not be materially harmed. Permanent barge landing sites require a shoreline conditional use permit and temporary barge landing sites require a certificate of exemption.

e. Other transportation facilities are prohibited.

3. Natural. With the exception of public pedestrian trails, transportation facilities are prohibited in this designation. Parking lots are prohibited unless there is no feasible alternative and a conditional use permit is obtained.

4. Aquatic. Transportation facilities in this designation are limited to facilities serving waterborne traffic such as ferries, boats, kayaks, barges, and float planes.

NEW SECTION 62. A new section is added to Chapter 18.50 SJCC to read as follows:

Utilities.

A. Regulations – general.

1. Utility transmission and distribution lines, pipelines, cables, stations, plants, and other apparatus including utility infrastructure for sewer, water, stormwater, power, solid waste, telecommunications, plants, stations and processing operations shall not be installed in the shoreline jurisdiction unless there is no feasible alternative.

2. Land based utility transmission and distribution lines, pipelines, and cables must be placed underground unless demonstrated to be infeasible. Such lines must utilize existing easements, rights-of-way and trails existing on the date of the application whenever feasible. Applications for new utility corridors in shoreline jurisdiction that include water crossings must demonstrate that use of corridors existing on the date of the application is infeasible.

3. Utility developers must coordinate with government agencies to allow multiple uses of utility sites and rights-of-way. Multiple uses of utility sites might include shoreline access points, public pedestrian trails, and other forms of recreation and transportation systems if such uses will not unduly interfere with utility operations or endanger public health and safety.

4. Where installation of utility transmission and distribution lines, pipelines, cables, stations, plants, or other apparatus including utility infrastructure for sewer, water, stormwater, power, solid waste, telecommunications, plants, stations and processing operations is approved, clearing is limited to that needed to permit the installation and to prevent interference by vegetation once the system is in operation.

5. Where utility transmission and distribution lines, pipelines, cables, or other apparatus including utility infrastructure for sewer, water, stormwater, power, solid waste, telecommunications, plants, stations and processing operations must cross shoreline areas, the route selected must cause the least damage to shoreline aesthetics and shoreline ecological functions.

6. Drainage and surface runoff from utility installation areas shall be controlled to prevent pollutants from being carried into water bodies.

7. Applications for outfalls and underwater pipelines that transport substances harmful or potentially harmful to aquatic life or water quality will not be approved unless the applicant has demonstrated that it will result in no net loss of shoreline ecological functions.

8. All utilities shall be located, designed, constructed and managed in a manner that will result in no net loss of shoreline ecological functions.

9. New outfalls of a domestic or industrial sewage treatment facility are allowed to be constructed within one-half (0.5) mile of a marina with a conditional use permit.

B. Regulations – desalination.

1. Desalination systems are allowed as the primary water supply for new and existing land divisions or other development projects within the shoreline. Such facilities may be allowed for the purpose of supplying water for an established community water system.

2. Desalination lines must be connected to existing docks, ramps, stairways, or other structures where feasible.

3. Desalination systems on shorelines must be designed to result in no net loss of shoreline ecological functions.

4. All desalination systems must be located and designed to blend in with the natural surroundings to the extent feasible to reduce visual impacts. Existing vegetation and terrain features existing at the time of the application must be used for screening.

5. Desalination systems must not impede public access to public tidelands or interfere with normal public use of waters of the state.

6. Desalination systems with an intake of greater than one hundred thousand (100,000) gallons per day are prohibited unless a detailed assessment of the conditions of the site and a mitigation analysis, consistent with Sections 19, 20, and 21 of this ordinance demonstrates that the project will result in no net loss of shoreline ecological functions.

7. Desalination system installations shall comply with the following regulations:

a. Intake and discharge lines must be trenched, run, or located together except where necessary to provide adequate separation between intake and discharged water;

b. Intake and discharge lines must not interfere with normal public use of waters of

the state.

c. The intake point shall not float on the surface;

d. Intake and discharge lines must not be placed through or over any known or discovered archaeological resources, unless the location is approved by DAHP;

e. The use of wells with salt water contamination or intrusion as the intake source for desalination or reverse osmosis systems is prohibited unless specifically authorized by the County Department of Health and Community Services; and

f. When feasible, all cleaning of desalination systems and equipment must take place off-site and ensure that cleaning chemicals are not inadvertently introduced into marine waters.

C. Regulation by designation.

1. Conservancy. Utility transmission, distribution, or collection facilities are allowed in this designation provided that the applicant demonstrates that no feasible alternative exists.

2. Natural. Utility facilities are prohibited in this designation; except that facilities that must cross the shoreline in order to cross a water body may be installed underground if no feasible alternative location exists. Desalination systems are allowed in this designation for a single-family residence or to serve another use allowed in the natural designation.

3. Aquatic. Utility transmission and collection facilities are allowed in this designation if no feasible alternative exists.

NEW SECTION 63. A new section is added to Chapter 18.50 SJCC to read as follows:

Shoreline essential public facilities.

A. Applicability.

This section regulates the designation, construction and expansion of the following:

1. Facilities serving the public identified in Element 3 of the Comprehensive Plan as shoreline essential public facilities (EPFs).

2. New or existing water-dependent facilities serving the public that are not identified in the Comprehensive Plan as a shoreline EPF but are designated as a shoreline EPF following the completion of the process in subsection (B) below.

B. Shoreline EPF designation process.

1. If proposed water-dependent facilities cannot meet the development regulations, the County Council may designate the facility as a shoreline EPF.

2. To obtain a shoreline EPF designation, the applicant must submit a written request to the department. Shoreline EPF requests must include the following:

a. A conceptual description of the facility;

- b. A conceptual site plan;
- c. Identification of potential sites;
- d. An explanation of how and why the facility is water-dependent;
- e. An analysis of the demand for the facility;
- f. An analysis showing why the existing facilities are inadequate to meet expected demand; and
- g. A preliminary development schedule.

3. After a shoreline EPF designation request is received, the County Council will hold a public meeting to review the request. Where potential sites are identified, notices will be mailed to all property owners within one thousand (1,000) feet of the sites' parcel boundaries.

4. Following the public meeting, the County Council may adopt a resolution designating the facility a shoreline EPF if it is consistent with the Comprehensive Plan.

5. Designated shoreline EPFs may be developed or expanded with a conditional use permit.

NEW SECTION 64. A new section is added to Chapter 18.50 SJCC to read as follows:

Shoreline modification regulations - general shoreline modification activities.

A. Prior to undertaking any shoreline modification project, a shoreline substantial development permit, a shoreline variance, a shoreline conditional use permit, must be obtained. See the permit requirements for the specific type of shoreline modification in Table X in Section 66 of this ordinance and specific requirements by designation. Shoreline modifications including structural shoreline stabilization measures are allowed subject to the procedures and requirements in subsection (B) below.

B. General standards.

1. If inventories of critical saltwater habitats are found to be incomplete, an inventory and assessment of the site and adjacent beach sections is required to identify these habitats and their functions. The methods and extent of the inventory shall be consistent with accepted research methodology in consultation with the WDOE's technical assistance materials.

2. Shoreline modifications must be the minimum size necessary to achieve the intended purpose.

3. Shoreline modification applications must include adequate information demonstrating that the project meets all applicable requirements. At a minimum, the required information must include:

- a. Construction materials (e.g., type, dimensions, design);
 - b. Method of construction and erosion control;
 - c. Location of project on lot;
 - d. Ordinary, mean low, and mean high water elevations;
 - e. The OHWM subject to verification by WDOE;
 - f. Net direction of littoral, drift and tidal currents (if any);
 - g. General direction and speed of prevailing winds and fetch when applicable;
 - h. Profile rendition of project including beach and building site landward of the OHWM;
 - i. Beach type, slope, and material;
 - j. Land type, slope, and material;
 - k. Soil types (NRCS);
 - l. Assessment of site stability before and after the project; and
 - m. Potential impacts upon shore processes and nearby properties.
4. Erosion must be controlled during the construction of shoreline modification projects and disturbed areas must be promptly revegetated after the project is completed.

NEW SECTION 65. A new section is added to Chapter 18.50 SJCC to read as follows:

Shoreline modification regulations - shoreline habitat and natural systems enhancement projects.

A. Regulations.

1. Shoreline habitat and natural systems enhancement projects must:
 - a. Establish, restore or enhance shoreline habitat;
 - b. Be consistent with the objectives and policies of the County's Restoration Plan;
 - c. Be designed using the best available scientific and technical information, and implemented using best management practices;
 - d. Not adversely affect shoreline ecological functions and processes;
 - e. Not significantly interfere with public use of the navigable waters of the State without appropriate mitigation or must demonstrate that interference with the public use of the navigable waters of the State will be mitigated; and
 - f. Demonstrate that changes in littoral drift will not adversely affect adjacent properties or habitats.

2. Shoreline habitat and natural systems enhancement applications will not be approved unless the applicant demonstrates that the project will:
 - a. Occur at a time of year that will not impact spawning, nesting, or breeding, shoreline habitat, and
 - b. Increase ecological functions that have been identified as degraded at the project site.
3. Shoreline habitat and natural systems enhancement projects are prohibited where littoral drift of the project materials might adversely affect adjacent spawning grounds or other areas of biological significance.

B. Natural beach enhancement projects.

1. Design alternatives for natural beach enhancement projects shall include appropriate best management practices and available technology such as:
 - a. Gravel berms, drift sills, beach nourishment, and beach enhancement; and
 - b. Plantings of non-toxic native vegetation suited to the habitat characteristics of the site.
2. Natural beach enhancement shall not:
 - a. Detrimentially interrupt littoral drift or redirect waves, current, or sediments to other shorelines;
 - b. Result in any exposed groin-like structures except small drift sill groins may be used as a means of stabilizing restored sediment if they are part of a beach restoration program;
 - c. Extend waterward more than the minimum amount necessary to implement the enhancement plan;
 - d. Result in contours sufficiently steep to impede pedestrian passage or trap drifting sediments;
 - e. Create additional dry land mass that could be developed; or
 - f. Permanently disturb shallow water forage fish or wildlife habitat, unless the habitat is immediately replaced by a new enhanced habitat.
3. Natural beach enhancement projects must comply with the following construction standards:
 - a. The size or mix of new materials to be added to a beach shall be as similar as possible to the natural beach sediment, but large enough to resist normal current, wake or wave action at the site; and
 - b. The enhanced beach shall approximate the natural beach profile (width, height, and bulk).

C. Regulations by designation.

1. Conservancy. Shoreline restoration and beach enhancement is allowed in this designation if shoreline values and functions are protected or enhanced.
2. Natural. Shoreline restoration and beach enhancement is prohibited in this designation unless the proposal is to restore natural conditions.
3. Aquatic. Shoreline restoration and beach enhancement is allowed in this designation subject to the regulations of the most restrictive abutting shoreline designation. Where the proposed site abuts more than one (1) shoreline designation, the regulations of the most restrictive abutting designation governs.

NEW SECTION 66. A new section is added to Chapter 18.50 SJCC to read as follows:

Shoreline developments, uses, structures and activities by designation.

A. In addition to the general and specific standards established in Article III of this Chapter, for development, uses, structures and activities, Table X indicates if a development, use, structure or activity:

1. Is allowed;
2. Is prohibited;
3. Requires a shoreline substantial development permit;
4. Requires a shoreline conditional use permit; or
5. Is subject to other certificates or conditions.

B. Certain shoreline developments, uses, structures and activities in some shoreline designations are subject to additional regulations. They are marked with an asterisk in Table X. A use not named or contemplated in this Chapter may be allowed subject to a conditional use permit.

C. Legend for Table X Shoreline development, uses, structures and activities by designation:

- SD = Subject to shoreline substantial development permit unless exempt per C above.
- CUP = Conditional use permit.
- No = Prohibited; the use is not eligible for a variance or conditional use permit.
- NA = Not applicable.
- * = See the specific regulations for the shoreline designation in Article III of this Chapter.

Table X Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm- Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Agriculture	CUP*	SD	SD	SD	SD	SD	No	NA
Aquaculture								
General aquaculture	SD *	SD *	SD	SD	SD *	SD	No	SD *
Small scale shellfish aquaculture	SD *	SD *	SD *	SD *	SD	CUP	No	SD *
Noncommercial freshwater hatcheries	SD*	SD*	SD*	SD*	No	SD *	No	NA
Finfish net pens	No	No	No	No	No	No	No	No
Commercial geoduck aquaculture	CUP	CUP	CUP	CUP	CUP	CUP	No	CUP
Over-water Structures¹ including Boating Facilities								
Ports and water-related port facilities	No	No	No*	No*	No	CUP	SD	SD*
Marina	No	No	SD	No*	No	SD	SD	SD
Boating facilities	No	CUP	SD	SD	SD	SD	SD	SD
Single family, noncommercial and community use docks, moorage floats and recreation floats	No	SD	SD	SD	SD	SD	SD	SD
Ramps and marine railway and associated boat houses	No	CUP	SD	CUP	CUP	SD	SD	SD
Mooring buoy	NA	NA	NA	NA	NA	NA	NA	SD

Table X Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Breakwaters, Jetties and Groins¹								
Breakwater (lakes)	No	SD	SD	SD	SD	SD	SD	NA
Breakwater (marine)	No	CUP*	SD	SD	SD	SD	SD	SD
Jetties and groins	No*	No*	CUP	CUP	CUP	CUP	CUP	CUP
Jetties and groins for shoreline restoration projects	SD	SD	SD	SD	SD	SD	SD	SD
Commercial Development								
Water-dependent uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-related uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Water-enjoyment uses	No	SD*/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Nonwater-oriented uses*	No	No	No*/CUP*	No*	No*	SD*	No	CUP
Mixed use commercial	No	SD/CUP*	CUP*	No*	No*	SD*	SD*	SD*
Mixed use residential	No	SD	CUP	No	No	SD*	CUP	NA
Dredging and Dredge Material Disposal								
Dredging	No	SD*	SD*	SD*	SD*	SD	SD	SD
Dredge material disposal, in-water	No	No*	SD*	SD*	SD*	SD	SD	No
Dredge material disposal, upland	No	No	SD*	SD*	SD*	SD	SD	NA
Dredging or dredge material disposal associated with restoration	No	No	SD*	SD*	SD*	SD	SD	SD*

Table X Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Clearing, Grading, Fill, and Excavation								
Clearing	SD*	SD*	SD	SD*	SD*	SD*	SD*	NA
Grading	SD*	SD*	SD*	SD*	SD*	SD*	SD*	NA
Fill	No	No	SD*	SD*	SD*	SD*	SD	CUP
Excavation	No	SD	SD	SD	SD	SD	SD	CUP
Essential Public Facilities								
Essential public facilities	No	CUP	CUP	CUP	CUP	CUP	SD	CUP
Flood Hazard Reduction								
Dikes, levees, revetments, floodwalls and channel realignments	CUP	CUP	CUP	CUP	CUP	CUP	CUP	NA
Forest Practices								
Commercial forestry ^{1,3}	SD*	SD	SD*	SD	CUP	CUP	No	No
Log transfer sites, facilities and storage ^{1, 3}	No	CUP*	SD*	SD*	CUP*	CUP	CUP	CUP*
Industrial Development¹								
Water-dependent uses	No	No	CUP*	No*	No	SD	SD*	SD*
Water-related uses	No	No	CUP ¹	No*	No	SD	No	No
Processing aquacultural products	No	CUP	CUP	CUP	CUP	No	CUP	NA

Table X Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Nonwater-oriented uses	No	No	No	No	No	No	No	No
Institutional Development^{1,2}								
Water-Dependent	No	CUP	SD	No	No	SD	SD	SD*
Nonwater-oriented	No	No	CUP	No	No	No	No	No
Mineral Extraction¹								
Mineral extraction	No	No	SD*	No	No	SD	No	No
Recreational Development^{1,2}								
Water-oriented	SD*	SD/CUP*	SD/ CUP if Commercial	SD*	SD*	SD	SD	SD*
Public park without camping facilities	SD	SD	SD	SD	SD	SD	SD	SD
Public park with camping facilities	SD	SD*	SD	No	No	SD	SD	SD
Private campground	SD*	SD/CUP*	SD	No	No	SD	SD	No
Residential Development²								
Single family	No*	SD	SD	SD	SD	SD	SD	No*
Multi-family	No	SD	SD	SD	SD	SD	SD	No
Over-water	No	No	No	No	No	No	No	No
live aboard vessels	No	No	No	No	No	No	SD	No
Vacation rentals ^{2,6}	No*	No	CUP*	SD	SD	SD	SD	No

Table X Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Private Pedestrian Pathways, Stairways and Ramps								
Private pedestrian pathways, stairways and ramps	No	SD	SD	SD	SD	SD	SD	No
Shoreline Habitat and Natural Systems Enhancement Projects⁴								
Shoreline habitat and natural systems enhancement projects	SD*	SD	SD	SD	SD	SD	SD	SD
Structural Shoreline Stabilization⁵								
New hard structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
New soft structural shoreline stabilization	No	SD*	SD*	SD*	SD*	SD*	SD*	SD*
Signs								
Signs	No*	SD*	SD*	SD	SD*	SD	SD	No*
Transportation and Parking								
Airports	No	No	No	No	No	No	No	No
Barge landing sites, permanent	No	CUP*	CUP	CUP*	CUP	CUP	CUP	NA
Barge landing sites, temporary ⁶	No	See footnote 6	See footnote 6	See footnote 6	See footnote 6	See footnote 6	See footnote 6	See footnote 6
Ferry terminals	No	CUP*	CUP	CUP*	CUP	CUP	SD	CUP*

Table X Shoreline development, uses, structures and activities by designation

	Natural	Conservancy	Rural	Rural Farm-Forest	Rural Residential	Urban	Port, Marina and Marine Transportation	Aquatic
Float planes, commercial or regular use	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Parking lots	No*	SD*	SD	SD*	SD*	SD	SD	No
Parking areas	No	SD	SD	SD	SD	SD	SD	NA
Roads	No	SD	SD	SD	SD	SD	SD	NA
Shoreline access points	SD	SD	SD	SD	SD	SD	SD	Yes
Public pedestrian trails	SD	SD	SD	SD	SD	SD	SD	NA
Other transportation facilities	SD	NO	SD	NO	SD	SD	SD	NA
Utilities⁷								
Utility transmission and distribution lines, pipelines, cables, stations, plants, and other apparatus including utility infrastructure for sewer, water, stormwater, power, solid waste, telecommunications, plants, stations and processing operations	No*	SD*	SD	SD	SD	SD	SD	SD
Desalination systems	SD*	SD	SD	SD	SD	SD	SD	SD

1

2 Table X Notes:

3 1. Eastsound subarea plan prohibits:

4 a. New boating facilities, joint use and private docks;

5 b. Breakwaters, jetties and groins;

- c. Log transfer sites and log storage areas;
- d. Industrial development outside of the marina;
- e. Mineral extraction;
- f. Institutional uses;
- g. Recreational development with commercial facilities for overnight camping; and
- h. Fill in the conservancy shoreline designation.

2. Shaw Island subarea plan prohibits:

- a. Recreational development with commercial facilities for overnight camping;
- b. Residential vacation rentals by themselves or in combination with any commercial use;
- c. Institutional uses; and
- d. New commercial uses.

3. Subject to the general provisions of Sections 51 and 54 of this ordinance forest management activities including log handling and storage facilities are allowed in all shoreline designations on Shaw Island.

4. Shoreline habitat and natural systems enhancement projects are a shoreline conditional use within Eastsound subarea plan and are only allowed for public facility or public safety projects.

5. The replacement or expansion of structural shoreline stabilization measures is allowed but is reviewed and permitted as a new structural shoreline stabilization measure.

6. Requires a certificate of exemption.

7. New outfalls of a domestic or industrial sewage treatment facility within one-half (0.5) mile of a marina may be allowed as a conditional use.

SECTION 67. SJCC 18.20.010 (“A” Definitions) and Ord. 21-2015 § 27 are each amended to read as follows:

“Abandon” means to terminate or remove a structure by an affirmative act, such as changing to a new use; or to cease, terminate, or vacate a use or structure through nonaction.

“Abutting” means adjoining as defined herein, but will often have the added component of joining end to end, or sharing an end border.

Accessory Apartment, Accessory Dwelling Unit. See “Internal ADU.”

“Accessory dwelling unit (ADU)” means a living area that is accessory to the principal residence, located on the same lot, and that provides for sleeping quarters, kitchen, and sanitation facilities. An ADU may be internal, attached or detached.

“Accessory structure” means a structure detached from a principal building located on the same lot and which is incidental and secondary to the principal building.

“Accessory use” means use of land or of a building or portion thereof incidental and subordinate to the principal use or building and located on the same lot with the principal use.

1 “Acoustical engineer” means a professional engineer, licensed in Washington, with a degree in
2 mechanical engineering and membership in the Acoustical Society of America; or a professional
3 engineer with demonstrated education, accreditation and experience to perform and certify noise
4 measurements, as determined by the director.

5
6 ~~“Accretion shoreform” means shoreline with a backshore which has been produced by the long~~
7 ~~term deposition of sand or gravel by littoral drift from a feeder bluff or other source. Such~~
8 ~~shoreforms include barrier beaches, points, spits, hooks, and tombolos.~~

9
10 ~~“Acre” means a unit of measure of land area which consists of 43,560 square feet.~~

11
12 “Activity centers” in San Juan County include villages, hamlets, residential activity centers,
13 island centers, and master planned resorts.

14
15 “Adaptive management” means a style of management which relies upon the best available
16 information to make decisions, but implements decisions with a strategy to obtain additional
17 information. The decisions, or their implementation, are then adapted, if necessary, based on the
18 new information.

19
20 “Adequate” means acceptable but not excessive.

21
22 “Adequate capacity (adequate capital facilities)” means capital facilities and services that have
23 the capacity available to serve development at the time of occupancy or use without decreasing
24 levels of service (LOS) below the standards set forth in the Comprehensive Plan. “Adequate
25 capacity” also includes a financial commitment that is in place to complete the improvements, or
26 noncapital strategies, necessary to provide a specific level of service within six (6) years. (See
27 also “available capacity,” “concurrency,” “levels of service,” and “noncapital alternative
28 strategies.”)

29
30 ~~“Adjacent” means either (1) adjoining as defined herein, or (2) being near or in close proximity,~~
31 ~~implying two objects that are not widely separated, though they may not actually touch. If a~~
32 ~~conflict arises over the meaning of the term “adjacent” as used in the UDC, the meaning shall be~~
33 ~~as interpreted by the director.~~

34
35 ~~“Adjacent lands, shoreline” means lands adjacent to the shorelines of the state (outside of~~
36 ~~shoreline jurisdiction). See RCW 90.58.340.~~

37
38 “Adjoining” means being in physical contact, touching at some point or along a line, having a
39 common point or border, sharing a common boundary, being so joined or united to each other
40 that no third object intervenes.

41
42 “Administrator,” “planning director,” and “director” each mean the San Juan County community
43 development and planning department director or a designated representative.

44
45 “Adverse” means contrary to one’s interest or welfare; harmful or unfavorable circumstances.

1 “Adverse impacts” means a condition that creates, imposes, aggravates, or leads to inadequate,
2 impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-site
3 property or facilities.
4

5 “Affordable housing” means housing where the occupants pay no more than 30 percent (30%) of
6 gross monthly income for total housing costs, including the cost of property taxes and insurance
7 for homeowners and monthly utilities for owners and renters.
8

9 ~~“Agriculture” means the science, art, and business of cultivating land and producing crops or~~
10 ~~raising livestock primarily for commercial sale or use; farming.~~
11

12 “Agricultural activities” means agricultural uses and practices defined in RCW 90.58.065.
13

14 “Agricultural commodity” means sheep, cattle, horses, goats, pigs, llamas, alpacas, or any other
15 animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable,
16 or animal product, such as including, ~~but not limited to~~, products qualifying as organic food
17 products under Chapter 15.86 RCW and private sector cultured aquatic products as defined in
18 RCW 19.85.020 and other fish and fish products, either in their natural or processed state,
19 including bees and honey and Christmas trees but not including timber or timber products.
20

21 “Agricultural composting” means composting of agricultural waste as an integral component of a
22 system designed to improve soil health and recycling agricultural wastes. Agricultural
23 composting is conducted on lands used for farming and is an agricultural activity. Agricultural
24 composting can include the collection of off-site yard, landscape, agricultural waste and other
25 compostable materials to be processed into compost, including sales or delivery of finished
26 composted product. Such operation shall be accessory to the primary agricultural activities of
27 the farm operation and shall not generate traffic or noise uncommon to a farm operation.
28

29 "Agricultural equipment and facilities" means equipment and facilities defined in RCW
30 90.58.065(2).
31

32 “Agricultural processing, retail, and visitor-serving facilities for products” means the commercial
33 processing (preparing for market, packing, and sales) of agricultural commodities, and the on site
34 facilities for retail display and sale of such agricultural commodity products.
35

36 "Agricultural products" includes but is not limited to horticultural, viticultural, floricultural,
37 vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage
38 for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and
39 harvested within twenty years of planting; and livestock including both the animals themselves
40 and animal products, such as including, ~~but not limited to~~ meat, upland finfish, poultry and
41 poultry products, and dairy products (see RCW 90.58.065 (2)).
42

43 “Agricultural resource lands” means lands that are primarily devoted to the commercial
44 production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products

1 or of berries, grain, hay, straw, turf, seed, livestock, or Christmas trees not subject to the excise
2 tax imposed by RCW 84.33.100 through 84.33.140, and have long term commercial significance
3 for agricultural production (RCW 36.70A.030(2)). Agricultural resource lands is also a land use
4 designation (AG) in the Comprehensive Plan.

5
6 “Agricultural sales” means the sales of agricultural products grown, raised or harvested in San
7 Juan County, including processed products whose defining ingredients are produced or harvested
8 in the eCounty. Agricultural sales can include the sale of agricultural promotional materials
9 which shall be accessory to the sale of the primary agricultural products.

10
11 “Agricultural soils” means lands with USDA-San Juan County Soil Survey Class II, III, and IV
12 soils or other soil classes where the land is suitable for a particular agricultural use.

13
14 “Agricultural wastes” means wastes on farms resulting from the raising or growing of plants and
15 animals such as including, but not limited to, crop residue, manure and animal bedding, and
16 carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

17
18 ~~“Agriculture” means the science, art, and business of cultivating land and producing crops or~~
19 ~~raising livestock primarily for commercial sale or use; farming.~~

20
21 “Agriculture, existing and ongoing” means any agricultural activity conducted on lands defined
22 in RCW 84.34.020(2); agricultural use ceases when the area on which it is conducted is
23 converted to a nonagricultural use.

24
25 “Agritourism” means recreational, educational or agricultural-related activities that are accessory
26 to the agricultural activities of the farm operation.

27
28 “Aid to navigation” means any visual or electronic device airborne or on the surface which
29 provides point-to-point guidance information or position data to aircraft in flight.

30
31 “Aircraft accident safety zone” means an area of land that is designated in order to meet the land
32 use compatibility direction in RCW 36.70A.510 and 36.70.547 for general aviation airports and
33 to implement the health and safety and land use purposes of an airport overlay district, and is
34 shown on the official maps of the overlay district. Guidance for the delineation of these safety
35 zones is provided by the Washington State Department of Transportation, which can be modified
36 in order to address local circumstances as part of the adoption of individual airport overlay
37 districts.

- 38 1. “Safety zone 1: Runway protection zone” is an area that has the same dimensions as the
39 FAA runway protection zone. It is a trapezoidally shaped area that extends from the outer
40 boundaries of the primary surface along the extended runway centerline. Where only a
41 portion of the runway is declared as usable (the remainder of the pavement being part of a
42 paved “stopway”), as is the case at Orcas Island airport, the measurements for the zone
43 begin at the threshold line on the pavement which marks the end of the declared usable
44 runway surface.

2. "Safety zone 2: Inner safety zone" is an area that underlies the main departure/approach path. It begins at the end of the runway protection zone (zone 1) and extends out along the extension of the runway centerline.
3. "Safety zone 3: Inner turning zone" is an area where aircraft turn into the direct approach path, or turn out of the departure path. The zone begins at the primary surface and extends out at 30 degrees from both sides of the runway centerline. It connects to the centerline of the inner safety zone (zone 2) with sweeping arcs.
4. "Safety zone 4: Outer safety zone" is an area that underlies the main departure/approach path, after the inner turning zone (zone 3). It extends out from both sides of the extended runway centerline, beginning at the outer edge of the inner turning zone (zone 3) and extending to the outer boundary of zone 6 (or to outer boundary of the horizontal zone if zone 6 is not designated).
5. "Safety zone 5: Sideline safety zone/airport development zone" is an area that is immediately adjacent to the airport and runway area. The standard zone begins at the primary surface, extending out from the extended runway centerline and connecting at its ends to the inner turning zone (zone 3).
6. "Safety zone 6: Traffic pattern zone" is an area that encircles the other five safety zones. The standard area consists of a long oval that is centered longitudinally on the runway, and which envelops the other safety zones. The perimeter is constructed by swinging arcs from a point along the extended runway centerline that is 500 feet from the edge of the primary surface. The arcs are connected by line segments that are extended from the edge of safety zone 5. Zone 6 may or may not be designated for a given airport overlay district.

"Airfield" means a privately owned area of land open to general or limited public use for aircraft operations. An airfield may include related noncommercial services, aircraft maintenance, or fueling facilities.

"Airport" means an area of land or facility publicly owned and open to general public use for aircraft operations, except any airfield or airstrip as defined herein. An airport may include related services and facilities.

"Airport overlay district" means an overlay district which governs use of land in the vicinity and environs of an airport and protects public safety in the area.

"Airstrip" means a privately owned area of land, closed to the public, and restricted to use by the owner for noncommercial aircraft operations and, on an occasional basis, invited guests of the owner.

"Aliquot part" means a parcel of unplatted land which is described by record legal description as a fractional portion of a section, excluding government lots.

"Allowable uses" means the land uses that are allowed under SJCC Title 18, divided into five categories, as identified in SJCC 18.30.050 and Tables 3.1 and 3.2 in SJCC 18.30.030 and 18.30.040. These are uses allowed outright ("Yes"), provisional ("Prov" or "P"), "P/C" (formerly referred to as discretionary) ("D"), conditional ("C"), and plan amendment ("P.A.") uses.

1 “Allowed outright use (“Yes” use)” means a use that is allowed outright within a land use
2 designation, and which does not require a project permit, is identified in Tables 3.1 and 3.2 in
3 SJCC 18.30.030 and 18.30.040 by the symbol “Yes.” All “Yes” uses are subject to and must
4 comply with all applicable development standards of SJCC Title 18 (see Chapter 18.60 SJCC
5 and SJCC 18.80.070).

6
7 “Alteration, nonconforming structures” means any change or rearrangement in the supporting
8 members of existing buildings, such as bearing walls, columns, beams, girders, or interior
9 partitions, as well as any changes in doors, windows, means of egress or ingress or any
10 enlargement to or diminution of a building or structure, horizontally or vertically, or the moving
11 of a building from one location to another. This definition excludes normal repair and
12 maintenance, such as painting or roof replacement, but includes more substantial changes.

13
14 “Alteration, nonconforming use” means the expansion, modification or intensification of a use
15 that does not conform to the land use regulations of the UDC.

16
17 ~~“Angle of repose” means the slope at which a land mass normally will remain stable without~~
18 ~~artificial means of support. The specific angle is largely dependent on the type(s) of material(s)~~
19 ~~present in the land mass.~~

20
21 “Animal shelter (kennel)” means a commercial or nonprofit establishment in which animals
22 other than livestock are temporarily housed or boarded, groomed, bred, trained, treated, or sold.

23
24 “Antenna” means any apparatus designed for transmitting and/or receiving electromagnetic
25 waves by converting those waves from and to electrical current.

26
27 “Antenna array” means one (1) or more antennas and their associated mounting hardware, feed
28 lines, or other appurtenances which share a common attachment device, such as a mounting
29 frame or support structure.

30
31 “Appeal, closed-record” means an administrative appeal on the record to the board of County
32 commissioners, following an open-record hearing on a project permit application. A closed-
33 record appeal is on the record made before the decision-maker with no or limited new evidence
34 or information allowed to be submitted and only appeal argument allowed (RCW 36.70B.020).

35
36 “Appeal, open-record” means a hearing, conducted by the hearing examiner, that creates the
37 County’s record through testimony and submittal of evidence and information, under procedures
38 prescribed by the County by ordinance or resolution when a timely appeal of the director’s
39 decision on a project permit application or a timely appeal of an administrative determination is
40 filed.

41
42 “Applicant” means any person who files a permit application with the County and who is either
43 the owner, beneficial owner, contract purchaser, or authorized agent of such owner of the land on
44 which the proposed activity would be located.

1 “Approach surface” means the FAA imaginary surface that is the lower boundary of an airspace
2 which begins at the ends of the primary surface and extends upward and outward along the
3 extended runway centerline. The initial width of the surface coincides with the width of the
4 primary surface, and expands outward uniformly from the primary surface.

5
6 “Approach, transitional, horizontal, and conical surfaces” means the imaginary surfaces that
7 relate to an airport or airfield runway as defined in Federal Aviation Administration (FAA)
8 regulations, 14 CFR, Part 77, “Objects Affecting Navigable Airspace,” as amended, and as
9 shown on the approach and clear zone plan for an airport or airfield. They are so-called
10 “imaginary” surfaces because, with the exception of the runway, they cannot be seen.

11
12 “Approach, transitional, horizontal, and conical zones” means the zones which apply to the
13 ground areas immediately under a runway approach; transitional, horizontal, and conical surfaces
14 as projected along a vertical axis.

15
16 ~~“Aquacultural activities” means use of the land and water for aquacultural purposes such as~~
17 ~~including, but not limited to: producing, breeding, or increasing products; rotating and changing~~
18 ~~products; processing, packing, storing and selling products; composting organic materials; and~~
19 ~~construction, maintenance and repair of structures and facilities associated with the operation.~~

20 "Aquacultural equipment and facilities" includes, but is not limited to: (1) The following used in
21 aquacultural operations: equipment; machinery; constructed shelters, buildings, and ponds; water
22 storage facilities; water diversion, withdrawal, conveyance, and use equipment and facilities such
23 as pumps, pipes, canals, ditches, and drains; (2) farm residences and associated equipment, lands,
24 and facilities; and (3) roadside stands and on-farm markets for products (see RCW 90.58.065
25 (2)).

26
27 "Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals.
28 ~~the science or art of cultivating fish, shellfish, or other aquatic animals or plants.~~ Aquaculture
29 does not include the harvest of wild geoduck associated with the state managed wildstock
30 geoduck fishery (see WAC 173-26-020(6)).

31 “Aquaculture, noncommercial” means harvesting fish, shellfish or other aquatic animals and
32 plants for subsistence, recreational and personal consumption, scientific research or restoration
33 activities.

34 “Aquaculture processing” means the commercial preparation of fish, shellfish, or other aquatic
35 animals and plants for market including packaging and transportation.

36
37 "Aquacultural products" includes fish, shellfish, or other aquatic animals or plants.

38
39 “Aquatic designation environment” means all water bodies under the jurisdiction of the
40 Shoreline Management Act of 1971 and within the boundaries of San Juan County, including the
41 water surface together with the underlying lands and the water column, such as including but not
42 ~~limited to~~ bays, straits, harbors, coves, estuaries, tidelands, shorelands, and lakes.

1 “Aquifer” means a body of permeable saturated rock material or soil capable of conducting
2 ground water.

3
4 “Aquifer recharge areas” means lands through which precipitation and surface water infiltrate the
5 soil and are transmitted through rocks and soil to create ground water storage.

6
7 “Archaeological” means having to do with the scientific study of material remains of past human
8 life and activities.

9
10 “Archaeological site” means an area of ancestral human use such as middens, burial grounds,
11 and earthworks.

12
13 “Area” means the size of a parcel of land, as expressed in square feet or acres to two decimal
14 places. When a public road right-of-way lies within a tract of land otherwise in contiguous
15 ownership, area within the right-of-way may be included in gross area for the purpose of
16 calculating maximum allowable density. When public road right-of-way abuts a tract of land,
17 area to the centerline may be included in the gross area of the parcel for this purpose.

18
19 “Area, nominal” means the approximate area of a parcel of land, such as the aliquot part or the
20 land area in the assessor’s records.

21
22 “Area of more intensive rural development (AMIRD)” means a class of rural lands that includes
23 village and hamlet activity centers, residential activity centers, and island centers. AMIRDs were
24 identified and delineated according to the criteria in RCW 36.70A.070(5)(d). They consist of
25 commercial, industrial, residential, or mixed use areas in which the kinds, intensities, or densities
26 of use, or the capital facilities and services available, exceed the levels normally associated with
27 rural development. Thus, these areas recognize and provide for existing compact rural
28 development and uses, and allow for infill in the areas to the level of existing patterns.

29
30 “Area of natural terrain obstruction” means an area where the natural land surface penetrates the
31 FAA imaginary surface.

32
33 “Area of special flood hazard” means the land in the floodplain within a community subject to a
34 one percent (1%) or greater chance of flooding in any given year, as indicated on the flood
35 insurance rate maps (FIRMs).

36
37 “Artisan” means a skilled manual worker or artist who may use tools ~~and~~ or machinery to pursue
38 a particular art or profession, such as traditional occupations such as wheelwrights, bakers,
39 grillers, brewers, upholsterers, cabinet makers, carpenters, journeymen, potters, distillers,
40 engravers, weavers, sculptors, masons, painters, photographers, fabricators, glasswrights,
41 jewelers, goldsmiths, silversmiths, coppersmiths, tailors, vintners and taxidermists.

42 “Artisan activities” means the creation and sales of artisan products.

1 “Artisanal product” means an item or product created through the work of an artisan that is
2 generally produced on a nonindustrial, small scale, or small batch basis, and is commonly hand-
3 made using traditional methods or skills.

4
5 “Assembly facility” means a facility designed and used for the gathering of people, or in which
6 they may come together in a body, such as a meeting hall, community club or center, church, etc.
7 (See also “community club or facility” and “religious assembly facility.”)

8
9 “Assessor’s parcel number” means a geocoding number assigned by the assessor’s office for
10 property tax assessment purposes only.

11
12 “Associated Wetland” means those wetlands that are in proximity to and either influence or are
13 influenced by tidal waters or a lake or stream that is subject to the Shoreline Management Act.

14 “At grade” means at ground level.

15
16 “Attached accessory dwelling unit (AADU)” means an ADU which is internal to or attached to
17 the principal residence by (1) a common wall, or (2) a continuous roof and exterior wall
18 enclosures, or (3) a continuous roof no less than six (6) feet in width, the area of which is
19 included in the living area of the ADU.

20
21 “Automotive fuel station” means any building, land area, or other premises used for the retail
22 dispensing or sales of vehicular fuels, but at which there is no servicing or repair of automobiles.

23
24 “Automotive repair station” means any building, land area, or other premises used for the retail
25 servicing or repair of automobiles, but at which there is no dispensing or sales of vehicular fuels.

26
27 “Automotive service station” means any building, land area, or other premises used for the retail
28 dispensing or sales of vehicular fuels and the servicing or repair of automobiles.

29
30 “Automobile wrecking and junk (or salvage) yards” means an outdoor area used for the
31 wrecking, storage, and recycling/salvage of wrecked or abandoned vehicles for scrap metal
32 and/or parts. (See “junk yard or salvage facility.”)

33
34 “Available capital facilities (available capacity)” means capital facilities or services that are in
35 place (“existing capacity”), or for which a financial commitment is in place to provide the
36 facilities or services within a specified time (“planned capacity”). “Available capacity” consists
37 of existing plus planned capacity. (See also “adequate capacity,” “concurrency,” and “levels of
38 service.”)

39
40 “Average grade level” means the average of the natural or existing topography of the portion of
41 the lot, parcel, or tract of real property which will be directly under the proposed building or
42 structure. Calculation of the average grade level is made by averaging the ground elevations at
43 the midpoint of all exterior walls of the proposed building or structure. In the case of structures
44 to be built over-water, average grade level is the elevation of the ordinary high water mark.

1 “Average tree height” means the mean height of existing trees within a 150-foot radius of the
2 facility site.

3
4 “Average vehicular trips” means the average number of all vehicles entering or leaving a site
5 during a defined period.

6
7 **SECTION 68. SJCC 18.20.020 and Ord. 26-2012 § 3 are each amended to read as follows:**

8 ~~“Backshore” means a berm, together with associated marshes or meadows on marine shores~~
9 ~~landward of the ordinary high water mark that has been gradually built up by accretion.~~

10 “Barge landing site, permanent” means any location established for the purpose of landing a
11 barge (including powered landing craft) for more than a ~~single~~ temporary use. (See also “log
12 storage or transfer site.”)

13 “Barge landing site, temporary” means a location where a limited number of landings are
14 allowed that will not result in permanent disturbance of the earth or permanent adverse impacts
15 on shoreline ecological functions.

16 “Base flood” means the flood having a one percent (1%) chance of being equaled or exceeded in
17 any given year; also known as the “100-year flood,” as shown on the FIRM maps.

18 “Base flood elevation” means the elevation for which there is a one percent chance in any given
19 year that flood levels will equal or exceed it.

20 “Beach enhancement/restoration” means a process of restoring a beach to a state more closely
21 resembling a natural beach using beach feeding, vegetation, drift sills, and other nonintrusive
22 means.

23 ~~“Beach feeding” means a process of replenishing a beach by delivery of materials dredged or~~
24 ~~excavated elsewhere.~~

25 “Bed and breakfast inn” means a hospitality commercial use containing three to five lodging
26 units without cooking facilities, which provides overnight accommodation and breakfast meals in
27 a proprietor- or owner-occupied existing single family residence and additional legal structures
28 or up to ten (10) lodging units in an existing historic structure.

29 “Bed and breakfast residence” means a hospitality commercial use containing one to two lodging
30 units without cooking facilities, which provides overnight accommodation and breakfast meals in
31 an owner-occupied existing single-family residence.

32 “Beneficial owner” means an individual who is a member of a family corporation, trust, or a
33 partnership, and who is related by blood, adoption, marriage, or domestic partnership, to all other
34 members of the corporation, trust or partnership.

35 “Best available science” means current scientific information used in the process of designating,
36 protecting, or restoring critical area functions and values, that is derived from a valid scientific
37 process as described in WAC 365-195-900 through 365-195-925.

1 “Best management practices (BMPs)” means systems of practices, schedules of activities,
2 prohibitions, maintenance procedures, and structural or management measures that prevent or
3 minimize the release of pollutants or other adverse impacts to the environment.

4 “Binding site plan” is a method of division of land intended primarily for projects such as
5 condominiums, residential clusters or planned unit developments, industrial parks and shopping
6 centers, which are developed as a whole rather than for sale of individual lots for development.

7 “Biodiesel” means biodiesel as defined by RCW 19.112.010.

8 “Biofiltration system” means a water filtration system using biological processes.

9 ~~“Bluff backed beach” means a beach adjacent to and below a coastal bluff.~~

10 ~~“Board (BOCC)” means the San Juan County council.~~

11 “Boat launch, ramp or retrieval system” means an area, structure, or equipment used to launch or
12 retrieve boats.

13 “Boathouse” means an enclosed structure designed and used for the storage of boats and boat
14 equipment.

15 ~~“Boating facilities” means marinas, covered moorages, boathouses, boat launches, marine~~
16 ~~railways, mooring buoys, docks, and floats development and uses that support access to shoreline~~
17 ~~waters for purposes of boating such as marinas, covered moorages, boathouses, boat launches~~
18 ~~ramps, marine railways, mooring buoys, piers, docks and floats serving five (5) or more single~~
19 ~~family residences, or multi-family units.~~

20 “Bonus-density residential district” means a district in which a density bonus is permitted for
21 affordable housing. The official maps indicate both the base density permitted without a density
22 bonus and the maximum density permitted with a density bonus for affordable housing.

23 “Boundary line adjustment” means a change in the location of the boundary or boundaries
24 between parcels of land to correct errors.

25 “Boundary line modification” means a change in the location of the boundary or boundaries
26 between parcels of land; provided, that no additional parcels are created, except that a change in
27 a land description to correct errors ~~shall~~ is not be considered a boundary line modification.

28 “Breakwater” means protective structures that are normally built offshore to protect beaches,
29 bluffs, dunes, or harbor areas from wave action.

30 “Buffer zone, strip, or area” means either an area designed to separate incompatible uses or
31 activities, or a contiguous area that helps moderate adverse impacts associated with adjacent land
32 uses and that is necessary for the continued maintenance, function, and structural stability of the
33 protected area. Different types of buffers perform different functions.

34 “Building envelope” means:

- 35 1. A three-dimensional space in which a building or structure may be built;

2. A plat restriction for the purpose of defining lot coverage areas for individual lots, or for describing shoreline building setbacks.

“Bulk fuel storage plant or terminal” means an area where flammable or combustible liquids are received by tank vessel, pipelines, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container (see International Fire Code).

“Bulk fuel storage (retail)” means the storage of fuel in structures or tanks for subsequent retail sale.

“Bulk fuel storage (wholesale)” means the storage of fuel in structures or tanks for subsequent wholesale distribution.

“Bulkheads or seawalls” means structures erected parallel to and near the high water mark for the purpose of protecting the adjacent bank or uplands from the action of waves or currents.

SECTION 69. SJCC 18.20.030 and Ord. 21-2015 § 28 are each amended to read as follows:

~~“Calendar decade” means a (10) year period beginning January 1st of any year evenly divisible by (10).~~

“Campground and camping facilities” means a facility in which sites are offered for less than 30 days for persons using tents or other personal, portable overnight shelters.

“Camping” means to reside for less than 30 days in a tent or other personal, portable overnight shelters.

“Capital facilities” means physical structures or facilities owned or operated by a government entity which provides or supports a public service.

“Capital improvements” means improvements to land, structures, initial furnishings, and selected equipment.

“Carrier” means a provider of telecommunications services.

“Channel” means an open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stock watering channels. (See WAC 173-14-030 (8)(b); see also “stream.”)

“Civic and cultural facilities” means structures and related activity areas used by organizations providing educational, social, religious or recreational services to the community; including performance halls, government service offices, facilities for religious assembly, colleges, primary and secondary schools, museums, and libraries.

~~“Class I beach” means a beach or shore having dependable, geologically fully developed, and normally dry backshore that encompasses stable, infrequently wetted backshore berms, dunes or marshes.~~

“Class II beach” means a beach or shore having only marginally, geologically partially developed and not dependably dry backshore.

1 “Class III beach” means a beach or shore having no dry backshore.

2 “Clearing” means the destruction or removal, by hand or with mechanical means, of ~~vegetative~~
3 ~~ground cover~~ vegetation or trees such as ~~including, but not limited to~~, root material or topsoil
4 material.

5 “Cluster development” means the massing of development on one or more parts of a property.

6 “Co-applicant” means all persons ~~and~~/or entities joining with an applicant in an application for a
7 project or development permit, including the owners of the subject property and any tenants
8 proposing to conduct a development or activity subject to a permit.

9 “Coastal high hazard areas” means the areas within any areas of special flood hazard that are
10 subject to high velocity waters, such as including but not limited to storm surge or tsunamis.

11 “Co-location” means the shared use of a building, tower or telecommunication mount ~~and~~/or site
12 by more than one licensed carrier. Additionally, to satisfy the definition of “co-location” on a
13 wireless tower, the mounting of a new proposed antenna must not: (1) increase the approved
14 height of the wireless tower by more than the minimal amount required by Section 6409 of the
15 Middle Class Tax Relief Act (2012) by more than ten ~~(40)~~ percent; or (2) involve the installation
16 of more than four new equipment cabinets or one new equipment shelter to serve the wireless
17 tower; or (3) involve adding an appurtenance to the body of the wireless tower that would
18 protrude from the edge of the wireless tower more than 20 feet; or (4) involve excavation outside
19 the current wireless tower site, defined as the current boundaries of the leased or owned property
20 surrounding the wireless tower and any access or utility easements currently related to the site; or
21 (5) interfere with the camouflage or disguise of the wireless tower.

22 “Commercial ~~C~~ommunication ~~F~~acilities” means a facility for the broadcast of signals for
23 television, HDTV, and commercial radio stations and refers to the lease area and easements, all
24 towers, antennas, mounts, transmission cables, equipment shelters or cabinets and any other
25 installation to facilitate the broadcast of radio and television. Personal wireless service facilities
26 and joint use wireless facilities are not “commercial communication facilities.”

27 ~~“Commercial mobile radio services” or “CMRS” means any of several technologies using radio~~
28 ~~signals at various frequencies to send and receive voice, data and video.~~

29 “Commercial composting” means the collection of off-site ~~and~~/or public drop-off of yard,
30 landscape, agricultural wastes and other compostable materials to be processed into compost,
31 including sales, pick-up ~~and~~/or delivery of finished composted products.

32 “Commercial mobile radio services” or “CMRS” means any of several technologies using radio
33 signals at various frequencies to send and receive voice, data and video.

34 “Commercial recreational facility” means a place designed and equipped for the conduct of
35 sports and leisure-time activities which is operated as a business and open to the public for a fee
36 (see “indoor recreational facilities and outdoor recreational facilities”).

37 “Commercial sign” means any object, device, display or structure that is used for attracting
38 attention to any commercial use, product, service, or activity.

1 “Commercial use” means activity involving the sale of goods or services.

2 “Common area” means any area contained within the boundaries of a proposed land division or
3 within a multifamily residential development and owned by the lot owners as tenants-in-
4 common, joint tenancy, or through an association or nonprofit association, and provided
5 specifically for the common use of the residents.

6 “Community club or facility” means a not-for-profit use that provides social, health, recreational,
7 cultural, or educational facilities to a community.

8 ~~“Community development and planning department” means the San Juan County community~~
9 ~~development and planning department, the former San Juan County permit center and the former~~
10 ~~San Juan County planning department.~~

11 ~~“Community dock,” for purposes of SJCC 18.50.190(C)(8) and 18.50.340(G), means a dock~~
12 ~~serving three or more residential waterfront properties.~~

13 “Community structure” means a structure which is intended for the common use of the residents
14 of a particular subdivision or community.

15 “Composting” means the biological degradation and transformation of organic solid waste under
16 controlled conditions designed to promote aerobic decomposition. Natural decay of organic solid
17 waste under uncontrolled conditions is not composting.

18 “Comprehensive Plan” means the San Juan County Comprehensive Plan and all of its goals,
19 objectives, policies, documents, and maps.

20 “Concurrency” means a condition in which an adequate capacity of capital and transportation
21 facilities and services is available to support development at the time that the impacts of
22 development occur. (See also “adequate capacity,” “available capacity,” and “levels of service.”)

23 “Concurrency facilities” means the public facilities and services for which concurrency is
24 required in accordance with the policies of the Comprehensive Plan. They include transportation
25 facilities (ferry service and parking areas, Types 1 and 2 public docks, intersections in activity
26 centers or urban growth areas, and collector public roads), and “Category A” capital facilities
27 (County solid waste and recycling facilities); community water systems that serve urban growth
28 areas, AMIRDs (village, hamlet, and residential activity centers and island centers), or master
29 planned resort activity centers; and community sewage treatment facilities that serve village and
30 master planned resort activity centers.

31 “Concurrency test” means the comparison of a project’s impact on concurrency facilities to the
32 available capacity, including existing and planned capacity, of the concurrency facilities.

33 “Conditional use” means a use that is identified in Tables 3.1 and 3.2 in SJCC 18.30.030 and
34 18.30.040 by the symbol “C” and which requires a conditional use permit.

35 “Conditional use permit” means a permit issued by San Juan County stating that the land uses
36 and activities meet all criteria set forth in local ordinances, and all conditions of approval in
37 accordance with the procedural requirements of SJCC 18.80.100.

1 “Conditional use, shoreline” means a use, development, or substantial development which is
2 classified as a conditional use in the Shoreline Master Program (SMP; see Element 3 of the Plan
3 and Chapter 18.50 SJCC), or which is not classified within the SMP.

4 “Condominium” means the division of a building or land pursuant to the Horizontal Property
5 Regimes Act, Chapter 64.32 RCW, or to the Condominium Act, Chapter 64.34 RCW.

6 “Conical surface” means the FAA imaginary surface that is the lower boundary of an airspace
7 which extends outward and upward from the periphery of the horizontal surface.

8 “Conservancy designation” means the land use designation of the Comprehensive Plan designed
9 to protect valuable natural resources, wildlife, historical, and scenic areas.

10 “Conservancy ~~environment~~, shoreline designation” means an ~~environment~~ shoreline designation
11 that is applied to areas which are largely free of intensive development.

12 “Consolidated formation” means any geologic formation in which the earth materials have
13 become firm and coherent through natural rock-forming processes.

14 “Construction contractor yards and offices” means service establishments primarily engaged in
15 general contracting or subcontracting in the building construction trades. These include
16 administrative offices, workshops and the indoor or outdoor storage of tools, equipment,
17 materials, and vehicles.

18 “Contiguous” means adjoining as defined herein, but will often have the added component of
19 sharing the common boundary for a considerable distance, along the whole or most of one side
20 or border.

21 ~~Contract Purchaser.~~ See “applicant.”

22 “Correctional facility” means any facility operated by or under contract to a public agency for
23 the confinement of individuals accused or convicted of criminal or delinquent activity.

24 “Cottage enterprise” means a commercial or manufacturing activity conducted in whole or in
25 part in either the resident’s single-family dwelling unit or in an accessory building, but is of a
26 scale larger than a home occupation.

27 “County” means San Juan County, Washington, its board, commissions, and departments.

28 “Covered moorage” means a pier ~~and~~/or float or system of floats covered by a roof.

29 “Critical areas” means geologically hazardous areas, frequently flooded areas, critical aquifer
30 recharge areas, wetlands, and fish and wildlife conservation areas, all as defined in this Chapter
31 and regulated in SJCC 18.30.110 through 18.30.160.

32 “Critical area functions and values” means the beneficial roles served by critical areas and the
33 values people derive from these roles including, water quality protection and enhancement; fish
34 and wildlife habitat; food chain support; flood storage, conveyance, and attenuation; ground
35 water recharge and discharge; erosion control; wave attenuation; protection from hazards; water
36 infiltration; fine sediment control; shade/microclimate; large woody debris; litterfall/organic
37 matter; maintenance of hydrologic function; slope stability; aesthetics; property value; economic

development; recreation; carbon sequestration; and within shoreline jurisdiction, shoreline ecological functions and processes.

“Critical water resource areas” means selected watersheds and critical aquifers where resources are potentially threatened by salt water intrusion or primary contaminants or limited due to poor recharge.

“Cul-de-sac” means a road closed at one end by an area of sufficient size for turning vehicles around.

SECTION 70. SJCC 18.20.060 and Ord. 26-2012 § 6 are each amended to read as follows:

“Facility and service provider” means the department, district, agency or private entity responsible for providing a specific concurrency facility.

“Fair market value, shorelines” means the open-market bid price for conducting the work, using the equipment and facilities, and purchasing the goods, services, and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, equipment and facility usage, transportation, and contractor overhead and profit (WAC 173-27-030).

“Fall zone” means the area on the ground within which there is a potential hazard from falling debris or a collapsing structure (e.g., a tower).

“Family” means individuals related by genetics, adoption, or marriage or a group of not more than eight unrelated individuals who share a single dwelling unit.

“Farm stay accommodation” means a hospitality commercial use associated with agriculture.

“Farm worker accommodation” means a residential use associated with agricultural labor.

“Feasible alternative” means an alternative that:

1. Meets the requirements of federal, state, and local laws and regulations;
2. Attains most or all of the basic objectives of the project;
3. Is technically and technologically possible;
4. Can be accomplished at a reasonable cost;
5. Can be accomplished in a reasonable amount of time; and
6. Adverse environmental, health, and safety effects are no greater than those of the original proposal.

A determination of what is reasonable or feasible is made by the decision making body on a case-by-case basis, taking into account the:

1. Probable intensity, severity, and cumulative impacts of the original proposal and alternative approaches, and opportunity for the avoidance or reduction in the number, intensity, or severity of significant impacts, or of the aggregate adverse impact;

2. Risk of “upset conditions” (i.e., the risk that the control and mitigation measures will fail, be overwhelmed, or exceed allowed limits), and the potential severity of the impact should control or mitigation measures be ineffective or fail;

3. Capital and operating costs;

4. Period of time to accomplish, costs of additional time or delay, and time constraints for completion; and

5. Location and site specific factors, such as seasonal or topographic constraints, critical areas, site accessibility, and local community concerns. (For areas within shoreline jurisdiction, see definition of “feasible” in WAC 173-26-020.)

“Feeder bluff” means any shoreline land mass subject to periodic erosion from waves, or sliding and slumping, and from which the eroded sand or gravel is naturally transported via a driftway to an accretion shoreform.

“Feedlot” means a confined area or structures, pen, or corral, used to fatten livestock prior to final shipment.

“Feedlot (commercial)” means a dry-feed yard where heavy portions of concentrated feed are fed to cattle to put a finish on the animals either consigned or sold to the feedlot.

“Filing.” See “recording.”

“Fill” means the placement of soil, rock, gravel, existing sediment, or other material (excluding solid waste) to create new land, tideland, or bottom land, along the shoreline below the ordinary high water mark or on upland areas or wetlands, in order to raise the elevation.

“Filling” means deposition of earth materials by any purposive means.

“Final plat” means the final plat (drawing) of a subdivision and dedication prepared for recording with the County auditor by a licensed surveyor and containing all elements and requirements set forth in Chapter 18.70 SJCC and Chapter 58.17 RCW.

“Finding of concurrency” means the finding by the director that a transportation system or other concurrency facility has adequate unused or uncommitted capacity, or will have adequate capacity, to accommodate the demand for the facility or service generated by a proposed development, without causing levels of service to decline below the level-of-service (LOS) standards set forth in the Comprehensive Plan.

~~Float (Moorage). See “mooring buoy.”~~

“Float plane” means an aircraft on floats, including float planes, seaplanes, and amphibious aircraft.

~~“Float (recreational)” means an off shore platform used for water dependent activities, such as swimming and diving.~~

“Floating dock” means a dock designed to float on the water surface, secured to the shore by means other than a fixed, elevated pier structure.

1 “Flood hazard reduction” means structural and nonstructural methods of reducing flood damage
2 and hazards to uses and people. Nonstructural reduction methods may include setbacks, land use
3 controls, wetland restoration, dike removal, use or structure relocation including raising
4 structures above the base flood elevation, biotechnical measures, and storm water management.
5 Structural reduction methods may include dikes, levees, revetments, floodwalls, channel
6 realignment and elevation of structures consistent with the National Flood Insurance Program.

7 “Flood Insurance Rate Map (FIRM)” means the official map issued by the Federal Emergency
8 Management Agency that delineates both the special hazard areas and the risk premium zones
9 applicable to San Juan County.

10 “Flood or flooding” means the temporary inundation of normally dry land areas from the
11 overflow of inland or tidal waters or from the unusual and rapid accumulation or runoff of
12 surface waters.

13 “Floor area ratio (FAR)” means the gross floor area of all buildings and structures on a site or lot
14 divided by the total area of the site or lot for which the ratio is being calculated.

15 “Food service facility” means a commercial use that sells or serves food products for
16 consumption on site or for carry-out.

17 “Forest management” means forest practices pertaining to protecting, producing, and harvesting
18 timber for economic use.

19 “Forest practice” means any activity conducted on or directly pertaining to forest land and
20 relating to growing or harvesting of timber, or the processing of timber on a harvest site for less
21 than 30 days per calendar year, ~~such as including but not limited to,~~ road and trail construction
22 and maintenance; harvest, final and intermediate; precommercial thinning; reforestation;
23 fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush
24 control. Forest practices are regulated under Chapter 76.09 RCW, the Washington State Forest
25 Practices Act, its implementing regulations at WAC Title 222, and other applicable regulations.

26 “Forest practice, conversion” means the conversion of land to an active use incompatible with
27 timber growing and where future nonforest uses will be located on currently forested land. Under
28 the rules of the Forest Practices Act, WAC Title 222, this requires a Class IV general forest
29 practices permit or COHP with Class III permit.

30 “Forest practice, conversion option harvest plan (COHP)” means a voluntary plan developed by
31 the landowner and approved by the County that indicates the limits and types of harvest areas,
32 road locations, and open space. This jointly agreed plan is submitted to the ~~Washington~~
33 ~~Department of Natural Resources (WDNR)~~ as part of a Class II, III, or IV special forest practice
34 permit application, and is attached to and becomes part of the conditions of the permit approved
35 by the WDNR.

36 “Forest resource lands” means lands primarily devoted to growing trees for long term
37 commercial production on land that can be economically and practically managed for such
38 production (RCW 36.70A.030(8)).

1 “Frequently flooded areas” means lands subject to a one percent (1%) or greater chance of
2 flooding in any given year.

3 Functions and ~~V~~values. See “critical area functions and values.”;

4 **SECTION 71. SJCC 18.20.060 and Ord. 21-2015 § 30 are each amended to read as follows:**

5 “Habitat” means the place or type of site where a plant or animal naturally or normally lives and
6 grows.

7 “Hamlet” means an activity center with high-density residential areas and a small commercial
8 center that provides goods and services to surrounding rural residential, rural, and resource uses.

9 “Hangars” means covered areas and enclosed structures for housing ~~and~~ or repairing aircraft.

10 “Hard structural shoreline stabilization measures” means shore erosion control structures and
11 measures composed of hard surfaces, arranged with primarily linear and vertical or near-vertical
12 faces that armor the shoreline and prevent erosion. These measures include bulkheads, rip-rap,
13 groins, retaining walls and similar structures composed of materials such as boulders, gabions,
14 dimensional lumber, and concrete.

15 “Hazard tree” means a tree that a certified arborist has determined has: (1) a high probability of
16 falling due to a debilitating disease or a structural defect; and (2) potential for significant
17 property damage or personal injury if it falls.

18 “Heavy equipment rental” means a site for the storage and retrieval of large pieces of machinery
19 or large vehicles usually associated with construction available for the public’s use, which may
20 include additional and complementary retail activities.

21 “Heavy industrial use” means a use engaged in the basic processing and manufacturing of
22 materials or products predominately from extracted or raw materials; a use engaged in storage of,
23 or manufacturing processes using flammable, hazardous or explosive materials.

24 “Height” means the vertical distance measured from the average existing grade beneath a
25 structure or object along a plumb line to the highest point of a structure or object.

26 “Height of building” means the vertical distance above a reference datum measured to the
27 highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average
28 height of the highest gable of a pitched or hip roof. The reference datum shall be selected by
29 either of the following, whichever yields a greater height of building:

30 1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot
31 horizontal distance of the exterior wall of the building when such sidewalk or ground
32 surface is not more than 10 feet above lowest grade; or

33 2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface
34 described in subsection (1) of this definition is more than 10 feet above lowest grade.

35 The height of a stepped or terraced building is the maximum height of any segment of the
36 building (~~cf. Uniform Building Code~~).

1 “Height, shoreline” means the height of shoreline structures, measured from average grade level
2 to the highest point of a structure; provided, that television antennas, chimneys, and similar
3 appurtenances ~~shall~~ are not be used in calculating height, except where they obstruct the view of
4 the shoreline of a substantial number of residences on areas adjoining such shorelines, excluding
5 temporary construction equipment (WAC 173-27-030).

6 “Helipads” means areas for the landing and take-off of rotary-wing aircraft, but not adequate for
7 fixed-wing aircraft.

8 “Herbaceous balds and bluffs” means native plant areas located on shallow soils over bedrock,
9 often on steep, exposed slopes with few trees, which support grasses, herbaceous plants, dwarf
10 shrubs, brittle prickly pear cactus, mosses and lichens adapted for survival on shallow soils amid
11 seasonally dry conditions. Trees that may be present include Douglas fir, Pacific madrone, and
12 Garry oak.

13 “Herbaceous vegetation” means non-woody vascular plants.

14 “Historic camps” means, for the purposes of determining allowable uses, nonprofit recreational
15 and educational camping facilities owned by a nonprofit entity and in continuous operation since
16 October 2, 1979.

17 “Historic educational and scientific facilities” means, for the purposes of determining allowable
18 uses, educational and scientific facilities in continuous operation since October 2, 1979.

19 “Historic resort” means, for the purposes of determining allowable uses, a resort established
20 prior to and in continuous operation since October 2, 1979.

21 “Historic site, structure or landmark” means a site, structure or building of outstanding
22 archaeological, historical or cultural significance. This is shown by its designation as such by the
23 National or Washington State Register of Historic Places or an adopted San Juan County Historic
24 Preservation Plan, designation as an historic landmark, or any such structure or feature for which
25 the State Historic Preservation Officer has made a determination of significance pursuant to
26 Section 106 of the National Historic Preservation Act.

27 “Home occupation” means any commercial activity carried out by a resident of a single-family
28 residence and conducted as an incidental and accessory use of the residence.

29 “Horizontal surface” means the FAA imaginary surface that is the lower boundary of a
30 horizontal airspace that is located above the airport and forms and elongated oval above the
31 runway.

32 “Hospitality commercial use” means restaurants and ~~transient lodging~~ vacation rental
33 establishments and associated guest facilities available for short term accommodation for a
34 period not to exceed 30 days.

35 “Hotel” means a hospitality commercial use containing three or more individually rented lodging
36 units (in one or more buildings), which provides sleeping accommodations, with or without
37 meals or the facilities for preparing meals, for travelers and transient guests, and which does not
38 meet the definitions of “bed and breakfast inn,” “bed and breakfast residence,” or “vacation
39 rentals of a residence or an ADU.”

~~“Houseboat” means a building constructed on a float and used wholly or in part for human habitation, which does not have the following characteristics of a vessel: a seaworthy hull design which meets U.S. Coast Guard standards for flotation, safety equipment, and fuel, electrical and ventilation systems; capability for travel in open water and for use for water transportation in general; permanent equipment for water travel including a method for steering and propulsion; deck fittings, navigational equipment and marine hardware; and registration as a vessel with federal, state, and local agencies.~~

“Household” means one or more related or unrelated persons occupying a dwelling unit.

“Hydric soil” means soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part, as determined by following the methods described in the currently accepted Federal Manual for Identifying and Delineating Jurisdictional Wetlands. San Juan County soil map units that are dominantly comprised of hydric soils as identified in the Soil Survey of San Juan County, Washington (USDA, 2009), are: Coveland loam, zero to five percent slopes; Coupeville loam, zero to five percent slopes; Limepoint-Sholander complex, zero to eight percent slopes; Shalcar muck, zero to two percent slopes; Semiahmoo muck, zero to two percent slopes; Coveland-Mitchellbay complex, two to 15 percent slopes; Bazal-Mitchellbay complex, zero to five percent slopes; Orcas peat, zero to two percent slopes; and Dugualla muck, zero to two percent slopes. Other soils not classified as hydric by the Soil Conservation Service may still meet the hydric soil criteria.

“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, as determined by following the methods described in the currently accepted Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

SECTION 72. SJCC 18.20.120 and Ord. 26-2012 § 11 are each amended to read as follows:

Land Division. See “division of land.”

~~“Landfill” means the placement of soil, rock, gravel, existing sediment, or other material (excluding solid waste) to create new land, tideland, or bottom land, along the shoreline below the ordinary high water mark or on upland areas or wetlands, in order to raise the elevation.~~

“Landslide hazard areas” means areas potentially subject to risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

“Landward” means to or toward the land.

~~“Lawn” means an area consisting predominantly of grass that is maintained at a height of 6 inches or less.~~

“Level of service (LOS)” means the number of units of capacity per unit of demand (e.g., trips, population, school-age residents) or other appropriate measure of need sufficient to meet the standards for adequate service set forth in the Comprehensive Plan. (See also “adequate capacity,” “available capacity,” and “concurrency.”)

“Licensed carrier” means a carrier authorized by the FCC.

1 “Light industrial” means a use involving (1) basic processing and manufacturing of materials or
2 products predominantly from previously prepared materials; or (2) finished products or parts,
3 including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and
4 distribution of such products, but excluding basic processing of raw materials except food
5 products.

6 “Limited area of more intensive rural development (LAMIRD)” means a class of rural lands that
7 includes village and hamlet activity centers, residential activity centers, and island centers.
8 LAMIRDs were identified and delineated according to the criteria in RCW 36.70A.070(5)(d).
9 They consist of commercial, industrial, residential, or mixed use areas in which the kinds,
10 intensities, or densities of use, or the capital facilities and services available, exceed the levels
11 normally associated with rural development. Thus, these areas recognize and provide for existing
12 compact rural development and uses, and allow for infill in the areas to the level of existing
13 patterns.

14 “Littoral drift” means the natural movement of sediment, particularly sand and gravel, along
15 marine or lake shorelines as a result of wave and wind action.

16 “Live aboard vessel” means a vessel having a current safety registration with federal, state and
17 local agencies that is used primarily as a place of residence, vacation rental, or a place of
18 business. A live aboard vessel has a seaworthy hull design that meets the U.S. Coast Guard
19 standards for floatation, safety equipment, fuel, and electrical and ventilation systems. It is
20 capable of travel in open water and waterborne movement in general. It has permanent
21 equipment for water travel, including a method for steering and propulsion, deck fittings,
22 navigational equipment, and marine hardware.

23 “Livestock” means cattle, bison, sheep, goats, swine, horses, mules, llamas, ostriches and other
24 poultry, and other like animals.

25 “Living area” means the internal space measured from the interior of the exterior walls,
26 excluding decks, overhangs, unenclosed porches or unheated enclosed porches, and the stairwell
27 on one level of a two-story structure.

28 “Logging” means the harvesting of timber.

29 “Log storage or transfer site” means any location established for the purpose of storing logs or
30 holding logs for transfer to another location. (See also “barge landing site.”)

31 “Long-term commercial significance” means lands with the growing capacity, productivity, soil
32 composition, and economic viability for long term agricultural or silvicultural production.

33 Lot. See “parcel.”

34 “Lot coverage” means the surface area of a lot or lots within a single development which is
35 occupied by buildings, excluding roof overhangs and covered porches not used for sales, storage,
36 or service.

37 “Lumber mill, portable” means portable equipment to mill, split, or otherwise process forest
38 products.

1 “Lumber mill, stationary” means a permanently located facility or equipment used to process
2 forest products.

3 **SECTION 73. SJCC 18.20.130 and Ord. 26-2012 § 12 are each amended to read as follows:**

4 “Maintenance agreement” means a written agreement between parties to physically maintain a
5 facility for common use in a manner which conforms to standards of adequacy specified in such
6 an agreement.

7 **Maintenance and Repair, Normal.**

8 1. “Normal maintenance” includes those acts to prevent a decline, lapse, or cessation from
9 a lawfully established condition.

10 2. “Normal repair” means to restore a development to a state comparable to its original
11 condition within a reasonable period after decay or partial destruction.

12 Normal maintenance and repair do not include maintenance and repair that causes substantial
13 adverse effects to shoreline resources or environment (WAC 173-27-040).

14 “Manufacturing” means the mechanical or chemical transformation of materials or substances
15 into new products, including the assembling of component parts, the creation of products, and
16 the blending of materials, such as lubricating oils, plastics, resins, or liquors.

17 “Marina” means a facility that provides wet moorage or dry storage, supplies, and services for
18 pleasure craft and some types of commercial craft. Boat-launching facilities may also be
19 provided at a marina.

20 “Marine railway” means a set of rails running from the upland area into the water upon which a
21 boat can be launched.

22 “Market value” means value of land or structures as assessed by the San Juan County assessor’s
23 office.

24 “Marsh” means a soft, wet area periodically or continuously flooded to a shallow depth, usually
25 characterized by a particular subclass (monocotyledons) of grasses, cattails, and other low plants.

26 “Master planned resort” means a self-contained and fully integrated planned unit development in
27 a setting of significant natural amenities, with primary focus on destination resort facilities
28 consisting of short term visitor accommodations associated with a range of on site indoor or
29 outdoor recreational facilities.

30 “Material change” means a measurable change that has significance for existing or proposed
31 development or for the existing environment.

32 ~~“Maximum net benefit” means the total of all benefits less the total of all costs including~~
33 ~~opportunities lost, as defined in the Water Resource Act of 1971 (Chapter 90.54 RCW).~~

34 “Mean higher high water” or “MHHW” means the tidal elevation obtained by averaging each
35 day’s highest tide at a particular location over a period of nineteen (19) years. It is measured
36 from the MLLW equals 0.0 tidal elevation.

1 “Mean lower low water” or “MLLW” means the 0.0 tidal flat elevation. It is determined by
2 averaging each day’s lowest tide at a particular location over a period of nineteen (19) years. It
3 is the tidal datum for vertical tidal references in the saltwater area.

4 “Midden” means an area of ancestral human use that consists of an ancient refuse heap.

5 “Mine hazard” means an area of potential danger to persons or property due to past or present
6 mineral extraction operations.

7 “Mineral extraction” means the removal of naturally occurring materials from the earth for
8 economic use. Extraction materials include nonmetallic minerals such as sand, gravel, clay, coal,
9 and various types of stone.

10 “Mineral resource lands” means those lands from which the commercial extraction of minerals
11 (sand, gravel, rock, and other valuable aggregate or metallic substances) can be anticipated to
12 have long term commercial significance.

13 “Mini-storage” means a structure or structures containing separate, individual, and private
14 storage spaces of varying sizes leased or rented individually for varying periods of time.

15 “Mitigation” means measures prescribed and implemented to avoid, minimize, lessen, or
16 compensate for adverse impacts.

17 “Mobile home” means a structure that is (1) designed to be transportable in one or more sections;
18 (2) built on a permanent chassis; (3) designed to be used as a dwelling unit, with or without
19 permanent foundation; and (4) connected to the required utilities, including plumbing, heating,
20 septic, and electrical systems (RCW 43.22.340).

21 “Mobile home park” means a development with two or more improved pads or spaces with
22 required improvements and utilities designed to accommodate mobile homes, according to RCW
23 59.20.030 (4).

24 ~~“Monitoring network” means a set of locations, stations, or points used for collecting samples or~~
25 ~~taking measurements over time.~~

26 “Monopole” means the type of antenna mount that is self-supporting with a single shaft,
27 typically of wood, steel or concrete, and is self-supporting without guy wires.

28 “Moorage” means any over-water facility for securing boats, including docks, piers, and mooring
29 buoys, but excluding anchorage and dry boat storage.

30 ~~“Mooring Bbuoy” means a buoy used for vessel moorage that meets federal and state standards,~~
31 ~~is located waterward of the OHWM, and is permanently anchored to the sea or lake bed a buoy~~
32 ~~secured to the bottom by permanent moorings and provided with means for mooring a vessel by~~
33 ~~use of its anchor chain or mooring lines.~~

34 “Mooring float” means a stand-alone float used for vessel moorage that meets federal and state
35 standards, is located waterward of the OHWM, and is permanently secured to the sea or lake
36 bed.

37 Motel. See “hotel.”

1 “Motor home” means a motor vehicle originally designed, reconstructed, or permanently altered
2 to provide facilities for human habitation, which include lodging, cooking, and sewage disposal,
3 and enclosed within a solid body shell with the vehicle, but excluding a camper or similar unit
4 constructed separately and affixed to a motor vehicle (RCW 46.04.305).

5 **SECTION 74. SJCC 18.20.140 and Ord. 21-2015 § 31 are each amended to read as follows:**

6 ~~“National Pollutant Discharge Elimination System (NPDES)” means a joint federal and state~~
7 ~~permitting system for the control, monitoring, and reduction of point sources of pollution,~~
8 ~~established under the Federal Water Pollution Control Act (Clean Water Act) (Public Law 92-~~
9 ~~500).~~

10
11 “National Register of Historic Places” means the official federal list, established by the National
12 Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the
13 nation’s history and prehistory, or whose artistic or architectural value is unique.

14 “Native vegetation” means plant species which are indigenous to San Juan County.

15
16 “Natural designation” means the land use designation of the Comprehensive Plan that is
17 designed to preserve unusual or valuable natural resource systems by the regulation of all
18 activities or uses which might degrade or alter the natural characteristics which make these areas
19 unusual or valuable.

20
21 “Natural designation ~~environment~~ (shoreline)” means the Shoreline Master Program designation
22 designed to preserve unusual or valuable natural resource systems by regulating all potential uses
23 which might degrade or alter the natural characteristics that make the area unusual or valuable.

24
25 “Natural or existing topography” means the topography of the lot, parcel, or tract of real property
26 immediately prior to any site preparation or grading, including excavation or filling.

27
28 “Natural system (shoreline)” means a group of related objects or forces existing in nature: for
29 example, a shore process corridor.

30
31 “Net use area” means the area used to calculate the required number of parking spaces for
32 developments in Eastsound as specified in Table 22. Net use area is the gross floor area
33 excluding the following:

34 1. Circulation areas such as entries and weather vestibules, lobbies, hallways and
35 corridors, stairways, elevators and similar areas which do not have customer/patron
36 uses other than for circulation of people; and

37 2. Mechanical, custodial and storage areas such as mechanical rooms and
38 chases/shafts, electrical/utility rooms and vaults, toilets, custodial rooms, and areas
39 used solely for storage.
40
41

1 ~~“New and expanding aquacultural activities” means aquacultural activities that expand beyond~~
2 ~~the current geographic footprint existing on the effective date of the ordinance codified in this~~
3 ~~section (see “aquacultural activities”).~~
4

5 “No net loss” means the requirement that development and vegetation removal not result in net
6 harm in the aggregate to the existing functions and values of the ecosystem that includes the
7 adversely impacted or lost critical areas. The no net loss standard in WAC 365-196-830 requires
8 that where development regulations allow harm to critical area functions and values, they must
9 require compensatory mitigation of the harm unless alternative means of protecting critical areas
10 exist such as best management practices or a combination of regulatory and nonregulatory
11 programs.
12

13 “Noise” means any sound not occurring in the natural environment which causes or tends to
14 cause an adverse psychological or physiological effect on humans.
15

16 “Noise exposure forecast level” means the level of predicted noise exposure or areas within the
17 vicinity of an airport due to aircraft operations at some future date based on noise levels and
18 duration at the time of prediction.
19

20 “Noncapital alternative strategies” means programs, strategies, or methods that contribute to
21 achieving and maintaining adequate levels of service (as set forth in the Comprehensive Plan) for
22 concurrency facilities by means other than by constructing structural improvements. These
23 strategies include but are not limited to reduction of need or demand for a facility or service (as
24 by education efforts or increased efficiency of use), provision of a noncapital substitute, and use
25 of alternative methods to provide capacity. (See also “adequate capacity,” “available capacity,”
26 “concurrency,” and “level of service.”)
27

28 “Nonconforming” means an existing use, structure, site, or lot that conformed to the applicable
29 codes in effect on the date of its creation but that no longer complies because of changes in code
30 requirements. Nonconformity is different than and not to be confused with illegality (see “illegal
31 use”). Legal nonconforming lots, structures, and uses are commonly referred to as
32 “grandfathered.”

33 “Nonconforming lot” means an existing lot that does not conform to the area, width, depth, or
34 street frontage regulations of the land use designation where it is located.
35

36 “Nonconforming structure” means an existing structure that does not conform to the dimensional
37 regulations, ~~such as including but not limited to~~ setback, height, lot coverage, density, and
38 building configuration regulations of the land use designation where it is located due to changes
39 in code requirements. (See also “alteration, nonconforming structures.”)
40

41 “Nonconforming use” means an existing use of a structure or of land that does not conform to
42 the regulations of the land use designation where use exists due to changes in code requirements.
43 (See also “alteration, nonconforming use.”)
44

1 ~~“Nonconsumptive use” means a use which does not permanently deplete, degrade, or destroy the~~
2 ~~resource involved.~~

3
4 “Nonpoint source” means the release of waste or other flows which occurs over a broad or
5 undefined area. Releases which can be described as confined to a small area, such as discharges
6 from a pipe or conduit, are referred to as “point-source discharges.” (See also “point-source
7 discharge.”)
8

9 “Normal residential appurtenance, shoreline” means a structure or development that is
10 necessarily connected to the use and enjoyment of a single-family residence and which is
11 expressly defined in WAC 173-27-040 and in Chapter 18.50 SJCC, for purposes of exemption
12 from shoreline substantial development permit requirements in accordance with WAC 173-27-
13 040(g). Structures and activities considered normal residential appurtenances include accessory
14 dwelling units or other detached residential structures, garages, sheds, decks attached to primary
15 structures, private pedestrian pathways, stairways to access shorelines, ramps, patios, fences,
16 driveways, utilities, on site sewage disposal systems, antennas, solar arrays, wind power
17 generators serving a single structure, satellite dishes, boat houses landward of the primary
18 residential structure served by marine railways that requires a substantial development permit,
19 official registered historic structures, and grading which does not exceed two hundred fifty (250)
20 cubic yards and which does not involve placement of fill in any wetland or waterward of the
21 OHWM.
22

23 “Nursery” means lands or greenhouses used to raise flowers, shrubs, and plants for commercial
24 purposes.
25

26 “Nursing home (long-term health care facility)” means a facility or residence that provides health
27 or long term care services to residents, including nursing or other supportive or restorative health
28 services on a 24-hour basis (RCW 43.190.020).
29

30 **SECTION 75. SJCC 18.20.160 and Ord. 26-2012 § 14 are each amended to read as follows:**
31

32 “Parcel” means a lot or plot of land proposed or created in accordance with this code or prior
33 subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or
34 future, of transfer of ownership. The external boundaries existing as of October 2, 1979, ~~shall be~~
35 is used to establish what is a parcel for the purposes of this code. For parcels which have not
36 been conveyed since that date, the legal description used in the conveyance closest to that date
37 ~~shall~~ controls. The term “parcel” is synonymous with the terms “lot” and “tract.”

38 “Park” means a tract of land that is specifically designated as a “park” and is used by the public
39 for recreation.

40 “Parking area” means a space where vehicles are left temporarily such as a road end. These
41 areas are typically noncommercial and unpaved areas that may be in the County right-of-way and
42 may provide visual or physical access to the shoreline.
43

1 “Parking lot” means an off-street, ground level open area, usually improved, for the temporary
2 storage of motor vehicles.

3 “Parking structure” means a building or structure consisting of more than one level and used to
4 store motor vehicles. Underground parking is considered a parking structure.

5 “Party of record” means all persons, agencies, or organizations who have submitted written
6 comments or notified San Juan County of their desire to receive a copy of the final decision on a
7 permit. (WAC 173-27-030).

8 “Peak demand” means the highest demand associated with a particular interval, such as peak day
9 or peak hour.

10 “Performance standard” means a set of criteria or limits relating to certain characteristics that a
11 particular use or process may not exceed.

12 “Permanent moorage facility” means a facility which provides wet moorage or dry storage for
13 pleasure craft or commercial craft for a fee for periods of six (6) months or more.

14 “Permanently affordable housing” means affordable housing, the affordability of which is
15 assured for at least 99 years.

16 Permit Center. See “department.”

17 “Permit review” means the process of reviewing applications for project permits for consistency
18 with the requirements of this code.

19 “Permittee” means the entity to whom a permit is granted.

20 “Person” means any individual, owner, contractor, tenant, partnership, corporation, association,
21 organization, cooperative, public or municipal corporation, agency of a state or local
22 governmental unit however designated, public or private institution, or an employee or agent of
23 any of the foregoing entities.

24 “Personal wireless service facility or PWSF” means a facility for the provision of personal
25 wireless services, as defined by and includes the property lease area and all towers, antennas,
26 mounts, transmission cables, equipment shelters or cabinets, and any other installations for the
27 operation of a personal wireless facility. Amateur radio towers and antennas are not PWSFs and
28 are exempt from height requirements in accordance with SJCC 18.60.050.

29 “Personal and professional services” means, for the purposes of this code, establishments
30 primarily engaged in providing assistance, as opposed to products, to individuals, business,
31 industry, government, and other enterprises, not listed specifically in this code as a distinct use
32 for regulatory purposes, such as laundry and dry cleaning services; barber shops and beauty
33 salons; legal, engineering, architectural, design and accounting services, and the like.

34 ~~“Personal wireless service facility or PWSF” means a facility for the provision of personal~~
35 ~~wireless services, as defined by and includes the property lease area and all towers, antennas,~~
36 ~~mounts, transmission cables, equipment shelters or cabinets, and any other installations for the~~
37 ~~operation of a personal wireless facility. Amateur radio towers and antennas are not PWSFs and~~
38 ~~are exempt from height requirements in accordance with SJCC 18.60.050.~~

1 “Personal wireless services” means any Federal Communications Commission (FCC) licensed
2 commercial wireless telecommunications service defined in Section 704 of the Federal
3 Telecommunications Act of 1996, including cellular, personal communications services (PCS),
4 commercial mobile radio services, unlicensed wireless services, and common carrier wireless
5 exchange access services. Personal wireless services does not include the operation of amateur
6 radio.

7 “Pervious surface” means a surface that absorbs water.

8 “Pier” means a structure that abuts the shoreline and is generally used as a landing or moorage
9 place for commercial and pleasure craft. A pier is a fixed platform above the water.

10 “Planned unit development” means a development characterized by a unified site design,
11 clustered residential units or commercial units, and areas of common open space.

12 “Planning department,” “permit center,” and “building department” all mean the San Juan
13 County community development and planning department.

14 Planning ~~D~~director. See “~~D~~director.”

15 “Plat” means a map or representation of a subdivision or short subdivision of land showing the
16 division of a parcel of land into lots, roads, dedications, common areas, restrictions and
17 easements, as regulated by Chapter 58.17 RCW and this code.

18 Plat ~~A~~alteration. See “subdivision, alteration of.”

19 Plat, ~~L~~long. See “subdivision (long).”

20 Plat, ~~S~~short. See “subdivision, short.”

21 Plat ~~V~~vacation. See “subdivision, vacation of.”

22 “Playing field” means a land area designed and used for outdoor games, such as baseball,
23 football, soccer, track events and tennis. It includes public outdoor swimming pools.

24 “Pocket beach” means a Class II or Class III beach which does not depend on littoral drift
25 accretion. It depends on the erosion of immediately adjacent sources.

26 “Point” means a low profile shoreline promontory of more or less triangular shape, the tip of
27 which extends seaward.

28 “Point-of-use demand management” means a set of policies, procedures, and facilities that
29 provide for the maximum efficiency where they are actually used, as distinguished from
30 efficiency practices in supply, transmission, and distribution systems.

31 “Point-source discharge” means the release of waste or other flows which can be described as
32 confined to a small area, such as discharges from a pipe or conduit. Releases occurring over a
33 broad or undefined area are referred to as “nonpoint sources.” (See also “nonpoint-source.”)

34 “Ports and water-related port facilities” means shoreline modifications such as breakwaters,
35 jetties, groins and over-water structures that are located within the jurisdiction of a port district.

1 “Ports, marinas, and marine transportation designation” means the Shoreline Master Program
2 designation intended to protect, maintain, and enhance port, marina and marine transportation
3 uses and areas within the County’s shoreline. This designation is characterized by infrastructure
4 for launching, docking, mooring, maintaining, repairing, and storing a variety of marine craft.

5 “Potential critical aquifer recharge areas” means areas identified as significant due to their
6 potential value in supplying groundwater and vulnerability to contamination. They are identified
7 based upon the relative ability of the soil to accept water and allow it to flow to become
8 groundwater.

9 “Predecision hearing, open-record” means a hearing, conducted by the hearing examiner, that
10 creates the County’s record through testimony and submittal of evidence and information, under
11 procedures prescribed by the County by ordinance or resolution. (RCW 36.70B.020).1

12 “Preliminary plat” means a neat and approximate drawing of a proposed subdivision or short
13 subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a
14 subdivision consistent with the requirements of this code and Chapter 58.17 RCW.

15 “Primary association” in the context of critical area regulations refers to those areas that provide
16 fish and wildlife habitat, including physical and biological features, that are necessary for a
17 species to survive over the long term. Examples include areas that are necessary for essential life
18 cycle functions including areas used for feeding, nesting, breeding, and rearing.

19 “Primary surface” means the FAA imaginary surface that is longitudinally centered on and
20 encloses an aircraft runway.

21 “Primary use” means the principal use of a property.

22 “Project permit” refers to a land use permit or license required from San Juan County for a
23 project, ~~such as including but not limited to~~ land divisions, boundary line modifications, binding
24 site plans, planned unit developments, conditional use permits, variances, shoreline substantial
25 development permits (shoreline conditional use permits, shoreline variances), provisional use
26 permits and temporary use permits. Concurrency findings, determinations of completeness, and
27 other such administrative approvals are reviewed as part of the underlying project permit and are
28 not project permits. SEPA threshold determinations are not project permits. Building, driveway,
29 and other construction-type development permits and approvals are not project permits for this
30 UDC (RCW 36.70B.020(4) and 36.70B.140). (See “development permit.”)

31 “Proprietor-occupied” means the residential occupancy by the owner of a building or property.

32 “Provision” means any written language contained in this code, including without limitation, any
33 definition, policy, goal, regulation, requirement, standard, authorization, or prohibition.

34 “Public access areas” means ways or means of approach to provide the general public with a
35 physical entrance to a property.

36 “Public facilities” means facilities which serve the general public including streets, roads, ferries,
37 sidewalks, street and road lighting systems, traffic signals, community water systems,
38 community sewage treatment systems, storm sewer systems, parks and recreational facilities, and
39 public schools.

1 “Public schools” means a building (and grounds) or part thereof designed, constructed, or used
2 for publicly operated education ~~and~~/or instruction.

3 “Public services” means services available to and used by the general public. They may be, but
4 are not necessarily, provided by a public agency for fire protection and suppression, law
5 enforcement, public health, education, recreation, environmental protection, and other
6 governmental services (RCW 36.70A.030(13)). Some public services are essential public
7 facilities.

8 “Public transportation systems” means public facilities for air, water, or land transportation.

9 **SECTION 76. SJCC 18.20.180 and Ord. 21-2015 § 33 are each amended to read as follows:**

10 “Radio-frequency (RF) engineer” means a person qualified by education, training, or experience
11 to certify audio frequency measurements.

12 “RCW” means the Revised Code of Washington.

13 “Recording” means the filing of a document(s) for recordation with the County auditor.

14 “Recreational development” means parks and facilities for camping, indoor and outdoor sports,
15 and similar developments.

16 “Recreational float” means a float used for recreational swimming and diving, not vessel
17 moorage, that meets federal and state standards, is not connected to the land above the OHWM,
18 and is permanently secured to the sea or lake bed.

19 “Recreational vehicle park” means a commercially developed tract of land in which two or more
20 recreational vehicle sites are established as the principal use of the land.

21 “Recreational vehicle (RV)” means a vehicle designed primarily for recreational camping or
22 travel use that has its own motive power or is mounted on or towed by another vehicle, including
23 travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes
24 (RCW 43.22.335).

25 “Recycling” means the process of segregating solid waste for sale, processing, and beneficial
26 use. Materials which can be removed through recycling include but are not limited to newsprint,
27 cardboard, aluminum, glass, plastics, and ferrous metal. Recycling does not include combustion
28 of solid waste or preparation of a fuel from solid waste.

29 “Recycling center” means an area, with or without buildings, upon which used materials are
30 separated and processed for shipment.

31 “Recycling collection point” means public drop-off and temporary storage of recyclables.
32 Sorting and processing of recyclables occurs off the site.

33 “Recycling collection ~~and~~/or processing” means public drop-off of recyclables with sorting
34 ~~and~~/or processing on the site.

35 “Regular use,” for the purposes of Section 61(G) of this ordinance, means a pattern of use that is
36 intensive and sustained such as daily commuter use.

1 “Related use” means a use in the Eastsound service light industrial and service park districts for
2 retail purposes that is connected logically, causally or by shared characteristics to another
3 allowable use.

4 “Religious assembly facility” means a facility designed and used primarily for ceremonies,
5 rituals, and education pertaining to a particular system of spiritual beliefs.

6 “Residential activity center” means an area of more intensive rural development (AMIRD)
7 characterized by existing residential areas that have existing development patterns at nonrural
8 densities (see RCW 36.70A.070(5)(d)).

9 “Residential care facility” means a facility that provides care for at least five, but not more than
10 15, functionally disabled persons that is not licensed pursuant to Chapter 70.128 RCW.

11 “Residential development” means development of land with dwelling units for nontransient
12 occupancy. For the purposes of this code, accessory dwelling units, garages, and other similar
13 structures accessory to a dwelling unit ~~shall~~ are also ~~be~~ considered residential development
14 unless regulated otherwise by this code or subarea plans. (See also “dwelling unit” and
15 “accessory dwelling unit (ADU).”)

16 “Resort” means a land area devoted to providing commercial recreational facilities and related
17 lodgings, sales, and personal services primarily serving vacationers, which may or may not
18 include residential uses. (See also “master planned resort.”)

19 “Resource-based activities” means activities related to the harvesting, processing, manufacture,
20 storage, and sale of agricultural, forestry or mineral products, such as including, but not limited
21 ~~to, wineries, cideries, breweries, distilleries,~~ nurseries, lumber mills, and gravel-processing
22 plants.

23 “Resource lands” means agricultural, forest, and mineral lands that have long term commercial
24 significance.

25 “Restoration” means to return to an original or like condition.

26 “Restriction” means a limitation placed upon the use of parcel(s) of land.

27 “Revetment” means structures of materials such as stone or concrete built to protect a scarp,
28 embankment, or shore structure against erosion by waves or currents.

29 “Right to farm provisions” means provisions intended to enhance and encourage agricultural
30 operations by recognizing agricultural activities as essential rural activities that do not constitute
31 a nuisance.

32 “Right to forestry provisions” means provisions intended to enhance and encourage sustainable
33 forestry operations by recognizing forestry activities as essential rural activities that do not
34 constitute a nuisance.

35 “Riprap” means a layer, facing, or protecting mound of stones placed to prevent erosion, scour,
36 or sloughing of a structure or embankment.

1 “Road” means an improved and maintained public or private right-of-way which provides
2 vehicular access to abutting properties, and which may also include provision for public utilities,
3 pedestrian access, cut and fill slopes, and drainage.

4 “Road end” means:

- 5 1. A road closed at one end which may be designed for future road extensions; or
- 6 2. The point at which a public road meets the tidelands.

7 “Road, local access” means a road that functions solely to provide access to two or more
8 properties.

9 “Road, major collector” means:

- 10 1. Roads designated as major collector roads in the transportation element of the
11 Comprehensive Plan.
- 12 2. A road whose principal function is to collect and distribute traffic from minor collector
13 and local access roads.

14 “Road, minor collector” means:

- 15 1. Roads designated as minor collector roads in the transportation element of the
16 Comprehensive Plan.
- 17 2. A road whose principal function is to collect and distribute traffic from local access
18 roads.

19 “Road, primary” means any existing or proposed road designated as an arterial or collector road
20 in the transportation element of the Comprehensive Plan or so designated by the San Juan
21 County engineer.

22 “Rockfall hazard areas” means slopes which are subject to rockfall, particularly those areas
23 which have existing evidence of rockfalls, such as piles of talus at the base of cliffs, a lack of
24 vegetation on a slope, or scarps.

25 “Runoff” means water that is not absorbed into the soil but rather flows along the ground surface
26 following the topography.

27 “Runway” means the defined area at an airport, airfield, or airstrip indicated for landing and
28 takeoff of aircraft along its length.

29 “Rural character” means a quality of the landscape dominated by pastoral, agricultural, forested,
30 and natural areas interspersed with single-family homes and farm structures. Rural character
31 refers to the patterns of land use and development established by the Comprehensive Plan:

- 32 1. In which open space, the natural landscape, and vegetation predominate over the built
33 environment;
- 34 2. That foster traditional rural lifestyles, rural-based economies, and opportunities to both
35 live and work in rural areas;

3. That provide visual landscapes that are traditionally found in rural areas and communities;
4. That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
5. That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
6. That generally do not require the extension of urban governmental services; and
7. That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

“Rural commercial designation” means the land use designation of the Comprehensive Plan designed to provide opportunities for some commercial uses to be located in rural areas.

“Rural commercial uses” means the use of land or the use or construction of structures or facilities involving the retail sale of goods or services which is either unsuitable for an activity center or is better suited to rural lands and that does not require urban governmental services.

“Rural shoreline designation environment” means the Shoreline Master Program designation that is designed to protect, maintain, and enhance the rural character of the County’s shoreline. The Rural shoreline designation environments is intended to retain the pastoral, forested, and natural landscape qualities of the islands while providing protection from expansion of urban and suburban forms of land uses.

“Rural farm-forest designation” means the land use designation of the Comprehensive Plan designed to protect rural, agriculture and timber areas from urban and suburban forms of development.

“Rural farm-forest shoreline designation” means the Shoreline Master Program designation that is designed to protect rural, agriculture, and timber areas from urban and suburban forms of development.

“Rural general use designation” means the land use designation of the Comprehensive Plan designed to provide flexibility for a variety of small-scale, low-impact uses to locate on rural lands.

“Rural governmental services” means those public services provided to rural areas at a scale consistent with the rural character of the area.

“Rural industrial designation” means the land use designation of the Comprehensive Plan designed to provide opportunities for some industrial uses to be located in rural areas.

“Rural industrial use” means the use of land or the use or construction of structures or facilities related to the processing, manufacture or storage of finished or partially finished goods which are either unsuitable for an activity center or are better suited to rural lands, and which do not require urban governmental services.

“Rural lands” means the class of land use designations which are intended to preserve the rural character of the islands. Rural land designations include the following: rural general use, rural

1 farm-forest, rural residential, rural industrial, and rural commercial, together with the resource
2 lands and special land use designations (conservancy and natural).

3 “Rural residential cluster” means a small cluster of residences and related structures that is
4 intended to provide opportunities for affordable housing in rural areas, while remaining
5 compatible with the rural, agricultural and natural character of rural lands and not requiring
6 urban-level services.

7 “Rural residential designation” means the land use designation in the Comprehensive Plan
8 designed to recognize existing residential development patterns of the rural landscape and
9 provide for a variety of residential living opportunities at densities which maintain the primarily
10 rural residential character of an area.

11 “Rural residential ~~environment~~ (shoreline) designation” means the Shoreline Master Program
12 designation that is designed ~~rural-shoreline designation intended~~ to protect and enhance existing
13 medium density residential areas on the shoreline and provide for additional areas of this type.

14 **SECTION 77. SJCC 18.20.190 and Ord. 21-2015 § 34 are each amended to read as follows:**

15 “Sale” means the transfer for consideration of legal or beneficial ownership.

16 “Salt water intrusion” means the underground flow of salt water into wells and aquifers.

17 ~~“Sanctuaries” means places of habitation and refuge for plants and animals.~~

18 “Screening” means a method of visually shielding or obscuring a structure or use from view by
19 fencing, walls, trees, or densely planted vegetation.

20 ~~Seawall. See “bulkhead.”~~

21 “Seaward” means to or toward the sea.

22 “Secondary use” is secondary, or subordinate, to the primary use of the property (e.g.,
23 commercial, residential, utilities, etc.)

24 “Security barrier” means a locked, impenetrable wall or fence that completely seals an area from
25 unauthorized entry or trespass.

26 “Sedimentation” means the process by which material is transported and deposited by water or
27 wind.

28 “Seismic hazard areas” means areas subject to severe risk of damage as a result of earthquake-
29 induced ground shaking, slope failure, settlement, or soil liquefaction.

30 “Septage” means the mixture of solid, semi-solid, and liquid wastes, scum, and sludge that is
31 pumped from within septic tanks, pump chambers, holding tanks, and other septic system
32 components.

33 “Service area” means an area identified by a public water system that includes existing and
34 future service.

35 “Setback” means the distance a structure is placed behind a specified line or topographic feature.

1 “Sewerage treatment facilities” means the management, storage, collection, transportation,
2 treatment, utilization, and processing of sewage from a municipal or community sewage
3 treatment plant, not including community drain fields.

4 “Shooting range” means a facility specifically designed and used for safe shooting practice with
5 firearms ~~and~~ or for archery practice, with individual or group firing positions for specific
6 weaponry.

7 “Shore process corridor” means the land-water zone within which certain geological, biological,
8 and hydraulic actions and interchanges critical to the integrity of the shoreline take place, for
9 example, a feeder bluff-driftway-accretion shoreform system.

10 “Shorelands” means lands extending landward for 200 feet in all directions as measured on a
11 horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas
12 landward 200 feet from such floodways; and all wetlands and river deltas associated with the
13 streams, lakes, and tidal waters which are subject to the provisions of Chapter 90.58 RCW, the
14 same to be designated as to location by the Department of Ecology.

15 “Shoreline access point” means a road end or other area that provides physical or visual access to
16 the tidelands and waterfront to the public. Shoreline access points may include one or more of
17 the following:

- 18 1. Signposts;
- 19 2. Benches and tables;
- 20 3. Parking areas;
- 21 4. Paths;
- 22 5. Public pedestrian trails;
- 23 6. Boat ramps without lifts;
- 24 7. Gates;
- 25 8. Staircases; or
- 26 9. Other shoreline access features.

27 ~~“Shoreline berm” means one or several linear mounds of sand and gravel generally paralleling~~
28 ~~the shore at or landward of the ordinary high water mark that are normally stable because of~~
29 ~~material size or vegetation.~~

30 “Shoreline development” means a use consisting of the construction or exterior alteration of
31 structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals;
32 bulkheading; driving of piling; placing of obstructions; or any project of permanent or temporary
33 nature which interferes with the normal public use of the surface of the waters overlying lands
34 subject to Chapter 90.58 RCW at any stage of water level (RCW 90.58.030; WAC 173-27-030).

35 “Shoreline jurisdiction (shorelands or shoreland areas)” means the proper term describing all of
36 the geographic areas covered by the Shoreline Management Act, related rules, and the applicable

1 master program. Those lands extending landward for 200 feet in all directions, as measured on a
2 horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas
3 landward 200 feet from such floodways; and all wetlands and river deltas associated with the
4 streams, lakes, and tidal waters subject to the SMA. (RCW 90.58.030).

5 ~~“Shoreline Management Act” means the Shoreline Management Act of 1971 (Chapter 90.58~~
6 ~~RCW), as amended.~~

7 ~~“Shoreline Master Program (SMP)” means the San Juan County Shoreline Master Program,~~
8 ~~being Element 3 of the Comprehensive Plan, and Chapter 18.50 SJCC.~~

9 “Shoreline modifications” means those human actions that modify the physical configuration or
10 qualities of the shoreline area, usually through the construction of a physical element such as a
11 dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can
12 include other actions, such as clearing, grading, or application of chemicals.

13 “Shoreline permit” means a substantial development, shoreline conditional use, or shoreline
14 variance permit.

15 “Shoreline substantial development permit exemption” means certain developments that meet
16 the precise terms of listed exemptions and are granted exemption from the requirements of the
17 substantial development permit process of the Shoreline Management Act (SMA). An activity
18 that is exempt from the substantial development provisions of the SMA must still be carried out
19 in compliance with policies and standards of the Act and the Master Program (Element 3 of the
20 Plan and Chapter 18.50 SJCC). Shoreline conditional use or variance permits may also still be
21 required even though the activity does not need a substantial development permit (Cf. RCW
22 90.58.030(3)(e); WAC 173-27-030(7) and 173-27-040).

23 “Shorelines” means all of the water areas in the state, including reservoirs, and their associated
24 shorelands, together with the lands underlying them, except:

- 25 1. Shorelines of statewide significance;
- 26 2. Shorelines on segments of streams upstream of a point where the mean annual flow is 20
27 cubic feet per second or less, and the wetlands associated with such upstream segments;
28 and
- 29 3. Shorelines on lakes less than 20 acres in size and wetlands associated with such small
30 lakes (RCW 90.58.030).

31 ~~“Shorelines hearings board” means the board established by the Shoreline Management Act.~~

32 “Shorelines of statewide significance” means, in San Juan County, those areas of Puget Sound
33 and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying
34 seaward from the line of extreme low tide (RCW 90.58.030).

35 “Sign” means any object, device, display or structure, or part thereof, situated outdoors or
36 indoors, which is used to advertise, identify, display, direct or attract attention to an object,
37 person, institution, organization, business, product, service, event or location by any means,
38 including words, letters, figures, design, symbols, fixtures, colors, illumination or projected

images. Excluded from this definition are signs required by law and the flags of national and state governments.

“Sign, commercial” means a sign that directs attention to a business or profession, to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the sign is located.

“Sign, freestanding” means a sign not attached to a structure.

“Sign, off-site outdoor advertising” means an outdoor, off-site sign that calls attention to a business, activity, profession, commodity, product, service or entertainment constructed in the form of a freestanding “A” with no more than two faces, each no larger than six square feet.

“Sign, temporary” means a sign that will become obsolete after the occurrence of an event or series of discrete events such as for sale or lease signs, and garage sale signs that are consistent with the provisions for special event signs in SJCC 18.40.400.

“Simple land division” means a division of property meeting the criteria in SJCC 18.70.040.

“Single-family residence” means a dwelling unit designed for and occupied by no more than one family.

“Siting” means the method and form of placement of a use or development on a specific area of a subject property.

“Slaughterhouses, small-scale” means places where animals are butchered and:

1. There is a fee charged for the entire carcass to be returned to the animal owner; or
2. There is a group of residents who butcher their animals in a common area and there is no fee for slaughtering services.

“Small scale” means of a size or intensity which has minimal impacts on the surrounding area and which makes minimal demands on the existing infrastructure.

“Soil test hole log” means the excavation and written record of soil septic suitability as per health department written guidelines and requirements.

“Soft shoreline stabilization measures” means shore erosion control structures and measures composed of primarily natural and semi-rigid or flexible materials, logs and vegetation, organized in a nonlinear, sloping arrangement, that dissipate wave energy and minimize erosion in a way that is similar to natural shoreline processes.

~~“Soil test hole log” means the excavation and written record of soil septic suitability as per health department written guidelines and requirements.~~

“Solid waste” means all putrescible and nonputrescible solid and semi-solid wastes, except wastes identified in WAC 173-304-015, such as ~~including but not limited to~~ junk vehicles, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities, but excluding agricultural wastes and crop residues returned to the soil at agronomic rates. This includes all liquid, solid and semi-solid

materials which are not the primary products of public, private, industrial, commercial, mining and agricultural operations. Solid waste includes but is not limited to sludge from waste water treatment plants and septage from septic tanks, wood waste, dangerous waste, and problem wastes. Unrecovered residues from recycling operations ~~shall be~~ are considered solid waste.

“Solid waste disposal” means the act or process of disposing of rubbish and garbage.

“Solid waste transfer station” means a fixed, supplemental collection and transportation facility, used by persons and route collection vehicles to deposit collected solid waste from off-site into a larger transfer vehicle for transport to a permanent disposal site. Solid waste transfer stations include recycling centers. (See “recycling center.”)²

“Sound” means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium, including any characteristics of sound, such as, duration, intensity, and frequency.

“Source of contamination” means a facility or disposal or storage site for material that impairs the quality of ground water to a degree that creates a potential hazard to the environment, public health, or interferes with a beneficial use.

“Special flood hazard” means land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year.

~~“Special report” means a technical report or study containing certain site analyses or project evaluations or a plan describing mitigation or monitoring recommendations.~~

~~“Spit” means an accretion shoreform which extends seaward from and parallel to the shoreline.~~

“Static level” means the stable equilibrium level of the water in a well which rises in the well column, without being influenced by pumping.

“Stocking level” means a quantitative measure of the area occupied by trees. Also referred to as stand density.

“Storage yard” means an outdoor area used for the storage of equipment, vehicles and materials.

“Stream” means a watercourse with a defined bed and banks, not including manmade ditches, canals, or other entirely artificial watercourses, except where they exist in a natural watercourse (see WAC 220-110-020). Streams are classified in WAC 222-16-030 and 222-16-031.

“Street frontage” means the length along a street which a structure, business, or lot abuts or fronts.

“Structure” means a permanent or temporary edifice or building or any piece of work artificially built up or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels (WAC 173-27-030).

“Subarea plan” means a detailed plan consistent with but more specific than this code or the Comprehensive Plan. It may be a detailed land use plan for a specific geographic area, or a functional long-range plan for a land use or resource issue of County-wide concern.

1 “Subdivision, alteration of” means the alteration of lots or changes in dedications or restrictions
2 or easements shown on the face of a plat of a subdivision or short subdivision; except as
3 provided by RCW 58.17.040(6) for boundary line adjustments.

4 “Subdivision (long)” means a division or redivision of land, normally into five or more parcels,
5 but under special circumstances for subdivision into two or more parcels, as provided by this
6 code and Chapter 58.17 RCW.

7 “Subdivision, short” means subdivision of land into no more than four (4) parcels, as provided
8 by this code and Chapter 58.17 RCW.

9 “Subdivision, vacation of” means the removal of lots, boundaries, roads, dedications,
10 restrictions, or easements of a recorded subdivision or short subdivision.

11 “Substantial alteration” means any alteration, where the total cost of all alterations ~~(such as~~
12 ~~including but not limited to~~ electrical, mechanical, plumbing, and structural changes) for a
13 building or facility within any 12-month period or single development permit application
14 amounts to 50 percent (50%) or more of the value of the building or facility. In determining the
15 current value of the building or facility, the assessor’s fair market value, or a current appraisal
16 acceptable to the County, may be used.

17 “Substantial development” means any development of which the total cost, or fair market value,
18 exceeds the dollar threshold established by the Washington State office of financial management
19 \$2,500 or any development which materially interferes with normal public use of the water or
20 shorelines of the state (RCW 90.58.030(3)(e)); except for that developments meeting the precise
21 terms of the exemptions specified in WAC 173-27-040, and Chapter 18.50 SJCC (Shoreline
22 Master Program), or any development which materially interferes with the normal public use of
23 the water or shorelines of the state shall not be considered substantial developments.

24 “Substantial improvement” means any maintenance, repair, structural modification, addition or
25 other improvement of a structure, the cost of which equals or exceeds fifty 50 percent (50%) of
26 the market value of the structure either before the maintenance, repair, modification, or addition
27 is started or before the damage occurred, if the structure had been damaged and is being restored.

28 “Substantial storage space” means a development in the service and light industrial and service
29 park land use districts in which the ratio of covered and uncovered storage space to retail space is
30 greater than two.

31 ~~“Subtidal” means the area seaward of the line of extreme low tide.~~

32 “Sustainable” means actions or activities which preserve and enhance resources for future
33 generations.

34 “Swale” means a depressed, vegetated, often wet area of land, or an open drainageway.

35 ~~“Swamp” means a depressed area flooded most of the year to a depth greater than that of a marsh~~
36 ~~and characterized by areas of open water amid soft, wetland masses vegetated with trees and~~
37 ~~shrubs.~~

SECTION 78. SJCC 18.20.200 and Ord. 26-2012 § 18 are each amended to read as follows:

“Tank farm” means an area used for the commercial bulk storage of fuel in tanks.

“Threshold determination” means the decision by the responsible official under the State Environmental Policy Act (SEPA) regarding the likelihood that a project or other “action” (WAC 197-11-704) will have a probable significant adverse impact on an element of the environment.

“Tidelands” means land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

“Timber land” means land supporting or capable of supporting a stand of merchantable timber and which is not being developed or used for an activity which is incompatible with timber production.

~~“Tombolo” means a causeway like accretion spit which connects an offshore rock or island with the main shore. Tombolos normally develop from bars (submarine berms) and an active driftway.~~

“Trailer” means a structure standing on wheels, towed or hauled by another vehicle, and used for short term human occupancy, carrying of materials, goods, or objects, or as a temporary office.

“Transfer of development rights (TDR)” means the transfer of the right to develop or build, expressed in dwelling units per acre, from land in one land use designation to land in another designation or from one property owner to another, where such a transfer is permitted.

“Transfer station” means a facility for the collection of solid waste from off-site into a larger transfer container or vehicle for transfer to a permanent disposal site. (See “solid waste transfer station.”)

“Transient accommodations” means a commercial or residential use involving the rental of any structure or portion thereof for the purpose of providing lodging for periods less than 30 days.

“Transitional surface” means the FAA imaginary surface that is the lower boundary of an airspace which begins on either side of the primary surface and which slopes outward and upward to meet the horizontal surface above the airport. This surface is also connected to the approach surface at both ends of the runway.

“Transportation facilities” means roads, public pedestrian and bicycle trails, airports, airfields, public docks, ferries and related terminals, and parking areas.

“Tree line” means the line created by existing trees, at the trunk line, growing in a generally continuous line, as opposed to a line drawn between a few isolated trees.

“Tree protection zone” means a protective area established around a tree or cluster of trees. With regard to streams, lakes, ponds, and shorelines, this includes the area between the water and the tree or cluster of trees.

~~“Turbid (turbidity)” means thick or opaque with rolled sediment; muddy.~~

~~“Turion” means a shoot of eelgrass emanating from the rhizome.~~

SECTION 79. Savings Clause:

This ordinance does not affect any pending suit or proceeding; or any rights acquired; or liability or obligation incurred under the sections amended or repealed; nor shall it affect any proceeding instituted under those sections. All rights and obligations existing prior to adoption of this ordinance shall continue in full force and effect.

SECTION 80. Severability:

If any provision of this ordinance or its application to any person is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected. Remaining sections of the ordinance shall be interpreted to give effect to the spirit of the ordinance prior to removal of the portions declared invalid.

SECTION 81. Effective Date: This ordinance shall take effect fourteen days from the date of written approval by WDOE pursuant to RCW 90.58.090.

SECTION 82. Publication of Notice of Adoption: A notice of adoption of this ordinance will be published pursuant to RCW 36.70A.290(7) promptly after its approval by WDOE.

SECTION 83. Codification: Sections 4 through 78 shall be codified as noted in Section 84 below after the effective date of this ordinance.

SECTION 84. Notes to the Codifier:

A. Section 4, sub-section F, numbers 4 and 5 are to be codified by changing the numbers and moving number 5 into the position of 4.

B. Section 4, sub-section I, move 18.80.110 (I)(3)(c-e) to be a sub-section of 18.80.110(I)(1).

C. Section 5, sub-section B, move the second sentence that reads, “Nonconforming uses or structures may be relocated ~~on the same site~~ on the same parcel.” to a new sub-section C and re-letter the rest of the Section accordingly.

D. Section 39 shall be codified in Section 33 as item Q.

E. Section 64 shall be codified as section 12.

F. The definitions in Sections 67 through 78 are to be alphabetized.

G. Throughout text, where the phrase ‘effective date of this ordinance’ appears, replace it with the effective date indicated in Section 81 above.

H. Sections 7 through 12 are to be codified as Article I General Provisions of Chapter 18.50 SJCC.

I. Sections 13 through 25 are to be codified as Article II General Regulations of Chapter 18.50 SJCC.

J. Sections 26 through 66 are to be codified as Article III Regulations for Specific Developments, Uses, Structures and Activities of Chapter 18.50 SJCC.

K. All tables and figures shall be numbered consistent with existing code.

ADOPTED this ____ day of _____ 2016.

ATTEST: Clerk of the Council

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

Ingrid Gabriel, Clerk Date

Jamie Stephens, Chair
District 3

REVIEWED BY COUNTY MANAGER

Michael J. Thomas Date

Rick Hughes, Vice-Chair
District 2

RANDALL K. GAYLORD
APPROVED AS TO FORM ONLY

By: _____
Date

Bob Jarman, Member
District 1

Exhibit A: San Juan County Comprehensive Plan Section B, Element 3, Shoreline Master Program

Exhibit B: San Juan County Comprehensive Plan Land Use and Shoreline Master Program Map

Exhibit C: San Juan County Shoreline Restoration Plan

Exhibit D: Table of Map Designations That Do Not Follow Parcel Lines